

LABOUR MARKET SITUATION IN KENYA: PROMOTING RIGHT TO WORK AND EMPLOYMENT FOR PERSONS WITH DISABILITIES (PWDs)

WINNIE KHAEMBA*, ANN KINGIRI*, JOYCE OLENJA**, SAM WANGILA**, EMILY NYARIKI**, ANDERSON KIRAITHE*** AND WASHINGTON OLOO***

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Key policy messages

- 1** The government of Kenya has made progress in formulating a number of policies that aim to enhance different elements that promote the right to work on an equal basis. These include promotion of open, inclusive and accessible work environment and prohibition of discrimination on the basis of disability.
- 2** The impact of these policies on PWDs with regards to access to work and employment opportunities is minimal; a situation attributed largely to inadequate enforcement mechanisms by the government. The other reason relates to failure by public and private sectors to consider PWDs on impartial basis for employment opportunities.
- 3** Empowered PWDs can compete equitably in the job market and contribute to the country's economic growth. This however should be supported by policies and strategies that enhance capacity building efforts and empowerment mechanisms that are conducive for PWDs.

Overview

Kenya's commitment to promotion of access to the labour market on an equal basis is evidenced in the different policy instruments. Some of the key instruments include the Employment Act (Revised Edition 2012 [2007]); Kenya National Employment Policy (2014);

PWD Act (2003); National Disability Development Fund (NDDF); Article 54 (2) of the Kenya Constitution; Ministry of Labour (MoL) Strategic Plan (2013 - 2017); The Public Procurement and Asset Disposal Act (2015); Labour Regulations Act (2007); Occupational Health and Safety

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* African Centre for Technology Studies (ACTS)

** School of Public Health, University of Nairobi (UoN)

*** United Disabled Persons of Kenya (UDPK)

Act (2007); and Remuneration and Taxation Act. These instruments adopt a generalised approach to labour market access. However, specific reference to PWDs with respect to right to work and potential opportunities for employment is provided for in different but subtle ways. For instance, the National policy states that out of all the people that are employed 5% should constitute PWDs. The Public Officers' Ethics Act 2003 on the other hand has provision for non-discrimination for PWDs in public service employment opportunities. The Disability Policy states that 'the Government shall conduct awareness campaigns in collaboration with organizations of and for persons with disabilities, parents groups, and other service providers'. Arguably, this should translate into targeted awareness creation efforts to reduce stigma and discrimination of PWDs. In addition to the fact that employment opportunities for PWDs

are spread out across formal and informal sector, there are other efforts by the government towards creating sustainable self-employment opportunities for PWDs. These include business grants and tender procurement, opportunities like Uwezo fund etc. Other efforts include the access to government procurement opportunities [AGPO] capacity building initiative which focusses on funds management leading to issuance of AGPO certificates. Despite these policy and practical related efforts, there is minimal tangible evidence to demonstrate impact with regards to improved right to labour market and related benefits for PWDs.

These results and policy recommendations are drawn from analysis of national policies and re-analysis of national data sets. The results presented here form part of a larger research project: *Bridging the Gap: examining disability and development in four African countries.*

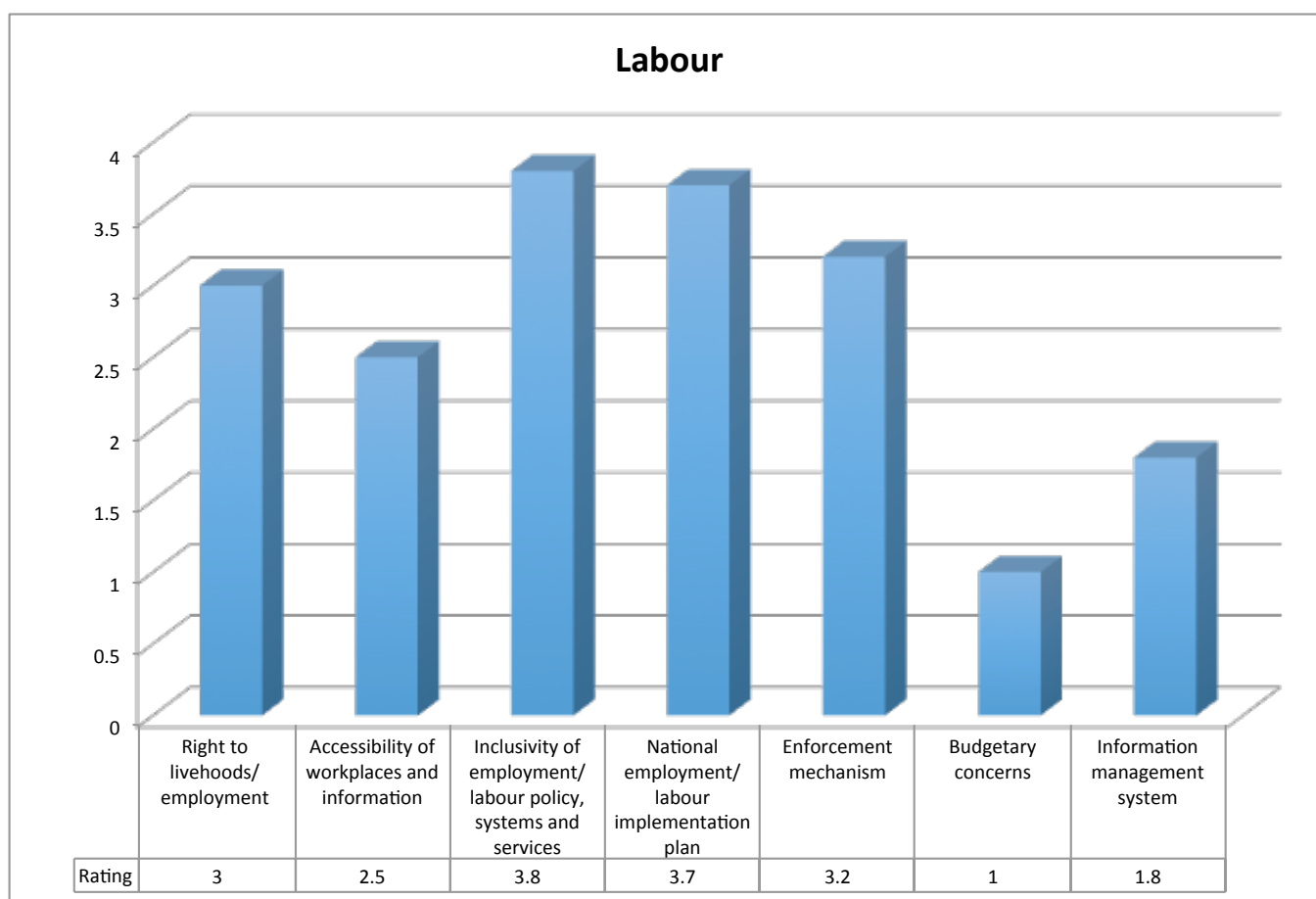


Figure 1: Analysis of different elements in Kenya's policies and legal instruments linked to the labour market

Results

Analysis of secondary materials including policy instruments that speak to the labour market situation in Kenya reveals the following findings (see figure 1).

1. Kenya policy and legal instruments related to labour market take cognisance of disability with respect to different elements shown in Figure 1.
2. Inclusivity and the implementation plan rank high because of explicit mention of non-discrimination in the main disability policy as well as setting aside a 5% quota for PWDs in elective and appointive positions.
3. Despite Kenya having fairly good policy and legal instruments, the analysis of these instruments identified a few gaps:
 - lack of clear budget allocations to guide work and employment strategies for PWDs;
 - accessibility of workplaces and information access for PWDs still remains a challenge;
 - Further, the government enforcement mechanisms of the existing policy and legal instruments is weak.
4. The poor monitoring and enforcement structures result in noncompliance with the 5% employment policy for PWDs and discriminative funding mechanisms.
5. Further secondary data analysis according to Wafula et al. (2017) and qualitative interviews with PWDs and their families on their experience in labour markets to better understand current policy and practice reveal that PWDs still face varying barriers in accessing employment. These are confounded by the following factors:
 - Extent of access to employment varies with type of disability, severity of disability, education attainment.
 - Access to employment could be attributed to poor infrastructure and difficult terrain that did not allow people with disability to access education and subsequently employment (Cobley 2012).
 - Barriers on access to employment are linked to existing means of production which in rural settings is largely attributed to farming and small enterprises (AU for the Blind, 2007).
 - Low literacy and skilled levels among PWDs limit competition in the job market.
 - The public and private sectors unwillingness to employ PWDs.
 - Employment opportunities and lack of disability-friendly work environments.
 - PWDs and in particular women found it easier to migrate to towns as it has more opportunities for employment (Ingstad and Grut 2007).
 - Poor remuneration and discrimination of PWDs when compared with persons without disability.

Recommendations

- Government enforcement mechanisms for policy instruments that promote right to work on equitable basis should be strengthened.
- Government should formulate and implement policy instruments that provide for i) budgetary allocation to support increased employment opportunities for PWDs both in the public and private sector and ii) information management systems that enhance increased awareness of employment opportunities for PWDs.

- The government should integrate in the performance contracting system enforcement mechanisms for aspects relating to employment of people with disabilities. These include the enforcement of the 5% employment policy and enforcement of procurements regulations hence increased access to business grants and lucrative tenders by PWDs.
- The AGPO capacity building initiative should be reviewed in order to address gaps and challenges relating to access of business grants and tender procurement opportunities by PWDs. This capacity building programme and others, which are related, should also consider mentorship as a way of empowering PWDs. This would go a long way in building their confidence related to doing business and job performance as employees.
- The public and private sector should make deliberate efforts to employ PWDs in com-

pliance with the relevant Kenyan employment policies.

Further reading

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African Centre for Technology Studies
 ICIPE Campus, Kasarani
 P.O. Box 45917 - 00100, Nairobi, Kenya
Telephone: +254 020 7126895; +254 020 7126890;

+254 020 7126889; +254 020 7126894
Cell Phones: Airtel: +254 737 916566;

Safaricom: +254 710 607210
Fax: +254 020 2339093

Email: info@acts-net.org

website: www.acts-net.org