

Policy Platform Developed by Women with Disabilities in Kenya



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Introduction

This policy platform is an advocacy instrument for disabled people's organizations (DPOs) to engage with national and county governments to ensure the inclusion of women with disabilities in development processes. It was developed with inputs from Kenyan women with disabilities from 18 different organizations. Women Challenged to Challenge organized the formulation of this policy platform, with the support from the International Foundation for Electoral Systems (IFES) through a platform workshop with representatives from women-focused DPOs from various counties in Kenya.

This platform represents the first time women with disabilities in Kenya have come together to define unified policy priorities and was developed to ensure that the voices and rights of women with disabilities were enshrined in policy development and implementation processes at national and county levels. The women identified six priority areas: 1) political participation; 2) economic empowerment; 3) access to information; 4) equality and non-discrimination 5) social protection and 6) access to built environment and transport. These priority areas were selected to be addressed during the election period to target policy makers and DPOs to ensure mainstreaming and inclusion of women with disabilities, both in policy and implementation, are a priority. The priority areas described below have identified the key actors in every category together with legislative frameworks addressing the priority areas for effective engagement.

Persons with disabilities in Kenya, as in many parts of the world, continue to be overlooked in the development process and encounter multiple barriers to participation in political and public life. Widespread discrimination, rooted in pervasive stereotypes and attitudes, heavily contribute to the exclusion of persons with disabilities from socio-political and economic participation. Lack of effective and supportive laws, regulations, and policies has rendered the participation of persons with disabilities in public life minimal. They have been restricted from making social and economic contributions in their families, communities and nations, because their difference is always equated with inability.

Women with disabilities face double discrimination, first as women and secondly as women with disabilities. This is due to the myriad challenges faced by women with disabilities such as lack of access to education, myths and cultural practices that are discriminatory and harmful to women with disabilities, high poverty levels, lack of finances and poor access to information, among others.

The World Health Organization (WHO) estimates that globally, persons with disabilities constitute 15 percent of the world's population. Using this estimate, with a population of approximately 40 million people, Kenya is home to over six million persons with disabilities, of whom 3.1 million are women with disabilities, based on statistics provided in the national census indicating that women comprise of 52 percent of the Kenyan population. The 2007 Kenya National Survey for Persons with Disabilities indicates that 4.6 percent of Kenyans have a disability. This number is considerably lower than the WHO estimates due to lack of disaggregated data on disability and gender in the country, as well as stigma associated with self-identifying as having a disability.

The participation of women and girls with disabilities in education, employment, politics and other sectors of development is very minimal. The exclusion of persons with disabilities in these processes has limited their personal independence. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) was ratified in 2008 and forms part of the laws of Kenya. This international standard, combined with the Constitution of Kenya (2010), provides the basis for the promotion of human rights of persons with disabilities in Kenya. The CRPD defines a person with a disability as "all persons 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."

International Context on the Rights of Women with Disabilities

The plight of persons with disabilities, particularly women and girls with disabilities, and the need for their inclusion and empowerment has long been recognized by the international community. Article 29 of the CRPD provides for the participation and representation of persons with disabilities in political and public life, while Article 6 recognizes the rights of women with disabilities. The CRPD sets out a twin-track approach to promoting gender equality and the empowerment and participation of women with disabilities in political and public life. The CRPD also calls for equality between men and women and stipulates the responsibilities of states parties to take measures to ensure the full and equal enjoyment by women with disabilities of all human rights and fundamental freedoms. Per the CRPD Initial Concluding Observations for Kenya (2015), women with disabilities face multiple forms of discrimination and the absence of measures to prevent and combat different forms of discrimination against them. The observation committee also expressed concern over the lack of information on public policies and programs on gender equality that include the rights of women and girls with disabilities.¹

Other international standards, such as the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) have addressed the concerns of women with disabilities. In its recommendations – including General Recommendations 24 (Women and Health [1999]),² 27 (Older Women and the Protection of their Human Rights [2010]),³ and 28 (Core Obligations of States Parties under Article 2 [2010])⁴ – CEDAW affirms the need for special attention to the health rights of women and girls with disability. CEDAW's General Recommendation 18 focuses specifically on women with disabilities, recommending that states parties provide information on women with disabilities in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.”⁵

Women with Disabilities in Kenya's Legislative Framework

Kenya's constitution provides a powerful framework for addressing gender equality and the rights of minority groups. However, despite legal protections for women broadly, the position of women with disabilities remains very vulnerable. Women constitute 52 percent of Kenya's population, and are large contributors to its economy, especially in agriculture and the informal business sectors; however, they remain politically, socially and economically unrepresented.

The situation for women with disabilities is even worse, as their participation is hampered by physical, social, communication, institutional, and attitudinal barriers. Some of these barriers – such as lack of information in accessible formats, inaccessible built environments, under-representation at decision-making levels, low access to education, and myths and practices that are discriminatory to women with disabilities – provide a hindrance to the participation of women with disabilities in development

¹ UNCRPD/C/KEN/CO/1, 2015

² Comm. on the Elimination of Discrimination against Women, *General Recommendation 24*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom24>.

³ Committee on the Elimination of Discrimination against Women, *General Recommendation 27*, U.N. Doc. (Dec. 16, 2010), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/472/53/PDF/G1047253.pdf?OpenElement>.

⁴ Committee on the Elimination of Discrimination against Women, *General Recommendation 28*, U.N. Doc. Dec. 16, 2010), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>.

⁵ Committee on the Elimination of Discrimination against Women, *General Recommendation 18*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>.

processes. Statistics show that since independence, no woman with a disability has been elected to Parliament, however a number have been nominated for national and county government position. The Constitution of Kenya (2010) provides a legal framework that promotes equity and equality. It explicitly guarantees the human rights and liberties of all citizens. Indeed, there are numerous gains for marginalized groups in the constitution. It promotes equity and equality by promoting the participation of women, persons with disabilities and minorities in all aspects of development. The constitution provides for affirmative action, gender balance in representation and progressive realization of participation of all groups.

There is a need for public education on the new electoral provisions that promote equity, affirmative action, representation and effective participation of women with disabilities in the electoral process. While the Constitution of Kenya (2010) provides for citizen participation, the government and stakeholders need to be sensitized to the rights of women with disabilities to ensure their rights are protected and promoted.

Priority Areas for Intervention

Priority Area 1: Political Participation

Participation and representation are key for a functioning democracy, ensuring the effective and meaningful inclusion of women with disabilities in political and public life. With access to political life, women with disabilities can influence policies, advocate for change, organize regional alliances and increase their participation in mainstream development projects that directly impact their lives. Participation and representation create a culture of inclusion, diversity and non-discrimination.

ACTION ITEMS	STAKEHOLDERS
<p>Enabling Legislation Amend legislation on the two-third gender rule to ensure inclusion and participation of women with disabilities in political and public life</p> <p>Develop policies that address issues for women with disabilities (e.g., a National Disability Policy or an Equality Policy to ensure participation by women with disabilities)</p>	<p>Implementation: National and County Governments, National Gender and Equality Commission, Independent Electoral and Boundaries Commission, Kenya Women Parliamentarians Association</p> <p>Advocacy: DPOs</p>

ACTION ITEMS	STAKEHOLDERS
<p>Political Parties Mainstream disability issues in political party platforms, particularly issues for women with disabilities through their women wings of political parties to ensure participation and representation</p> <p>Waive membership fees in political parties for special interest groups (e.g., women with disabilities)</p> <p>Political parties should provide 30 percent of their funds to ensure participation of women with disabilities through capacity building</p>	<p>Implementation: Office of the Registrar of Political Parties, Political Parties</p> <p>Advocacy: DPOs</p>
<p>Disability Organizations Capacity building of women with disabilities through civic education, disability mainstreaming and engagement with governments (county and national) to ensure participation of women with disabilities in political processes</p>	<p>Implementation: National Council for Persons with Disabilities, Other prominent disability organizations</p> <p>Advocacy: DPOs</p>

Legislative Framework Addressing Political Participation

Constitution of Kenya 2010

- **Article 27(4,5):** Prohibits discrimination based on gender and/or disability, among other factors, and sets guidelines on effecting affirmative action.
- **Article 54(2):** Promotes the progressive realization of representation of persons with disabilities in both appointive and elective positions.
- **Articles 97(1)(c) and 98:** Provides for representation of women with disabilities in the Parliament.
- **Article 100:** Requires that Parliament enact legislation to promote representation of marginalized groups.
- **Article 177:** Outlines the composition of county assemblies, which should include representation of persons with disabilities.

International Conventions

Additionally, the Constitution of Kenya (2010) explicitly states that all treaties and conventions signed and ratified by the state become part of the laws of the country. Kenya signed and ratified the CRPD in May 2008. Article 29 of the CRPD provides for participation and representation of persons with disabilities in political and public life. Additionally, Article 6 of the CRPD recognizes the situation of women with disabilities and the need for governments to foster an enabling environment for them to fully participate in public life on an equal basis with others.

Priority Area 2: Access to Information

Access to information and communication technologies (ICT) plays a critical role in enabling persons with disabilities to live independently and fully participate in society on an equal basis. Accessible and usable ICTs are critical enablers that allow persons with disabilities to realize full and effective opportunities to participate, on the basis of equality, in all aspects of development. Persons with visual and hearing disabilities are disproportionately affected by lack of access to ICT. Of particular concern is that most ICT materials and equipment are designed in a format not accessible, thereby impeding the right of access. Access to information is critical for enabling women with disabilities to exercise their voice, effectively monitor and hold government accountable, and engage in informed dialogue about decisions that affect their lives.



A woman with a disability casts her ballot.

HOW TO IMPLEMENT	STAKEHOLDERS
<p>Enabling Legislation Develop inclusive plans, program, policies and the legal framework on telecommunications, information technology, and e-commerce</p> <p>Establish a procurement policy for public institutions that would ensure purchase of accessible technology</p>	<p>Implementation: National and County Governments, Communications Authority of Kenya, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>
<p>Subsidize the cost of the assistive technologies for people with disabilities, such as Job Access with Speech (JAWS), a screen-reading technology for those who are visually impaired</p>	<p>Implementation: National and County Governments, Communications Authority of Kenya, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>
<p>Ensure government websites have accessibility options</p> <p>Ensure that job vacancy announcements are made in accessible formats</p>	<p>Implementation: National and County Governments, Communications Authority of Kenya, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>

Legislative Framework Addressing Access to Information

Constitution of Kenya 2010

Article 7 recognizes sign language, Braille and other communication accessible to persons with disabilities as part of the official languages.

Communications Authority Act

The act establishes a commission to ensure compliance with accessibility to information and that ICTs are accessible to all persons with disabilities.

International Conventions

Article 21 of CRPD provides for freedom of expression and opinion, and access to information.



A participant with visual disability accessing information through braille at a meeting on development of the National Disability Policy.

Priority Area 3: Equality and Non-Discrimination

Equality affirms that all human beings are born free and equal. Non-discrimination is an integral part of the principle of equality. The twin rights of equality and non-discrimination are an essential component of all other human rights and freedoms. Women with disabilities are equal before the law and have legal capacity to make choices, and are entitled without any discrimination to the protection of the law. In this respect, the legal framework in Kenya prohibits any discrimination on the grounds of disability and guarantees equal and effective protection against discrimination.

HOW TO IMPLEMENT	STAKEHOLDERS
Enabling Legislation Monitoring of the implementation of all policies regarding persons with disabilities disaggregated to address women with disabilities at national and county levels	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs
Enforce measures to ensure that cases of discrimination against women with disabilities are invocable before courts and victims receive appropriate redress	Implementation: National and County Governments, National Council for Persons with Disabilities, Judiciary Advocacy: DPOs
Offer technical support on disability issues to the 47 county governments	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs

Legislative Framework Addressing Equality and Non-discrimination

Constitution of Kenya 2010

- **Article 27 (4,5):** Prohibits discrimination based on gender and/or disability, among other factors, and sets guidelines on affirmative action.
- **Article 28:** Promotes the respect and protection of human dignity for every person.
- **Article 50:** Ensures that a Deaf person has the assistance of an interpreter, without payment, in judicial processes to ensure a fair hearing.
- **Article 54(2):** Promotes the progressive realization of representation of persons with disabilities in both appointive and elective positions.
- **Article 81:** Requires the electoral system to comply with the principle of fair representation of persons with disabilities.
- **Article 82(2)(C):** Requires the electoral system to ensure that voting takes into account the special needs of persons with disabilities.
- **Article 100:** Requires that Parliament enact legislation to promote representation of marginalized groups.
- **Article 177:** Outlines the composition of county assemblies, which should include representation of persons with disabilities.

International Conventions

Article 5 of the CRPD calls on governments to outlaw all forms of discrimination on the basis of disability, ensure effective protection against disability discrimination and that reasonable accommodation is made for persons with disabilities.



A woman with visual disability participating in a meeting on development of the National Disability Policy.

Priority Area 4: Economic Empowerment

The right to work and employment include the right to access opportunities for gainful living on an equal basis with others without discrimination. The Persons with Disabilities Act and the Employment Act safeguard and promote the right to work, including for those who acquire a disability during employment by taking appropriate steps to rehabilitate such workers to return to employment upon recovery. The Persons with Disabilities Act (2003), in addition to stipulating enhanced access for persons with disabilities to job markets, provides a range of incentives to employers, including conditions on recruitment, hiring and employment, continuation of employment, career advancement and safety and healthy working conditions. The provisions stipulated in the Employment Act do not address specific issues of women with disabilities but all persons with disabilities in general. However, these provisions are often not adhered to by employers in public and private sector.

HOW TO IMPLEMENT	STAKEHOLDERS
Enabling Legislation Revise legal provisions on affirmative action and employment meant for persons with disabilities and disaggregate to include women with disabilities	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs
Promote opportunities for self-employment, and access to financing to enterprises owned by women with disabilities and caregivers of persons with disabilities	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs
Promote effective access to general, technical and vocational guidance programs, placement services, and vocational and continuing training	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs
Promote social integration of women with disabilities in lending institutions	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs

Legislative Framework Addressing Economic Empowerment

Constitution of Kenya 2010

- **Article 54(2):** Entrenches the affirmative action principle to facilitate the progressive realization of at least five percent of persons with disabilities in elective and appointive posts.
- **Article 43:** Recognizes economic and social rights including the highest attainable standard of health, housing, and sanitation; freedom from hunger; access to clean water; social security; education; and emergency treatment.

Additional Legislation

- County Governments Act (2012)
 - **Article 9:** Addresses inclusion and integration of minorities and marginalized groups, including persons with disabilities. It requires county governments, public and private organizations, and private individuals to observe the principles of non-discrimination, equality, equal participation, respect and protection of minorities and marginalized communities.
- Public Finance Management Act (2013)
 - **Article 137 (C):** Recognizes the need for inclusion of persons with disabilities in the county budget and economic forum, which is a forum to provide a means for consultation by the county government on preparation of county plans.
 - **Article 207:** Addresses public participation by persons with special needs including persons with disabilities in matters relating to the county's financial processes.

- **Public Procurement and Disposal Act (2012)**
 - **Article 2:** Interprets disadvantaged group to mean persons perceived to be denied access to resources and tools that are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities, and includes enterprises owned by women, youth and persons with disabilities.
 - **Article 21 (1):** Addresses affirmative action for persons with disabilities. No tender securities shall be required from small and micro enterprises or enterprises owned by disadvantaged groups participating in procurement proceedings.
 - **Article 25:** Addresses participation of persons with disabilities. Procuring entities shall make use of existing framework contracts with disadvantaged groups, small and micro enterprises wherever appropriate to provide an efficient, cost effective and flexible means to procure goods, works and services that are required repeatedly or continuously over a set period.
- **Employment Act (2007):** Outlaws discrimination in employment due to disability.
- **Work Injury Benefit Act No.13 (2007):** Provides for compensation for employees victim to work-related injuries.



Participants in group discussions during the policy platform meeting in Nairobi, Kenya, in July 2017.

Priority Area 5: Access to Built Environment and Transport

Access to built environments includes measures put in place to ensure that public buildings and places are accessible to persons with disabilities to enable them to live independently and fully participate in socio-economic, political and cultural aspects of life on an equal basis with others. Accessibility is a prerequisite for inclusion; without access to buildings, transportation, social services, and information, participation and full inclusion cannot be realized. Accessibility is an essential human right for persons with disabilities in reducing vulnerability and isolation and provides them with autonomy and means to pursue an active social and economic life.

HOW TO IMPLEMENT	STAKEHOLDERS
<p>Enabling Legislation Develop regulations, guidelines and adjustment orders in line with the Disability Act and other relevant legislation</p> <p>Develop and adapt standards, regulations, guidelines and accessibility orders for public transport in line with the existing legal framework</p>	<p>Implementation: National and County Governments, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>
Create a Universal Design Center that would act as a cross-departmental focal point to harmonize, track and deliver results in the area of barrier removal	<p>Implementation: National and County Governments, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>
Develop and implement accessible public transportation action plan for delivering accessible bus, train, and taxi services	<p>Implementation: National and County Governments, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>
Modification and retrofitting of public buildings and places	<p>Implementation: National and County Governments, National Council for Persons with Disabilities</p> <p>Advocacy: DPOs</p>

Priority Area 6: Social Protection

Social protection is the right of persons with disabilities to access to a basic standard of living on an equal basis with others. The Persons with Severe Disability Cash Transfer Program currently targets 27,200 households.

HOW TO IMPLEMENT	STAKEHOLDERS
Enabling Legislation Review Laws and policies on cash transfer	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs
Sensitize and train women with disabilities and caregivers on existing social protection programs	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs
Lobby for mainstreaming of gender and disability in existing social protection programs	Implementation: National and County Governments, National Council for Persons with Disabilities Advocacy: DPOs

Legislative Framework Addressing Social Protection

- **Constitution of Kenya (2010)**
- **Persons with Disability Act No. 14 (2003)** (or its successor)
- **CRPD Article 28:** Emphasizes the role of poverty in households with persons with disabilities and addresses the importance of an adequate standard of living and social protection for persons with disabilities.
- **National Disability Policy**
- **National Policy on Ageing and Older Persons**

Conclusion

This policy document provides information on promoting the human rights of women with disabilities, integrating human rights promotion throughout all levels of government and allocating sufficient financial resources to disability inclusion. The document also provides DPOs with a guide to ensure the inclusion of women with disabilities in the development processes at national and county levels.

The platform document was developed in support of the following organizations:

1. Women Challenged to Challenge
2. Kenya Association for the Intellectually Handicapped
3. Down Syndrome Society of Kenya
4. Albinism Society of Kenya
5. Mutarakwa Organization for Persons with Disability
6. Federation of Deaf Women
7. Nairobi Women Group
8. Uasingishu Deaf Community
9. Short Stature Society of Kenya
10. Disability and Women Development Strategies
11. Friends of the Blind
12. Positive Exposure
13. Kenya National Association for the Deaf
14. Kenya Law Reform
15. Users and Survivors of Psychiatry
16. Garissa Disabled Association
17. National Council for Persons with Disabilities
18. Embakasi Deaf Women Group



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