



MZALENDO

POLICY BRIEF ON STATUS OF DISABILITY RELATED LEGISLATIONS IN COUNTIES





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RELATED LEGISLATIONS
IN COUNTIES**

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ACRONYMS AND ABBREVIATIONS

CADICA	County Assembly Disability Caucus
CAF	County Assembly Forum
CoG	Council of Governors
COVID-19	Coronavirus Disease
CRPD	Convention on the Rights of PWDs
CSO	Civil Society Organizations
HSF	Hanns Seidel Foundation
KEDIPA	Kenya Disabled Parliamentarian Association
KIHBS	Kenya Integrated Household Budget Survey
KII	Key Informant Interview
KNBS	Kenya National Bureau of Statistics
NCPWD	National Council for PWDs
NDI	National Democratic Institute
ODM	Orange Democratic Movement
OPDs	Organizations of Disabled Persons
ORPP	Office of Registrar of Political Parties
NARC	National Alliance Rainbow Coalition
PWDs	Persons with Disabilities
UNCHR	United Nations Commission on Human Rights
WFD	Westminster Foundation for Democracy
WHO	World Health Organization

EXECUTIVE SUMMARY

Globally, there is an increased commitment to advance inclusivity of all cadres of people in the society in all aspects of life. The clarion call to “leave no one behind” as envisaged in the universal values of the 17 Sustainable Development Goals calls for deliberate policy and legal interventions to promote inclusive societies, including political participation. This Policy Brief examines the status of disability related legislations in select counties i.e., Nairobi, Kilifi, Kiambu, Garissa and Machakos Counties. It reviews how the counties have enacted and implemented the legislations, the arising implementation challenges and provides recommendations for promoting the meaningful participation of PWDs in political processes through the development and implementation of disability related legislations.

Devolved governments in Kenya have made some strides in developing disability related legislations, and the approach adopted by most County Governments is to develop “County PWDs Acts”. Out of the 47 County Governments, 21 have enacted County PWDs Acts. Nairobi and Machakos Counties enacted PWDs Act in 2015 and 2016 respectively. Kilifi County has developed a County PWD Bill which is at the Report Stage whereas Garissa County enacted the County Revolving Fund Act for youth, women and PWDs in 2018. The Kiambu County Enterprise Development Bill of 2014 which seeks to develop enterprises owned by Youth, Women and PWDs is yet to be passed by the County Assembly.

Despite the progress realized in developing the legislations, implementation remains a major challenge in the counties. While the legislations provide for establishment of the County Disability Boards and County Disability Funds, none of the 47 Counties has fully operationalized these Disability Boards and Disability Funds. Key challenges in implementation of disability related legislations include: lack of political goodwill, social stigma towards PWDs, non-prioritization of disability in county development agendas, political interference from the national government agenda, inaccessible County Executive and County Assembly offices and lack of critical governance information in accessible formats as well as the re-allocation of funds appropriated for disability interventions to other county votes.

This Policy Brief recommends that County Governments and County Assemblies should roll out capacity building programs on disability inclusion, mainstream the disability agenda in all county legislations, enhance representation of PWDs in the County Executive and County Assemblies, prioritize disability issues in the County Development Agenda and work closely with disability caucuses in respective counties to advance disability inclusion.

1.0 BACKGROUND

PWDs constitute the largest global minority group in society who are most excluded, and they experience significant barriers in social and economic spheres. It is estimated that 15% of every population have some form of disability and 80% of this population are poor and live in developing countries¹. PWDs include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others (UNCHR, 2006). Meaningful inclusion of PWDs, therefore, calls for elimination of these barriers and enabling them to be independent².

Participation of PWDs in political, public and social life is crucial in eliminating existing stereotypes, prejudices and segregation with the ultimate contribution being stronger respect for their rights and to more disability-mainstreamed legal and policy frameworks that better reflect inclusive societies (Mugambi, 2019). It is an empowering opportunity to voice their opinions on issues, to become leaders and creates ideal opportunities for political institutions to remove barriers and become more inclusive, accessible and truly representative of all citizens (WHO & World Bank, 2011).

The right of PWDs to participate in political processes is identified and protected by several international, regional and national instruments. These include the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention on the Rights of PWDs and the African Charter on Human and Peoples' Rights (ACHPR) among others. Kenya ratified the United Nations Convention on the Rights of PWDs in May, 2005 as a commitment to uphold the rights of PWDs. The promulgation of the progressive Constitution of Kenya (2010) that upholds the rights of PWDs and development of pieces of legislations to achieve the inclusive political agenda is a commitment to inclusion of all cadres of society in the national democratic and development agenda.

The 2019 Kenya National Housing and Population census established that 2.2% (0.9 million people aged 5 and above) of Kenyans live with some form of disability (Kenya National Bureau of Statistics, KNBS, 2019). Additionally, the Kenya Integrated Household Budget Survey (KIHBS) 2015/16 found a disability prevalence rate of 2.8%, while the 2007 Kenya National Survey for PWDs noted a prevalence rate of 4.6% (KNBS, 2019). A comparative analysis between the 2009 census results and 2019 census results indicates a sharp decline in disability prevalence from 3.5% in 2009 to 2.2% in 2019 whereas the global trends indicate increase in disability prevalence and an average of 15% disability prevalence in each population. The 2019 census established that 1.9% of men have a disability compared to 2.5% of women and that there was a higher prevalence of disability in rural areas (2.6%) than in urban areas (1.4%). The 2009 census reported 3.8% of rural populations and 3.1% of urban populations had a disability (KNBS, 2012, p. 16). The 2019 census placed the highest prevalence rates of disability in central, eastern and western parts of Kenya: with Embu County (4.4%), Homa Bay (4.3%), Makueni (4.1%), Siaya (4.1%) and Kisumu counties (4%) having high disability prevalence. Counties with the lowest disability prevalence rates are found in the North Eastern part of Kenya and Nairobi, with Wajir having the lowest at 0.6%. People with visual (24.9%) and physical (25.3%) impairments comprised the highest proportion of PWDs in Kenya, with hearing, speech and functional limitations affecting 10-14% of people with disabilities (Owino, 2020). Statistical variations have raised concerns on inconsistency and reliability of disability data in Kenya (Cheshire, 2018). These data disparities and inconsistencies inform poor planning and implementation of disability policies.

PWDs in Kenya face many barriers in accessing both employment and social services. Education opportunities for PWDs are skewed due to inaccessible education infrastructure, inadequate teacher

¹World Report on Disability (WHO & World Bank, 2011)

²Convention on the Rights of Persons with Disabilities, 2008

capacity and high cost of education for children with disability, often associated with the cost of assistive devices and assistive technology for learners with disabilities as well as other necessary reasonable accommodations. The practice of hiding children with disabilities due to societal stigma and prejudice amongst communities in Kenya has denied such children crucial rights such as education and inclusion in all spheres of life(Oleja, 2018).

The Constitution of Kenya 2010 has established two levels of governments; the National Government and the 47 County Governments bestowed with legislative and executive powers in the spirit of giving people the sovereign power through devolution. Close to ten years after the establishment of County Assemblies and County Governments, PWDs are yet to realize full participation in political and governance processes(Mute, 2020a). Despite the general consensus on participation of PWDs as a priority, support to ensure PWD voices are heard in Kenya remains weak, particularly at the county level³. Socially, PWDs are still disproportionately subject to negative discrimination and stigma, views that too often only serve to deter PWDs from participation in governance. A study conducted by Mzalendo Trust on the Impact of COVID - 19 on participation of Special interest Groups established that there is low participation of PWDs in political and governance processes despite the existence of robust policy and legal framework⁴.

PWDs are still significantly under-represented in political and public life, particularly as leaders, candidates or members of institutions, such as election management bodies, Political Parties, Parliament and County Assemblies(Waltz & Schippers, 2021). For instance, out of the 349 members of the National Assembly, only 5 members are PWDs. Out of the 67 members of the Senate, only two are PWDs. Out of the 47 county assemblies that came into power following the General Elections in 2017, 17 county assemblies lack representation of PWDs contrary to the provisions of PWDs Act of 2003 which are also reiterated in Article 54 of the constitution. The status of representation of PWDs in both the National Parliament and County Assemblies has adverse implications on development and implementation of disability legislation and overall inclusion and socio-economic welfare of PWDs(Mute, 2020b).

With support from Hanns Seidel Foundation (HSF), Mzalendo Trust has commissioned the development of a Policy Brief to review disability related legislation in select counties and provide recommendations for the development of robust legislation to ensure the full and meaningful participation of PWDs in political and governance processes. This Policy Brief therefore examines the status of disability related legislations in counties, in particular: Nairobi, Kiambu, Kilifi, Garissa and Machakos counties with a view to highlight the challenges in development and implementation of the legislations and provide possible recommendations for inclusive and democratic participation in governance and legislative processes

1.1 Objectives

The overall objective of the Policy Brief was to examine the status of disability related legislations in select counties i.e., Nairobi, Kilifi, Kiambu, Garissa and Machakos Counties. Specifically, the study sought to:

- Highlight how the counties have enacted and implemented disability related legislations.
- Establish the challenges experienced in the implementation of the reviewed legislations.
- Give recommendations for promoting full and meaningful participation of persons with disability in the legislative process.

³<http://www.parliament.go.ke/kenya-disability-parliamentary-association-kedipa-urges-more-inclusion-decision-making>

⁴Impact of COVID-19 on Public Participation of Special Interest Groups, Mzalendo Trust(2020)

1.2 Methodology

A mixed design approach which included both qualitative and quantitative research was adopted in the development of the Policy Brief. Relevant literature on inclusion of PWDs in political processes was reviewed to draw "learning" from the progress made in developing and implementing disability legislations in select counties in Kenyan context and jurisdiction. In particular, the study reviewed and presented an overview of international policy and legal framework on disability, National Policy Framework on disability related legislations and an overview of the status of development of disability legislation Counties. The main focus was on the selected counties, the study reviewed the implementation of the following Acts:

- The Nairobi City County PWDs Act, 2015
- The Machakos County PWDs Act, 2016
- Kilifi County Persons with Disability Bill, 2016
- Kiambu County Youth, Women and PWDs Enterprise Development Fund, 2014
- Garissa County Revolving Fund Act, 2018

Key informant interviews were conducted through phone interviews and virtual interviews in compliance with the Ministry of Health guidelines on the COVID –19 pandemic. An interview guide was drawn to ensure that the interviews kept track of the study objectives. Purposive and snowball sampling was applied in identifying key informants who had in-depth knowledge on disability legislations in select counties. The consultant worked closely with Mzalendo Trust in identifying the key informants and also relied on personal contacts and networks as well as relevant contacts for the study.

Key informants were drawn from Members of County Assemblies representing PWDs, Members of County Assembly Forum, County Assembly Disability Caucus (CADICA), Council of Governors (CoG), Organizations of Disabled Persons (OPDs) and or Civil Society Organizations (CSOs) and select Political Parties. Thematic technique was used to analyze the data.

The table below provides a summary of the key informants:

Table 1: Summary of Key Informants

	Organization/Entity	Number of Respondents
1.	County Assemblies	5
2.	County Executive	6
3.	Political Parties	5
4.	County Assemblies Disability Caucus (CADICA)	1
5.	Kenya Disabled Parliamentarians Association (KEDIPA)	1
6.	County Assemblies Forum	1
7.	Civil Society Organizations	3
8.	Organizations of PWDs	5
9.	Total	27

1.3 Organization of the Policy Brief

This Policy Brief is organized into five sections. The first section outlines the background of the study, the objectives, methodology and summary of key findings. The second section outlines the context, legal and policy framework on political participation of PWDs. The third section outlines the status of development

and implementation of disability legislation in Counties while the fourth section describes the challenges on implementation of disability related legislations. Lastly, the fifth section provides recommendations for promoting full and meaningful participation of persons with disability in the legislative process and governance.

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2.0 CONTEXT, LEGAL AND POLICY FRAMEWORK ON POLITICAL PARTICIPATION OF PWDs

2.1 Legal and Policy Framework on Political Participation of Persons with Disability

PWDs are recognized as marginalized groups under Article 100 of the Constitution of Kenya 2010 and Parliament has an obligation to enact legislation to promote their representation in Parliament. To further address the socio-economic barriers affecting the PWDs, the Government of Kenya has adopted and ratified international legal and policy frameworks. To further buttress these principles, the Kenyan Parliament, at both the national and county levels, have enacted legislative frameworks to progressively support and promote the inclusion of PWDs. Article 21 of the Constitution of Kenya 2010 forms the foundational bedrock for the Government's commitment to progressive realization of the rights of all Kenyans as it creates this obligation.

2.2 International Legal and Policy Framework

Kenya is a signatory to several international treaties that protect and promote the interests and rights of PWDs, this is properly unfettered in Article 2 (5) and (6) of the Constitution of Kenya 2010 which entrenches the incorporation of international law into the national legislative framework⁵. Article 21 of the Universal Declaration of Human Rights (UDHR) affirms that "everyone has the right to take part in the government of his or her country, directly or through freely chosen representatives" and that "everyone has the right of equal access to public service in his or her country." These rights are reiterated in Article 25 of the International Covenant on Civil and Political Rights (ICCPR), a UN treaty that was adopted in 1966 (Waltz & Schippers, 2021). Article 29 of the Convention on the Rights of PWDs (CRPD) guarantees the political rights of PWDs. It notes that States should ensure the right of PWDs to "stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate." Article 29 also specifies that States actively promote "an environment in which PWDs can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs," including in "the activities and administration of political parties (Oluchina, 2015).

The 2030 Agenda for Sustainable Development is anchored on the principle of leaving no one behind to ensure inclusive societies as is envisaged in all the 17 Sustainable Development Goals (SDGs). The SDGs are the blueprint to achieve a better and more sustainable future for all. They address the global challenges, including those related to poverty, inequality, climate, environmental degradation, prosperity, and peace and justice. The goals have targets that foster inclusion of PWDs in each of the development agenda.

2.3 National Disability Legislative and Policy Framework

Inclusion is a key priority in Kenya's national and county agenda. The hallmark of disability policy interventions stems from the Constitution of Kenya 2010 which prohibits direct or indirect discrimination on the grounds of disability (GoK, 2010). Article 54 of the Constitution of Kenya 2010 specifically provides PWDs with the right to be treated with dignity and respect; to access to educational institutions and facilities integrated into society; to reasonable access to all places, public transport and information; to use of sign language, braille or other appropriate forms of communication; and access to materials and devices to overcome disability related constraints.

Article 54 (2) of the Constitution of Kenya 2010 directs that the State shall ensure the progressive implementation of the principle that at least 5% of members of the public in elective and appointive

⁵ Constitution of Kenya, 2010

bodies are PWDs. These provisions obligate all the levels of government with the responsibility of ensuring the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are PWDs.

Article 100 (b) of the Constitution of Kenya further provides that Parliament should enact legislation to promote representation of PWDs in Parliament. This requires political parties, the Independent Electoral Boundary Commission, National Assembly, County Assemblies, Office of the Registrar of Political Parties (ORPP) and other actors to develop systems that uphold representation of PWDs in political spaces including national and county assemblies.

The PWDs Act (2003), was formulated leading to the establishment of the National Council for PWDs (NCPWD), a semi-autonomous government agency to promote and protect the equalization of opportunities and the realization of human rights for PWDs (Government of Kenya, 2003). Since the establishment of the NCPWD, steady progress has been realized on the registration, income tax exemptions, cash transfer programs, provision of assistive devices and education assistance to PWDs. However, it is notable that there has been little engagement by NCPWD on political rights of PWDs, a discourse that has huge implications on disability inclusive policy discussions and implementation by different stakeholders.

Kenya's Vision 2030 strategy envisages a nation where all are included in decision making processes that affect their lives. The vision has three pillars, namely social, economic and political which foster progressive sectoral development. The political pillar, in particular decentralizes political power to allow everyone to participate in political processes. These provisions seek to empower people from marginalized communities and special interest groups to reduce dependency in all aspects of society and to actively engage in national development agenda.

In an effort to advance equal opportunities to marginalize and special interest groups, the government enacted the Public Procurement and Disposal (Preference and Reservations) Amendment Regulations, 2013. Regulation (31) (1) provides that a procuring entity shall allocate at least 30% of its procurement spending for the purposes of procuring goods, works and services from micro and small enterprises owned by youth, women and PWDs. Access to Government Procurement Opportunities (AGPO) program, grounded on Article 227 of the Constitution and the Public Procurement and Asset Disposal Act, 2015, aims at providing opportunities to Youth, Women and PWDs in public procurement. An evaluation of the AGPO established that there was low uptake of tenders by PWDs, and consequently the Government issued another circular in 2015 directing that not less than 2% of AGPO tenders be awarded to PWDs (Ngure & Simba, 2013).

Other national legislation on disability include Disability Policy and Guidelines for the Public Service which aims to guide the Public Service in disability mainstreaming to ensure a diverse workforce as provided for in the Constitution of Kenya and PWDs Act and the Employment Act 2007 recognizes disability and outlaw's discrimination on grounds of disability in employment in both the public and private sectors. The National Employment Authority Act, 2016 establishes the National Employment Authority to provide for a comprehensive institutional framework for employment management; to enhance employment promotion interventions; and to enhance access to employment for youth, minorities, marginalized groups, and PWDs; and the Public Officers Ethics Act, 2003 which prohibits discrimination of PWDs in employment opportunities.

The Kenya National Social Protection Policy, 2011 provides for non-discrimination on the basis of disability as well as directly addressing disability benefits. Moreover, the Social Assistance Act of 2013 provides social assistance to people with severe mental or physical disabilities, whose disability renders them incapable of catering for their basic needs.

Article 43 of the Constitution of Kenya 2010 directs that every person has the right to education, while guaranteeing persons with any kind of disability access to appropriate education and training in all schools and training institutions. Other policies that address disability in education include the Children Act, 2001; Basic Education Act, 2013; Policy Framework for Education and Training, 2012; and National Special Needs Education Policy Framework, 2009.

The specific disability mainstreaming policies in health include: the Kenya Health Policy (2014-2030) which acknowledges that 'people with disabilities have right to reasonable access to health facilities and materials and devices' and pledges to pay attention to the needs and rights of PWDs, amongst others, and to ensure that health services are accessible to all; the Mental Health Act, 2018; the National Reproductive Health Policy 2007, and National Adolescent Sexual and Reproductive Health Policy, 2015.

The Public Participation Bill of 2019 has been prioritized by the National Assembly to pave way for inclusive and structured ways of public participation. There are ongoing discussions around and calls for a more robust and inclusive policy and legal framework through systematic legislative reform to foster the active political participation of PWDs who are traditionally under-represented in political and economic decision making at both levels of government.

The table below provides a summary of some of the disability related legislations that have been enacted in Kenya over time to protect the rights of PWDs:

Table 2: National Disability Related Legislations

LEGISLATION		PROVISIONS
1.	Kenya Society for the Blind Act , 1988	To promote the welfare, education, training and employment of the blind and to assist in the prevention and alleviation of blindness.
2.	Persons with Disabilities Act , 2003	To provide for the rights and rehabilitation of PWDs and achieve equalization of opportunities for PWDs.
3.	Public Procurement and Asset Disposal Act, 2015	To provide opportunities to Youth, Women and PWDs in public procurement under AGPO.
4.	Employment Act, 2007	Section 5 outlaws discrimination on grounds of disability in employment in both the public and private sectors.
5.	The National Employment Authority Act, 2016	Enacted to enhance access to employment for youth, minorities, marginalized groups, and PWDs
6.	The Kenya National Social Protection Policy, 2011	Provides for non-discrimination on the basis of disability as well as directly addressing disability benefits in social protection.

7.	Social Assistance Act , 2013	provides social assistance to people with severe mental or physical disabilities, whose disability renders them incapable of catering for their basic needs
8.	Sector Policy for Learners and Trainees with Disabilities, 2018	Promote the provision of education and training for learners and trainees with disabilities.
9.	National Special Needs Education Policy Framework, 2009	Promotes for special needs education in educational institutions
10.	Kenya Health Policy (2014-2030)	Acknowledges that ‘people with disabilities have right to reasonable access to health facilities and materials and devices and pledges to pay attention to the needs and rights of PWDs and to ensure that health services are accessible to all
11.	Mental Health (Amendment) Bill, 2018	Care for persons who are suffering from mental disorder for the custody of their persons and the management of their estates; for the management and control of mental hospitals; and for connected purposes
12.	National Adolescent Sexual and Reproductive Health Policy, 2015.	Protect the sexual reproductive health rights of adolescents including those with disabilities
13.	Public Participation Bill, 2019	Provide a general framework for effective public participation with the inclusion of PWDs

2.4. Counties Disability Legislative and Policy Framework

The Fourth and the Fifth Schedules of the Constitution of Kenya 2010 provide a policy and legislative framework that support devolution. Article 174 of the Constitution of Kenya outlines the objectives of devolution, key amongst them being protecting and promoting the interests and rights of minorities and marginalized communities amongst them, PWDs (PWDs). County Assemblies are further required by the Constitution under Article 185 to make laws necessary for performance of functions and powers of County Governments.

Several pieces of legislation have been developed to make devolution a reality and these include County Governments Act, 2012; Public Finance Management Act 2012; Intergovernmental Relations Act 2012; Transition to Devolved Government Act, 2012; and Urban Areas and Cities Act, 2012 among others as national devolution laws to facilitate the promotion of devolution at both levels of government. County Governments are also obligated under Part Two of the Fourth Schedule of the Constitution to develop policies, laws and regulations to facilitate the implementation of the fourteen functions bestowed on them. .

One important principle to be observed by the County Governments in drafting and enactment of county level specific policy and legislation is to ensure that it accords and respects the national values and principles of governance such as the inclusion of special interest groups. Counties are also expected to ensure and coordinate the participation of the marginalized groups by mainstreaming public participation platforms in all their policies and laws. Researchers have noted that where counties do not have relevant disability acts or PWDs are not mentioned in the County Integrated Development Plans, there has been found to be a lack of relevant policies addressing the inclusion of people with disabilities at the county level (Kett & Cole, 2018).

Several County Governments in Kenya have made individual efforts in developing pieces of legislation on disability. For example, Nairobi City County (in 2015), Homa Bay Country (in 2019), Turkana County (in 2017), Machakos County (in 2016), Meru County (in 2016), Kisumu County (in 2014 and subsequently amended in 2016), and Kilifi County (in 2016) amongst others. These legislations provide frameworks for participation of PWDs in development, including political participation.

2.5 Participation of PWDs in Political Parties

Inclusion of PWDs in political parties has remained inadequate for a very long time⁶. Majority of political parties have remained exclusive to PWDs in their governance structures including the National Executive Council which is the highest decision-making organ in political parties. This aspect has led to disability exclusive party processes such as nomination and ultimate exclusion in overall policy decisions and governance processes within political parties. Historically, political parties have exhibited a culture of violence and intimidation to members of society who are perceived to be weak. This practice has posed a barrier to political participation of PWDs who are vulnerable to violence, majority who then opt to stay away from engaging with political parties. A study conducted by WFD and NIMD revealed that political participation in Kenya is an extremely expensive affair (NIMD & WFD, 2021). Political parties have made little or no investment on political participation of PWDs who are misconceived to be of low value to political parties owing to their socioeconomic status and scanty information on their demographics. The programs of most political parties and manifestos lack a clear mechanism of engaging PWDs.

Best practices on disability inclusion in political parties include establishment of disability leagues in major political parties for example the Orange Democratic Movement (ODM), Jubilee Party and National Alliance Rainbow Coalition Kenya (NARC-Kenya) which mobilize PWDs and engage the parties on inclusive political participation of PWDs. While the disability leagues are a step in the right direction regarding political participation of PWDs, it's imperative that political parties must safeguard against tokenism that has presented as a barrier in maintaining objectivity in political participation of PWDs.

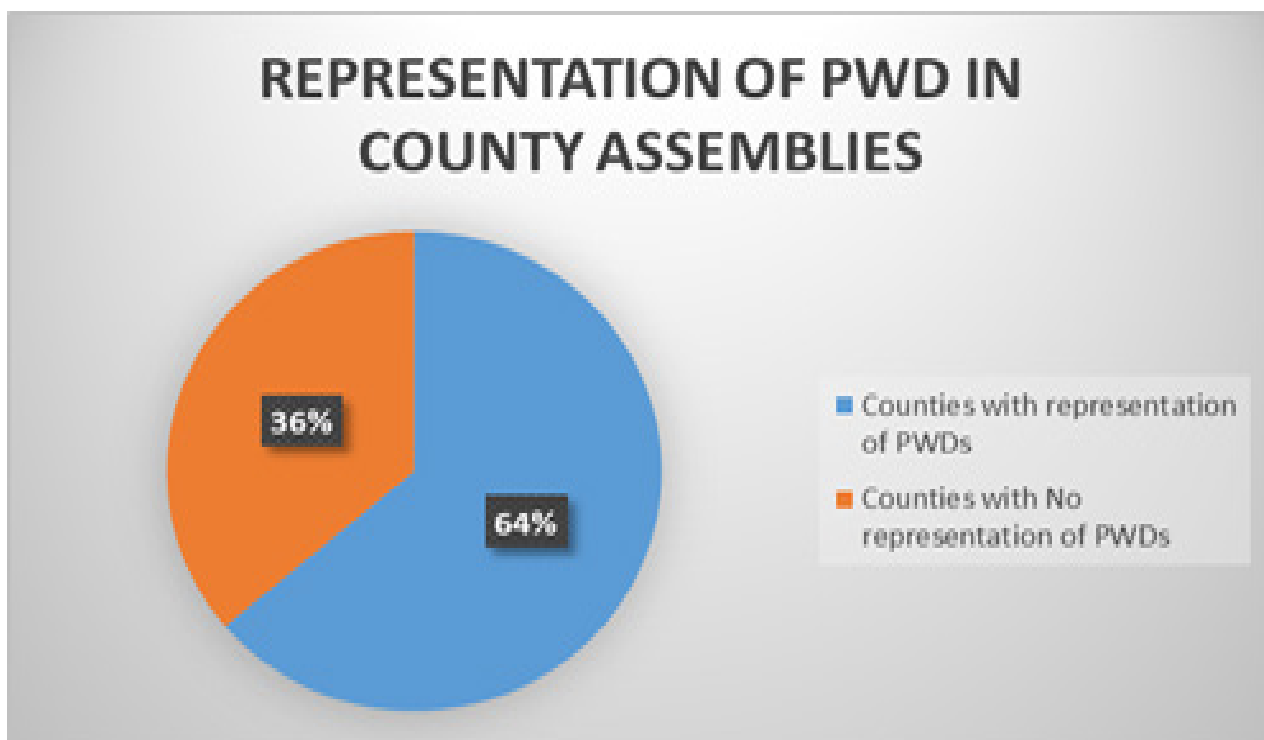
⁶The State of Political Inclusion of Persons with Disabilities within Political Parties in Kenya (WFD,2020)

3.0 DEVELOPMENT AND IMPLEMENTATION OF DISABILITY RELATED LEGISLATION IN NAIROBI, KIAMBU, MACHAKOS, GARISSA AND KILIFI COUNTIES

3.1 Overview of Representation of PWDs and Disability Legislation in Counties

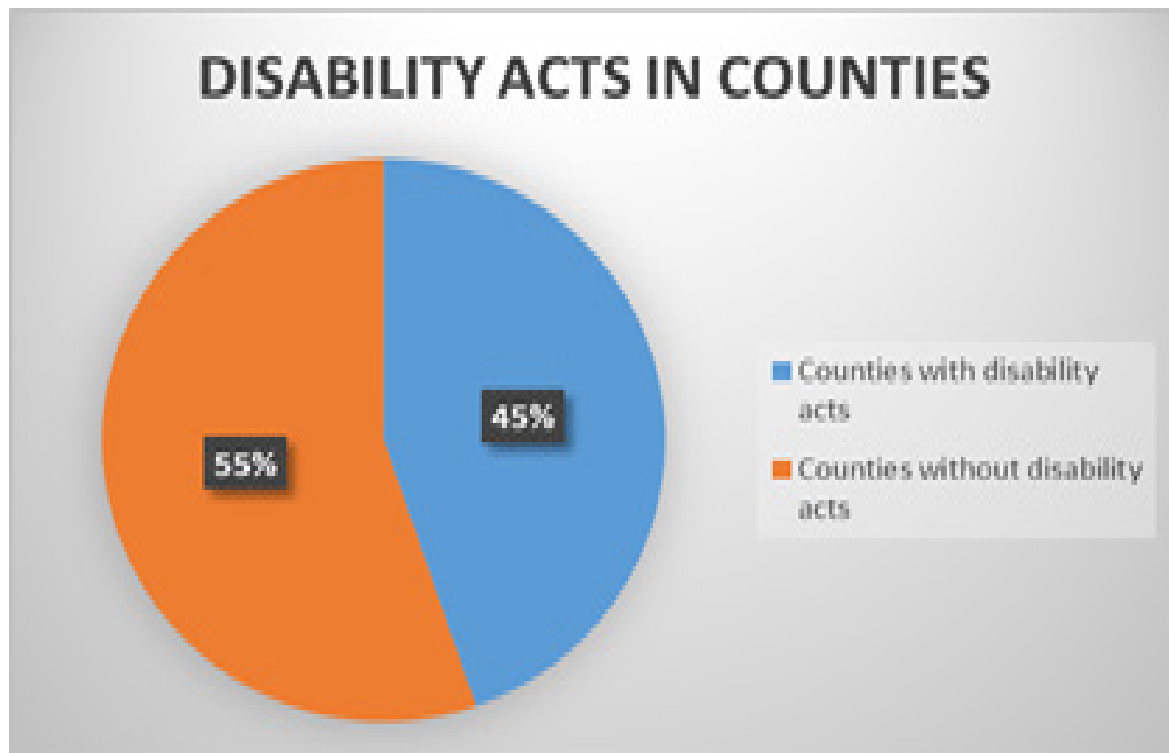
The current County Assemblies as constituted have representation of PWDs in 30 county assemblies, whereas 17 county assemblies lack representation of PWD contrary to the provisions of Article 177(1)(c) of the constitution and section 7(6) of the County Governments Act. This is an impediment to development of disability legislation in Counties.

Figure 1: Representation of PWDs in County Assemblies



In certain instances, such as in the case of Nairobi County, a Member of County Assembly nominated to represent PWDs was a non-resident of the county thus leaving a representation vacuum. A member of county assembly who was nominated under the county assembly gender party list stepped up to fill the vacuum left by failure to nominate a PWD in the County Assembly. While this decision could be a way of filling a representation and legislative gap in the county assembly, it presented accountability challenges since the legislator lacks express mandate for representation and legislation for PWDs and therefore has no obligation to pay full attention to disability concerns.

County assemblies have adopted an approach of developing disability specific legislations referred to as County Persons with Disability Acts. Such legislations have been developed as private member Bills sponsored by Members of the County Assembly. The existing disability acts have been designed to replicate the Persons with Disability Act at county level. At the county level, these Acts establish County Disability Boards which are mandated to empower PWDs in respective counties and to offer oversight on disability mainstreaming. Currently, only 21 counties out of the 47 counties have enacted County Persons with Disability Acts, while the 26 county assemblies have not. It is notable that some counties have drafted Bills relating to the inclusion of PWDs but which are yet to be assented into law. An assessment of the Counties PWDs act reveal a similarity of the Acts in different counties and the PWDs Act of 2003.

Figure 2: Status of Enactment of Disability Acts in Counties

Counties which have developed County Persons with Disability Acts include Kisumu, Lamu, Kilifi, Tharaka Nithi, Meru, Uasin Gishu, Nandi, Siaya, Homabay, Kakamega, Vihiga, Nakuru, Makueni, Machakos, Tana River, Kajiado, Kitui, Kirinyaga, Nairobi and Samburu. It is notable that majority of counties in northern Kenya lack the Persons with Disability Acts.

Table 3 : Distribution of PWDs in Nairobi, Kiambu, Machakos, Kilifi and Garissa Counties

County	Seeing Difficulties	Hearing Difficulties	Mobility Difficulties	Cognition difficulties	Self-care difficulties	Communication difficulties
Nairobi	0.5%	0.1%	0.4%	0.2%	0.1%	0.1%
Kiambu	0.8%	0.2%	0.9%	0.4%	0.3%	0.2%
Machakos	0.9%	0.4%	1.1%	0.6%	0.4%	0.3%
Kilifi	0.5%	0.3%	0.6%	0.3%	0.3%	0.3%
Garissa	0.2%	0.2%	0.3%	0.2%	0.3%	0.1%

Source, KNBS: National Housing & Population Census, 2019

3.3 Disability Legislations in Nairobi, Kilifi, Machakos, Garissa and Kiambu Counties

Majority of County Persons with Disability Acts have been developed as private member Bills leading to a rather slow legislative process due to lack of funds for public participation and legal fees amongst other financial implications associated with legislation making. The private member Bills are heavily dependent on the ability of the member of county assembly sponsoring the Bill to effectively push the legislative process to completion, this has been quite challenging situation.

3.3.1 Nairobi County

Nairobi County enacted the Nairobi City County PWDs Act in 2015 which was assented on 12th January 2016 and came into force on 25th January 2016. The Act provides for the establishment of a County Disability Board that is responsible for promoting the welfare of PWDs within the county and further sets out the rights of PWDs. It also outlines offences related to the violation of disability rights. The County Disability Board was gazetted in 2017 with the board members appointed for a term of three years as outlined in the County PWDs Act. While the Act provides for the appointment of County Disability Board with a fully-fledged secretariat for managing the day-to-day operations of the Board, the term of the Board is renewable up to a maximum of two terms. The board members are yet to assume their duties following their appointment vide a gazette notice, it is notable that the term of the board expired before they assumed office. Some of the reasons cited for failure of the Board to assume office, include failure by the County Executive to establish relevant structures to pave way for operationalization of the Board thus posing a setback to participation of PWDs. Such structures include office space, allocation of budget for operations and development of the regulations to guide the operations of the Board. This situation that has been challenged by the Nairobi county disability caucus who have demanded for re-gazetting of the board. The responsibility to implement the County Disability Act is vested on the County Disability Board in liaison with the Department of Education, Youth, Sports, Gender Affairs, Culture and Social Services. Therefore non-operationalization of the Board is an outright setback to the implementation of the County PWDs Act. Political instability in Nairobi County both at the Assembly and the Executive following the 2017 general elections posed a major challenge in development and implementation of legislations, including disability related legislations. The resignation of the deputy governor, the ousting of county assembly speaker and the exit of the Governor posed a major challenge in operations of both the assembly and the executive.

3.3.2 Machakos County

Machakos County enacted the Machakos County PWDs Act in 2016. The Act provides for establishment of Machakos County Disability Board and Machakos County Disability Fund. Upon establishment, the fund would serve the following purpose: Purchase assistive devices to PWDs issue grants to associations of PWDs, build capacity of PWDs, support education programs for PWDs, establish rehabilitation centre for PWDs, support research on disability, create awareness on disability and do any other things in furtherance of Machakos County PWDs Act. The Act further stipulates the rights and privileges of PWDs including the rights to employment, health, education and recreation among others. The County Disability Board and Disability Fund are yet to be established as stipulated in the Act, discussions are ongoing to actualize the provisions of the Act through establishment of the board.

3.3.3 Kilifi County

Kilifi County Disability Bill was developed in 2016 and passed in the County Assembly. However, it was returned by the Governor to the assembly for amendment. Key issues raised by the County Executive

include the high cost of implementation of the Bill otherwise termed as “money Bill” and lack of proper mechanisms for implementation. The process of effecting the amendments took a long time due to transitions in the Assembly occasioned by the 2017 General Elections. Since the Bill was a private member Bill, the member of the assembly who sponsored it had to mobilize resources for public participation and the requisite legal fees. The Bill was retrieved in 2021 and is at the Report Stage after which it should go through the final reading and endorsement by the Assembly before being forwarded to the executive for assent. Like Nairobi County and Machakos County, the Bill proposes the establishment of County Disability Board and County Disability Fund. The Bill provides for mechanisms to uphold the rights of PWDs, including the right to education, health, and accessibility among others. It further proposes the issuance of adjustment orders to buildings that do not conform to the accessibility needs of PWDs. Kilifi County has been grappling with the establishment of Kilifi Empowerment Centre for PWDs to serve as a sheltered workshop that offers disability support services. The vision behind the establishment of the Centre is to cushion PWDs from incurring high transport costs and taking long time to access disability support services in Bombolulu, Mombasa County. While funds have been appropriated repeatedly for establishment of the Centre, implementation has remained a teething problem thus the funds end up being reallocated for other uses that might not necessarily be disability related.

3.3.4 Garissa County

Garissa County Revolving Fund Act, 2018 was enacted to promote enterprise development among youth, women and PWDs in Garissa County. The Act establishes a revolving fund to support enterprises owned by youth, women and PWDs. Since the enforcement of the Bill, the County has appropriated funds for implementation in two financial years. The County Government appropriated an amount of 150 million Kenya shillings in Financial Year 2019/2020 to establish the revolving fund⁷. However, only 10 million shillings was spent in institutionalizing the fund and no money deposited in the fund account despite 2,406 applicants submitting applications for the funds. Establishment of the fund was hampered by several challenges, including lack of implementation framework, inadequate fund management structures among other fund administration gaps. A year after the launch of the revolving fund, it was reported in the County Assembly that not even a single person benefited from the fund, with a significant percentage of the fund used for administration and institutional strengthening of the fund⁸. Like Nairobi County, Garissa County also experienced political instability with an attempted impeachment of the speaker of the county assembly, this had adverse effect on operations of the County Assembly for some time.

3.3.5 Kiambu County

Kiambu County developed the Kiambu County Youth, Women and PWDs Enterprise Development Fund Bill, 2014 that proposes the establishment and administration of the Kiambu County Youth, Women and PWDs Enterprise Development Fund. The fund purposes to promote enterprise development among youth, women, PWDs and poor persons. Like Nairobi and Garissa Counties, Kiambu County also experienced political instability leading to the elected governor losing his seat. The political instability in the County had adverse impact on the operations of the County executive and the county assembly including the development and implementation of the legislations. The table below summarizes the status of disability legislation in the select Counties:

⁷ <https://citizentv.co.ke/news/garissa-county-launches-ksh-150m-revolving-fund-to-offer-interest-free-loans-237612/>

⁸ <https://www.standardmedia.co.ke/north-eastern/article/2001378983/nobody-received-county-loan-one-year-after-launch>

Table 4: Disability Legislation in Counties

County	Existing Legislation	Disability	Commitments in the legislations	Implementation Status
1. Nairobi	Nairobi City County PWDs Act, 2015 Motion on Accessible Transport in Nairobi Metropolis		Nairobi County Disability Board	Board gazetted in 2017, yet to be operationalized.
2. Machakos	Machakos County PWDs Act, 2016		Machakos County Disability Board Machakos County Disability Fund	Board and Fund yet to be established
3. Kiambu	Kiambu County Youth, Women And PWDs Enterprise Development Fund Bill, 2014		Kiambu County Youth, Women and PWDs Enterprise Development Fund;	Bill yet to be enacted
4. Kilifi	Kilifi County PWDs Bill, 2021		Kilifi County Disability Board Kilifi County Disability Fund	The Bill is at the Report Stage
5. Garissa	Garissa County Revolving Fund Act, 2018		Garissa County Revolving Fund	Funds appropriated in two financial years and reallocated to other votes.

3.4 Implementation Framework of Disability Legislations in Counties

The main structures and frameworks for implementation of disability related legislations in Counties include:

a) County Departments of Social Services

Every County has established a Department of Social Services which is responsible for the welfare of PWDs among other special interest groups. These departments are mandated to offer social services in the Counties including collaboration with national government and other actors in offering disability services such as registration of PWDs, government cash transfer programs and provision of assistive devices among other disability services.

b) County Assembly Implementation Committees

Each County Assembly has established an Implementation Committee which scrutinizes the resolutions of the Assembly (including adopted Committee reports), petitions and the undertakings given by the County Executive Committee. The Committees examine whether or not the decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary. The Committees are also required to examine whether or not legislation passed by the County Assembly has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary. The implementation committees have powers to propose to the county assembly, put in sanctions against any member of the county executive committee who fails to report to the relevant select committee on implementation status without justifiable reasons.

Whereas these Committees exist in every County Assembly, their performance in ensuring disability legislations are implemented has remained insignificant in the sense that the 21 Counties that have enacted disability legislations are yet to fully operationalize the legislations. Moreover, there are instances where funds appropriated for disability interventions have been re-allocated for other activities other than for implementation of disability specific intervention, which is a major setback to implementation of disability legislations. When legislators issue Statements to challenge the implementation status of disability legislations, their efforts are frustrated by the slow response by the committees and even when they obtain responses, the Executive is hardly sanctioned for non-implementation of such laws/reports or county resolutions.

c) County Disability Caucuses

There exists loose networks, consortia and coalitions that bring together Organizations of PWDs, Professionals, Activists, Civil Society Organizations and Development partners at county level with a common goal of promoting disability inclusion in political and development spaces. These caucuses play a fundamental role in advocating for development and implementation of disability inclusive policy and legislative frameworks in counties. Counties with strong disability networks such as Kisumu, Uasin Gishu, Nandi and Taita Taveta have realized steady milestones in implementation of disability legislations. This can be seen through successful disability inclusion initiatives in various counties. Examples include like tax waivers for small and medium enterprises owned by PWDs in Taita Taveta County, provision of free health care for PWDs in Nandi County for PWDs who are duly registered by NCPWD, establishment of a Savings and Credit cooperative organizations (SACCOs) for PWDs in Meru County, appointment of County disability advisor in Kisumu County and the existence of a Disability Taskforce in Kisumu County that offers technical expertise and advisory to the County Government of Kisumu.

d) County Disability Boards

County Persons with Disability Acts establish the County Disability Boards equipped with secretariat staff mandated to be disability agencies in Counties. Key functions of the Boards include establishing a mechanism to facilitate the advancement of rights, fundamental freedoms, progress and wellbeing of PWDs and providing a framework for a coordinated approach by all government departments and institutions in the mainstreaming of disability across all planning, designing budgeting, implementation, monitoring of services and development programmes. The Boards are yet to be fully operationalized in counties that have passed the disability acts despite them being envisioned to offer technical expertise on disability issues in the counties. The County Disability Board membership structure comprises of representatives of PWDs nominated by organizations for PWDs, members with expertise on disability nominated by organizations working for PWDs and Chief Officers or representatives for County Departments of Health, Education, Culture & Social services ,labour and finance appointed by County Executive Committee member in charge of disability . While constituting the Boards, key consideration is given to gender, ethnic diversity, and diversity in disability i.e. different types of disability and County regional diversity.

e) County Disability Fund

The legislations envisage the establishment of a County Disability Fund responsible for funding initiatives that are geared towards disability mainstreaming in counties. Such initiatives include provision of assistive devices, modification of facilities in learning institutions, provision of assistive and adaptive technology, and the economic empowerment of PWDs among other functions. The County Governments have the mandate to appropriate resources for establishment and operationalization of the fund. Further the County Disability Boards have the mandate to mobilize additional resources for the fund.

4.0 CHALLENGES IN DEVELOPMENT AND IMPLEMENTATION OF DISABILITY RELATED LEGISLATIONS

Development and implementation of disability legislation in counties has various challenges which include:

a) Non-Contextualization and Lack of Innovative Approaches in Development of Disability Legislations in Counties

An assessment of the existing County PWDs Acts revealed that the County Persons with disability Acts were borrowed from the national PWDs Act, 2003. This precedence seemingly has devolved the implementation challenges from national level to counties. For instance, the commitment to issue adjustment orders to inaccessible buildings has not been implemented in the PWD Act of 2003, yet the same has been cascaded to Counties which have followed suit. Different Counties operate in different demographic contexts and are endowed with different resources for the livelihood of their residents. For example, the Counties in the Lake Region are endowed with fishing and aquatic resources, the counties in northern Kenya are endowed with livestock resources and the Counties in Mount Kenya region are endowed in coffee farming. While regional economic blocs operate within the County contexts, the County PWDs Acts have not taken cognizance of county contexts in legislating on the empowerment of PWDs.

b) Social Stigma towards Persons with Disabilities

Inclusive political participation calls for deliberate measures to include PWDs in all political processes and systems. Historically, disability has been treated with stigma and prejudice due to different adverse and negative sociocultural ideologies and myths on disability. The efforts towards social integration, social cohesion, social participation and political participation more often stagnate due to the draw backs associated with stigma. While it is acknowledged that continuous awareness and sensitization on disability is gradually bearing fruit in terms of inclusive political participation, full integration is yet to be realized. Decision makers are still grappling with appreciating the potential within PWDs thus leaving them behind in most programs and policy interventions.

c) Lack of Political Goodwill

The process of development and implementation of disability legislations is heavily dependent on the goodwill of the county executive and county assemblies which in most cases is lacking. In most instances, the county assemblies express goodwill and pass disability legislations but implementation then becomes a challenge due the laxity expressed by the Executive. In instances where the county assemblies lack goodwill, then the legislations are hardly developed and enacted. Political parties' play a critical role in advancing political participation of PWDs. Lack of goodwill by political parties to implement disability inclusive policies and procedures has led to inadequate structures for political participation of PWDs escalating the exclusions in County Governments and County Assemblies. Disability inclusion in political agenda has more often been addressed using a tokenism approach which in most cases has led to representation gap between the political appointees and PWDs who are represented

d) Non-Prioritization of Disability in County Development Agenda

Disability is a human rights issue, therefore needs to be well addressed in the governance systems across the board. Moreover, inclusivity is a value of public service which is outlined in article 10 and article 232 of the constitution of Kenya. Despite the constitutional provisions and the national value system, Counties have argued that disability is not listed amongst fourteen functions of devolved governments therefore little to no attention has been paid to disability legislations with no monitoring and evaluation mechanism.

In most instances, a tokenism approach has been used to provide opportunities to PWDs as opposed to the rights-based approach.

e) Interference from National Government Political Agenda

The struggle to keep pace with the national political agenda, national government priorities and political transitions has adversely affected the legislative business of the county assemblies. For instance, the push for implementation of the Big 4 Agenda by the National Government, the ousting of Speaker and Governor of Nairobi County and the exit of Kiambu County Governor had a negative impact in Nairobi and Kiambu Counties. The process of implementation of Nairobi County Disability Act which had reached an advanced stage with County Disability Board members being gazetted was halted. The same case applies to the enactment of Kiambu County Youth, Women and PWDs Enterprise Development Fund Bill, 2014 and the slow implementation of Garissa County Revolving Fund Act, 2018.

f) Re-Allocation of Funds Appropriated for Disability Interventions to Other Non- Disability Related Interventions in the Counties

More often, funds appropriated for implementation of disability projects are reallocated to other votes that are not in any cases related to disability due to lack of strategies for implementation. For example, the funds appropriated for the establishment of "Kilifi Empowerment Centre" for PWDs have been reallocated to other votes over the last two financial years. Funds appropriated for the establishment of Nairobi County Disability Initiatives have been reallocated to Women Empowerment and Funds appropriated to establish Garissa County Youth, Women and PWDs Revolving Fund have also been re-appropriated for other use over the last two financial years.

g) Inaccessibility of County Assemblies and County Executive Offices and Information

Majority of County Assemblies and County Executive Offices are physically inaccessible to PWDs as they do not uphold the principle of reasonable accommodation. The built environment poses a challenge PWDs due to lack of ramps and non-functional elevators. This is an impediment to participation of PWDs in political processes which is crucial for inclusive policies and legislations. Sign language interpretation services are lacking in most county assemblies and county executive offices, this is a communication barrier to persons with hearing disabilities. Additionally, critical information is not available in braille formats thus denying the right to access to information to persons who are blind. Currently, the only disability legislation that is available in braille version is the Kisumu County Disability Bill.

5.0 CONCLUSION AND RECOMMENDATIONS

There exists a huge and worrying gap in policy and practice on disability legislations which must be bridged to ensure full and effective meaningful participation of PWDs in political processes. This Policy Brief suggests the following recommendations for robust and effective development and implementation of disability legislations:

a) Strengthen County Disability Caucuses

County Disability Caucuses have played a pivotal role in advocating for development and implementation of disability related legislations in Counties. Great Milestones have been realized in Counties where disability caucuses exist as compared to Counties where legislations exist and disability caucuses do not exist. For example, Kakamega County which has not developed a legislation has been able to advance disability inclusion in various ways including representation of PWDs in county governance structures and allocation of tangible resources towards disability inclusion initiatives. Other examples include provision of free healthcare to PWDs in Nandi County which is not in the legislation but an initiative of the disability caucuses and establishment of a SACCO for PWDs in Meru County which has economic impact despite the fact that it is not an outcome of disability legislation.

b) Build Capacity of County Assemblies and Executive on Disability Inclusion

There is need for capacity building of County assemblies and executive on disability legislations, disability responsive budgeting, monitoring & evaluation and overall disability awareness. Key areas of focus include sensitization on existing legislation and policies on each service sector, disability legislation and policies and peer learning experience for county executives and county assemblies. The political exclusion of PWDs in political parties at times result in poor representation of PWDs through nomination of persons who have a disconnect on issues that are a priority to PWDs, this presents a gap on development of disability legislations. Consequently, capacity building would be crucial in filling the gap and unpack the key tenets of disability legislations and implementation strategies that would realize meaningful inclusion that would bridge the gap between policy and practice.

c) Mainstream Disability in County Legislations

Disability is a cross cutting issue that affects all sectors such as health, education, culture, trade, agriculture, transport, environment and tourism among other sectors. Therefore, a multi-sectoral approach to disability legislation would be more impactful in advancing participation of PWDs in all spheres of life. There is an urgent need to review all county legislations to ensure that they are disability inclusive. This would also reduce the existence of piecemeal and conflicting pieces of legislation that seek to address the same issues. Further, it would ensure that every sector achieves tangible disability inclusion measures, for example, health sector, trade & industry, agriculture, education, culture, information & technology would all have disability incorporated in specific legislations that govern the implementation of specific programs at County level.

d) Prioritize Disability in Counties Development Agenda

County assemblies should prioritize disability in the County development agenda and entrench necessary structures that facilitate the inclusive participation of PWDs in planning, implementation, monitoring and evaluation of disability interventions. While there could be several disability related legislations in counties, it is imperative that they form priority in development agenda in counties to pave way for resource allocation and establishment of necessary structures for implementation.

e) Enhance Representation of PWDs in County Assemblies, Executive and Political Parties

There is an urgent need to ensure effective representation of PWDs in County Assemblies and County Executive Committees in the spirit of the progressive realization of the principle that 5 % of appointive and elective positions be held by PWDs. Political parties need to develop structures that encourage and ensure effective participation of PWDs in political processes including the nomination of county assembly members with a commitment and zeal for meaningful inclusion and participation of PWDs. Meaningful representation will assist County Executives, County Assemblies and Political Parties to have a clear understanding of disability inclusion in political spaces and support in bridging the gap between policy and practice.

f) Facilitate Legislators representing PWDs to meaningfully engage with PWDs

Like other County Assembly members, those nominated to represent PWDs need the requisite facilitation to engage with their constituents. In this regard, it is therefore necessary that County Assemblies provide facilities like office space and accessible facilities to allow meaningful participation of PWDs in political processes in the counties. Access to information should be given necessary attention to eliminate barriers that hinder participation of PWDs in the political discourse.

g) Adopt Effective Monitoring and Evaluation Systems

There is need for the establishment of an effective monitoring and evaluation framework for disability policies and legislations in counties. While there exists a robust implementation framework for disability legislation such as the County Assemblies Implementation Committees and the County Departments of Social Services, implementation still remains a bottleneck in counties. Efforts to challenge non-implementation of disability policies and legislations in some counties have remained futile⁹.

h) Adopt innovative approaches to disability inclusion in Counties

Other than legislations there are innovative and impactful approaches that would advance political participation and holistic participation of PWDs in all spheres of life. Measures that have worked include appointment of disability advisors in Counties, this is the case of Kisumu County. While this has not been provided in the legislation, it has turned out to be effective measure that has led to a close working relationship between actors in the disability movement and the County Government which can be replicated in other counties.

⁹ <http://kenyalaw.org/caselaw/cases/view/145744/> and <http://kenyalaw.org/caselaw/cases/view/93578/>

REFERENCES

- Cheshire. (2018). Leonard Cheshire 2018 Disability Survey: Transport Section « Savanta ComRes. <https://comresglobal.com/polls/leonard-cheshire-2018-disability-survey-transport-section/>
- KNBS. (2019, November 4). 2019 Kenya Population and Housing Census Results. Kenya National Bureau of Statistics. <https://www.knbs.or.ke/?p=5621>
- Mugambi. (2019). Why the disability movement in Kenya should stop crying faw. Mugambi Paul - Mpofu No. 1. <https://www.mugambipaul.com/2019/11/17/why-the-disability-movement-in-kenya-should-stop-crying-faw/>
- Mute, L. M. (2020a). From affirmation to practice: Assessing a decade of implementing the Constitution of Kenya 2010 for PWDs. UDPK.
- Mute, L. M. (2020b). Guide on disability-inclusive legislation, planning and budgeting in counties. UDPK.
- Ngure, J. G., & Simba, D. F. T. (2013). Factors Affecting Access to Government Procurement Opportunities for Disadvantaged Groups in Public Entities: (A Case Study of Kenya Ports Authority). 4(10), 11.
- NIMD & WFD. (2021). The cost of politics in Kenya: Implications for political participation and development. NIMD. <https://nimd.org/related-publications/the-cost-of-politics-in-kenya-implications-for-political-participation-and-development/>
- Oleja, A. (2018). Social Protection and Disability in Kenya. Development Pathways. <https://www.developmentpathways.co.uk/publications/social-protection-and-disability-in-kenya/>
- Oluchina, W. (2015). The right to political participation for people with disabilities in Africa. African Disability Rights Yearbook, 3, 57–60. <https://doi.org/10.17159/2413-7138/2015/v3n1a14>
- Owino. (2020). Status of disability in Kenya: Statistics from the 2019 census. Development Initiatives. <https://devinit.org/resources/status-disability-kenya-statistics-2019-census/>
- UNCHR. (2006). United Nations Convention on the Rights of PWDs (UNCRPD) | Australian Human Rights Commission. <https://humanrights.gov.au/our-work/disability-rights/united-nations-convention-rights-persons-disabilities-uncrpd>
- Waltz, M., & Schippers, A. (2021). Politically disabled: Barriers and facilitating factors affecting people with disabilities in political life within the European Union. *Disability & Society*, 36(4), 517–540. <https://doi.org/10.1080/09687599.2020.1751075>
- WHO & World Bank. (2011). World Report on Disability. <https://www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability>

APPENDIX 1: KEY INFORMANT INTERVIEW GUIDE

1. What is your view with regard to formal powers of county assemblies and their performance in development of disability related legislations?
2. What is your view with regard to processes and procedures of the county assemblies and their performance in developing disability related legislations?
3. What is your view with regard to the performance of county executive in implementation of disability related legislations?
4. Are there regulations and institutions/organizations established in the county to implement the laws
5. What would you consider as gains and challenges in the implementation of the laws?
6. [To be asked to representatives of CAF, CSOs and DPOs, CADICA, KEDIPA & select Political Parties].
 - (a) To what extent have counties developed and implemented disability related legislations?
 - (b) In your opinion, are there gaps in development and implementation of disability related legislation in counties?
 - (c) What measures are in place to encourage and support participation of PWDs in party processes?
7. [To be asked to Regional Economic Blocs and Council of Governors].
 - (a) Are you aware of any frameworks that promote disability legislation in respective counties within your regional economic bloc?
 - (b) If you do, what are your views on the effectiveness of such frameworks in supporting disability legislation in counties?
8. [To be asked to all key informants]. Any specific recommendations that would you suggest to enhance the development and implementation of disability related legislation in counties?

APPENDIX 2: SCHEDULE OF KEY INFORMANTS

No	Stakeholders	Justification	Empirical Data to be collected
1.	Nominated Members of County Assemblies representing PWDs , Clerks of the Assemblies and select MCA	Members of the five County Assemblies may generally feel that disability legislation is a preserve to nominated county assembly members representing PWDs. Therefore, any information drawing on their opinion pertaining collective responsibility in disability legislation may be crucial.	<ul style="list-style-type: none"> ❖ Progress realized so far in disability legislation in select counties, challenges and recommendations for improvement ❖ Specific recommendation to improve performance on development of disability legislation
2.	County Executive/CEC responsible for disability County Secretary , Council of Governors	They have a critical role in implementation of disability legislation in counties	<ul style="list-style-type: none"> ❖ Progress , challenges and recommendations on implementation of disability legislation in counties
3.	Civil society organizations, Select Political Parties and Disabled Persons organizations <ul style="list-style-type: none"> ❖ Westminster Foundation for Democracy (WFD) ❖ National Democratic Institute (NDI) ❖ ODM and Jubilee political parties 	This group is well versed with governance and political participation in the country. Most of them are detached from the party political conflicts that may affect effectiveness measures involving the government and the legislature. They are probably closest to the ideal of an impartial, regularly informed observer.	<ul style="list-style-type: none"> ❖ The researcher will collect data on the extent of development and implementation of disability legislation in counties. ❖ Specific recommendations to improve development and implementation of disability legislation in counties.
4.	Disabled Persons Organizations <ul style="list-style-type: none"> ▪ UDPK ▪ CDPOK ▪ ANDY ▪ HI ▪ BLINK 	They are champions of disability inclusion.	<ul style="list-style-type: none"> ❖ The researcher will ask a sample of DPOs whether they know about disability legislations in counties , whether they know that counties are mandated to develop the

			legislations for implementation by County Governments and then finally their assessment on implementation of the legislation and recommendations for improvement
5.	County Assembly Forum, Parliamentary and County Disability Caucuses <ul style="list-style-type: none"> ▪ KEDIPA ▪ CADICA ▪ CAF 	They are champions of political participation and inclusive governance in National Assembly and County Assemblies	❖ Progress realized so far in disability legislation in select counties, challenges and recommendations for improvement
6.	Regional Economic Blocs <ul style="list-style-type: none"> ▪ Mt. Kenya and Aberdares Region Economic Bloc ▪ Frontier Counties Development Council (FCDC) ▪ South Eastern Kenya Economic Bloc ▪ Jumuia ya Kaunti za Pwani 	They are champions of good governance and inclusive development in select regions	❖ Progress realized so far in disability legislation in select counties, challenges and recommendations for improvement



**Hanns
Seidel
Foundation**

MZALENDO TRUST

ACK Garden House

2nd Floor, Wing A | 1st Ngong Avenue

P. O. Box 21765, 00505 Nairobi, Kenya

[e]: info@mzalendo.com | [w]: www.mzalendo.com

[f]: [mzalendowatch](https://www.facebook.com/mzalendowatch) | [t]: [@mzalendowatch](https://twitter.com/mzalendowatch)