



# FINAL REPORT.

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## SITUATION ANALYSIS ON THE RIGHTS OF PERSONS WITH DISABILITIES IN KENYA.

July 2023.

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Kenya, July 2023.

# ACKNOWLEDGEMENT.

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The successful completion of the Situational analysis was made possible by the commitment of the United Nations Country Team in Kenya coordinated by the UN Resident Coordinators Office. Participating UN Agencies were ILO (convener), UNFPA, UNICEF and WFP who constituted the Technical Working Group which included the Directorate of Social Development (DSD), National Council for Persons with Disabilities (NCPWD), United Disabled Persons of Kenya (UDPK), and CHASP Advisory

We would particularly like to express our gratitude and recognition to the following individuals for their immense contributions to the process.

- State Department of Social Protection - Lissel Mogaka, Moses Kamau and Rose Bukania,
  - NCPWD - Sarah Ayiecho, Hassan Harun
  - UDPK - Sally Nduta, Esther Mkamori and Eric Ngondi,
  - UN Resident Coordinator's Office – Zainab Mohammed
  - ILO Kenya- Hellen Magutu Amakobe, Norah Mbura,
- UNICEF Kenya - Nahashon Njuguna, Susan Momanyi, Luke Herman, Emmanuel Munyemana
  - UNFPA - Lilian Langat,
  - WFP - David Kamau and Eunice Mailu
- Consulting team - Omondi Otieno, Elizabeth Shiakamiri, Wilson Macharia, Collins Bulinda, Jorum Oruko

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# ACRONYMS AND ABBREVIATIONS.

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ADP	Annual Development Plan
APDK	Association for the Physically Disabled in Kenya
CEDAW	Committee on the Elimination of Discrimination against Women
CIPD	County Integrated Development Plan
CSOs	Civil Society Organisations
CUCs	Court Users Committees
DEK	Deaf Empowerment of Kenya
EARCs	Education Assessment Resource Centres
EEG	electroencephalogram
FGDs	Focus Group Discussions
FKE	Federation of Kenya Employers
FLOCCA	Flood and Climate Change Adaptation committees
GBV	gender-based violence
GDS	Global Disability Summit
IACC	Inter-Agencies Coordinating Committee
IASC	Inter-Agency Standing Committee
IATWC	Inter-Agency Technical Working Committee
IDA	International Disability Alliance
ILO	International Labour Organization
KAM	Kenya Association of Manufacturers
KBDN	Kenya Business Disability Network

KDHS	Kenya Demographic and Health Survey
KIIs	Key Informant Interviews
KNAD	Kenya National Association of the Deaf
KNBS	Kenya National Bureau of Statistics
KNHRC	Kenya National Human Rights Commission
KSPH	Kenya Society of the Physically Handicapped
KUB	Kenya Union of the Blind
M&E	Monitoring and Evaluation
MDAs	Ministries, Departments & Agencies
MOH	Ministry of Health
MoLSP	Ministry of Labour and Social Protection
MTEF	Medium Term Implementation Framework
NCPWD	National Council for Persons with Disabilities.
NFDK	National Disabled Fund for Kenya
NGAAF	National Government Affirmative Action Fund
NGO	Non-governmental organization
NHIF	National Health Insurance Fund
NSSF	National Social Security Fund
OPDs	Organisations of Persons with Disabilities
PwSD-CT	Persons with Severe Disability Cash Transfer
SDGs	Sustainable Development Goals
TVETs	Technical and Vocational Education and Trainings
UDPK	United Disabled Persons of Kenya
UNCRPD	UN Convention on the Rights of Persons with Disabilities
UNCT	United Nations Country Team
UNDIS	UN Disability Strategy

UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNPRPD	United Nations Partnership on the Rights of Persons with Disabilities
UPR	Universal Periodic Review
USPK	Users and Survivors of Psychiatry Kenya
WCC	Women Challenged to Challenge
WFP	World Food Programme
WG	Washington Group
WHO	World Health Organization

# EXECUTIVE SUMMARY.

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## PURPOSE.

To understand the contextual and systemic realities in relation to disability inclusion and subsequently identify key areas to be prioritized by the United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD) program - to expedite the implementation of the Committee on the Rights of Persons with Disabilities (CRPD) and Sustainable Development Goals (SDGs).

Specifically, the report seeks to;

- I. Inform the design of future UNPRPD programmes:
- II. Serve as a baseline for UNPRPD programmes:
- III. Identify gaps in disability inclusion in ongoing national processes and programmes and recommend further in-depth analysis where needed:
- IV. Build a base of mutual understanding and working relationships between UN entities, government, OPDs and other civil society organizations, as well as the private sector and academia, as a basis for future co-design of joint programs:
- V. Improve the capacity of stakeholders to respect, protect, and promote the rights of persons with disabilities as outlined in the CRPD more effectively:
- VI. Serve as an advocacy tool for OPDs and other civil society partners, national and international:
- VII. Provide useful information for policy planning and implementation, including sectoral policies, poverty reduction policies, and SDG national plans:
- VIII. Provide a disability rights perspective in COVID-19 recovery planning and beyond:

## KEY FINDINGS.

### Precondition 1 | Stakeholder and Coordination Analysis

There are various stakeholders involved within the disability sectors in Kenya and these can be broadly categorized into Organizations of Persons with Disabilities, Ministries, Departments and Agencies and Counties, CSOs, UN agencies. The findings pointed to weak coordination mechanisms among these stakeholders with some of the gaps and challenges noted to contribute to the weak coordination including; Superficial disability inclusion and coordination efforts, Insufficient funding for coordination and advocacy at organizational levels, Fragmentation within the disability sector, Inadequate political will to fully implement disability programmes and initiatives, Low awareness of disability inclusion, Perceived excessive oversight role by NCPWD among others.

### Precondition 2 | Equality and non-Discrimination

Kenya has shown commitment to ensuring equality and non-discrimination for persons with disability through the abolishing of laws that discriminate against persons with disabilities, the development of a National Plan of Action on the implementation of recommendations made by the Committee on

the Rights of Persons with Disabilities, among other initiatives. The analysis has, however, established that people with disabilities still face organization and discrimination across sectors like education, gender disparities, labor and markets, transportation, housing, health, and social protection. Some of the challenges that have been attributed to non-attainment of this goal include; insufficient resourcing, weak institutional capacities, politicization, limited stakeholders' awareness of applicable frameworks, and related limited civic engagement. Further, impunity, corruption, and abuse of power compromises respect for human rights.

### **Precondition 3 | Inclusive Services**

Inclusive services for persons with disabilities are essential in ensuring equal opportunities, access, and participation in various domains of life. Persons with disabilities are limited in trying to access registration services with the NCPWD and accessing mainstream services like social protection, employment, health, education and justice. Access barriers to disability determination and registration services include high costs, long distances travelled, and lack of an institutionalized one-stop-shop approach to disability determination and certification. Poor compliance to the 5% reservation of employment opportunities, inaccessible health infrastructure, low coverage of PWDS by social protection programs and poor early identification and intervention services are some of the gaps that hinder access to inclusive services by PWDs.

### **Precondition 4 | Accessibility**

There exists policy and legal frameworks that seek to ensure accessibility for persons with disabilities within the country. Findings, however, demonstrate that persons with disabilities still face a myriad of challenges in terms of access to information and access to transport, public spaces, and key public services. Information in most cases, is presented in formats that cannot be easily consumed by persons with disabilities, while the design of public transport systems and other key service access points do not have considerations for persons with disabilities. The absence of an enabling environment for compliance and enforcement has been flagged as one of the major gaps impeding the attainment of inclusive services for persons with disabilities.

### **Precondition 5 | CRPD Compliant Programming and Budgeting**

CRPD Compliant Programming and Budgeting as a precondition faces challenges that include poor compliance on policies and budget, poor uptake of differentiated unit cost mechanisms, and lack of clear guidelines on the National Development Fund for Persons with Disabilities under NCPWD. There is a notable lack of representation of persons with disabilities in lobby group CSOs such as the National Taxpayers Association while budgeting per consumption, particularly for social protection programs, further raises concerns when the remaining funds are returned to the Treasury instead of being utilized effectively.

### **Precondition 6 | Governance and Accountability.**

OPDs, despite their low representation, have participated in various processes involving the development of laws and validation of draft policies as well as in UN state reporting processes. There are deliberate efforts to promote the inclusion of persons with disabilities in both county and national levels of governance. Some of the key gaps relating to governance and accountability mechanisms included, limited representation and challenges in ensuring voices are heard,

Government interference and manipulation, Efforts towards inclusion in governance not reflecting provisions of the law.

### **Precondition 7 | Inclusive Evidence & Data Gathering Systems**

There has been progress towards the collection of data and evidence on persons with disabilities, and this has been demonstrated through efforts by the KNBS to utilize the Washington Group Set of Questions for the 2019 census while the government also recently undertook a support needs assessment on persons with disabilities and their primary caregivers in ten counties. Challenges in the collection of these data lead to inadequate accurate and representative information, while Persons with disabilities are often underrepresented in data collection efforts even as data collectors and consumers. This potentially leads to an incomplete and inaccurate understanding of their needs, experiences, and challenges.

### **Precondition 8 | Cross-cutting issues**

The analysis of various cross-cutting issues indicates that the level of participation of OPDs in development and DRR/humanitarian planning processes and programs is low and varies. Persons with disabilities also suffer marginalization and gender inequities disproportionately, as well as heightened vulnerabilities for children with disabilities. Key gaps identified included the needs of persons with disabilities being overlooked, leading to their exclusion from essential services and support systems as they remain invisible in policies, laws, programs, and data.

### **Precondition 9 | Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts**

Findings here indicated that stakeholders are mostly ill-prepared to support persons with disabilities to handle or respond to emergency situations, while persons with disabilities are barely included in climate change mitigation processes in emergencies, preparedness, and responsiveness. With respect to COVID-19 response and other larger-scale emergencies, it was established that there was poor inclusion of persons with disabilities in decision-making, advocacy for accessible information and communication, accessible, inclusive, and targeted support, financial security and employment, and the utilization of data.

## **OPPORTUNITIES.**

### **PRECONDITION 1 | Stakeholder and Coordination Analysis**

- i. Create a dedicated national coordination mechanism that brings together key stakeholders, including government entities, civil society organizations, and representatives from the disability sector.
- ii. Promote collaboration and coordination among different sectors, such as education, health, employment, social welfare, and justice, to ensure a holistic and inclusive approach to CRPD implementation.
- iii. Support advocacy to improve effective coordination between the national and county governments with respect to disability-related matters in alignment with the Persons with Disabilities Act (2003) and CRPD.

## **PRECONDITION 2 | Equality and Non-Discrimination**

- i. Strengthen legal frameworks in alignment with the principles and provisions of the CRPD.
- ii. Conduct awareness campaigns and training programs targeting the public, government officials, service providers, and employers to promote understanding, acceptance, and respect for the rights of persons with disabilities.
- iii. Establish robust monitoring and reporting mechanisms to track progress and identify gaps in the implementation of equity and non-discrimination provisions under the CRPD.
- iv. Ensure the active and meaningful participation of persons with disabilities and their representative organizations in decision-making processes at all levels.
- v. Work with NCPWD and UDPK to build effective and accessible complaints and redress mechanisms to address instances of discrimination and violations of the rights of persons with disabilities.
- vi. Promote research on issues related to equity and non-discrimination for persons with disabilities to inform evidence-based policies and interventions.

## **PRECONDITION 3 | Inclusive Services**

- i. Strengthen Disability Assessment and Referral Systems by improving coordination between the Ministry of Health, NCPWD and OPDs to enhance easy and cost-free access to assessment services for persons with disabilities, especially those in marginalized areas.
- ii. Expansion of the cash transfer programs to reach all persons with disabilities, including their parents and guardians, especially those who have no alternative sources of income.
- iii. Invest in efforts that ensure that healthcare facilities, services, and information are accessible to persons with disabilities.
- iv. Identify and implement inclusive education policies and practices that guarantee equal access to quality education for all children, including those with disabilities.
- v. Promote inclusive employment practices that require the compliance of employers in providing reasonable accommodations and accessibility features in workplaces.
- vi. Support the development of rules and regulations on the provision of procedural, age and gender-appropriate accommodations to persons with disabilities who interact with the justice system.
- vii. Develop and implement inclusive emergency preparedness plans that consider the needs of persons with disabilities.

## **PRECONDITION 4 | Accessibility**

- i. Support the development of national guidelines/standards on accessibility, to promote a unified understanding of the accessibility requirements of persons with all types of disabilities amongst all stakeholders.
- ii. Lobby Parliament to make the Accessibility and usability standards part of the Kenya Building Code to enable enforcement of accessibility and usability standards in the design and construction of infrastructure, including public buildings, schools, hospitals, transportation systems, and recreational facilities.
- iii. Take measures to ensure that information and communication are accessible to all, including persons with disabilities.
- iv. Improve public transportation systems to make them fully accessible and inclusive.

- v. Conduct awareness campaigns and sensitization programs to promote a better understanding of disability rights and the importance of accessibility.

### **PRECONDITION 5 | CRPD Compliant Budgeting**

- i. Support the development of a tracker to track budgets allocated towards disability mainstreaming by both levels of government.
- ii. Support advocacy on allocating budgets and funding for disability mainstreaming during project design, including the provision of reasonable accommodation, by all stakeholders.

### **PRECONDITION 6 | Governance and Accountability**

- i. In consultation with OPDs, support the development of tools to inform effective and meaningful consultation of persons with disabilities in all processes, including policy formulation and national and county budgeting processes.
- ii. Foster transparency in decision-making processes related to disability rights and ensure that persons with disabilities and disability organizations have access to information and opportunities to participate.

### **PRECONDITION 7 | Inclusive Data and Evidence Gathering Systems**

- i. Strengthen the utilization of inclusive Evidence and Data by Investing in comprehensive data collection systems and research to gather reliable and disaggregated data on disability issues.

### **PRECONDITION 8 | Cross-cutting Issues**

- i. The Kenyan government should ensure that disability policies and programs are gender-inclusive, addressing the unique challenges and needs faced by disabled individuals, especially considering the intersecting aspects of gender and disability.
- ii. Disaggregation of data to reflect gender and marginalized populations
- iii. Pay special attention to empowering women with disabilities by providing them with vocational training, financial support, and leadership opportunities.
- iv. Encourage the active participation and representation of disabled women and girls in decision-making processes and community activities.
- v. Support the domestication of the Sendai Framework through the incorporation of the framework's principles, goals, and actions into national and local policies, strategies, and practices.

### **Precondition 9 | Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts**

- I. Promote Disability-Inclusive Emergency Preparedness by developing and implementing inclusive emergency preparedness plans,
- II. Expand the Emergency Response Fund to address the unique needs of PWDs.
- III. Promote the participation of OPDs in the the planning and Implementations of DRR interventions.

# 1. BACKGROUND.

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## 1.1. Purpose of Analysis

The purpose of conducting the situation analysis was to understand the contextual and systemic realities in relation to disability inclusion and subsequently identify key areas to be prioritized by the United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD) program - to expedite the implementation of the Committee on the Rights of Persons with Disabilities (CRPD) and Sustainable Development Goals (SDGs).

In particular, this Situation Analysis Report;

- a) *Informs the design of future UNPRPD programmes:* By examining the current situation and identifying essential areas for improvement, the analysis provides valuable insights and data that can be used to shape and enhance the development of future programs. This information enables program designers to make informed decisions, identify gaps, and address specific needs of persons with disabilities (both adults and children) more effectively. Ultimately, by utilizing the findings from the situation analysis, future UNPRPD programs can be tailored and refined to maximize their impact and effectiveness in promoting disability inclusion and advancing the goals of the CRPD and SDGs.
- b) *Serves as a baseline for UNPRPD programmes:* It establishes a reference point from which progress and impact can be measured. By examining the current situation and identifying key areas for improvement, the analysis provides a comprehensive understanding of the existing conditions and challenges related to disability inclusion.

As a baseline, the situation analysis helps establish clear benchmarks and indicators against which the effectiveness and success of future UNPRPD programs can be evaluated. Additionally, the baseline information derived from this situation analysis helps in setting realistic goals and targets for UNPRPD programs. It provides a contextual understanding of the specific needs and priorities of the disability community, enabling program designers to develop targeted interventions and strategies that are aligned and responsive to the evolving needs and aspirations of people with disabilities.

- c) *Identifies gaps in disability inclusion in ongoing national processes and programmes and recommend further in-depth analysis where needed:* The analysis identifies instances where disability considerations may be lacking or inadequately addressed in national processes and programs. These include areas such as policy development, legislation, service provision, infrastructure, education, employment, healthcare, and social welfare, among others. By pinpointing these gaps, the situation analysis helps raise awareness about the specific areas that require attention and improvement.

Moreover, the situation analysis also serves as a basis for recommending further in-depth analysis where needed. In some cases, the initial analysis may reveal broad gaps or challenges that require a more detailed examination to fully understand their underlying causes and potential solutions. These recommendations can lead to the conduct of specific studies, surveys, or assessments that delve deeper into the identified gaps and provide more nuanced insights.

- d) *Builds a base of mutual understanding and working relationships between UN entities, government, OPDs and other civil society organizations, as well as the private sector and academia, as a basis for future co-design of joint programs:* The situation analysis provided a platform for stakeholders to come together, share their perspectives, and engage in meaningful dialogue on the pre-conditions of disability. By examining the current landscape and identifying gaps, challenges, and opportunities related to disability inclusion, the analysis helps create a shared knowledge base that encourages collaboration and cooperation among diverse stakeholders.

Furthermore, the situation analysis helps identify areas of synergy and alignment among different stakeholders' objectives and initiatives. By understanding each other's priorities and areas of expertise, stakeholders can identify opportunities for collaboration and co-design of joint programs.

- e) *Improves the capacity of stakeholders to respect, protect, and promote the rights of persons with disabilities as outlined in the CRPD more effectively:* the analysis provides an opportunity for stakeholders to deepen their understanding of the CRPD and its principles. It helps stakeholders gain insights into the specific rights and provisions outlined in the convention, as well as the obligations of states parties. By enhancing knowledge and awareness of the CRPD, stakeholders can better comprehend the importance of disability rights and the transformative impact they can have on the lives of persons with disabilities.

- f) *Serves as an advocacy tool for OPDs and other civil society partners, national and international:* The Situation Analysis provides valuable information and evidence that can be utilized to advocate for the rights and inclusion of persons with disabilities. The analysis provides concrete evidence that can be used in advocacy efforts. It strengthens the credibility of OPDs and civil society organizations when advocating for policy changes, legislative reforms, or improved services and support for persons with disabilities.

The findings from the situation analysis can be utilised by OPDs and civil society partners to generate public awareness, mobilize public opinion, and rally support for disability rights. They can use the analysis as a tool to engage with the media, organize campaigns, and lobby for the implementation of the CRPD and the relevant provisions of the SDGs.

- g) *Provide useful information for policy planning and implementation, including sectoral policies, poverty reduction policies, and SDG national plans:* the analysis offers a comprehensive understanding of the current situation and challenges related to disability inclusion. It identifies specific gaps, barriers, and areas of improvement, which can inform the development of sectoral policies. This information helps policymakers and government agencies to design and implement disability-inclusive policies in sectors such as education, healthcare, employment, social welfare, transportation, and infrastructure. By incorporating the findings from the situation analysis, policy planners can ensure that these sectoral policies address the specific needs and rights of persons with disabilities.
- h) *Provide a disability rights perspective in COVID-19 recovery planning and beyond:* the analysis helps in identifying the impact of the COVID-19 pandemic on persons with disabilities. It examines the barriers and vulnerabilities they faced in accessing healthcare, education, employment, social support, and other essential services. By highlighting these challenges, the situation analysis provides a disability rights perspective on the unequal impact of the pandemic and emphasizes the need for targeted measures to ensure the inclusion and well-being of persons with disabilities.

By integrating the findings from the analysis into recovery strategies, policymakers can develop inclusive and equitable plans that prioritize the rights and needs of persons with disabilities. These may include measures such as accessible healthcare services, remote learning accommodations, inclusive employment opportunities, and social protection programs that are responsive to the specific challenges faced by persons with disabilities.

## 1.2. Context of Disability in Kenya

### 1.2.1. Overview of Historic Milestones

In Kenya, disability has traditionally been viewed through charity and medical lenses. Disability programming gained momentum after World War II, leading to the establishment of schools and specialized institutions for persons with disabilities. These approaches to disability were further reinforced by the establishment of statutory institutions such as the Association for the Physically Disabled of Kenya, created in 1953 by the colonial Legislative Council (LegCo); the Kenya Society for the Blind (1956); and the Kenya Society for Deaf Children (1958), to provide specialized services for persons with disabilities. The Kenya Union of the Blind (KUB) was registered as the first organization of persons with disabilities (OPD) in 1959. The Mwendwa Committee for the Care and Rehabilitation of the Disabled was formed in 1964 following a street march by the KUB, producing a report that influenced social and rehabilitation programs.<sup>1</sup> In preparation for the United Nations International Year of Disabled Persons (1981), Kenya declared the National Year for Persons with Disabilities, launching awareness campaigns and initiatives such as the National Disabled Fund for Kenya (NFDK). OPDs also formed coalitions to enhance their advocacy

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<sup>1</sup> Gebrekidan, F. N. (2012). Disability Rights Activism in Kenya, 1959-1964: History from Below. *African Studies Review*, 55(3), 103–122. <http://www.jstor.org/stable/43904850>

efforts, such as the Kenya National Association of the Deaf (KNAD), the Kenya Society of the Physically Handicapped (KSPH), and organizations for parents of persons with intellectual and psychosocial disabilities. The United Disabled Persons of Kenya (UDPK) was formed in 1989 as an umbrella organization bringing together 130 community-based OPDs.<sup>2</sup>

Through advocacy efforts by organizations such as UDPK the Attorney General appointed a Task Force to review laws relating to persons with disabilities in 1993, which subsequently presented a draft disability Bill to the Attorney General in 1997 that resulted in the enactment of the Persons with Disabilities Act in 2003. Kenya ratified the CRPD<sup>3</sup> in 2008, which is now incorporated into Kenyan law. UDPK and other disability rights advocates formed a Disability Caucus to participate in the constitutional review process leading to the promulgation of the Constitution of Kenya 2010, which has express provisions on the rights of persons with disabilities. The CRPD forms part of Kenyan law by virtue of article 2(6) of the Constitution. The country is currently reviewing the Persons with Disabilities Act to align it with the provisions of the CRPD.

### 1.2.2. Kenya Disability Statistics

According to the 2019 national population census, 2.2% (1.9% men, 2.5% women) of Kenyans live with some form of disability.<sup>4</sup> A direct comparison of disability prevalence between the 2009 and 2019 census depicts a sharp drop, which has been attributed to stigma, inaccurate translation of census questions, and exclusion of children below five years.<sup>5</sup> The 2019 census was the first to adopt the Washington Group Short set of questions which are designed to identify persons who experience difficulties in doing six basic universal actions such as seeing, hearing, mobility, cognition, self-care, and communication. Prevalence rates by residence show that 2.6% (0.7 million) of people in rural areas and 1.4% (0.2 million) of people in urban areas have a disability. Mobility is the most experienced form of disability, representing 42% of people with disabilities (Figure 1). This is followed by seeing, cognition, hearing, and self-care challenges that stand at 36%, 23%, 17%, and 16%, respectively. From a subnational angle, the highest prevalence rates of disability were recorded in the Central, Eastern, and Western parts of Kenya, with the counties with the highest prevalence rates being Embu (4.4%), Homa Bay (4.3%), Makueni (4.1%), Siaya (4.1%) and Kisumu counties (4%). Wajir had the lowest prevalence at 0.6%.<sup>6</sup>

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<sup>2</sup> SIDA (2014), Disability Rights in Kenya <https://cdn.sida.se/app/uploads/2021/05/07125814/rights-of-persons-with-disabilities-kenya.pdf>

<sup>3</sup> [http://internet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD](http://internet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD).

<sup>4</sup> <https://www.knbs.or.ke/2019-kenya-population-and-housing-census-reports/>

<sup>5</sup> Owino, E. (2020b). *Status of disability in Kenya - Statistics from the 2019 census*. Development Initiatives.

<sup>6</sup> 2019 Kenya Population and Housing Censuses Volumes I-IV, released in November 2019 and February 2020,

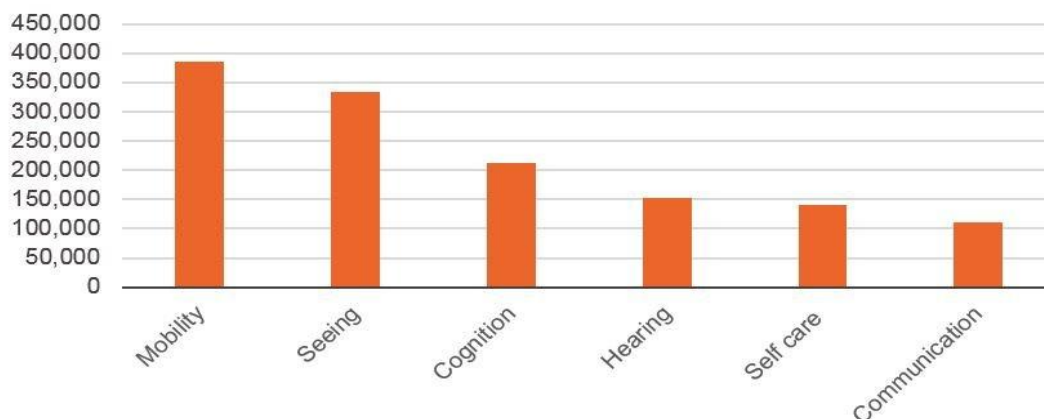


Figure 1: Source: Development Initiatives based on KNBS

Further, poverty rates are higher among certain vulnerable groups such as orphans and vulnerable children (54.1 per cent), older persons (53.2 per cent) and persons with disabilities (57.4 per cent).<sup>7</sup> Kenya estimates that 67% of persons with disabilities live in poverty<sup>8</sup> (2.97 million people), and lack an adequate standard of living and social protection at both national and county levels. As such, due to the mutual reinforcing cycle of poverty and disability, many Kenyans with disabilities have little access to health and education, clean water and sanitation, have inadequate housing and live in over-crowded, unsanitary and unsafe areas.<sup>9</sup>

## 1.3. Approach to the Situation Analysis

### 1.3.1. The Guiding principles

The key principles that guided the situational analysis are:

- i. **Participation:** In the context of disability inclusion, participation plays a critical role in advancing the rights and well-being of persons with disabilities. We created platforms for stakeholders and for persons with disability to contribute their knowledge, experiences, and expertise, which are essential for informing policies and programs that address their specific needs and aspirations. By actively involving persons with disabilities in decision-making processes, their rights and perspectives are recognized and respected.
- ii. **Gender representation:** Achieving gender representation within the situation analysis was crucial for promoting gender equality and advancing the rights of women, men, and people of all gender identities. The process recognized that gender inequalities persist in various aspects of society, including political, economic, social, and cultural spheres. Gender representation seeks to address these disparities by ensuring that individuals of all genders have equal opportunities to participate, contribute, and lead in all areas of life.

<sup>7</sup> National Treasury and Planning *Second voluntary national review report on the implementation of the sustainable development goals* [https://gender.go.ke/wp-content/uploads/2022/06/SDG-2020\\_VNR\\_Final\\_Kenya\\_.pdf](https://gender.go.ke/wp-content/uploads/2022/06/SDG-2020_VNR_Final_Kenya_.pdf) (accessed 30 April 2023) 26.

<sup>8</sup> Global Disability Rights <http://www.globaldisabilityrightsnow.org/infographics/disability-kenya>

<sup>9</sup> UK Department for International Development (UK DFID) *Global Report on the participation of organisations of persons with disabilities (DPOs) in VNR Processes* <https://www.internationaldisabilityalliance.org/global-report-vnr-processes> (accessed 30 April 2023)34

- iii. **Intersectional analysis, and the representation of issues and lived experiences of marginalized and underrepresented disability groups:** The analysis was focused on the description and identification of capacity gaps among the duty bearers and right holders, analysis of the essential preconditions for progress, including the functional assessment of the country's coordination mechanisms and the contribution of key stakeholders, and OPDs. There were three cross cutting issues that were considered: participation, gender, and (in)equality.
- iv. **Empowerment:** The principle was crucial for challenging the narratives of dependency and paternalism often associated with disability. In the execution of the analysis, the process recognised the inherent rights, capabilities, and potential of individuals with disabilities, fostering their self-confidence, self-esteem, and sense of agency. By empowering individuals with disabilities, society can create a more inclusive, equitable, and accessible environment where everyone can fully participate and contribute.
- v. **Legality:** The analysis examined legal frameworks, regulations, and protections that uphold the rights and equal treatment of individuals with disabilities. Legality provides a foundation for promoting disability rights, creating inclusive societies, and holding accountable those who violate these rights.

By adhering to these principles, the study maintained a high standard of ethical conduct, ensuring the integrity, credibility, and respect for the rights and well-being of the participants.

In addition, the analysis made considerations for the Humanitarian and Climate Change Perspectives. It should be noted that Humanitarian and climate change actions often have adverse effects on persons with disabilities. Climate change-related disasters and emergencies can disproportionately impact PWDs, exacerbating existing vulnerabilities and barriers they face. Limited access to information, communication, and evacuation mechanisms can hinder their ability to respond and adapt to rapidly changing situations. Additionally, disruptions to essential services and healthcare systems can further compromise their well-being and independence. It is crucial for humanitarian efforts to prioritize the inclusion in disaster risk reduction and response strategies, ensuring their meaningful participation and addressing their unique needs.

### 1.3.2. Methodology

The situational analysis involved the analysis of existing data (meta-analysis), comprehensive desk review, and use of qualitative data collection techniques – particularly key informant interviews (KIIs), Focused Group Discussions (FGDs), and consultative sessions with OPDs. The analysis was based on the scope of work as outlined in the terms of reference and this served as a guide for the consultants (see a copy attached in the annexed).

The situational analysis was organized into 4 core stages, as indicated in the figure below, and further discussed in sections that follow.

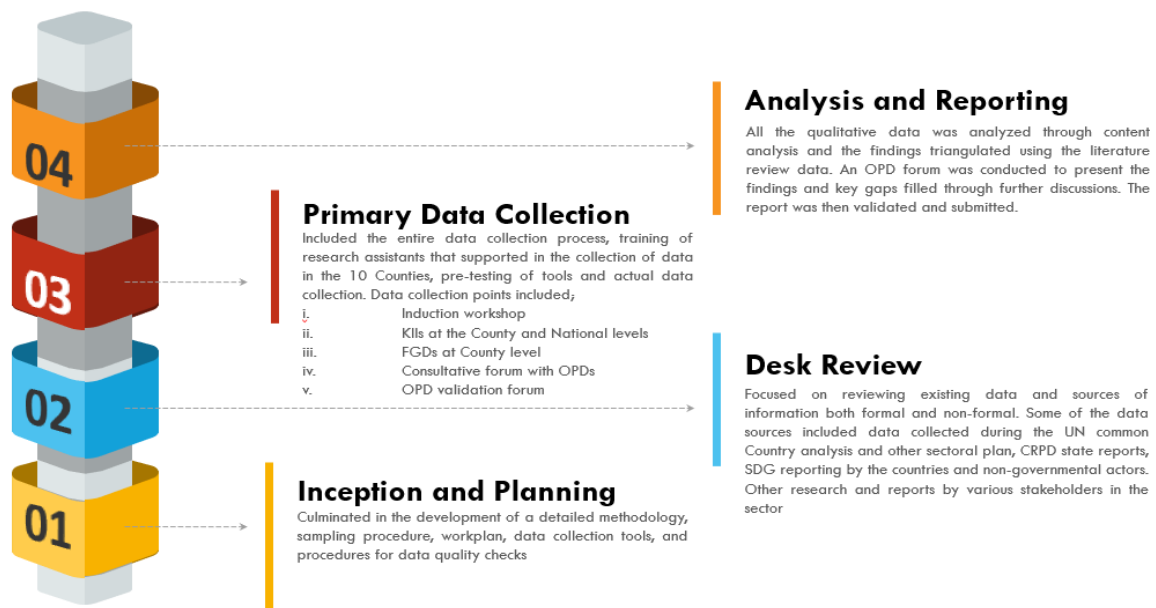


Figure 2: Summary of the Methodology

- i. **Activity 1: Inception and planning** - During this phase, key stakeholders including UNPRPD, ILO, UNICEF, UNFPA, WFP, National Council for Persons with Disabilities (NCPWD), UDPK, Ministry of Labour and Social Protection (MoLSP), and others were consulted to establish consensus on the situational analysis and approach. An Induction workshop was conducted by the UNCT to train stakeholders on CRPD provisions and highlight the importance of the upcoming analysis. Feedback and comments were gathered during the meeting. The information gathered from the kick-off meeting and background research informed the development of an inception report, outlining the approach, key actors, document review, and a comprehensive work plan for the situational analysis process.
- ii. **Activity 2: Desk review**- The research team conducted desk reviews, gathering and organizing information from various sources. These included formal and non-formal data sources such as UN common Country analysis, CRPD state reports, SDG reporting, and research reports from stakeholders in the sector. The desk review focused on addressing questions related to preconditions and cross-cutting issues outlined in the scope and limitations section.
- iii. **Activity 3: Primary data collection** - Consultative forums with OPDs, key informant interviews, and focus group discussions (FGDs) were conducted to gather valuable information and enhance the understanding of the context, complementing the findings from the literature review. The data collection process followed a question guide with open-ended questions. Participants were selected at the national and county levels based on their strategic expertise, ability to address multiple preconditions, influence, and geographic and demographic coverage. This selection aimed to facilitate analysis of key thematic areas, assess progress in CRPD implementation and disability-inclusive SDGs, and align with the framework provided by the UN in Kenya and the inception report.

- iv. **Activity 4: Analysis and reporting** - After data collection, the data was cleaned and analysed using content analysis. The qualitative findings were cross-referenced with the literature findings to enhance credibility. The findings were shared with OPDs in a forum to ensure ownership and identify any remaining gaps. A stakeholder workshop was conducted to present the report, allowing for identification and clarification of key findings. Finally, the report considers the specific and unique issues for children and special population groups such as those living with HIV and marginalised communities.

### 1.3.3. Scope and limitations

While the situation analysis on the conditions of persons with disabilities provides valuable insights, it is important to acknowledge certain limitations that may impact the findings and interpretations. Some of the possible limitations to this analysis include:

- i. **Data availability and quality:** The analysis heavily relied on the availability and quality of existing data sources. In some cases, such data on disability-related issues was limited, incomplete, or inconsistent, making it challenging to draw comprehensive conclusions or accurately assess the current situation. The effect of this limitation was mitigated by triangulating data from multiple sources.
- ii. **Unavailability of key respondents:** The situation analysis faced challenges in accessing certain groups of persons with disabilities (such as refugees) due to physical, communication, or attitudinal barriers. This may result in underrepresentation of very specific segments of population and there leading to incomplete or skewed findings in respect to the populations not reached. The only segment not reached during the study were persons with disabilities who are refugee and those that identify as LGBTQI+.
- iii. **Subjectivity and bias:** Despite efforts to maintain objectivity, the analysis may be influenced by subjective judgments, biases, or interpretations of the stakeholders involved. Unconscious biases or preconceived notions may unintentionally affect the suggestion of data sources, interpretation of findings, or the formulation of recommendations.
- iv. **Stakeholder perspectives:** The analysis primarily relied on the perspectives and input of specific stakeholders, potentially overlooking, or underrepresenting the voices and concerns of other grass-root/micro level actors. Ensuring diverse and inclusive stakeholder engagement helped to mitigate this limitation.
- v. **Longitudinal perspective:** The analysis provides a snapshot of the situation at a specific point in time, which may not capture long-term trends or changes. A latitudinal perspective would provide a more comprehensive understanding of how conditions and circumstances for persons with disabilities evolve over time.

It is crucial to acknowledge these limitations and communicate them transparently when presenting the findings and recommendations of this Situation Analysis. This would allow for a more nuanced interpretation of the results and ensures that the limitations are considered in the subsequent planning and decision-making processes.

## 2. THE FINDINGS.

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### 2.1. SECTION 1 | Stakeholder and Coordination Analysis

Stakeholder and coordination analysis is a crucial process in understanding the dynamics, relationships, and roles of various stakeholders involved in promoting the rights and inclusion of persons with disabilities in Kenya. It aims to identify key actors, assess their interactions, and develop effective strategies for collaboration, coordination, and collective action towards disability inclusion.

This section will delve into the stakeholder landscape and coordination analysis specific to persons with disabilities in Kenya. It will explore the roles, responsibilities, and relationships of key stakeholders, highlighting successful coordination efforts and identifying areas for improvement. Through this analysis, we aim to enhance understanding of the diverse perspectives and contributions of stakeholders, identify strategies to enhance collaboration, and promote more effective coordination among stakeholders involved in disability rights and inclusion.

#### 2.1.1. Description of Key Stakeholders.

##### a) Organizations of Persons with Disabilities.

The United Disabled Persons of Kenya (UDPK) is the umbrella body for organizations of persons with disabilities (OPDs). UDPK's aims to address disability equality concerns through legislation and advocacy and awareness-raising. The organization has membership of several OPDs of underrepresented groups, including- Autism Society of Kenya, Kenya Association for the Intellectually Handicapped, Parents Association for the Mentally Handicapped, Users and Survivors of Psychiatry Kenya (USPK), East Africa Deafblind Initiative, Brian Resource Centre, Albinism Society of Kenya, and Women Challenged to Challenge.

In the recent past, there has been an increased push to meaningfully engage involve OPDs in planning, designing, implementing and monitoring of development initiatives as required under the CRPD,<sup>10</sup> and reiterated by the Global Disability Summit 2018 commitments.<sup>11</sup> Development partners such as the Foreign, Commonwealth and Development Office (FCDO) under its Disability Inclusion and Rights Strategy 2022-2030,<sup>12</sup> require explicit inclusion of OPDs at consortium level as eligibility requirements to some of their funding opportunities especially those that are disability related.

Similarly, international OPDs have also been at the forefront in championing as well as assessing the meaningful engagement of persons with disabilities in development processes including through building the capacity of country-level OPDs to also undertake the same locally. The

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<sup>10</sup> CRPD Article 4 and 33(3). See also General comment no. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the convention

<sup>11</sup> [https://www.internationaldisabilityalliance.org/sites/default/files/global-disability-summit-summary-commitments\\_2.pdf](https://www.internationaldisabilityalliance.org/sites/default/files/global-disability-summit-summary-commitments_2.pdf)

<sup>12</sup> <https://www.gov.uk/government/publications/fcdo-disability-inclusion-and-rights-strategy-2022-to-2030>

International Disability Alliance (IDA) has had notable collaborations with UDPK as affirmed in the IDA Global Survey on Participation of Organisations of Persons with Disabilities in Development Programmes and Policies, 2020.<sup>13</sup>

#### **b) Ministries, Departments and Agencies and Counties**

The Ministry of Labour and Social Protection is the focal point ministry for Disability Programming in Kenya - a function undertaken through the State Department of Social Protection, Senior Citizens Affairs & Special Programmes, and the NCPWD. NCPWD was established under the Persons with Disabilities Act as a semi-autonomous government agency on disability matters.<sup>14</sup> The NCPWD is responsible in spearheading various disability initiatives at both national and county levels. This includes but not limited to lobbying for the development and implementation of various laws and policies; lobbying for disability mainstreaming across various sectors. The NCPWD has an Officer in each county with structures that are used to create awareness, implement and coordinate various disability programmes including the mandated role of registering persons with disabilities.

At the county level, there are evident efforts to include OPDs within County Government priorities. Makueni County, for instance, has established the Makueni County Disability Forum to coordinate disability specific programmes at the county, ward, and village levels, and provided land for its office, and operations. This notwithstanding, the forum is faced by challenges such as inadequate resources, incomplete data on Persons with disabilities, and stigma towards persons with disabilities. Other efforts have also been noted in Homabay and Garissa counties amongst others.

#### **c) Civil Society Organizations**

Civil society organizations have been instrumental in implementing programmes that promote disability inclusion, many of which have been useful in generating evidence for advocacy, and lessons that inform the adoption and scale-up by other actors, especially Government. Some of the key CSO actors identified by this situation analysis are as summarised under these thematic/programme areas;

- i. **Community Based Rehabilitation and Community Based Inclusive Development-** CBM works closely with the Association for the Physically Disabled in Kenya (APDK) and the Ministry of Health to pioneer community-based rehabilitation and promote disability early identification and intervention.<sup>15</sup> CBM is also implementing the Vision Impact Project in 10 counties in collaboration with Council of Governors,<sup>16</sup> Kenya Society for the Blind, Kenya Union for the Blind amongst others to promote eye health. Cheshire Disability Services of Kenya works together with 41 grassroots partner organizations drawn from 38 counties

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<sup>13</sup> [https://www.internationaldisabilityalliance.org/sites/default/files/executive\\_summary\\_final.pdf](https://www.internationaldisabilityalliance.org/sites/default/files/executive_summary_final.pdf)

<sup>14</sup> KIPPRA *Inclusion of Persons with disabilities in National Development for Shared Prosperity* <https://repository.kippira.or.ke/bitstream/handle/123456789/2193/KIPPRA%20Policy%20Monitor%20October%20December%202019.pdf?sequence=1&isAllowed=y> (accessed 30 April 2023) 15.

<sup>15</sup> <https://www.apdk.org/health/>

<sup>16</sup> <https://www.coq.go.ke/component/k2/item/251-cog-ministry-of-health-unveil-german-funded-4-year-project-to-spur-universal-eye-care-in-counties>

that have OPDs, religious organizations, schools and homes to promote disability programming.<sup>17</sup>

- ii. **Inclusive Education-** Humanity & Inclusion, in collaboration with various stakeholders such as UNHCR implements programs on education for refugees with disabilities. These include the expansion of access to online learning, training, and employment for refugees and host communities in Dadaab and Kakuma camps.
- iii. **Inclusive employment-** Sight Savers International, under the Inclusive Futures Initiative<sup>18</sup> that brings together various stakeholders,<sup>19</sup> is leading the Inclusion Works and Global Labour projects in collaboration with UDPK, Central Organization of Trade Unions (COTU),<sup>20</sup> private sector players (Standard Chartered Bank, East Africa Breweries Limited and Coca Cola), to test innovative ways to improve economic empowerment and inclusion for persons with disabilities, enabling them to find employment and earn a living. The project has developed a Disability Confident Employers' Toolkit,<sup>21</sup> and set up a Bridge IT Academy.<sup>22</sup>

Light for the World, in collaboration with Humanity & Inclusion, Sense International-Kenya, and UDPK, is implementing the InBusiness Initiative<sup>23</sup> to promote access to business opportunities by persons with disabilities. Notably, Leonard Cheshire was the lead partner in the Innovation to Inclusion (i2i) project consortium that had partners such as CBM, ILO, Action Network for the Disabled an OPD, World Bank, Plan International, Global Disability Innovation Hub and London School of Hygiene and Tropical Medicine. The project tested innovative ideas aimed at improving the employment of persons with disabilities in the private sector, and developed the NCPWD Career Portal<sup>24</sup>, an inclusive online recruitment space for both employers and candidates with disabilities; supported the Federation of Kenya Employers to establish the Kenya Business Disability Network,<sup>25</sup> and conducted research on the costs involved in the employment of persons with disabilities.

- iv. **Inclusive technology and accessibility-** The Global Disability Innovation Hub (GDI Hub) in collaboration with Kilimanjaro Blind Trust is running the Innovate Now<sup>26</sup> programme to accelerate disability innovation by training early-stage assistive technology companies.<sup>27</sup>

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<sup>17</sup> <https://www.cheshiredisabilityservices.org/services/>

<sup>18</sup> <https://inclusivefutures.org/>

<sup>19</sup> ADD International, BBC Media Action, Benetech, BRAC, Development Initiatives, Humanity & Inclusion, International, Institute of Development Studies, International Disability Alliance, Leonard Cheshire, Light for the World, Sense International, Social Development Direct, Standard Chartered and Sustainable Hospitality Alliance

<sup>20</sup> <https://cotu-kenya.org/article-on-inclusivity/>

<sup>21</sup> <https://asksource.info/topics/livelihoods/inclusive-futures-disability-confident-employers-toolkit>

<sup>22</sup> <https://www.sightsavers.org/from-the-field/2021/06/building-a-career-in-it-with-the-bridge-academy/>

<sup>23</sup> <https://www.inbusinessinitiative.org/about-us/>

<sup>24</sup> <https://ncpwd-landing.fuzu.com/>

<sup>25</sup> <https://businessanddisability.or.ke/>

<sup>26</sup> <https://atinnovatenow.com/>

<sup>27</sup> <https://atinnovatenow.com/startups/#>

#### d) International Cooperations

Various UN Agencies working in Kenya recognize the importance of disability inclusion and are actively working towards creating a more inclusive environment within its agencies. By incorporating disability considerations into its strategies, appointing focal points, and promoting inclusive practices, the UN aims to lead by example in fostering disability inclusion both within its own operations and in global efforts to promote equality and human rights. The UN has developed a strategy that serves as a guiding framework for UN agencies to implement disability-inclusive practices – the UN Disability Strategy (UNDIS).<sup>28</sup> Efforts have been made to roll out this strategy and UN agencies are expected to demonstrate tangible progress in their disability inclusion efforts. This accountability mechanism helps to ensure that the UN's programmes and initiatives effectively address the needs and rights of persons with disabilities. UNICEF Global has developed the Disability Inclusion Policy and Strategy (DIPAS) 2022-2030 which informs UNICEF's disability inclusion processes.<sup>29</sup> The following are the key thematic areas that the UN has supported, and continues to support, on disability inclusion;

- i. *Labour and private sector engagement-* ILO supported the process of establishment the Kenya Business Disability Network (KBDN) hosted by the Federation of Kenya Employers (FKE). KBDN is a network of private sector which promotes disability inclusion in the private sector. ILO also facilitated the sensitization of the Central Organization of Trade Unions (COTU) on disability Inclusion in the world of work, to actively involve trade unions in advocating for the rights of persons with disabilities.
- ii. *Social protection-* UNICEF has invested in the strengthening of social protection systems in Kenya, both at the national and county level. The agency has supported the development of Social Protection Strategy for Mombasa which led to the design and implementation of an integrated cash and disability programme targeting children with disabilities of school going age. In addition, UNICEF continues to invest in strengthening of the child protection structures such as alternative family care which are critical to the roll-out of disability programmes that target children.

WFP continues to invest in the information systems that support the implementation of Cash Transfers for Persons with Disability. In addition, WFP and UNICEF supported the Ministry of Labour and Social Protection in collaboration with Kenya National Bureau of Statistics to conduct a comprehensive Support Needs Assessment for Persons with Disabilities and their primary Caregivers. WFP provided support for the disability cash transfer program implemented by the County Government of Wajir.

On the other hand, ILO is supporting the government in developing a strategy to extend social protection to works in the informal and rural economy, including persons with disabilities. ILO has continued to promote social protection within the labour sector.

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<sup>28</sup> <https://www.un.org/en/content/disabilitystrategy/>

<sup>29</sup> <https://www.unicef.org/unicef-disability-inclusion-policy-and-strategy-dipas-2022-2030#:~:text=The%20DIPAS%20sets%20out%20six,in%20humanitarian%2C%20emergency%20and%20fragile>

- iii. *Sexual and reproductive health and rights (SRHR)*- UNFPA collaborated with the NCPWD and the State Department of Social Protection to assess Kenya's progress in implementing commitments from the Global Disability Summit 2018, focusing on inclusive sexual and reproductive health and gender-based violence response. Additionally, UNFPA supported the development of an online course in partnership with *This Ability Trust*, an OPD, to train health workers on sexual and reproductive health for persons with disabilities and funded the maintenance of the USSD platform, *Hesabika*, and established a toll-free hotline called "Mama Siri" to provide information and support on sexual and reproductive health and rights to women with disabilities. Additionally, UNFPA collaborates with Special Olympics Kenya, a CSO and UNICEF on sporting events for adolescents and youth with intellectual disabilities. UNFPA provides the sexual and reproductive health component, and together with Special Olympics Kenya and Lions Clubs International Foundation (LCIF), using the "Our Good Future Manual," a life skills and reproductive health information manual for persons with intellectual disabilities that has proven impactful in its implementation. ILO has also partnered with FKE to raise HIV awareness and enhance knowledge of status amongst workers with disabilities in Mombasa and Nairobi Counties.
- iv. *Child protection and education*- UNICEF strengthened the capacities of Education Assessment and Resource Centres (EARCs). They also supported in developing policy notes on budgeting for special needs and increasing access to education for children with disabilities. UNICEF has conducted assessments to determine the accessibility of WASH services in primary schools and supported the construction of disability-inclusive WASH facilities as well as supported the roll-out of the Universal Child Benefit program and implemented programs to improve maternal and child health indicators.
- v. *Policy and legislation support*- UNICEF supported the Ministry of Education in developing policy notes on budgeting for special needs and increasing access to education for children with disabilities.
- vi. *Data on disability inclusion*- UNFPA supports data generation and analysis, integrating disability-related questions and provisions into national surveys and assessments like the census and the Kenya Demographic and Health Survey (KDHS). Meanwhile, WFP contributed to strengthening Management Information Systems (MIS) for disability programs, including the implementation of the CCTP MIS and the Enhanced Single Registry to ensure disability disaggregated data. ILO has also supported the inclusion of disability disaggregation within the registry.

The ILO also supported the process of development of the disability monograph resulting from 2019 national population and housing census and provided support to the Kenya National Bureau of Statistics (KNBS) to develop tools to be used in a country-wide disability-specific household survey.

### 2.1.2. The Coordination Mechanisms.

This section provides a description of the existing coordination mechanisms among key stakeholders and provides insights into how well they function.

#### a) National and County level disability coordination.

There are no existing disability coordination frameworks between the national and county governments. In most cases coordination between relevant county departments and national government structures like the NCPWD are ad-hoc. This could be attributed to lack of explicit provisions assigning the functions related to disability inclusion to the two levels of government, which, in turn, has negative impacts on efforts to address concerns of persons with disabilities by both levels of government - including access to services and budgetary allocation.

#### b) CRPD Coordination

The State Department of Social Protection and Senior Citizen's Affairs, under the Ministry of Labour and Social Protection has the mandate to promote and protect the rights of persons with disabilities. The NCPWD is responsible for follow-up and enforcement of the Persons with Disabilities Act (2003). The Kenya National Human Rights Commission (KNHRC) is charged with monitoring implementation of the CRPD. Legal reforms and constitutional amendments as mentioned earlier as well as programmatic initiatives have been introduced by the government to address different aspects of disability rights, including education, employment, accessibility, and social inclusion. These initiatives align with the principles and guidelines of the CRPD.

#### c) SDGs Coordination

The Ministry of National Treasury and Planning, through the State Department for Economic Planning, is responsible for aligning the government's development agenda to the SDGs, through the SDGs Coordination Directorate. The directorate domiciles the Inter-Agency Technical Working Committee (IATWC), co-chaired by the SDGs Kenya Forum and the Kenya Private Sector Alliance. The IATWC has membership of the SDGs Kenya Forum, which convenes over 350 Civil Society Organizations including OPDs;<sup>30</sup> the Kenya Private Sector Alliance; the Kenya Parliamentary Caucus on SDGs and Business; the Council of Governors; Kenya Association of Manufacturers (KAM); National Youth Council; UNDP and Academia. The five-year medium-term plan is the primary instrument that drives the implementation of the SDGs,<sup>31</sup> including during the budget making process.

#### d) Coordination for the Commitments from the Global Disability Summit

The Inter Agencies Coordinating Committee (IACC), hosted by the State Department of Social Protection and Senior Citizen Affairs, brings together state and non-state actors with the aim of ensuring coordination of disability-related programs. The IACC was constituted following the 2018 Global Disability Summit (GDS), which was co-hosted by the Government of Kenya,

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<sup>30</sup> <https://sdgkenyaforum.org/members/organizations>

<sup>31</sup> <https://www.developlocal.org/wp-content/uploads/2016/04/ImplementingTheSDGs.pdf>

the Government of the United Kingdom, and the International Disability Alliance. During the 2018 and 2022 GDS, Kenya committed to reduce stigma and discrimination; promote inclusive education; enhance the economic empowerment of persons with disabilities; harness technology and innovation; finalize and implement the National Disability Policy on assistive devices and support services; disaggregate data by gender, age, disability and geographic location for use in planning; institutionalize national disability inclusive budgeting across all government departments at both national and county levels; strengthen the role of institutions and enhance their capacity to effectively deliver on their supervisory and enforcement mandate; and ensure that service implementation organs at county and national government levels adhere to the government commitments. The 2021 Status Report on Disability Inclusion in Kenya indicates significant progress in the implementation of these commitments.<sup>32</sup>

Concerns have been raised by OPDs that focussing on the GDS Commitments has slowed down the fulfillment of the obligations under the CRPD.

*‘ There has been partial implementation, for instance with the domestication of the CRPD like Persons with Disabilities Bill (2022) coming up with a new law. Many times, the focus is not on the CRPD, the attention goes to Global Disability Summit Commitments. A lot of focus was done 2015 and 2018 after that the energy went to the Global Disability Summit’ .... FGD Discussant*

### 2.1.3. Gaps in Stakeholder Coordination

The evaluation report of the NCPWD performance contracting of the 18th cycle (2020-2021),<sup>33</sup> identified several challenges in ensuring disability mainstreaming for MDACs. These challenges include; *inadequate financing, absence of a national disability policy, inconsistent commitment to disability mainstreaming, low representation of OPDs in disability mainstreaming committees, inadequate support from performance contracting coordinators, and poor implementation of the provision of Section 13 of the Persons with Disabilities Act 2003 on 5% employment of persons with disabilities.*<sup>34</sup>

Other gaps raised by the respondents include:

- i) *Superficial disability inclusion and coordination efforts* - Despite the general performance contracting indicators, MDACs, only seek to attain those indicators set by the NCPWD and

<sup>32</sup> <https://www.socialprotection.go.ke/wp-content/uploads/2022/03/STATUS-REPORT-ON-DISABILITY-INCLUSION-IN-KENYA-2021.pdf>

<sup>33</sup> The 18<sup>th</sup> performance contracting guidelines included: the appointment of a Disability Mainstreaming Champion; sensitization and training on disability mainstreaming; registration with the NCPWD Career Portal; compliance with the 5% employment of persons with disabilities requirement; increasing equal and easy access to products, services, and services/programmes; conducting an accessibility and usability audit; and/or implementing recommendations from the existing audit report.

<sup>34</sup> NCPWD (2023), Disability Mainstreaming Report 2021-2022 [https://ncpwd.go.ke/download/mdas-status-report-2022/?ind=1678707333616&filename=MDAs%20Status%20Report%202022%20FINAL%20\(1\).pdf&wpdmdl=15709&refresh=6499f2046f4e51687810564](https://ncpwd.go.ke/download/mdas-status-report-2022/?ind=1678707333616&filename=MDAs%20Status%20Report%202022%20FINAL%20(1).pdf&wpdmdl=15709&refresh=6499f2046f4e51687810564)

not any other such that persons with disabilities often face barriers and discrimination when accessing services and opportunities at specific MDAC level. Likewise, CSOs only include OPDs to fulfil donor requirements and not meaningfully.

- ii. *Insufficient funding for coordination and advocacy at organizational levels* - Organizations hardly have or set aside funding for coordination processes. Insufficient financial resources limit the scope and effectiveness of these initiatives thereby hindering the overall quality and reach of the programmes. Resources for disability advocacy are often minimal, posing a significant challenge especially for OPDs to effectively raise awareness, provide support, and advocate for policy changes. For example, the Interagency Coordinating Committee is not financially supported and hence not as effective as it should be. The indigenous people OPD in Baringo has only had one donor, the Minority Rights Group, to support their advocacy on climate change and therefore their reach and depth of intervention is grossly limited.
- iii. *Inadequate involvement of persons with disabilities and OPDs at project design stages* -One of the major challenges cited by OPD representatives is the inadequacy of involvement of persons with disabilities in the design of disability programming by government, UN Agencies, CSOs and development partners. This limits their participation in the efforts to coordinate actions that relate to their welfare as indicated by the comment below.

*‘These programmes are made to benefit us; however, they are made without consulting us. This leads to a disconnect between the programme’s objectives and the actual needs and preferences of the sector. It is crucial to include persons with disabilities in the planning and design process to ensure that our voices are heard and our unique concerns are addressed’ .... KII OPD respondent*

- iv. *Fragmentation within the disability sector* - The analysis has established that there are multiple organizations, groups, and stakeholders working independently and without cohesive coordination. Such incoherence in coordination is characterized by a lack of unity, collaboration, and collective action within the disability community, which hinders progress and effective advocacy for disability rights and inclusion. There is limited sharing of information, resources, and best practices, resulting in duplication of efforts, inefficient use of resources, and missed opportunities for collective impact. CSOs also compete for resources, and therefore there are isolated instances where collaboration and cooperation may be overshadowed by individual interests and the need for survival, making it challenging to work together towards shared objectives.

- v. *Inadequate political will to fully implement disability programmes and initiatives* - There is low commitment and prioritization by political leaders and policymakers in ensuring the effective implementation of policies, programs, and measures that promote disability rights and inclusion. This reflects a systemic issue where the necessary resources, attention, and support are not allocated to address the needs and challenges faced by persons with disabilities. The inadequate political is mainly attributed to low awareness and understanding, incomplete legal and policy frameworks, lack of accountability for meeting disability targets and objectives.

#### 2.1.4. Gaps in County Level Coordination

Below are some of the challenges facing OPDs and persons with disabilities at county level;

- i. *Poor engagement of persons with disabilities and OPDs by County Governments* - Poor involvement by OPDs in County Policy Formulation and in County Government Mainstreaming Committees.<sup>35</sup> OPDs are often excluded from the process of formulating county policies, resulting in the neglect of disability-related issues. Their perspectives and expertise are not adequately considered, leading to gaps in disability implementation and inadequate provision of services. As a result, disability-related programs and initiatives may not effectively address the challenges faced by persons with disabilities in the respective county.
- ii. *Low awareness of disability inclusion by County Officers* - Officers who are responsible for implementing disability-related policies may have limited knowledge about the existing laws and regulations concerning persons with disabilities. This has led to a lack of appropriate actions and support for persons with disabilities. Instances of stigma and discrimination towards persons with disabilities by county officers hinder the effective implementation of disability-related initiatives. Negative attitudes and biases also undermine the provision of services and support needed by persons with disabilities.
- iii. *Low adoption of disability County Bill domesticating the Persons with Disabilities Act (2003) and poor implementation of the existing ones* - All counties are expected to develop and enact county specific laws aligned to the provisions of the Persons with Disabilities Act (2003). As such there are inconsistencies in the implementation of disability rights and services at county and national levels. Counties that have the bills have also struggled to implement them due to capacity weaknesses (specific to each county). Notably, a KNCHR report<sup>36</sup> indicates that by attempting to draft county-specific disability legislation and persons with disabilities development funds laws as separate issues, without reference to

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<sup>35</sup> The County Government Mainstreaming Committee is responsible for planning and implementing disability inclusion measures, often lacks meaningful participation from Persons with disabilities. The committee's purpose is primarily to plan for Persons with disabilities rather than involving them directly, leading to decisions that may not fully represent the interests and rights of Persons with disabilities.

<sup>36</sup><https://www.knchr.org/Portals/0/Disability%20Publications/Review%20of%20County%20Legislation%20On%20The%20Rights%20of%20PWDS.pdf?ver=2022-06-02-123434-927>

the CRPD and the Constitution, counties led to violations of rights of persons with disabilities recognized in other laws.

*‘ You see, most of these counties just made duplications of the Persons with Disabilities Act (2003) with consideration to customize as per the respective counties, it therefore a challenge for them to implement their disability county bills.... OPD respondent*

- iv. **Perceived excessive oversight role by NCPWD** - OPD and county-level respondents felt that some roles by NCPWD could ideally be delegated to other actors. The concentration of responsibilities on the NCPWD has limited the effectiveness of other stakeholders in supporting persons with disabilities at county level. Clear guidelines and coordination mechanisms should be established to clarify the responsibilities of county and national governments regarding disability issues.

### **2.1.5. Conclusion on Stakeholder and Coordination Analysis.**

In conclusion, stakeholder coordination within the disability sector in Kenya plays a pivotal role in promoting collaboration, synergy, and collective action towards advancing disability rights and inclusion. Effective coordination among diverse stakeholders is crucial for maximizing impact, addressing challenges, and ensuring the voices and needs of persons with disabilities, including children with disabilities are heard and prioritized.

Kenya's disability sector encompasses a wide range of actors and achieving meaningful coordination among these stakeholders requires proactive efforts to foster partnerships, promote dialogue, and establish platforms for collaboration.

To enhance stakeholder coordination, it is crucial to establish mechanisms for regular communication, collaboration, and joint planning. This can involve creating networks, forums, and working groups where stakeholders can come together, exchange knowledge, and develop shared strategies. These platforms should be inclusive, allowing the meaningful participation of persons with disabilities and ensuring that their perspectives and experiences are central to decision-making processes.

## **2.2. SECTION 2 | Equality and non-Discrimination**

Equality and non-discrimination principles recognize that every individual, regardless of their disability, should have equal opportunities, access to services, and participation in all aspects of life. In the context of disability, equality and non-discrimination aim to eliminate barriers, prejudices, and stereotypes that marginalize and exclude persons with disabilities, ensuring their full and equal enjoyment of human rights in all spheres of life, including education, employment, healthcare, and social activities.

Kenya has made significant strides in promoting equality and non-discrimination for persons with disabilities. The country has ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which emphasizes the rights, dignity, and equal treatment of persons with disabilities. This commitment underscores Kenya's obligation to implement measures that advance disability rights, including promoting equality and non-discrimination.

This section discusses the status of implementation of Legal and Policy frameworks and identifies barriers to the attainment of the pre-condition of equality and non-discrimination.

### 2.2.1. Status of Implementation of the Global, Regional and National Frameworks

At the international level, Kenya has undergone various state reviews, including the Universal Periodic Review (UPR). Although reference to persons with disabilities is limited, disability is viewed as a rights issue within human rights monitoring and reporting in Kenya. Kenya's country report was due in 2010. The report was submitted by the Ministry of Gender, Children and Social Development in 2012. In 2020, Kenya was reviewed in the third cycle of the UPR, in which it received 319 recommendations and supported 263 recommendations at the Human Rights Council, in September 2020 (an increase of 36.97% with respect to the 2nd cycle). The recommendations supported were in relation to the legal and general framework of implementation; universal and cross-cutting issues; civil and political rights; economic, social, and cultural rights; women's rights; and rights of other vulnerable groups and persons. Persons with disabilities are considered to form part of vulnerable groups.

Regarding state reporting to various human rights bodies; in 2016, Kenya submitted its state report to the Committee on the Elimination of Discrimination against Women. On the rights of women and girls with disabilities, Kenya reported that it is implementing the provisions entrenched in the Persons with Disabilities Act (2003). One of the key achievements highlighted by the State report was the introduction of the 30 per cent affirmative action for women, youth and persons with disabilities in public procurement.<sup>37</sup> In the 2007 concluding observations, the Committee specifically recommended that Kenya accelerate its mechanisms to achieve substantive equality between women and men in all areas covered by CEDAW, especially in the case of women and girls with disabilities and rural women.<sup>38</sup> According to the CEDAW Committee state report,<sup>39</sup> the government noted that the new Kenya Health Policy 2014-2030 adopted a rights-based approach to health and seeks to make the right to health for all Kenyans a reality.

The state also submitted its state report to the Committee on the Rights of the Child in 2013.<sup>40</sup> On the rights of children with disabilities, Kenya reported that it has adopted 'Concluding

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<sup>37</sup> Kenya national Commission on Human Rights *Review of county legislation on the rights of persons with disabilities Compliance with the UN Convention on the Rights of Persons with disabilities and The Kenyan Constitution*  
<https://www.knchr.org/Portals/0/Disability%20Publications/Review%20of%20County%20Legislation%20On%20The%20Rights%20of%20Persons%20with%20disabilities.pdf?ver=2022-06-02-123434-927> (accessed 29 April 2023) 8.

<sup>38</sup> CEDAW Committee 'Concluding observations on the on the eighth periodic report of Kenya' UN Doc CEDAW/C/KEN/CO/8 (22 November 2017).

<sup>39</sup> The report was submitted on 3 March 2016.

<sup>40</sup> Office of the High Commissioner for Human Rights 'Reporting status for Kenya (n 14).

Observations' issued by the Committee on the Rights of the Child in 2007. In the 2007 concluding observations, the Committee specifically recommended that Kenya take fully into account General Comment No 9 on the rights of children with disabilities.<sup>41</sup> The actions that Kenya has taken in response to the Committee's observations, as reported in Kenya's 2013 report, include promulgating a Constitution that protects the rights of persons with disabilities and setting up a Cash Transfer Programme in 2010 to assist households with persons with severe disabilities.<sup>42</sup>

Some of the measures that the Government of Kenya has taken to modify or abolish existing laws that discriminate against persons with disabilities include, the express prohibition of discrimination on the basis of disabilities which has been expressly prohibited under the Constitution of Kenya, 2010 under Article 27(4), which provides that *"the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth"*.

Kenya, in consultation with OPDs and other stakeholders, developed a National Plan of Action on the implementation of recommendations made by the Committee on the Rights of Persons with Disabilities in relation to the initial report of the Republic of Kenya, September 2015-June 2022.<sup>43</sup> The Plan of Action is a commitment by Kenya to implement the CRPD, and outlines specific measures to ensure the realization of all the rights of all persons with disabilities, at an equal basis with others. The Plan also mandates specific stakeholders with tasks aimed at ensuring its full implementation by 2022. This notwithstanding, the implementation of the Plan, alongside other legal frameworks have been very slow, and has led to further marginalization of persons with disabilities. Kenya is due for another review by the CRPD Committee in September 2023.

### 2.2.2. Summary of findings on Equity and Non-Discrimination

SECTOR	SUMMARY OF ISSUES RELATED TO EQUITY AND DISCRIMINATION
Education Sector	Children with disabilities often face barriers in accessing quality education, including lack of inclusive facilities, insufficient specialized support, and negative attitudes from teachers and peers.
Gender Disparities	Girls may experience discrimination and unequal access to education, particularly in rural areas, due to factors such as early marriage, cultural norms, and limited resources.
Labor and Markets	Employment discrimination: Persons with disabilities encounter difficulties in finding employment and face discriminatory practices such as exclusion from job opportunities, lower wages, and limited career advancement. Gender-based discrimination: Women face gender disparities in the labour market, including unequal pay, limited job opportunities in certain sectors, and gender-based violence in the workplace.
Transportation	Inaccessible public transportation: Persons with disabilities encounter challenges in accessing public transportation due to lack of disability-friendly infrastructure, limited availability of accessible vehicles, and inadequate training of transport personnel.
Housing	Inadequate housing for persons with disabilities: There is a lack of accessible and affordable housing options for persons with disabilities, with limited provisions for accessible features such as ramps, wider doorways, and accessible bathroom facilities.

<sup>41</sup> General Comment No 9 (CRC/C/GC/9), see <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/GC/9> (accessed 5 May 2014).

<sup>42</sup> Office of the High Commissioner for Human Rights 'Reporting status for Kenya (n 14).

<sup>43</sup> National Action Plan [Kenya NATIONAL-PLAN-OF-ACTION-on-implementation-of-recommendations-made-by-the-CRPD-2015-June-2022.pdf](#).

	Women may face discrimination in accessing housing, particularly in cases of marital dissolution or domestic violence, and may experience challenges in securing safe and affordable housing options.
Health	Persons with disabilities often face discrimination and barriers in accessing healthcare services, including lack of disability-friendly facilities, inadequate communication support, and negative attitudes from healthcare providers. Gender disparities in healthcare: Women may experience discrimination and unequal access to healthcare, including reproductive health services, maternal healthcare, and treatment for gender-specific health conditions.
Social Protection	Limited access for vulnerable and marginalized groups (VMGs) such as populations in hard-to-reach areas/communities such as the Dasanach, Elmolo, Ogiek and other. In addition, coverage does not reach all persons with severe disabilities. The registration exercise also is very protracted and does not assure everyone the chance to benefit from the same.

Table 1: Summary of findings on Equity and Non-Discrimination

**2.2.6. Gaps and Challenges in Equity and Non-Discrimination**

There have not been any notable attempts by the state to map, review and repeal national legislation and align them with the CRPD. For example, the denial of reasonable accommodation is still not recognized as discrimination under national law, which has led to contradicting interpretations of the principle by Kenyan Courts. In addition, the obligation to ensure that at least 5 percent of all elective, appointive and employment positions are reserved for persons with disabilities under the Constitution and the Persons with Disabilities Act has not been achieved. Similarly, State infrastructure, including buildings, transport, justice sector infrastructure, schools and other facilities are often inaccessible for persons with mobility and other disabilities. Key bottlenecks include insufficient resourcing, weak institutional capacities, politicization, limited stakeholders’ awareness of applicable frameworks, and related limited civic engagement.<sup>44</sup> Further, impunity, corruption, and abuse of power compromises respect for human rights.<sup>45</sup>

Other notable gaps that potentially contribute to the persistence of inequality, exclusion, and marginalization experienced by persons with disabilities include:

- i. **Attitudinal barriers:** Negative attitudes, stereotypes, and misconceptions towards disability remain prevalent in Kenyan society. These attitudes contribute to discrimination, stigmatization, and the exclusion of persons with disabilities from various aspects of life, including education, employment, and social participation.
- ii. **Limited accessibility:** Physical, architectural, and environmental barriers hinder the full inclusion and participation of persons with disabilities. Inadequate infrastructure, inaccessible transportation, public spaces, and buildings limit their mobility and access to essential services, such as education, healthcare, and employment opportunities.
- iii. **Poor awareness:** Limited awareness of disability issues among the public, including policymakers and service providers, contribute to the marginalization of persons with disabilities. This poor awareness hampers efforts to promote inclusive policies, services, and accommodations necessary for their full participation and well-being.

<sup>44</sup> <https://www.state.gov/wp-content/uploads/2021/03/KENYA-2020-HUMAN-RIGHTS-REPORT.pdf>  
<sup>45</sup> <http://www.knchr.org/Portals/0/StateOfHumanRightsReports/4th%20SHR%20Report.pdf>

- iv. **Inadequate legal and policy frameworks:** While Kenya has enacted laws and policies to protect the rights of persons with disabilities, implementation gaps, inadequate enforcement, and inconsistencies persist. The lack of comprehensive legal frameworks and the limited integration of disability rights into sector-specific policies hinder the achievement of equity and non-discrimination.
- v. **Limited access to quality services:** Persons with disabilities often face barriers in accessing quality healthcare, education, rehabilitation, and support services. Limited availability, affordability, and accessibility of these services exacerbate inequalities and hinder their full development, well-being, and social inclusion. There are equally barriers associated with the built environment.
- vi. **Economic challenges:** Persons with disabilities often face economic disadvantages, limited employment opportunities, and a higher risk of poverty. Some of the issues identified by the respondents include discrimination in the labour market, lack of reasonable accommodations, and inadequate skills development programs contribute to their economic exclusion and vulnerability.
- vii. **Inadequate data and research:** Limited availability of disaggregated data and research on disability-related issues hampers evidence-based policymaking, planning, and resource allocation. The inadequacy of comprehensive data by the Kenya National Bureau of Statistics and other key actors makes it difficult to assess the extent of disparities, identify specific challenges faced by different disability groups, and monitor progress towards achieving equity and non-discrimination.

In conclusion, the state of equity and non-discrimination for persons with disabilities in Kenya remains a complex and challenging issue. Despite notable progress and efforts to promote inclusivity and protect the rights of persons with disabilities, significant barriers persist, hindering the achievement of true equity and non-discrimination.

### **2.3. SECTION 3 | Inclusive Services**

Inclusive services for persons with disabilities are essential in ensuring equal opportunities, access, and participation in various domains of life. These services aim to break down barriers and create environments that accommodate the diverse needs and abilities of individuals with disabilities. By providing inclusive services, societies can promote the full inclusion, empowerment, and well-being of persons with disabilities. In this section, the report explores the different dimensions of inclusive services for persons with disabilities, discusses some key strategies and best practices, and highlights successful initiatives and gaps in the efforts to promote inclusion in Kenya.

### 2.3.1. Determination of Disability and Certification of Persons with Disability.

Determination of disability and certification of persons with disabilities is a two-step process in Kenya that involves the NCPWD and the Ministry of Health (MOH) in gazetted hospitals (Level 4 and 5).<sup>46</sup> The medical disability assessment process follows the guidelines set forth by the World Health Organization (WHO) Classification, which provides a standardized framework for categorizing and understanding disabilities. This classification system helps in evaluating the nature and extent of the disability, considering various factors such as the type of disability, its severity, and its impact on the individual's daily functioning.

The NCPWD then issues a disability registration card upon recommendation from MOH. This card serves as an official identification document, providing recognition of their disability and facilitating access to various disability-related services, benefits, and support. The disability card ideally should play a crucial role in enabling persons with disabilities to access their rights and entitlements, including healthcare services, education, employment opportunities, social protection, and other forms of assistance.

In 2022, the Ministry adopted the Disability Assessment and Categorization Guidelines that provide a scientific foundation for understanding and studying health and changes in health status and functioning, establishes a standardized terminology for describing health and health-related states, enhancing communication between different stakeholders like healthcare professionals, persons with disabilities, researchers, policymakers, and service providers. The assessment will also allow for data comparison across government agencies, healthcare disciplines, and other involved parties and provide a systematic coding system for health information systems, facilitating efficient management and organization of health-related data.

### 2.3.2. Mainstream Services (inclusive efforts):

#### a. Access to social protection.

There are various policy and legal provisions for access to social protection for all and especially, the vulnerable and poor- where most persons with disabilities fall. As indicated earlier however, operationalization of these policies and service delivery remains very limited due to both resource and capacity constraints at both the national and subnational levels.

At the time of this study, the country is working on an Enhanced Single Registry (ESR), a database that contains disability disaggregated information on all beneficiaries of social protection programs in Kenya. The ESR is important to persons with disabilities because it contains information on beneficiaries of the Persons with Severe Disability Cash Transfer (PwSD-CT) programme. The government with the support of UNICEF and WFP has also rolled out NICHE and Universal Child Benefit programme to cushion all children in select counties including those with disability.

### Social protection programmes in Kenya

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<sup>46</sup> The assessment process requires a recent passport size photo, a duly filled registration form which can be accessed through NCPWD's county offices, a copy of the national identification card or birth certificate and a copy of their medical disability assessment report from the government gazetted hospitals with the Director of Medical Services' signature which has since be devolved to Counties. Individuals with disabilities or their parents/caregivers, are required to book appointments at the gazetted hospitals on days in which the medical disability assessment committee sits mostly at a cost that is defined by the serving hospital or free of charge in very few hospitals. On many occasions, the NCPWD with MOH has carried out free mass disability assessment and registration camps in which the costs are waived.

The main disability-related social protection mechanism in Kenya is the Cash Transfer Program for Persons with Disability - a national cash transfer scheme that supports poor households with a member that has a severe disability.<sup>47</sup> It targets 47,000 households caring for persons with severe disabilities with a cash benefit of KES 2,000 paid every two months. Under this Programme, the government defines persons with severe disabilities as referring to: *Those who need permanent care including feeding, toiletry, protection from danger from themselves or other persons, and from the environment. They also need intensive support on a daily basis which therefore keeps their parents and guardians/caregivers at home or close to them throughout.*<sup>48</sup> The overall objective of the Programme is 'to enhance the capacities of the caregivers through cash transfers thereby improving the livelihoods of persons with severe disabilities and mitigating the effect of the disability to the household'. The eligibility criteria are '[a] household with a person with severe disability and extremely poor households.'<sup>49</sup>

The Orphans and Vulnerable Children Cash Transfer ideally also reaches children with disabilities, however, we were unable to find data on the total number of children with disability reached through this programme.

The other NCPWD non-cash social protection programmes as follows.

- Tax exemptions on income (up to the first KES150,000 earned from formal employment), car imports and other disability related products- these concessions ease the financial burden of persons with disabilities by reducing or offsetting disability related costs and out-of-pocket expenditures. They compensate for the lower purchasing power experienced by persons with disabilities by reducing the price of everyday goods and services and offset some disability-related extra costs<sup>50</sup>
- Persons with albinism support programme –supports the unique needs of persons with albinism. Through the provisions of the programme are: (1) provision of sunscreen lotions, lip care and after sun lotions; (2) provision of protective clothing; (3) provision of comprehensive eye care; (4) awareness activities;(5) treatment of skin cancer
- Autism and other related developmental disabilities support programme – the programme provide support persons with autism, cerebral palsy, epilepsy, down syndrome and intellectual disabilities. the provisions of the programme are; (1) provision of adult diapers for those with severe disabilities. (2) essential drugs and supplies; and (3) provision of therapy services i.e., diet therapy, occupational therapy, speech therapy.

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<sup>47</sup> Ministry of Labour, Social Security and Services <http://www.labour.go.ke/index.php/2013-11-19-06-15-24/departement-of-social-services> (accessed 28 April 2014).

<sup>48</sup> Ministry of Gender, Children and Social Development Guidelines for identifying persons with disabilities for cash transfer (2011).

<sup>49</sup> As above.

<sup>50</sup> Cote, Knox-Vydmanov&Lippi (2023), Towards Inclusive Social Protection Systems Enabling Participation and Inclusion of Persons with Disabilities

- Provision of assistive devices, services and technology- Requests are granted on an ad hoc basis, although the Fund states that it is unlikely to cover certain expensive assistive devices (e.g., computer software).<sup>51 52</sup>

In the above, one must be registered with the NCPWD as a person with disability to apply. However, it is estimated that only about 7% of people with disabilities nationally are registered with the NCPWD and issues around long wait times, complicated applications and low awareness have been reported as barriers to accessing assistive devices through the Fund.<sup>53</sup>

There is also the National Social Security Fund (NSSF) which is a retirement benefits scheme for which contribution is compulsory for those participating in formal employment, and voluntary for persons who are self-employed.

### **b. Access to Health**

The Ministry of Health is responsible for disability prevention, intervention and rehabilitation at all its hospitals; disability assessment and determination processes at Level 4 and 5 hospitals; issuance of sunscreen lotions up to Level 2 hospitals; skin cancer screening for persons with albinism at designated Level 5 hospitals; provision of physiotherapy, orthopaedic support and issuance of assistive devices at Level 5 which makes it difficult and costly for persons with disabilities to get disability-related health services since they are not at the lowest level hospitals.

There are also tax exemptions in relation to health. Regularly, medical and professional expenses incurred by persons with disabilities or by employers on behalf of persons with disabilities are a deductible expense from the income tax base. Article 5 of the Kenya Legislative Supplement No. 11, 2010 lists a series of additional deductions that include non-refundable amounts paid by persons with disabilities for treatment or hospitalization, medications, personal and home care services, and costs of assistive devices as long as they do not exceed KES 50,000. This provision has not been operationalized.

### **c. Access to Education**

#### **Promotion of inclusive education**

The 2018 Sector Policy for Learners and Trainees with Disabilities, together with its implementation framework has inclusive education as an emerging trend. It defines inclusive education as an approach according to which 'learners and trainees with disabilities are provided with appropriate educational interventions within regular institutions of learning with reasonable accommodations and support'. The Ministry of Education is yet to roll out inclusive education though there has been pockets of CSOs' initiatives to promote the policy's inclusive education provision like CBM and ADDA in Machakos County,<sup>54</sup> Humanity & Inclusion in refugee contexts,<sup>55</sup> Sense

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<sup>51</sup> Ibid

<sup>52</sup> The NCPWD provides assistive devices such as wheelchairs, special seats, tricycles crutches, hearing aids, callipers, surgical boots and prosthetic limbs, white canes, screen reading programmes etc. to persons with disabilities across the Country. The support services include rehabilitation services for those who acquire a disability.

<sup>53</sup> Cote, Knox-Vydmanaov&Lippi (2023), Towards Inclusive Social Protection Systems Enabling Participation and Inclusion of Persons with Disabilities

<sup>54</sup> <https://www.cbm.org/news/news/news-2019/cbm-helps-kenya-implement-its-new-inclusive-education-policy/>

<sup>55</sup> <https://sdgkenyaforum.org/content/vnr/documents/SDG-4/Humanity%20and%20Inclusion.pdf>

International Kenya has piloted a Learner Support Assistant model<sup>56</sup> to support learners with complex disabilities in inclusive classrooms amongst others. There was no evidence of OPD engagement in inclusive education.

### **Educational assessments and referral processes**

Education Assessment Resource Centres (EARCs) play a vital role in identifying, assessing and referring children with disabilities in collaboration with the Ministry of Health and the Ministry of Education. The primary objective of these centres is to determine the most suitable educational placement for children with disabilities, considering their unique needs and geographical convenience. EARCs are specifically established to ensure that children with disabilities receive the necessary attention and support early on in their educational journey. These centres serve as specialized hubs where professionals, such as doctors, therapists, psychologists, and educators, come together to assess and evaluate the individual needs of each child. Based on the assessment outcomes, EARCs provide recommendations and referrals for the appropriate educational setting for each child. This may involve determining whether a child should be placed in a special school specifically designed for learners with disabilities or in an integrated unit within a mainstream school, where they can receive inclusive education alongside their peers without disabilities.

### **Educational funding and support**

NCPWD implements the Education Assistance Programme to improve and promote the enrolment, retention and completion of education cycle of persons with disabilities for their eventual engagement in decent and gainful employment, Individuals or their guardians can apply for financial support with fees for secondary, tertiary education, vocational training, vocational rehabilitation centres, universities and special educational establishments. The Equipment and Infrastructure Programme targets institutions of education and training for persons with disabilities. Infrastructure and equipment grants aim to enable the maintenance and growth of organizations which provide education or social services for persons with disabilities. Eligible organizations are education institutions, including special schools and special units, and social service delivery organizations, including non-government organizations and social care institutions.

#### **d. Access to Employment**

The Persons with Disabilities Act provides incentives and affirmative action for the employment of persons with disabilities, by prescribing tax incentives for employers of persons with disabilities.<sup>57</sup> In addition, section 13 requires that the NCPWD endeavour to reserve five percent of all casual, emergency, and contractual positions in employment in the public and private sectors for persons with disabilities. These measures reflect favourably on the state's obligations under CRPD to promote the employment of persons with disabilities in the private sector and to employ persons with disabilities in the public sector.<sup>58</sup> The Employment Act also prohibits discrimination based on disability.<sup>59</sup>

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<sup>56</sup> <https://www.senseinternational.org.uk/umbraco/surface/download/download?filepath=/media/5285/final-sense-international-impact-report-2021.pdf>

<sup>57</sup> Sec 16, Persons with disabilities Act 2003, Cap. 14.

<sup>58</sup> Art 27(1)(h) and (g), Constitution of Kenya.

<sup>59</sup> Employment Act (2007), Section 5(3).

## Programmes in employment

The NCPWD has the following programmes to promote livelihood and employment access to persons with disabilities: -

- Provision of grants to Community Self-Help Groups for income-generating projects – towards supporting persons with disabilities to gain self-sufficiency in generating income and to enable them to gain the skills and experience to access the loans required to grow their businesses to, jointly undertake a common project for the benefit of the membership or support of a revolving fund for on-lending to group members to engage in businesses at an individual level. The groups must be of and for persons with disabilities. This can include the carers of persons with disabilities.
- Support with LPO financing programme – supports businesses of persons with disabilities that are registered with the National Treasury under Access to Government Procurement Opportunities (AGPO) to finance LPOs, LSOs and Contracts awarded by Government procuring entities.
- Tools of trade - in selected sectors such as catering, automotive engineering, agriculture, beauty, and domestic services. This is achieved through the provision of start-up tool kits to start their own businesses. The main objective of this programme is to get technically skilled persons with disabilities into self-employment to put into practice their acquired vocational trade skills.

The NCPWD Career Portal<sup>60</sup> - provides a platform for both jobseekers and employees with disabilities and employers' interface to address barriers to employment for persons with disabilities. The Career Portal has significantly grown with onboarding happening in both the private and public sectors. Onboarding was a disability mainstreaming indicator for the past two financial years and this has seen a significant uptake of the Portal. Further, NCPWD has engaged various partners to ensure that the Portal is maintained every financial year

As mentioned earlier, CSOs in partnership with UDPK have recently had profound programming in inclusive employment especially in private sector employment and entrepreneurship development. Impressively, Deaf Empowerment of Kenya (DEK) has proactively engaged employers with support from Deaf Child Worldwide.<sup>61</sup> Companies in the Export Processing Zone have benefited from DEK's initiatives as well as Coca Cola's Nairobi Bottling Company.<sup>62</sup> Sense International Kenya is implementing a 28-month project in Kenya, Uganda and Tanzania for youth with complex disabilities dubbed Learn, Work and Earn.<sup>63</sup> This is based on the premise that youth with complex disabilities are among the most marginalized and disadvantaged groups in society, even among people with disabilities. Kilimanjaro Blind Trust Africa is running the Employability Skills Project, to support graduates with visual impairment (totally blind) in gaining employability skills, including soft skills, that will allow them to compete and fit in an ever-changing job market.

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<sup>60</sup> <https://ncpwd-landing.fuzu.com/>

<sup>61</sup> <https://www.ndcs.org.uk/deaf-child-worldwide/partner-with-us/deaf-empowerment-kenya/>

<sup>62</sup> <https://www.globalcareercompany.com/post/beyond-gender-innovation-in-diversity>

<sup>63</sup> <https://www.standardmedia.co.ke/nyanza/article/2001390580/local-nqo-to-train-youth-with-complex-disabilities-in-homa-bay>

## e. Access to Justice

The criminal justice system in Kenya is governed by the Penal Code, the Criminal Procedure Code, the Sexual Offences act, and the Evidence Act. The civil justice system operates under the Civil Procedure Act, with the procedural aspects of the courts being provided for under the Civil Procedure Rules. These legislations fail to recognize the legal capacity of persons with disabilities, or the provision of procedural, age and gender-appropriate accommodations and supports to persons with disabilities who interact with the justice system. For example, the Criminal Procedure Code prescribes the mental assessment of accused persons with intellectual and psychosocial disabilities, as opposed to support needs assessments as required under the CRPD. This leads to institutionalization of persons with intellectual and psychosocial disabilities in mental health institutions/prisons.

These instruments also use derogatory terms, such as ‘persons of unsound mind’,<sup>64</sup> ‘idiots and imbeciles’,<sup>65</sup> and ‘Dumb’,<sup>66</sup> ‘lunatics’,<sup>67</sup> to refer to persons with disabilities. Commendably, the provisions that prescribed detention in a mental hospital at the mercy of the president were declared unconstitutional by the High Court in Petition 226 of 2020.<sup>68</sup> Although the Legal Aid Act (2016) makes reference to marginalized groups and vulnerable sections of the society, it does not expressly provide for legal aid for persons with disabilities, and there lacks evidence on measures taken by the National Legal Aid Service to provide legal aid to persons with disabilities.

### Programmes in access to justice

The NCPWD has a legal aid program which has, in collaboration with other institutions such as the Commission on Administrative Justice, the national Gender and Equality Commission and FIDA Kenya, held legal aid clinics for persons with disabilities in 2021 to enhance their access to justice.<sup>69</sup> Other mainstream NGOs such as Kituo cha Sheria,<sup>70</sup> which provide legal aid to marginalized groups, have no specific programs targeting persons with disabilities.

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<sup>64</sup> Civil Procedure Code and Civil Procedure Rules

<sup>65</sup> Penal Code, section 146

<sup>66</sup> Evidence Act

<sup>67</sup> Criminal Procedure Code.

<sup>68</sup> Isaac Ndegwa Kimaru & 17 others v Attorney General & another; Kenya National Human Rights and Equality Commission (Interested Party) [2022] eKLR,

<http://kenyalaw.org/caselaw/cases/view/227655/#:~:text=The%20petition%20was%20a%20plea,the%20pleasure%20of%20the%20president>

<sup>69</sup> [Legal Advisory Services – NCPWD](#)

<sup>70</sup> [About Kituo Cha Sheria - Kituo Cha Sheria.](#)

## Gaps and Challenges in Inclusive Services

### Disability determination

- i. *Long distances to assessment locations*- the Level 4 and 5 hospitals are at county and sub-county level whose radius of coverage far away.
- ii. *High and varied costs of assessments*- Most hospitals charge levies to persons with disabilities for the medical disability assessment, creating an additional financial burden. The hospitals that offer the service at no or a less cost, often have waiting lists running up to 6 months, delaying the acquisition of the vital disability registration cards. Also hearing impairment assessments require BERA<sup>71</sup> tests that are KES 6,000 (USD 40) and those with neurological related disabilities need electroencephalogram (EEG) tests that come at a separate cost. The BERA and EEGs test reports must be from designated government hospitals like the Kenyatta National Hospital.

The costs associated with transportation and hospital levies make these services unaffordable for most.

- iii. *Conditional processes before and during the disability medical assessment*- There are also unique circumstances that make disability determination difficult even at presentation at the hospitals. For example, as reported during an FGD discussion, persons with epilepsy may not exhibit neurological changes during an EEG<sup>72</sup> because of suppression due to epilepsy medication casting doubts on their condition. This is often frustrating especially since only the report done during the disability medical assessment is considered and not past EEG reports. Persons with psychosocial disabilities too, must present evidence of psychiatric help over a period, which due to affordability concerns or the poor knowledge to seek psychiatric help becomes very difficult for many to produce such evidence.
- iv. *No institutionalised one-stop shop approach to disability determination and certification*- Disability assessments are done in hospitals and disability cards are picked from NCPWD County offices. The processes from the hospital to NCPWD are not digitized with lots of paperwork though NCPWD has recently rolled out new generation registration cards. These different service points and non-digitization, apart from when NCPWD or other actors conduct mass registration drives, requiring persons with disabilities to travel to different locations in most instances hamper convenience.

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<sup>71</sup> The brainstem evoked response audiometry (BERA) is an objective neurophysiological method for the evaluation of the hearing threshold and diagnosing retrocochlear lesions.

<sup>72</sup> An electroencephalogram (EEG) is a recording of brain activity

*' No one has the responsibility for identification of persons with disabilities. It is conducted ad hoc-ly. Initially, it was tedious, with hospitals, forms, delays, and bureaucratic processes. Forms would disappear along the way. There are arrogant officers in the assessment process. The assessment centers are limited at the county headquarters, while sub-county centres, in most cases, are dysfunctional with missing officers.' .... **Kil Respondent, Garissa***

- v. *No linkage between the medical assessment and socioeconomic interventions-* Given that disability determination mainly uses the medical model approach, the support needs to persons with disabilities within their contexts are not captured hence inhibiting appropriate interventions and services provided.

#### *Access to social protection*

- Inadequate resources for effective coverage and to ensure adequacy of benefits. The transfer value needs to be continuously reviewed to ensure it is aligned to established basket value.
- The Government of Kenya has not conducted any fresh targeting and retargeting of PWSD-CT over the last 5 years. This denies numerous persons with disabilities the opportunity to benefit from the Cash Transfer programmes.
- SP programme only targets those with severe disabilities, leading to lower coverage as opposed to universal.
- Challenges in the delivery of payments to beneficiaries in far-flung areas
- Low coverage of social and health insurance schemes within the informal sector

#### *Access to Education*

- Most Kenyan legal provisions promoted segregated education that is not compliant with CRPD.
- Ministry of Education is yet to roll out inclusive education as per the Sector Policy on Learners and Trainees with Disabilities.
- Poor early identification and intervention services as EARCs often face challenges in terms of resources, inadequate staffing, lack of specialized equipment, and poor training on emerging trends to effectively carry out assessments and provide accurate recommendations.
- The EARCs across the country are understaffed and under resourced, and EARCs are being redeployed as Curriculum Support Officers.
- Poor funding and lack of differentiated unit costing at all levels of education from ECDE to tertiary.

### *Access to employment*

- Poor compliance of Article 54 on 5% reservation of employment.
- Poor training on labour-market oriented skills.
- Inaccessible TVET and university training facilities.
- Limited interactions between persons with disabilities and employers, poor uptake of the NCPWD Career Portal beyond the project.
- Limited business support services to persons with disabilities especially in the rural and resource poor areas.

### *Access to health*

- Outdated Mental Health Act (1983)
- Inaccessible health infrastructure- For instance, many public hospitals do not provide for adjustable beds/examination coaches, information on services e.g., Family planning, ante-natal care etc are not provided in accessible formats e.g., large print, easy read, audio or braille, sign language interpretation is lacking thus compromising provide-patient confidentiality.
- Prohibitive and frequent costs for assistive devices and health-related services like physiotherapy, speech therapy

### *Access to justice*

- Inaccessibility of the justice infrastructure- procedural, gender and age accommodations to ensure effective participation in the justice system
- Financial constraints- due to the high costs associated with legal representation, court fees, transportation, and related expenses.
- The underrepresentation of persons with disabilities- in justice processes, poor knowledge of rights, and the complex operations of the justice system. The Court Users Committees (CUCs), responsible for addressing legal and court issues, were not known by OPD respondents at the county level.
- Poor societal attitudes to see persons with disabilities as right holders.

*In conclusion*, efforts to mainstream services for persons with disabilities have gained momentum. The government, civil society organizations, disability-focused groups, and other stakeholders have been working towards developing policies, guidelines, and initiatives that promote inclusion across various sectors. This includes the education sector, where inclusive education strives to provide quality education to all learners, regardless of their disabilities. Inclusive healthcare initiatives aim to ensure that healthcare facilities, services, and information are accessible and responsive to the needs of persons with disabilities. Inclusive employment endeavours focus on eliminating barriers in the workplace and providing equal opportunities for meaningful and gainful employment.

## 2.4. SECTION 4 | Accessibility

Accessibility is a fundamental aspect of promoting inclusion and ensuring equal participation for persons with disabilities and encompasses the removal of barriers and the provision of reasonable accommodations that enable individuals with disabilities to access and engage in various aspects of life on an equal basis with others. In this section, we will explore the key principles, guidelines, and standards for promoting accessibility across various sectors, including transportation, infrastructure, communication, and digital technologies. Additionally, this section highlights successful initiatives, best practices, and challenges faced in advancing accessibility.

### 2.4.1. Access to Information (easy-to read, sign language interpretation, and braille).

The CRPD and the Constitution of Kenya provides for the right of persons with disabilities to access information on an equal basis with others to overcome constraints arising from their disabilities and enable them to live independently and participate fully in all aspects of life.

#### a. Promotion and provision of assistive technology

The use of technology, including assistive technology to enhance access to information for persons with disabilities has seen exponential growth in various sectors, including in the delivery of learning materials since the Covid-19 period. The Kenya Bureau of Standards, in collaboration with other stakeholders developed and adopted standards (KS2952-1) that are aimed at ensuring the accessibility of ICT Products and Services for persons with disabilities.<sup>73</sup> The standards, which were developed pursuant to complement the 2019 National ICT Policy, provide guidance on ensuring the accessibility of ICT products and services.

#### b. Promotion and provision of Kenyan Sign Language

Kenya is in the process of enacting a Kenyan Sign Language Bill,<sup>74</sup> aimed at promoting the use of Kenyan sign language in Kenya. There are about 500 qualified sign language interpreters serving the needs of over 260,000 people with hearing impairments,<sup>75</sup> most of them based in major urban areas and expensive to engage. Currently, the use of Kenyan Sign Language interpretation and captioning for Deaf people is limited to televised news programs, and some official national events.<sup>76</sup> These televised programs and official events do not provide other alternative communication modes such as subtitles and audio description for persons with visual impairments. As a result, persons with visual and hearing impairments miss out on important information, including on disaster plans in the temporary camps set up during disasters.<sup>77</sup> Some county governments are also taking steps to recognise the use of Kenyan Sign Language. In the meantime, there are some efforts towards incorporating sign language interpreters within the county governments. For example, the County Government of Kisumu employed two sign language

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<sup>73</sup> [https://www.kebs.org/images/miscellaneous/KS-2952\\_1\\_2022.pdf](https://www.kebs.org/images/miscellaneous/KS-2952_1_2022.pdf).

<sup>74</sup> [9-cover The Kenya Sign Language BILL, 2023 \(parliament.go.ke\)](#).

<sup>75</sup> Soko Directory 'Kenya has just 500 sign language interpreters' <https://sokodirectory.com/2021/08/kenya-has-just-500-sign-language-interpreters/> (accessed 28 April 2023).

<sup>76</sup> J Ndavula & J Lidubwi 'Access to health information for persons with disabilities during the COVID-19 pandemic in Kenya' (2021) 11 *African Journal of Social Work* 175.

<sup>77</sup> KIPPRRA (n 3) 23.

interpreters in July, 2021 to assist patients with hearing impairments access services in two main hospitals within the county.<sup>78</sup>

### c. Accessible digital technologies

Further, this digital age makes banking, communications, social services among many other sectors increasingly dependent on reliable and disability accessible IT systems and calls for persons with accessibility IT skills and capacities. Generally, information in MDACs is not readily accessible to persons with disabilities whether reports or data. Additionally, the websites of MDACs have not met the standards that have been set in the national policy on accessibility developed by the ICT Authority. Over the last two years, the NCPWD has monitored MDACs compliance with the Web Content Accessibility Guidelines (WCAG) standards<sup>79</sup> to ensure that persons with disabilities are not left behind as the government implements the digitization programme. The NCPWD discovered that most MDACs are making efforts to make their websites accessible but most of them stop at the landing page. Most documents on the websites are still not accessible to persons with disabilities. The capacity to implement the measure to achieve accessibility of dynamic digital services and information is significantly limited in MDAs as well as other key sectors. CSOs like Kilimanjaro Blind Trust Africa, inABLE and Global Disability Innovation Hub have supported efforts to promote digital accessibility, including through training of personnel on the same.

There exists a window of opportunity as the government implements efforts to transition service delivery to online platforms through a digitalization programme. It is expected that within the next few years, almost all government services will be available to the public digitally. Government through the ICT Authority adopted the National ICT Policy (2019)<sup>80</sup> and its Implementation Guidelines (2020)<sup>81</sup> which guarantees persons with disabilities access to information in tandem with emerging digital trends.

### 2.4.2. Access to Transport, Public Spaces and Key Public Services.

Section 21 of the Persons with Disabilities Act 2003 entitles persons with disabilities to a barrier-free and disability-friendly environment. Moreover, section 22 of the Act requires any proprietor of a public building to adapt it to suit persons with disabilities in such a manner as may be specified by the NCPWD. The detailed requirements for the erection of buildings in Kenya are contained in the Local Government (Adoptive By-Laws) Building Order (Grade I By-Laws)<sup>82</sup> and the Local Government (Adoptive By-Laws) (Grade II) order.<sup>83</sup> There is an apparent assumption by these orders that the degree of safety and access specified caters for all persons. Consequently, the safety and accessibility for persons with disabilities has been completely omitted. For example, specifications on sizes of door openings, corridors, stairs, etc., tend to assume that the facilities are for use by a young person with no disability.<sup>84</sup>The Kenya Bureau of Standards has developed

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<sup>78</sup> K Barry 'Sign language interpreters transforming access to health services for deaf persons in Kisumu' <https://scienceafrica.co.ke/2022/01/13/kenya-sign-language-interpreters-transforming-access-to-health-services-for-deaf-persons-in-kisumu/> (accessed 28 April 2023).

<sup>79</sup> <https://www.w3.org/WAI/standards-guidelines/wcag/>

<sup>80</sup> <https://www.ict.go.ke/wp-content/uploads/2019/12/NATIONAL-ICT-POLICY-2019.pdf>

<sup>81</sup>

<sup>82</sup> Local Government (Adoptive By-Laws) Building Order 1968.

<sup>83</sup> Local Government (Adoptive By-Laws) (Grade II) order, 1968.

<sup>84</sup> Independent Living Institute 'A review of current accessibility legislation in Kenya' <https://www.independentliving.org/cib/cibharare15.html> (accessed 27 April 2023).

and adopted standards (KS2610: 2017) on accessibility and usability of the built environment.<sup>85</sup> In addition, Person with Disabilities Act, section 24 gives the NCPWD powers to issue adjustment orders to proprietors who do not comply with these requirements. Notably, these provisions focus more on the accessibility of the built environment and transport. The NCPWD has not issued any adjustment orders since the adoption of the Act in 2003.

Further progress is imminent through the proposed new Draft National Building Code 2020 which more comprehensively addresses accessibility than the previous code which is 50 years old. The Draft National Building Code 2020, developed by the Ministry of Transport, Housing and Public Works, includes a section on requirements for persons with disabilities stating: “A building shall be designed in a manner that facilitates access to the building, and to the use of its facilities, by a person living with a disability in accordance with KS ISO 21542:2011 (Building Construction—Accessibility and Usability of the Built Environment)”.<sup>86</sup>

### 2.4.3. Gaps and Challenges to Accessibility

Despite the existence of provisions within the Constitution and Persons with Disabilities Act, adherence to these accessibility standards is often lacking. This is in part due to absence of an enabling environment for compliance and enforcement, and the failure by the relevant ministry to develop regulations to enable the NCPWD to issue adjustments orders as required under the Act. As a result, many public transport services and public buildings do not adhere to universal design standards and accessibility requirements are not designed or equipped to accommodate persons with disabilities. This poses significant challenges in terms of mobility and access to public spaces. Efforts have been made to address these issues and develop disability-sensitive policies. The Persons with Disabilities Act of 2003 is currently under review to create an enabling environment for the NCPWD to issue adjustment orders to noncompliant infrastructure.

Lack of adequate support and resources to cater for the communication needs of individuals with Down syndrome, autism and those with intellectual impairments, and other disabilities, such as the provision of easy-to-read versions. The absence of personalized or customized assistive devices for persons with disabilities also hinders their full participation and independence. Generic or poorly adapted devices may not meet the specific needs of individuals with disabilities.

The public performance management contracting framework has a disability mainstreaming performance indicator measuring among other things, the extent to which MDACs are making efforts to provide information to persons with disabilities in accessible formats. This notwithstanding, accessibility for persons with disabilities is still limited since government efforts are tokenistic and focus on a small number of documents, service charters and brochures or pamphlets on specific matters. Government offices are largely not accessible due to failure to observe universal design standards when designing and developing the infrastructure. MDACs conduct accessibility and usability audits that are hardly acted upon, due to lack of prioritization and poor resourcing.

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<sup>85</sup> [https://webstore.kebs.org/index.php?route=product/product&path=6&product\\_id=11829&sort=pd.name&order=DESC&limit=75](https://webstore.kebs.org/index.php?route=product/product&path=6&product_id=11829&sort=pd.name&order=DESC&limit=75).

<sup>86</sup> Patrick, M., Muldowney, A., Kilimanjaro Blind Trust Africa, Tanui, G., Bukachi, V. Campbell Clause, J. and McKinnon, I. (2022) Inclusive Design and Accessibility in Nairobi, Kenya. AT2030 Inclusive Infrastructure Case Studies. Prepared by the Global Disability Innovation Hub and partners for the UK Foreign, Commonwealth and Development Office. DOI

Although most television stations use sign language interpreters and captioning to deliver information, the use of these formats are not consistent. Subtitles are not used for news programs and updates which are all live. Most public service announcements don't employ accessible formats.<sup>87</sup> Further, communication of warnings and precautionary information do not reach some persons with hearing impairments because of lack of sign language provisions. In addition, persons with visual impairments cannot understand the significance of some visual displays because there are no audio descriptions. Disaster plans do not currently cater for persons with disabilities, especially in the temporary camps set up during disasters.<sup>88</sup>

In conclusion, inclusive infrastructure, urban planning, and assistive technology are complementary, and the built environment is a vital part of creating access to Assistive Technologies (ATs) and ensuring seamless use. In turn, ATs must be designed to be fit for purpose for the environment and context of its use. Championing local production and local innovators in ATs would be critical, as there are working directly in the communities the AT is necessary.<sup>89</sup>

## **2.5. SECTION 5 | CRPD Compliant Programming and Budgeting**

CRPD compliant programming and budgeting are crucial for translating the principles and provisions of the CRPD into practical action at the national and local levels. It involves integrating disability-inclusive perspectives and approaches into policy formulation, program design, implementation, monitoring, and evaluation. By doing so, governments and development actors can ensure that their initiatives effectively address the specific needs and barriers faced by persons with disabilities, fostering their empowerment and inclusion. In this section, we will explore the situation of CRPD compliant programming and budgeting in promoting disability rights and inclusion.

### **2.5.1. Financial Planning & Monitoring**

The budget projections for 2023/24, 2024/25, and 2025/26 indicate a concerning trend of declining funding for the state department for social protection. This downward trend is likely to have a negative impact on the most vulnerable members of society, including orphans, the elderly, and persons with disabilities. In the budget estimates for 2023/24, the social protection department had requested 109.5 billion, but they will only be allocated 35.5 billion, resulting in a significant budget shortfall of 74.3 billion. This allocation represents only 32% of desired budget. Consequently, there are concerns that this insufficient funding will lead to the scaling down or winding down of some social protection initiatives.

The NCPWD's Programmes are anchored in the Persons with Disabilities Act which provides for the establishment of the National Development Fund for Persons with Disabilities. The Fund which is a Flagship Project receives funding annually through the Ex-chequer to support NCPWD's programmes. NCPWD has in place a Board approved operational manual that guides the implementation of the programmes. Various factors are taken into consideration during

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<sup>87</sup> J Ndavula & J Lidubwi 'Access to health information for persons with disabilities during the COVID-19 pandemic in Kenya' (2021) 11 *African Journal of Social Work* 175.

<sup>88</sup> KIPPRA (n 3) 23.

implementation. The poverty index of the various counties vis-a-vis the population distribution is taken into consideration. This ultimately results in the counties with high levels of poverty, a higher population of persons with disabilities receiving a higher allocation of support. Further, various cross-sectional factors are considered, including but not limited to; the types of disabilities supported, the number of girls and women benefiting, and marginalised communities and groups benefiting.

In education, Kenya's commitment to international instruments on the rights of children and its commitment to the EFA goals, a framework incorporating the financing requirements of special education are established. The Government spends 0.2 percent of the total education budget on special education, which is inadequate. This goes to special schools and schools that have special units. Children with disabilities in regular and inclusive schools are to be declared by school administration to get the special needs capitation which has been subject to inconsistencies and abuse. Consequently, most of the financing for inclusive education comes from civil society, particularly local and international NGOs.

At the County level, most counties have provisions for disability inclusion and mainstreaming in their CIDPs. However, the budgets allocated for this remain to be meagre and are lumped together making it difficult to retrieve exact proportions of the budgets allocated to disability. Homabay County Integrated Development Plan (CIDP) has recognized the importance of disability inclusion and mainstreaming. However, significant allocations towards disability issues in the county budgets are still lacking. It is difficult to determine the exact proportion of the budget allocated to disability issues since these issues are mainstreamed across the 10 sectors. Further research is needed to understand the allocation and utilization of funds for disability-related initiatives.

Although indicators such as the number of business start-ups and the provision of assistive devices are included in the CIDP, they often do not translate into concrete plans and financing in the annual budgets. This gap hinders the effective implementation of disability programs and services. Despite these challenges, persons with disabilities are involved in committees and participate in the planning and execution of projects. CSOs play a significant role in organizing bilateral meetings between persons with disabilities and relevant stakeholders to address disability-related issues and ensure their voices are heard.

The Garissa County Integrated Development Plan (CIDP) or Annual Development Plan (ADP) is currently undergoing the approval process. Throughout the planning stages, persons with disabilities and organizations representing them were actively involved, from the ward level up to the county level. Their participation ensured that the specific needs and priorities of Persons with disabilities are considered and incorporated into the plan like now, sign language interpreters are not in public facilities, though employment of sign language interpreters to be included in the Garissa's County budget for financial year 2023/2024.

### **2.5.2. Support for additional costs of disability**

UNICEF supported the Ministry of Education to conduct differentiated unit costing for basic education, but it is yet to be operationalised. Kenyatta University conducted a study to cost the education of students with disabilities- the annual cost of providing a particular degree programme per student. It considered all operational and maintenance costs, for example the

staff costs, facility costs and other institutional overhead costs, but exclude capital development cost<sup>90</sup>.

### **Gaps and Challenges in CRPD compliant programming and budgeting**

- Poor uptake of Differentiated Unit Cost mechanism- thorough costing of disability and disability-related costs for different disability needs by different disability groups is yet to be the norm.
- Currently, the Finance Bill (2023) concern is the doubling of VAT on medication, which will significantly impact individuals with disabilities. This raises the need for stakeholders including OPDs to respond promptly to emerging challenges before they become policy.
- Poor compliance on policies and budget- like exemptions and rebates should be implemented to encourage adherence and compliance, particularly for employers striving to create disability-inclusive workplaces, lumpsum allocations
- Absence of clear guidelines - on The National Development Fund for Persons with Disabilities under NCPWD and the National Fund for the Disabled and other funds- current funding amounts are not legally fixed and keep fluctuating. Require a comprehensive review to establish a twin-track approach, no explicit allocations within the Women Fund, Youth Fund, and the National Government Affirmative Action Fund (NGAAF), AGPO that ensure proportionate funding for persons with disabilities.
- There is a notable lack of representation of persons with disabilities in lobby group CSOs such as the National Taxpayers Association. This issue needs to be addressed to ensure their voices are heard in advocacy processes. Additionally, budgeting per consumption, particularly for social protection programs, raises concerns when the remaining funds are returned to the Treasury instead of being utilized effectively.

*In Conclusion;* it is essential to acknowledge that the implementation of CRPD-compliant programming and budgeting is an ongoing process that requires continuous monitoring, evaluation, and improvement. It demands the commitment of financial and human resources, as well as the engagement of persons with disabilities and disability organizations throughout the decision-making and implementation stages. CRPD-compliant programming and budgeting in Kenya are crucial for advancing the rights of persons with disabilities and creating an inclusive society. Through this approach, Kenya can lay the foundation for a more equitable and just society, where persons with disabilities can fully participate and enjoy their human rights on an equal basis with others.

## **2.6. SECTION 6 | Governance and Accountability.**

In Kenya, as in many countries, persons with disabilities have historically faced significant barriers and discrimination in accessing their rights, services, and opportunities. However, the landscape is changing, and there is a growing recognition of the importance of promoting the rights and inclusion of persons with disabilities at all levels of governance. This section explores the concept of governance and accountability in ways relevant to persons with disabilities in Kenya. It

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<sup>90</sup> Chepkorir & Bunyasi (2016) Extra cost of special learning needs incurred by students with apparent disabilities enrolled in public universities: a case of Kenyatta University, Kenya, <https://ir-library.ku.ac.ke/handle/123456789/18172>

examines the governance and accountability mechanisms, and their impact on the lives of persons with disabilities. Furthermore, it delves into the roles of different stakeholders in ensuring the effective implementation of disability rights. Through a comprehensive analysis of governance and accountability in Kenya, this report aims to shed light on the progress made, challenges faced, and opportunities for further improvement.

### 2.6.1. National Accountability Mechanisms

OPDs, despite their low representation, have participated in various processes involving the development of laws and validation of draft policies. Their involvement, however, has been limited, and they have faced challenges in ensuring their voices are heard. Nevertheless, OPDs have also participated in UN state reporting processes, including through developing joint and individual shadow reports to the CRPD Committee. Institutions such as the KNCHR have played a crucial role in facilitating this process. Though OPDs cited government interference in the state reporting processes.

*‘ A significant challenge arises when the government interferes and attempts to manipulate the content of the report to align with its own agenda, diminishing the true representation by OPDs. It is essential for the government to recognize and respect the independent voices of OPDs, ensuring that their contributions are accurately reflected and valued in policy documents and decision-making processes’..... KII Respondent*

When the government issues gazette notices seeking public input, OPDs usually participate in the discussions to ensure the representation of persons with disabilities. Currently, there is a commendable effort underway to promote the inclusion of persons with disabilities in both county and national levels of governance. Persons with disabilities get nominations for political positions, which facilitates their active participation in decision-making processes. For example, Youth on the Move actively contributed to the creation of national guidelines for epilepsy treatment and management through their involvement in the National Epilepsy Coordination Committee. Additionally, they received support from the Non-Communicable Alliance of Kenya to advocate for the rights and well-being of Persons with epilepsy.

### Key Gaps and Challenges in Governance and Accountability

Some of the Key Gaps relating to Accountability mechanisms that were identified include;

- i. *Limited representation and challenges in ensuring voices are heard:* Involvement organizations of persons with disabilities (OPDs) has been limited, and they face challenges in making their voices heard effectively.

- ii. **Government interference and manipulation:** There have been attempts where government want to manipulate the content of reports and policies to align with its own agenda. This diminishes the true representation of OPDs and undermines their contributions.
- iii. **Efforts towards inclusion in governance:** There are commendable efforts underway to promote the inclusion of persons with disabilities in both county and national levels of governance. This includes the nomination of individuals with disabilities for political positions, facilitating their active participation in decision-making processes. However, nomination to these positions have constantly reduced and do not reflect the provisions in law.

## 2.7. SECTION 7 | Inclusive Evidence & Data Gathering Systems

The CRPD in Article 31 calls on State Parties to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies related to the CRPD and to identify and address the barriers faced by persons with disabilities in exercising their rights. State Parties are encouraged to disseminate the statistics and ensure their accessibility to persons with disabilities and others. SDG target 17.18 calls for enhanced capacity-building support to developing countries, including for least developed countries and small island developing states, to increase significantly the availability of high-quality, timely and reliable data disaggregated, inter alia, by disability.

In 2019, the Kenya National Bureau of Statistics (KNBS), with support from UDPK, conducted the first census that utilised the Washington Group Set of Questions. Subsequently, KNBS, with support from the UDPK, ILO and Leonard Cheshire, established the Technical Working Group on Disability Statistics in 2020<sup>91</sup> that brought together government, OPDs and CSOs. ILO built the capacity of KNBS to have the census analysis presented through a Disability and Albinism Monographs. CSOs have also adopted the use of the Washington Set in their programming.

The State Department for Social Protection and Senior Citizen Affairs in partnership with KNBS, OPDs, UNICEF and WFP, as mentioned by a KII respondent also carried out a support needs assessment on persons with disabilities and their primary caregivers in 10 counties. The assessment was done to provide information on the scope and level of support needed by diverse persons with disabilities and the characteristics and consequences of current support arrangements. This report provides information on the findings of the assessment. The information should inform the design of evidence-based policy and programme interventions by the state and non-state actors to promote and support persons with disabilities. Additionally, these findings should inform the design of a national disability survey that will comprehensively give an in-depth analysis of issues affecting persons with disabilities in Kenya.

### Gaps and Challenges in Inclusive Evidence & Data Gathering Systems

Despite these milestones, the collection of data on persons with disabilities has faced significant challenges, leading to inadequate accurate and representative information. While data on disability is available from population censuses, there are concerns about its accuracy. The

<sup>91</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_732018.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_732018.pdf)

prevalence of disability in Kenya, as reflected in the data, appears to be significantly lower than the global average of 15%, the 2019 census had it at 2.2%. This suggests a potential underestimation of the actual number of persons with disabilities in the country. The discrepancy may be attributed to various factors, including the challenges mentioned earlier, such as inaccessibility and inadequate training of enumerators. One major issue is the way data is packaged and presented, making it inaccessible for persons with disabilities. This can include using formats that are not compatible with assistive technologies or failing to provide alternative formats for persons with visual or hearing impairments.

Persons with disabilities are often underrepresented in data collection efforts even as data collectors and consumers. This can lead to an incomplete and inaccurate understanding of their needs, experiences, and challenges. Data collection processes may not adequately capture the experiences and challenges faced by persons with invisible disabilities. Their needs and concerns might be overlooked, resulting in an incomplete representation of the disability community. Insufficient resources allocated to data collection on disability limit the scope and depth of the data collected.

This has led to the inadequacy of detailed information (on aspects of disability) that is necessary for effective policymaking and planning. Inadequate coordination among stakeholders involved in data collection can result in duplicative efforts, data inconsistencies, and gaps in coverage. Further, the absence of robust enforcement mechanisms to regulate the flow and sharing of disability data can compromise privacy and security concerns. It is important to establish and enforce regulations to safeguard the confidentiality and integrity of collected data. The absence of technical personnel with expertise in data management and accessibility which hampers the effective use and dissemination of collected data on disability.

## **2.8. SECTION 8 | Cross-cutting issues**

When addressing the rights and well-being of persons with disabilities, it is crucial to recognize that their experiences are shaped by a range of cross-cutting issues. These cross-cutting issues intersect with disability, influencing the lives of persons with disabilities in complex ways. Understanding and addressing these intersecting factors is essential for promoting inclusivity, equality, and social justice for persons with disabilities.

In this analysis, cross-cutting issues refer to the multiple dimensions and factors that intersect with disability and have a significant impact on the lives of persons with disabilities. These issues can include but are not limited to gender, socio-economic status, marginalization, and sexual orientation. Each of these factors interacts with disability to shape the experiences, opportunities, and challenges faced by individuals with disabilities.

This section explores the cross-cutting issues that intersect with disability, examining the unique challenges and opportunities they present for persons with disabilities. By highlighting these intersectional factors, we aim to promote a deeper understanding of the diverse experiences and needs of persons with disabilities – in ways that will inform strategies and best practices for effectively addressing these cross-cutting issues.

### 2.8.1. Participation

The level of participation of OPDs in development and DRR/humanitarian planning processes and programs vary. While some progress has been made, there are still significant obstacles to the meaningful inclusion of persons with disabilities and OPDs.

Organizations of persons with disabilities play a crucial role in advocating for the rights and well-being of their members. They act as a collective voice, representing the diverse needs and interests of the disability community. In Kenya, there is a growing number of organizations that actively work towards promoting the rights and inclusion of persons with disabilities. These organizations provide platforms for networking, capacity building, and empowerment, enabling persons with disabilities to engage effectively in decision-making processes.

### 2.8.2. Inclusion of Marginalised Groups

Persons with disabilities have been marginalised in Kenya. There are further notable inequalities that arise from type of disability and other intersectionality leading to multiple<sup>92,93</sup> and intersecting<sup>94</sup> discrimination. These include but are not limited to: age; disability; sex; ethnic, indigenous, national or social origin; political or other opinion; race; religion; refugee, migrant or asylum status; or any other status. Most of the respondents regarded persons with deaf blindness, indigenous persons with disabilities, those with HIV& AIDS, those with invisible disabilities, and persons with disabilities who identify as LGBTQ as the most marginalized.

Kenya for the first time and was the first African country to include in the 2019 census collection of data on persons who are intersex.<sup>95</sup> The results showed that 1,524 people - 0.003 percent of the population - said they were intersex, a figure campaigners said was low and attributed to widespread stigma and low awareness however the inclusion in census was significant to persons who are intersex for them to start getting recognition and support.<sup>96</sup> This had been preceded by a landmark court ruling in 2009 and Taskforce report that recognized persons who are intersex, provision of birth certificates with I-marker, an intersex identifier, be used in public documentation as well as delay in surgery.<sup>97</sup> Persons who are intersex are also eligible for NCPWD disability registration. Intersex children are also accorded protection under section 21 of the Children's Act (2022), this is in contrast to the Repealed Act which did not make any provision for such children. The Act recognises that such children ought to be treated with dignity and accorded appropriate medical treatment, special care, education, training and consideration as a special category in social protection services.

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<sup>92</sup> Multiple discrimination is a situation in which a person experiences discrimination based on two or more grounds, which compounds or aggravates it.

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<sup>94</sup> Intersecting discrimination is a situation in which several grounds are inseparably intertwined.

<sup>95</sup> <https://www.knbs.or.ke/2019-kenya-population-and-housing-census-results/>

<sup>96</sup> <https://www.reuters.com/article/us-kenya-lgbt-intersex-trfn-idUSKBN1XE1U9>

<sup>97</sup> <https://www.bbc.com/news/world-africa-49127555>

### 2.8.3. Gender equality

The CRPD in Article 6 sets out the obligation of member states to recognize that women and girls with disabilities are subject to multiple discrimination and to take measures to offset this discrimination, as well as to ensure the full development, advancement, and empowerment of women. SDG 4.5 aims to, by 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.

Women and girls with disabilities face challenges in terms of inequitable access to sexual and reproductive health, information services, justice, and civic and political participation. These situations are worsened by gender roles that restrict such girls and women within the home setting. Women with disabilities experience high levels of gender-based violence and sexual abuse, neglect, maltreatment, and exploitation in both the public and private sphere.<sup>98</sup> Furthermore, accessing SRH facilities can be problematic for persons with disabilities due to several reasons. In some instances, health workers may make decisions on behalf of women with disabilities, disregarding their ability to make autonomous decisions about their own health. This lack of respect for the agency and autonomy of persons with disabilities can result in their needs and preferences being overlooked or ignored.

Another area where persons with disabilities face significant challenges is in relation to gender-based violence (GBV). Persons with disabilities are particularly vulnerable to experiencing GBV, and there are additional obstacles they face when it comes to reporting and seeking justice. The lack of provisions and support for collecting evidence from persons with disabilities in GBV cases further hinders their ability to seek justice and hold perpetrators accountable.

*In conclusion*, by considering these (intersecting) cross-cutting issues in the design of the Disability Programmes, we can advance a more comprehensive and holistic approach to disability inclusion, ensuring that no one is left behind, and that the rights and dignity of all persons with disabilities are upheld.

### 2.8.4. Child Protection

Children with disabilities are among the most vulnerable groups, facing multiple forms of discrimination, exclusion, and abuse. Ensuring their protection and well-being is crucial for upholding their rights and promoting a more inclusive and equitable society.

In Kenya, there have been significant efforts to address child protection issues and promote the rights of children with disabilities. The government has enacted legislation, such as the Children Act and the Persons with Disabilities Act, which provide a legal framework for safeguarding the rights of children with disabilities. These laws emphasize the principles of non-discrimination, inclusion, and the best interests of the child.

Further, birth registration is a fundamental and universal human right for all child under International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the

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<sup>98</sup> KNCHR. 2016. Compendium on submissions to the Convention on the Rights of Persons with disabilities.

Child (CRC), and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. The CRC, in particular, requires state parties to register all children immediately after birth and recognizes the right of every child to a name and nationality from birth. SDG target 16.9 by 2030 provide legal identity for all including birth registration. Article 18 of the CRPD reinforces this obligation, requiring States in particular to register all children with disabilities immediately following their birth, and affirms the right of children with disabilities to have a name and to acquire a nationality.<sup>99</sup>

## Gaps and Challenges in Cross-cutting issues

### Participation

- i. **Limited awareness and understanding:** Many humanitarian stakeholders have inadequate awareness and understanding of disability rights and the specific needs and perspectives of persons with disabilities. This lack of awareness often leads to exclusion and overlooking the participation of OPDs.
- ii. **Inaccessible environments:** Physical, informational, and communication barriers pose significant challenges to the participation of persons with disabilities. Inaccessible venues, documents, and communication channels prevent effective engagement and limit the involvement of OPDs in decision-making processes.
- iii. **Discrimination and stigma:** Deep-rooted social stigma and discrimination against persons with disabilities persist, hindering their meaningful participation. Negative attitudes and stereotypes lead to the exclusion and marginalization of OPDs.
- iv. **Limited resources and capacity:** OPDs often face resource constraints and capacity limitations that hinder their active involvement in development and DDR/humanitarian planning. Lack of funding, technical expertise, and organizational capacity can restrict their ability to participate effectively.
- v. **Tokenistic approaches:** In some cases, participation of persons with disabilities and OPDs is tokenistic, with their involvement limited to symbolic gestures rather than meaningful engagement.
- vi. **Poor consultation and coordination:** Insufficient consultation and coordination with OPDs at different stages of development and DDR/humanitarian planning processes pose significant barriers. Their expertise and lived experiences are often not adequately sought or integrated into decision-making.

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<sup>99</sup> Women Enabled International Submission to OHCHR: Birth Registration for Children with Disabilities, <https://womenenabled.org/wp-content/uploads/WEI%20OHCHR%20Submission%20on%20Birth%20Registration%20&%20Children%20with%20Disabilities%20Oct%2031,%202017%20FINAL.pdf>

## Gender equality

- i. Inequitable access to sexual and reproductive health, information services, justice, and civic and political participation
- ii. Gender roles that restrict such girls and women within the home setting
- iii. Women with disabilities experience high levels of gender-based violence and sexual abuse, neglect, maltreatment, and exploitation in both the public and private spheres
- iv. Reduced agency and autonomy of persons with disabilities, needs and preferences are overlooked or ignored.

## Inclusion of Marginalised Groups

Marginalized persons with disabilities face a range of challenges. Firstly, their specific needs are often overlooked, leading to their exclusion from essential services and support systems as they remain invisible in policies, laws, programs, and data. The small numbers of certain disability groups make it difficult for them to attract attention and funding, as donors tend to prioritize programmes targeting larger populations. Consequently, their advocacy power is limited, leaving them with a weaker voice for advocacy and funding. Inadequate programs for independent living within the community contribute to a reliance on institutional care, undermining their autonomy like persons with disabilities among refugee populations encounter additional barriers in accessing essential services and support, further exacerbating their marginalization. Additionally, Kenya's stance on LGBTQI rights compounds the challenges faced by individuals with disabilities who also identify as LGBTQI, resulting in double stigma.

## Child Protection

- i. **Limited awareness and understanding:** Respondents in the study indicated that there is often a lack of awareness and understanding among the public, caregivers, and even service providers regarding the specific vulnerabilities and needs of children with disabilities. This can result in inadequate protection measures and a failure to address their unique circumstances.
- ii. **Barriers to accessing justice:** Conversations with OPDs revealed that Children with disabilities face barriers when accessing justice, including attitudinal barriers, lack of accessibility in legal processes, and inadequate support systems. This can hinder their ability to report abuse, seek redress, and obtain justice.
- iii. **Inadequate support services:** Children with disabilities often require specialized support services, such as healthcare, education, and rehabilitation. However, there is a lack of accessible and inclusive services, including limited availability of assistive devices, specialized healthcare professionals, and inclusive educational settings. Notably, UNICEF and the Government of Kenya invests in efforts to strengthen early determination of disability.

- iv. **Social stigma and discrimination:** Children with disabilities frequently experience social stigma and discrimination, which can further isolate them and hinder their protection. Negative attitudes and misconceptions about disability contribute to their exclusion from social networks, educational opportunities, and community support systems.
- v. **Poor birth registration and certification of children with disabilities:** Families often struggle to access birth registration and certification of children with disabilities which significantly hinder their access to other services.

## **2.9. SECTION 9 | Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts**

Persons with disabilities are often disproportionately affected by poverty, discrimination, and marginalization, particularly in the context of development and emergencies. Their unique vulnerabilities and diverse needs require specific attention and targeted actions to ensure their full participation, access to services, and protection in these contexts.

Kenya is making progress in strengthening disability inclusion in humanitarian response and emergency preparedness. There are notable efforts to integrate disability-inclusive approaches in emergency plans, on training emergency responders on disability sensitivity, and ensuring the accessibility and availability of emergency services for persons with disabilities.

This section explores disability inclusion in broader development, humanitarian, and emergency contexts in Kenya. It examines the policies, strategies, plans, and practices that promote the inclusion of persons with disabilities, both in development programs and emergency responses. Additionally, it highlights the challenges faced and opportunities for improvement in these areas.

### **2.9.1. National Development Plans**

Between the financial years 2016/17 and 2020/21, the State Department for Social Protection earmarked KES 9 billion for programmes that promote inclusion and empowerment of persons with disabilities. These funds were directed to the National Development Fund for Persons with Disabilities, the Cash Transfer for Persons with Severe Disabilities scheme, and vocational rehabilitation and social development services.<sup>100</sup> Section 157(5) and (10) of the Public Procurement and Asset Disposal Act, 2015 allows for participation of persons with disabilities in the public procurement process by reserving and providing for at least 30% of all procurement value in each financial year be allocated to youth, women and persons with disabilities. Under the Persons with Disabilities Act, materials, articles, and equipment, including motor vehicles, that are modified or designed for the use of persons with disabilities are exempt from import duty, value added tax and other government levy. Also, all goods donated to institutions and organizations of or for persons with disabilities are exempt from any type of taxes, import duties and other levies aimed at reducing associated costs and facilitating affordability.

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<sup>100</sup> Development Initiatives *Government funding to support disability inclusion in Kenya* (Development Initiatives, 2020) 1.

## 2.9.2. Disaster Risk Reduction & Humanitarian Action

The CRPD speaks to the obligation of states under international humanitarian law to ensure the protection and safety of persons with disabilities in situations of risk, including armed conflict, humanitarian emergencies and natural disasters. In Kenya, Humanity & Inclusion, Kenya Red Cross and CBM have been providing disability-responsive emergency and humanitarian support in refugee contexts and in drought-stricken areas. Persons with disabilities are among the most vulnerable groups in times of food insecurity and other emergencies. Children with disabilities may be particularly vulnerable to neglect or being abandoned, especially in mobile, hungry populations.<sup>101</sup> During the food crisis, some persons with disabilities may have higher or specific needs, which if not met can be life threatening. These include protection, access to information, dietary, health, hygiene or transport needs, or higher risk of some diseases. Children and women with disabilities are very vulnerable to abuse and exploitation, particularly when displaced or separated from their families, carers and communities. They may also be neglected as families make difficult decisions on the use of scarce food resources.<sup>102</sup><sup>103</sup>

As mentioned earlier, UDPK are a partner with Light for the World in the InBusiness Initiative that works on empowering micro entrepreneurs with disabilities to scale up business, as well as with Humanity & Inclusion where UDPK is supporting refugees with disabilities in Kakuma and Dadaab camps to form associations, know their rights and advocate for trade licenses and market spaces. Kenya has had an encampment policy that had only allowed refugees in camps. In the recent past, there has been a shift in settlement and integration with the setup of the Kalobeyei Settlement Scheme. Kenya also wants Dadaab and Kakuma to be open for business and has asked financiers to support erect social amenities that will make it easier to police the centres. The plan dubbed *Nashiriki*, Swahili for “I cooperate” aims to ensure that refugees and asylum seekers are supported to transition from dependence on humanitarian aid to self-reliance and are empowered to be resilient against recurring shocks.<sup>104</sup> This presents a great opportunity for the promotion of sustainable disability inclusion solutions in the camps and settlement procedures for refugees who have disabilities.

## 2.9.3. Climate Change

The national legal framework on climate change mitigation and adaptation in Kenya includes the Environmental management and Coordination Act 1999, the Climate Change Action Plan 2018–2022 and the Climate Change Act, 2016. These frameworks have no specific provisions touching on persons with disabilities. Not sufficient focus has also gone into how climate change affects persons with disabilities and their role in addressing the same. This includes how to integrate disability programming with matters of climate change. Often, persons with disabilities are barely

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<sup>101</sup> CBM (2011) Disability Inclusion in Drought and Food Crisis Emergency Response [https://www.cbm.org/fileadmin/user\\_upload/Disability\\_Inclusion\\_in\\_Drought\\_and\\_Food\\_Crisis\\_Emergency\\_Response.pdf](https://www.cbm.org/fileadmin/user_upload/Disability_Inclusion_in_Drought_and_Food_Crisis_Emergency_Response.pdf)

<sup>102</sup> Women's Commission for Refugee Women and Children, (2008) Disabilities among refugees and conflict-affected populations, New York: Women's Refugee Commission.

<sup>103</sup> UNICEF. (2009) Facts on children: Child protection from violence, exploitation and abuse. Available from: [http://www.unicef.org/eapro/child\\_protection.pdf](http://www.unicef.org/eapro/child_protection.pdf).

<sup>104</sup> <https://www.theeastafrican.co.ke/cdn.ampproject.org/c/s/www.theeastafrican.co.ke/tea/news/east-africa/kenya-radical-solution-to-age-old-refugee-problem-4241098?view=htmlamp>

engaged in strategic (sub)national climate change conversations. Sendai Framework is yet to be domesticated.

Persons with albinism, due to the lack or reduced melanin in their skin and hair, are extremely susceptible and vulnerable to damage due to Ultraviolet (UV) radiation from the sun. They may develop blisters, solar elastosis, actinic keratosis, and are at a constant risk of developing skin cancer due to UV sun exposure.<sup>105</sup><sup>106</sup>The NCPWD for the last 8 years has provided sunscreen lotion and other protective measures to persons with albinism.<sup>107</sup> Climate change that is causing adverse high temperatures exacerbates persons with albinism vulnerability. The United Nations Independent Expert on the enjoyment of human rights by persons with albinism has emphasized the issue of climate change and environmental changes as one of her priorities for the mandate.<sup>108</sup> Several media stories reported the many challenges persons with albinism face, specifically skin damage, relating to climate change.<sup>109</sup><sup>110</sup>In Kenya too, OPDs of persons with albinism are also in the forefront to advocate climate change mitigations like Albinism County Network of Machakos County.<sup>111</sup>

In Homabay County, climate change has had adverse effects on populations residing along the shores of Lake Victoria, leading to displacement, and among those affected are persons with disabilities as reported by a County KII respondent. This displacement has resulted in various challenges, including food insecurity. Climate change has also disrupted traditional food systems, forcing communities to rely on non-traditional foods for sustenance. However, the consumption of these non-traditional foods can have health-related consequences for both the general population and persons with disabilities. To address these challenges, the county has taken steps to ensure the involvement of persons with disabilities in various committees, such as the Flood and Climate Change Adaptation committees (FLOCCA). These committees play a crucial role in formulating strategies and implementing measures to mitigate the impacts of climate change and promote adaptation. By including persons with disabilities in these committees, the county aims to ensure that their unique perspectives, needs, and concerns are considered in decision-making processes related to climate change and its consequences.

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<sup>105</sup> SE Emadi, A Juma Suleh, F Babamahmoodi, F Ahangarkani, V Betty Chelimo, B Mutai, *et al.* (2017) Common malignant cutaneous conditions among albinos in Kenya <https://mji.iums.ac.ir/article-1-3776-en.html>

<sup>106</sup> Astle, Buyco, Ero, Reimer-Kirkham, Global impact of climate change on persons with albinism: A human rights issue, *The Journal of Climate Change and Health*, Volume 9, 2023 <https://www.sciencedirect.com/science/article/pii/S266727822000797#bib0023>

<sup>107</sup> <https://ncpwd.go.ke/albinism-support-program/>

<sup>108</sup> OHCHR (2022) Statement on harmful practices and hate crimes targeting persons with albinism <https://www.ohchr.org/en/statements/2022/03/statement-harmful-practices-and-hate-crimes-targeting-persons-albinism>

<sup>109</sup> Kamasah, A. (2019) The sad story of how albinos are dying in adverse climate conditions, <https://www.pulse.com.gh/filla/the-sad-story-of-how-albinos-are-dying-in-adverse-climate-conditions/vm1kqvq>

<sup>110</sup> BBC News (2019). Climate change, albinism and me, <https://www.bbc.com/news/av/world-africa-61150865>

<sup>111</sup> Pamoja FM (2023) Climate Crisis: Persons with Albinism Highly Prolific to Skin Cancer Due To Climate Change <https://pamojafm.co.ke/news/climate-crisis-persons-with-albinism-highly-prolific-to-skin-cancer-due-to-climate-change/>

#### 2.9.4. Response to COVID-19 and other large-scale emergencies

The COVID-19 pandemic, disproportionately impacted persons with disabilities<sup>112</sup>. According to the Kenya 2020 Human Rights Report, 92% of surveyed persons with disabilities had been severely affected by the pandemic, figures that were also confirmed by the Inclusive Futures' Report on People with Disabilities' Experiences of the COVID-19 Pandemic in Kenya (2021).<sup>113</sup>

The initial response to the Covid-19 pandemic was heavily militarized, focusing on enforcement rather than inclusion. Unfortunately, persons with disabilities were not involved at any level of the response, leading to a lack of representation and consideration of their specific needs. As a result, many affected persons with disabilities faced difficulties in accessing isolation facilities and affording necessary medical treatment. The Ministry of Health, at least, had sign language interpretation during the daily and weekly TV live COVID response update press releases

The lockdown measures implemented during the pandemic had a significant impact on the accessibility of services for persons with disabilities. Medical care, counselling, and other essential services became harder to reach, exacerbating the challenges faced by persons with disabilities. Tragically, some persons with disabilities lost their lives due to limited access to healthcare, social exclusion, or neglect. Additionally, there were reports of human rights violations and abuses by the police while enforcing the curfew, further worsening the situation for vulnerable individuals. For example, *"Kakamega police were on the spot for the assault of a 35-year-old man with intellectual disability on the night of 1st April 2020 who later succumbed to death. Barely a day later, on the night of 2nd April a young man who is Deaf was assaulted by police in Mumias"*<sup>114</sup>

Shortages of supplies, including essential medical equipment and medications, posed further challenges for persons with disabilities. If someone contracted Covid-19 and did not have access to hospitals or necessary resources, the consequences could be dire.

The Department of Occupational Safety and Health also commendably issued an advisory for workers with disabilities<sup>115</sup> for employers alongside the other general workers advisories. OPDs also did a rapid survey with support from the i2i project that developed a Disability and COVID Influencer Pack<sup>116</sup> more than 300 women and men with disabilities respondents during early COVID-19 responses in April and May 2020. From the survey 68% reported not being able to work, while 65% felt insecurity in their current jobs. More than 92% of respondents said their daily lives had been affected because of limited transport, restricted movement, a lack of available necessities, lack of contact with others at school, church and social functions, reduced income and the loss of their job or income. 45% of respondents were not getting the support required to live safely and independently and 39% reported experiencing disability discrimination, including exclusion from vital services.

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<sup>112</sup> <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>

<sup>113</sup>

<https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/16607/IW%20COVID%20Kenya%20report.pdf?sequence=1&isAllowed=y>

<sup>114</sup> <https://www.udpkenya.or.ke/wp-content/uploads/2020/06/UDPK-RESPONSE-TO-POLICE-BRUTALITY.pdf>.

<sup>115</sup> [https://www.labour.go.ke/sites/default/files/2022-10/COVID-19-Occupational-Safety-and-Health-for-Employees-with-Disabilities-on-COVID-20\\_04\\_2020.pdf](https://www.labour.go.ke/sites/default/files/2022-10/COVID-19-Occupational-Safety-and-Health-for-Employees-with-Disabilities-on-COVID-20_04_2020.pdf)

<sup>116</sup> <https://www.leonardcheshire.org/sites/default/files/2020-10/i2i-disability-covid-19-influencer-pack-accessible.pdf>

The economic difficulties faced by persons with disabilities who lost their jobs had a cascading effect. They experienced financial instability, limited access to healthcare and essential services, and reduced social and economic participation opportunities. The movement restrictions imposed during lockdowns had a significant impact on the businesses operated by persons with disabilities. Many faced challenges in sustaining their businesses, leading to financial hardships.

*‘ Job losses during the pandemic also had severe consequences on the lives and well-being of persons with disabilities. Some individuals were forced to return to rural areas where the cost of living might be lower, or they relied on familial support networks’ ....*

**KII Respondent**

## **2.10. SECTION 10| Gap and Challenges in Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts**

### *Disaster risk reduction and humanitarian action*

- i. OPDs and disability focused CSOs do not consider and are ill-prepared to support persons with disabilities to handle or respond to emergency situations.
- ii. Kenya’s encampment policy and restrictions to access the camps makes it difficult for new service provider entrants, far-flung camps.
- iii. Security concerns in setting up programs in camps.
- iv. Poor and non-existent government policies aligning with international standards such as the IASC Guidelines on the Inclusion of Persons with Disabilities in Humanitarian Action (2019).

### *Climate change*

- i. No provisions in law on climate change and disability, Sendai Framework is yet to be domesticated.
- ii. Poor inclusion in climate change mitigation processes in emergencies, preparedness, and responsiveness.
- iii. Limited and absent involvement of OPDs in climate change activism though OPDs of persons with albinism and from indigenous groups have lately been active

### *Responses to COVID 19 and other larger scale emergencies*

- iv. Poor inclusion, accessibility and agility in preparedness, response, and recovery to COVID 19 and other larger scale emergencies.
- v. Poor inclusion of persons with disabilities in decision-making, advocacy for accessible information and communication, accessible, inclusive, and targeted support, financial security and employment and the utilization of data.

# 3. SUMMARY OF EXISTING OPPORTUNITIES & RECOMMENDATIONS.

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## 3.1. Key Recommendations

### 3.2.1. PRECONDITION 1 | Stakeholder and Coordination Analysis

To strengthen stakeholder coordination and capacities for the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in Kenya, the following actions should be considered:

- i. *The establishment of a National CRPD Coordination Mechanism:* There is need to create a dedicated national coordination mechanism that brings together key stakeholders, including government entities, civil society organizations, and representatives from the disability sector. This mechanism should be responsible for coordinating and monitoring the implementation of the CRPD across different sectors and ensuring effective and sustained stakeholder engagement to:
  - a. *Strengthen capacity building:* Subsequent interventions should focus on capacity-building for stakeholders involved in CRPD implementation, including government officials, civil society organizations, and service providers. Offer training on disability rights, the CRPD, inclusive policies and practices, and disability mainstreaming. Strengthening the capacity of stakeholders will enhance their understanding of disability issues and their ability to effectively contribute to the implementation processes.
  - b. *Develop an Integrated Monitoring and Reporting System:* A robust monitoring and reporting system to track progress in CRPD implementation is therefore a critical necessity. This system should include clear indicators, data collection methods, and reporting mechanisms that align with the CRPD's monitoring framework. Ensure the involvement of stakeholders in data collection, analysis, and reporting processes to enhance transparency and accountability.
  - c. *Promote information sharing and knowledge management by building a Community of Practice:* Facilitate the sharing of information, best practices, and lessons learned among stakeholders involved in CRPD implementation. Establish platforms, such as knowledge repositories, online forums, and regular meetings, to facilitate information exchange and collaborative learning.

- ii. **Foster multi-sectoral collaboration:** There is need promote collaboration and coordination among different sectors, such as education, health, employment, social welfare, and justice, to ensure a holistic and inclusive approach to CRPD implementation. There would be value in establishing mechanisms for regular communication, information-sharing, and joint planning among relevant ministries and agencies to align efforts and avoid duplication by:
  - *Enhancing disability community engagement:* Actively involve persons with disabilities and organizations representing them in decision-making processes and policy development. Include persons with disabilities as key stakeholders in the coordination mechanism, ensuring their meaningful participation, consultation, and representation.
  - *Investment in structures for coordination:* Provide financial resources to existing and future coordination mechanisms, structures, and systems, to ensure meaningful involvement of persons with disabilities at all stages of design, implementation, and monitoring. This includes resources for providing reasonable accommodations for persons with disabilities, and underrepresented groups during coordination activities.
- iii. **Inter-Government Coordination:** Support advocacy to improve effective coordination between the national and county governments with respect to disability related matters in alignment to the Persons with Disabilities Act (2003) and CRPD.

### 3.2.2. PRECONDITION 2 | Equality and Non-Discrimination

Following are the recommendations on Equity and Non-Discrimination for the Implementation of CRPD in Kenya.

- i. **Strengthen legal frameworks** in alignment with the principles and provisions of the CRPD: Specifically, support the mapping, review, and repeal of national and county legal and policy frameworks that are inconsistent with the CRPD, including the Persons with Disabilities Act 2003. In addition, there is need to support the finalization of the National Disability Policy, and advocacy towards the full implementation of the National Plan of Action on the implementation of recommendations made by the Committee on the Rights of Persons with Disabilities.
- ii. **Raise awareness:** Conduct awareness campaigns and training programs targeting the public, government officials, service providers, and employers to promote understanding, acceptance, and respect for the rights of persons with disabilities. Sensitization initiatives should highlight the principles of equity and non-discrimination and dispel stereotypes and misconceptions about disability.

- iii. ***Strengthen Monitoring and Reporting Mechanisms:*** Establish robust monitoring and reporting mechanisms to track progress and identify gaps in the implementation of equity and non-discrimination provisions under the CRPD. This includes regular data collection, disaggregated by disability type, age, gender, and other relevant factors, to monitor the impact of policies and programs on different disability groups. There should be a proper M&E to ensure disability sensitive programmes are successfully implemented.
- iv. ***Promote Participation and Representation:*** Ensure the active and meaningful participation of persons with disabilities and their representative organizations in decision-making processes at all levels. Establish platforms for their engagement in policy formulation, implementation, and monitoring. Encourage the representation of persons with disabilities in public institutions, committees, and advisory bodies.
- v. ***Establish Complaints and Redress Mechanisms:*** Work with NCPWD and UDPK to build an effective and accessible complaints and redress mechanisms to address instances of discrimination and violations of the rights of persons with disabilities. Ensure that these mechanisms are accessible, inclusive, and provide timely and adequate redress for victims of discrimination.
- vi. ***Foster Research and Data Collection:*** Promote research on issues related to equity and non-discrimination for persons with disabilities to inform evidence-based policies and interventions. Encourage data collection and analysis on the social, economic, and political status of persons with disabilities, including intersectional factors, to identify and address disparities and inform targeted interventions.

### 3.2.3. PRECONDITION 3 | Accessibility

To enhance the accessibility for persons with disabilities in line with the provisions of the Convention on the Rights of Persons with Disabilities (CRPD) in Kenya, the following recommendations are proposed:

- i. ***Develop and enforce accessibility standards:*** Support the development of national guidelines/standards on accessibility, to promote a unified understanding of the accessibility requirements of persons with all types of disabilities amongst all stakeholders. The comprehensive accessibility standards and guidelines should adhere to the principles of universal design and accessibility across various sectors, including infrastructure, transportation, information and communication technology, public facilities, and services.
- ii. ***Promote accessible infrastructure:*** Lobby Parliament to make the Accessibility and usability standards part of the Kenya Building code to enable enforcement of accessibility and usability standards in the design and construction of infrastructure, including public buildings, schools, hospitals, transportation systems, and recreational facilities.

- iii. **Enhance access to information and communication:** Take measures to ensure that information and communication are accessible to all, including persons with disabilities. This includes promoting the use of accessible formats, such as Braille, large print, and audio, and ensuring that websites, electronic documents, and public information materials are accessible and usable for individuals with disabilities. Promote digital inclusiveness to ensure that Websites and digitally available public information should be in accessible formats.
- iv. **Accessible public transportation:** Improve public transportation systems to make them fully accessible and inclusive. This includes providing accessible vehicles, bus stops, train stations, and ensuring that transportation staff are trained in disability awareness and support.
- v. **Raise awareness and sensitize the public:** Conduct awareness campaigns and sensitization programs to promote a better understanding of disability rights and the importance of accessibility. Engage the media, civil society organizations, and educational institutions to foster a culture of inclusion and respect for the rights of persons with disabilities.

#### 3.2.4. PRECONDITION 4 | Inclusive Services

- i. **Strengthen Disability Assessment and Referral Systems:** Which would mainly involve improving coordination between the Ministry of Health, NCPWD and OPDs to enhance easy and cost-free access to assessment services for persons with disabilities, especially those in marginalized areas. Other interventions in recommended include; resourcing of the Education Assessment and Resource Centres to build their capacity to effectively assess and refer learners with disabilities, digitization of the assessment process for both medical and educational/functional assessment of persons with disabilities, incorporate the support needs assessment in the assessment process to inform on required interventions, and the adoption of WGSQ in surveys and other relevant data collection exercise in the country.
- ii. **Access to social protection:** Which involves port the expansion of the cash transfer programs to reach all persons with disabilities, including their parents and guardians, especially those who have no alternative sources of income, and the advancement for the universal design of social protection program that will cover all persons with disabilities to cater for disability related costs. However, the expansion of coverage would require; a) the review of social protection budget, sources of funding, and adequacy of existing schemes for persons with disabilities; b) the costing of progressive extension of coverage with different social protection programmes for persons with disabilities); d) review of disability related Key Performance Indicators in the budgeting process; e) strengthening the capacity of the State department of social protection, and OPDs towards the delivery of the expanded programme.

- iii. **Improve Access to Healthcare:** Invest in efforts that ensure that healthcare facilities, services, and information are accessible to persons with disabilities. This includes training healthcare professionals on disability awareness, providing accessible medical equipment and facilities, and making healthcare information available in accessible formats. There is equally an opportunity to push for free access to the National Health Insurance Fund cover for all persons with disabilities, and promote access, by persons with all types of disabilities, to comprehensive medical insurance provided by insurance institutions. Finally, interventions should focus on improving accessible and affordable healthcare services that recognize the specific needs of persons with different types of disabilities – which includes providing specialized rehabilitation services, assistive devices, and comprehensive healthcare coverage to improve overall health outcomes and quality of life.
- iv. **Promote Inclusive Education:** Identify and implement inclusive education policies and practices that guarantee equal access to quality education for all children, including those with disabilities. This involves providing necessary support services, accessible learning materials, assistive technologies, and trained teachers to accommodate the diverse needs of students with disabilities. There is equally needed to support; the revision of laws and policies on education to ensure consistency with the CRPD, the advocacy efforts to increase the budget allocated towards the education of learners with disabilities, and in having additional sign language interpreters in schools for the deaf.

Finally, each county should establish a centre of excellence to train teachers on special education, and measures should be put into place to ensure TVETs are made accessible for learners with disability.

- v. **Access to employment:** Promote inclusive employment practices that require the compliance of employers in providing reasonable accommodations and accessibility features in workplaces. Enhance vocational training and skills development programs to ensure that persons with disabilities have equal access to employment opportunities and are empowered to participate in the workforce. In addition, there is an opportunity to support the development, dissemination, and implementation of guidelines and standards on employment of persons with disabilities, and to introduce transitional programmes for persons with disabilities into employment spaces.
- vi. **Access to justice:** There is need to support the development of rules and regulations on the provision of procedural, age and gender-appropriate accommodations to persons with disabilities who interact with the justice system, and to further support the mapping, review, and repeal of laws and procedures which deny persons with intellectual and psychosocial disabilities the legal capacity to represent themselves in court, often leading to their institutionalization in mental health institutions. Training materials should also be developed to guide actors on accommodating persons with disabilities who interact with the justice system.

- vii. *Promote Disability-Inclusive Emergency Preparedness*: Develop and implement inclusive emergency preparedness plans that consider the needs of persons with disabilities. Ensure that emergency warning systems, evacuation routes, and shelters are accessible, and that emergency response personnel are trained in disability-inclusive approaches.

### 3.2.5. PRECONDITION 5 | CRPD Compliant Budgeting

- i. *Budget Tracking*: Support the development of a tracker to track budgets allocated towards disability mainstreaming by both levels of government (both targeted and mainstreaming programs).
- ii. *Increased Budgetary Allocation*: Support advocacy on allocating budgets and funding for disability mainstreaming during project design, including the provision of reasonable accommodation, by all stakeholders. Specifically, there is a need to influence the allocation of sufficient financial resources to implement CRPD provisions effectively. This includes budgetary allocations to support disability-related programs, services, and infrastructure development. Regularly review and monitor budgetary processes to ensure that resources are properly allocated and utilized for the benefit of persons with disabilities through participatory budget design and monitoring.

### 3.2.6. PRECONDITION 6 | Governance and Accountability

- i. *Institutionalize national accountability systems and tools*: in consultation with OPDs, support the development of tools to inform effective and meaningful consultation of persons with disabilities in all processes, including policy formulation and national and county budgeting processes. The tools should have an enforcement mechanism and should entrench periodic disability impact assessment and evaluation of policies, legislation, and budgets.

*Promote transparency and accountability*: Foster transparency in decision-making processes related to disability rights and ensure that persons with disabilities and disability organizations have access to information and opportunities to participate. Hold duty-bearers accountable for their obligations under the CRPD, including through effective remedies for individuals whose rights have been violated. This may involve support to OPDs, through UDPK, to submit shadow reports to the CRPD Committee, as well as other human rights monitoring bodies.

An additional consideration would be the development of a robust and comprehensive disability inclusion monitoring framework, such a framework would be useful to track and easily make available data on select indicators. This could take the shape of an information portal on disability inclusion.

### 3.2.7. PRECONDITION 7 | Inclusive Data and Evidence Gathering

- ii. **Strengthen utilization of inclusive Evidence and Data:** Through Investing in comprehensive data collection systems and research to gather reliable and disaggregated data on disability issues. This will provide evidence-based information to inform policies, programs, and decision-making processes related to disability rights and the CRPD. In addition, KNBS should also be supported to develop, test, and contextualize, in consultation with OPDs, the tools that can be used to collect routine statistics of persons with disabilities.

Further, the Technical Working Group on Disability Statistics should be strengthened to ensure accurate and comprehensive sector-wide data collection on disability, and the scope of data collected by NCPWD should expand beyond the medical model and focus on collecting data that goes beyond health and impairment - incorporating information on support needs and experiences of different disability groups for financial planning and effective service delivery.

### 3.2. 8. PRECONDITION 8 | Cross-cutting Issues

- i. **Inclusive Policies:** The Kenyan government should ensure that disability policies and programs are gender-inclusive, addressing the unique challenges and needs faced by disabled individuals, especially considering the intersecting aspects of gender and disability.
- ii. **Disaggregation of data to reflect gender and marginalized populations:** Disaggregating data by gender and marginalized populations is critical to the country's efforts to address inequalities, promote inclusivity, and design targeted policies and programs. Disaggregation would help in making evidence-based decisions that contribute to more equitable interventions. Additionally, the availability of accurate and disaggregated data is essential for tracking progress toward achieving national and international development goals on the CRPD and SDGs.
- iii. **Women's Empowerment:** Pay special attention to empowering women with disabilities by providing them with vocational training, financial support, and leadership opportunities. This should also include efforts that address the issue of gender-based violence against women and girls with disabilities. Implement programs to raise awareness and provide support to victims.
- iv. **Participation and Representation:** Encourage the active participation and representation of disabled women and girls in decision-making processes and community activities.
- v. **Support the domestication of the Sendai Framework:** this requires the incorporation of the framework's principles, goals, and actions into national and local policies, strategies, and practices. This is crucial for effective disaster risk reduction and building resilience for vulnerable populations (including persons with disabilities). Supporting the domestication of the Sendai Framework requires strong political will, adequate financial resources, and active involvement from all sectors of society. It is a collective effort that aims to reduce the impact of disasters and protect lives and livelihoods.

# ANNEXES.

## ANNEX 1 | Stakeholder Mapping

Based on the situation analysis workshop, preliminary document review, and general sector knowledge, the following is the classification of the actors in the Disability sector in Kenya.

Pre-conditions	Critical areas	The Stakeholders
<p><b>Stakeholder and coordination analysis– with a focus on the capacity of rights holders and duty bearers</b></p>	<p>Effectiveness of coordination mechanisms and processes for coordination on disability rights in government, UN, and key development partners.</p> <p>Effectiveness of legal framework for civil society engagement and consultation. Obstacles and gaps.</p>	<p><b>OPDs</b></p> <p><b>a. National</b></p> <ul style="list-style-type: none"> <li>- United Disabled Persons of Kenya (UDPK)</li> <li>- Women Challenged to Challenge (WCC)</li> <li>- Kenya Union of the Blind (KUB)</li> <li>- Kenya Paraplegic Organization (KPO)</li> <li>- Kenya National Association of the Deaf (KNAD)</li> <li>- Kenya National Association for the Deafblind</li> <li>- Kenya Association for the Intellectually Handicapped (KAIH) (Article 48 Initiative: has conducted studies and litigated on behalf of persons with multiple, psychosocial and intellectual disabilities, including those who identify as LGBTQ)</li> <li>- Users and Survivors of Psychiatry, Kenya (USP-K)</li> <li>- Cerebral Palsy Society of Kenya (CPSK)</li> <li>- Albinism Society of Kenya (ASK)</li> <li>- Spina Bifida and Hydrocephalus Association of Kenya (SHAK)</li> <li>- Youth on the Move (YotM), an organization of youth with epilepsy</li> <li>- Short Stature Society of Kenya (SSSK)</li> </ul> <p><b>b. Networks</b></p> <ul style="list-style-type: none"> <li>- Kenya Network of Women with Disabilities</li> </ul> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- State Department of Social Protection</li> <li>- Children Services Directorate</li> <li>- National Council for Persons with Disabilities (NCPWD)</li> <li>- Kenya National Human Rights Commission (KNHCR)</li> <li>- National Gender and Equality Commission (NGEC)</li> <li>- Commission for Administrative Justice (Ombudsman) (CAJ)</li> <li>- Select/sampled County Governments-Departments of Social Services</li> <li>- The Treasury</li> <li>- The Kenya Judiciary,</li> <li>- Parliament: especially persons nominated to represent persons with disabilities</li> <li>- County Assemblies: persons nominated to represent persons with disabilities</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>-Association for the Physically Disabled of Kenya</li> <li>-Sense International-Kenya</li> <li>- CBM-Kenya, CBM-Global Kenya Office</li> <li>- Sight Savers</li> <li>- Voluntary Services Overseas (VSO)</li> <li>- Humanity &amp;Inclusion</li> </ul>

Pre-conditions	Critical areas	The Stakeholders
		<ul style="list-style-type: none"> <li>- Kenya Special Olympics</li> </ul> <p><b>Development Partners</b></p> <ul style="list-style-type: none"> <li>- World Bank</li> <li>- FCDO</li> <li>- USAID</li> <li>- NORAD</li> <li>-SIDA</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>- UNFPA</li> <li>- UNICEF</li> <li>- WFP</li> <li>- ILO</li> <li>- UNDP</li> </ul>
<p><b>Accessibility -to information, public spaces and services</b></p>	<p>Describe policy and practice in terms of accessibility to information, public spaces and services.</p>	<p><b>OPDs as above especially</b></p> <ul style="list-style-type: none"> <li>- Kenya Union of the Blind (KUB)</li> <li>- Kenya Paraplegic Organization (KPO)</li> <li>- Kenya National Association of the Deaf (KNAD)</li> <li>- Kenya National Association for the Deafblind</li> <li>-Kenya Association of Intellectually Handicapped (KAIH)</li> <li>- Users and Survivors of Psychiatry, Kenya (USP-K)</li> </ul> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Ministry of ICT and Youth Affairs</li> <li>- Communication Authority of Kenya (CAK)</li> <li>- National Construction Authority</li> <li>- Kenya Bureau of Standards: has developed and adopted specific standards on accessibility of the built environment, and accessibility of digital products and services.</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>- Association for the Physically Disabled of Kenya</li> <li>- Flora Initiatives (has been conducting disability accessibility assessments and reports on buildings and transport in Nairobi)</li> <li>- Sense International-Kenya</li> <li>- InABLE (has specific projects on digital accessibility, and convenor of the Inclusive Africa Conference to take place in May 2023)</li> </ul> <p><b>Academia</b></p> <ul style="list-style-type: none"> <li>- The University of Nairobi, Parklands School of Law: has been undertaking a baseline study on the Accessibility of Public Spaces in Kenya</li> </ul>

Pre-conditions	Critical areas	The Stakeholders
<p><b>Inclusive service delivery</b></p>	<p>Assess the disability assessment and determination system</p>	<p>As mentioned above and including:</p> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Ministry Health- National Government and Sampled County Governments, disability assessment teams in sampled gazetted hospitals of levels 3, 4 &amp;5</li> <li>- National Council for Persons with Disabilities</li> <li>- Ministry of Education (educational assessment) and County Governments</li> <li>- Kenya Revenue Authority (a consumer of disability assessment and determination-income tax exemptions, duty-free imports, tax rebates for inclusive workplaces)</li> <li>- Public Procurement Oversight Authority (PPOA) (a consumer of disability assessment and determination-30% reservation of public procurement and disposal for women, youth and persons with disabilities)</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>- CBM Kenya (has been supporting NCPWD with new generation disability cards roll-out)</li> </ul>
	<p>Assess accessibility and affordability of support services for various disability groups, including community-based support and deinstitutionalisation efforts (targeted efforts).</p>	<p>As mentioned above and including:</p> <p><b>OPDs</b></p> <ul style="list-style-type: none"> <li>- Community-based OPDs in sampled counties</li> </ul> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Directorate of Children's Services</li> <li>- Directorate of Social Services (Rehabilitation Unit &amp;Centers)</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>- Cheshire Disability Services of Kenya (CDSK)-runs Cheshire Homes</li> <li>- Feed the Children- runs Dagoretti Children's Home</li> <li>- National Taxpayers Association</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>- UNICEF</li> <li>- UNFPA</li> </ul>
	<p>Assess the level of accessibility and inclusiveness of mainstream services such as education, health, social services, livelihood and employment (inclusive efforts).</p>	<p>As mentioned above and including:</p> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Kenya Universities and College Placement Services</li> <li>- Sampled universities and TVETS</li> <li>- National Health Insurance Fund (NHIF)</li> <li>- National Social Security Fund (NSSF)</li> <li>- Youth Enterprise Development Fund, Women Enterprise Fund, National Government Affirmative Action Fund</li> </ul> <p><b>Employers</b></p> <ul style="list-style-type: none"> <li>- Public Sector</li> <li>- Private Sector (Safaricom PLC, Coca Cola, East African Breweries Limited)</li> <li>- Kenya Business Disability Network (KBDN)</li> </ul> <p><b>Trade Unions</b></p> <ul style="list-style-type: none"> <li>-Central Organization of Trade Unions...and its wing/representatives for workers with disabilities (COTU)</li> <li>- Kenya National Union of Teachers (KNUT)/Kenya Post Primary Teachers (KUPPET).... wings/representatives for teachers with disabilities</li> <li>- Federation of Kenya Employers</li> </ul>

Pre-conditions	Critical areas	The Stakeholders
<p><b>Disability-inclusive budgeting and financial management</b></p>	<p>Map how ongoing development, humanitarian and climate change initiatives fare in terms of disability inclusion in design and budgets. What is most critical to address?</p>	<p><b>OPDs</b></p> <ul style="list-style-type: none"> <li>- UDPK</li> <li>- OPDs and persons with disabilities in humanitarian and climate change-affected or at-risk areas</li> </ul> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Department of Refugee Services (DRS)</li> <li>- National Drought Management Authority (NDMA)</li> <li>- National Council for Nomadic Education in Kenya (NACONEK)</li> <li>-The Treasury and respective County Departments of Budget and Economic Planning</li> </ul> <p><b>CSOs-humanitarian actors</b></p> <ul style="list-style-type: none"> <li>- CBM (inclusive climate change, DRR and relief efforts)</li> <li>- Humanity &amp; Inclusion (disability inclusion in refugee camps)</li> <li>- Red Cross</li> <li>- Finn Church Aid</li> <li>- Lutheran World Federation</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>- UNHCR</li> <li>- UNICEF</li> <li>- WFP</li> <li>- UNFPA</li> </ul>
<p><b>Governance and accountability</b></p>	<p>Assess the availability and functioning of national monitoring mechanisms, systems and tools, quality of statistics and disaggregated disability monitoring data. What is most critical to address?</p>	<p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Kenya National Bureau of Statistics (KNBS)</li> <li>- National Council for Population and Development (NCPD)</li> <li>- Ministry of Education- NEMIS- (National Education Management Information Systems)</li> <li>- State Department of Labour - LMIS (Labour Market Information Systems)</li> <li>- Ministry of Health</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>- Leonard Cheshire - (Inclusive Data Portal)</li> <li>- Sight Savers (Inclusive Futures)</li> <li>- Development Initiatives (Inclusive Futures)</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>-UNDP</li> <li>-ILO</li> <li>-UNICEF</li> <li>- UNFPA</li> </ul> <p><b>Development Partners</b></p> <ul style="list-style-type: none"> <li>- World Bank</li> <li>- FCDO</li> <li>- USAID</li> <li>- NORAD</li> </ul>

Pre-conditions	Critical areas	The Stakeholders
	Identify and summarise challenges of the most marginalised groups of persons with disabilities	<p><b>OPDs</b></p> <ul style="list-style-type: none"> <li>- OPDs and persons with disabilities with a membership of those with intellectual, cognitive, and developmental disabilities</li> <li>- Persons and/ or OPDs with a membership of those with psychosocial disabilities like Users and Survivors of Psychiatry (USP)</li> <li>- OPDs and persons with disabilities with a membership of those with less occurring disabilities like deafblindness, with rare conditions</li> <li>- OPDs and persons with disabilities from indigenous communities (around Narok, Kajiado, Baringo, Samburu and Bomet)</li> <li>- OPDs and persons with disabilities in humanitarian and climate change-affected or at-risk areas</li> <li>- Women-led, girl-focussed OPDs and Parent Support Groups and individual females with disabilities at national and county levels, Women wing representatives in OPDs</li> </ul>
Cross-cutting issues	Summarise the key challenges of women and girls with disabilities (as well as LGBTQ persons with disabilities)	<p><b>OPDs</b></p> <ul style="list-style-type: none"> <li>- Women-led, girl-focussed OPDs and Parent Support Groups and individual females with disabilities, at national and county levels, women wing representatives in OPDs</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>- Make Way consortium that has a SRH component (Cheshire Disability Services of Kenya, Volunteer Services Overseas)</li> <li>- HIVOS</li> </ul> <p><b>Women Organisations</b></p> <ul style="list-style-type: none"> <li>- FIDA</li> <li>- FEMNET</li> </ul>
	Summarise the key obstacles preventing active participation of OPDs and persons with disabilities in planning, implementation and monitoring of the CRPD and inclusive SDGs	<p>As mentioned above in C4 and including:</p> <p><b>OPDs &amp; PSGs</b></p> <ul style="list-style-type: none"> <li>- United Disabled Persons of Kenya</li> <li>- Sampled OPDs &amp; PSGs, national and at the county level</li> </ul> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- State Department of Social Protection- Disability Inter-Agency Coordinating Committee</li> </ul> <p><b>CSOs</b></p> <ul style="list-style-type: none"> <li>- SDGs' Social Actors Platform-OPDs and disability CSOs are members</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>- UNDP</li> <li>- CRPD Committee member</li> </ul>

Pre-conditions	Critical areas	The Stakeholders
Disability Inclusion in Broader Development, Humanitarian & Emergency Context	<p>National Development Plans: Assess how national development plans, budgets, programs, and monitoring mechanisms supported under SDG processes are designed to advance disability inclusion. Assess the level of disability inclusion in national development efforts such as UNSDCF, VNR, and CCA.</p>	<p>As mentioned above in C4 and including:</p> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Treasury</li> <li>- National Assembly Labour and Social Welfare Committee</li> <li>- Council of Governors</li> <li>- Sampled counties' central planning units</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>- Office of the United Nations High Commissioner for Human Rights</li> </ul>
	<p>Climate change, disaster risk reduction &amp; humanitarian action: Assess the impacts of climate change on persons with disabilities and the extent to which the disaster preparedness and emergency response systems are disability-inclusive - and the extent to which OPDs are involved in these processes.</p>	<p><b>OPDs</b></p> <ul style="list-style-type: none"> <li>- UDPK</li> <li>- OPDs and persons with disabilities in humanitarian and climate change-affected or at-risk areas</li> </ul> <p><b>Government</b></p> <ul style="list-style-type: none"> <li>- Department of Refugee Services (DRS)</li> <li>- National Drought Management Authority (NDMA)</li> <li>- National Council for Nomadic Education in Kenya (NACONEK)</li> </ul> <p><b>CSOs-humanitarian actors</b></p> <ul style="list-style-type: none"> <li>- CBM (inclusive climate change, DRR and relief efforts)</li> <li>- Humanity &amp; Inclusion (disability inclusion in refugee camps)</li> <li>- Red Cross</li> <li>- Finn Church Aid</li> <li>- Lutheran World Federation</li> </ul> <p><b>UN Agencies</b></p> <ul style="list-style-type: none"> <li>- UNHCR</li> <li>- WFP</li> </ul>

## ANNEX 2 | Data Collection tools

### TOOL # 1 | GUIDE QUESTIONS FOR KEY INFORMANT INTERVIEWS

The table below contains the list of questions to be answered by the different categories of respondents through Key Informant Interviews.

<p><b>Informed Consent</b></p>	<p>Our team is working with the UNPRPD partners to conduct a Situation Analysis. This analysis aims to identify the areas where funding from the PRPD program can have the most significant impact in accelerating the implementation of the CRPD and SDGs, ultimately promoting disability inclusion in Kenya's broader development processes.</p> <p>We would appreciate your participation in this study, but please note that it is entirely voluntary, and declining to participate will not result in any consequences. If you do decide to participate and later change your mind, you can ask us to stop the interview at any time.</p> <p>We will ensure that all information you provide during the interview remains confidential. However, if you agree, we will include your name and/or your organization's name in the list of participants in the final report as a way of acknowledging your participation.</p> <p>If you have any questions about this study in the future, please feel free to contact the study team lead at <a href="mailto:omondi@chasp.co.ke">omondi@chasp.co.ke</a> .</p>
<p><b>CATEGORY OF RESPONDENTS</b></p>	<p><b>GUIDING QUESTIONS</b></p>
<p>All respondents</p>	<p><b>Stakeholder and coordination analysis</b></p> <ol style="list-style-type: none"> <li>1. Are there any disability-specific joint programs between the government, UN Agencies, development partners, OPDs, private sector, and academia in Kenya?             <ol style="list-style-type: none"> <li>a. Which partnerships have been established as a result of these programs?</li> <li>b. Can you indicate any successes or challenges?</li> </ol> </li> <li>2. In your assessment, what is the level of knowledge and understanding of disability-inclusive programming among the following stakeholders, and has training on disability rights and inclusion been provided?             <ul style="list-style-type: none"> <li>- Government</li> <li>- UN Agencies</li> </ul> </li> </ol>

- Development partners
- OPDs
- Private sector
- Academia

3. How does international cooperation support disability inclusion and the rights of persons with disabilities in Kenya? Who are the key donors, INGOs, foundations, or others working on disability? Any big donors that do not yet engage?

4. What are the key capacity gaps on disability inclusion in Kenya?

**Accessibility**

5. What programming measures are in place **to ensure accessibility** of the physical environment, transportation, services, information, and communications, including ICTs and other facilities and services open or provided to the public? E.g., are you aware of any national accessibility standards and implementing regulations that have been adopted, and what are the application and enforcement mechanisms for these? Is there any data demonstrating how standards are applied in practice?

6. What measures are in place for accessibility of information and communications, including for telecommunications, media, and related information services? For example, are there a sign language interpretation system, relay services, digital accessibility measures and/or live captioning capability? Do early warning systems for emergencies provide information and communication in alternative formats and are emergency call numbers accessible?

7. Are you aware of any formal data (enforcement of standards) and informal monitoring data (access audits by OPDs or NGOs) on accessibility?

**Cross-cutting Issues**

8. How are OPDs involved in policymaking and decision-making? What are the experiences of OPDs regarding participation in policymaking and programming? How inclusive and wide-reaching is participation (e.g. are some groups excluded or under-represented)?

9. To what extent is there an enabling environment for meaningful participation in policymaking and decision-making (including conducive attitudes, accessibility of the environment including information and communication, provision of reasonable accommodation)? How regularly and how formally (established mechanisms or ad-hoc) are OPDs invited to take part in decision-making? On which issues are OPDs consulted (disability-specific, other areas of policy)? To what extent are their views effectively included?

10. What are the key areas of improvement for OPDs in order to make their engagement with duty bearers and development partners more effective? Areas of improvement according to OPDs themselves? According to persons with disabilities that are not yet organised? Areas of improvement according to government and development partners?

#### Inclusion of marginalised groups

11. Describe which groups you find to be most marginalised and discuss the causes of the marginalisation.
12. Describe any models of good practice, and/or give examples of bad practice.

#### Gender equality

13. Describe how women are discriminated or vulnerable and discuss the causes of the discrimination.
14. Describe any models of good practice, and/or give examples of bad practice.

#### **Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts**

15. How are disability rights mainstreamed in national SDG planning and reporting, and are the priorities of OPDs considered? Is this reflected in the country's Voluntary National Review reports? Similar for Sendai DRR reporting, or for example country emergency response plans if relevant?
16. What share of national development programs supported under the SDG processes have included persons with disabilities in objectives, indicators, budgets and monitoring reports – explicitly? Are there any common features of those that have managed to be inclusive? What share of programs have engaged/consulted with OPDs? Supported capacity development of OPDs?
17. How are UN agencies addressing disability inclusion in SDG planning processes? How is disability incorporated into international cooperation country plans and strategies (e.g. UN Common Country Analysis and plans, etc.), processes and reporting? Are there disability specific objectives and indicators? To what extent do other are bilateral agencies and donors promote and engage in disability rights?
18. How effectively is disability included within the disaster preparedness and emergency response system? Who is playing which role in relation to disability inclusive DRR and emergency response?

	<p>19. Are OPDs regularly consulted by actors within the civil protection system and/or humanitarian system in planning and implementation of DRR or humanitarian efforts? What is the experience of these actors and of OPDs in terms of obstacles to consultations?</p> <p>20. What are the impacts of climate change on persons with disabilities within your country context?</p> <p>21. To what extent are persons with disabilities included in climate change analyses, plans and programmes?</p> <p>22. How are OPDs involved in these processes?</p>
OPDs	<p><b>Stakeholder and coordination analysis</b></p> <ol style="list-style-type: none"> <li>1. To your knowledge, do all ministries have disability focal points within the government (all branches, levels, ministries) with sufficient authority to mainstream the rights of persons with disabilities? Which are most active?</li> <li>2. Is there a government focal point responsible for SDG implementation and monitoring? Does it have the power to do cross-ministerial budgeting and monitoring or is it just part of a Ministry of social welfare? What coordination mechanisms and platforms are set up? Does the focal point consult with OPDs?</li> <li>3. Are you aware of any coordination mechanisms that exist to facilitate disability-related action across different sectors and levels of government, and what are the strengths and weaknesses of these coordination mechanisms within and between the above stakeholder groups?</li> <li>4. What is the level of inclusion of persons with disabilities, including engagement with OPDs, across government and non-governmental programs, UN Agencies, the private sector, and other stakeholders?</li> <li>5. Are you aware of any civil society platform for SDG implementation? If yes, are OPDs part of this platform? Does the platform engage in disability inclusion in the SDGs?</li> <li>6. Are you aware of other local and international organizations that are working on disability rights and providing disability support services? How do they engage with OPDs in planning, implementation and monitoring?</li> </ol>

7. To your knowledge, are the rights of persons with disabilities incorporated into country-level UN activities, analyses and plans (such as UN Common Country Analysis, Sustainable Development Cooperation Framework, COVID-19 Socioeconomic Impact Reports, COVID-19 Recovery analyses and plans, etc.)? If yes, how?
8. In your assessment, what is the level of knowledge and understanding of disability-inclusive programming among the following stakeholders, and has training on disability rights and inclusion been provided?
  - i. Government
  - ii. UN Agencies
  - iii. Development partners
  - iv. OPDs Private sector
  - v. Academia
  - vi. Other stakeholders
9. What is the level of inclusion of persons with disabilities, including engagement with OPDs, across the stakeholders listed above?

**Equality and Non-discrimination**

10. Are you aware of any efforts, national plans or strategies in place to ensure the implementation of the CRPD, and the harmonization of national legislation with the CRPD?
11. List some barriers that hinder the effective implementation of the CRPD and key legislation on the rights of persons with disabilities. Is there stakeholder buy-in from governments for implementation?

**Accessibility**

12. Is key government information available in accessible formats? Are government offices accessible for persons with all types of disabilities?
13. To your knowledge, how is accessibility mainstreamed into public procurement to ensure that new infrastructure, goods, and services do not create additional barriers for persons with disabilities?

14. What are the key gaps presently in terms of accessibility, and is there a strong demand for accessibility by persons with disabilities including through OPDs?

**Inclusive service delivery**

15. What referral systems exist to identify persons with impairment and refer them to a disability assessment service? Is there an early identification and intervention mechanism available? If so, how effective and accessible is it and is it functioning across the country, including in rural areas? If not, what are the main challenges and barriers?

16. Is there one entity responsible for assessing disability or several? What personnel/workforce are used to carry out individual assessments? What are their qualifications, and do they receive initial and ongoing training? What regulation and quality control mechanisms are there within the assessment system?

17. What are the steps and documentation requirements of the disability assessment process? Are you aware if the WHO classification system is used? Noting there may be different assessment processes for different benefits/services, for each assessment process document whether the assessment focuses on:

- i. Health conditions and the level and severity of impairment associated with them (impairment/medical approach)
- ii. The extent to which people's functions or daily living activities are restricted by health conditions and impairments, e.g. walking, lifting, standing, hearing, seeing, communicating, concentrating, etc. (functional limitations approach)
- iii. Support requirements to participate in daily activities
- iv. The social and environmental factors which also affect people's capacity to undertake activities of daily life and participation (including work and education).

18. Is disability assessment and determination associated with a disability card/registration? If so, what does the status provide access to – or is it just one step in different processes to determine access to various benefits and services? Is the disability status effectively recognised across ministries, service providers and levels of government?

19. Are the assessment and determination processes fully accessible and affordable for all (regarding services, information and assessment processes for all types of disabilities)?

20. Based on your assessment, is disability assessment and determination used in some ways that can potentially restrict the rights of persons with disabilities (e.g. exclusion of children with disabilities from mainstream education, denial of legal capacity, placement in residential institutions, denial of rights to adoption, etc.)?

21. Is there a functioning, accessible complaints mechanism available to persons with disabilities?

22. What are the experiences of persons with disabilities with the assessment process? Identify any barriers for different groups of persons with disabilities in accessing assessment (e.g. distance to assessment centre and related costs, costs of medical tests, stigma and discrimination,

inaccessibility of assessment centre, communication inaccessibility, lack of support, etc., taking into account perspectives of different impairment groups, gender, age and geographic location).

23. Which types of disability support services are available, and to whom? What services are missing (consider gender, age, impairment groups, particularly under-represented persons with disabilities, and geographic distribution)? How are the services funded and provided? Provide a brief assessment of affordability of each type of support service.
24. How many persons, including professionals, have been certified to provide support services per 1000 persons with disabilities (disaggregated by type of certification and/or service/profession)? How are they geographically distributed (e.g. concentrated in urban areas)?
25. Are disability-support services sensitive to gender, age and the most marginalised, including through consideration of protection issues?
26. Are you aware of any institutionalised care services (e.g. psychiatric inpatient settings, residences for persons with intellectual disabilities, etc., ranging from large-scale facilities to group homes), disaggregated by sex, age, disability, and type of institution/facility? What is the number and proportion (relative to the total population) of persons with disabilities currently residing in such institutions, and is there a plan and timeline to transition to community-based support (as per the CRPD)? Have OPDs been consulted and engaged in designing and implementing service measures and programs? What are the perspectives of persons with disabilities, including from under-represented groups, on their access to disability support services?
27. How are persons with disabilities restricted when trying to access justice? Assess if laws and policies prevent them from appearing in court or performing as witnesses due to restrictions to their legal capacity, discriminatory attitudes that they cannot be credible witnesses on the basis of their disability, or failure to prosecute cases of rights violations—particularly for women with disabilities—, and if there are accessibility restrictions – both physical and communication.
28. How are persons with disabilities denied or restricted in their exercise of legal capacity? For example, is there total/partial guardianship/curatorship for adults with disabilities or other third-party representation which was not granted with their consent? Any limitations in inheritance rights or right to own property or assets?

### **Accountability and governance**

29. To what extent are reliable and tested tools, such as those developed by the WG, used in the national census (e.g. Washington Group Short Set of Questions on disability), in disability-related and general surveys (e.g. WG Short or Extended set), and within all instruments used to generate the SDG indicators and disaggregate data by disability?

	<p>30. To what extent have national datasets been analysed from a disability perspective (e.g. advanced disaggregation of data by gender, age, location, census monograph, etc.)?</p> <p>31. To what extent do national surveys across sectors generate data on disability (e.g. surveys on health, labour participation, maternal and child health, housing, poverty, etc.)? Is there disaggregated administrative data available, for example for national programs such as social protection and assistance, or labour data, or access to health and education?</p> <p>32. What are the data gaps and opportunities?</p> <p>33. To what extent is there an enabling environment for effective and constructive OPD monitoring of policymaking and programming? Has OPD monitoring or reporting translated into changes in policy or programming?</p> <p>34. To what extent do OPDs use accountability mechanisms to progress their agendas? E.g. have OPDs participated in CRPD State or shadow reporting? How has this contributed to change?</p> <p>35. Are complaints mechanisms in administrative, civil and criminal processes accessible? Is procedural accommodation provided to allow all persons to access them? List the barriers that hinder access to justice at an equal basis with others.</p> <p>36. Do persons with disabilities participate fully and effectively in public and political life?</p> <p>37. What evidence is available on the inequalities in the participation in public and political life faced by persons with disabilities? E.g., voter turnout of last election disaggregated by sex, age, disability and electoral district for national, regional and local elections.</p> <p><b>COVID-19</b></p> <p>38. What were the impacts of COVID-19 on persons with disabilities?</p> <p>39. To what extent was the response to COVID-19 disability inclusive?</p> <p>40. Are there critical or new coalitions or networks of stakeholders influencing for a disability-inclusive COVID-19 response and recovery? Who is critical to influence and provide information on persons with disabilities to ensure a disability-inclusive recovery?</p> <p>41. Describe the extent to which OPDs are involved in COVID-19 recovery.</p>
Government	<b>Stakeholder and coordination analysis</b>

1. Is there a government focal point or ministry responsible for SDG implementation and monitoring? Does it have the power to do cross-ministerial budgeting and monitoring, or is it just part of a Ministry of social welfare? What coordination mechanisms and platforms are set up? If yes, does the focal point consult with OPDs?
2. What coordination mechanisms exist to facilitate disability-related action across different sectors and levels of government, and what are the strengths and weaknesses of the present coordination mechanisms within and between the above stakeholder groups?
3. What is the level of inclusion of persons with disabilities, including engagement with OPDs, across government programs?
4. Is key government information available in accessible formats? Are government offices accessible?
5. Is there a civil society platform for SDG implementation? If yes, are OPDs part of this platform? Does the platform engage on disability inclusion in the SDGs?
6. What other local civil society organisations and international NGOs are working on disability rights and provision of disability support services? How do they engage with OPDs in planning, implementation and monitoring?

#### **Equality and Non-discrimination**

7. Is there a national strategy and/or action plan for implementing the CRPD and/or the national disability legislation in place? Does it have an implementation framework, indicators and a budget? How is the strategy linked to national SDG plans and programs?
8. Are there any efforts, national plans or strategies in place to harmonize national legislation with the CRPD? Are there stand-out issues relating to legal harmonisation (e.g. existing discriminatory laws or laws that create segregated systems and services for persons with disabilities, such as residential institutions, segregated education or employment outside the mainstream labour force)?
9. What barriers hinder the implementation of the CRPD and key legislation on the rights of persons with disabilities? Is there stakeholder buy-in from governments for implementation?

#### **Accessibility**

10. How is accessibility mainstreamed into public procurement to ensure that new infrastructure, goods, and services do not create additional barriers for persons with disabilities?

**Inclusive service delivery**

11. What referral systems exist to identify persons with impairment and refer them to a disability assessment service? Is there an early identification and intervention mechanism available? If so, how effective and accessible is it and is it functioning across the country, including in rural areas? If not, what are the main challenges and barriers?
12. Is there one entity responsible for assessing disability or several? What personnel/workforce are used to carry out individual assessments? What are their qualifications, and do they receive initial and ongoing training? What regulation and quality control mechanisms are there within the assessment system?
13. What are the steps and documentation requirements of the disability assessment process? Is the WHO classification system used? Noting there may be different assessment processes for different benefits/services, for each assessment process document whether the assessment focuses on:
  - i. Health conditions and the level and severity of impairment associated with them (impairment/medical approach)
  - ii. The extent to which people's functions or daily living activities are restricted by health conditions and impairments, e.g. walking, lifting, standing, hearing, seeing, communicating, concentrating, etc. (functional limitations approach)
  - iii. Support requirements to participate in daily activities
  - iv. The social and environmental factors which also affect people's capacity to undertake activities of daily life and participation (including work and education).
14. Where is the information from assessments and determination processes stored – e.g. is there a national/state registry or database etc.? Is there any legislation or policy to ensure the privacy of such information? Is this information used for policy or service development planning and budgeting?
15. Is disability assessment and determination associated with a disability card/registration? If so, what does the status provide access to – or is it just one step in different processes to determine access to various benefits and services? Is the disability status effectively recognised across ministries, service providers and levels of government?
16. Are the assessment and determination processes fully accessible and affordable for all (regarding services, information and assessment processes for all types of disabilities)?
17. Is disability assessment and determination used in some ways that can potentially restrict the rights of persons with disabilities (e.g. exclusion of children with disabilities from mainstream education, denial of legal capacity, placement in residential institutions, denial of rights to adoption, etc.)?
18. Is there a functioning, accessible complaints mechanism available to persons with disabilities?

19. Which types of disability support services are available, and to whom? What services are missing (consider gender, age, impairment groups, particularly under-represented persons with disabilities, and geographic distribution)? How are the services funded and provided? Provide a brief assessment of affordability of each type of support service.
20. How many persons, including professionals, have been certified to provide support services per 1000 persons with disabilities (disaggregated by type of certification and/or service/profession)? How are they geographically distributed (e.g. concentrated in urban areas)?
21. How are disability-support services sensitive to gender, age and the most marginalised, including through consideration of protection issues?
22. What is the number and proportion (relative to the total population) of persons with disabilities currently residing in institutionalised care services (e.g. psychiatric inpatient settings, residences for persons with intellectual disabilities, etc., ranging from large-scale facilities to group homes), disaggregated by sex, age, disability, and type of institution/facility?
23. Where residential and segregated institutionalised services exist, is there a plan and timeline to transition to community-based support (as per the CRPD)?
24. What is the proportion of the government budget spent on institutionalised care vs community-based support for persons with disabilities?
25. Have OPDs been consulted and engaged in designing and implementing service measures and programs? What are the perspectives of persons with disabilities, including from under-represented groups, on their access to disability support services?

### **Accountability and governance**

26. To what extent are reliable and tested tools, such as those developed by the WG,<sup>117</sup> used in the national census (e.g. Washington Group Short Set of Questions on disability), in disability-related and general surveys (e.g. WG Short or Extended set), and within all instruments used to generate the SDG indicators and disaggregate data by disability?
27. To what extent have national datasets been analysed from a disability perspective (e.g. advanced disaggregation of data by gender, age, location, census monograph, etc.)?

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<sup>117</sup> As commented in the Frequently Asked Questions on human rights indicators of the CRPD, no. 11, the [Washington Group sets of questions on Disability](#) constitute today readily available, internationally accepted and tested tools, supported by the CRPD Committee, to collect and disaggregate data by disability status, be it in national censuses ([short set](#)) or in other data collection exercises such as surveys and others ([extended set](#)). In connection to children and youth with disabilities, please consider the UNICEF/Washington Group Child Functioning Module. Disability-data collection methods and tools remain a matter of current technical debate and development and disaggregation “by disability” may require different methods, depending on the kind of information sought and the method deployed.

	<p>28. To what extent do national surveys across sectors generate data on disability (e.g. surveys on health, labour participation, maternal and child health, housing, poverty, etc.)? Is there disaggregated administrative data available, for example for national programs such as social protection and assistance, or labour data, or access to health and education?</p> <p>29. Are reports and data available to the public in accessible formats, and are the websites of relevant government entities accessible?</p> <p>30. What are the data gaps and opportunities?</p> <p>31. To what extent is there an enabling environment for effective and constructive OPD monitoring of policymaking and programming? Has OPD monitoring or reporting translated into changes in policy or programming?</p> <p>32. To what extent do OPDs use accountability mechanisms to progress their agendas? E.g. have OPDs participated in CRPD State or shadow reporting? How has this contributed to change?</p> <p>33. What independent monitoring mechanisms are in place, such as National Human Rights Institutions, to provide ongoing accountability and receive complaints about the rights of persons with disabilities?</p> <p>34. Are complaints mechanisms in administrative, civil and criminal processes accessible? Is procedural accommodation provided to allow all persons to access them?</p>
UN Agencies	<p><b>Stakeholder and coordination analysis</b></p> <p>1. What coordination mechanisms exist to facilitate disability-related action across different sectors and levels of government, and what are the strengths and weaknesses of the present coordination mechanisms within and between the above stakeholder groups?</p> <p>2. Is there a civil society platform for SDG implementation? If yes, are OPDs part of this platform? Does the platform engage on disability inclusion in the SDGs?</p> <p>3. Are there any ongoing or previous PRPD joint programs in Kenya, and which partnerships have been established as a result of these programs, within the UNCT, with the government, and partnerships with OPDs and other stakeholders? Success and challenges?</p> <p>4. Which UN agencies and programs are engaging in advancing the rights of persons with disabilities in Kenya, and what are their focuses? What coordination occurs between UN agencies at the country level on disability inclusion? Is there a disability focal point within the RCO? A UN disability working group within the UNCT?</p>

5. Are there other UN agencies' joint programs supporting legislative reforms, policy development or other relevant national programs that are important for persons with disabilities (e.g., Spotlight programs, trust funds)?
6. How is the situation and rights of persons with disabilities incorporated into country-level UN activities, analyses and plans (such as UN Common Country Analysis, Sustainable Development Cooperation Framework, COVID-19 Socioeconomic Impact Reports, COVID-19 Recovery analyses and plans, etc.)?
7. What is the level of the inclusion of persons with disabilities, including engagement with OPDs, across ongoing UN programs at the country level?

#### **Equality and Non-discrimination**

8. Is there a national strategy and/or action plan for implementing the CRPD and/or the national disability legislation in place? Does it have an implementation framework, indicators and a budget? How is the strategy linked to national SDG plans and programs?
9. Are there any efforts, national plans or strategies in place to harmonize national legislation with the CRPD? Are there stand-out issues relating to legal harmonisation (e.g. existing discriminatory laws or laws that create segregated systems and services for persons with disabilities, such as residential institutions, segregated education or employment outside the mainstream labour force)?
10. What barriers hinder the implementation of the CRPD and key legislation on the rights of persons with disabilities? Is there stakeholder buy-in from governments for implementation?

#### **Accountability and governance**

11. To what extent are reliable and tested tools, such as those developed by the WG,<sup>118</sup> used in the national census (e.g. Washington Group Short Set of Questions on disability), in disability-related and general surveys (e.g. WG Short or Extended set), and within all instruments used to generate the SDG indicators and disaggregate data by disability?
12. To what extent have national datasets been analysed from a disability perspective (e.g. advanced disaggregation of data by gender, age, location, census monograph, etc.)?

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	<p>13. To what extent do national surveys across sectors generate data on disability (e.g. surveys on health, labour participation, maternal and child health, housing, poverty, etc.)? Is there disaggregated administrative data available, for example for national programs such as social protection and assistance, or labour data, or access to health and education?</p> <p>14. Are reports and data available to the public in accessible formats, and are the websites of relevant government entities accessible?</p> <p>15. What are the data gaps and opportunities?</p> <p>16. To what extent is there an enabling environment for effective and constructive OPD monitoring of policymaking and programming? Has OPD monitoring or reporting translated into changes in policy or programming?</p> <p>17. To what extent do OPDs use accountability mechanisms to progress their agendas? E.g. have OPDs participated in CRPD State or shadow reporting? How has this contributed to change?</p> <p>18. What independent monitoring mechanisms are in place, such as National Human Rights Institutions, to provide ongoing accountability and receive complaints about the rights of persons with disabilities?</p> <p>19. Are complaints mechanisms in administrative, civil and criminal processes accessible? Is procedural accommodation provided to allow all persons to access them?</p> <p>20. Are there any provisions within the constitution, electoral or civil legislation or regulations which restrict the rights of persons with disabilities to vote, be elected/hold office and perform public functions on the basis of disability?</p> <p>21. Are there any provisions within the constitution, legislation or regulations which restrict the right of freedom of association on the basis of disability, including among persons with disabilities that are deprived of legal capacity, and restrictions in the right to public assembly?</p> <p>22. What evidence is available on the inequalities in the participation in public and political life faced by persons with disabilities? E.g., voter turnout of last election disaggregated by sex, age, disability and electoral district for national, regional and local elections.</p>
CSOs	<p><b>Stakeholder and coordination analysis</b></p> <p>1. What other local civil society organisations and international NGOs are working on disability rights and the provision of disability support services? How do they engage with OPDs in planning, implementation and monitoring?</p>

collection methods and tools remain a matter of current technical debate and development and disaggregation “by disability” may require different methods, depending on the kind of information sought and the method deployed.

2. Do international development partners regularly engage with OPDs? What is the experience of these actors and OPDs in terms of obstacles to engagement?

**Equality and Non-discrimination**

3. Is there a national strategy and/or action plan for implementing the CRPD and/or the national disability legislation in place? Does it have an implementation framework, indicators and a budget? How is the strategy linked to national SDG plans and programs?
4. Are there any efforts, national plans or strategies in place to harmonize national legislation with the CRPD? Are there stand-out issues relating to legal harmonisation (e.g. existing discriminatory laws or laws that create segregated systems and services for persons with disabilities, such as residential institutions, segregated education or employment outside the mainstream labour force)?
5. What barriers hinder the implementation of the CRPD and key legislation on the rights of persons with disabilities? Is there stakeholder buy-in from governments for implementation?

**Inclusive service delivery**

6. What referral systems exist to identify persons with impairment and refer them to a disability assessment service? Is there an early identification and intervention mechanism available? If so, how effective and accessible is it and is it functioning across the country, including in rural areas? If not, what are the main challenges and barriers?
7. Is there one entity responsible for assessing disability or several? What personnel/workforce are used to carry out individual assessments? What are their qualifications, and do they receive initial and ongoing training? What regulation and quality control mechanisms are there within the assessment system?
8. What are the steps and documentation requirements of the disability assessment process? Is the WHO classification system used? Noting there may be different assessment processes for different benefits/services, for each assessment process document whether the assessment focuses on:
  - a. Health conditions and the level and severity of impairment associated with them (impairment/medical approach)
  - b. The extent to which people's functions or daily living activities are restricted by health conditions and impairments, e.g. walking, lifting, standing, hearing, seeing, communicating, concentrating, etc. (functional limitations approach)
  - c. Support requirements to participate in daily activities.
  - d. The social and environmental factors which also affect people's capacity to undertake activities of daily life and participation (including work and education).

9. Where is the information from assessments and determination processes stored – e.g. is there a national/state registry or database etc.? Is there any legislation or policy to ensure the privacy of such information? Is this information used for policy or service development planning and budgeting?
10. Is disability assessment and determination associated with a disability card/registration? If so, what does the status provide access to – or is it just one step in different processes to determine access to various benefits and services? Is the disability status effectively recognised across ministries, service providers and levels of government?
11. Are the assessment and determination processes fully accessible and affordable for all (regarding services, information and assessment processes for all types of disabilities)?
12. Is disability assessment and determination used in some ways that can potentially restrict the rights of persons with disabilities (e.g. exclusion of children with disabilities from mainstream education, denial of legal capacity, placement in residential institutions, denial of rights to adoption, etc.)?
13. Is there a functioning, accessible complaints mechanism available to persons with disabilities?

#### **Accountability and governance**

14. To what extent are reliable and tested tools, such as those developed by the WG,<sup>119</sup> used in the national census (e.g. Washington Group Short Set of Questions on disability), in disability-related and general surveys (e.g. WG Short or Extended set), and within all instruments used to generate the SDG indicators and disaggregate data by disability?
15. To what extent have national datasets been analysed from a disability perspective (e.g. advanced disaggregation of data by gender, age, location, census monograph, etc.)?
16. To what extent do national surveys across sectors generate data on disability (e.g. surveys on health, labour participation, maternal and child health, housing, poverty, etc.)? Is there disaggregated administrative data available, for example for national programs such as social protection and assistance, or labour data, or access to health and education?
17. Are reports and data available to the public in accessible formats, and are the websites of relevant government entities accessible?

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<sup>119</sup> As commented in the Frequently Asked Questions on human rights indicators of the CRPD, no. 11, the [Washington Group sets of questions on Disability](#) constitute today readily available, internationally accepted and tested tools, supported by the CRPD Committee, to collect and disaggregate data by disability status, be it in national censuses ([short set](#)) or in other data collection exercises such as surveys and others ([extended set](#)). In connection to children and youth with disabilities, please consider the UNICEF/Washington Group Child Functioning Module. Disability-data collection methods and tools remain a matter of current technical debate and development and disaggregation “by disability” may require different methods, depending on the kind of information sought and the method deployed.

	<p>18. What are the data gaps and opportunities?</p> <p>19. To what extent is there an enabling environment for effective and constructive OPD monitoring of policymaking and programming? Has OPD monitoring or reporting translated into changes in policy or programming?</p> <p>20. To what extent do OPDs use accountability mechanisms to progress their agendas? E.g. have OPDs participated in CRPD State or shadow reporting? How has this contributed to change?</p> <p>21. What independent monitoring mechanisms are in place, such as National Human Rights Institutions, to provide ongoing accountability and receive complaints about the rights of persons with disabilities?</p> <p>22. Are complaints mechanisms in administrative, civil and criminal processes accessible? Is procedural accommodation provided to allow all persons to access them?</p> <p>23. Are there any provisions within the constitution, electoral or civil legislation or regulations which restrict the rights of persons with disabilities to vote, be elected/hold office and perform public functions based on disability?</p> <p>24. Are there any provisions within the constitution, legislation or regulations which restrict the right of freedom of association on the basis of disability, including among persons with disabilities that are deprived of legal capacity, and restrictions in the right to public assembly?</p> <p>25. What evidence is available on the inequalities in the participation in public and political life faced by persons with disabilities? E.g., voter turnout of last election disaggregated by sex, age, disability and electoral district for national, regional and local elections.</p>
Donors	<p>1. Do international development partners regularly engage with OPDs? What is the experience of these actors and of OPDs in terms of obstacles to engagement?</p>
Private Sector	<p>2. How do academia and private sector engage with disability inclusion and OPDs? Any role models or missed opportunities? What is the experience of OPDs in terms of these actors?</p>
Trade Union	<p>3. How do academia and private sector engage with disability inclusion and OPDs? Any role models or missed opportunities? What is the experience of OPDs in terms of these actors?</p>

Employer Organization	4. How do academia and private sector engage with disability inclusion and OPDs? Any role models or missed opportunities? What is the experience of OPDs in terms of these actors?
Academia	5. How do academia and private sector engage with disability inclusion and OPDs? Any role models or missed opportunities? What is the experience of OPDs in terms of these actors?

## **TOOL # 2 | GUIDE QUESTIONS FOR FGDs**

*The list of questions below will be administered to OPDs during the County level FGDs.*

### **Stakeholder Analysis**

1. Are there any groups with less representation and/or excluded or not members of any umbrella groups? Are there organisations of under-represented groups such as persons with Deafblindness, persons with intellectual disabilities, persons with albinism, persons with psychosocial disabilities, persons of short stature or organisations representing intersecting identities such as women with disabilities, LGBTI persons with disabilities or indigenous persons with disabilities?
2. What are the strengths and weaknesses of the present coordination mechanisms within and between the above stakeholder groups?
3. What are the key capacity gaps among rights holders (OPDs), duty bearers (government) and development partners?

### **Equality and Non-Discrimination**

4. What legislation has been enacted on the rights of persons with disabilities? How aligned is this with the purpose, definitions, principles, and general obligations of the CRPD? How are persons with disabilities defined in the legislation and which types of disabilities are recognised? Who is left out? How are OPDs involved in the formulation and enactment of the legislation? What is the capacity of the OPDs in their contribution to the formulation of this legislations?

### **Accessibility**

5. What measures are in place for accessibility of information and communications, including for telecommunications, media, and related information services? For example, are there a sign language interpretation system, relay services, digital accessibility measures and/or live captioning capability? Do early warning systems for emergencies provide information and communication in alternative formats and are emergency call numbers accessible? Do public participation forums include reasonable accommodation measures like SLI, transport support for persons with disabilities and their support persons, information in accessible formats?
6. What are the key gaps in accessibility presently in terms of accessibility according to OPDs? Is there a strong demand for accessibility (e.g., consider accessibility-related advocacy, monitoring, and accountability work)?

### **Inclusive Service Delivery**

7. What referral systems are in place to identify persons with impairment and refer to a disability assessment service? Is there an early identification and intervention mechanism available? If so, how effective and accessible is it and is it functioning across the country, including in rural areas? If not, what are the main challenges and barriers?
8. Are the assessment and determination processes fully accessible and affordable for all (in terms of services, information and assessment processes for all types of disabilities)?

9. Is disability assessment and determination used in some ways that can potentially restrict the rights of persons with disabilities (e.g. exclusion of children with disabilities from mainstream education, denial of legal capacity, placement in residential institutions, denial of rights to adoption, etc.)?
10. What are the experiences of persons with disabilities with the assessment process? Identify any barriers for different groups of persons with disabilities in accessing assessment (e.g. distance to assessment centre and related costs, costs of medical tests, stigma and discrimination, inaccessibility of assessment centre, communication inaccessibility, lack of support, etc., taking into account perspectives of different impairment groups, gender, age and geographic location).
11. Is there a functioning, accessible complaints mechanism available to persons with disabilities?
12. Which types of disability support services are available, and to whom? What services are missing (consider gender, age, impairment groups and particularly under-represented persons with disabilities, and geographic distribution)? How are the services funded and provided? Provide a brief assessment of affordability of each type of support service.
13. Have OPDs been consulted and engaged in the design and implementation of service measures and programs? What are the perspectives of persons with disabilities, including from under-represented groups, on their access to disability support services?
14. How are persons with disabilities restricted when trying to access to justice? Assess if laws and policies prevent them from appearing in court or performing as witnesses due to restrictions to their legal capacity, discriminatory attitudes that they cannot be credible witnesses on the basis of their disability, or failure to prosecute cases of rights violations—particularly for women with disabilities—, and if there are accessibility restrictions – both physical and communicational. What is the status of the Court Users Associations in supporting court cases for persons with disabilities?
15. How are persons with disabilities denied or restricted in their exercise of legal capacity? For example, is there total/partial guardianship/curatorship for adults with disabilities or other third-party representation which was not granted with their consent? Any limitations in inheritance rights or right to own property or assets?

### **Accountability and Governance**

16. What are the experiences of OPDs regarding monitoring policy implementation (use information gathered in the stakeholder analysis)?
17. To what extent is there an enabling environment for effective and constructive OPD monitoring of policymaking and programming? Has OPD monitoring or reporting translated into changes in policy or programming?
18. To what extent do OPDs use accountability mechanisms to progress their agendas? E.g. have OPDs participated in CRPD State or shadow reporting? How has this contributed to change?

### **Cross-Cutting Issues**

19. How are OPDs involved in policymaking and decision-making? What are the experiences of OPDs regarding participation in policymaking and programming? How inclusive and wide-reaching is participation (e.g. Are some groups excluded or under-represented)? What are the rates of representation of OPDs committees like the Sector Working Groups, County Budget and Economic Forums, Education Boards, Health Management Boards, CDF Committees, Ward Development Committees, Bursary Committees, Climate Change Committees among others?
20. What are the key areas of improvement for OPDs to make their engagement with duty bearers and development partners more effective? Areas of improvement according to OPDs themselves? Areas of improvement according to government and development partners?

21. How have OPDs been included in the budgeting and procurement processes by government and the various institutions in the last 5 years? Consider the budget earmarked for disability and involvement of OPDs in procurement processes?
22. Describe which groups you find to be most marginalised and discuss the causes of the marginalisation?
23. Describe how women are discriminated or vulnerable and discuss the causes of the discrimination.

### **Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts**

24. How effectively is disability included within the disaster preparedness and emergency response system? Who is playing which role in relation to disability inclusive DRR and emergency response?
25. What were the impacts of COVID-19 on persons with disabilities? To what extent was the response to COVID-19 disability inclusive? Are there critical or new coalitions or networks of stakeholders influencing for a disability-inclusive COVID-19 response and recovery? Who is critical to influence and provide information on persons with disabilities to ensure a disability-inclusive recovery? Describe the extent to which OPDs are involved in COVID-19 recovery.
26. What are the impacts of climate change on persons with disabilities within your country context? To what extent are persons with disabilities included in climate change analyses, plans and programmes? How are OPDs involved in these processes?
27. Are OPDs regularly consulted by actors within the civil protection system and/or humanitarian system in planning and implementation of DRR or humanitarian efforts? What is the experience of these actors and of OPDs in terms of obstacles to consultations?

### **Consultative Meeting with Organizations of Persons with Disabilities (OPDs) on UN Partnerships on the Rights with Disabilities (UN PRPD) Kenya Situational Analysis**

#### **GUIDING QUESTIONS**

What mainstream and disability inclusion-focused laws, policies, blueprints/ strategies, institutions and programmes are in place? What are the key disability-focused priorities contained in these framework documents and programmes? What is the quality or status of these frameworks and programmes (strengths, gaps, degree of implementation)? What are the compliances in relation to the CRPD and SDGs framework?

- National
- County levels

What is the level of engagement of persons with disabilities and organizations of persons with disabilities in these processes?

How can the noted gaps/ challenges be addressed in your view? What are the top five issues/ concerns (from 1 above) that if addressed would have the greatest positive impact on the well-being of persons with disabilities and their families in Kenya?

What opportunities exist that can be tapped by UN PRPD participating agencies in addressing the above-noted challenges? What niche could UN PRPD participating agencies fill?

What strategies and recommendations could UN PRPD participating agencies explore to enable effective and sustainable means to address the noted challenges?

#### **Group 1**

1. Stakeholder and coordination analysis
2. Equality and non-discrimination

3. Accessibility
4. Inclusive service delivery
  - a. Disability assessment and referral systems
  - b. Disability support services

**Group 2**

5. Inclusive service delivery
  - a. Mainstream services
  - b. Social protection (including social assistance and social services)
  - c. Health legislation and policies
  - d. Education legislation and policies
  - e. Employment and livelihood legislation and policies
  - f. Access to justice
  - g. Participation in public and political life

**Group 3**

6. CRPD-compliant budgeting and financial management
  - a. Financial Planning & Monitoring:
7. Accountability and governance
  - a. Inclusive evidence and data gathering systems
  - b. National accountability mechanisms
8. Cross-cutting Issues
  - a. Inclusion of marginalized groups
  - b. Gender equality
9. Disability Inclusion in Broader Development, Humanitarian & Emergency Contexts
  - a. National Development Plans
  - b. Disaster risk reduction & humanitarian action:
  - c. Climate Change
  - d. COVID-19

## ANNEX 3 | LEGAL AND POLICY FRAMEWORKS

CATEGORY	DESCRIPTION
International Frameworks	<p>Kenya is a state party to several regional and international human rights instruments, which form part of Kenyan law pursuant to articles 2(5) and 2(6) of the Constitution. Kenya signed and ratified the Convention on the Rights of Persons with Disabilities on 30 March 2007 and 19 May 2008 respectively.<sup>120</sup></p> <p>In addition, Kenya is a state party to the following international human rights instruments:<sup>121</sup> (a) The International Covenant on Civil and Political Rights; (b) The International Covenant on Economic, Social and Cultural Rights; (c) The International Convention on the Elimination of All Forms of Racial Discrimination; (d) The Convention on the Elimination of All Forms of Discrimination against Women; (e) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (f) The Convention on the Rights of the Child; (g) The Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity; (h) The United Nations Convention against Corruption; (i) The Convention relating to the Status of Refugees; (j) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and (k) The Rome Statute of the International Criminal Court. Kenya is also party to the 49 ILO Conventions, with 43 of them in force.<sup>122</sup>, including (j) Equality of Treatment (Social Security) convention, No 118- where Kenya has accepted branches on invalidity/disability, survivors and employment injury;<sup>123</sup> (k) Convention concerning Workmen's Compensation for Accidents, C No. 17 regulating cash benefits to injured workers (and their family members in case of death); access to medical care and prosthetic devices etc;<sup>124</sup> (l) Workmen's compensation (Agriculture ) Convention, No 12.; and (m) Discrimination (Employment and Occupation) Convention No. 111 which specifically refers to equality of opportunities and affirmative measures while employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment Notably, Kenya has not ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities.</p> <p>Persons with disabilities are explicitly recognised in the Sustainable Development Goals (SDGs) framework, which has seven targets. The SDGs reaffirm the importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law.<sup>125</sup> There are seven targets specifically targeting persons with disabilities and their needs</p>

<sup>120</sup> Office of the High Commissioner for Human Rights 'Ratification status for CRPD' [http://tbinter.net.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD&Lang=en](http://tbinter.net.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD&Lang=en) (accessed 27 April 2023).

<sup>121</sup> [Microsoft Word - JS4 UPR KEN S08 2010 Joint Submission 4 Annex 3.doc \(ohchr.org\)](https://www.ohchr.org/en/docd.aspx?docid=12126)

<sup>122</sup> KNCHR Compendium on submissions to CRPD 2016 <http://www.knchr.org/Portals/0/InternationalObligationsReports/CRPD%20REPORT%20A4.pdf?ver=2016-08> (accessed 30 April 2023).

<sup>123</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312263:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312263:NO)

<sup>124</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312162:NO;](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312162:NO;)

<sup>125</sup> K Muigua 'Sustainable Development Goals and the Rights of Persons with disabilities (Persons with disabilities)' <https://thelawyer.africa/2022/03/01/sdgs-and-rights-of-persons-with-disabilities/> (accessed 29 April 2023).

	<p>(4.5, 4. a, 8.5, 10.2, 11.2, 11.7 and 17.18); vulnerable people that include persons with disabilities (1.3, 1.4, 1.5, 2.1, 6.2 and 11.5); and universal targets, including persons with disabilities (1.1, 2.1, 3.2, 3.8, 4.1, 4.2, 4.3, 4.6, 5.2, 5.6, 6.1, 7.1, 9.c, 11.1, 16.7 and 16.9). Whereas SDG 10.3 calls for ensuring equal opportunity and reduce inequalities of outcome, including through eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and actions in this regard and no. 16.b promotes and enforces non-discriminatory laws and policies for sustainable development.<sup>126</sup></p>
<p>Regional Frameworks</p>	<p><i>At the regional level;</i> Kenya has ratified the following key human rights Instruments: (a) The African Charter on Human and Peoples’ Rights; (b) The African Charter on the Rights and Welfare of the Child; (c) The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; (d) The African Union Convention on Preventing and Combating Corruption; (e) The Protocol to the African Charter on Human and Peoples’ Rights on the establishment of an African Court on Human and Peoples’ Rights; (f) The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa; and (g) The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of persons with disabilities (not yet in force).<sup>127</sup> Kenya has not ratified the Vocational Rehabilitation and Employment Convention (1983), and the Workers with Family Responsibilities Convention (1981).<sup>128</sup></p>
<p>National Frameworks</p>	<p>i. <b>The Constitution of Kenya 2010</b> - The Constitution entrenches a progressive Bill of Rights that permits every individual to enjoy the rights and freedoms recognized therein without discrimination, including based on disability. It is anchored upon the “national values and principles of governance” which include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, and protection of the marginalized. The Constitution has a specific provision on persons with disabilities under Article 54. It requires persons with disabilities- to be treated with respect and dignity; to access education, information, and public transport; and to use sign language, Braille or any other form of communication that is appropriate.</p> <p>The provisions also require the government to ensure access to devices and materials that enable persons with disabilities to overcome barriers and disability-related constraints and to ensure the progressive implementation of a 5 per cent quota of representation of persons with disabilities in elective and appointive positions. In addition, Article 7(3)(b) requires the state to promote the development and use of “Kenyan Sign</p>

<sup>126</sup>[https://www.un.org/disabilities/documents/disability\\_indicators\\_aug\\_2015.docx](https://www.un.org/disabilities/documents/disability_indicators_aug_2015.docx)

<sup>127</sup> Ratification of International Human Rights Treaties – Kenya <http://hrlibrary.umn.edu/research/ratification-kenya.html> (accessed 27 April 27, 2023).

<sup>128</sup> [https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:147877767217:::P11210\\_INSTRUMENT\\_SORT:2](https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:147877767217:::P11210_INSTRUMENT_SORT:2)

language, Braille and other communication formats and technologies accessible to persons with disabilities.”

Article 260 of the Constitution defines disability to include “any physical, sensory, mental, and psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities”. Although the Constitution was promulgated after Kenya’s ratification of the CRPD, its definition of disability does not meet the standard of the human rights approach taken by the CRPD. In Particular, the definition does not acknowledge that disability results from the interaction between the individual’s impairments and barriers within the environment.

- ii. **The Persons with Disabilities Act** - It was enacted to provide for the rights and rehabilitation of persons with disabilities; to achieve equalization of opportunities for persons with disabilities; to establish the National Council for Persons with Disabilities; and for related purposes. The Act provides for equalization of opportunities and the elimination of discrimination in among others; employment (sections 12-17), education (sections 18-19), health (section 20), sports and recreation (section 28), and voting (section 29). Section 21 entitles persons with disabilities to a barrier-free and disability-friendly environment to enhance access to buildings, roads and other social amenities, and assistive devices and other equipment to promote their mobility.

There have been various challenges in the implementation of the act, particularly in regard to the enforcement of accessibility requirements.<sup>129</sup> It has been criticised for focussing on the issue of physical accessibility to the detriment of other important elements such as access to justice, affirmative action, enjoyment of legal capacity and equality before the law, the right to participate in political and public life, and the obligations of the County and National governments towards persons with disabilities.<sup>130</sup> Like the Constitution, the definition of disability under the Act takes a medical approach to disability.<sup>131</sup>

In attempts to align the Act with the Constitution and other national and international standards such as the CRPD, the Act has been under review since 2010. The review process has been subject to delays in part due to the poor coordination between the various MDAs, and poor consultation of OPDs.

<sup>129</sup> Helen Mudora, ‘Review of Kenya Persons with Disabilities Act Overdue’ (*Global Disability*, 16 April 2016) <http://globaldisability.org/2016/04/01/review-kenya-persons-disabilities-act-2003-overdue> accessed on 22 April 2023.

<sup>130</sup> Ibid.

<sup>131</sup> Kenya national Commission on Human Rights *Review of county legislation on the rights of persons with disabilities Compliance with the UN Convention on the Rights of Persons with Disabilities and The Kenyan Constitution* <https://www.knchr.org/Portals/0/Disability%20Publications/Review%20of%20County%20Legislation%20On%20The%20Rights%20of%20Persons%20with%20disabilities.pdf?ver=2022-06-02-123434-927> (accessed 29 April 2023).

- iii. **The Children's Act (2022)** – The act is a comprehensive legislation that aims to promote and protect the rights and welfare of children in Kenya. While it does not specifically focus on disability, it contains provisions that are relevant to children with disabilities. Some of the key provisions related to disability include;
- Non-discrimination (Section 8): The Act prohibits discrimination against children based on their disability. It affirms that every child, regardless of their disability, is entitled to the same rights, opportunities, and access to services as other children.
  - Best interests of the child (Section 4): The Act emphasizes the principle of the best interests of the child as a primary consideration in all actions and decisions concerning children, including those with disabilities. This principle guides the determination of appropriate interventions, support, and services for children with disabilities.
  - Right to education (Section 7): The Act recognizes the right of every child, including children with disabilities, to free and compulsory basic education. It promotes inclusive education and calls for reasonable accommodation to be provided to ensure equal access and participation of children with disabilities in the educational system.
  - Healthcare and rehabilitation (Section 9): The Act acknowledges the right of children, including those with disabilities, to access healthcare services, including rehabilitative services. It emphasizes the importance of providing appropriate medical care, therapies, and rehabilitation programs for children with disabilities.
  - Protection from abuse and exploitation (Sections 13-19): The Act provides safeguards to protect children, including those with disabilities, from abuse, neglect, exploitation, and harmful practices. It establishes mechanisms for reporting and addressing cases of abuse, and it encourages the provision of support and counselling services to child victims, including those with disabilities.
  - Alternative care (Section 4): The Act recognizes the right of children with disabilities to alternative care arrangements, such as foster care or adoption, when it is deemed in their best interests and in accordance with applicable laws and regulations.
- iv. **Additional legislation** - In addition to the Constitution and the Persons with Disabilities Act, there are other national legislation which have a bearing on the rights of persons with disabilities, whether directly or indirectly. These include - The Employment Act (2007);<sup>132</sup> Work Injury

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<sup>132</sup> [Microsoft Word - Paged Employment Act Cap. 226 - No. 11 of 2007 .doc \(kenyalaw.org\)](#).

Benefits Act (2007),<sup>133</sup> the National Employment Authority Act (2016);<sup>134</sup> the Public Procurement and Disposal Act (2015);<sup>135</sup> the Basic Education Act (2013);<sup>136</sup> the Social Assistance Act (2013);<sup>137</sup> the National Social Security Fund Act (2013),<sup>138</sup>; the Legal Aid Act 2016;<sup>139</sup> and the Elections Act (2011).<sup>140</sup> These and other legislation require revision for purposes of aligning them with the CRPD. Since the ratification of the CRPD, there has not been any notable attempts by the State to map, review and repeal national legislation and align them with the CRPD, which has led to further marginalization of persons with disabilities.

For example, several national laws and policies still refer to persons with intellectual and psychosocial disabilities as ‘persons of unsound mind’, which results in denial of their legal capacity. These laws include the Constitution on Articles 83 (1) (b), 99 (2) (e), and 193 (2) (d); the Elections Act on Section 9; the County Government Act on Section 40 (1) (e); the Penal Code; the Criminal and Civil Procedure Acts; the National Land Commission Act on section 21; and the Marriage Act on section 12 (a)(ii). The Marriage Act (2014) limits the rights of persons with mental disabilities to marry, while the Succession Act (2021) limits their rights to inherit property. In addition, the legal frameworks on education still recognise segregated institutions of education, which is in contravention of the CRPD which promotes inclusive education for learners with disabilities.

- v. **Normative and policy frameworks-** The policy frameworks that recognize the inclusion of persons with disabilities in various sectors include the Kenya Health Policy - 2014-2030;<sup>141</sup> the National Information Communications and Technology Policy 2019;<sup>142</sup> the National Adolescent Sexual and Reproductive Health Policy (2015);<sup>143</sup> the Kenya National Social Protection Policy;<sup>144</sup> and the Sector Policy for Learners and Trainees with Disabilities (2018).<sup>145</sup> Disability within Kenya’s National disability framework is based on both a human rights and medical/welfare approach. Since the commencement of the development of the National Disability Policy in 2016, the finalization and adoption of the policy has not been prioritized by the relevant State Department.

<sup>133</sup> [No. 13 of 2007 \(kenyalaw.org\)](#).

<sup>134</sup> [Kenya - National Employment Authority Act, 2016 \(No. 3 of 2016\). \(ilo.org\)](#)

<sup>135</sup> [PublicProcurementandDisposalAct\\_Cap412C\\_.pdf \(kenyalaw.org\)](#).

<sup>136</sup> [No. 14 of 2013 \(kenyalaw.org\)](#).

<sup>137</sup> [Kenya - Social Assistance Act, 2013 \(No. 24 of 2013\). \(ilo.org\)](#).

<sup>138</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/97350/115470/F-463813696/KEN97350.pdf>

<sup>139</sup> [No. 6 of 2016 \(kenyalaw.org\)](#).

<sup>140</sup> [ElectionsAct\\_No24of\\_2011\\_New.pdf \(kenyalaw.org\)](#).

<sup>141</sup> [Microsoft Word - KHP Latest 07 Aug for the Printer-06-08-2014, word \(2\).docx \(ncikenya.or.ke\)](#).

<sup>142</sup> [NATIONAL-ICT-POLICY-2019.pdf](#).

<sup>143</sup> [National adolescent sexual and reproductive health policy | Health and Education Resource Centre \(unesco.org\)](#).

<sup>144</sup> [kenya-national-social-protection-policy.pdf \(socialprotection.or.ke\)](#).

<sup>145</sup> [Sector Policy and Implementation Guidelines for Learners and Trainees with Disabilities | Ministry of Education - Kenya](#).

<p><b>County level frameworks</b> (Level of Disability related laws, Strategies and plan and OPD involvement)</p>	<p>The domestication and/or implementation of the disability-focused legal frameworks at County levels remains a challenge – only a handful of the sampled counties such as Nairobi, Machakos, Kisumu and Kilifi have Persons with Disabilities Acts.</p> <p>Below is an illustration of the availability of laws from a representative sample of the counties:</p> <p><b>Makueni County</b></p> <p>The Makueni County Disability Act 2020 is currently in the process of development. The OPDs are actively involved in the policy-making process, ensuring their meaningful participation and contribution. The act is still at the assembly stage and is expected to be finalized in the 23/24 financial year.</p> <p>The act draws inspiration from the national Persons with Disabilities Act but has been customized to suit the specific needs and context of Makueni County. Members of the OPDs have access to the soft copy of the act, enabling them to review and provide input.</p> <p>The County Assembly members actively participate in the development and enactment process of the Act. OPDs are involved at all stages, receiving necessary trainings and opportunities to develop submissions. In some cases, members of the OPDs are invited to witness the debates and enactment process at the County Assembly, ensuring transparency and inclusivity in decision-making.</p> <p><b>Narok County</b></p> <p>The Narok County Disability Act, drafted in 2017, is still pending implementation. Its development was primarily driven by constitutional requirements rather than a genuine commitment to disability inclusion. Unfortunately, many of the OPDs are unaware of the specific provisions within this policy as they have not been involved or engaged at any stage of its development. The lack of representation and participation of persons with disabilities at the county assembly has further hindered the progress and passage of the Act, leaving OPDs with limited information and its implementation.</p> <p><b>Nairobi County</b></p> <p>The Disability Act is in place. While OPDs are occasionally involved in policy-making processes, individuals with disabilities often face challenges in accessing the venues for public participation. Additionally, there is a lack of effective communication channels to inform persons with disabilities about their invitation to policy-making meetings, resulting in limited participation and representation from the disability community.</p> <p><b>Kakamega County</b></p> <p>Kakamega County Disability Act of 2022 has been established through a collaborative effort involving various stakeholders. The bill was drafted by leaders of OPDs from twelve sub-counties, the Kakamega County Assembly, the Kakamega County Executive Committee, and other partners. The Act encompasses and addresses the needs of all disability categories within the county.</p> <p>The implementation process is currently in progress, with interventions taking place in the County Integrated Development Plan (CIPD) through memorandums and public participation. The Act also establishes a County Disability Board, which will be led by a person with a disability who is a resident of Kakamega and a member of an OPD. Two additional board members, who are also persons with disabilities residing in Kakamega, will be appointed. The chairperson of the board will be appointed by the Governor, while the other two members will be recommended by the National Council for Persons with disabilities (NCPWD) and subject to approval by the county assembly.</p>
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**Homabay County**

The Homabay County Disability Act 2020. The Homa-Bay County Development Forum (HCDF) - the county OPDs network – has participated in the CIDP development process and had representatives in the sector working groups.

**Kilifi County**

Kilifi County Disability Act 2020

**Meru County**

There is the Meru County Person with Disabilities Act. Meru County Act provides for a Persons with Disabilities Board, which has quite instrumental in pushing for disability inclusion. The County OPDs have set up the Meru County Persons with Disabilities SACCO which has been receiving funding from government over the years, this year (2023) being funded KES 5million. The department of social development works very closely with the County OPDs Network coordination mechanism.

**Garissa County**

Garissa County Disability Act 2020. The persons with disabilities policy process have begun being implemented however there is no meaningful involvement of OPDs

**Mombasa County**

Mombasa County has made significant progress towards disability inclusion with the support of UNICEF. The County Government of Mombasa has a Social Protection Strategy, aiming to implement integrated social protection programs to reduce vulnerabilities including those of persons with disabilities. They have also rolled out the STRIDE program, which provides unconditional cash transfers, transportation support, and capacity strengthening for children with disabilities. County officers working on disability inclusion have received technical assistance and training, including exchange visits to enhance understanding and design tailored disability-inclusive programs.

**Wajir County**

The County Government of Wajir, with support from WFP has a disability Act 2021 which has enabled the County to establish a disability fund under the public finance act. As a result, a cash transfer programme for persons with disability is funded by the County Government from which each person who is enrolled in the programme receives KES 4,000 per month as a measure meant to offset their consumption support and further improve their life-long opportunities and minimize negative coping mechanisms among the recipient households.

Counties like Baringo and Nyeri were noted to have no legislation as of the time of the situation analysis.

## ANNEX 4 | Level of Disability related County laws, policies, strategies and plans and OPD involvement.

County	Level of Disability related laws, Strategies and Plans and OPD involvement
Makueni	<p>The Makueni County Disability Act 2020 is currently in the process of development. The OPDs are actively involved in the policy-making process, ensuring their meaningful participation and contribution. The act is still at the assembly stage and is expected to be finalized in the 23/24 financial year.</p> <p>The act draws inspiration from the national Persons with Disabilities Act but has been customized to suit the specific needs and context of Makueni County. Members of the OPDs have access to the soft copy of the act, enabling them to review and provide input.</p> <p>The County Assembly members actively participate in the development and enactment process of the Act. OPDs are involved at all stages, receiving necessary trainings and opportunities to develop submissions. In some cases, members of the OPDs are invited to witness the debates and enactment process at the County Assembly, ensuring transparency and inclusivity in decision-making.</p>
Nyeri	No legislation yet
Narok	The Narok County Disability Act, drafted in 2017, is still pending implementation. Its development was primarily driven by constitutional requirements rather than a genuine commitment to disability inclusion. Unfortunately, many of the OPDs are unaware of the specific provisions within this policy as they have not been involved or engaged at any stage of its development. The lack of representation and participation of persons with disabilities at the county assembly has further hindered the progress and passage of the Act, leaving OPDs with limited information and its implementation
Nairobi	The Disability Act is in place. While OPDs are occasionally involved in policy-making processes, individuals with disabilities often face challenges in accessing the venues for public participation. Additionally, there is a lack of effective communication channels to inform persons with disabilities about their invitation to policy-making meetings, resulting in limited participation and representation from the disability community.
Kakamega	<p>Kakamega County Disability Act of 2022 has been established through a collaborative effort involving various stakeholders. The bill was drafted by leaders of OPDs from twelve sub-counties, the Kakamega County Assembly, the Kakamega County Executive Committee, and other partners. The Act encompasses and addresses the needs of all disability categories within the county.</p> <p>The implementation process is currently in progress, with interventions taking place in the County Integrated Development Plan (CIDP) through memorandums and public participation. The Act also establishes a County Disability Board, which will be led by a person with a disability who is a resident of Kakamega and a member of an OPD. Two additional board members, who are also persons with disabilities residing in Kakamega, will be appointed. The chairperson of the board will be appointed by the Governor, while the other two members will be recommended by the National Council for Persons with disabilities (NCPWD) and subject to approval by the county assembly.</p>
Homabay	The Homabay County Disability Act 2020. The Homa-Bay County Development Forum (HCDF) - the county OPDs network – has participated in the CIDP development process and had representatives in the sector working groups.
Kilifi	Kilifi County Disability Act 2020

Baringo	No legislation yet and OPDs are not involved
Meru	There is the Meru County Person with Disabilities Act. Meru County Act provides for a Persons with Disabilities Board, which has quite instrumental in pushing for disability inclusion. The County OPDs have set up the Meru County Persons with Disabilities SACCO which has been receiving funding from government over the years, this year (2023) being funded KES 5million. The department of social development works very closely with the County OPDs Network coordination mechanism.
Garissa	Garissa County Disability Act 2020. The persons with disabilities policy process have begun being implemented however there is no meaningful involvement of OPDs
Mombasa	Mombasa County has made significant progress towards disability inclusion with the support of UNICEF. The County Government of Mombasa has a Social Protection Strategy, aiming to implement integrated social protection programs to reduce vulnerabilities including those of persons with disabilities. They have also rolled out the STRIDE program, which provides unconditional cash transfers, transportation support, and capacity strengthening for children with disabilities. County officers working on disability inclusion have received technical assistance and training, including exchange visits to enhance understanding and design tailored disability-inclusive programs.
Wajir	The County Government of Wajir, with support from WFP has a disability Act 2021 which has enabled the County to establish a disability fund under the public finance act. As a result, a cash transfer programme for persons with disability is funded by the County Government from which each person who is enrolled in the programme receives KES 4,000 per month as a measure meant to offset their consumption support and further improve their life-long opportunities and minimize negative coping mechanisms among the recipient households.

## ANNEX 5 | LIST OF RESPONDENTS

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### **KEY INFORMANTS**

#### **OPDs**

- United Disabled Persons of Kenya (UDPK)
- Women Challenged to Challenge (WCC)
- Kenya Union of the Blind (KUB)
- Kenya Paraplegic Organization (KPO)
- Kenya National Association of the Deaf (KNAD)
- Autism Society of Kenya (ASK)
- Indigenous Persons with Disabilities Global Network
- Cerebral Palsy Society of Kenya (CPSK)
- This Ability Trust
- Spina Bifida and Hydrocephalus Association of Kenya (SHAK)
- Short Stature Society of Kenya (SSSK)
- Users and Survivors of Psychiatry, Kenya (USP-K)
- The National Down Syndrome Society (NDSS)
- Gifted Gems
- Network of persons with disabilities living with HIV&AIDS
- Vision Group
- Noguswok PWD CBO
- Seriani Group
- Mwangaza Disability Group
- Shimo la Tewa Group
- Inuka Disability
- Kilifi Disability
- Malaha Disability Group
- Kakamega County Disability Caucus

#### **NETWORKS**

- National Caucus for Persons with Disabilities in Kenya
- Network of persons with disabilities living with HIV&AIDS
- Kenya Network of Women with Disabilities
- Albinism Network

#### **CSOs**

- Association for the Physically Disabled of Kenya
- Sense International-Kenya
- CBM-Kenya
- CBM-Global Kenya Office
- Sight Savers
- Humanity &Inclusion
- Kenya Special Olympics
- AMREF

- Kenya Special Olympics
- Cheshire Disability Services of Kenya (CDSK)
- Light for the World
- Catholic Relief Services
- InABLE

#### **UN AGENCIES**

- UNICEF
- ILO
- WFP
- UNFPA

#### **TRADE UNIONS**

- COTU-K

#### **EMPLOYER ORGANISATIONS**

- Federation of Kenya Employers (FKE)

#### **GOVERNMENT**

- Directorate Children Services
- Directorate of Social Services (Rehabilitation Unit & Centers)
- Directorate of Occupational Safety and Health Services
- National Council for Persons with Disabilities (NCPWD)
- Commission for Administrative Justice (Ombudsman) (CAJ)
- KNBS
- Ministry of Health
- Ministry of Education
- Kenya Institute of Special Education (KISE)
- National Health Insurance Fund (NHIF)
- COG

#### **SITUATIONAL ANALYSIS OPDs WORKSHOP**

1. Caucus on Disability Rights Advocacy (CDRA)
2. Youth on the Move (YotM)
3. Women Challenged to Challenge (WCC)
4. United Disabled Persons of Kenya (UDPK)
5. African Disability Forum (ADF)
6. Black Albinism
7. Down Syndrome Society of Kenya
8. Albinism Society of Kenya (ASK)
9. Northern Nomadic Disabled Persons' Organization (NONDO)
10. Short Stature Society of Kenya (SSSK)
11. Kenya National Association of the Deaf (KNAD)
12. Cerebral Palsy Society of Kenya (CPSK)
13. Stammering Kenya
14. DORIAH\*
15. Kenyan Paraplegic Organization (KPO)
16. Kenya Union of the Blind (KUB)

17. Differently Talented Society of Kenya (DTSK)

18. Championing Inclusive Communities in Kenya (CIC-K)

Province	County	Kills	FGDs
Nairobi	Nairobi	1. Social Development Officer 2. Head of an OPD	1 FGD with County level OPD
Central	Nyeri	1. Director Departments of Social Services 2. Nominated MCA (for Persons with Disability) 3. Head of an OPD	1 FGD with County level OPD
Nyanza	Homa bay	1. Nominated MCA (for Persons with Disability) 2. Member of an OPD 3. Head of an OPD	1 FGD with County level OPD
North Rift	Baringo	1. Social Development Officer 2. Nominated MCA (for Persons with Disability) 3. Head of an OPD	1 FGD with County level OPD
South Rift	Narok	1. Director Departments of Social Services 2. Head of an OPD 3. Head of a CBO	1 FGD with County level OPD
Coast	Kilifi	1. Social Development Officer 2. NCPWD County Officer 3. Head of an OPD	1 FGD with County level OPD
North Eastern	Garissa	1. Director Departments of Social Services 2. Nominated MCA (for Persons with Disability) 3. Head of an OPD	1 FGD with County level OPD
Upper Eastern	Meru	1. Director Departments of Social Services 2. Former nominated MCA (for Persons with Disability) 3. Head of an OPD	1 FGD with County level OPD
Lower Eastern	Makueni	1. Director Departments of Social Services 2. Nominated MCA (for Persons with Disability) 3. Head of an OPD	1 FGD with County level OPD
Western	Kakamega	1. Social Development Officer 2. Nominated MCA (for Persons with Disability) 3. Head of an OPD	1 FGD with County level OPD