

## *Policy Brief:*

Expanding equity and inclusion in education and employment of persons with disabilities



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# Introduction

The national census (2019) established that 2.2% of Kenyans aged five years and above have a special need or disability, translating to 918,270 Kenyans (KNBS, 2020). The census considered a limited range of special needs, but this is the lowest estimation ever established by any study. Other available estimates of the disability prevalence include the Ministry of Education National Survey (2018), which reported 11.4% based on 3–21 years; the Kenya National Census of 2009, which reported 3.5%, and the Kenya National Survey for Persons with Disabilities (KISE, 2006) which reported 4.6%. Using these results, the population of Kenyans with special needs and disabilities may vary from 400,000 to 2.3 million.

## LEGAL FRAMEWORK ON EDUCATION, EMPLOYMENT AND SOCIAL PROTECTION

Kenya is a signatory to several international and regional legally binding documents and protocols that protect the rights of Persons With Disabilities (PWDs). Kenya has ratified the International Convention on Social and Economic Rights (UN, 2008), the African Charter on the Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, Universal Declaration of Human Rights (1948) and the 1983 International Labour Organisation Convention on Vocational Rehabilitation and Employment of disabled persons, which all advocate for the rights of Persons With Disabilities.

These international and regional conventions have been domesticated through the Kenyan Constitution, which protects the rights of PWDs to quality education that is compatible with their interests. The Constitution also guarantees the economic, social and cultural (ESC) rights of all Kenyans.

Education policies that operationalise the constitution include The Children's Act,

(2001<sup>1</sup>) and The Basic Education Act<sup>2</sup>(2013). Employment policies include: The Public Officers' Ethics Act (2003), The National Employment Authority Act (2016), The Public Procurement and Disposal Act (2015) and Regulations (2006), The Persons with Disabilities Act (2003) (revised 2012). The National Social Protection Policy (2011) and The Social Assistance Act (2013) aim to ensure that all Kenyans including persons with disabilities are able to live in dignity despite the various shocks and risks they may face over their lifetime.

Despite global commitments towards achieving disability-inclusive development, Persons With Disabilities (PWDs) continue facing discrimination in all spheres of life.

## EDUCATION AND TRAINEES OF LEARNERS WITH DISABILITIES

### 1. Enrolment of learners and trainees with special needs.

If children and the youth are given access to education, PWDs can acquire skills, knowledge, competencies and attitudes that make them employable. However, 16% of these children and the youth are out of school (VSO Jitolee and MoE, 2015). Based on capitation grant, there were 139,732 learners enrolled in 3,084 primary schools in 2021/2022. At secondary level, there were 5,511 SNE learners enrolled in 38 secondary schools established for SNE learners and 78 integrated secondary schools. At 2,448, fewer SNE learners at were enrolled in the five SNE technical institutions designated for such learners. The integration of learners with special needs in National Polytechnics and Technical Training Institutions (TTIs) is very low, 0.1% and 0.2%, respectively. It is slightly higher in VTIs, at 3.3% (GOK, 2020).

## 2. Education quality.

Overall, learners with disabilities scored an average of about 20 percentage points below their counterparts without disabilities for both primary and secondary levels.

### Barriers to quality education

#### i. Inadequate adaptation for learners sitting national examinations.

The KCPE examination Rule 12 provides for braille and large print papers, the provision of an alternative paper to English (Kenyan Sign Language KSL) for learners with hearing impairments as well as the extension of time for candidates with disabilities. The KCSE examination Rule 19 also provides for these three accommodations and goes further to add a fourth one – adapted question papers for candidates with hearing impairments based on the adapted curriculum. Further, learners with other diverse special needs are assessed before the administration of both examinations to determine the specialised/individualised accommodations for each unique need. However, the National Gender and Equalisation Commission (NGEC) notes that only English and Science subjects had been adapted for learners with hearing impairments by the year 2016 (NGEC, 2016). The report observed that even the extra time allowed (30 minutes) was not adequate to accommodate the slower pace of learning for children with disabilities.

Overall, learners with disabilities scored an average of about 20 percentage points below their counterparts without disabilities across the four years for both primary and secondary levels. This means that in spite of the examination accommodations, having a disability may cause a drop of up to nearly a fifth of the total score in KCPE and KCSE.

#### ii. Inadequate learner capitation funding under Free Primary Education and Free Secondary Education

With regards to FPE, the policy guidelines stipulate capitation funding at the rate of Kshs. 1,420 per learner per year. This applies to all learners (without disabilities or special needs). The policy guidelines do not spell out an alternative capitation rate for learners with disabilities who have challenges posed by disability.

For several years, however, the MOE has struggled to address this gap in funding for SNE learners through affirmative action grants that include FPE tuition top-up and Boarding subsidy grants. However, there is no stipulated allocation rate per learner for both grants. The rate may fluctuate from year to year according to budgetary allocation and the enrolment of SNE learners. Currently, the tuition top-up rate is Kshs 2,300/= per SNE learner per year while the boarding subsidy grants rate is about Kshs. 12,000/= per learner per year

For secondary education, the FSE policy currently provides capitation funding at the rate of Kshs. 22,244/=per learner per year and an additional Kshs. 35,730/= per year for a learner with special needs/disabilities for boarding and tuition subsidy. Table 9 presents the capitation grants for SNE learners from 2016 to 2021. The Government introduced free primary education (FPE) in 2003 and Free Secondary Education in (FSE) in 2008.

#### iii. Inadequate infrastructure grants for special primary and secondary schools.

In the 2016 /17 FY, the Ministry of Education was allocated infrastructure grants

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totalling Kshs. 759.9 Million specifically for special primary and secondary schools. The grants were disbursed to 180 special primary schools and 30 special secondary schools. In the subsequent financial years, the Directorate of Special Needs Education has not received a budgetary allocation for schools infrastructure development. However, the Directorates of Primary and Secondary Education are allocated infrastructure grants to disburse to regular as well as SNE schools. The allocations are inadequate for existing school infrastructure development needs

#### **iv. Inadequate number of SNE teacher trainees.**

The Ministry has only four technical institutions for learners with special needs. These are Machakos Technical Training Institute (TTI) for the Blind, Karen TTI for the Deaf, Sikri TTI for the Deaf and Blind and Nyang'oma TTI for the Deaf, which by 2020, had enrolled nearly 2,500 learners. The teachers are also poorly trained.

#### **v. Low capacity of Education Assessment Resource Centers to assess learners with special needs.**

Inclusive education requires that children with disabilities be included at all levels of education. For this to happen, comprehensive early assessments of children with disabilities should be provided, and a robust referral system should be in place. While 77% of the boys and 68% of the girls in special primary schools had been assessed prior to admission, only 43% of the boys and 35% of the girls in integrated primary schools had been assessed (KISE, 2018). This system is weak and, thereby, contributes significantly to the exclusion of children with disabilities at all levels of education.

#### **vi. Lack of an integrated data management system for early identification assessment and placement.**

The number of Kenyans with special needs and disabilities may vary from 400,000 to 2.3 million (MoE, 2020). Although this is not documented anywhere, one could attribute these sharp variations to a lack of standardised methodology and tools of inquiry into disability, the varying range of categories included in the various studies, varying age brackets, as well as different capacities (specialist and non-specialist) of the researchers and enumerators who conduct these studies.

#### **vii. Other challenges.**

Inadequate number of assistive devices and technologies, inaccessible school environment, unsuitable infrastructure like desks and chairs, negative attitude towards PWDs, parents preferring keep their disabled children at home for fear of violence and abuse and incoherent coordination among education stakeholders are other key barriers to the education of learners and trainees with disabilities.

## **EMPLOYABILITY OF PERSONS WITH DISABILITIES**

Sustainable Development Goal 8 seeks to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all women and men, including Persons With Disabilities, and equal pay for work of equal value. In Kenya, only 1% of Persons With Disabilities have formal employment (UN, 2015). The 2016 Kenya Integrated Household Budget Survey 2015-2016 (KNBS, 2016) showed that 64% of women with disabilities were employed in the informal sector

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(KNBS, 2016). Inclusion International (2020) notes that women with intellectual disabilities were less likely to find employment due to family concerns over safety in the workplace, lower levels of education, and because the type of jobs that tend to hire persons with intellectual disabilities involve manual labour, and these jobs mostly hire men.

### **SOCIAL PROTECTION, WELL-BEING BEYOND SIMPLY INCOME**

As mentioned earlier, the Public Procurement and Disposal Act (2015) and Regulations (2006), which pledges that 30% of government procurement contracts shall go to the youth, women and Persons With Disabilities without competition from established firms, is meant to ensure inclusive development. However, according to Sightsavers (2018, p. 3)<sup>3</sup> as quoted by ziziAfrique (2022), people with disabilities have struggled to benefit from these two policies. The study further indicates that only 4.9% of registered firms that access Government Procurement Opportunities are owned by Persons With Disabilities. The PSC Code of Practice for Mainstreaming Disability in the Public Service (2010) obliges public entities to accommodate reasonably the needs of Persons with Disabilities in public service by retaining, retraining and deploying public servants who acquire disabilities in the course of duty (PSC, 2018, p. 3). However, adherence to these regulations is not enforced.

<sup>3</sup> An Analysis of the Status of Persons with Disability in Kenya. Sightsavers Kenya

### **IMPACT OF COVID 19 ON EDUCATION AND EMPLOYABILITY OF PWDS**

The Coronavirus pandemic (COVID-19) made an already bad situation worse for Persons With Disabilities, both young and old. A report by ziziAfrique (2022) identified the following as some of the challenges PWDs faced with regards to education and training at the height of the COVID-19 pandemic in 2020/2021. Participants with hearing impairment could not access information about COVID-19. The Ministry of Education advocated for technology-enabled learning and teaching as an alternative to the traditional congregational approaches. However, most learners could not access learning because of a lack of necessary devices and internet connectivity. Some of the digital devices had a format that was inaccessible such as radios for the deaf learners and TV and YouTube teaching sessions that did not have sign language interpretations. This led to learners with disabilities regressing academically as reported by at least 60% of the headteachers interviewed in both countries.

Regarding employment, the study by ziziAfrique (2022), established that 20.6% of the respondents lost jobs in Kenya due to the closure of their businesses or retrenchments due to the economic impact of COVID-19. 73% of PWDs in Kenya indicated that they had experienced loss of income due to reduced hours of business as a result of curfews, reduced markets due to restricted movement, lockdowns, curfews and school closures, which were sources of both formal and informal (as markets) employment to Persons With Disabilities. Persons With Disabilities who lost or experienced a significant reduction in their income could be described as a population that fell below the poverty line.

## INCLUSIVE DEVELOPMENT, EDUCATION EQUITY AND EQUALITY AND DISABILITY INCLUSION

It is universally accepted that development cannot be possible without the empowerment and participation of every individual, especially the poor and excluded (inclusive of those with disabilities), who constitute the majority of the population (UN, 2016). The world cannot achieve inclusive development without addressing issues of equity and equality. According to EIGE (2020), equity is about fairness and justice. On the one hand, equality is also about ensuring that every individual has an equal opportunity to make the most of their lives and talents. Additionally, it is the belief that no one should have poorer life chances because of the way they were born, where they come from, what they believe or whether they have a disability. Equality recognises that historically, certain groups of people with protected characteristics such as race, disability, sex and sexual orientation have experienced discrimination. Equality is not always about treating everyone the same. It is about treating people in such a way that the outcome for each person can be the same.

Inclusive development focuses on the inclusion of all members of the society (especially the marginalised) into the social, economic, environmental and political dimensions of the society thereby, improving the wellbeing of the population in the long term and sustainably. Difficulties with access and inclusion in education do not just rob children of their right to education, but they also miss out on opportunities to acquire knowledge, skills and competencies essential to participation in the social, cultural, economic and political affairs of the country. Exclusion contributes to poverty. Although not all Persons With Disabilities experience

poverty, poverty and disability are nonetheless linked.

## POLICY RECOMMENDATION

To ensure inclusive development, the following policy recommendations are proposed. The proposed recommendations recognise the interplay of social-cultural economic legal and technological factors.

### 1. Curriculum reform

Fully implement the Basic Education Curriculum Framework (BECF) because it is designed to meet the unique needs of learners with special educational needs and disabilities. Learners who may not follow the regular curriculum would acquire daily living skills, basic academic and work-related skills for independent living (KICD, 2016).

### 2. Government policies.

a) Implement the 2018 Sector Policy for Learners and Trainees with special needs because it creates the basis for the deployment of specialised human resources, including teachers, trainers, caregivers, parents, educational managers, learning support assistants and technical disability-related personnel such as sign language interpreters, sighted guides, refractonists, braille transcribers, readers, physiotherapists, occupational therapists, counsellors, orientation and mobility trainers and ICT experts at all levels of education and training for learners and trainees with disabilities.

b) The Basic Education Act does not make provisions for the promotion and delivery of education during emergencies. The Government should fast track a review of the Education Act (2013) to incorporate the pertinent and contemporary issues affecting all learners, particularly those with disabilities.

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c) The Social Assistance Act (2013) in Kenya, established the National Social Assistance Council that would be mandated to identify and provide social assistance to persons in need of support such as older persons living in poverty, Persons With Disabilities, orphans and vulnerable children, the unemployed, the chronically ill and widows or widowers. The Council is not fully functional as not all PWDs receive assistance. The Government should strengthen the Council to improve the effectiveness of the coordination and implementation of social protection schemes in addition to promoting cooperation among stakeholders on socially protective interventions to support PWDs in case of future pandemics.

prioritised in all government programmes. Adequate funding should also be provided to monitor the implementation of policies on education, employment and social protection as well as to review them periodically.

### **3. Data Management.**

Data on disability is important since PWDs have a greater risk than the general population for participation restrictions due to the presence of difficulties in six core functional domains (walking, seeing, hearing, cognition, self-care and communication) if appropriate accommodations are not made. There is a need for the Government to emphasise systematic data collection, analysis and disability mainstreaming in all government reports, to enable performance and policies assessment over time.

### **4. EARCS.**

Strengthen and furnish EARCs in every county to enhance the identification and assessment of children with disabilities.

### **5. Funding.**

Having laws and policies without adequate funding cannot support PWDs. The earmarking of disability funds in all government structures should be done to ensure that disability as a crosscutting issue is

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