

# GAPS THAT HINDER PERSONS WITH DISABILITIES FROM ACCESSING EFFECTIVE SOCIAL PROTECTION IN KENYA

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## Key policy messages

- 1 There exists provision for physical and informational accessibility for children and adults with disabilities.
- 2 A national implementation plan on social protection for children and adults with disabilities is in place but it lacks clarity on roles and responsibilities of various actors. The enforcement mechanism is also unclear, an aspect which may hamper implementation.
- 3 The Persons with Severe Disabilities Cash Transfer (PWSD - CT), the Older Persons Cash Transfer (OPCT) provide a good framework for social protection for PWDs even though budgetary allocation for PWDs under social protection policy still remains unclear especially in terms of sources of funding.

## Overview

The right to social protection is explicitly guaranteed in the Constitution of Kenya of 2010 (Article 43 [1e]). The representation of children with disability in the Kenya National Children Assembly is also provided for. Additionally, the National Council for Persons with Disabilities (NCPWD) has county officers who are mandated to ensure mainstreaming of disability and inclusivity at county level. The government also

recognizes the need to establish a participatory management information system (MIS) for social protection in Kenya to harmonize and consolidate different existing mechanisms to ensure effective social protection initiatives. However, the intervals at which the information should be collected are not specified.

Rights and accessibility to social protection have a good ranking in Kenya as per the anal-

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ysis of various laws and policies. This is mainly because the Constitution of Kenya (2010) provides for rights for all citizens regardless of ‘disability, race, gender’ among others. It also provides for non-discrimination on the basis of disability or any other prejudices thus providing a strong basis on which specific policies relate to and treat PWDs.

## Results

These results and policy recommendations are drawn from analysis of national policies and re-analysis of national data sets. A comprehensive policy analysis that specifically addressed the four domains of education, health, labour markets and social protection was undertaken. The review involved identification of relevant policies for each domain after which each identified policy was rated by carrying out content analysis to determine if PWDs are mentioned

and where mentioned, the level of detail provided. A total of six (6) policies on social protection were identified, three were selected for analysis while minor content analysis was carried out on the remaining three (3).

Main policies analysed include: the Kenya Social Assistance Act (2013); the Kenya National Social Protection Policy (2011); and the National Social Protection Bill (2014). Figure 1 below shows the ranking of different elements under the social protection.

The policy is intent on inclusivity, right to health, information management system, accessibility and the national implementation, which explains why they rank well. Enforcement ranks lowest because it is not clearly set out in the policy. In terms of budgeting there is no clarity on sources of funding for PWD-related social protection initiatives.

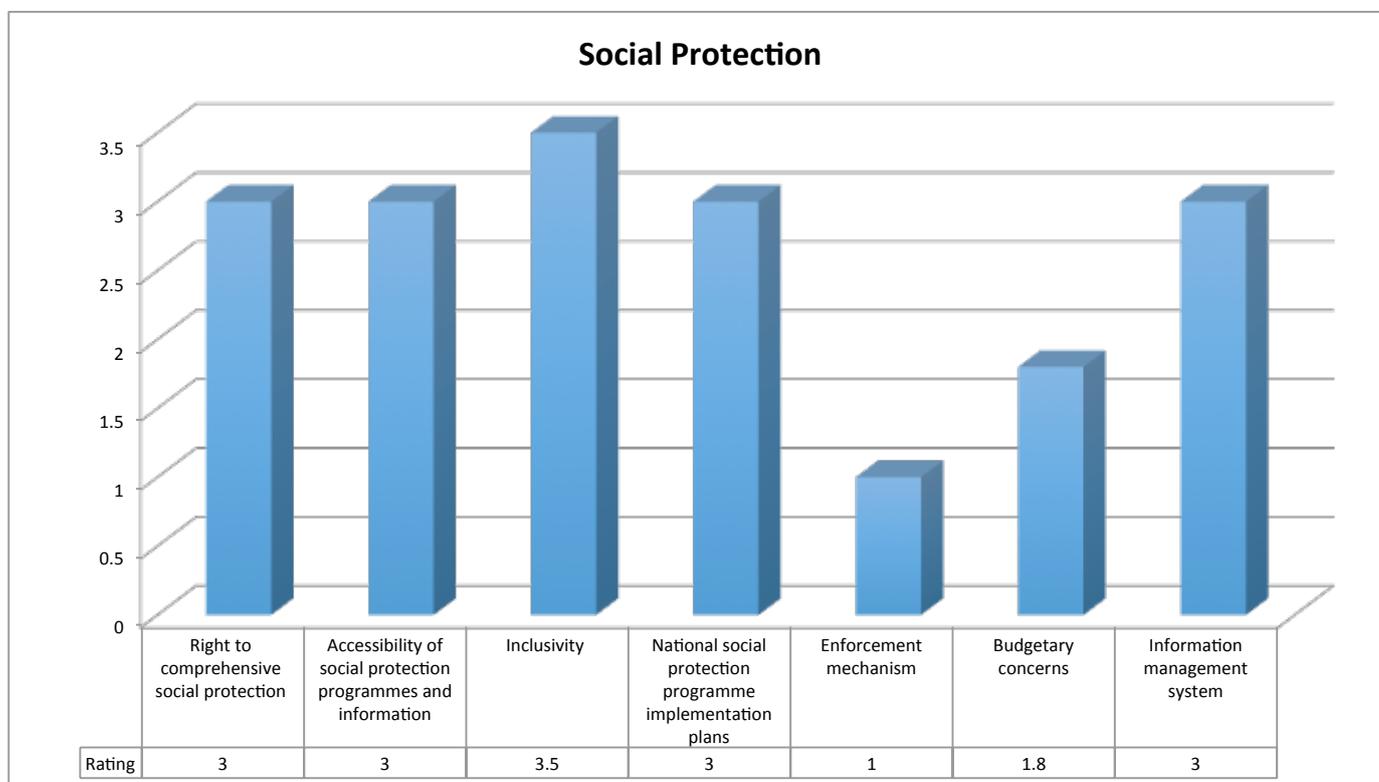


Figure 1: Social Protection Rating

***There exists provision for physical and informational accessibility for children and adults with disabilities.***

In the Kenya Constitution Article 54(1) a) a person with any disability is entitled access to educational institutions and facilities for PWDs that are integrated into society to the extent compatible with the interests of the person; (c) to reasonable access to all places, public transport and information;(d) to use Sign language, braille or other appropriate means of communication; and (e) to access materials and devices to overcome constraints arising from the person's disability. Concerning children, 'every child has the right education' under Article 53 (1e).

The PWD Act also makes similar provisions requiring public and private employers to ensure physical and informational accessibility for PWDs. Additionally, Article 10 of the Kenya Constitution provides for participation of all citizens meaning that PWDs and Disabled Persons Organizations (DPOs) are able to take part in policymaking as well as during implementation.

***A national implementation plan on social protection for children and adults with disabilities is in place but it lacks clarity on roles and responsibilities of various actors. The enforcement mechanism is however unclear which may hamper implementation.***

The Kenya social protection policy outlines a clear implementation plan, which is however not backed by clarity on sources of funding or a clear enforcement mechanism. Article 35(1) of the Social Assistance Act 2013 does not clearly define the sources of the funds. The manner in which the funds are to be used is also not clear and specific as seen from Article 35(2) although it mentions that they will be used to provide assistance to persons in need of social assistance.

This may limit resources available to fully implement it. On the other hand, inadequate enforcement mechanisms may lead to inadequate implementation and non-compliance.

***The Persons with Severe Disabilities Cash Transfer (PWSD - CT) and the Older Persons Cash Transfer (OPCT) programs provide a good framework for social protection for PWDs even though budgetary allocation for PWDs under social protection policy still remains unclear especially in terms of sources of funding.***

PWDs benefit from the PWSD - CT that targets children and adults with disabilities who need full time caregiver support. For the 2015/16 financial year, the Ministry of Labour and Social Services reported that the program covers 45,505 households who receive 2,000 Kshs per month (paid out once every two months). Some elderly persons with disability benefit from the OP Cash transfer program. Additionally, the government and the NCPWD work closely with Disabled Person's Organizations (DPOs) who work directly with PWDs to provide social protection and other services.

These schemes help guarantee social protection for PWDs even though the sources of funding are not explicitly outlined leaving the decision to the budgeting offices which may result in slower scale-up. Another challenge is the fact that there is no clear definition of 'severe disability' thus a disadvantage to certain categories of PWDs whose disabilities may be less visible.

### **Recommendations**

1. Clear allocation of roles and responsibilities as well as a robust enforcement mechanism should be clearly outlined in the social protection national implementation plan and other social protection policies. This will boost implementation and enforcement.

2. The cash transfer program must expand to meet PWD needs across the country to ensure social protection for all as provided for in Article 43 of the constitution.
3. 'Severe disability' has to be clearly defined and a robust, fair and equitable criteria for selecting beneficiaries of the cash transfer systems put in place to ensure that PWDs in need of this benefits are not left out.

### Further reading

Khaemba Winnie, Kariuki Joan and Kingiri Ann (2016). Bridging the gap on disability policy analysis report.

Wafula Sam, Olenja Joyce and Nyariki Emily (2017). Final Report: Bridging the gap on Disability-Secondary Data Analysis Kenya Report.

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