Social Protection and Disability in Kenya

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DEVELOPMENT PATHWAYS

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She was also passionate about disability rights and extending social protection coverage to persons with disabilities and regularly volunteered for disability-focused projects around Nairobi, where she lived. To honour her memory and commitment to support those less-fortunate, we are publishing this report that Krystle prepared in early 2017.

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Introduction

1 Introduction

Many developed and developing countries are working to improve the lives and livelihoods of persons with disabilities by investing in social protection schemes. However, more needs to be done to build and strengthen social security systems to ensure that persons with disabilities can access the income support they need.

This report provides insights into the current situation in Kenya regarding the inclusivity of social protection for people with disabilities. It begins by presenting a brief overview of the general access of persons with disabilities in Kenya to social services and income. Thereafter, the report analyses the level of access to social protection programmes for people with disabilities, including challenges related to the design and delivery of the main social protection schemes. Finally, recommendations are provided on how to improve policies and programmes in Kenya.

2 Background

Kenya has made great strides in developing its economy and in instituting policies and programmes to improve the lives and livelihoods of its citizens. While economic growth rates declined in 2017 as a result of uncertainty related to the national elections, as well as widespread droughts, the latest Economic Update expects GDP growth to recover to 5.5 per cent in 2018 and steadily rise to 6.1 per cent by 2020.¹ While poverty rates have dropped significantly in the last decade, at the time of the latest survey in 2015/16, 36.1 per cent of the population was still living below the poverty line, defined as monthly consumption of less than 3,252 shillings (USD 32).²

Poverty rates vary widely across Kenya's 47 counties, with the highest rates in Turkana (79.4 per cent), Mandera (77.6 per cent), Samburu (75.8 per cent) and Busia (69.3 per cent), and the lowest in Nairobi (16.7 per cent), Nyeri (19.3 per cent), Meru (19.4 per cent) and Kirinyaga (20.0 per cent).³ Poverty is more prevalent in rural than in urban areas. Forty per cent of the rural population lives in poverty in comparison to 27.5 per cent of the peri-urban and 29.4 per cent of the core-urban population, with households in rural areas spending on average less than half than households in core-urban areas do (5,326 Kenya Shillings (KES) a month in rural areas and 11,900 KES a month in core-urban areas). Variations in consumption also exist across counties: Mandera county has an average expenditure of 3,461 KES, which is less than a quarter of consumption in Nairobi.⁴

Kenya has a rapidly-growing population with a growth rate of 2.9 per cent per year, meaning that the population is projected to increase from the current estimated population of around 50 million to upwards of 77 million by 2030.5 Children and young people make up a large subset of the population of about 50 million to upwards of 77 million by 2030.6 Children and youth make up a large subset of the population with almost half, or around 23 million children, aged 0-17 years.7 At 33.7 per cent, the headcount poverty prevalence among households with children is much higher than among households without children, at 13.5 per cent. Child poverty has negative impacts on children's development, including poor physical, cognitive and psychological

¹ World Bank (2018). Policy Options to Advance the Big 4: Unleashing Kenya's Private Sector to Drive Inclusive Growth and Accelerate Poverty Reduction. Kenya Economic Update, Edition No. 17, April 2018.

² Kenya Integrated Household Budget Survey (KIHBS) 2015-2016, Kenya National Bureau of Statistics, 2018.

³ Kenya Integrated Household Budget Survey (KIHBS) 2015-2016, Kenya National Bureau of Statistics, 2018.

⁴ Kenya Integrated Household Budget Survey (KIHBS) 2015-2016, Kenya National Bureau of Statistics, 2018.

⁵ Kenya Bureau of Statistics (2014). Kenya Demographic Health Survey.

 $[{]f 6}$ Kenya Bureau of Statistics (2014). Kenya Demographic Health Survey.

⁷ Gelders, B. (2016). Child Vulnerability and Social Protection in Kenya. Nairobi: WFP, UNICEF and the National Social Protection Secretariat.

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development, stunting and malnutrition and low literacy. Poverty rates are also higher among certain vulnerable groups such as orphans and vulnerable children (54.1 per cent), older persons (53.2 per cent) and persons with disabilities (57.4 per cent).⁸

Moreover, it is important to note how dynamic incomes are and how quickly a household may become insecure and fall into poverty once hit by a shock or crisis. Figure 2-1 presents findings from Northern Kenya from 2010 to 2012. Across each wealth quintile, movement can be observed from households falling from the richest to poorest wealth bracket, while some of the poorest moved across to the richest wealth bracket.



Figure 2-1: Income dynamics in Northern Kenya

Source: Gelders, B. (2016). Child vulnerability and social protection in Kenya. Unpublished paper prepared under the direction of WFP Kenya, UNICEF Kenya and the National Social Protection Secretariat of the Government of Kenya.

There is a strong correlation between poverty and disability, with approximately 67 per cent of people with a disability living in poverty.⁹ Poverty can be the cause of disability, particularly in developing countries where issues around food insecurity, malnutrition, water/sanitation and lack of health care services can increase the likelihood of people developing a disability. Similarly, development of a disability can easily push people into poverty through the negative impact on access to employment and income-generating activities. Figure 2-2 depicts the linkages between disability and poverty.

⁸ National Gender and Equality Commission (2014). Participation of Vulnerable Populations in their own Programmes: The Cash Transfers in Kenya.

⁹ Global Disability Rights Now. Disability in Kenya. [Online] Available at: http://www.globaldisabilityrightsnow.org/infographics/disability-kenya

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Figure 2-2: Linkages between disability and poverty

Source: Banks, L.M. and Polack, S. (2014). The Economic Costs of Exclusion and Gains of Inclusion of People with Disabilities – Evidence from Low- and Middle-Income Countries. CBM and London School of Hygiene and Tropical Medicine. London.

Lack of support and care for persons with disabilities has a negative impact on the quality of life of the individual and in many cases can cause further impairments due to the lack of proper treatment and care. The burden of care within the household is higher in households caring for persons with disabilities who are faced with the costs of clinic visits, medication, treatment and assistive devices among others. Additional costs are a further challenge, particularly for caregivers as they are often unable to fully engage in income-generating activities due to their care duties. Limited access to therapy and rehabilitation, education (skills building and job training) and socioeconomic and political empowerment prevents the disabled community from having equal opportunities to engage fully in society. This infringement on their rights forces them to be dependent on the support of others and limits their ability to participate equally in society.

3 Situation of persons with disabilities in Kenya

Disability is a part of life and almost all persons will face temporary or permanent disabilities over the course of their lives. This could be due to natural causes such as ageing or a result of shocks and crises at any point across one's lifetime. The World Health Organisation estimates that 15 per cent of the world's population – over one billion people – live with some form of disability and, with an ageing global population, these numbers will increase. The Global Burden of Disease Report estimates that 2.9 per cent of the global population have a severe disability while 12.4 per cent experience moderate disabilities. Low- and middle-income countries have higher prevalence rates than high-income countries.¹⁰

Data on persons with disabilities in Kenya is collected through various census exercises and surveys. The most recent available data includes the Kenya Integrated Household Budget Survey (KIHBS) 2015/16, the 2009 Kenya Population and Housing Census and the Kenya National Survey for Persons with Disabilities 2007. The Kenya National Survey for Persons with Disabilities 2007 was a Government-led initiative to address the limited evidence around the nature and extent of disabilities and socioeconomic factors affecting persons with disabilities in Kenya and presents the latest source of data specifically on the situation of persons with disabilities. It included data on prevalence and a situational analysis of disability in Kenya, including access to assistive and support devices, limitations faced due to impairment(s) and access to employment, health and education. However, since then there has not been a similar survey to provide up-to-date information and allow an assessment of any progress during the last decade.

The 2009 Census and the 2015/16 KIHBS found respectively that 3.5 per cent and 2.8 per cent of the population in Kenya has some form of disability, while the 2007 National Survey for Persons with Disabilities found a higher prevalence rate of 4.6 per cent.¹¹ These prevalence rates correspond to the currently between 1.4 and 2.3 million people with disabilities in the country, expected to increase to between 2.2 and 3.5 million by 2030 if the population grows as projected to 77 million. As Box 3-1 shows, the questions used in the surveys vary slightly: the 2007 National Survey for Persons with Disabilities used questions asking about limitations in functioning across various domains (although not capturing different degrees of functional limitation), while the 2009 census and

¹⁰ World Health Organization (2008). The global burden of disease: 2004 Update. Geneva.

¹¹ Kenya National Bureau of Statistics (2012). Analytical Report on Disability, Volume XIII: Kenya 2009 Population and Housing Census.

2015/16 KIHBS both asked directly about disability. Asking about disability directly is known to lead to under-reporting of disability and is therefore not in accordance with current international standards. The level or severity of disability is also not captured. Therefore, it is highly likely that the prevalence of disability in Kenya is significantly underestimated and that current figures are more likely to represent the number of people with severe disabilities.

In general, the lack of inclusion of questions on disability within assessment/or surveys tools are a missed opportunity to generate evidence on the state of affairs of persons with disabilities. For example, the recently published 2014 Demographic and Health Survey did not include any questions about disability. At the local level, there are missed opportunities to collect information through service providers. For example, health clinic admission forms do not include questions on whether expectant mothers have a disability.

Box 3-1: Questions on disability in Kenyan surveys

The 2007 National Survey for Persons with Disabilities included questions asking whether the respondents have difficulties (Yes/ No/NA) in the domains of communication (hearing, speaking, Seeing), mental disability (two different questions), physical disability, self-care and other.

Both the 2009 Kenya Population and Housing and the Kenya Integrated Household Budget Survey 2016/16 features two questions on disability, as shown in the cut-out to the right from the KIHBS 2015/16.

Asking directly about disability has been shown to lead to underreporting and therefore underestimating of disability prevalence rates in censuses in many countries.

An international standard has therefore emerged in recent years to use the Washington Group questions, which ask about people's ability to function in their environment.



The 2009 population and housing census indicates that people with visual (24.9 per cent) and physical (25.3 per cent) impairments comprise the highest proportion of persons with disabilities in Kenya. Hearing, speech and functional limitations also affect 10-14 per cent of people with disabilities. Not much has been captured around the situation of persons with multiple disabilities as it was listed in the census questionnaire under the category of others (7.5 per cent) which includes albinism, epilepsy, cerebral palsy, autism and

learning difficulties.¹² Moreover, there is a lack of evidence on the situation of persons with severe disabilities.

The census showed that there is a higher prevalence of disability in rural areas (3.8 per cent) than in urban areas (3.1 per cent). The proportion of persons with disabilities experiencing hearing, physical, mental and self-care impairments¹³ was higher in rural areas, while visual and speech impairment was more prevalent in urban areas. The proportion of females with visual, hearing, physical, self-care and other impairments¹⁴ is higher than that for males, while speech impairments and functional limitations are more prevalent in males.



Figure 3-1: Disability in Kenya by domain

Source: Kenya National Bureau of Statistics (2012). Analytical Report on Disability, Volume XIII: Kenya 2009 Population and Housing Census.

As Figure 3-2, shows, the prevalence of disability increases with age, and is highest among older people, particularly among women aged 60 years and above (as shown in the graph to the left). However, among the population of people with disabilities, the highest numbers are, in fact, among children and young people (as shown in the graph to the right). This is due to the fact that, as mentioned above, the Kenyan population is very young, which is also reflected in the population of people with disabilities.

¹² Kenya National Bureau of Statistics (2012). Analytical Report on Disability, Volume XIII: Kenya 2009 Population and Housing Census.

¹³ Dressing, bathing, eating, grooming and hygiene, toileting or getting around inside the home.

¹⁴ Albinism, epilepsy cerebral palsy, autism, learning difficulties and multiple disabilities.



Figure 3-2: Disability prevalence rates as per cent of the total population per age group (left) and percentage of the population of people with disabilities within age group (right)

Source: Kenya National Bureau of Statistics (2012). Analytical Report on Disability, Volume XIII: Kenya 2009 Population and Housing Census.

Persons with disabilities in Kenya face many barriers in accessing both employment and social services. More than half of persons with disabilities reported in the 2015/16 KIHBS that they have difficulties engaging in economic activities. Children with disabilities also experience barriers in accessing education: according to the 2009 census, 17 per cent of children aged between six and 17 have never attended school, compared to 10 per cent of children without disabilities. Access to special needs schools remains a challenge and school fees and materials can be a barrier for those who are not able to meet costs, particularly in special schools which tend to have higher fee structures. Insufficient training of special needs teachers and the inadequate development of disability-friendly curricula and school materials is another key barrier faced by children with disabilities when trying to access education.

Stigma and discrimination continue to be barriers for the equal participation of persons with disabilities in society. In many communities, disabled family members are often hidden away due to societal stigma and prejudices. Children are especially affected, as they are often abused and abandoned.15 In addition, evidence from the Kenya National Commission on Human Rights shows that many persons with disabilities are not aware of their rights, nor the legislation in place to protect and promote their well-being, including the right to access social services such as education, health care and support with job training and employment.¹⁶

¹⁵ Kenya National Survey for Persons with Disabilities 2007.

¹⁶ Kenya National Commission on Human Rights (2014). From Norm to Practice: A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

4 Legislative and policy framework on disability

The Government of Kenya has put in place policy frameworks to progressively support poor and vulnerable populations in Kenya, including persons with disabilities. Article 21 of the Constitution of Kenya presents the Government's commitment to the progressive realisation of the rights of all Kenyans, as highlighted in Article 43 (Economic and Social Rights) which includes the right to the highest standard of health care and services, education, accessible and adequate housing, food security, access to clean water, and social security with an emphasis on providing for those unable to support themselves or their dependents.17 There are specific provisions for persons with disabilities enshrined in Article 54 of the Kenyan Constitution as shown in Box 4-1.

Box 4-1: Specific Rights for Persons with Disabilities in Article 54 of the Kenyan Constitution

A person with any disability is entitled to be treated with dignity and respect, to access integrated educational facilities and institutions, to access all places, to access public information, to use sign language or braille or other means of communication and to access materials and devices to manage barriers that may arise due to disability.

The State commits to the *progressive* implementation of the principle that at least 5 per cent of the members of the public in elective and appointive bodies are persons with disabilities.

Other articles related to the rights for persons with disabilities include:

- Article 7 recognises sign language, braille and other communication accessible to persons with disabilities as part of the official languages.
- Article 20 (5) (b) obliges the court, in applying any rights under Article 43 to be guided by the principle that "in the allocation of resources the state shall give priority to the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances including the vulnerability of particular groups or individuals".
- Article 21 confers a fundamental duty on the state and every state organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms

¹⁷ Republic of Kenya (2010). Constitution of Kenya.

in the Bill of Rights and address the needs of vulnerable groups within society, including persons with disabilities.

- Article 27(4) on non-discrimination prohibits direct or indirect discrimination against any person on any ground, including disability.
- Article 28 promotes respect and protection for the human dignity of every person.
- Article 43 recognises economic and social rights, including the highest attainable standard of health, housing, sanitation, freedom from hunger, access to clean and safe water, social security, education and emergency treatment.
- Article 97(1) (c) requires twelve nominees to the National Assembly to be persons with disabilities.
- Article 98 (1) (d) requires two nominees to the Senate to be persons with disabilities.
- Article 177 (1) (c) specifically provides for the nomination of persons with disabilities to County Assemblies.¹⁸

Kenya has also ratified several international agreements of relevance to the rights of persons with disabilities, including the Universal Declaration of Human Rights (1948) which guarantees the extension of social security to all citizens and the Convention on the Rights of Persons with Disabilities, which reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms, including social protection. The Kenyan Persons with Disabilities to participate in society, including ensuring access to education, health and employment.

Kenya's Vision 2030, the national long-term development framework, recognises the importance of social protection and its role in ensuring that Kenyans can enjoy a high quality of life for all its citizens by the year 2030. The Vision 2030 comprises three pillars: social, economic and political. Under the social pillar, the framework seeks to build a "just and cohesive society with social equity in a clean and secure environment" which includes special provisions for persons with various disabilities.¹⁹

¹⁸ Kenya National Commission on Human Rights (2014). From Norm to Practice: A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

¹⁹ Government of Kenya (2007). Kenya Vision 2030.

A National Social Protection Policy (NSPP) was developed in 2011, under the then Ministry of Gender, Children and Social Development, with the aim of ensuring that all Kenyans are able to live in dignity despite the various shocks and risks they may face over their lifetime. The policy specifically outlines social protection as "policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerable to improve and sustain their lives, livelihoods, and welfare, that enable income-earners and their dependants to maintain a reasonable level of income through decent work, and that ensure access to affordable healthcare, social security, and social assistance".²⁰ The policy presents the state's plans to align its actions with the international Social Protection Floor initiative which guarantees a universal minimum package of social transfers and services within a lifecycle approach to social protection.

The Social Assistance Act was passed in 2013 to establish the National Social Assistance Council which 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 Act has never been implemented and has had little to no impact on delivery of the NSPP. At present, the State Department for Social Protection (SDSP) under the Ministry of Labour and Social Protection (MLSP) is drafting a National Social Protection Bill which calls for the establishment of a national social protection council and a comprehensive framework for the delivery of national social protection programmes. It is hoped that this bill, once passed, will improve the effectiveness of coordination and implementation of social protection schemes in addition to promoting cooperation among stakeholders on socially protective interventions.

A national social protection sector review on progress over the last few years, a NSPS to provide the way forward for the next medium-term (five years) and a Social Protection Investment Plan (SPIP) towards Vision 2030 to reduce socioeconomic vulnerability (14 years) have been developed under the leadership of the State Department for Social Protection, but are still awaiting approval by Cabinet.

A major milestone in the development of a comprehensive social protection system in Kenya was the introduction of the Inua Jamii Senior Citizens' scheme in early 2018, which provides a universal pension to everybody aged 70 years and above. Given the high prevalence rates of disability among people above the age of 70 years – of about 25 per cent (and most likely much higher in reality) – the new scheme represents a significant improvement in access to social protection for people with disabilities in Kenya, as well

²⁰ Ministry of Gender, Children and Social Development (2011). Kenya National Social Protection Policy.

as improving linkages with other social services including access of all recipients to the National Health Insurance Fund.

The SPIP outlines proposals for expanding the social protection sector up to 2030. It sets out the Government's strategy to build a modern, multi-tiered social protection system, financed from both general taxation and contributions into social insurance and private schemes. The Plan sets out an ambitious schedule for the expansion of social protection in Kenya, including specifically for persons with disabilities:

- A *Child Disability Benefit* is to be introduced in 2020/21, offering a transfer of around KES 2,210 per month to the main caregiver of each child with a severe disability.
- A *Disability Benefit* for adults with severe disabilities not in receipt of the Inua Jamii Senior Citizens' scheme will be introduced in 2020/21, essentially expanding the current PwSD-CT and functioning as a continuation of the Child Disability Benefit.
- The Inua Jamii Senior Citizens' scheme will be gradually expanded. In 2020/21, the age of eligibility is to be reduced to 68 years and, in 2022/23, it will be further reduced to 65 years. Furthermore, over time the real value of the transfer will gradually increase. While the current value of the Inua Jamii Senior Citizens' scheme is KES2,000 per month, its nominal value will increase to around KES 4,920 per month by 2030/31. In addition, the Government will continue to explore how best to reform the National Social Security Fund so that it can offer value to its members as well as regular and predictable disability and old age pensions. The Government will also work through the Retirement Benefits Authority to strengthen the private pension system so that savers can access regular pensions on retirement that deliver value for money.

The SPIP also includes plans for the Government to revise the national disability assessment mechanism to ensure that it can accurately select recipients of the planned Disability Benefit. Other new measures of support for people with disabilities included in the SPIP are: health insurance subsidies to the recipients of the Inua Jamil Senior Citizens' programme (currently being implemented) and, in the future, to recipients of the disability benefits; increased access to support for income-generating activities; subsidised school fees for children with disabilities, bursaries, free assistive devices and a commitment to ensure that 30 per cent of Government contracts are offered to special interest groups, which include persons with disabilities.

5 Governance structures related to disability and social protection

Improving access to social services for persons with disabilities requires strong advocates both within and outside government. This section describes the key government and civil society actors working on disability in Kenya.

5.1 Key government institutions

National Council for Persons with Disabilities (NCPWD)

In many developing countries, governance related to issues of disability are relegated to a department under a social service ministry within government. These disability agencies tend to operate in silos and, while officially mandated to coordinate issues of disability across government, they often have a limited ability to do so, in practice mainly delivering (limited) services to persons with disabilities. This is also the case in Kenya where the 2003 Disabilities Act established the National Council for Persons with Disability (NCPWD), a parastatal organisation that aims to promote and protect the equalisation of opportunities and the realisation of human rights for people with disabilities. The Council is headquartered in Nairobi and has representation in all 47 counties with county officers working closely with local governments. Figure 5 shows the core functions of the NCPWD.

Figure 5-1: Core functions of the NCPWD



A key role of the NCPWD is to register all persons with disabilities in Kenya to enable access to various programmes and initiatives. To date, the Council has registered approximately 390,000 persons with disabilities, amounting to between 17 and 28 per cent of the total number of people with disabilities in the country (depending on which prevalence rate is used). The NCPWD database is not fully functional and it does not

interface with the MIS for the government cash transfer for persons with severe disabilities.

Applicants can acquire a registration form from a NCPWD office or print one from their website to apply for membership. The process requires applicants to provide a passport-sized photo, a completed application form (see Annex 1) and a medical assessment report which is undertaken at gazetted hospitals across the country. Fees may be incurred depending on the institution visited, thereby presenting an additional cost to the applicant. These costs are amplified when the opportunity costs of household members accompanying the applicant are considered. Moreover, depending on the level and type of impairment, additional costs for transportation may present a barrier to accessing the medical assessment.²¹ A recent study of childhood disability in Turkana showed how transportation to access rehabilitation services and treatment represented substantial opportunity costs in terms of time and income, since caregivers had to forgo work.²²

Once an application has been submitted, there is an upward referral to the national level to allow for review and approval by an oversight committee of the applicant's eligibility for membership. This process is often lengthy as it requires final approval by the Director of Medical Services in Kenya. In 2016, a backlog of over 32,000 applications was found to have caused many potential applicants to wait upwards of a year to have their documents reviewed before being able to apply and/or access the services provided by the Council.

Box 5-1: Case study from Bungoma

A mother of a visual and hearing impaired child shared her experience registering with the NCPWD. "I started the process of registering my daughter with the Council when she was 10 years and up to now, 8 years down the line, am still struggling with it. ...I completed the registration form sent it to the Gender and Social services offices in Bungoma and nothing was ever communicated to me. I waited for long and when I went back, the forms could not be traced. I had to start afresh...Getting a medical report requires a panel of three doctors to certify the child's disability. This is a real hurdle because finding these doctors at the same time to sit on a panel is very rare...once this form is sent to Nairobi, there is only one person who is supposed to give the final approval and this can take months.... most of us parents give up in the process...it's too tiring yet you desperately need the money for your child...I don't know how parents from very remote places who are poor and illiterate deal with this issue."

²¹ Kenya National Commission on Human Rights (2014). From Norm to Practice: A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

²² Zuurmond, M., Nyapera, V., Mwenda, V., Kisia, J., Rono, H. & Palmer, J., 2016, 'Childhood disability in Turkana, Kenya: Understanding how caregivers carers cope in a complex humanitarian setting', African Journal of Disability 5(1), a277

Although the Ministry of Health launched the *Rapid Results Initiative* as a commitment to enhance implementation and improve the process through systems strengthening, there are various areas that need further investment, particularly around technical capacity and human resources to allow all persons with disabilities to apply for membership in a timely and dignified manner. A rolling registration process that allows persons with disabilities to apply for membership on-demand would be beneficial as it would relieve the strain of households in trying to find time and resources to attend the medical assessments. Moreover, it would mitigate instances of stigma and discrimination during fixed registration exercises that require households to present their family members with disabilities openly before the community.

In addition to registering persons with disabilities, the Council is responsible for providing income support for the most vulnerable persons with severe disabilities. Resources for the Persons with Severe Disabilities Cash Transfer (PwSD-CT) flow through the NCPWD as they are mandated to provide income support to poor and vulnerable households with disabled members (See Section 6). The NCPWD also provides a range of services and interventions specifically for people with disabilities with support from the National Development Fund. Applications for support from the Fund is free of charge and can be submitted to access the following services:²³

- Educational Assistance: provision of educational grants to build the capacity of and opportunities for – persons with disabilities in society. This improves access to education, skills development and rehabilitation institutions. Funds can be utilised to pay fees for secondary and tertiary education, vocational training, vocational rehabilitation centres, universities and special educational establishments.²⁴
- Assistive Devices:²⁵ provision of assistive devices and services to persons with disabilities in Kenya to enable them to actively engage in society. Priority is given to those in need of assistance in work, training and learning environments.
- Infrastructure and Equipment: provides support to institutions that deliver social services to persons with disabilities. State and non-state institutions providing social services are eligible to apply. Funds can be used to undertake projects that improve access by addressing environmental barriers.

 $^{23 \; \}text{NCPWD}$ Guidelines for Applicants for the National Development Fund

²⁴ Financial support for primary school is only extended to persons with intellectual disabilities

²⁵ These include wheelchairs, crutches, hearing aids, callipers, surgical boots and prosthetic arms or legs. A sign language interpreter is also included as provision of an assistive service.

• Economic Empowerment Support: provision of grants to community and/or selfhelp groups for economic empowerment or revolving fund schemes for business activities such as bee-keeping, small-scale agriculture, bead-making etc. This promotes independence and self-reliance, in addition to skills development of the group. Members also learn how to manage their business, including improving financial management skills to enable them to repay loans and/or make investments. Members must have a disability or be a caregiver to participate.

The NCPWD provides special support to persons with albinism, including sensitisation on skin care and provision of lotions to prevent skin damage and mitigate skin cancer. The Council also carries out advocacy and awareness raising activities in cooperation with other institutions – such as the Albinism Society of Kenya – to build understanding and to mitigate negative stereotypes and perceptions which have often led to discrimination and even violence against persons with albinism.

The Council aims to improve implementation of socioeconomic interventions to ensure that issues of disability are understood and taken into account. It also provides information to the public to sensitise them on the rights of people with disabilities and of the importance of inclusivity and non-discrimination. The Council also disseminates information to persons with disabilities to ensure that people are aware of available services, provisions or exemptions.

The NCPWD is instrumental in managing issues of disability at the national level and has invested in decentralising their services to the county level. However, for it to effectively address issues related to persons with disabilities in Kenya, it needs to be positioned at a higher and more strategic level within government. If placed under the Office of the President, for example, the Council could provide oversight and coordination across all ministries with service delivery delegated to each line ministry according to their mandates. The NCPWD could then focus on providing guidance to government ministries on how to mainstream disability into their policies and programmes to ensure that all services are accessible for persons with disabilities.

Kenya National Commission on Human Rights (KNCHR)

Besides oversight and coordination, it is essential to have strong systems for monitoring the extent to which the rights of persons with disabilities are respected. The Kenya National Commission on Human Rights (KNCHR) is an independent monitoring body that plays a vital role in the ensuring that the state complies with human rights norms and standards. The Commission investigates and provides redress for violations of human rights, in addition to building awareness around rights as enshrined in legislation. Regarding persons with disabilities, the KNCHR has undertaken monitoring exercises to assess the rights of persons with disabilities through surveying households with disabled members, disability organisations, learning and health institutions, local authorities, justice systems and other public services in twelve counties. In 2014, the Commission undertook an assessment of the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in Kenya. This monitoring report, *From Norm to Practice*, focused on identifying progress made by the Government in implementing the CRPD and the level of awareness of persons with disabilities on their rights and/or entitlements as claim holders.²⁶ The report provided insight into the status of the implementation of rights including access to education, health, social services and amenities, labour market, justice and political participation. Evidence showed that, although progress has been made, there are significant challenges still facing persons with disabilities and there is a need to assess gaps and weaknesses in implementation and/or service delivery.

National Gender and Equality Commission (NGEC)

Another stakeholder supporting the mitigation of gender inequality and discrimination against all groups, including persons with disabilities, is the National Gender and Inequality Commission (NGEC). It was established by an Act of Parliament in 2011 as a successor commission to the national human rights and equality commission pursuant to Article 59 in the Kenyan Constitution. The NGEC has a *Disability and Elderly Programme* that promotes mainstreaming of disability and issues of ageing in governance structures. This includes monitoring how effectively issues of equality and inclusion are being addressed at the national and local levels. Human rights violations and discrimination cases, such as the marginalisation of older persons and persons with disabilities and/or barriers to participation in society, are also addressed by the programme. The NGEC also coordinates state and non-state actors on disability issues to allow for meaningful participation and inclusivity of the disabled community. Areas of support include monitoring efforts to improve the accessibility of public buildings and public transport and the integration of children with disabilities within educational institutions.²⁷ There is some overlap with the KNCHR in terms of monitoring compliance with Kenyan legislation and human rights principles and standards.

5.2 Civil Society

The main coordination body for Disabled People's Organisations in Kenya is the United Disabled People of Kenya (UDPK). The UPDK is an umbrella institution that brings together various disability organisations with a strong focus on advocacy for meaningful

²⁶ Kenya National Commission for Human Rights (2014). From Norm to Practice a Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

²⁷ National Gender and Equality Commission: http://www.ngeckenya.org/

participation of persons with disabilities in society. Following the submission of Kenya's initial report to the Committee on the Rights of Persons with Disabilities, in line with Article 35 of the CRPD, and the recommendations shared by the committee, the UPDK released a report on strategies and priorities for non-state actors working on issues of disability.

The report highlighted the state's commitment to ensure that persons with disabilities can enjoy their right to social protection and an adequate standard of living without discrimination.²⁸ The report also identified as a priority to increase coverage of social protection schemes to more than only those living with profound disabilities. It was recognised that many persons with disabilities lack support as the national schemes target only the profoundly disabled living in extreme poverty. The report notes the need for a review of eligibility criteria and the adequacy of the transfer amounts. The provision of benefits to households, rather than individuals, was also criticised, as entitlements delivered by the state, such as social security, are guaranteed to an individual and not a household.²⁹ The report furthermore recommended that the various stakeholders with responsibilities related to disability need to strengthen engagement with each other to ensure that policies and programmes are making a significant difference to the lives of persons with disabilities.³⁰

The UPDK has a strategic role to play in strengthening the capacity of its member organisations to ensure that they can effectively represent and advocate for the rights of persons with disabilities, including monitoring progress in realisation of the rights of persons with disabilities. Strengthened collaboration is also important to ensure that disability issues are prioritised in the development and implementation of policies and programme frameworks, including promoting the participation of persons with disabilities in governance.

²⁸ UPDK (2016). Turning Intent into Action: Strategies and Priorities for Non-State Actors to Support Implementation of the Recommendations Made to Kenya by the Committee on the Rights of Persons with Disabilities.

²⁹ UPDK (2016). Turning Intent into Action: Strategies and Priorities for Non-State Actors to Support Implementation of the Recommendations Made to Kenya by the Committee on the Rights of Persons with Disabilities.

³⁰ UPDK (2016). Turning Intent into Action: Strategies and Priorities for Non-State Actors to Support Implementation of the Recommendations Made to Kenya by the Committee on the Rights of Persons with Disabilities.

6 Access to social protection for persons with disability

Kenya has various social protection schemes providing income support to persons with disabilities, including disability-specific and mainstream schemes and both tax-financed and contributory programmes. This section analyses the extent to which persons with disabilities in Kenya are able to access social protection.

6.1 Tax-financed social protection programmes

6.1.1 Disability specific programmes: the persons with Severe Disabilities Cash Transfer Programme (PwSD-CT)

The PwSD-CT is one of the national cash transfer schemes within the tax-financed Inua Jamii Programme (IJP). It aims to support poor households with a member living with a severe disability who requires 24-hour care. The PwSD-CT operates across all 47 counties. To benefit from the programme, a household must be categorised as extremely poor and vulnerable and must have at least one member living with a severe disability. The scheme aims to provide income support to help improve the lives of persons with severe disabilities while empowering and strengthening the capacity of caregivers in addition to improving the livelihood opportunities of the household overall.

Coverage

The scheme was initially a pilot programme developed by the NCPWD to support just ten households across each constituency. Through lobbying, the cash transfer received additional resources from the Government to scale up and formally launch in 2011. At present, the PwSD-CT supports 51,890 beneficiary households with a regular transfer of KES 2,000 per month, delivered on a bi-monthly basis.³¹ Kenya Commercial Bank (KCB) and Equity Bank (EB) are the payment service providers for the PwSD-CT. It is estimated that approximately 188,000 people are living within households that are enrolled in the scheme.

It is difficult to ascertain the level of access to the programme for persons with disabilities due to the limitations in reliable data on disability prevalence. However, using the disability prevalence number identified by the Kenya National Survey for Persons with Disabilities 2007, there are currently about 2.3 million people with disabilities in Kenya, meaning that only about 2.3 per cent of people with disabilities are benefitting from the

³¹ http://mis.socialprotection.go.ke:20307/Public/Beneficiaries

PwSD-CT. As the PwSD-CT only covers households with members living with profound disabilities – and is, furthermore, limited to households living in extreme poverty – a large proportion of the population of people with disabilities in need of social protection are not eligible for support.

As Figure 6-1 shows, the number of beneficiaries of the PwSD-CT is low compared to Kenya's other tax-financed programmes, and, in contrast to other programmes, has remained stagnant in recent years.





Source: http://mis.socialprotection.go.ke:20307/Public/Beneficiaries

Similarly, as Figure 6-2 shows, trends in spending by both government and development partners shows significantly higher expenditure on the OPCT and CT-OVC programmes than on the PwSD-CT. The HSNP disbursements may appear to be low, but its investment supports only four counties in the Northern Kenya region.



Figure 6-2: Disbursement trends across the Inua Jamii programmes

Targeting process

The PwSD-CT is targeted to poor households using a proxy means test (PMT). Prior to the registration exercise, location committees are established at the sub-county level by identifying members from participating villages including representation from marginalised groups. Location Committees (LOCs) aim to be gender-balanced with members who are literate to support registration. Committee members are tasked with sensitising the community on programme objectives to build awareness and provide greater understanding on the criteria for selecting potential applicants. The NCPWD officers at the county level also support this process, although they face limitations in terms of staffing.

The Location Committees inform households of the documentation required during the enrolment exercise: a photograph of the applicant and a national identity card which is often held by the carer within the household, if they are over the age of 18 years. Once the list has been completed, it is escalated to the county and then national level for review. Thereafter, enumerators are engaged to administer a poverty score card to collect data for the PMT. Indicators include age, health, educational attainment, housing type, assets owned and other determinants that provide insight on the poverty status of the household.

Once data has been collected, it is escalated to the national level for data entry and analysis in the management information system (MIS) to determine each household's

poverty score and to identify those that are extremely poor. A list of potential beneficiaries is produced and shared with the community at a public meeting, or *baraza*, to verify or challenge the proposed households. Eligible but unsuccessful applicants may be placed on a waiting list. After final validation of the list, changes are updated in the MIS and the process of enrolment by the payment service provider begins.

Payments

Funding and support for the PwSD-CT flows from the National Treasury through to the MEACL&SP, which disburses tranches to the NCPWD. The Council is responsible for transferring payment to the PSP as per the payment cycle. The payment service provider (PSP) works with the social development officers and local government to sensitise the community around the payment process, specifically when payments will be delivered and the documentation required (the payment token – a bank/smart card – and a valid ID). Payroll lists are provided to programme staff to aid in mobilising recipients. Complaints and/or updates can be made during the payment exercise for actioning at the county or national level. Once payments are completed, the PSP undertakes a reconciliation process and begins preparation for the payment cycles.

Barriers to Access

There are several areas that require improvement to better provide income support to persons with severe disabilities in Kenya:

Increase the transfer value: Although it is positive that the State Department for Social Protection has worked to harmonise the Inua Jamii Programmes, including the value of the cash benefits provided, an unfortunate implication of this is that the benefit level of the PwSD-CT does not reflect the fact that households with persons with severe disabilities face additional costs as a result of their impairments. Moving forward, a higher benefit level is needed to relieve the financial burden on household members while promoting the dignity and independence of beneficiaries.

Increase awareness of the programme among potential beneficiaries: the Government has made progress in increasing awareness about the cash transfer schemes. On-going development of comprehensive sensitisation and awareness campaigns could prove useful especially for persons with severe disabilities and their households. There is still considerable stigma associated with disability in Kenya and working with local structures to build an understanding around the rights of persons with disabilities could serve to improve awareness and mitigate stigma. Programme staff should also be sensitised on how to engage with persons with disabilities to ensure that people are treated with dignity and respect. Development of a variety of communication strategies is important to allow equal access to information about the scheme. The Government should consider utilising various methodologies to provide vital information around the objective, requirements and benefits being provided by the PwSD-CT. An example of this would be providing a sign language interpreter to accompany local officers to the community during public *barazas* or utilising pictorials to explain various operational processes.

Improve the targeting process: the process of targeting persons with severe disabilities is challenging. At present, the scheme focuses on identifying beneficiaries that require 24-hour care and support within poor and vulnerable households. There has been no assessment of how effective this selection process is, but it is clear that there is a need for a more comprehensive disability assessment mechanism, which may be developed with support from the NCPWD. In addition, the vast majority of people with disabilities in Kenya are currently excluded from the income support they need because of the poverty targeting applied to the PwSD-CT and because the programme is limited to people with severe disabilities. There is also good evidence that the PMT used in Kenya generates high exclusion errors.³²

Strengthening of monitoring systems at the community level should be prioritised by officers of the PwSD-CT to ensure that the cash transfers are being utilised by households to benefit persons with disabilities.

6.1.2 Mainstream tax-financed programmes

As mentioned above, the PwSD-CT is just one scheme under the wider Inua Jamii programme. People with disabilities also have access to mainstream programmes, including:³³

- The OPCT, targeting older people and reaching 68,000 households including someone aged 65-69 years.
- The CT-OVC, targeting orphans and vulnerable children and reaching 359,770 households.
- The HSNP, providing support to poor households in four arid counties and reaching 98,818 households.

³² Kidd, S. et al. (Forthcoming). Kenya Social Protection Sector Review. Study commissioned by WFP Kenya and UNICEF Kenya.

³³ http://mis.socialprotection.go.ke:20307/Public/Beneficiaries

• The Inua Jamii Senior Citizens' scheme, providing a universal pension to everybody aged 70 years and above, reaching around 840,000 older people.

In particular, the OPCT, and most recently the Inua Jamii Senior Citizens' programme, provide important income support for persons with disabilities. Because the new pension is universally provided to all older people above the age of 70, it also provides universal coverage of older people with disabilities – which is significant, given that about 25 per cent (and most likely many more) of this group has a disability, according to the 2009 census (in most countries over half of those aged over 70 years would have a disability). The pension can therefore be expected to provide support to at least 130,000 people with disabilities and probably over 400,000, many more than the disability-specific PwSD-CT. However, there is no data on how many persons with disabilities are accessing the other mainstream programmes.

6.2 Contributory programmes: the National Social Security Fund (NSSF)

Turning to the formal contributory system, the National Social Security Fund (NSSF) is responsible for managing social insurance in Kenya. For those participating in formal employment, contributing to the fund is mandatory but, for the self-employed, contributions are voluntary.

The NSSF is a retirement benefits scheme established in 1965 through an Act of Parliament. It is a provident fund that collects, manages and delivers contributions on behalf of members in the formal and informal sector. At the time of retirement, the NSSF pays out contributions to a member as a lump sum rather than regular pension over a period of time. This sets it apart from traditional pension schemes that support consumption smoothing by providing social security on a regular and predictable basis. Therefore, the fund, in reality, operates more like a savings scheme than a contributory pension scheme. At present, approximately 2.3 million Kenyans contribute to the fund, representing around 10 per cent of the workforce.

In 2013, an Act was passed to transform NSSF from a provident fund to a pension scheme whereby contribution of a percentage of one's income will guarantee basic compensation in the event of disability, assistance to dependants in case of death and a regular pension upon retirement. This act is yet to be implemented. If the state is to guarantee social security for all Kenyans, there will be a need to implement reforms to ensure access to regular disability and old age pensions as opposed to provision of lump sum payments.

The fund also provides invalidity benefits to members who are permanently incapable of engaging in the labour market due to physical and mental disability. Members who are

Access to social protection for persons with disability

partially incapacitated but of a permanent nature can also receive benefits, although this applies only to those aged 50 years and above. A medical examination by the fund's appointed doctor is required during the application process.

7 Conclusions and recommendations

Disability is a risk we all face, which can affect us at any stage across the lifecycle. It is also a key cause of poverty, as disability and poverty are closely interlinked and often reinforce one other. Although the Government of Kenya has made progress in delivering cash transfers to poor and vulnerable households with severely disabled members and to older people with disabilities, there is much to be done to ensure that Kenyans with disabilities receive adequate income support across their lifetime. In that regard, it is recommended that Kenya considers the following key aspects for expanding access to social protection:

Improve data availability

To make a case for further investment by the state and development partners, it is imperative to build an evidence based that can provide a clear understanding of the current state of affairs concerning issues of disability including up-to-date information on the prevalence of disability disaggregated by age, sex, disability type and level of severity. Moreover, the Government should work with stakeholders to develop or strengthen mechanisms for collecting data. This should include using appropriate disability questions, following the international standard set by the Washington Group, in surveys and/or assessments, and integrating questions within forms used at health care facilities at the local level.

Increase investment in social security

Kenya has invested in the development of an early stage lifecycle system by putting in place schemes that provide income support for citizens when they become vulnerable during child-rearing, old age or as a result of disability. This is in line with the trajectory of other low- and middle-countries that do not have comprehensive entitlement schemes at present but have made a commitment to progressively work towards building a comprehensive lifecycle social security system. Continuing progressive realisation by expanding coverage of social protection schemes is crucial as currently only a small proportion of the population have access to formal social security, leaving millions unprotected and insecure, including the vast majority of persons with disabilities.

As Figure 7-1 shows, various benefits can be provided depending on the stage of the lifecycle. Children need benefits from birth to school age to support the household with the additional costs associated with accessing health care and education. This would relieve the burden on the household as they also incur opportunity costs due to their caregiving responsibilities. As outlined in the draft Social Protection Investment Plan, this is best achieved through the introduction of a Child Disability Benefit to caregivers of children with severe disabilities.



Figure 7-1: Model of a lifecycle social protection system to support persons with disabilities

Young people and working-age adults need access to disability benefits to compensate for the additional cost of disability, in order to allow them to engage in society on an equal basis to those without disabilities, while maintaining a decent standard of living. Tax financing can provide support for the general population in need of social protection while social insurance covers those engaged in employment and who can contribute towards pension schemes to allow for consumption smoothing. The PwSD-CT provides a starting point, but currently excludes the vast majority of people in need of support. It should ideally be expanded into a universal disability benefit for all adults with severe disabilities who not in receipt of the Inua Jamii Senior Citizens' scheme.

Older persons, who are more likely to develop disabilities in later life, can receive benefits through contributory pension schemes or through pensions financed by general taxation. The new tax-financed universal pension presents a good step forward in terms of setting a foundation for a social protection floor and should be gradually expanded by lowering the age of eligibility and increasing transfer levels. The National Social Security Fund should be reformed to provide regular and predictable disability and old age pensions to its members.

Increase benefit levels

Further dialogue should be had around the issue of transfer values of benefits to people with disabilities, which should be increased to reflect the additional costs associated with disability. Considerations of opportunity costs associated with losses in income due to caregiving responsibilities is another factor to highlight.

Improve disability assessment

The Government needs to invest in developing a more robust disability assessment mechanism to ensure that all persons with disability are properly assessed in terms of the

type and/or level of severity. An ongoing assessment procedure would be beneficial as it would allow persons with disabilities to attend assessments whenever they wish and would mitigate instances of stigma and discrimination that can occur during collective registration at the community level.

Strengthening linkages between social protection and other social services

Although the provision of social protection is a key priority for persons living with disabilities, it is clear that a more comprehensive approach is needed to meaningfully address the various barriers and challenges faced by persons with disabilities. The state needs to provide broader support alongside social security to comprehensively address the challenges faced by the disabled community and ensure the inclusion of people with disabilities in society and in the labour market. Improving access to education and training to enable persons with disabilities to engage in the labour market is particularly important as it increases productivity and could lead to substantial gains. Improving access to health services and social care would allow families to receive necessary treatment and rehabilitation in addition to mitigating instances of impairments worsening. An example of this is the provision of health insurance subsidies to recipients of the PwSD-CT. Better integration and linkages between services requires a strengthened case management system and a social service work force which can assess needs and refer people to relevant services.

Mainstreaming of disability through strengthened governance arrangements

It is evident that the Government needs to work in an integrated and coordinated manner across all sectors if it is to promote and protect the rights of persons with disabilities. The integration of disability concerns in broader policy and programming is crucial and needs an institution centrally placed to provide oversight and coordination. A strategic repositioning of the NCPWD within a powerful institution such as the Office of the President would allow the Council to ensure that all sectors are delivering quality services to persons with disabilities and serve to hold ministries accountable for their responsibilities in including issues of disabilities in their policies and programming.

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A1 NCPWD membership registration form

(ATTACH PHOTO) NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES INDIVIDUAL REGISTRATION FORM										
	DUAL REGIS		K/W		absid h					
Registration No. (For Official use only)										
Date of registration	Day	Month	Ye	ear						
PERSONAL DETAILS (BLOCK LETTERS)										
A01 Full name										
A02 ID/Birth Certificate No										
A03 Postal Adress (the most stable)	Box No		Code	City/	Town					
A04 Cellphone Number										
A05 Nationality										
A06 Name of next of kin										
A07 Relationship to next of kin PERMANENT ADDRESS/AREA C		CATION								
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A11 Constituency										
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A12 Sex	1 Male	2 Female								
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			A14 Marital Status 1 Married 2 Divorced 3 Separated 4 Widowed 5 Never married DISABILITY (Mark appropriate box. If major cause = 1, then B03 should be blank)							
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Nature of disability		Major cause	1	B03 At what age?	Severity of	f the disability				
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A2 National prevalence of disability by county

Source: Kenya National Bureau of Statistics (2012). Analytical Report on Disability, Volume XIII: Kenya 2009 Population and Housing Census.

Development Pathways is committed to bold and innovative thinking on social policy. Our aim is to provide creative, evidence-based and context-specific solutions to the social and economic challenges facing low- and middle-income countries.

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