

**State of Disabled Peoples Rights
in Kenya
(2007) Report**

RE: AFUB NATIONAL MEMBERS, PARTNERS AND HUMAN RIGHTS ADVOCATES: – THE KENYA DISABILITY HUMAN RIGHTS REPORT 2007.

It is with great honour that I convey to you my message on the situation of Human Rights of Persons with Disabilities in Africa with the hope of garnering more attention to these fundamental issues. It is my sincere hope and solemn pledge that the African Union of the Blind will play a leading role in bringing this study and the issues it addresses to the attention of decision makers across the globe as well as the general public.

I am very pleased that the “State of Disabled People’s Rights in Kenya - (2007) Report” was commissioned on the African Union of the Blind’s initiative in collaboration with the World Blind Union.

In 2005 as the newly appointed Executive Director of the African Union of the Blind I led a team of human rights advocates, stakeholders, and other experts to examine what could be done to strengthen both the protection and monitoring of human rights of Persons with Disability. As a first step it was decided to commission a study to monitor the state and dimensions of human rights of disabled people in a pilot project conducted in two African countries.

It was our hope that the study would clarify conceptual and policy issues as well as report on both the individual experiences and potential impact of the international treaty bodies in advancing protection to disabled individuals.

This comprehensive study of human rights and disability is the result. I warmly welcome the study and present it to all concerned with human rights and disability.

On behalf of the Board of officers of the African Union of the Blind I thank the researchers who have worked together to provide us with an indispensable and practical resource for use nationally and internationally to defend the human rights of all disabled persons.

I wish to acknowledge the support of the Government of Kenya, which made this project possible.

A handwritten signature in blue ink, appearing to be 'EM' with a stylized flourish.

Dr. Elly Macha
Executive Director
African Union of the Blind

State of Disabled Peoples Rights in Kenya (2007) Report

By

African Union of the Blind (AFUB)

In collaboration with

Kenya Union of the Blind (KUB)

And

**Centre for Disability Rights, Education & Advocacy
(CREAD)**

With support from

**Swedish International Development Agency (SIDA) through
Swedish Association of the Visually Impaired (SRF)**

And

Disability Rights Promotion International (DRPI)



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Swedish Association of the Visually Impaired (SRF) / Swedish Organisations' of Disabled Persons International Aid Association (SHIA) and Disability Rights Promotion International (DRPI) also funded this study.

This report is available electronically in PDF and HTML formats on the African Union of the Blind (AFUB) website: www.afub-uafa.org Centre for Disability Rights Education & Advocacy (CREAD) website: www.cread.or.ke and Disability Rights Promotion International (DRPI) website: <http://www.yorku.ca/drpi/>.

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LIST OF ABBREVIATION AND ACRONYMS

AFUB - African Union of the Blind

ARI - Africa Rehabilitation Institute

CDF - Constituency Development Fund

CBM - ChristoffelBlindenMission

CREAD - Centre for Disability Rights Education and Advocacy

DHR - Disability Rights Promotion International

DPOs - Disabled Peoples Organization

DRPI - Disability Rights Promotion International

GDP - Gross Domestic Product

HDI - Human Development Index

KDHRAN - Kenya Disability Human Rights Advocacy Network

KNCHR - Kenya National Commission on Human Rights

ICRPD - International Convention on the Rights of Persons with Disabilities

IYDP - International Year for Disabled Persons

KDS - Kenya Development Survey

KUB - Kenya Union of the Blind

MoU - Memorandum of Understanding

Pere - Percentage

PMAP - Peer Mechanism Self Advocacy Programme

PWDs - Persons with Disabilities

PDA - Persons with Disabilities Act

SIDA - Swedish International Development Agency

SHIA - Solidarity Human Rights Inclusion Accessibility

SRF - Swedish Association of the Visually Impaired

UDPK - United Disabled Persons of Kenya

UN - United Nations

UNDP - United Nations Development Programme

WBU - World Blind Union

WHO - World Health organization

Preface

This “State of Disabled People’s Rights in Kenya (2007) Report” emanates from two distinct but complementary project initiatives: “Blind and partially Sighted persons Using Human Rights instruments as a Tool for Achieving Equality and Development in the Society” conceived by the African Union of the Blind (AFUB) and the Disability Rights Promotion International (DRPI) project.

The thrust of the AFUB project is to increase awareness and knowledge on national disability legislation and the International Convention on the Rights of Persons with Disabilities among national human rights commissions and national member organizations of blind and partially sighted persons in Africa in line with the World Blind Union (WBU) human rights agenda- mission.

On the other hand, the aim of the DRPI project is to develop a comprehensive and sustainable global system for monitoring the human rights situation of people with disabilities using a cross-disability and holistic approach. The monitoring and training tools and methods used in the Kenya study are also being piloted by DRPI in several other countries around the world including Australia, Cameroon, Canada, Croatia, India and Sweden. The DRPI project was established as a direct consequence of the recommendations made by the international seminar on human rights and disability held in Almåsa, Sweden in 2000 at which representatives of all of the major international disability organizations, human rights experts and UN representatives participated.

It is hoped that in this report, disabled people through their organizations (DPO’s) in Kenya will find scientific information that they need to enrich their advocacy capacity. It is also envisaged that this dossier will inform national policy development processes, generate meaningful debate and reflections on practices, methodologies and tools for promoting and protecting human dignity and rights.

Similarly, this “State of Disabled People’s Rights in Kenya (2007) Report” should form the basis for scaling further engagement between disability rights movement, allies and likeminded development partners.

The information and ideas presented in this document will continue to build on the growing collection of information resources.

Acknowledgement

A lot of work, energy, enthusiasm and time were expended by various individuals and institutions in making this groundbreaking study a reality.

African Union of the Blind (AFUB) and its local implementing partners: Kenya Union of the Blind (KUB) and Center for Disability Rights Education and Advocacy (CREAD) would like to single out Disability Rights Promotion International (DRPI) for their technical expertise in shaping up the whole study. Professor Marcia Rioux, DRPI Co-Director, deserves special mention for heading the study. In the course of the study, she made numerous trips to Nairobi where she spent sleepless nights poring through heaps of documents to ensure that all the aspects of the study were in harmony.

Heartfelt gratitude goes to the Swedish Association of the Visually Impaired (SRF) who together with the Swedish International Development Cooperation Agency (SIDA) provided the financial support for the study. The study greatly benefited from programmatic planning expertise of Erik Staff, SRF's International Programme's coordinator. In the course of the Project, Erik ensured that he was available for consultation whenever the need arose and managed to fit these consultations in between flights in his busy schedule.

We are dearly indebted to Dr. Kithure Kindiki of the University of Nairobi, School of Law who sacrificed his time to analyze all the raw data from the field.

Much appreciation is extended to Dr. Elly Macha, AFUB Executive Director and Mr. Cornelius Ojangole, AFUB Disability and Human Rights project Coordinator, who worked hard to provide exceptional leadership during the study and ensured that all logistics and necessary materials and information were availed on time.

We are not oblivious of the exceptional work done by human rights monitors from both KUB and CREAD. This study would not have been successful without them.

Undergraduate students of law from both Universities of Nairobi and Moi were very helpful in this study. Their interest in understanding and identifying the intersection between disability, human rights and law was astounding.

There are many other people who played equally critical roles, either as members of the study's management team, task force and network. Although we may not be able to mention them by name due to the limitation of space, we appreciate their every effort to make this work a success. To everyone that was involved in the study in any way we say "AHSANTE SANA."

Executive Summary

Conceptual framework and scope

The total number of people with disabilities in Kenya is not substantiated but there are estimates that it could well be 3, 280, 000 Kenyans which would reflect the global average of 10% of all countries' populations. According to the World Bank, 20% of the world's poor are disabled people with more than 60% of them living in the developing world. Notably, 56% of the Kenyan population lives below the poverty line. This definitely has a bearing on the living conditions of the disabled persons in the country. This study attempted to investigate the status of the rights of disabled people in Kenya at two levels: systemic and individual.

Sampling and Study sites

The study was conducted in three main geographical regions: Rift Valley, Nairobi and Nyanza. The poverty level in the three provinces is 52.6 %. The three provinces also have a high concentration of disabled people as a result of being home to schools and vocational centers for persons with disabilities. One hundred (100) interviews were conducted across the study sites using the snowball sampling technique but 95 were used in the study.

Systemic focus findings

The systemic focus of the study was aimed at analysing national and regional legislation on disability, government of Kenya programmes and policy on disability and case law on disability. The study findings show that Kenya is a party to most of the major international human rights instruments and has signed but not yet ratified the international *Convention on the Rights of Persons with Disabilities*. At the national level, the government of Kenya has enacted the *Persons with Disabilities Act (PDA) 2003* which creates the National Council of Persons with Disabilities as a statutory organ to oversee the welfare of disabled persons.

There is no constitutional definition of disability in Kenyan law. However, there exists a statutory definition under the PDA, which defines disability in Section 2 as: "A *physical, sensory, mental, or other impairment including any visual, hearing, learning or physical incapacity which impacts adversely on social, economic or environmental participation.*"

The study also found out that the *Constitution of Kenya* has provisions guaranteeing the human rights and liberties of citizens (Chapter V). Since these are rights that apply to all citizens, persons with disabilities are expected to enjoy these rights equally with the rest of the society. Though the *Constitution of Kenya* outlaws discrimination on various grounds such as race, tribe and colour, it does not refer to discrimination on the basis of disability. To date, in cases where disability discrimination has occurred, anti-discrimination laws have not been enforced. This

may be because the PDA is a new act and has not yet been subject to interpretation in any courts of law in Kenya.

The study also found that the law itself is discriminatory to persons with disabilities in certain cases. For example, when prescribing principles of criminal liability, the *Penal Code* provides for the protection of “idiots” and “imbeciles”. This language is highly derogatory and does not even clearly identify the persons it seeks to protect, that is, persons with mental disabilities.

In addition to the National Council for Persons with Disabilities, there are other bodies with a disability rights mandate that have been established by the Kenyan government through various Acts of Parliament. One of these, the Kenya National Commission on Human Rights (www.knchr.org), monitors abuses of human rights in Kenya. The study’s findings indicate that the Commission has taken up disability as one of the human rights concerns under its mandate.

The study also found that Kenya does not have a welfare system to support sectors of the population who are less advantaged such as those who are unemployed, aged or have disabilities. However, the study found out that the Kenyan government has several programmes to cater for the welfare of disabled persons. For instance, in 1990, the Ministry of Health implemented Community Based Rehabilitation (CBR) programmes at the district level. The aim of the programmes is to create awareness to prevent disabilities, promote good health as well as engaging in curative care and rehabilitation activities. In addition, the Ministry of Education has adopted an integration policy, which provides that children with physical and mental disabilities be placed in normal schools.

Individual focus findings

The individual focus of the study was aimed at investigating the human rights situation of persons with disabilities living in the three monitoring sites in the last five years. Thus, the study investigated how the barriers and obstacles faced by people with disabilities affected their rights, by examining in particular four key human rights principles: **dignity** (perceptions of self-worth), **autonomy** (ability to make choices and decisions on issues that affect one’s own life), **equality** (having disability differences respected and disadvantages addressed and being able to participate fully on equal terms), and **inclusion** (being recognized and valued as equal participants and having needs understood as integral to the social and economic order and not identified as special needs).

Approximately 74% of people with disabilities in this study reported they were denied the right to make decisions on issues affecting their own lives.

Results also indicated that more than 86% of the respondents reported being treated unequally by people who do not have disabilities. In some cases, they claimed that their own family members had exploited them. Furthermore, 80% claimed having experienced segregation, isolation and lack of support for their needs on the grounds of disability.

Approximately 54% of the respondents recounted that, in one circumstance or another; they had been given a negative nickname based on their disability. Labelling of people with disabilities seemed to be a very common experience for people with disabilities in Kenya. In about 72% of the interviews, abuse and discrimination seemed to emerge from broad social factors and contexts. That is, the discrimination that many people with disabilities faced appeared to have social roots, and originated in the deep, entrenched stereotypes prevailing in Kenyan society that portray people with disabilities as burdens, useless, good for nothing, and curses. However, the study found that about 32% of persons with disabilities showed remarkable resilience and strength, resisting oppression and struggling for their rights in spite of adversity and hostility.

Notably, data from this study indicates that in terms of barriers experienced, people with physical impairments and blindness are the most exposed to discriminatory attitudes, abuse and violence, and deaf as well as blind people are more likely to experience barriers in terms of access – results that are statistically significant and therefore are possible to generalize to the whole population. Similarly, differences found between disabled men and women in the sample regarding access to the human rights’ principle of dignity – with disabled women less likely to experience a sense of self-dignity than men – seem to reflect population-wide inequalities.

Conclusions & Recommendation

Based on the findings of the study, there is need to promote equal enjoyment of human rights for disabled persons and to respond to their economic, socio-cultural and political needs through various mechanisms. These include the mainstreaming of disabled people rights concerns in public programmes, promoting the equal participation of disabled people and development of national legislation and policy, legal support and arbitration, and advocacy.



Signed
Dr Elly Macha
Exec. Dir
AFUB



signed
Martin Kieti
Exec. Officer
KUB



signed
Mike Ngunyi
Exec. Dir.
CREAD

SECTION 1

Social, Economic and Political Situation of Kenya

The Republic of Kenya, formerly known as British East Africa, lies across the Equator, in eastern Africa, on the coast of the Indian Ocean. With a population of 32.8 million (UN, 2005), Kenya has more than 40 ethnic groups including: Kikuyu 21%, Luhya 14%, Luo 13%, Kalenjin 11%, Kamba 11%, Kisii 6%, Meru 5%, Asian, European and Arab 1%. (<http://www.state.gov/r/pa/ei/bgn/2962.htm>). The infant mortality rate is 115/1,000 and life expectancy is age 49.

The exact number of people with disabilities in Kenya is not known. Using the United Nation's conservative estimate that at least 10% of all countries' populations have a disability would mean that at least 3,280,000 Kenyan's fall within this population group. Evidence shows that road traffic injuries are rapidly emerging as a leading cause of death and disability at rates far exceeding those in developed countries (Yitambe 2004). Malaria is also a major cause of childhood death and disability in Kenya as in many other African countries (American Red Cross).

English is the country's official language while Kiswahili is the national language. This means that government and education are conducted in English, while everything else tends to be in Swahili. In actuality, a large part of government is also conducted in Swahili. (<http://www.kenya.com/language.html>) In addition to these two languages, most Kenyans also speak a local ethnic language of which there are over 40 spoken in the country.

Kenyan spiritual/religious beliefs incorporate: Protestant 40%, Roman Catholic 30% and Muslim 20%. Others (Hinduism, Baha'I, and indigenous.) 10%,

The standard of living in the city and major towns, once relatively high compared to much of sub-Saharan Africa, has been declining in recent years. Most city workers retain links with their rural, extended families and leave the city periodically to help work on the family farm. Approximately 75% of the country's work force is engaged in agriculture, mainly as subsistence farmers. Fifty six percent of the Kenyan population lives below the poverty line. There is a high drop out rate of children from school. Moreover, the HIV/AIDS pandemic has had a significant impact. In 2005, Kenya ranked 154th of 177 countries in the UNDP Human Development Index (HDI). (The HDI measures attainments in terms of life expectancy, educational attainment and adjusted real income.) This marked a drop of six ranks since the 2004 report. (<http://www.hdr.undp.org>)

Kenya gained independence from Britain in 1963, and became a republic in 1964 (<http://www.ilo.org/public/english/employment/skills/disability/download/cpkenya.pdf>). After independence, Kenya promoted rapid economic growth through public investment, encouragement of smallholder agricultural production, and incentives for private (often foreign) industrial investment. Gross domestic product (GDP) grew at an annual average of 6.6% from 1963 to 1973. Agricultural production grew by 4.7% annually during the same period. Between 1974 and 1990, however, Kenya's economic performance declined.

(<http://www.state.gov/r/pa/ei/bgn/2962.htm>). Kenya's economy has been struggling to recover from decades of decline and stagnation, with service provision having deteriorated, per capita income severely declined in real terms, and the proportion of people below the national poverty line risen from 48% in 1990 to 56% in 2003. The economy improved and grew at 2.6 percent in 2004, compared with 1.8 percent in 2003. (<http://www.un-kenya.org/defaultp.asp>). In 2005, the gross domestic product (GDP) grew by 5.8 percent up from 4.9 the previous year. Nairobi continues to be the primary communications and financial centre for East Africa. It enjoys the region's best transportation linkages, communications infrastructure, and trained personnel, although these advantages are now less prominent than in past years. (<http://www.state.gov/r/pa/ei/bgn/2962.htm>).

The Kenyan government has three branches: executive, legislative, and judiciary. The executive consists of a President who is both the chief of state and head of government, and a Vice-President and cabinet appointed by the President. The President is elected by popular vote for a five-year term. In addition to receiving the largest number of votes in absolute terms, a successful presidential candidate must also win 25% or more of the vote in at least five of the country's seven provinces and one area. The legislative branch consists of a unicameral National Assembly, or Bunge, with 210 members elected by popular vote from single-member constituencies, to serve five-year terms, plus 12 members nominated by political parties in proportion to their National Assembly vote totals. In the exercise of legislative power, bills are passed by the National Assembly and become law upon the assent of the President. The judiciary is headed by a High Court, consisting of a Chief Justice and High Court judges and a Court of Appeal. All judges are appointed by the President.

Local administration is divided among 69 rural districts, each headed by a Commissioner appointed by the President. The districts are grouped to form seven rural provinces. The Nairobi area has special status and is not included in any district or province. The central government supervises the administration of the districts and provinces. In 2005, president Kibaki created 27 more districts which are yet to be published in Kenya Gazette as required by law.

On December 27, 2002, Kenyans held democratic and open elections deemed free and fair by international observers. The 2002 elections marked an important turning point in Kenya's democratic evolution in that power was transferred peacefully from the single party that had ruled the country since independence to a new coalition of parties. Political veteran Mwai Kibaki won a landslide victory and is the current President. The constitution (last amended in 2001) barred his predecessor, Daniel arap Moi, from standing for re-election. President Kibaki's National Rainbow Coalition (Narc) won a parliamentary majority.

President Kibaki said that he would make the fight against corruption a priority and promised to address Kenya's economic challenges. However, in early 2006, revelations from investigative reports of two major government-linked corruption scandals rocked Kenya and led to several resignations, including three cabinet ministers. The next democratic elections are to be held in 2007.

Most Kenyans rely on the broadcast media, particularly radio, for news. Until recently, the liberalization of broadcasting had a limited impact outside of Nairobi. However, some private radio and TV networks now have wide coverage over much of the country. TV viewing is substantial but few Kenyans are regular internet users, owing to cost and access problems. The Kibaki government came to power promising further media liberalization. However, in late 2003, there was a crackdown on unregistered “alternative” newspapers, using a controversial law passed by the previous government. Moreover, a March 2, 2006 media crackdown on the *Standard* newspaper, conducted by masked Kenyan police officers, was internationally condemned and met with outrage by the Kenyan media and civil society.

Description of Interview Research Sites¹

Rift Valley

Rift Valley Province is the largest province in Kenya whose main dominant feature is the Great Rift Valley from which the province derives its name. According to the 1999 census the province population was 6, 987, 036. The province is considered the country’s bread basket for its agricultural productivity which is one of the major main economic activities in the province. The other major economic activity is tourism. The province is home of the world famous game parks including , Maasai Mara, Lake Nakuru game park and a number of game reserves spread across the province. The rift valet is a major tourism attraction on top of the rich culture of the people of the province that include, the Maasai, El moro, Turkana and the Samburu. Apart from agriculture and tourism other economic activities in the province include mining and industrial production.

The two dominant communities in the province are Kalenjin, and Maasai. However the province is also home to large portion of the Kikuyu population. The other communities in the province include the Samburu, Turkana, Pokot, Kikuyu, Kisii and Luhya.

With 60 per cent of the population living in the rural area, the poverty level in the province is 48 per cent.

Rift Valley was selected for research because of its peri-urban set up. Although the province is home of two major towns, Nakuru and Eldoret, the province is predominantly peri-urban. Both towns are centres of agribusiness in the country.

Nakuru Town has a concentration of people with disabilities drawn from all disability groups.

Nairobi

Nairobi is the capital city of Kenya. It is the political and administrative of the country with a population estimated at 4 million. Nairobi is the business capital of east and

¹ Written by Mike Ngunyi, Executive Director, CREAD

central Africa thus blending a cosmopolitan culture. It is also the east Africa's industrial capital.

Although the Kikuyu community is the most dominant, the city is a melting pot of all the ethnic communities in the country. The city has the highest population of people of European, American and Asian origins. The major economic activities in the city are industrial production and tourism. The city is home to the only game park located in a city in the world. The Nairobi national park is a 10 minutes drive from the city centre.

With national unemployment levels soaring at 40 per cent, 50 per cent of the population lives in the slums of Kibera, Mathare, Korogocho, and Mukuru. Between 500,000 and 1,000,000 live in Kibera, one of the largest slums in Africa second only to Soweto in Africa.

According to *Pulling Apart: Facts and Figures on Poverty in Kenya*, Nairobi is among the three out of Kenya's provinces that can be casually classified as high inequality high poverty provinces. The poverty levels in the three provinces is 52.6 percent

Nairobi was selected for the study because of its diversity in ethnicity and income levels. The city has a large population of people with disabilities drawn from all disability groups who run to the city from the harsh social economic conditions in the rural areas of the country.

Nyanza

Nyanza province lies on the south western side of Kenya. The prominent geographical feature in the province is Lake Victoria, the world largest fresh water lake and the source of the Nile. The province has a population of approximately 4.2 million. The dominant communities in the province are the Luo, the Kisii, and the Kuria.

80 per cent of the population lives in rural areas. The province has the highest poverty level in the country at 65 per cent. The highest causes of poverty in the province are unreliable rainfalls, high incidence of HIV/Aids, and dilapidated physical infrastructure. The main economic activities in the province are fishing, farming especially cane, cotton, coffee, and gold mining. Tourism in the province is just beginning to become a major economic activity due to government efforts to spur development in the area.

Nyanza was selected as a site for the research because it is a predominantly a rural province. Further more the region the main town, Kisumu has a large population of people with disabilities being the centre a people with disabilities primary and secondary, and rehabilitation centres that are run by the government, Catholic Church and the Salvation Army.

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SECTION 2

Systemic Provisions to Protect, Promote and Fulfill the Human Rights of People with Disabilities in Kenya

A. International & Regional Framework

Kenya has ratified or acceded to six of the seven major international human rights instruments² and the *African (Banjul) Charter on Human and Peoples' Rights*. However, Kenya has not reported to the international treaty monitoring bodies in a timely manner. Many of the country's reports are long overdue.

B. National Human Rights Framework

I. General Statutory and Policy Framework:

Disability has been variously defined by reference to the nature of the particular disability being defined or the cause or the consequences of that disability. This approach was necessitated by the fact that disability takes various forms and degrees.

There is no Constitutional definition of disability in Kenyan law. However there exists a statutory definition under the PDA which defines disability at Section 2 as follows:

A physical, sensory, mental, or other impairment including any visual, hearing, learning or physical incapacity which impacts adversely on social, economic or environmental participation.

The PDA's definition is wide enough to include persons who may not traditionally be regarded as disabled.

The *Constitution of Kenya* (www.kenyalawreports.org) makes provisions guaranteeing human rights and liberties of citizens (Chapter V), rights that apply to all citizens. Persons with disabilities are expected to enjoy these rights equally with the rest of the society.

The Constitution outlaws discrimination at Section 82 (1) on many grounds including race, tribe, place of origin, birth, political opinion, colour and sex but does not outlaw

² International Covenant on Civil and Political Rights (ICCPR)(acceded May 1, 1972); International Covenant on Social, Economic and Cultural Rights (ICESCR)(acceded May 1, 1972); Convention on the Elimination of All Forms of Racial Discrimination (CERD)(acceded September 13, 2001); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)(acceded March 9, 1984); Convention on the Rights of the Child (CRC) (ratified July 30, 1990); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (acceded February 21, 1997).

Kenya has not ratified or acceded to the Optional Protocols related to any of the above-noted instruments nor to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

discrimination on the basis of disability.³ This silence in the Constitution is capable of two interpretations; positive and negative. On the positive side, the mischief intended to be cured is, that discrimination on basis of status or difference of individuals does not arise. So the mere fact that the word disability is not included should not be interpreted to mean that disability was not intended to be a prohibiting ground of discrimination. On the negative side, in the light of the fact prohibiting grounds for discrimination are expressly stated, it means therefore that discrimination on the basis of disability is not prohibited by the constitution.

Bearing in mind the central position that the Constitution occupies in the hierarchy of laws, it would be more prudent if the constitution were amended to expressly include disability as one of the basis of discrimination.

The *Kenyan Constitution* contains provisions that could be construed as discriminatory to persons with disabilities. These include:

- Section 12 which *provides that a person who is incapacitated by reason of physical and mental infirmity while exercising the functions of office of the president should be removed from that office.* Although this provision is reasonable, it can imply that those with intellectual or physical disabilities cannot hold the office of the president. This provision could have been more reasonable if it had been given judicial interpretation in Kenya.
- Section 34 (c) *provides that for a person to qualify as a member of national assembly, he or she must inter alia: -*
 - (i) *Must be able to speak*
 - (ii) *Unless incapacitated by blindness or other physical cause, to read the Swahili and English language*
 - (iii) *To speak and read Swahili language well enough to take an active part in the proceedings of national assembly*

This Section has been reiterated by the *National Assemblies Act*, which sets up a Language Board⁴, which tests prospective members of parliament on language proficiency. The Act, including all other legislations, has not given judicial interpretation to language and reading. We do not know whether sign language is also a 'language' within the meaning of the Constitution and the Act and whether reading in Braille is also 'reading' within the meaning of the said provisions.

A milestone in addressing the rights of persons with disabilities was found in the Proposed Draft Constitution⁵. The Draft Constitution could have been of great impact in protection of the rights of persons with disabilities, as it contained clear provisions specifically addressing the rights of persons with disabilities.⁶ Article 43 placed obligation upon the state to ensure that their rights are enjoyed. The draft

³ The Draft Constitution, which was rejected in November 2005, did specifically outlawed discrimination on the basis of disability in Article 37 (1).

⁴ See Section 4 of the National Assemblies Act

⁵ The proposed new Constitution of Kenya, Kenya Gazette Supplement No. 63, 22nd August 2005.

⁶ See, Article 37 and 43 of the Draft Constitution.

Constitution was not, however, rejected during the Referendum.⁷ This was a great set back in realization of the rights of persons with disabilities

The *Persons with Disabilities Act*, 2003 hereinafter referred to as PDA, (www.kenyalawreports.org), prohibits all forms of discrimination against persons with disabilities which the only statute that outlaws discrimination against persons with disabilities. PDA, is a fairly new Act and it has not been subject to interpretation in any courts of law in Kenya

The *PDA* includes provisions to prohibit discrimination on the basis of disabilities in various sectors including education, employment, health, and provision of services in both the public and private sector among others. Section 15, prohibits discrimination in the employment sector, Section 17 in education, Section 20 in health, and Section 25 in accessing premises. Section 39, 40 and 41 provide for indirect discrimination against persons with disabilities in areas such as television programmes⁸ telephone services and postal charges.

The other legislation, which protects persons with disabilities, is the *Penal Code* that prescribes principles of criminal liability. It makes provision for the protection of “idiots” and “imbeciles”⁹. The language used by this Act (idiots and imbeciles) is highly derogatory and does not clearly identify persons it seeks to protect – persons with mental disabilities.

Secondly, the offence of engaging in sexual intercourse with “idiots” and “imbeciles” amounts only to defilement, but not rape, which therefore only results in lenient punishment, unlike rape, which attracts stiffer penalties. The implication of the *penal code* therefore has the effect as was in the case of *Republic vs Mahinda*¹⁰ where a mentally retarded girl, who was intelligent enough to know the man who had carnal knowledge with her, was nevertheless treated as defilement case despite the fact that she was able to demonstrate and intelligently say what had happened to her. It is also worthy to note that, under the *Evidence Act (Cap 70)*, a person with a mental disability is considered incompetent if she cannot understand the nature of oath.

Government bodies dealing with disabilities

National Council for Persons with Disabilities hereinafter referred to as the Council, is established under Section 3 of the PDA. Section 7 states the specific functions of the Council, while Sections 22 and 24 of the same *Act* provides for the timelines under which these provisions are to be complied with. The functions of the Council, among others,¹¹ are to issue adjustment orders under Section 24 of the Act; which provides that any premises to which members of the public are ordinarily admitted, whether on payment of a fee or otherwise and services or amenities are ordinarily provided to members of the public. The Council also has a mandate to order any

⁷ Referendum was conducted on 22nd November, 2005

⁸ Kenya Television Network (KTN) at times broadcast their news in sign language

⁹ See, Section 46 of the Penal Code, Cap 63 Laws of the Kenya

¹⁰ (1994), unreported

¹¹ See, Section 7 for detail function of the Council.

person providing such services, or manning such premises to make the premises accessible to persons with disabilities¹².

The Council in its mandate of ensuring that the rights and privileges accorded to persons with disabilities under the *Persons With Disabilities Act, 2003*, developed a Strategic Plan 2006-2009.¹³

To date, the Council is doing the following: -

- a) Formulating policies and developing measures that will guide the operations of the council for the next three years and beyond.
- b) Mobilizing and generating adequate resources for the councils activities .The Council was allocated seven million (Kshs 7,000,000/=) from the budget for the year 2006/2007 by the government.
- c) Supporting research and providing accurate information on disability, to the public. This is done through public awareness
- d) Developing mechanisms to facilitate the registration of individuals, groups and organizations; as well as places and institutions providing services to person s with disabilities
- e) To strengthen capacity of persons with disabilities, institutions, and individuals Persons with disabilities to influence and monitor the implementation of service delivery

Apart from the National Council for Persons with Disabilities, there are other bodies that have been established by the government through various Acts of Parliament.

The *Kenya Society for the Blind* was established long before independence in 1956 with broad objectives of promoting the welfare, education, training and employment of people who are blind. This body is established under the Kenya Society for the Blind Act.¹⁴ The Society sets up a regime in prevention and alleviation of blindness. Besides giving small grants to persons with visual impairments, the Society has not done much to improve the welfare of persons with visual impairments. The Society is under management of a council.

The *Kenya Institute of Special Education (KISE)*¹⁵ was established in 1986. Its role has to date, been primarily administrative. The establishing Act¹⁶ has not gone any further to give special education a legislative status. It therefore remains an administrative body without legislative backing, which cannot authoritatively pursue the needs of persons with disabilities to a large extent.

¹² See Section 24 for details on how these` adjustment orders are carried out.

¹³ See National Council for Persons with Disabilities, Strategic Plan 2006-2009, Republic of Kenya, Ministry of Gender, Sports, Culture and Social Services www.statehousekenya.go.ke/government/gender.htm The strategic plan was launched on April, 2006

¹⁴ Section 4 of the Kenya Society For the Blind Act sets out specific objectives f the society

¹⁵ This body was established vide Section 4 of the Education Act

¹⁶ Education Act

The Kenya National Commission on Human Rights (www.knchr.org) was established through an Act of parliament to monitor abuse of human rights in Kenya. This Commission has taken up disability as one of the human rights concern under its mandate.

Poverty and Disability

Although poverty is a sub-global problem affecting most sectors of population, persons with disabilities experience higher incidence of poverty than others. In response to poverty eradication generally, the Government has taken the following measures: -

- Launched The Poverty Reduction Strategy Paper [<http://planning.co.ke>], which is a strategic plan by the government for eradicating poverty. Under clause 2.4 of the strategy paper the poor are clustered in certain socio-economic categories *that include small farmers, pastoralists in Arid and Semi-Arid Land (ASAL) areas, agricultural labourers, casual labourers, unskilled and semi-skilled workers, female-headed households, and people with physical disabilities*. This classification does not take into account other categories of persons with disabilities. There is, however, no specific poverty reduction provision for people with disabilities as there is for the other classifications. The plan does provide for an immediate priority to improve governance by “*Implement[ing] policies to combat discrimination within the public service and introduce necessary legislation to support the rights of women and the disabled*” (Clause 4.8)
- The Constituencies Development Fund (CDF Act, No (9) 2003 [www.cdf.go.ke] **was** established on 31st December 2003 as one of the government strategies of devolving resources for eradicating poverty at the Constituency level.¹⁷ The Act is also aimed at distributing national resources equitably throughout Kenya. The Act does not specifically make provisions for persons with disabilities.

Economic situation

Kenya does not generally have a welfare system to support other sectors of population who are less advantaged such as those who are unemployed, aged or have disabilities. The *Persons with Disabilities Act* does not make provisions for the establishment of any social welfare system. However, it makes the following provisions for the support of persons with disabilities. The *Persons with Disabilities Act, 2003* (Section 32) establishes a fund known as the National Development Fund, which will be managed by a board of trustees once it comes into effect for the benefit of persons with disabilities. The fund may also be used for persons with disabilities who are poor. The fund contributes to the expenses, including capital expenses, of organizations of or for persons with disabilities and includes expenses of institutions that train persons in the care of persons with disabilities.

¹⁷ See Section 5 of the Act, which outlines the functions of The National Council

“Without limiting the generality of Section 32 (2), the Board of Trustees may, out of the fund, pay allowances to persons with disabilities falling in the following categories and who have no other source of income”:

- *Persons with severe disabilities and therefore not trainable in any skills;*
- *Aged persons with disabilities; and*
- *Single parents with children with disabilities and who cannot therefore seek employment; and*
- *Make payments or contributions for such purposes as may be described by the Council.*

Persons with disabilities can apply for tax exemptions to the Minister responsible for Finance. Under *PDA* Section 35 (1)

Vocational Training Programmes for Persons with Disabilities

The Vocational Rehabilitation Division of the Department of Social Services under the Ministry of Gender, Sports, Culture and Social Services is responsible for 12 rural rehabilitation centers throughout the country and Nairobi’s industrial rehabilitation center, which trains persons with disabilities for jobs. In those centers, skills training courses, are offered in the following areas-carpentry, metal work, leatherwork, tailoring, traditional craft, printing, jewelry, textile manufacturing, agriculture, commercial studies, telephone operations and computer courses. The National Rehabilitation Committee of the Department of Social Services also provides for vocational rehabilitation services. It is decentralized into 49 district rehabilitation centers.

All of these activities are part of the National Rehabilitation Programme, which was established to provide persons with disabilities with the opportunity to acquire employable skills.¹⁸

The National Development Plan (2002- 2008) also has provisions that focus on strengthening vocational rehabilitation centers for people with mental and physical disabilities and affirmative action in areas of employment, vocational training and education.

Employment

The *Employment Act* (Cap 226, Laws of Kenya) is the overall Act of parliament that makes provisions on matters relating to employment. In so far as the employment of persons with disabilities is concerned, the *Act* can be interpreted as contributing to the economic marginalization of persons with disabilities by not treating the employment of persons with disabilities a subjects requiring special concern. There is no recognition in the *Act* that persons with disabilities face discrimination when they seek employment and that they have limited opportunities compared to those without disabilities. The *Act* has no provision to impose obligations on employers to

¹⁸Programme activities are conducted by the National Rehabilitation Committee appointed in compliance with paper No. 5 (1968).

employ persons with disabilities leaving them consequently to the liberalized job market, which is heavily biased against them.

Under Section 12 of the *Person with Disabilities Act (2003)*, persons with disabilities are given the right to equal opportunities, compensation, privileges, benefits, fringe benefits, incentives or allowances depending on their qualifications. Employees are also entitled to tax exemptions on all income accruing from his/her employment.

The Council for Persons with Disabilities has an obligation under Section 13 to secure 5 % of all casual, emergency and contractual positions in employment in private and public sectors for persons with disabilities. If this is achieved it will make a substantial contribution to reducing the current marginalization of people with disabilities in the employment sector.

Section 15 of the *Act* outlaws discrimination by employers in employment through taking such action as not discrimination against persons with disabilities in advertising of jobs, recruitment, determination of wage levels, and provision of facilities. This Section is aimed at ensuring that persons with disabilities are given an equal footing in employment like other persons without disabilities.

Since the job market in Kenya is liberalized, Section 16 provides incentives to employers who engage the services of persons with disabilities. These employers are entitled to apply for deductions from their total taxable income equivalent to 25% of the total amount paid as salary and wages to employees with disability.

To ensure that persons with disabilities are well placed in all spheres of employment, Section 17 of the *Act* places an obligation on the Council to maintain a record of persons with disabilities who are in possession of various skills and training. Such records are to be updated regularly for the purpose of job placement.

There are both financial penalties and potential imprisonment (s. 26) provided for in the case that these provisions are not met. However to date, there are no reported cases brought before the Courts of Law under this Act.

Accessibility

The 2005 Draft National Policy on Persons with Disabilities indicates that “The Persons with Disabilities Act,(2003) provides a legislative framework through which issues of access will be addressed” Clause 11 of the Draft National Policy provides that it is of equal importance to recognize what constitute issues of access. In Section 2.3 of the Draft (2005), titled *Barriers*, highlights barriers preventing persons with disabilities from attaining acceptable quality of life which includes: -

- a. Environmental (e.g. *Buildings/ construction pose difficulties in physically accessing public buildings.*
- b. Communication (e.g. *Electronic or print media are generally inaccessible to people with visual, hearing, or intellectual disabilities).*

- c. Social (e.g. *Attitudes and practices embedded in cultural beliefs, taboos, rites of passage, and religion create near insurmountable obstacles to the participation of persons with disabilities in social and cultural activities*).
- d. Economic (e.g.. *Barriers preventing persons with disabilities from fully participating in employment, commerce, and credit; many persons with disabilities are living in extreme poverty*).

The legislative framework of the PDA, sets out a number of conditions that affect issues of access for persons with disabilities in Kenya which include the following:

Under Part III (Section 11-28) of PDA, –Rights and Privileges of Persons with Disabilities, addresses issues of disability in a number of Sections. However, to most effectively carry out the legislative efforts of the PDA at addressing issues of access, the provisions made should have outlined alongside their Section notation, structures on how the provisions were to be implemented.

a) Environmental

PDA Section 15 (1) provides that no employer shall discriminate against a person with disabilities in relation to the provision of facilities related to or connected with employment.

Section 21 dealing with accessibility and mobility, states that “*persons with disabilities are entitled to have a barrier- free environment to enable them to have access to buildings, road and other social amenities, and assistive devices and other equipment to promote their mobility*” and under Section 22 (1) public buildings, proprietors shall adapt them to suit persons with disabilities in such a manner as may be specified by the Council. Once the Council gives such specification, proprietors of such buildings shall be required to comply with the above provision within 5years.¹⁹

Further, Section 23 imposes an obligation upon public service vehicles providers to adopt them to suit persons with disabilities in such manner as may be specified by the Council. A two-year time frame is provided for compliance with this Section²⁰.

The enforcement of these Sections is effected through the Council. The council issues adjustment orders under Section 24, which provides that if the Council considers that any premises, services or amenities are inaccessible to persons with disabilities by reason of any structural, physical, administrative or other impediments to such access it may serve upon the owner of the premises or the provider of the services concerned an adjustment order.

b) Communication

¹⁹ Section 22 (2)

²⁰ Section 23 (2)

Persons with disabilities have been facing communication barriers in terms of the amount of information they can gain access to and communicating with other persons without disabilities.

Under Section 19 of PDA, the Council is under obligation to work *“in consultation with the relevant agencies of government to make provisions in all districts for an integrated system of special and none-formal education for persons with all forms of disabilities and the establishment where possible of Braille and recorded libraries for persons with visual disabilities.”*

Further, under Section 39 PDA provides that all television stations shall provide a sign language inset or subtitles in all newscast and educational programmes and in all programmes covering event of national significance. The PDA does not clearly or expressly provide incentives to media actors or institutions to encourage them to ensure that the information they provide is accessible to people with disabilities. Despite the mandatory language of the Section, there is no penalty for non-compliance neither is there any incentives to encourage media actors to comply²¹.

In addition to that, Section, 40 of PDA, Provide that *“all persons providing public telephone services shall as far as possible install and maintain telephone devices or units for persons with hearing disabilities and tactile marks on telephone sets to enable persons with visual disabilities to communicate through the telephone system.”*

c) Social

Due to societal attitudes and stigma attached to persons with disabilities, persons with disabilities have been subjected to societal discrimination This however is hoped to be rectified under Section 21, of PDA dealing with accessibility and mobility provides that *“....persons with disabilities are entitled to have a barrier- free environment to enable them to have access to buildings, roads and other social amenities, and assistive devices and other equipment to promote their mobility.”*

PDA Section 22(1) makes provisions with regard to public buildings *“a proprietor of public buildings shall adapt it to suit persons with disabilities in such manner as may be specified by the Council.”* At sub paragraph (2) it is provided that the enforcement of this section should come into force after the expiry of 5 years of the coming into effect of the section.

No person shall, on the ground of disability alone, deny a person with disability *“Admission into any premises to which member of the public are ordinarily admitted; or The provision of any services or amenities to which member of the public are entitled Unless such denial is motivated by a genuine concern for the safety of such a person.”* This is provided for in section 25(1) of the PDA

²¹It is worth noting that in Kenya most information by media owners e.g. radio, television or newspapers are not provided in any form which would make it accessible for person with disability example in the form of Braille, sign language interpreters etc. despite the provision under Section 39.

The PDA provides at section 28 (1) that all persons with disabilities shall be entitled, free of charge, to the use of recreational or sport facilities owned or operated by the Government during social, sporting or recreational activities.

d) Economic

PDA Section 12 (1) provides that no person shall deny a person with a disability access to opportunities for suitable employment while Section 32 (1) establishes the National Development fund for persons with Disabilities as a permanent fund wherefrom income shall be derived for the benefit of persons with disabilities in Kenya.

Persons with disabilities who are in receipt of income are entitled to tax exemptions under section 35 (1) on such income upon application to the minister responsible for finance.

e) Civil Rights

An obligation is placed upon the Electoral Commission under Section 30 to provide polling stations with necessary devices and assistive devices and services, which shall be made accessible to persons with disabilities during elections.

Incentives under PDA

The PDA provides incentives to persons with disabilities and others who provide service to persons with disabilities in various Sections

Section 35(3) provides that “ *any material, articles and equipment, including motor vehicles that are modified or designed for the use of persons with disabilities shall be exempt from income duty, value added tax, demurrage charges, port charges and any other government levy which would in any way increase their cost to the disadvantage of person with disabilities*”. Therefore any facility owner who modifies any article, material including modifying motor vehicle shall be entitled to tax exemptions on the material, article or motor vehicle modified. Section 35 (1) and (2) which provides for tax exemption is still not in operation.²²

In addition, Section 36 (2) provides that *the Minister responsible for finance shall endeavor to provide incentives to local manufacturers of technical aids and appliances used by persons with disabilities including additional deductions for labour expenses, tax and duty exemptions on imported capital equipment, tax credits on domestic capital equipments, simplified custom procedure, exemptions from taxes and duties on raw materials and access to bonded manufacturing systems*²³.

In relation to credit unions, co-operative and other lending institutions Section 37 PDA, provides that “*it shall be the duty of the Minister responsible to encourage the extension by such institutions of credit to persons with disabilities.*” This section however does not clearly state how the minister will fulfill this duty.

²² Section,46 of the Income Tax Act, makes provisions for equal taxation whether a person has disability or no

²³ Section 36 (2)

Further, under Section 16 (2) PDA, a private employer who improves or modifies his physical facilities or avails special services in order to provide reasonable accommodation for employees with disabilities shall be entitled to apply for additional deductions from his net taxable income equivalent to fifty percent of the direct costs of the improvements, modifications or special services.

Penalties under the PDA

The PDA provides for penalties to those who do not comply under a number of Sections. For example, Section 26 for penalties for owners who do not offer their services to people with disabilities and Section 45 for concealment of persons with disabilities. These range from minor fines to jail sentences.

However, under the PDA, some Sections provide for prohibitions or impose duty without clearly stating the penalties, which would follow in case of contravention with those Sections. These Sections include Section 21, Section 22, Section 39, and Section 40 which deals with accessibility and mobility, public buildings, access to media, and access to telephone respectively. Note that Section 39 and 40 have not yet come into operation²⁴

Public Awareness

Through the Ministry of Health, the government, in 1990, implemented the Community Based Rehabilitation programmes, which is based at the district level. The aim of the project is to create awareness to prevent disabilities, promote good health as well as engaging in curative care and rehabilitation activities. The Ministry of Health has a rehabilitation department, which implements this programme.²⁵

In addition, the government of Kenya, through the Council for Persons with Disabilities, is implementing the National Disability Action Plan and activities around the African Decade of Disabled Persons (2000-2009). The Action plan includes policy guidelines on awareness raising, preventing and early intervention, physical accessibility standards and employment. *Africa Rehabilitation Institute (ARI)* spearheads disability issues in Africa in conjunction with other regional organizations like African Union for the Blind (AFUB)

The Council for Persons with Disabilities is mandated to create public awareness. Although its strategic plan is still in its formative stages, it is hoped that it would be engaged in aggressive public awareness activities²⁶ in the near future. The government has however not taken any actions to increase awareness of disability issues within private sector.

²⁴ Legal notice number 64 which brought into operation The Persons with Disabilities Act of 2003 provides that the Act will come into operation except Section 22, 23, 24, 35 (1) 35 (2), 39 and 40.

²⁵ www.idcs.info/docs/Services_for_deaf_children_in_Kenya.pdf Kirsty Wilson Services for deaf children in Kenya: Report from a visit to Kenya on March 2006 accessed on 23rd of July 2006

²⁶ Strategic plan for the National Council for Persons with Disabilities, 2006 to 2009.

The government through the Ministry of Home Affairs has been trying to persuade members of the public to recognize that persons with disabilities have rights. The Minister in charge, who is also the Vice President of Kenya has been outspoken in this area where he has been urging parents to take children with disabilities to school; and also to seek medical attention for such children. But generally there are no clear strategies by the government to address this issue of awareness systematically.

Education:

Under the Persons with Disabilities Act, Section 18 prohibits discrimination in the admission of students with disabilities and mandates learning institutions to accommodate the needs of those students. Section 19 mandates the Council to work “in consultation with the relevant agencies of government to make provisions in all districts for an integrated system of special and no-formal education for persons with all forms of disabilities and the establishment where possible of Braille and recorded libraries for persons with disabilities”.

There is a provision under section 18 (3) for the establishment of special schools and institutions for the deaf, the blind and the “mentally retarded”.

The Kenya Institute of Special Education (KISE) -a government institution, which was established in 1986 through legal notice No. 7 of 1986 vide the provisions of section 4 of the *Education Act*, caters for the educational needs of disabled children and adults. Its main functions include the training of teachers and other personnel to work in the field of special education; conducting of research on special education; provision, production, and repair of special education materials and equipments; production and dissemination of information on disabilities to personnel involved in special education and the general public; and provision of educational and physiological assessment for children with disabilities²⁷. The status of special education in the country is further enhanced by the implementation of degree courses in special education at Kenyatta University, Maseno University and Moi University.²⁸

In January 2003, the government of Kenya declared *free primary education* with the intention of removing all levies that previously prevented children especially those from poor economic backgrounds from accessing education. This means that no child may be excluded from obtaining education because of his/her inability to pay the required fees. This has resulted in a large increase of the number of children accessing primary education. The government has extended this scheme to special education and schools for children with disabilities, which are currently receiving a slightly higher amount of money than other schools.²⁹

²⁷ Kenya Country Profile March 2004; Employment of People with Disabilities: Effect of legislation (East Africa) Prepared by the ILO in focus programme on skills, knowledge and employability in the framework of a project funded by Development Co-operation Ireland (DCI) International Labour Office Geneva

²⁸ *ibid.*

²⁹ www.idcs.info/docs/Services_for_deaf_children_in_Kenya.pdf Kirsty Wilson ‘Services for deaf children in Kenya: Report from a visit to Kenya on March 2006’ Government funding for schools is linked to the number of children studying there. Since Free Primary Education was introduced, the government pays KSH 1020 to schools per year per child. As schools for the deaf have fewer pupils, they did not receive adequate funding under this arrangement. Kenya Society for Deaf Children lobbied for this to be increased and the ministry

In 2005, Special education was placed under the responsibility of a 'Division' in the Ministry of Education resulting in more staff and resources. The Division offers the following services:

- ◆ Educational Assessment and Resource Services
- ◆ Coordination and administration of special schools and units as well as integrated programmes.
- ◆ Allocation and disbursement of funds to special institutions
- ◆ Creation of awareness.

The Ministry of Education has adopted an integration policy, which provides that children with physical and mental disabilities be placed in normal schools. Currently there are 103 integrated units in regular primary schools, in addition to a number of special schools including three high schools for persons with physical disabilities, two high schools for persons with hearing disabilities and one high school for persons with visual disabilities. There are also vocational training schools, integrated units in secondary schools and agricultural technical trade schools³⁰. Inclusion for children with physical disabilities is being promoted. The Ministry of Education has recently agreed to give all mainstream schools Kshs.10, 000 to make their school more accessible.³¹

Health Care

The Council is represented in the implementation of the national health programme for the express purposes of addressing the prevention of disabilities, early identification of disability; early rehabilitation of persons with disabilities; enabling persons with disabilities to receive free rehabilitation and medical services in public and privately owned health institutions; availing essential health services to persons with disabilities at affordable cost; availing field medical personnel to local health institutions for the benefit of persons with disabilities; and prompt attendance by medical personnel to person with disabilities.

In addition the Ministry of Health has other departments that deal with persons with disabilities, which include *department of occupational therapy; orthopedic technology and physiotherapy*.

Civil Rights

Persons with disabilities are entitled, under Section 29 of the PDA to *be* assisted by persons of their choice in voting in presidential, parliamentary and civic elections. Section 30 makes polling stations accessible to persons with disabilities.

Consent

agreed to pay KSH 3020 per child, plus KSH 160,000 per school, to all special institutions and further 10,000 to each school for adjustment of buildings to cater for children with disabilities. Accessed, on 23rd of July 2006

³⁰ See annexure 1 on the National Policy on Education

³¹ *supra*, note 11

Persons with mental disabilities are presumed to lack the requisite mental capacity under the law to make legally binding decisions. For example they cannot enter into contracts, or sign legal documents to create, confer or alter any legal rights. They are not entitled in a court of law to give evidence.

The law of Succession recognizes the informed consent of persons with visual impairment when executing a will and provides for the way they would sign.

SECTION 3

Overview of the Disability Rights Movement in Kenya³²

Background

Both experiential and documentary evidence indicate that the Disability Movement in Kenya is still in an early transition from medical rehabilitation to the human rights model.

Charity

As the rest of the world, the earliest efforts in addressing the issues of people with disabilities were structured within the charity model in form of homes or centers for the people with disabilities. The relics of this model can be found in various district of the country, where homes for people with disabilities still exist.

Kenya's earliest recorded initiative for organized care and provision of Salvation Army Church established a programme to rehabilitate blinded men during the Second World War. The programme later became the country's first school for the blind marking the commencement of provision of formal education for blind children in Kenya and East Africa. In 1960 the church opened a rehabilitation centre for children with physical disabilities in Thika about 50 kilometers from Nairobi. The centre later transformed into the first school for the physically handicapped in the country. The mainstream churches; Catholic, Presbyterian, Anglican and Methodist followed this example by establishing schools and institutions for children with visual, hearing and physical disabilities in various parts of the country where they had their missions.

Rehabilitation

With the gradual departure of missionaries, the Government started providing teachers and financial grants to these service providers eventually taking over the management of the various institutions which they had initiated.

Through acts of parliament, the government established various institutions to give specialized services to people with disabilities. The first institution to be created was the Association for the Physically Disabled of Kenya in 1953 by colonial Legislative

³² Written by Elly Macha, Executive Director, AFUB and Mike Ngunyi,

Council (Legco). Others that were created by the government through a legislative framework include Kenya Society for the Blind, and the Kenya Society for Deaf Children.

Apart from the government created institutions, a number of non governmental organizations have been offering rehabilitation and specialized medical services to people with disabilities. The oldest NGO in rehabilitation services in Kenya is Christenblindenmission (CBM) which provides rehabilitation services to the blind and partially sighted. Others are sight savers, Sense International, Leonard Chesire Foundation, Handicap International.

People with disabilities and Parents organizations (DPOs)

Although Kenya Union of the Blind is the oldest DPO, the real involvement of people with disabilities in the fight for inclusion in the society can be traced to 1964. In that year a group of people with disabilities spent a whole night camping outside state house in Nairobi, the now official residence of the president. The group was seeking audience with the audience with the first prime minister who later that year the first president of Kenya, Mzee Jomo Kenyatta.

The group of people with disabilities wanted Kenyatta to intervene in their circumstances of extreme exclusion from the society. In answer to the disabled community, that same year Kenyatta created the Ominde Commission to look into the situation of people with disabilities and advice him and the government appropriately.

Over the next two decades, disability activism went into a lull up to the late 1980s when a number of national and community based DPOs began advocacy work. Incidentally, the major spurt of disability activism was in tandem with the global phenomenon where national people with disabilities organizations were forming to promote independent living.

These DPOs formed and managed by persons with disabilities to advocate and to pressurize for services and participation in national development. They create awareness; act as representatives of persons with disabilities and press for service provisions.

The oldest DPO is KUB established in 1959. Others who have been in operation for sometimes include: The Kenya National Association of the Deaf (KNAD) (1987) and the Kenya Society of the Physically Handicapped (KSPH) (1986).

Over time parent's organization have also developed as a strong advocacy voice especially on the rights of people with intellectual disabilities. The oldest of parent's organizations is the Kenya Association for Intellectually Handicapped. Other organizations of parents include the Autism Society of Kenya and the Kenya Society for the Mentally Handicapped.

In 1989, the National organization and one hundred and thirty community based DPOs came together to form United Disabled Persons of Kenya (UDPK).

UDPK became an umbrella body with a strong voice and negotiation capacity to champion disability advocacy work. In its sixteen years of existence, UDPK has worked very closely with the Government in policy review, planning and evaluation. It has also been critical for awareness rising for self advocacy among people with disabilities. With its wide network, the organization mobilizes people with disabilities and other stakeholders for events such as the UN International Day for persons with disabilities. UDPK was responsible for the nomination of Hon Josephine Sinyo a blind woman, into parliament in 1999. its through the work of UDPK that the government in 1990 appointed a task force to review all laws relating to people with disabilities. The People with Disabilities Act that was enacted in 2003 is the product of this recommendation of this task force.

In the late 1990's the disability activism took a new dimension with the birth of coalitions by DPOs to lobby for specific issues. The new dimension was especially important because it gave DPOs an opportunity to work together without necessarily having to disappear under an umbrella. Such coalitions have been bringing together, organizations of and for people with disabilities, civil society organizations and religious organizations pursuing a specific issue in disability work.

It is such coalitions that made presentation on the constitutional requirements of disabled community in the people driven constitution making process that began in 2000. During the national delegate's conference (also known as Bomas Conference) on the constitution, the disabled community coalesced under the Disability Caucus to push the disability agenda in the drafting of the constitution. The caucus included among others, UDPK, organizations representing various disabilities groups, civil society organizations, church organizations and organizations that provide service to people with disabilities.

Other organizations have developed to promote the rights of other disability groups including albinos and the people with cerebral palsy.

Post Independence Initiatives

The first post independence education and manpower-training enquiry, the Ominde Commission of 1964, recognized the need for education and training in the disability sector. It recommended measures to address the Government's role in the coordination and improvement of service quality and delivery strategies and transition from school to employment world. The recommendations resulted in the Parliamentary Sessional Paper number 5 of 1968 which set the pace for Government leadership in provision and coordination of services for persons with disabilities. It also established the Vocational Rehabilitation Division in the Department of Social services. The first initiative from this effort was the establishment of the Industrial Rehabilitation Centre in Nairobi in 1971. Ten rural vocational rehabilitation centers were subsequently established countrywide to offer artisan courses such as carpentry, dress making and leatherwork.

In 1975, the special education section was set up within the Ministry of Education to coordinate education for children with special needs. Independent sections with specialized staff responsible for every disability category were later established

within the inspectorate and curriculum development arms of the Ministry of Education.

The Government declared 1980 the National Year for Persons with Disabilities ahead of the 1981 United Nations International Year of Disabled Persons. Aggressive awareness campaigns on disability and on the need for collaborative efforts were launched during that year. These efforts continued during the UN International Year, 1981. This is when the National Fund for the Disabled was also set up as a Trust. By according direct assistance to both individuals and institutions, the Fund continues to supplement efforts by the Government and other service providers.

A Community based rehabilitation (CBR) strategy was introduced during this period. It was considered a suitable approach to actively involve communities in the change of attitudes and acceptance of persons with disabilities. The existing institutionalized rehabilitation services were inadequate in meeting the growing needs and CBR proved a solution to the expansion of service provision. Early initiatives for this strategy were through the Ministry of Health, but the idea was taken up by other service providers and remains an important feature of service delivery to persons with disabilities.

In 1984, the Ministry of Education introduced the Educational Assessment and Resource Services (EARS) which has greatly improved the growth and quality of educational services for children with special educational needs. EARS centers were initially opened in 22 districts and were closely linked to District Education Offices. EARS embraced a multi-sectoral approach by different professionals such as teachers, social workers and medical workers. It involved the community in the early identification, assessment, intervention and placement in educational services. EARS have enhanced the inclusive education delivery strategy which promotes placing of children with disabilities in integrated programmes. This has increased educational placements for children with special needs beyond the capacity of residential schools and opened the special educational residential schools to learners with difficulties or those with multiple disabilities.

In the early days, training of special needs teachers was conducted on-the-job within respective institutions for people who were either blind or deaf. The first specialized training was that of people who were deaf at Kamwenja Teachers Training College in the early 1970's. Teachers for blind and intellectually disabled children were later trained in Highridge Teachers College in early 1980's. In 1987, all special education teachers training were consolidated at the Kenya Institute of Special Education (KISE). In addition to the three special areas of visual disability, hearing disability and intellectual disability, the education for people with physical disabilities was introduced. The Kenya Institute of Special Education provides specialized training at Diploma level to teachers already trained to teach ordinary schools but with interest in special education. It also introduced short-term certificate courses for teachers in special schools, units and integrated programmes. It has recently introduced Distant-learning programmes with a current enrolment of more than seven thousand. Special education is also now offered in two public universities; Kenyatta University and Moi University.

Another remarkable advance in addressing disability concerns came in 1993 when the Attorney General appointed a Task Force to review laws relating to persons with disabilities. The Task Force went around the country collecting views from the public and persons with disabilities. It completed its assignment within three years, and presented a report and a draft Bill to the Attorney General in 1997. The draft Bill was signed into law in December 2003.

The Persons with Disabilities Act of 2003 was brought into effect in June 2004 (see next section of the report). Its principle objective was the establishment of a National Council for Persons with Disability whose mandate is to implement the rest of the Act on the rights, privileges and protection of persons with disabilities. The Minister responsible has appointed the Council, which coordinates provision of services and advises the Minister accordingly.

United Nations Interventions

Advocacy by concerned stakeholders necessarily caused the United Nations to take interest in disability as a human rights issue. The entry of the United Nations further revitalized the movement and culminated in the attraction of more players in the disability discourse. Although the human rights charter promulgated in 1948 and its subsequent versions and protocols clearly stipulate that its provisions were to extend to all human beings, the unique circumstances of persons with disabilities have in the last thirty years called for special focus. Numerous important UN instruments have been developed to reflect the growing understanding of these special circumstances. The first was the 1971 UN Declaration of the Rights of the Mentally impaired which called for the recognition of people with mental impairment as human beings. It calls upon the world community to consider them for all the entitlements of other human beings. It specifies concerns unique to the mentally impaired and gives guidelines on how to address them. The Declaration acted as a pace-setter for more activities at the UN in respect to other forms of disabilities.

The 1975 UN Declaration on the Rights of Persons with disabilities greatly broadened the scope for persons with disabilities. It borrowed heavily from the Bill of rights requiring that persons with disabilities be accorded respect, opportunity for rehabilitation, education, employment, human dignity and enjoyment of life within a family set up.

The global awareness created during the 1981 International Year for Disabled Persons (IYDP) immensely improved social participation and equality for disabled persons followed by the 1982/1992 UN Decade for Persons with Disabilities. To ensure the decade had desired impact, a comprehensive Document entitled World Programme of Action Concerning Disabled Persons was developed and adopted through a UN resolution in 1982. The document provided guidelines on effective measures for the realization of full participation of persons with disabilities in social life, development and equality. UN agencies were encouraged to globally implement the document in accordance with their areas of specialization.

The International Labour Organization (ILO) promulgated the first ever enforceable international instrument on the labour rights of persons with disabilities. The Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983,

ensures that appropriate vocational rehabilitation measures are made available to all categories of disabled persons. It also promotes the employment of disabled persons in the open labour market.

A World Programme of Action panel of experts revealed that the decade programme was not yielding the desired responses. Something more binding or convincing was necessary. Persons with disabilities were thus involved in the development a new document known as the UN Standard Rules on Equalization of Opportunities for Persons with Disabilities.

This document, with twenty-two rules on the behaviour of states, was the most comprehensive ever. The Rules were divided into four categories. The first category included four rules, which address preconditions for equalization of opportunities. These include; awareness raising, medical care, rehabilitation and support services. The second and most important covered Rules 5 to 12 on target areas of equalization of opportunities. These are accessibility, education, employment, income maintenance and social security, family life and personal integrity, culture, recreation and sports and, religion. The last ten rules were on measures of implementation and mechanism for monitoring. The document was presented to the UN Assembly and adopted in December 1993.

Although these Rules were mere guidelines that were not binding on Governments, the level of awareness built around them had greater influence than the World Programme of Action. The early years of their adoption witnessed the establishment of numerous organizations of and for persons with disabilities in many parts of the World. This led to an increased amount of disability legislation and policy being put in place in many countries.

Seven years later, it became clear that good will was not enough to change the lives of persons with disabilities. Efforts to increase cooperation, integration and awareness on disability issues by governments and relevant organizations remained insufficient in promoting full and effective participation and equal opportunities for persons with disabilities in economics, social, cultural and political life. There remained a need for a more comprehensive and binding instrument to promote and protect the rights and dignity of persons with disabilities. The idea of a UN Convention was once again floated and through intense lobbying an ad hoc committee made of governments, non-governmental and organizations of Persons with Disabilities was set up in 2003 to work on a draft convention.

Issues of Critical Concern to the Disability Movement in Kenya

The level of services for Persons with Disabilities in Kenya today raises certain concerns which the Government considers require policy action.

Policy Dimensions

There is no accurate data on the number of persons with disabilities in Kenya. Although a disability module was included in the 1989 National Population and Housing Census, little information was collected on disability due to poor targeting. The information obtained was inadequate for policy formulation or national planning.

It is not possible therefore to indicate with certainty the level of prevalence of disability in Kenya. The Government is however, in the process of carrying out a national survey to establish the actual number of persons with disabilities, types of disabilities, their prevalence, geographical coverage and age distribution.

Conservative UN estimates indicate that persons with disabilities represent between six and 10 percent of the population of any country with varying proportions within segments of the population as well as between countries.

The World Health Organization (WHO) and the Kenya Demographic and Health Survey (KDHS), estimate that about 10% of the country's total population have a form of disability. With a population estimated at 32.2 million in 2003 (Economic Survey, 2003), approximately 3.2 million persons in Kenya have a disability. The statistics vary from District to District due to the diverse socio-economic status.

It is therefore imperative to confirm the actual number of the population with disabilities and to determine the extent of each disability for purposes of planning and service provision. The Government is committed to a national survey to identify the members through the national census exercises.

It is noted that Persons with Disabilities are not a homogeneous group but are varied in terms of the nature of their disability and their mental, physical and social needs. Despite the absence of accurate data, the Government and other stakeholders have continued to offer a wide range of services to Persons with Disabilities.

The Government, however, acknowledges that these services have reached only a small percentage of Persons with Disabilities and are unequally distributed between and among various disabilities.

The Social-Economic Dimensions of Disability

Disability impacts on all aspects of society and national development. The Government recognizes the challenges posed by:-

- (a) The combined effect of disability and HIV/AIDS.
- (b) Challenges to economic development.
- (c) Limitation in attainment of education for all goals.
- (d) Omission of disability concerns in the millennium development goals.

Although the extent to which HIV/AIDS has infected or affected persons with disabilities has not been determined yet, they suffer same level of prevalence as the rest of the population. The combined effects of HIV/AIDS and disability on a person or group of persons, present the Government with a situation of extreme need.

Different types of persons with disabilities must be assisted to achieve skills that would enable them participate in gainful employment. Otherwise persons with disabilities will be a drain on family and national resources. Unemployed persons

with disabilities are unable to contribute to family income and welfare and may strain limited resources as their families attempt to provide special care.

Education is the most important tool for participation of persons with disabilities in the socio-economic life. It helps develop positive attitudes towards the importance of work and self-reliance while sharpening skills necessary for integration into social and national affairs. It is imperative that access to education of Persons with Disabilities is given due attention.

Notwithstanding that the UN Millennium Development Goals (MDG'S) do not specifically address disability concerns, the government is fully committed to deliberately integrating disability issues in its MDG implementation programme.

Current position on the Persons with Disabilities Act

The enactment of the Persons with Disabilities Act, No. 14 of 2003 can easily pass as the most significant achievement of the current government. This unfortunately happens to be one of those unsung milestones of our age. Even before the promulgation of the Act, the disability movement had already scored significantly through the direct representation of their affairs in the National Assembly by the nomination of Hon. Josephine Sinyo and the appointment of Mr. Lawrence Mute as a Commissioner in the Kenya National Commission on Human Rights, both of whom are persons with disabilities.

Notable Impediments to Full Utilization

It is now emerging that the Persons with Disabilities Act is apparently plagued with inherent operational and legal impediments to its utilization. In fact, one may reach a *prima facie* conclusion that the Act that has already been in existence for more than a year was not meant to be enforced in the short term.

There are a few factors which render the Act immediately not able to be implemented. Firstly, the commencement of the Act is designed to take place in piecemeal. As of now, the Minister of Gender Sports Culture and Social Services has already gazetted commencement of the said Act with the exclusion of section 24, 25, 35(1) (2), 39, 40 and 41.

This means that the Act is to be implemented in more than one phase. Yet, some of the excluded sections are at the core of the progressive rights guaranteed to all persons with disabilities under the Act. On the other hand, a number of persons with disabilities have already been thrown in to mental anguish by this state of affairs as they are unsure how to interpret the Act in respect to their retirement. Some persons with disabilities attained retirement age during the commencement of the Act, while others are still attaining the same months after. Not even the Council is aware as how to deal with this crisis.

Secondly, there seems to be a very high cost associated with the implementation of the Act. The excluded sections have serious fiscal implications both for the government and for the private sector. The Council has yet to formulate any guidelines with respect as to their application.

Thirdly, from the very onset of the Act, experts determine that the Act is incapable of enforcement without first amending portions of the same. The Act abounds with legal and philosophical inconsistencies, which may affect the operation of the Act. The most classic example is the requirement by the Act all aggrieved parties ought to file their cahiers with Industrial court instead of the High Court. This position, adapted by the Act, could open counterproductive legal arguments when subjected to a test of law. In addition, the Act is too liberal with its discretionary provisions and thereby predestines the Act to a future of uncertainties.

Fourthly, the constitution and the subsequent inauguration of the Council have not necessarily guaranteed the persons with disabilities of exponential enforcement of the Act. In the first place, the council is to be composed of 27 members whose representation is specified in the Act. The equilibrium desired by the Act is not met by these appointments but has instead rekindled factional distrust among the members of the disabilities movement in Kenya.

Further the criteria used to appoint council members is known only to the minister, neither does anyone have the capacity to verify whether the appointees were people of high integrity as required by the Act. One would have expected the minister to demand of them a declaration of wealth before assuming such an important office. We also note that the secretariat has not been established and without it the council is perpetually trapped in its own indolence.

Finally, another factor that renders the Act unenforceable is the fact that the Act is too apt in giving discretionary powers where mandatory powers seemed the only viable alternative. The use of such phrases as "... to the maximum of its resources ..." or "suitable" creates room for a lot of discretion on whoever is bent on abusing the Act. This misgiving runs consistently throughout the Act and needs a legal expert to detect and cure. Its being in the Act is detrimental to the entire Act and the users.

Utilizable Provisions of the Act

The foregoing should not be construed to mean that the Act is famished of any benefit to persons with disabilities. Indeed, the mere enactment, assenting and the commencement of the Act is in itself a formal recognition of the afflictions of the persons with disabilities, though belated. The recent appointment and inauguration of the Council for Persons with Disabilities is the first step in giving effect and life to the Act. Obviously, the existence of the Council is crucial to the realization of the Act as it is the organ mandated to enforce much of the Act. The Council faces an uphill task in fulfilling section 7 of the Act, as the Act comprises extremely complex provisions the enforcement of which is time consuming. Sections 11 to 17 make wide-ranging provisions on the rights of Persons with Disabilities. Many of these rights are now commonly referred to as progressive rights. These are second and third generation rights which encompass the social, economic and political wellbeing of citizens. Since these rights are designed to be realized progressively, it will be a long time before we start to savour their benefits. The Draft Bomas Constitution embodies these rights in its Bill of Rights thereby providing a firm legal basis for the rights spelled out in the sections cited above.

These rights include the right to education, health, equal opportunities, affirmative action exemption from certain taxes etc. However, provisions of sections 12,15,18,25,28,29 and 41 are immediately utilizable by persons with Disabilities. Nothing in the Act or any other law should prevent anyone from filing a suit at the High Court because it still enjoys original and unlimited jurisdiction.

The Act requires that one do so at the Industrial Court. This requirement has several implications at law, for example, matters of rights are not industrial in nature and the Industrial Court may not be suited to adjudicate on such matters. Additionally, the Disabilities fraternity lacks any union to press for such an action. Similarly, matters arising from these sections may also be proceeded with by way of filing a Constitutional reference to minimize time wastage, characteristic of the stipulated process.

One may seek relief under section 45 and 46, which deal with criminal offences against persons with disabilities.

The case for amendments of the Act is gathering momentum and attracting ever more interested parties than at any time of its brief existence. The National Council for Persons with Disabilities convened a stakeholders workshop in Mombasa on this issue. The workshop made some proposals, which are extremely crucial to the broader legislative review of the Persons with Disabilities Act. The review of the Act and the intended amendments are not a uni-track venture. The Kenya Law Reform Commission has assumed the *de jure* leadership of the initiative to review the Act and is actively engaged with the Council, UDPK, the Kenya National Commission on Human Rights and other key stakeholders to hasten the process.

The Kenya law Reform Commission has appointed a consultant to reduce the recommendations of the various stakeholders, gathered in several forums, in to a bill for the amendment of the Act and also to develop the relevant rules and regulations alluded to throughout the Act.

Obviously then, it may be concluded that the struggle for the realization of the human rights of the persons with disabilities did not end with the passing of the Act, but instead, rekindled the desire by those affected to remind the government of their various commitments under national and international laws to promote and protect the rights of persons with disabilities.

The civil society organizations are particularly alive to the fact that, in the absence of a proper policy and legal framework to ensure the inculcation of the human rights of persons with disabilities in our national psyche and legal system the government may not act with sufficient speed to fulfill its part of the bargain. There is evidently a lot of activity in the sideline by the said societies to ensure that the government is kept under constant pressure so as to bring Kenya in tandem with best practice globally.

Having regard to all circumstances, the race for the promotion and the protection of the human rights of the persons with disabilities is still on and Kenya is not so far behind.

SECTION 4 – Findings of Field Study

The primary source of data for the study was the experiences of people with disabilities. The field work involved face to face interviews with the people with disabilities in their natural habitation. A hundred and three interviews were conducted in three sites and ninety-nine were used in the analysis. The interviews were tape recorded and notes were made immediately after the interviews. The project's Management Team chose three areas in Kenya: Central – Nairobi, Rift Valley – Nakuru, and Western – Kisumu to be study sites. The sites reflect diversity of ethnic homogeneity/heterogeneity of the population, high and low levels of overall poverty, and high and low levels of literacy. Due to the difficulty of obtaining a definitive sampling frame with the population of people with disabilities, we used a purposeful sampling technique to recruit individuals with different disabilities, geographic location, age and gender. The interview teams spent approximately 20 days in the field in each site. In the Rift Valley 33 persons with disabilities, 16 men and 17 women were interviewed in 20 days. In Nairobi, 34 persons with disabilities were interviewed over 21 days of which 18 were women and 16 men. In Nyanza the interview period for the 36 people interviewed was 22 days.

I. Characteristics of the Participants

The results presented below are based on 95 interviews conducted with adults with different disabilities living in three distinct regions of Kenya. Table 1 summarizes the demographics of the population surveyed.

Table 1
Demographic Characteristics of the Participants

| | Gender | Age | Region | Type of Disability |
|---------------------------|---------------|------------|---------------|---------------------------|
| Female | 49 | | | |
| Male | 45 | | | |
| | | | | |
| 18-25 | | 8 | | |
| 26-40 | | 44 | | |
| 41-55 | | 37 | | |
| 56-70 | | 4 | | |
| 70 + | | 0 | | |
| | | | | |
| Nairobi | | | 30 | |
| Nyanza | | | 32 | |
| Rift Valley | | | 32 | |
| | | | | |
| Mobility | | | | 22 |
| Sensory – Blind | | | | 48 |
| Sensory – Deaf | | | | 17 |
| Intellectual | | | | 4 |
| Other³³ | | | | 3 |

Given the absence of statistics concerning people with disabilities in Kenya, and the relative small size of the sample used in this study, probability sampling was not an option. Instead, the research team considered *purposeful sampling* the most appropriate sampling strategy. Based on the four demographic criteria described above - gender, age, location and type of disability – the team used snowball sampling to recruit and select participants. However, difficulties in reaching the target population in the field resulted in a sample that is sometimes skewed towards particular groups. In fact while the sample is quite balanced in terms of gender and geographic location, it shows significant disparities in relation to age and disability types. The majority of the respondents are between the ages of 26-40 and 41-55, and are blind, deaf or have a mobility impairment. Consequently, old and young adults (those over 56 or below 25 years old) as well as persons with intellectual, psychiatric, or other disabilities are seldom or not at all represented in this sample. This has some implications for data analyses and affects the ability to make comparisons across groups, particularly across different types of disabilities. Despite this limitation, the data gathered through this research address, for the first time, human rights issues of Kenyans with disabilities pointing to some very interesting results reported below.

³³ Included in this group is one person with multiple disabilities (namely, mobility and intellectual impairments), one person who self-identified as albino and one person whose disability was not categorized.

II. Data Analysis

Barriers Experienced

In general, the analysis carried out suggests that the lives of people with disabilities in Kenya are marked by experiences of discrimination, prejudice and inequality. Tables 2-4 summarize the different barriers emergent from this research experienced by people living with disabilities in this country. Results indicate that people living with disabilities face barriers ranging from discriminatory attitudes, abuse and violence and barriers to access that lead to segregation and exclusion in the family context, at work, at school and in society, where disability is often seen as a burden and shameful.

Abuse and Violence

Abuse and violence refer to situations of abuse and violence that the interviewee as a person living with a disability, or someone else with a disability known to the respondent, have experienced. Table 2 presents results on *abuse and violence*.

Table 2
Abuse and violence

| Variable | Sources Coded³⁴ | Percentages³⁵ |
|---|-----------------------------------|---------------------------------|
| Abuse and violence experienced in the family context: By the interviewee her/himself | 34 | 35.8% |
| By other persons with disability known to the interviewee | 12 | 12.6% |
| Abuse and violence experienced in relationships with public authorities: By the interviewee her/himself | 11 | 11.6% |
| By other persons with disability known to the interviewee | 3 | 3.2% |
| Abuse and violence experienced at school: By the interviewee her/himself | 7 | 7.4% |
| Abuse and violence experienced in the community and in society at large By the interviewee her/himself | 54 | 56.8% |
| By other persons with disability known to the interviewee | 9 | 9.5% |
| Situations of abuse and violence experienced in the workplace By the interviewee her/himself | 24 | 25.3% |
| By other persons with disability known to the interviewee | 6 | 6.3% |

These results indicate that for the majority of people with disabilities (approximately 57%) situations of abuse and violence occurred in the community and society at large. People who are blind or have low vision, for instance, reported problems being guided in town or within their lived environment. Others faced obstacles left on the road such as stones or logs and many others fell into trenches and deep pits within the town and its surroundings and injured themselves. Many others have been hit by vehicles which later disappeared from the scene. Sometimes their white cane was accidentally hit by a passer-by and they were left to look for it. For example a blind

³⁴ **Sources coded** represent the number of interviewees who reported having experienced a particular barrier or violation of human rights.

Percentages represent the proportion of interviewees who reported having experienced a particular barrier or violation of human rights.

man complained of how someone he asked for assistance in reaching the outskirts of Nairobi treated him without consideration of his condition. He was moving very fast, used abusive words and did not warn him when crossing the road or when approaching stairs, as our interviewee shared in the following excerpt:

... He [the person our interviewee asked for help] said, "Can't you hear even if you are blind, what sort of a blind person are you? We have seen many." So I held my pace since I needed the assistance... He climbed one [step] and did not inform me so when I climbed up, he did not tell me, there was a [step] down one next so he left me and I fell down and rolled and he told me to get up and continue walking instead of picking me up. He said to me, "Stand up. What are you trying to show me? We have seen many people who are blind"...he hurled some insults at me but thank God I had reached well...

Other respondents reported mistreatment and abuse by public service vehicle operators. Many complained that they were given incorrect change or change in Ugandan or Tanzanian currencies, just because they could not see. On occasion when some noticed and demanded their correct change, they were abused and sometimes forced to leave the vehicle before they reached their destination, on false explanation that they had not paid the correct bus fare. People with disabilities not only faced abuse from the bus operators but also from fellow commuters. In some stage terminals where commuters are expected to queue, many people with disabilities particularly those who are blind are bypassed and pushed aside by fellow commuters as they scramble for spaces. Those with physical disabilities reported that many public service vehicle conductors and drivers ignored them deliberately and treated them with contempt as evidenced in the statements below:

I tried to board a bus and the conductor [and the driver] kept saying, "Faster! Faster!" and yet we were very many people. Because of this I fell down but the vehicle went on ahead. My hands got hurt

Another person reported:

... When the conductor sees me he tells the driver, "Let's move! Let's move!" Many of them ignore me.

Those with hearing disabilities have also had their share of mistreatment in their daily lives. Many have been branded thieves, and others, because they cannot communicate, have been severely beaten by mobs. One deaf man told the story of how he was on the verge of being killed by thieves who had hijacked a public service vehicle he was traveling in because he could not hear the instructions the thieves had given. He explained:

...Robbers boarded our vehicle and ordered people to lie down but I couldn't hear. They ordered people to hand over their mobile phones and I did not understand. It was lucky I sat at the back. They were even shooting guns and I

felt its vibrations. *I just lay down on the floor of the vehicle. I was shot in my stomach, lying helplessly.*

Because of the lack of jobs, some people with disabilities in Kenya have been forced to hawk products in the city. They too face abuse and discrimination from the city council askaris, as this person narrated:

... The city council officers confiscated my material and bundled me into the back of the truck the same way you would handle a sack. The rough handling gave me bruises and I cried in pain. However they went ahead and put me in jail.

People living with disabilities also experienced situations of abuse and violence within the family. About 36% of the people with disabilities interviewed reported having experienced abuse and violence at the hands of their family members. Quite a large percentage of this group were oppressed, denied food and education and beaten by their mothers, stepmothers, husbands and siblings because they are considered different and not able to efficiently perform activities they are expected to carry out. Others were victims of sexual harassment. In many cases their share of inheritance was taken away by their able bodied relatives leaving them in poverty. This explains why so many people with disabilities are poor and beg on the street where they are forced to endure more mistreatment. One of the interviewees, for instance, remembered how she was badly treated by her own mother simply because she had lost her pen at school. She reported:

... She beat me up badly, threatening to break my legs or throw them out. Even my siblings hit me. They even refused to pay for my fees in secondary school. They disowned me and discriminated against me. Indeed, my food was different from the rest of the family's. I was not bought clothes like others. I felt different

In the work place, people with disabilities were also exposed to numerous situations in which their rights were violated and they were abused and discriminated against. More than 25% of the respondents reported situations of abuse and violence in the work place. Many complained of double standards, especially with regard to their salaries. Their salaries were not paid in full because the employer alleged that they had incurred extra expenses. The mistreatment of people with disabilities was evident in almost all work placements, including housework. Many women reported having worked as maids for months without being paid. The interview findings also indicated that many people with disabilities were asked to leave their jobs because of their disability. When someone became disabled while working, there was pressure from the management on the individual to leave the job even when their disability did not interfere with their ability to perform required tasks. For example one person complained that blame was placed on her even when she was not the one who committed the errors:

They used to give me a lot of work, other staff members would make mistakes and I would be blamed as if I was the one who made the mistake... Then

later, at the end of the day, the management and everybody else would turn the blame on me

Quite a substantial number of people living with a disability (approximately 12%) experienced situations of abuse and discrimination in their relationships with public authorities. Respondents reported how difficult it was to get the authorities to listen if you had a disability. Sometimes people with disabilities reported being chased away from the office, or there being no action taken after they filed a claim. Those with disabilities not easily noticeable, such as deafness and partial blindness, found themselves involved in conflicts with the police, and suffered situations of abuse and violence due to barriers in communication. Many were severely punished because their impairment didn't allow them to follow instructions from the authorities. For example, one partially sighted person did not see police officers who, when escorting bank money, waved or warned the public not to come any closer for security purposes. In this case the individual was seen as ignoring the order and therefore presumed to be a dangerous person who intended to steal the money. This resulted in serious consequences. One deaf man explained his ordeal with the police:

... When I was arrested, I was mixed with the hearing people in the cell. The police called out names during roll call but I never raised my hand because I couldn't hear. Finally, they looked for me and I was slapped hard...

People with disabilities also reported having experienced situations of abuse and violence at school. Close to 8% of those interviewed reported that they underwent harsh treatment in learning institutions at the hands of people without disabilities. It is likely this percentage underestimates the situation because many people with disabilities never have the opportunity to enroll in a learning institution. The few who have been to school confirmed it was not an accepting environment for them. Many had terrible experiences ranging from being scolded without reason to being the focus of gossip to being physically abused. A student who could not see the blackboard well from the back of the classroom had his request to move to the front denied by his teacher. Others were subjected to serious abuse from their fellow students, such as harsh words, being forced to carry out activities that were practically impossible for them because of their impairments, or isolating them by pushing their beds away from others. There were reports from some blind students that they were mishandled by having been pulled by their clothes unwillingly. Others have been severely physically punished by their teachers. For example this boy had a terrible experience with his teachers as shown in the passage below:

... as I was at school in Thika Joy School, the teachers would beat me up when I got late yet I could not push my wheelchair fast enough. Once I got late for lunch, I never used to go to eat because I would not be allowed to eat... Even in the dining hall I used to be beaten and would tell the teacher not to beat me because my hands were not very strong to be able to push my wheelchair along

and that it would be better to deny me food than beat me on the hand because he would make it more weak and I would not be able to write well and do my homework

Respondents also reported situations of abuse and discrimination experienced by others they know with disabilities. Harsh treatment occurring in the family context, in the workplace, at school, and in society was reported. Many had families who neglected, hid and locked them in the house, never took them to school or hospitals and did not allow visitors. Many people interviewed have lived in great pain (both physically and psychologically) with no help given to them to relieve their circumstances. In government offices, many people with disabilities witnessed their colleagues being bypassed in the queue as they waited to be served. One of the respondents reported the case of a disabled boy who was being mistreated by his family by being made to live with a dog and eat dog food.

Discrimination

Discriminatory attitudes include perceptions, images and attitudes that isolated and excluded interviewees. Table 3 presents the results of the interviews related to discriminatory attitudes.

Table 3
Discriminatory Attitudes

| Variable | Sources Coded | Percentage |
|---|----------------------|-------------------|
| Discriminatory attitudes in the family | | |
| Experienced by the interviewee | 43 | 45.3% |
| Experienced by others | 2 | 2.1% |
| Discriminatory attitudes by public authorities | | |
| Experienced by the interviewee | 8 | 8.4% |
| Experienced by others | 1 | 1.1% |
| Discriminatory attitudes in society | | |
| Experienced by the interviewee | 71 | 74.7% |
| Discriminatory attitudes in the workplace | | |
| Experienced by the interviewee | 28 | 29.5% |
| Experienced by others | 1 | 1.1% |

Results indicated that approximately 75% of those interviewed had faced negative perceptions, including images of disability and attitudes that isolated and discriminated against them in their own communities and in society at large. Prevailing negative social attitudes and perceptions of disability reportedly affected the self-esteem of people with disabilities. They faced harsh treatment especially when they used public facilities such as transportation systems. This respondent complained of how he was treated by other commuters in a public service vehicle:

...At other times you may sit close to a person on a bus and the person moves away as if blindness is contagious... ...People just look at you and it's like they are afraid of you. I feel so disrespected...

Basic needs of belonging and love are hard to fulfill because the community considers people with disabilities inferior. People feel ashamed to walk or be seen in the company of, or be friends with a person with a disability. People with disabilities are often seen as a burden to society. In some communities disability is seen as a curse. People who are superstitious consider disability hereditary or a curse, which might be transmitted from parents to children.

More than 45% of people living with a disability had also faced discriminatory attitudes in their own families, often because they were not able to participate in family activities in the same way as others. Some had not gone to school because their parents refused to pay their school fees, considering the education of a disabled child a waste of money. Many of those interviewed had been oppressed by negative remarks and attitudes from family members that were insinuated or overtly

expressed through such words as useless, hopeless, and good for nothing, a burden to the family, and a curse. This woman recounted:

My parents and my siblings all see me as a burden and have gossiped about me since I was young. My father decided to hide me for 6 months. My mother was not supposed to tell anyone...My father didn't want to pay the hospital bills, because he thought he would be throwing away his money. He felt I wasn't worth it. He doesn't like to be reminded of me. He took me to a pastor, and said I was a bother because of the money he wasted on me while I was as good as dead...

Another 30% have faced discriminatory attitudes in the workplace and about 9% have faced discrimination by public authorities. In most cases, people with disabilities faced direct rejection – that is, they were told to their face they were no good. This was most often found in cases where the performance of a person with a disability was considered to be “low.” In many other cases fellow workers who were able bodied denied people with disabilities the opportunity to work alongside them. Many workers with disabilities also faced mistreatment from their bosses. If filed their grievances were usually disregarded and they were likely to face even more abuse for their complaint. This is what one respondent was told by his boss:

...you are in fact not so useful in comparison to the rest, and your work is not at all voluminous.

This young man summarized in few words what many people with disabilities undergo at work:

The most serious challenge we face at work is discrimination. Interactions become difficult since we are always seen as misfits. We face a lot of rejection

As people with disabilities sought services in public offices, they reported that they were not helped as they would have expected. For example, many of those interviewed expressed fear of going to a police station to report their problems because they believed they would not be served well. However, when things were too hard for them to bear, it was their only option. In many cases, they reported that in those situations they were treated with contempt. Many blind people in this study reported that when they went to government offices with their children as guides, the child was called on to explain the problem rather than asking them directly. This suggests that there is a perception of blind people as unable to think, which in turn affects their sense of dignity and self-esteem. Such negative perceptions and attitudes compounded the situations of abuse and violence people with disabilities experienced. This woman had this to say about police officers:

... They discriminated against me at the police station. You know others think because we are blind, our minds also don't think. ... the OCPD thought that maybe I was not normal and didn't have money to give to him or something of the sort.

Another individual summed it up as follows:

The government does not help, ever. They are so complicated. They are liars and make empty promises. It is difficult to work with the government.

At school, students with disabilities were often excluded and mistreated by their teachers and fellow students. They were treated by their classmates and teachers as if they were less important than others in the class. Some teachers and students showed disrespect by wondering whether the disabled students were capable of doing things the right way and as well as non-disabled students.

Limited Access

Another type of barrier facing people with disabilities, which emerged in this study, was the lack of opportunities and access to diverse contexts and settings. Results concerning access related barriers are presented in table 4.

Table 4
Limited Access

| Variable | Sources Coded | Percentage |
|--|----------------------|-------------------|
| Barriers and obstacles in communicating with others Faced by the interviewee | 15 | 15.8% |
| Barriers and obstacles in accessing education Faced by the interviewee | 32 | 33.7% |
| Faced by others | 4 | 4.2% |
| Barriers and obstacles in accessing public services and authorities Faced by the interviewee | 6 | 6.3% |
| Barriers and obstacles in accessing the physical environment (including transportation) Faced by the interviewee | 30 | 31.6% |
| Faced by others | 4 | 4.2% |
| Barriers and obstacles in accessing work Faced by the interviewee | 21 | 22.1% |
| Poverty | 38 | 40.0% |
| Obstacles, and negative experiences that are religion-related | 6 | 6.3% |

Results indicate that accessing education and a suitable job were especially difficult, leading many people with disabilities to precarious forms of work (such as selling small quantities of good on the streets) or begging as the only possible way to survive. Indeed, approximately 34% of respondents in this study stated that they have faced all forms of barriers and obstacles in accessing education. Many faced difficulties in getting admission to secondary schools and colleges of their choice on the basis of their disability. A large proportion of people with disabilities had not been able to go to school because their parents were not able or did not want to pay school fees as they thought it would be a waste of resources. In other instances, families could not afford the fees because they lived in poverty. The opportunity for a good education was also often denied by the directors of the institutions when they realized that the student they had admitted was a person with disability. The experience reported by this young man was shared by many others as well. When he tried to enroll in a secondary school he was refused:

...I was not allowed to study there because I was disabled. I tried to find out why and all they could say was that the boys' dormitory was upstairs and that I could not manage to get there...The head mistress said that because I had a wheelchair I would have a problem in the school...

More than 22% of the respondents also reported barriers and obstacles in accessing work. Managers often held misconceptions and believed that people with disabilities are not able to perform the work tasks, or to move around safely in the work environment and on that basis refused to employ them. People with disabilities who turned to hawking also reported having a very difficult time with the city council authorities, as hawking became illegal in the city of Nairobi. Without appropriate education and facing discrimination at work, the life prospects for people with disabilities in Kenya are quite low, as this interviewee asserted:

Our education standards are very low in comparison to other people. We cannot get well paying jobs and have to make do with jobs like being a cleaner or just a subordinate employee. While the technology in the world has been changing over time, the deaf still use obsolete technology used by the missionaries to train

People who are deaf or blind or who have physical disabilities faced significant barriers in communication and transportation. Results indicated that close to 16% of the respondents faced problems in accessing physical environments including hospitals, public institutions and transportation. As expected, communication was a particularly difficult problem for deaf people. They reported how hard it was for them to contribute to family matters, meetings, seminars and conferences, or to follow radio and television news because of a lack of interpreters. A deaf woman confided:

...One time I was very sick and went to the hospital to consult the doctor and explain to him about my problem. I couldn't get an interpreter and yet I was seriously sick and needed a doctor very urgently, of course... .. It was not explained to me properly how I was supposed to take the medication I was so confused. I scarcely understood what was said, due to inadequate communication.

For those with physical disabilities, and for people who are blind, accessing the transport system was a major problem which often forced them to be late for work or activities which they had to attend. Many public transport vehicles operators found it a waste of time to stop the additional time necessary for a person with a disability to board the vehicle. Accessing public facilities, such as offices, without lifts was problematic for persons with physical disabilities and for blind persons. Stairs were frequently reported as the most difficult to handle.

A small but significant number of respondents (more than 6%) reported facing barriers and obstacles from a sector that is supposed to assist them. For them, accessing assistance from public services and authorities was very difficult. Those who desperately needed help reported that they spent money trying to reach the right people in the government offices. In a country where corruption reportedly permeates all levels of government and the payment of bribes is apparently not an uncommon means of obtaining what one is entitled to by law, people with disabilities are further marginalized by their lack of material resources.

Another small but important proportion of interviewees (more than 6%) cited negative experiences that took place in religion-related contexts. The majority of these reports

came from deaf people who complained that their churches did not take into account their inability to hear and continued to preach without interpreters.

The most significant obstacle that people with disabilities in Kenya face, however, is poverty. A large number of respondents (approximately 40%) indicated that poverty or economic deprivation was one of the major causes of the discrimination they faced in their daily lives. Some of those interviewed reported they were poor because their rights to inherit property and land were denied by their family members. Lacking adequate education and jobs, many were forced to turn to the streets and beg to survive, a status they felt ashamed of. Those who wanted to start their own small business, found it hard to accumulate or get the initial investment, thus they also turned to begging.

In most cases (more than 62% of the time), the various types of barriers experienced by people with disabilities (whether discriminatory attitudes, negative perceptions, abuse and violence or limited access) were not isolated events; on the contrary, they tended to occur more than once throughout the lives of each respondent.

Positive Life Experiences

Despite the negative experiences recounted by the interviewees, on occasion they felt they were treated in a positive way. Such positive experiences have taken place at school, in the family, and in both social and work contexts. Positive experiences were also reported in religion-related settings and in relationships with public authorities. Results are presented in table 5.

Table 5
Positive Experience

| Variable | Sources Coded | Percentage |
|---|----------------------|-------------------|
| Positive life experiences in the school context | 5 | 5.3% |
| Positive life experiences in the family context | 39 | 41.1% |
| Positive life experiences with public authorities | 9 | 9.5% |
| Positive life experiences in the community/society | 35 | 36.5% |
| Positive life experiences religion-related | 9 | 9.5% |
| Positive life experiences in the context of work | 6 | 6.3% |

Results indicated that most positive experiences tended to take place within the family (41%), community and social life (37%). Positive experiences reported included the willingness of family to provide adequate education and health care to the person with the disability and her or his children. It also included being fully involved in family decision-making and activities, or being helped by neighbours in a variety of difficult situations. It also involved interacting with the community freely like any other person on a daily basis.

A few interviewees also reported being treated positively at school, at work, by public authorities or government officials and in religious settings. At school, some teachers understood their students with disabilities well and cared and assisted them in their studies. They even tried to sensitize their colleagues to change their attitudes towards people with disabilities. In one case it was reported that a teacher requested that his colleagues change the teaching methods to accommodate a disabled student.

Access to Human Rights Principles

One of the main goals of this study is to document situations of human rights violations experienced by people with disabilities in Kenya. Rather than simply inquiring about service needs, as is traditionally done in the disability field, this study was designed to monitor the extent to which people with disabilities enjoy their fundamental human rights.

Although a few descriptions of positive experiences have been gathered through this study, interviewees overwhelmingly reported having encountered, throughout their lives, recurrent violations of key human rights principles. Results on Human Rights Implications are presented in tables 6 to 10. Violations of the rights of people with disabilities took place in different contexts: in the family, at school, in the workplace, in the community/society in general, and even in their relationships with public authorities.

As discussed in the previous section, the barriers that people with disabilities experienced in their daily lives included discriminatory attitudes, emotional and physical abuse and limited access to diverse contexts and settings. These barriers led to violations of the rights of people living with disabilities. In this study, we investigated how the barriers and obstacles faced by people with disabilities affected

their rights, by examining four key human rights principles: **dignity** (perceptions of self-worth), **autonomy** (ability to make choices and decisions on issues that affect one’s own life), **equality** (having disability differences respected and disadvantages addressed and being able to participate fully on equal terms), and **inclusion** (being recognized and valued as equal participants and having needs understood as integral to the social and economic order and not identified as special needs). We also explored the respondents’ perceptions regarding the way in which disability is treated and viewed in Kenyan society in relation to other “social differences” (namely those related to ethnicity and gender).

Dignity

As a human right, **dignity** refers to the impact of particular life experiences on the individuals’ perceptions of self-worth. Results are presented in table 6.

Table 6
Dignity

| Variable | Sources Coded | Perc. |
|---|---------------|-------|
| Interviewee reports feeling disrespected and devalued | 90 | 94.7% |
| Interviewee reports of other persons feeling disrespected and devalued | 2 | 2.1% |
| Interviewee reports being respected and valued | 24 | 25.3% |

Examples of discrimination, abuse and violence that led to the violation of rights of people with disabilities were found in virtually every single interview. Results indicate that approximately 95% of the interviewees reported feeling disrespected and devalued in their experiences and opinions or were not able to form opinions without fear of physical, psychological and/or emotional harm. Locked in the house permanently or forced to spent sleepless nights in the open seem to be common experiences for many people with disabilities. Some disabled women reported having been sexually abused and even raped. When they saw their rights violated the majority of the respondents reported feeling disrespected, not cared for, neglected, oppressed, less valued than others, unwanted, unworthy, and most of all felt that their needs were not taken into account. For instance, a woman who is blind and used to sell on the street with the help of her children reported:

...On this day I was selling kerosene but my children were not around. I called on a woman to help me pour kerosene into a customer’s container. She however brought an extra container and took some for herself and left without paying. Someone (I do not remember who) told me what had transpired and I felt so bad that I decided to discontinue with the business. I also tried to sell charcoal and open a shop but people would steal from me and I had to leave. Some people would pretend to give me a high denomination currency so that I gave them greater change. Someone even used Tanzanian [neighbouring country] currency to buy merchandise from me. These people despised me a lot. If they did not

despise me, then they would never have done to me what they had. They looked on me as an incomplete person. I think the reason was my lack of sight

According to many interviewees, human rights violations often took place in schools and workplaces . Some workers with disabilities were not paid their salaries, and students were frequently denied equal opportunities and discriminated against on the basis of their disability. An interviewee, who had a visible disability, recalled the following event at school:

I was a member of a school choir. I practiced with them. We went for western Kenya music festivals. Come the day of festivals, the choir master refused to let me sing. He told me to sit somewhere and guard the sweaters. May be he thought the adjudicators would see a disabled child in his team and deduct marks. It was not comfortable during those days.

Close to 25% of the respondents however, reported cases of being respected, accepted cared for and valued. But even for them, situations of abuse and discrimination overcame the good memories of being treated with dignity.

Autonomy

Autonomy as a human right means the ability to make choices and decisions on issues that affect one’s own life (including choosing forms of supported decision-making). Results are presented in table 7.

**Table 7
Autonomy**

| Variable | Sources Coded | Perc. |
|---|----------------------|--------------|
| Lack of Autonomy Experienced by the interviewee | 70 | 73.7% |
| Experienced by others | 3 | 3.2% |
| Self-Determination | 35 | 36.8% |

Approximately 74% of people with disabilities in this study reported they were denied the right to make decisions on issues affecting their own lives. Others described how they had been forced into situations against their will, because they had been judged incapable of deciding on their own, because of their disability. Lack of autonomy was also an experience shared by many other people with disabilities known to the respondents. Being dependent on others for daily living tasks, as blind people often reported they were, was seen as limiting the individual’s ability to make decisions. Lack of ability to participate in some activities, because of communication obstacles, for example, also prevented autonomy. Decisions that significantly affected a disabled person’s life were taken by their family members or friends without considering the views of the person themselves. This was especially grave

when they related to issues that involved the sharing of resources as this respondent reported:

In family matters, my brothers sometimes discriminate me a little and I think that they are having an upper hand e.g. we share a land with my brother and since I was blind he decided he is going to do what he wants and went ahead to plant trees without caring at all for my opinion which offended me

Some respondents, nevertheless, reported being able to exercise autonomy. Results indicate that close to 37% of the respondents felt that they determined at least some of the decisions they considered important in their lives despite their disability. Those who were aware of their rights protested issues they felt infringed on their rights, such as inheritance, access to school, to work and so on. They have fought to be heard and participate in activities in which they would have otherwise been included in. This respondent, who is a lawyer by profession, showed his self-determination in the following quote:

...I have protested to the land control board by writing a letter that if that land is to be divided it has to be divided with my consent because I am an interested party. I am hoping that when the division of the land comes I will be there and voice my opinion. I did this on my own.

Another individual felt proud that he contributed successfully to the constitutional review process because of his own determination and confidence. He says:

“Yes, I have autonomy and I have much freedom. I especially contributed a lot to the constitution review process. My views were very much welcome. I had a clear knowledge of what the constitution review process was. Indeed, fourteen out of the fifteen issues I mentioned were addressed in the draft constitution.

Equality

Equality as a human right involves situations in which a respondent sees their own differences respected and their disadvantages addressed and is able to participate fully on equal terms. Results are presented on table 8.

Table 8
Equality

| Variable | Sources Coded | Perc. |
|---|---------------|-------|
| Equality | 11 | 11.6% |
| Inequality Experienced by the interviewee | 82 | 86.3% |
| Experienced by others | 12 | 12.6% |

Results indicate that more than 86% of the respondents reported being treated unequally by non-people with disabilities. They claimed they had been exploited by their own family members by being forced to do more housework, such as fetching water, washing clothes and other tasks, than their siblings, despite the fact that their disabilities made it harder on them to perform these tasks. When money was shared among family members, the disabled member of the family often received less than the others even though they had done extra work. They were often given different food than other members of the family and were not bought clothes although other members of the family were. In many cases boys and girls with disabilities were not sent to school while their able bodied siblings were. Members of the same family sometimes slept in different places from other family members and in some cases the person with a disability was forced to sleep in the kitchen while others slept in the main house. At work, things were no different - workers with disabilities were discriminated against and paid a much lower salary than their able bodied counterparts even when their job description was the same, as this man recounted:

Yes, although I work very hard, appreciation is hard to come by. People think that normal people should be appreciated more and despise us. When anything good is happening it is awarded to the normal teachers while I am left out. They (the normal teachers) keep on progressing while we remain static or regress. For example, letters for admission for further studies are awarded to the normal teachers, usually without our knowledge...

More than 12% of the respondents reported incidences in which other people they knew were treated with a similar lack of respect and consideration for their differences.

However, approximately 11% cited incidences, in which they had been respected for their differences, and had their disadvantages addressed and thus were able to participate fully on equal terms. Some people were treated well by their families, employers, and teachers. A few claimed that they were allowed to participate in school activities such as group discussions, games and drama equally, without any discrimination. Some interviewees reported that their employers also cared and treated them on equal terms with others. Some even claimed that their employers might have attended to them more than their able bodied colleagues and that they got all the services and help they needed from their employers.

Inclusion

Inclusion as a human right relates to being recognized and valued as an equal participant and having one's own needs understood as integral to the social and economic order and not identified as special needs. Table 9 presents results on the interviews with respect to inclusion.

**Table 9
Inclusion**

| Variable | Sources Coded | Perc. |
|--------------------------------|---------------|-------|
| Exclusion | | |
| Experienced by the interviewee | 76 | 80.0% |
| Experienced by others | 4 | 4.2% |
| Inclusion | 65 | 68.4% |

Results from table 9 indicate that 80% of the respondents had experienced segregation, isolation and lack of support for their needs on the grounds of disability. They reported being alienated by the community due to their disability. Many had been rejected by people without disabilities and denied opportunities to interact and share with them. Approximately 4% of the respondents reported incidences where other people with disabilities were segregated, isolated and/or not supported in their needs on the grounds of disability.

Surprisingly, and not anticipated, about 68% of the respondents reported incidences in which they were recognized and valued as an equal participant. Some reported being invited to preside over important meetings and seminars and also participate as officials of certain organizations in society. This man boasts of how he attended and contributed to public meetings:

When I go to Barazas (Public Meetings) I do not go as a disabled but as a resident of the estate. Like now, I live in Kayole Estate, when there is a meeting I attend as a resident of Kayole and participate like a resident of Kayole like any other member of society.

Although the proportion of those who reported positive experiences of inclusion was still lower than that of those who have experienced segregation, rejection and isolation, this is an important result that suggests that people with disabilities struggle for rights and recognition is beginning to bear results in Kenyan society.

Respect and difference

Despite the positive note in the paragraph above, the picture that emerges from the present study indicates that largely, people with disabilities in Kenyan society are treated differently and in demeaning ways. Table 10 summarizes how disability is viewed in this country.

Table 10

Respect for Difference

| Variable | Sources Coded | Perc. |
|---|---------------|-------|
| Being Labeled The interviewee | 51 | 53.7% |
| Others | 3 | 3.2% |
| Being Respected regardless the differences | 4 | 4.2% |

Results indicate that people with disabilities are often labeled on the grounds of their disability. Approximately 54% of the respondents recounted that, in one circumstance or another, they had been given a negative nickname based on their disability. Labeling of people with disabilities seemed to be a very common experience for people with disabilities in Kenya. Disrespectful ways of addressing people with disabilities such as “kipofu” (blind person), “bubu” (deaf person) represented for the people labeled as such, a serious violation of human dignity. In Kenya these labels were used with a lot of contempt. Some even labeled the children of disabled parents by calling them “mtoto wa yule kipofu” (son or daughter of the blind man). Using such nicknames made the respondent feel invisible behind the label and a loss of their individuality. Individually as well as collectively, people with disabilities were set apart from the rest of society as less worthy or something less than human beings. This in turn, legitimized their oppression, segregation and discrimination, as this interviewee reported:

...You will hear names like, “Yule Kipofu amefika” to mean the blind man/woman has arrived. You will also hear things like “Hebu uliza yule kipofu anataka nini (ask that blind person what he/she wants) showing some form of despise. That makes us even not get assisted.

Even in schools the teachers referred to some students with disabilities by their labels and not their names as this respondent revealed:

Yes. In school, the owner of the school referred to me as the walking dead. My mathematics teacher did not like my glasses so he used to call me ‘Chupa’ to mean bottle. This troubled me much. Yes it did (“chupa” became my nickname)

Responses to Abuse and Discrimination

Having faced repeated discrimination, sometimes even abuse, interviewees responded in different ways. Some have chosen to **distance** themselves from the contexts in which they have faced discrimination in order to avoid further discrimination; others have **resisted** by trying to change the situations and contexts

in which they have experienced discrimination, and finally others have **reported or taken legal action**. Results are presented in table 11.

Table 11
Response to Abuse and Discrimination

| Variable | Sources Coded | Perc. |
|------------|---------------|-------|
| Distancing | 45 | 47.4% |
| Resistance | 30 | 31.6% |
| Reporting | 43 | 45.3% |

Distancing

Results indicate that the majority of the interviewees chose to avoid or distance themselves from situations and contexts in which they experienced abuse and discrimination. More than 47% of those interviewed disclosed that they decided to distance themselves from those contexts and situations that had caused them pain and suffering in the past. Because of the manner in which they were treated in previous encounters, many of them have opted to keep away from situations that would embarrass them further.

Resistance

Results in table 11 also indicate that a substantial number of interviewees chose to keep returning to and trying to change situations and contexts in which they had experienced abuse and discrimination. About 32% showed remarkable resilience and strength, resisting oppression and struggling for their rights in spite of adversity and hostility. For instance, one man who had been fighting for years for government support to launch a business project kept paying visits to the offices of bureaucrats and local authorities despite their continued indifference. Yet another blind person complained that while he had been stopped on some occasions from attending conferences he did not let that stop him and forced his way in and attended anyway. Some respondents said that when they were not included, they simply included themselves. Others, as recounted by the woman in the quote below, have fought very hard for the rights of people with disabilities by arguing, informing non-people with disabilities and making sure that people with disabilities are not excluded from participating in community activities:

I have not been left out yet. It might have happened to other people but I force my way in. for example, I join some groups after a lot of explanations and complaints. I make them understand that I am also a human being. Other people may not be a problem for instance, the Food for Work activities. I had to talk to the chief to include the disabled. I also spoke to and pressured people at Social Development to include people with disabilities. We also have the association for the blind where we discuss issues about managing our lives... ..I 'fought' with them and they accepted us. That is why I never reported this to anyone.

Reporting /legal action

Results further indicate that a significant number of interviewees chose to report or complain about situations or contexts in which they experienced discrimination.

Approximately 45% of those interviewed had attempted to report to local authorities, abuse and discrimination they suffered, even though many of their efforts were not successful. On some occasions, action was taken by the authorities.

Reasons for not reporting

Most respondents, however, did not file a complaint even when they were discriminated against. Interviewees presented several reasons for not reporting situations or contexts in which they were abused and discriminated against, as shown in Table 12.

Table 12
Reasons for not Reporting

| Variable | Sources Coded | Perc. |
|--------------------------------------|----------------------|--------------|
| Lack of Access | 33 | 34.7% |
| 'Nothing would have been done' | 25 | 26.3% |
| Fear | 14 | 14.7% |
| Self-blame | 13 | 13.7% |
| Corruption | 6 | 6.3% |
| Lack of financial means or resources | 6 | 6.3% |

Lack of access

Most of the respondents (35%) had not reported situations of abuse and discrimination due to lack of access to appropriate administrative and/or legal structures or lack of information about how to proceed to make a claim. This interviewee confirmed that he did not know how to proceed in order to file a complaint:

No, I haven't reported anywhere. I have to look for advice on how to proceed. Like I told you I discovered about the human rights offices recently. I don't know where the offices are here in Nairobi

Others revealed that they did not report because of lack of competent authorities and/or legal structures within the government that take into consideration the disadvantages of people with disabilities and thus the resulting discrimination.

'Nothing would have been done'

Others still, reported they did not trust public authorities and felt that it would be pointless to complain because they were convinced that reporting or taking any legal action would not have any significant consequences in changing situations and contexts of discrimination. More than 26% of the respondents revealed that they did not report their experiences because they believed that nothing would have happened anyway. Some felt that since the cause of discrimination was due to people's attitudes, it was not possible to sue and as such no action would be taken. Others believed that without the disability act being enacted nothing would really be done even if they reported.

Fear

Results also indicated that, approximately 15% of the respondents failed to report the incidences of abuse and discrimination because they feared the consequences of reporting. For fear of bringing hatred between her and the school principal and losing her job, a teacher who, despite being albino (a condition requiring particular care with skin protection), had been forced to accompany children on a field trip on a sunny, hot day, did not report the issue to the board of governors. Others told stories of being threatened that if they reported an incident the culprit would punish them. Another respondent was afraid that if she reported the mistreatment her siblings imposed on her, they would also hate her which would lead to more discrimination.

Self-blame

A substantial number of those interviewed seem to have internalized a demeaning self-image. Close to 14% of interviewees did not report abuses suffered because of their own feelings of shame and inferiority. Rather than relating discrimination to social and economic circumstances, this group of respondents tended to think that the disability itself justified the oppression they experienced. A woman who was trying to get her share of her husband's inheritance, when asked whether she had reported the discrimination she was suffering from her co-wives replied:

No, no one. Not the Chief or the Police. I felt that it was because I was deaf and gave up.

Corruption

Others failed to report because they knew or thought that they would have to bribe the authorities. Many of the people with disabilities interviewed believed that there was a lot of corruption in the political and legal systems of the Kenyan government and thus failed to report because they had nothing with which to bribe the authorities.

Lack of financial means

Still others did not report incidences of human rights violations because they didn't have the financial means or resources to sustain a legal claim, especially if they thought the case had to go through the courts. The financial cost that pursuing a legal claim would represent for the claimant was further reason that prevented many people with disabilities from taking legal action to fight the discrimination they face.

Systemic roots of discrimination

Systemic roots of discrimination are the social, political and economic factors that can be the root causes of abuse and discrimination. Throughout the interviews, respondents reflected on their experiences and some commented on the broader social, economic and political factors and contexts that contributed or reinforced the discrimination that people with disabilities faced in Kenya. Results of the systemic roots of discrimination are presented in table 13.

Table 13
Systemic Roots of Discrimination

| Variable | Sources Coded | Percentage |
|-------------|---------------|------------|
| Social | 33 | 34.7% |
| Economic | 32 | 33.7% |
| Legislative | 68 | 71.6% |

Social

Often, acts of exclusion and discrimination against people with disabilities were related to the ways in which social (reproduction) activities and social relationships operated and were organized. In about 72% of the interviews abuse and discrimination seemed to emerge from broad social factors and contexts. Examples were many and varied. For instance, the discrimination that many people with disabilities faced has social roots, and originates in the deep, entrenched stereotypes prevailing in Kenyan society which portrays people with disabilities as burdens, useless, good for nothing, and curses. One man commented:

... from the community where I come from, disability is regarded as a curse. So people who are superstitious say that this might be a generational curse, which might affect even our children...

Another example came up when discussing the difficulties people with disabilities faced in getting a job. An interviewee remarked:

It seems that these days to get a job, you have to know someone or pay some money.

To the extent that accessing a job seemed to depend more on social capital (personal relationships) and financial ability than on ability and willingness to work, people with disabilities, who often are poor, socially isolated and marginalized, faced

additional barriers and easily got trapped in a spiral of increasing poverty and exclusion.

People with disabilities were also frequently discriminated against and left out by public service vehicles. Again, the issue here was not so much the particular discriminatory attitude of an individual bus driver, but rather the lack of resources and the total indifference towards the needs of those with disabilities by the whole public transportation system. It was clearly a systemic, rather than an individual issue. In many other cases where people with disabilities were misdirected, left by public service vehicles or even chased away, the problem was a broader social issue. It was social in the sense that the stereotype that people with disabilities are beggars and will not pay for anything is so deeply entrenched that the bus conductors would not direct the individual to the right vehicle for fear that he or she would not pay.

Discrimination within the family often happened in the context of extreme poverty. When asked why people with disabilities are considered 'people of problems' to their families, this man replied:

They are a burden. Their hands must be held while food must be brought to them; hence people consider them a burden. They cannot even go to garden.

As this answer shows, the need for assistance with daily tasks associated with some disabilities, represented to these families nothing less than dependence, an added cost, and little or no contribution at all to the family economy. In contexts of extreme poverty, this is more than many families would be willing to endure. Again discrimination in this case seems to be related to broader social and economic factors that impacted on this family rather than simply the attitudes of the members of this particular family.

Economic

Other acts of exclusion and discrimination against people with disabilities can be related to the ways in which economic (production) activities are organized and delivered in Kenyan society. In fact, 34% of our respondents reported barriers rooted in the economic system. In particular, many considered discrimination to stem from deep rooted poverty in which they are forced to live.

Legislative

Discrimination also stems from the lack of adequate laws or policies to protect the rights of people with disabilities. Existing laws and policies in the country do not adequately protect people with disabilities from broad mistreatment within society. In this case, disability was not the main problem. Many people with disabilities were able to do most of the tasks that were expected of them. The environment was the challenge. The denial of their rights was the greatest problem.

For instance, if legislation were in place that provided for interpreters in hospitals, schools and churches, barriers in communication and the problems that result from that could be avoided.

Police and other public authorities also need to be trained about disability issues in order for them to learn how to deal with people with disabilities in an appropriate way. The government has not effectively formulated and implemented laws and/or policies that guarantee people with disabilities the attention and care they need.

Recommendations

In face of all the barriers and discrimination described, interviewees provided a number of valuable suggestions to improve the situation of people with disabilities in their country. A summary is presented in table 14.

Table 14
Recommendations

| Variable | Sources Coded | Perc. |
|--------------------------|---------------|-------|
| Raise Awareness | 46 | 48.4% |
| Improve Respect | 42 | 44.2% |
| Social Supports | 33 | 34.7% |
| Legislation | 28 | 29.5% |
| Economic Supports | 25 | 26.3% |
| Political Representation | 13 | 13.7% |
| Peer Support | 12 | 12.6% |

Raise Awareness

The majority of the respondents (more than 48%) would like society to be better educated about disability issues and how to deal with people with disabilities. A number of respondents alleged that if their parents and communities had proper information about disability, they would probably accept them. An interviewee explained:

Sensitization of the community should be true and should be told that [people with disabilities] are normal people just like you and I and they can do what you do if accorded necessary assistance.

Many complained that the government and other organizations concerned with disability issues have done very little to sensitize people on how to interact with people with disabilities.

Improve Respect

Another significant proportion of the respondents (approximately 44%) demanded more respect and consideration from the government in regards to the needs of people with disabilities. These interviewees felt that the government should be at the forefront in increasing attention to and respect for disability issues. One respondent made the following suggestion:

The people in the government should be taught how best to do their jobs. They should also know that people with disabilities are human beings with basic human rights and as such they should be treated with due respect.

One of the respondents concluded that society should not look at disabilities but should focus on what people with disabilities can do better.

Social Supports

Many respondents suggested that the government should do more in terms of social support. Close to 35% of those interviewed proposed that the government should strive to improve the living conditions and income of people with disabilities and their families. They suggested that the government should assist people with disabilities with transportation, residence and employment supports. Yet others advocated better personal services to people with disabilities including guidance and counselling services for the people who suffered discrimination and abuse. Others demanded financial support for their families including payment of school fees for their children, so that their living conditions and income could improve.

Legislation

Approximately 29% of the people with disabilities interviewed advocated the development and implementation of new laws and policies to protect the rights of people with disabilities. Some argued that legal frameworks should be put in place to protect people with disabilities from discrimination and enable them to have a full life, while adequate penalties should be given to the perpetrators of discrimination. Many recommended policies and legislation such as affirmative action that are disability-sensitive to ensure certain positions be reserved for people with disabilities.

Economic Support

Over a quarter of the population surveyed recommended improving access to work for people with disabilities. This would also contribute to improve the lives of the people with disabilities. Some suggested that the government give them spaces to put up their own businesses, thus avoiding confrontations with the county council that often resulted in injuries. Others wanted the government to assure them self-reliance and independence by providing them with good employment so that they can live like other people.

Political Representation

For a number of respondents improving the participation and representation of people with disabilities in the civil service and the parliament was reported as what was most needed. More than 13% of the respondents believed that better representation in the parliament would result in finding responses to many of the problems people with disabilities face. They suggested that people with disabilities be given a chance to participate in all areas of life and to speak on behalf of others with disabilities. A person with a physical disability had this to say:

My opinion is that we the handicapped should also be involved when it comes to issues of land distribution so that they can have their portion.

Others recommended that people with disabilities be involved in various decision making processes including being nominated to the parliament in order to explain their situation adequately.

Peer Support

More than 12% of those interviewed believe that people with disabilities should be able to get together and support each other. Some suggest that all disabilities be handled as one through a single forum as a way of avoiding situations where some groups of people with disabilities oppress others. All people with disabilities should group up and deal with issues together, learn from each other and defeat their challenges together. This is viewed as very important to improve the livelihoods of people with disabilities so that people with disabilities can enjoy their rights to life, education, work, interaction, belonging and hence a decent standard of living.

Gender, Ethnicity and Class Vs Disability

This study also explored respondents' perceptions about the way in which disability is viewed in Kenyan society relative to other "social differences", namely those related to class, ethnicity and gender. It further examined how respondents perceived the intersections of disability with class, ethnicity and gender, and their impact on discrimination.

Gender and Disability

Respondents seemed to be divided with respect to their views about the ways in which gender and disability intersected to result in discrimination. About 70% of interviewees answered this question, with a similar number of respondents in each gender. The majority of them, both women and men, think that gender has no impact on the discrimination faced by people with disabilities in Kenya (although more men are of that opinion than women). In other words, according to these respondents, men and women are equally likely to be oppressed and experience exclusion and discrimination if they have a disability. However, when we look at those who DO think that gender has an effect on discrimination, we find some more interesting differences. In fact, more women than men (32% vs. 18%) are of the opinion that being both female and disabled represents a double disadvantage, while more men than women (15% vs. 7%) said the opposite (that being disabled and a man creates greater hardships). One male respondent had this to say:

...Women have bigger advantage for they are treated with more respect than men, maybe twice the advantage...

In sum, results indicate that women were less convinced than men that disability-related experiences of discrimination were the same for both genders, and they were more outspoken in denouncing the harder challenges they face. As many explained, discrimination for disabled women is compounded by the low value placed on female lives in general and prevailing gender norms and roles that contribute to oppress women (and even more so women with disabilities) in African society, as this woman so well expressed:

The mistreatment is common in women, because they are less likely to get someone to help them. Becausea woman does not count in the family. Men are most valued.

Ethnicity and Disability

About 75% of the interviewees offered comments on this topic. Here again, responses varied. While some considered ethnicity to influence disability, others disagreed. In general, however, disability appeared to be considered a more determinant social marker that overrode the impact of race or ethnicity. Above all, the important issue appeared to be one of economic power, as the comments of this respondent, who was rejected by his girlfriend on the basis of disability, so well illustrated:

... You know there is a belief that a white man has the money and money is everything. If it was a white man, she would not have left because there would have been money... if you offered a Kenyan girl a white man on a wheelchair and a very able bodied Kenyan on the other hand; I can assure you that this girl would settle for the white man on the wheelchair. All Kenyans are interested in money and in going abroad... however, if the reason why one faced rejection is disability, racial background notwithstanding, this person may face similar rejection as I.

Class and Disability

As previously discussed, in Kenya, as in many other parts of the world, disability is closely associated with poverty. A large number of respondents, 67% of the interviewees, offered comments on the ways in which class (simply defined as being poor or rich) intersected with disability to compound or protect people with disabilities from abuse and discrimination. Their views were quite diverse. Nevertheless, some consensus seemed to exist around the idea that in a society where the standard of living is generally low, as in Kenya, economic power is the most significant means of gaining social status, and a protector against the violations of human rights that people with disabilities so often experience. In short, being disabled and rich ensured access to basic human rights, while those who were disabled and poor (as are the largest majority of people with disabilities in this country) were pushed to the margins of society and suffered discrimination, oppression and persistent denial of their human rights and dignity.

III. Intersections

In addition to describing the meaning and content of the variables used in this study, this research has explored the relationships among variables³⁶. This analysis focused on four attributes: age, gender, type of disability and the region from which the respondent came, and examined the relationships among these variables, the types of barriers, as well as respondents access to and exercise of human rights principles.

³⁶ This analysis was done using the NVivo7 Matrix Coding Queries tool.

Barriers by Attributes

Barriers by Age Group

Table 15 shows the relationships between types of barriers faced by interviewees according to their age rank.

Table 15
Incidences³⁷ of Barriers by Age Rank

| Variable | 18-25 Years | | | 25-40 Years | | | 41-55 Years | | | 56-70 Years | | |
|---------------------|------------------|------------------|------------------|------------------|------|------|------------------|------|------|----------------|-----|------|
| | SC ³⁸ | R% ³⁹ | C% ⁴⁰ | SC | R% | C% | SC | R% | C% | SC | R% | C% |
| Attitude | 12 | 7.4 | 40.0 | 73 | 44.8 | 36.5 | 71 | 43.6 | 39.9 | 7 | 4.3 | 31.8 |
| Abuse | 11 | 7.0 | 36.7 | 75 | 47.8 | 37.5 | 61 | 38.9 | 34.3 | 10 | 6.4 | 45.5 |
| Access | 7 | 6.4 | 23.3 | 52 | 47.3 | 26.0 | 46 | 41.8 | 25.8 | 5 | 4.6 | 22.7 |
| All barriers | 30 (7%) | | | 200 (47%) | | | 178 (41%) | | | 22 (5%) | | |

Because a large proportion of our sample falls in the age brackets 25-40 years and 41-55 years, the highest incidences of discriminatory attitudes, abuse and access barriers were also found in these groups.

On average, people with disabilities in Kenya experience discriminatory attitudes more often than incidences of abuse and violence and the former two more than limited access. However, within the age groups 25-40 and 56-70, reports of abuse and violence outnumber those of discriminatory attitudes (see column percentages)

Barriers by Gender

Table 16 compares the various types of barriers by the gender of the respondents.

Table 16
Barriers by Gender

| Variables | Males | | | Females | | |
|---------------------|------------------|------|------|------------------|------|------|
| | SC | R % | C % | SC | R% | C% |
| Attitude | 81 | 49.1 | 38.8 | 84 | 51.0 | 36.8 |
| Abuse | 74 | 46.3 | 35.4 | 86 | 53.6 | 37.7 |
| Access | 54 | 48.2 | 25.8 | 58 | 51.8 | 25.4 |
| All barriers | 209 (48%) | | | 228 (52%) | | |

Results for women and men appear to be very close. However some significant differences need to be highlighted. For instance, results indicate that female interviewees reported higher incidence of every type of barrier as compared to their

³⁷In the discussion of the matrices barrier types, the term INCIDENCES is used to represent the sources coded under each category of barriers reported. This is because one respondent might have reported more than one incidence under a certain category of barriers. For example under the category of Discriminatory Attitude, one respondent might have quoted on sub-categories such as discrimination within family context (ATTFAM) and at the same time quote on discrimination at work (ATTWK, school (ATTSCO) and society (ATTSOC). The same is applicable for Abuse and violence and Limited Access categories of the barriers. For standardization of the results, the study converted the results into percentages of the total incidences reported, in terms of rows and columns. Find results in the appendix

³⁸ **SC:** Sources Coded

³⁹ **R%: Row Percentages** enable comparisons across groups (age, gender, regions and type of disability) for any particular variable (whether types of barriers or their human right implications)

⁴⁰ **C%: Column Percentages** enable comparisons within each group (age, gender, regions and type of disability).across different variables (types of barriers and human right implications)

male counterparts. While this might be partly due to the fact that slightly more women were interviewed than men, it is important to examine how barriers affected each gender.

The results indicate that a distinct pattern of barriers exists for males and females - males are more likely to suffer from discriminatory attitudes (39%) than abuse (35%) and access barriers (26%), while females are more likely to report incidences of abuse and violence (38%) than discriminatory attitudes (37%) and access barriers (25%), (see column percentages). Furthermore, a close examination of the reports gathered shows that abuse and violence of women with disabilities occurs mainly in the domestic sphere, at the hands of their parents, partners and siblings, as is commonly found in the general female population. Because women's roles in Kenyan society generally encourage dependency and submissiveness, disabled women are also more vulnerable to abuse and violence than men.

Barriers by Region.

Barriers faced by region or geographic location of respondents are presented in table 17.

Table 17
Incidences of Barriers by Region

| Variables | Nairobi | | | Nyanza | | | Rift Valley | | |
|--------------|---------|-------|------|--------|-------|------|-------------|-------|------|
| | SC | R % | C % | SC | R% | C% | SC | R % | C % |
| Attitude | 71 | 43.0 | 43.5 | 47 | 28.5 | 33.8 | 47 | 28.5 | 35.1 |
| Abuse | 54 | 33.8 | 32.9 | 52 | 32.5 | 37.4 | 54 | 33.8 | 40.3 |
| Access | 39 | 34.8 | 23.8 | 40 | 35.7 | 28.9 | 33 | 29.5 | 24.6 |
| All barriers | 164 | (37%) | | 139 | (32%) | | 134 | (31%) | |

The distribution of the sample by region or location of respondents was quite even. Comparisons of types of barriers across regions (row percentages), is thus possible. Results reveal that Nairobi (the urban setting in this study) led in terms of incidences reported in all types of barriers faced with the exception of limited access⁴¹. Nyanza (representing rural Kenya) is where the highest incidences of barriers to access were found (approximately 36%). In addition, there were more incidences of discriminatory attitudes reported in Nairobi (43%) than in the other two regions each with a prevalence of approximately 28%. In terms of abuse and violence, Nairobi and Rift Valley led with a prevalence close to 34% each.

Results indicate that in Nairobi more incidences of discriminatory attitudes were reported (approximately 43%) than of abuse and violence (approximately 33%) or limited access (approximately 24%) (see column percentages). By contrast, in the Nyanza region most incidences of barriers reported by people with disabilities were related to abuse and violence (approximately 37%), followed by discriminatory attitudes (approximately 34%) and finally limited access (approximately 29%). In Rift

⁴¹ This was one of the variables described in the first section of this report. It involves a range of barriers that prevent access to resources, services or social interactions.

Valley, just like in Nyanza, results indicated that people reported more incidences of abuse and violence (approximately 40%) followed by discriminatory attitudes (approximately 35%) and lastly limited access at approximately 25%.

These differences suggest that distinct perceptions and views of disability and people with disabilities prevail in urban and rural contexts. In urban areas such as Nairobi, people appear to be more likely to be sensitized on issues of violence against people with disabilities than they are in rural areas where disability is still regarded as a scourge. Therefore, situations of abuse and violence of people with disabilities occurred more frequently in rural than in urban areas, although the large, anonymous cities were still the places where people with disabilities encountered more discriminatory attitudes.

Barriers by Type of Disability

This section examines barriers faced by respondents according to the type of disability. Results are presented in tables 18 and 19.

Table 18
Incidences of Barriers by Disability Type (Sources Coded)

| Variable | Mobility | Sensory -Blind | Sensory -Deaf | Intellectual | Other |
|---------------------|-----------------|---------------------------|--------------------------|---------------------|--------------|
| Attitude | 41 | 91 | 29 | 1 | 9 |
| Abuse | 35 | 77 | 35 | 7 | 6 |
| Access | 29 | 40 | 35 | 2 | 6 |
| All barriers | 105 | 208 | 99 | 10 | 21 |

A comparison of particular types of barriers faced by people with particular types of disabilities (row percentages) must be done with caution since the distribution of our sample was very uneven with respect to this attribute. Indeed results revealed that people who are blind are the most affected by discriminatory attitudes (53%) followed by those with physical disabilities(24%), those who are deaf (17%) and then by those with other types of disability However, this distribution matches closely the weight of each disability type in the sample for this study. The pattern is the same for abuse and violence, with percentages of 48%, 22% and 22% respectively. Only in the category of access barriers is this slightly inverted with blind people (36%) being the most affected followed by deaf persons (31%), and then those with mobility disabilities (26%).

Table 19
Incidences of Barriers by Disability Type (Row and Column %)

| Variable | Mobility | | Sensory Blind | | Sensory Deaf | | Intellectual | | Other | |
|---------------------|--------------|------|---------------|------|--------------|------|--------------|------|-------------|------|
| | R% | C% | R% | C% | R% | C% | R% | C% | R% | C% |
| Attitude | 24.0 | 39.1 | 53.2 | 43.8 | 17.0 | 29.2 | 0.6 | 10.0 | 5.3 | 42.9 |
| Abuse | 21.9 | 33.3 | 48.1 | 37.0 | 21.9 | 35.4 | 4.4 | 70.0 | 3.8 | 28.6 |
| Access | 25.9 | 27.6 | 35.7 | 19.2 | 31.3 | 35.4 | 1.8 | 20.0 | 5.4 | 28.6 |
| All barriers | 23.7% | | 47.0% | | 22.3% | | 2.3% | | 4.8% | |

The comparison of each disability group across the three types of barriers (column percentages) yields more significant results. For instance, both those who are blind and those with mobility impairments reported experiencing more discriminatory attitudes than abuse and violence or limited access. This may be due to the fact that blindness and mobility issues are usually visible disabilities and thus reactions and possibly negative attitudes from others are immediately prompted. Blind people are also the most likely to collide with physical obstacles and to ask for assistance, which again creates many situations in which negative attitudes can occur. On the other hand the deaf more often experience limited access and abuse related barriers (both at 35%) than discriminatory attitudes. Since not many people learn sign language, the most probable cause of limitation in access by deaf people is communication barriers. Unlike people who are blind and those with physical disabilities it is often difficult and almost impossible to figure out from a distance that someone is deaf, but this circumstance in itself may sometimes be a source of discrimination and abuse, because deaf people's needs might remain unacknowledged, and therefore unaddressed.

Access to Human Rights Principles by Attributes

Access to Human Rights Principles by Age Rank

Table 20 examines the relationship between access to human rights principles and the age rank of respondents.

Table 20
Access to Human Rights Principles by Age Rank

| Variable | 18-25 Years | | | 25-40 Years | | | 41-55 Years | | | 56-70 Years | | |
|-------------------------------|-------------|------|------|-------------|------|------|-------------|------|------|-------------|-----|-----|
| | S C | R% | C% | S C | R% | C% | S C | R% | C% | S C | R% | C% |
| AUTONOMY | | | | | | | | | | | | |
| Lack autonomy | 7 | 10.1 | 63.6 | 33 | 47.8 | 68.8 | 27 | 39.1 | 64.3 | 2 | 2.9 | 100 |
| Self determination | 4 | 11.8 | 36.4 | 15 | 44.1 | 31.2 | 15 | 44.1 | 35.7 | 0 | 0 | 0 |
| DIGNITY | | | | | | | | | | | | |
| Devalued | 8 | 9.0 | 72.7 | 40 | 44.9 | 78.4 | 37 | 41.6 | 78.7 | 4 | 4.5 | 100 |
| Valued | 3 | 12.5 | 27.3 | 11 | 45.8 | 21.6 | 10 | 41.7 | 21.3 | 0 | 0 | 0 |
| EQUALITY | | | | | | | | | | | | |
| Equality | 4 | 36.4 | 36.4 | 3 | 27.3 | 7.5 | 4 | 36.4 | 10.8 | 0 | 0 | 0 |
| Inequality | 7 | 8.64 | 63.6 | 37 | 45.7 | 92.5 | 33 | 40.7 | 89.2 | 4 | 4.9 | 100 |
| INCLUSION | | | | | | | | | | | | |
| Exclusion | 7 | 9.3 | 63.6 | 32 | 42.7 | 51.6 | 33 | 44.0 | 53.2 | 3 | 4 | 60 |
| Inclusion | 4 | 6.2 | 36.4 | 30 | 46.2 | 48.4 | 29 | 44.6 | 46.8 | 2 | 3.1 | 40 |
| RESPECT FOR DIFFERENCE | | | | | | | | | | | | |
| Labelled | 6 | 12 | 85.7 | 19 | 38.0 | 90.5 | 23 | 46.0 | 95.8 | 2 | 4.0 | 100 |
| Respected | 1 | 25 | 14.3 | 2 | 50.0 | 9.5 | 1 | 25.0 | 4.2 | 0 | 0 | 0 |

Given that the distribution of our sample in terms of age groups was uneven, comparisons across the age ranks (row percentages) are limited. As expected, the age rank between 25-40 years reported the highest incidences of lack of autonomy, lack of dignity, and inequality than the other age brackets. The age bracket between 41-55 years reported the highest incidences of exclusion and labelling but it was followed very closely by the age rank between 25-40 years.

In all age ranks considered, reports of incidences involving violation of basic human rights principles significantly outnumbered reports of access to and exercise of those same principles. In other words, what these results clearly indicate is that, people with disabilities in Kenya, regardless of their age, are being treated with inequality and disrespect, are excluded from mainstream society and prevented from exercising autonomy and self-determination even on decisions that affect their own lives. Devalued in the eyes of society and sometimes even their family, their dignity as human beings is seriously violated.

Access to Human Rights Principles by Gender

This section looks at access to human rights principles by gender. Outcomes are presented in table 21.

Table 21
Access to Human Rights Principles by Gender

| Variable | Males | | | Females | | |
|-------------------------------|-------|------|------|---------|------|------|
| | SC | R % | C % | SC | R% | C% |
| AUTONOMY | | | | | | |
| Lack autonomy | 34 | 48.6 | 69.4 | 36 | 51.4 | 64.3 |
| Self determination | 15 | 42.9 | 30.6 | 20 | 57.1 | 35.7 |
| DIGNITY | | | | | | |
| Devalued | 43 | 47.8 | 71.7 | 47 | 52.2 | 87.0 |
| Valued | 17 | 70.8 | 28.3 | 7 | 29.2 | 13.0 |
| EQUALITY | | | | | | |
| Equality | 8 | 72.7 | 16.3 | 3 | 27.3 | 6.8 |
| Inequality | 41 | 50 | 83.7 | 41 | 50 | 93.2 |
| INCLUSION | | | | | | |
| Exclusion | 34 | 44.7 | 53.1 | 42 | 55.3 | 54.5 |
| Inclusion | 30 | 46.2 | 46.9 | 35 | 53.8 | 45.5 |
| RESPECT FOR DIFFERENCE | | | | | | |
| Labelled | 23 | 45.1 | 88.5 | 28 | 54.9 | 96.6 |
| Respected | 3 | 75.0 | 11.5 | 1 | 25.0 | 3.4 |

Clearly, access to and exercise of human rights principles is different for women and men. While for both, negative experiences of inequality, exclusion, disrespect and lack of autonomy outnumber positive experiences, females are more likely to be treated with disrespect and inequality than males,. This may be related to gender roles and values prevailing in Kenyan society which compound for women the disadvantages associated with disability. In contrast, men are much more likely than women to report that others treated them with respect and equality (75% vs. 25% and 72% vs. 27%). While there might be a gender protective factor operating here, it is also possible that, again because of prevailing gender norms, disabled men have a more difficult time admitting to others that they are treated as inferior and less worthy. Their responses may then be biased and influenced by ideal norms and values of masculinity. Despite these considerations, results suggest that disabled women's rights in Kenyan society are at greater risk than men's.

Access to Human Rights Principles by Regions

Table 22 compares access to human rights principles by location where the interviews were conducted.

Table 22
Access to Human Rights Principles by Region

| Variable | Nairobi | | | Nyanza | | | Rift Valley | | |
|-------------------------------|---------|------|------|--------|------|------|-------------|------|------|
| | SC | R % | C % | SC | R% | C% | SC | R % | C % |
| AUTONOMY | | | | | | | | | |
| Lack autonomy | 24 | 34.3 | 66.7 | 21 | 30.0 | 75.0 | 25 | 35.7 | 61.0 |
| Self determination | 12 | 34.3 | 33.3 | 7 | 20.0 | 25.0 | 16 | 45.7 | 39.0 |
| DIGNITY | | | | | | | | | |
| Devalued | 30 | 33.3 | 78.9 | 28 | 31.1 | 87.5 | 32 | 35.6 | 72.7 |
| Valued | 8 | 33.3 | 21.1 | 4 | 16.7 | 12.5 | 12 | 50.0 | 27.3 |
| EQUALITY | | | | | | | | | |
| Equality | 4 | 36.4 | 12.5 | 2 | 18.2 | 6.9 | 5 | 45.5 | 15.6 |
| Inequality | 28 | 34.2 | 87.5 | 27 | 32.9 | 93.1 | 27 | 32.9 | 84.4 |
| INCLUSION | | | | | | | | | |
| Exclusion | 27 | 35.5 | 56.3 | 24 | 31.6 | 50.0 | 25 | 32.9 | 55.6 |
| Inclusion | 21 | 32.3 | 43.7 | 24 | 36.9 | 50.0 | 20 | 30.8 | 44.4 |
| RESPECT FOR DIFFERENCE | | | | | | | | | |
| Labelled | 18 | 35.3 | 94.7 | 6 | 11.8 | 85.7 | 27 | 52.9 | 93.1 |
| Respected | 1 | 25.0 | 5.3 | 1 | 25.0 | 14.3 | 2 | 50.0 | 6.9 |

Comparisons across regions (row percentages) indicate that the highest occurrences of denial of human rights principles took place in Rift Valley, except in relation to the principles of equality and inclusion, where Nairobi fares worse than any other region. Paradoxically, it is also in Rift Valley that we have found the highest access to and exercise of human rights principles. Since Rift Valley in this study represents the semi-urban contexts of Kenya, it is possible that in the region rural features coexist side by side with urban characteristics, thus explaining this mix of attitudes and behaviours towards people with disabilities. In contrast, Nyanza, a rural region where more neighbours know each other, seems to offer a more inclusive environment for people with disabilities.

Turning now to comparisons within groups (column percentages) it is possible to conclude that in all three regions, Nairobi, Nyanza and Rift Valley more incidences of human rights violations were experienced. It is in Nyanza that the gap between positive and negative experiences is the widest, suggesting harsher life conditions for people with disabilities living there. However it is interesting to note that labeling is a practice more common in the urban or semi-urban environments of Nairobi and Rift Valley than in the countryside while experiences of inclusion occur more often in rural contexts.

Access to Human Rights Principles by Type of Disability

Access to human rights principles according to disability types is presented in tables 23 and 24 below.

Table 23
Access to Human Rights Principles by Types of Disability (sources coded)

| Variable | Mobility | Sensory Blind | Sensory Deaf | Intell. | Other |
|-------------------------------|----------|------------------|-----------------|---------|-------|
| AUTONOMY | | | | | |
| Lack autonomy | 17 | 38 | 10 | 4 | 1 |
| Self determination | 8 | 19 | 6 | 1 | 1 |
| DIGNITY | | | | | |
| Devalued | 22 | 47 | 16 | 3 | 2 |
| Valued | 1 | 11 | 5 | 1 | 1 |
| EQUALITY | | | | | |
| Equality | 2 | 6 | 3 | 0 | 0 |
| Inequality | 21 | 41 | 16 | 3 | 1 |
| INCLUSION | | | | | |
| Exclusion | 19 | 40 | 12 | 3 | 2 |
| Inclusion | 15 | 35 | 11 | 2 | 2 |
| RESPECT FOR DIFFERENCE | | | | | |
| Labeled | 14 | 24 | 11 | 1 | 1 |
| Respected | 0 | 3 | 0 | 1 | 0 |

Given the uneven distribution of our sample according to types of disability, comparisons across groups are limited. Blind people, being the most numerous group in our sample, are also the ones who show highest incidences across all variables.

Results show that for all groups of disabilities, incidences involving denial of human rights principles are more typical than experiences of access to and exercise of human rights (column percentages).

Table 24
Access to Human Rights Principles by Disability Type (Row and Column %)

| Variable | Mobility | | Sensory Blind | | Sensory Deaf | | Intellectual | | Other | |
|-------------------------------|----------|------|---------------|------|--------------|------|--------------|------|-------|------|
| | R% | C% | R% | C% | R% | C% | R% | C% | R% | C% |
| AUTONOMY | | | | | | | | | | |
| Lack autonomy | 24.3 | 68 | 54.3 | 66.7 | 14.3 | 62.5 | 5.7 | 80.0 | 1.4 | 50.0 |
| Self determination | 22.9 | 32 | 54.3 | 33.3 | 17.1 | 37.5 | 2.9 | 20.0 | 2.9 | 50.0 |
| DIGNITY | | | | | | | | | | |
| Devalued | 24.4 | 95.7 | 52.2 | 81.0 | 17.8 | 76.2 | 3.3 | 75.0 | 2.2 | 66.7 |
| Valued | 25.0 | 4.3 | 45.8 | 19.0 | 20.8 | 23.8 | 4.2 | 25.0 | 5.3 | 33.3 |
| EQUALITY | | | | | | | | | | |
| Equality | 18.2 | 8.7 | 54.6 | 12.8 | 27.3 | 15.8 | 0 | 0 | 0 | 0 |
| Inequality | 25.6 | 91.3 | 50.0 | 87.2 | 19.5 | 84.2 | 3.7 | 100 | 1.2 | 100 |
| INCLUSION | | | | | | | | | | |
| Exclusion | 25 | 55.9 | 52.6 | 53.3 | 15.8 | 52.2 | 4.0 | 60.0 | 2.6 | 50.0 |
| Inclusion | 23.1 | 44.1 | 53.9 | 46.7 | 16.9 | 47.8 | 3.1 | 40.0 | 3.1 | 50.0 |
| RESPECT FOR DIFFERENCE | | | | | | | | | | |
| Labeled | 27.5 | 100 | 47.1 | 88.9 | 21.6 | 100 | 2.0 | 50.0 | 2.0 | 100 |
| Respected | 0 | 0 | 75.0 | 11.1 | 0 | 0 | 25.0 | 50.0 | 0 | 0 |

Numerous reports of being labelled on the grounds of disability were found among all disability groups indicating that this disrespectful and oppressive practice prevails in Kenyan society. Incidences of unequal treatment, exclusion and violations of human dignity are also often reported, particularly by those with physical disabilities (who were not the most numerous group). Certainly the fact that mobility impairments are more exposed to the public gaze than other types of disabilities helps explain these outcomes.

Results of Statistical Tests Run on Intersectional Data

The data collected through the interviews clearly illustrates the general human rights situation of disabled people in Kenya. This study focuses on qualitative data and in this sense its main purpose was to give voice to disabled people and use their life stories to exemplify the kinds of barriers and discrimination associated with experiences of disability in Kenya. The sample used provided us the opportunity to explore in depth the meanings and contexts of disability in Kenya but it was not meant to statistically represent the disabled population in this country. Nevertheless in a few cases, our findings can be generalized more widely which confers greater validity to our study,

Indeed, Chi Square tests were run on those data tables with sufficient frequencies: Tables 15, 16, 17, 18, 21 (Autonomy, Dignity and Inclusion only), and 22 (Autonomy and Inclusion only), and statistically significant results were found for:

Table 18 (Incidences of Barriers by Disability Type): Level of significance $p < .10$.

Table 21 (Access to the Principle of Dignity by Gender): Level of significance $p < .05$.

These results thus suggest that the differences encountered among different disabilities, in terms of barriers experienced – with people with physical impairments or blindness being the most exposed to discriminatory attitudes, abuse and violence, and deaf as well as blind people experiencing the most severe barriers in terms of access – are possible to generalize to the whole population. Similarly, differences found between disabled men and women in our sample regarding access to the human rights' principle of dignity – with disabled women less likely to experience a sense of self-dignity than men – seem to reflect population-wide inequalities.

IV Conclusion

This study constitutes the first attempt to holistically monitor people with disabilities access and exercise of human rights in Kenya. Giving voice to male and female adults with diverse disabilities living in rural, semi-urban and urban regions of the country, this research yields three very important conclusions.

First, it clearly indicates that experiences of **oppression, discrimination and violation of basic human rights** pervade the lives of many people with disabilities in Kenya. As it emerged from the stories gathered, most people with disabilities, regardless of their age, gender, where they live or disability type, are prevented from making decisions on issues that affect their lives. They are treated unequally and with disrespect by their families, communities, and even public authorities. They face prejudice and negative stereotypes, and are excluded in a multitude of ways from their communities and mainstream society. Viewed as a burden and a curse to their families, they are regarded as second class citizens. Their dignity, as members of the human family, is seriously affected.

Second, this study clearly shows that **poverty** is wide spread among people with disabilities in this country. Because many people with disabilities lack access to appropriate education and work they are forced to sell or beg on the streets. Those who try to obtain government supports, that would enable them, for example, to set up a small business, face many obstacles including inefficient, bureaucratic services and high levels of corruption that seem to cut across the Kenyan government. Lacking adequate financial resources, people with disabilities remain socially isolated and unable to access the necessary conditions to live a life with dignity.

Third, it is evident that while both women and men experience hardships and discrimination, prevailing gender norms and roles contribute to placing women's human rights at greater risk than men's. Indeed, traditional views that portray women in the family as dependent and submissive to men **increase disabled women's vulnerability to discrimination**, as data gathered through this research has shown. In fact, incidences of abuse and violence were not only more common for women with disabilities, as they are generally for women; they were also reported to occur most often in the domestic sphere, at the hands of parents, partners and siblings. Disabled men, in contrast, were more likely to experience discriminatory attitudes and access barriers in the public sphere – in their workplaces, communities and while interacting with non-disabled peers in multiple social settings. These gender

differences in patterns of discrimination and exclusion should be taken seriously for they have important implications in the design and implementation of policies aimed at advancing human rights of disabled women and men in Kenya.

More research is needed to continue exploring these inequities. Future research efforts should include both quantitative studies using large and randomly selected samples as well as qualitative ones to examine in detail and collect evidence on the experiences of disability and discrimination in Kenya.

**Summary Report
On Access to Human Rights for Blind People in Kenya
In Contrast With All Other Disability Groups**

This section of the report examines the human rights situation of people who are blind in Kenya, by contrasting it with all other disability groups. Blind Kenyans made up approximately 50% of our sample, thus constituting a group large enough to make possible these comparisons. Unfortunately, the distribution of respondents by all other disability types was uneven and too small in most of the cases to allow meaningful analyses. The tables that follow summarize the most significant results obtained. They enable us to understand how blind Kenyans fare in comparison with all other respondents taken together (deaf people, people with mobility impairments, intellectual, and other disabilities), both in terms of discrimination and access to human rights.

**Table 25
Barriers and Obstacles – Blind Kenyans and People with Other Disabilities (%)**

| <i>Barriers and Obstacles</i> | Blind Interviewees | All Other Disabilities |
|--|---------------------------|-------------------------------|
| DISCRIMINATORY ATTITUDES | | |
| In the family context | 43,8 | 46,8 |
| In relationships with public authorities | 10,4 | 8,5 |
| At school | 14,6 | 6,4 |
| In the community and in society at large | 83,3 | 66,0 |
| In the workplace | 31,3 | 27,7 |
| ABUSE AND VIOLENCE | | |
| In the family context | 27,1 | 44,7 |
| In relationships with public authorities | 10,4 | 12,8 |
| At school | 8,3 | 6,4 |
| In the community and in society at large | 60,4 | 53,2 |
| In the workplace | 18,8 | 31,9 |
| LIMITED ACCESS TO AND BARRIERS | | |
| In communicating with others | 2,1 | 29,8 |
| In access to education | 25,0 | 42,6 |
| In accessing public services and authorities | 2,1 | 10,6 |
| In accessing the physical environment (including transportation) | 29,2 | 34,0 |
| In accessing work | 18,8 | 25,5 |
| Poverty | 33,3 | 46,8 |

Table 26

Access to Human Rights Principles – Blind Kenyans and People with Other Disabilities (%)

| <i>Access to Human Rights Principles</i> | Blind Interviewees | All Other Disabilities |
|--|---------------------------|-------------------------------|
| AUTONOMY | | |
| Lack of Autonomy | 79,2 | 68,1 |
| Self-Determination | 39,6 | 34,0 |
| DIGNITY | | |
| Devalued | 97,9 | 91,5 |
| Valued | 22,1 | 27,6 |
| EQUALITY | | |
| Equality | 12,5 | 10,6 |
| Inequality | 85,4 | 87,2 |
| INCLUSION | | |
| Exclusion | 83,3 | 76,6 |
| Inclusion | 72,9 | 63,8 |
| RESPECT FOR DIFFERENCE | | |
| Labelled | 50,0 | 57,4 |
| Respected | 6,3 | 2,1 |

Table 27
Responses to Abuse and Discrimination – Blind Kenyans and People with Other Disabilities (%)

| <i>Responses to Abuse and Discrimination</i> | Blind Interviewees | All Other Disabilities |
|--|---------------------------|-------------------------------|
| Distancing | 45,8 | 48,9 |
| Resistance | 37,5 | 25,5 |
| Reporting/Legal Action | 54,2 | 36,2 |

Table 28
Reasons for not Reporting – Blind Kenyans and People with Other Disabilities (%)

| <i>Reasons for not Reporting</i> | Blind Interviewees | All Other Disabilities |
|----------------------------------|---------------------------|-------------------------------|
| Lack of Access | 22,9 | 46,8 |
| 'Nothing would have been done' | 29,2 | 23,4 |
| Fear | 14,6 | 14,9 |
| Corruption | 4,2 | 8,5 |
| Lack of Financial Means | 8,3 | 4,3 |
| Self-Blame | 14,6 | 12,8 |

Table 28
Recommendations – Blind People and Other Disabilities (%)

| <i>Recommendations</i> | Blind Interviewees | All Other Disabilities |
|--------------------------|---------------------------|-------------------------------|
| Raise Awareness | 56,3 | 40,4 |
| Improve Respect | 47,9 | 40,4 |
| Social Supports | 35,4 | 34,0 |
| Legislation | 29,2 | 29,8 |
| Political Representation | 12,5 | 14,9 |
| Economic Supports | 35,4 | 17,0 |
| Peer Support | 12,5 | 12,8 |

In general, blind people seem to fare slightly better than all other groups of people with disabilities. Like others, they are not exempt from facing multiple obstacles and discrimination on the grounds of their disability, however, they do appear to be more able to fight for and defend their rights.

Family contexts in particular, seem to be more supportive of blind people than they are of persons with other kinds of disabilities. Indeed, blind people are less likely to experience discriminatory attitudes and significantly less likely to suffer abuse and violence in family relationships. Schools and workplaces however, present added obstacles to those who are blind as these are the contexts where they tend to face greater discrimination. Paradoxically though, blind people reported less

barriers in accessing work than all other disability groups together, which might be explained by their higher levels of education⁴². Consequently too, they were significantly less likely than all other groups to report experiencing poverty, although an impressive one third of blind respondents still did report being poor.

It is in the community, on the streets, when using public transportation or public facilities that blind people were more exposed to situations of abuse and violence (and significantly more so than people with other kinds of disabilities). The lack of information in Kenyan society about the appropriate ways of dealing with those who are blind, and the insensitivity of many who take advantage of their impairment to steal from them and deceive them were often what caused such abuse and violence.

In terms of access to the key human rights principles the situation of people who are blind, in comparison with other groups, is complex. While on one hand they appear to be more constrained in their personal autonomy (due to the lack of accessibility in the physical environment) and they report lacking dignity and being excluded more often than other groups, they were also more likely than others to experience inclusion and respect. This might reflect the heterogeneity within the group of people who are blind, which may well encompass better educated and less educated persons, more affluent and poor individuals, paid workers and beggars, etc, each with unique experiences of discrimination and oppression. Unfortunately, our data and the sample size do not allow us to probe these differences and examine their consequences in terms of access to human rights for those who might only have in common the physical attribute of their blindness.

When it comes to responding to situations of abuse and discrimination, however, people who are blind appear to be a more consistent group, and their attitudes differ interestingly from those of other disability groups. In fact, overwhelmingly, in face of the discrimination those who are blind tend to *report or to take legal action*, which again in part may reflect a higher level of education, but certainly too, is indicative of a greater awareness of their rights in consequence of their affiliation with better organized representative associations. Among all other disabilities, in contrast, *distancing* (in the sense of avoiding persons and contexts where discrimination has occurred in the past or is likely to occur) is, by contrast, the most frequent approach. Not surprisingly then people who are blind are also less likely than other people with disabilities to indicate *lack of access* as the main reason for not reporting discrimination they have faced. They reported that they were more often prevented from taking legal action due to lack of financial means.

Consistent also with the stories they shared about the discrimination and oppression they endured (most of which took place in the public sphere) people who blind people, who were interviewed recommended *raising awareness* as the most important measure to be taken in order to advance the human rights for all people with disabilities in Kenya. They were indeed more vocal than other groups in asking for better education of the public in disability-related issues and in demanding

⁴² We can only speculate about this, since the questionnaire did not collect specific information about the level of education of respondents; however, the stories they shared with us provided some data on the kinds of occupations they held, from which we could often infer their degree of education too. Many blind people for instance were teachers, which denoted some degree of education and specialization not so frequently found among other disability groups.

increased social respect for disabled citizens in Kenyan society. Finally, and also in contrast with all other groups, they wanted more significant *economic supports* from the state, particularly access to work and to fair working conditions, and availability of funds to create self-employment. This result further suggests that, possibly because they are a more educated group, blind people, more than all others, see work and economic independence as critical to achieve their human rights.

SECTION 5

Recommendations for Programme Action

Future Application of Research Results

The overall rationale of this project was shaped by the eventual application of these research results. Now that the project has produced accurate and reliable data with respect to the human rights situation of people with disabilities in Kenya, evidence-based recommendations for law, policy and programming improvements can be made. Such recommendations are intended to:

- inform people about violations of the rights of people with disabilities,
- stop existing and prevent future rights violations of people with disabilities,
- provide evidence to support advocacy for changes in laws, policies, and programs to improve the lives of people with disabilities, and
- monitor the Kenyan government's progress in fulfilling the commitments it has made to people with disabilities through its ratification of international human rights treaties.

Recommendations for Programme Action

The results of the study clearly indicate the need to promote equal enjoyment of human rights for disabled persons and to respond to their economic, socio-cultural and political needs through various mechanisms. In light of these concerns, several recommendations for future programme action have been identified from the major conclusions of the report in order to effectively address the human rights needs of disabled persons. These include issues related to DPOs and human rights, the mainstreaming of human rights concerns in public programmes, and recommendations regarding legislation, legal support and arbitration, and advocacy.

1. Strengthening of DPOs Capacity in Addressing Human Rights

There is an urgent need for DPOs and other organizations to design and implement human rights specific interventions in order to reverse the indicators illustrated in this study. The components of such action will be:

a) Peer Mechanisms for Self Advocacy

A peer mechanism self advocacy programme (PMAP) works at the level of the individual disabled person to provide human rights information and education on significant barriers. Such obstacles include discriminatorily attitudes, abuse and violence in the family, school, workplace, the community at large and public authorities. A PMAP also offers information on barriers to communication, access to education, public services and authorities, as well as aspects of the physical environment such as transport systems and workplaces.

b) Human rights education

Disabled people and their organisations should develop a comprehensive and strategic human rights education campaign to raise rights awareness among disabled people and the general public. Some of the respondents who had undergone human rights violations were unaware that their rights were being violated and in other cases they would not report violations out of fear. Such issues might be reduced through well targeted education campaigns using straightforward comprehensible language and accessible formats.

c) Collaborative networks

DPOs should engage in building strong collaborative networks amongst themselves. Such networks and Coalitions would be more effective in protecting and promoting the rights of disabled people.

2. Mainstreaming disability rights in public service

The lack of a constitutional provision that directs government bodies to mainstream disability issues needs to be addressed.

a) The government should mainstream disability issues by incorporating information about the human rights of disabled people in all training curricula for its officers. This would allow individual officers to be responsive to reports of human rights violations by disabled people.

b) The government should develop and implement a disability training curriculum for civil servants as a further strategy for mainstreaming disability. Such a curriculum would take a human rights approach to development as a strategy for creating equity in Kenyan society. This would ensure that government agencies and employers respond to disability issues promptly, intelligently and in ways that respects the rights and dignity of disabled people.

c) The government should incorporate disability in its national development strategy.

3. Legislation

a) Disabled people and their organisations must initiate or engage in processes that will lead to the entrenchment of anti-discrimination clauses in the constitution. This could be done through the disability constitution working group. Disabled people could also sponsor motions in parliament for constitutional amendments.

b) The *Persons with Disability Act 2003* (PDA) needs to be amended so that it is no longer anchored on the *Standard Rules of Equalisation of Opportunities for Persons with Disabilities* but on current international and regional human rights conventions. As well, the penalties in the act should be more severe in order to prevent disability discrimination.

c) Disabled people, their organisations and human rights groups should lobby the relevant government departments for the ratification and domestication of

the *International Convention on the Rights of Persons with Disabilities (ICRPD)*.

- d) The PDA needs to be harmonised with other laws so that it becomes operational.

4. Legal Support and Arbitration

- a) Disabled people should have access to the court process in order to challenge disability discrimination. This could be done through a disability legal aid system that offers representation to disabled people. The Legal Aid Clinic could also take up public interest cases that would increase the impact through precedent setting of elimination of disability discrimination. The Legal Aid Clinic should also train judicial officers and lawyers on disability and human rights, and build a national network of disability paralegals to provide legal advice to disabled people and to act as arbitrators.
- b) In cases where abuse has occurred it is important that DPOs develop referral mechanisms to direct people to support services and recovery centres in order to receive counselling for post violation trauma.

5. Advocacy

- a) All law and policy should reflect the principles of disability as a human rights issue.
- b) Disabled people, through their organisations, should effectively participate in all levels of decision-making.
- c) The government should promote equal opportunity for disabled people and respect for difference in all spheres of life.

6. Further work

- a) There is a need for more research in order to identify patterns of human rights violations among specific population segments, such as children, women, pastoralists, hawkers, disabled workers in sheltered workshops, Internally Displacement Persons (IDPs), refugees, and disabled people in institutionalised environments.
- b) There is an urgent need for comprehensive law research to identify the exact nature of disability discrimination caused by existing legislation. The offending laws could then be the target of advocacy and lobbying campaigns.
- c) DPOs should continue to conduct disability rights monitoring on an annual basis to appraise the state of the human rights of disabled people. Annual reports of this assessment can be used to provide information for the monitoring mechanism of the ICRPD.

Appendix A - Methodology

Background to Project

Rights monitoring is a research method that involves the tracking, collection, collation, analysis, interpretation and mobilization of data and knowledge about the life situation of people using human rights standards as benchmarks. Monitoring is central to an effective, organized approach to enforcing the equal enjoyment of human rights. A review of international human rights literature shows that, unlike areas such as women's rights (Callamard 1999a; Callamard 1999b; Callamard, Bedont et al 2001), disability rights monitoring is relatively underdeveloped (UN Special Rapporteur on Disability 2000; International Disability Rights Monitor (IDRM) 2004). To date, comprehensive knowledge about the human rights situation of people with disabilities in Kenya has not been systematically collected, documented, stored and/or analyzed. Mechanisms for effective disability rights monitoring, including surveys and training resources are scarce. Tools and methods aimed at multiple levels of analysis (i.e. individual and system levels) are also unavailable. In addition to gathering data regarding the human rights situation of people with disabilities, this project will form part of an international field-test of a tool specifically designed for disability by one of the project partners, DRPI. Evidence-based knowledge regarding the extent to which people with disabilities exercise their rights will inform effective societal, policy and program change to improve the lives of people with disabilities in Kenya.

Key Aspects of DRPI Disability Rights Monitoring Projects:

There are four basic principles that underlie the DRPI monitoring of disability rights. They are:

1. Involvement of disability organizations of people with disabilities and people with disabilities individually, in all aspects of the project.
2. Capacity building of organizations of people with disabilities and people with disabilities individually in order to ensure the sustainability of monitoring activities beyond the life of the project. Capacity is built with respect to: understanding human rights and disability; how to monitor disability rights (including associated privacy and security concerns); how to train others to monitor disability rights; how to store and protect the data collected; how to analyze monitoring results; and how to manage a monitoring project. A "train the trainer" model is employed with the expectation that those who have gained the skills will, in turn, train other people.
3. Involvement of people with different *types* of disabilities, that is, a "cross-disability approach". Consistent with the need to protect and promote the human rights of *all* people with disabilities, it is necessary that those involved in project management and implementation and those who are interviewed, are representative of the broad range of disabilities. By working together to gather data, people with one type of disability gain a better understanding of the situation of those with other types of disabilities. It is hoped that this will help build

multi-group cohesion and strengthen the overall bargaining power of the disability movement.

4. Emphasis on the personal stories and priorities of people with disabilities. The monitoring tool has been developed to ensure that people with disabilities have an opportunity to tell their own story and to identify those rights issues that are most important to them. The resulting data reflects the most important rights issues at the various monitoring sites, as defined by people with disabilities themselves. They identify those rights issues which are priorities to themselves. This is a process in which they are asked which stories they want to tell.

Objectives of the research

The project involved field research to collect accurate and reliable information regarding the human rights situation of Kenyans with disabilities. At the same time the research project developed a sustainable system to ensure that disability rights data collection continues beyond the duration of the formal project by creating networks of people to monitor disability rights and by building monitoring capacity within those networks. The project also developed the technical infrastructure needed to collect and store this type of data.

Reports have been generated and are available to organizations of people with disabilities, other groups working to improve the lives of people with disabilities, the media, government bureaucrats and politicians. The reports inform people about violations of the rights of people with disabilities; address existing infringements of disability rights and provide information to prevent future rights violations of people with disabilities. They provide evidence to support advocacy for changes in laws, policies, and programs to improve the lives of people with disabilities. Finally they provide a benchmark to monitor the Kenyan government's progress in fulfilling the commitments it has made to people with disabilities through its ratification of international human rights treaties.

Research questions:

The research attempted to find answers to two questions.

- 1) What barriers do people with disabilities face with respect to the exercise of their civil, political, social, economic and cultural rights?
- 2) How is the exercise of rights by people with disabilities affected by intersecting forms of disadvantage (e.g. race, gender, ethnicity, geographic location, age, education level and income level)?

Getting Started

The initial activities of the project involved 2 days of intensive workshops which set the tone and substantial grounding for the project.

Building a national cross disability broad-based human rights network was the first activity, held on November 30, 2005. This involved bringing together organisations of people with disabilities, local universities, national human rights institution, traditional human rights organizations, universities and government representatives. A cross disability model was realized through involving the Kenyan Union of the Blind (KUB) and Centre for Disability Rights Education and Advocacy (CREAD) into the project. KUB brought in people with visual disabilities while CREAD, which is a collaboration programme on human rights created by DPOs representing five major disabilities in the country, brought in people from the three other disability perspectives, i.e. physical disability, intellectual disability, and hearing disability. Information was provided at this workshop on human rights monitoring and documentation, the UN human rights system, and a model for a disability rights monitoring system. The Kenyan Disability Human Rights Advocacy Network [KDHRAN] was given the mandate of developing a broad agenda aimed at overseeing that human rights of people with disabilities in Kenya, to be sure it would be on the agenda for social change needed to bring about the entrenchment of disability rights.

The Disability Human Rights Task Force (DHR), elected by the KDHRAN and mandated to begin the planning and organization of a disability rights monitoring project in Kenya, met on December 1, 2005. The Task Force of 10 people drawn from representatives from national organisations of people with disabilities, and other critical stake holders including the Children Legal Action Network, the Kenya Law Review Kenya Law Review Commission, the National Council for people with Disabilities, three major universities (University of Nairobi, Moi University, and Kenyatta University).

The role of disability and human rights task force was develop criteria to select study sites; develop criteria for selecting monitors and field assistants; determine who should attend the capacity building seminar for developing monitoring skills; advising on training methodology in the capacity building seminar; determine the number of interviews to be conducted in the study; propose a workable time frame for the study; facilitate dissemination and follow-up activities of the study findings; select a management team for the study; encourage the protection and promotion of human rights of people with disabilities; and ensure that the monitoring of the rights of people with disabilities continues beyond the project.

From those initial meetings the overall methodology and organization of the project was designed and developed with four basic activities including building an organizational structure, capacity and confidence building, data collection, analysis and report writing.

Organisational Framework of the Study

Key decisions in the study regarding parameters, human resources, and time frames were made in well structured decision making levels. That decision-making included people from national organizations of people with disabilities, as well as the management team, a project coordinator, technical support and financial support.

The **National Organizations** of people with disabilities laid the broad framework through which the study was conducted. The national organizations included the **Kenya Union of the Blind (KUB)** (a national organization for the blind and partially sighted in Kenya) and **Centre for Disability Rights Education and Advocacy (CREAD)** (a cross disability human rights program created by five People with disabilities Organizations representing, people with intellectually disabilities, deaf and hard of hearing persons, albino persons, and people with physical disabilities).

The **Management Team** of four people was selected to oversee the work outlined by DHR task force. The members were drawn from KUB, CREAD, and the Universities in the ratio of 2: 1: 1. The mandate of the management was specifically to do the overall logistical management of the project including selecting the researchers and their assistants (see appendices for a list of the project personnel, including the monitors and field assistants), designating and inviting participants to the training seminars; appointing a project coordinator; overseeing the research work in the field and assisting with the development of field work modalities.

The **Project Coordinator** was hired in January 2006 and worked under the direction of the Management Team, responsible for the organization and administration of the project's training, data collection and data analysis activities. The Project Coordinator was the "front-line" person in Kenya. It was his responsibility to deal with any problems that arose during the course of project. In performing these roles, the Project Coordinator had the support of the National Organizations of People with Disabilities, the Universities and the staff of DRPI and SRF (see more below).

The project relied on **Technical Support** that was provided by four organizations and several universities. The four organisations were **Disability Rights Promotion International (DRPI)**, **Swedish Association of the visually Impaired (SRF)**, and **Africa Union of the Blind (AFUB)** and **University of Nairobi School of Law**.

The project was **funded** jointly by **Swedish Association of the Visually Impaired** and **Disability Rights Promotion International**.

Capacity and Confidence Building

Data collection.

The research relied on multiple research methodologies, including environmental scans, secondary data and qualitative data collection in the field. The primary source of data was the experiences of people with disabilities collected in the field work in three research sites. The field work involved face to face interviews with the people with disabilities in their natural habitation. A hundred and three interviews were conducted in the three sites (about 4 interviews were unable to be coded

because of the quality of the tape recordings and notes of the interviews). In the field environment scans were being done both of the sight of the interview and of the community of the interviewee. Secondary data was collected through the review of the country legislations, government programs and case law.

Measurement Tool

A monitoring tool that uses human rights standards defined by the United Nations was employed to collect data. The tool used a series of close-ended and semi-structured questions. Detailed records regarding interviewees' demographic characteristics and experiences were collected at each site. (See appendices for a copy of the monitoring tool entitled *Interview Questionnaire*).

Sample

The project's Management Team chose three areas in Kenya: : Central – Nairobi, Rift Valley – Nakuru, and Western – Kisumu to be study sites. The sites reflect diversity of ethnic homogeneity / heterogeneity of the population, high and low levels of overall poverty, and high and low levels of literacy. Due to the difficulty of obtaining a definitive sampling frame with the population of people with disabilities, we used a non-proportional quota sampling technique to recruit individuals with attributes representative of the percentage of sensory, intellectual, psychiatric and mobility disabilities in the broader Kenyan population. Given their roles in the community, the organizational partners were involved in recruiting people with disabilities for the sample. The team used a snowball sampling technique to identify other research participants. At each site, approximately 30 people who self-identified as having a disability were interviewed. The sample balanced for gender, age (18+), type of disability and occupation.

Monitors

The monitors (interviewers) were people with disabilities while the field assistants were law who did not have disabilities. Using a snow ball sampling technique to identify and select interviewees there was an attempt to ensure the interviewees included a cross- students section of different types of disability, gender, class, education and tribal background. The monitors worked in pairs each of whom had a different disability. This enabled the interviewers to act as support for each others both in terms of capturing the data and in acting as disability assistance for each other. In the case where on member of the team was deaf person, there were sign interpreters at hand to support the team in communication with one another and with the interviewee. All the interviews were tape recorded and notes were made immediately after the interviews and time was allocated for the monitors to do that work.

Training for interviewing and fieldwork (Disability Rights Monitoring Workshop)

Key to the field data collection was a seven day training held prior to the monitors and field assistants going into the field. It was designed to provide them with the human rights context for the work and to train them on primary data collection methodology and give them both roll-playing and hands-on experience in interview techniques.

Two representatives from DRPI facilitated the training workshop. In advance they developed an interview questionnaire, a training manual for the monitors, information and consent sheets. They provided technical advice and assistance regarding the organization and administration of interviews.

The topics of the workshop included a wide range of issues including the following: a basic understanding of human rights and disability from a human rights perspective including the distinction between a charitable approach and a human rights approach to disability, the international normative context of human rights instruments in the United Nations system. With that as the basis for the work, intensive training was provided on how to do an interview and to use the interview guide, techniques of interviewing, finding the interview subject using the snowball interviewing technique, potential problems in the field, maintaining confidentiality, and the organization and administration of the monitoring project. The formation of monitoring teams and field assistants was decided at the training and logistical details of the field work was also covered during the seminar.

The training workshop was attended by 36 participants and others in attendance for seven days: 13th – 19th February 2006. (Details: see table below)

Table 1: **Participants of the DHR Monitoring Workshop. Feb. 13-19 2006.**
Kenya school of Monterey Studies. Nairobi Kenya.

| Institutions. | No. Of Pts.: | Group Identity. | Gender | | Disability. | | Mim. A/Q |
|--|--------------|-----------------|--------|---|-------------|---------|--|
| | | | M | F | M | F | |
| KUB | 5 | Monitors | 2 | 3 | VI | VI | Degree: |
| CREAD | 5 | Monitors. | 1 | 4 | MI | 2PH/2HI | Degree. |
| UoN | 7 | Field Ass. | 4 | 3 | N | N | Law Student |
| Moi Univ. | 2 | Field Ass. | 1 | 1 | N | N | Law Student |
| K U | 2 | Field Ass. | - | 2 | N | N | B.Ed Student |
| Other Participants in Attendance: | | | | | | | |
| | | | | | | | Explanatory Note:: These participants, other than the trainers, did not necessarily attend the full training session.. |
| KUB | 2 | Mgt. Team. | 1 | 1 | VI | VI | |
| " | 1 | KUB Board. | - | 1 | - | 1 | |
| " | 1 | Support Staff | 1 | - | VI | - | |
| CREAD | 1 | Mgt. Team. | 1 | - | PH | - | |
| " | 1 | Support Staff | - | 1 | - | N | |
| " | 2 | Sign Interpr. | 1 | 1 | N | N | |
| Moi Univ. | 1 | Mgt. Team. | 1 | - | N | - | |
| AFUB | 1 | ED | - | 1 | - | VI | |
| " | 1 | P C | 1 | - | VI | - | |
| " | 2 | Support Staff | - | 2 | - | N | |
| SRF | 2 | Partners | 1 | 1 | VI | N | |
| DRPI | 2 | Trainers | - | 2 | N | N | |

The importance of gaining the consent of the research subjects both for the interview and of tape recording as well as the methods to ensure confidentiality were a central part of the training (consent and confidentiality procedures are outlined in the consent forms in Appendices)

The field monitoring process began following securing the government authority to undertake research in all districts of Kenya by Kenyans.

The interview teams spent approximately 20 days in the field in each site. In the Rift Valley 33 persons with disabilities, 16 men and 17 women were interviewed in 20 days. In Nairobi, 34 persons with disabilities were interviewed over 21 days of which 18 were women and 16 men. In Nyanza the interview period for the 36 people interviewed was 22 days.

Monitoring meetings

There were three field team meetings during the course of the fieldwork. They were the pre planning and roll-out meeting (this was to ensure that people understood

their roles, responsibilities and the skills and the knowledge for the team work); the mid term review meeting (to review the progress), and the debriefing meeting at the conclusion of the fieldwork (to gain information on the research process and to resolve any outstanding technical issues once the interviews were completed.

After the Field

Field Data Analysis:

Interviews were tape-recorded and notes taken. All field data collected, including the tapes of the interviews and the field notes were sealed and filed with the Kenyan principal data analyst at the University of Nairobi for safekeeping. He transcribed all interviews and translated those that were not in English. Anonymized data was input onto a web-linked computer platform to facilitate data transfer and storage. The resulting database enabled data to be captured, processed and analyzed for research and advocacy purposes. Data was analyzed with *Qualitative Research Software NVivo7* that disaggregated the data in both qualitative and quantitative terms. DRPI developed a coding scheme for the data analysis and collaborated with the principal data analyst in Kenya to code and analyse the data. See appendices for the coding scheme). The project coordinator in close collaboration with DRPI and CREAD and the Kenya data analyst analysed the data.

Learning from the Research and Follow-up

As a pioneering pilot project in a comprehensive method of human rights monitoring, it was assumed that there would be much to be learned in the initial foray into a new developmental piece of research such as this. Perhaps the most surprising finding is how effective and efficiently the field work was organized, the environmental scans written, the data was collected, and the resulting richness of the field data. The collection and collation of the country systemic data by law students and the collaborative reporting on the disability movement by the disabled persons organizations provided a rich perspective to the study findings. Changes to the questionnaires, the organizational process, the capacity building of monitors and the data analysis have already been made and were in some cases put in place during the progress of the study. It is a genuine example of the best that can be predicted as we move into this new area of genuinely monitoring disability rights.

STEP 3 - Getting Details About the Issue(s)/Situation(s) Raised

WHAT?

- What happened?
- How did it happen?

WHEN?

- When did it happen? (date?, time of day?)
- Is it still happening or has it stopped?
- Is this an ongoing situation?

WHERE?

- Where did it happen? (if the situation is specific to a location, get city/village, province/state)
- Did it happen in only one place? In more than one place? (record all of the places)

WHO?

- What type of person caused the situation? (for example: government official, doctor, bus driver, neighbour ...)

WHY?

- Why did it happen?

[REPORTING?]

- Did you report the situation to anyone?
_ yes _ no
- [• If you did report the situation:]
what kind of person/organization did you report it to?
_ government official
_ police officer
_ army officer
_ NGO employee
_ religious leader
_ cultural leader
_ ombudsperson
_ other: _____
(specify)

- how did that person react?
- what action was taken?

- [• If you did not report the situation:]
- why did you not report it?

STEP 4 – Relating the Issue(s)/ Situation(s) Raised to the General Human Rights Principles:

[Dignity]

1. Did you feel:
_ disrespected ? [or]
_ respected? [or]
_ did respect not have anything to do with the way you felt ? What made you feel that way?
2. Did you feel that your feelings were ignored or that no one cared for you?
3. Did you feel that people were paying attention to you and your needs?
[- Why or why not ?]
4. Did this situation make you feel less worthy?
_ yes
_ no
[- If yes, what made you feel that way?]
5. Did you feel isolated in this situation?
_ yes
_ no
[- If yes, what made you feel that way?]

[Autonomy]

1. Did you feel that you had a choice [or that you made a decision on your own]?
_ yes
_ no
2. Did you have real options in this situation?
[If not, what stopped you from having options?]
3. Did you want to make a different decision or did you want to do something else?
4. Did you have enough information to make that decision?
5. Did you feel pressured to act the way you did?

[Non-Discrimination & Equality]

1. In what way do you think your disability had something to do with what happened?
2. Do you think that people without disabilities would be treated the same way you were? [Why?]
3. Do you know anyone else who was treated in the way you were? [Why?]
4. Do you feel that you were treated like you were less valuable than other people in the same situation?

[Inclusion]

1. Did your community support you in this situation? [If so, how?]
2. Were you separated from people without disabilities? [If so, how?]

3. Did you need a service or some assistance so that you could participate? [If yes, what service(s) or assistance?] [Did you receive them?]

[Respect for Difference]

1. Were you treated the way you were in this situation because people thought you were different? [If yes, why?]
2. Do you think that other people would have been treated in a similar way in this situation?
3. Would someone of a different ethnicity be treated that way?
Would a woman be treated that way?
Would a poor person be treated that way?
4. Do you feel that people label you and then treat you differently because of the label?

[FOLLOW-UP INFORMATION:]

- Is there someone we could contact who saw this happen or who could provide us with more information?
_ _ YES _ NO

If yes:

- _ What is their name? [record name on Coding Sheet]
- _ Can we contact this person? _ YES _ NO
 - If yes, what is the best way for us to contact him or her?
[record details on Coding Sheet]

[POSSIBLE SOLUTIONS, WAYS TO AVOID FUTURE VIOLATIONS:]

In your opinion, what action[s] should be taken to improve [or prevent] the situation?

[SUMMING UP ISSUE#1:]

Is there anything else that you would like to say about that issue/situation?

[NOW, We are going to return to the issue you raised earlier about (insert brief reference to SITUATION / ISSUE #2) :]

THE SAME SET OF QUESTIONS WERE THEN RE-ASKED ABOUT SITUATION #2 AND SITUATION #3 (DEPENDING ON WHETHER THERE WAS SUFFICIENT TIME WITHIN THE 2 HOUR TIME LIMIT SPECIFIED FOR THE INTERVIEW.

STEP 5 – Interview Conclusion

[Do you have anything else you would like to add?]

[Do you have any questions for us?]

Thank you very much for your time.

Appendix C

INFORMATION SHEET & FREE and INFORMED CONSENT FORM

for the study called

The International Disability Rights Monitoring Project in Kenya

INFORMATION SHEET

This information is provided so that you can make a decision about whether or not you want to participate in this study. We are giving you a lot of information because we want you to be able to make the decision that is best for you.

Sponsors:

The study is being sponsored by:

- **African Union of the Blind (AFUB)** which is a non-governmental umbrella organisation of national associations of and for blind and partially sighted persons in Africa.
- **Kenya Union of the Blind (KUB)** which is a national association of and for blind and partially sighted persons in Kenya.
- **Centre for Disability Rights Education and Advocacy (CREAD)** which is a collaborative organization of five organizations of persons with disabilities in Kenya.
- **University of Nairobi**, through the involvement of students and academics from its faculty of law.
- **Moi University**, through the involvement of students and academics from its faculty of law.
- **Kenyatta University**, through the involvement of students from its faculty of education
- **Disability Rights Promotion International (DRPI)** which is a research project based at York University in Toronto, Canada
- **Swedish Federation of the Blind and Partially Sighted (SRF)** which is a national association of and for blind and partially sighted persons in Sweden.

Why are we doing this study?

We are collecting information about the lives and experiences of people with disabilities by talking directly to people with disabilities. We want to see if their human rights are being respected. The information we collect will be studied and reports will be written. The names of participants will not be mentioned in the reports unless they have given us clear permission to do so. The reports will be available to organizations of people with disabilities, other groups working to improve the lives of people with disabilities, the media and governments.

The reports will be used to:

- let people know about violations of the rights of people with disabilities
- help stop human rights violations

- provide facts to back up arguments for changes in laws, policies, and programs to improve the lives of people with disabilities
- keep track of the steps that the government has taken or has failed to take in order to fulfill the promises it has made to people with disabilities when it signed agreements at the United Nations saying that it would protect, promote and fulfill the rights of people with disabilities

What will happen in this study and what will you be asked to do?

Our project is going to various countries around the world to talk to people with disabilities about their lives and their experiences.

If you agree to participate, you will be asked a series of questions about your life and your experiences. We will particularly want to know if your human rights have been violated and how they have been violated. In other words, we will want to know if there are unfair things that have happened to you which have stopped you from participating in society in the way that people without disabilities participate in society.

If you agree to participate, you will be interviewed by one or more people with disabilities who are members of a local organization run by people with disabilities. We call these people the "monitors". We know that, in the past, people with disabilities have often been left out of research about people with disabilities. We think that it is only fair that people with disabilities play an active role in any research about them.

During the interview, the monitor(s) will take notes. If you give them permission to do so, they will also tape or digitally record the interview so that we can be sure to get all of the information you provide accurately.

Depending on the methods of communication that are used, the complete interview should take approximately 1 to 3 hours to complete.

After the interview, the monitor(s) will give all of their notes and the tape/digital recordings to the person in charge of the project who we call the Project Coordinator. The monitor(s) will not keep any copies and will not talk to anyone except for the Project Coordinator about what you said. The interview will be confidential.

The Project Coordinator will pass the notes and recordings of your interview to the researchers who will study them. Your name will not be on any of the information given to the researchers, they will not know whose information they are studying.

After looking at your information and the information from interviews with at least 50 other people with disabilities in your country, the researchers will write reports that will be given to organizations of people with disabilities, other groups working to improve the lives of people with disabilities, the media and governments. Your name will not be mentioned in the reports without your clear permission.

Are there possible negative things that might happen if you participate in the study?

There are no negative things that will happen to you by participating in this study. However, you may feel uncomfortable when you start thinking about some of the questions that you are asked. For example, you may remember some things that have happened to you that are not pleasant to think about. If that happens, you can take a break from the interview or, if you want, you can stop the interview completely.

If you want to continue to talk about these things, that's fine, too. If you feel upset about these things, you can ask the monitor(s) for the name of someone you can talk to about your feelings after the interview is over.

Are there good things that might happen if you participate in this study?

You may or may not receive any direct benefit from participation. You might find that it makes you feel better to talk about some of your experiences. Also, we hope that organizations of people with disabilities, the media and governments learn from the studies and reports that are made and take steps to improve the lives of people with disabilities in your country.

Can you decide if you want to participate in the study?

You are free to choose to participate or not to participate in the study and you may choose to stop participating at any time. Your participation is completely voluntary. Your decision not to participate in the study will not influence your ongoing relationship with any of the study sponsors, monitors or any other person or group associated with the project.

Can you stop participating if you don't want to continue participating?

If, at *any* time during the study, you want to stop participating, for *any reason*, just let the monitor(s) know and they will stop asking you questions. If you want to answer some questions, but not others, you can do that, too. It is entirely your decision.

If you decide not to participate in the study, or if you decide to stop participating in the study, we will not use your information for our research. Any notes or recordings made up to the point you decided to stop will be destroyed. Also, if you decide to stop participating, you will still receive your honorarium for agreeing to take part in the project. Your decision to stop participating, or to refuse to answer particular questions, will not affect your relationship with any of the study sponsors, monitors or any other person or group associated with the project. No one will treat you any differently if you decide that you do not want to participate in the study.

Will your information be kept confidential?

The information you provide will be kept confidential within the limits of the law. Unless you specifically provide your consent, your name will not appear in any report or publication of the research. The notes and recordings of your interview will be safely stored in a place that is locked and will be destroyed at the end of the project. You should know that there are certain types of information that the monitors would be required by the laws of your country to tell the authorities about if you mention them in the interview.

Costs and Compensation

You will be given an honorarium to cover your transportation to the interview location and the cost of any disability-related supports or assistance that you will need in order to participate in the interview. If you would need additional money to get the supports that you need to participate, please let the monitor(s) know the details. You will receive this honorarium within one month of your interview. You will receive this honorarium even if you decide to stop participating in the project at some point during the interview and/or decide not to answer certain questions.

If you have questions about the study

If you have questions about the research in general or about your own role in the study, please feel free to contact:

Cornelius Ojangole

Project Coordinator

by regular mail: African Union of the Blind, North Airport Road, Embakasi
P.O. Box 72872-00200, Nairobi, Kenya

by telephone: 254-020-823989

by email: info@afub-uafa.org

OR

Dr. Elly Macha

Executive Director, AFUB

by regular mail: African Union of the Blind, North Airport Road, Embakasi
P.O. Box 72872-00200, Nairobi, Kenya

by telephone: 254-020-823989

by email: info@afub-uafa.org

OR

Dr. Marcia Rioux

Co-Director, Disability Rights Promotion International

Chair & Professor, School of Health Policy and Management, Atkinson

by regular mail: York University, 441 HNES Building, 4700 Keele Street
Toronto, ON, M3J 1P3 Canada

by telephone: +1-416-736-2100 extension 22112

by email: mrioux@yorku.ca

FREE and INFORMED CONSENT FORM:

I have read and understood the preceding pages of this Information Sheet and Free and Informed Consent form. The research procedures mentioned above have been explained to me and all of my questions have been answered to my satisfaction. I have been informed that I can withdraw from the study at any time without penalty and that, if I choose to do so, any data collected as a result of my participation will be destroyed. The potential discomforts that I might experience because I have participated in the study have been explained to me. I also understand the potential benefits of being a part of this study.

I know that I may ask now, or at any time in the future, any questions I have about the study. I have been assured that the records, transcripts, and tapes related to this study will be kept confidential to the limits of the law. I have also been assured that no information will be released or printed or made public that would disclose my personal identity unless I give permission for that to happen.

I hereby consent to participate

Printed Name of Participant:.....

Date:.....

Signature of Participant.....

I hereby consent to having my interview recorded

Signature of Participant.....

Date:.....

Signature of Principal Investigator

Date:.....

PLEASE NOTE:

This research has been reviewed by the Human Participants in Research Committee, York University's Ethics Review Board, and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines and the York Senate Policy on research ethics. If you have any questions about this process, or about your rights as a participant in the study, please contact:

Ms. Alison Collins-Mrakas

Manager, Research Ethics, York University

by regular mail: 277 York Lanes, York University, Toronto, ON, M3J 1P3, Canada

by telephone: +1-416-736-5914

by email: acollins@yorku.ca

If you would like to contact the Human Participants in Research Committee, please send your correspondence care of Ms Collins-Mrakas at the above regular mail or email address.

Appendix D – Coding Scheme

Coding Scheme

To develop the coding scheme a sample of 15 interviews was selected:

- **5** from each **monitoring site** (Nairobi, Rift Valley and Nyanza)
- **Sex: 8** females and **7** males
- **Age ranks** 18-25: **2**, 26-40: **6**, 41-55: **6**, 56-70: **1**
- **Type of disability:** deaf persons: **4**, blind persons: **5**, persons with mobility disabilities: **4**, persons with intellectual disabilities: **1**, persons with other disabilities : **1**

The 15 interviews were then analyzed. 56 codes and sub-codes emerged from this analysis, covering 6 main areas or themes, as follows:

- Types and incidence of **'barriers'** and obstacles experienced in daily life by the interviewees (including negative perceptions of disability, discriminatory attitudes, abuse and violence, poverty, and limited opportunities to participate in social and economic life)
- Ways in which barriers and obstacles experienced by interviewees translate into violations of the key principles of human rights (**'human rights implications'**)
- Ways in which interviewees have dealt with or responded to situations of abuse and discrimination (**'responses to discrimination'**)
- Reasons why interviewees have not reported situations of abuse and discrimination (**'reasons for not reporting'**)
- Interviewees' ideas about the social, economic and political factors in Kenyan society that create or reinforce the discrimination they experience or have experienced in the past on the grounds of their disabilities (**'systemic roots of discrimination'**)
- **'Recommendations'** for future social and political action to prevent discrimination and abuse of people with disabilities.

In addition to these 6 areas, 3 themes were created to code interviewee's comments that alluded to intersections of **'gender and disability'**, **'ethnicity and disability'** and **'class and disability'**

and disability'. It is likely that, as more interviews get coded, these themes will be expanded and new sub-codes created.

To ensure the reliability of the coding scheme, each of the fifteen interviews was then coded independently by three coders and results compared and discussed. These discussions led to further revisions of the coding scheme that included:

- creation of 3 new codes
- elimination of 4 codes (by merging previously distinct codes)
- changes in codes' names or expansion of codes' descriptions to make them more clear and accurate

This process resulted in a revised coding scheme which is presented here.

| Code ⁴³ | Definition |
|---------------------------|---------------------|
| SEX ⁴⁴ | |
| | FEMALE |
| | MALE |
| REGION | |
| | NAIROBI |
| | RIFT VALLEY |
| | NYANZA |
| AGE RANGE | |
| | 18-25 |
| | 26-40 |
| | 41-55 |
| | 56-70 |
| | 71+ |
| TYPE OF DISABILITY | |
| | MOBILITY |
| | SENSORY |
| | BLIND |
| | DEAF |
| | INTELLECTUAL |
| | PSYCHIATRIC |
| | OTHER |

⁴³ Only the codes whose names appears **in bold** are to be used when coding interviews

⁴⁴ The variables SEX, REGION, AGE RANGE and TYPE OF DISABILITY should be coded in NVIVO as ATTRIBUTES, rather than NODES.

BARRIERS
 TYPES OF
 BARRIERS⁴⁵

barriers and obstacles experienced by interviewees throughout their lives

DISCRIMINATOR
 Y
 ATTITUDES

Perceptions, images of disability and attitudes that the interviewee has faced in her/his life that isolate, exclude or discriminate against her/him

ATTFAM

Perceptions, images of disability and attitudes that the interviewee has faced in her/his family that isolate, exclude or discriminate against her/him

ATTSCO

Perceptions, images of disability and attitudes that the interviewee has faced in school that isolate, exclude or discriminate against her/him

ATTWK

Perceptions, images of disability and attitudes that the interviewee has faced in the workplace that isolate, exclude or discriminate against her/him

ATTSOC

Perceptions, images of disability and attitudes that the interviewee has faced in the community or in society at large that isolate, exclude or discriminate against her/him

ATTGVT

Perceptions, images of disability and attitudes by public authorities that discriminated against the interviewee

A B U S E
 VIOLENCE

& situations of abuse and violence that the interviewee has experienced

ABFAM

situations of abuse and violence that the interviewee has experienced in the family context

ABSCHO

situations of abuse and violence that the interviewee has experienced at school

ABWK

situations of abuse and violence that the

⁴⁵ If the barriers reported relate to experiences of people with disabilities other than the interviewee her/himself, create a new code with similar description and name, just adding the number 2 at the end. Ex.: PERFAM2, PERSCHO2, etc

| | |
|-----------------------|--|
| | interviewee has experienced in the workplace |
| ABSOC | situations of abuse and violence that the interviewee has experienced in the community and in society at large |
| ABGVT | situations of abuse and discrimination that the interviewee has experienced in her/his relationship with public authorities |
| LIMITED ACCESS | lack of opportunities and barriers encountered by the interviewee in access to diverse contexts and settings |
| ACCPHYS | barriers and obstacles faced in accessing the physical environment (including transportation) |
| ACCCOM | barriers and obstacles faced by the interviewee to communicate with others |
| ACCEDU | barriers and obstacles faced by the interviewee in accessing education |
| ACCWK | barriers and obstacles faced by the interviewee in accessing work |
| ACCGVT | barriers and obstacles faced by the interviewee in accessing public services and authorities |
| POVERTY | economic deprivation experienced by the interviewee |
| RELIGION | obstacles, difficulties and negative experiences religion-related |
| INCIDENCE | frequency with which the interviewee reports experiencing discrimination in her/his life |

| | |
|------------------------------------|--|
| POSITIVE EXPERIENCES ⁴⁶ | Positive life experiences reported by the interviewee |
| POSFAM | Positive life experiences in the family context |
| POSCH | Positive life experiences in the school context |
| POSWK | Positive life experiences in the context of work |
| POSOC | Positive life experiences in the community/society |
| POSGVT | Positive life experiences with public authorities/government |
| POSRELIG | Positive life experiences religion-related |

HUMAN RIGHTS IMPLICATIONS⁴⁷ Life experiences reported by the interviewee as they relate to key human rights principles

DIGNITY impact of particular life experiences on interviewees' perceptions of self-worth

POS DIGNITY interviewee reports being respected and valued in her/his experiences and opinions and able to form opinions without fear of physical, psychological and/or emotional harm

NEG DIGNITY **interviewee reports feeling disrespected and devalued** in her/his experiences and opinions and not able to form opinions without fear of physical, psychological and/or emotional harm
in consequence of the disability

AUTONOMY ability to make choices and decisions on issues that affect one's own life (including choosing forms of supported decision-making)

SELF-DETERMINATION **interviewee reports ability to make decisions on issues affecting her/his own life (including**

⁴⁶ If the positive experiences reported relate to persons other than the interviewee her/himself, create a new code with similar description and name, just adding the number 2 at the end. Ex.: POSFAM2, POSCHO2, etc

⁴⁷ If human rights implications reported relate to the lives of people with disabilities other than the interviewee her/himself, create a new code with similar description and name, just adding the number 2 at the end. Ex.: POS DIGNITY2, NEG DIGNITY2, etc

choosing forms of supported decision-making)

| | | |
|--|------------|---|
| L A C K A U T O N O M Y | O F | interviewee reports inability to make decisions on issues affecting own life and/or being forced into situations on the grounds of disability |
| EQUALITY | | having own differences respected and disadvantages addressed and being able to participate fully in equal terms |
| EQUALITY | | interviewee reports being respected in her/his differences, having her/his disadvantages addressed and being able to participate fully in equal terms |
| INEQUALITY | | interviewee reports a lack of respect for her/his differences, a lack of consideration for her/his disadvantages and not being able to participate on equal terms. |
| INCLUSION | | reports of being recognized and valued as an equal participant and having own needs understood as integral to the social and economic order and not identified as special needs |
| INCLUSION | | interviewee reports being recognized and valued as an equal participant and/or supported in own needs |
| EXCLUSION | | interviewee reports being segregated, isolated and/or not supported in own needs on the grounds of disability |
| RESPECT D I F F E R E N C E | | reports of how society deals with difference |
| BEING R E S P E C T E D | | interviewee reports being respected regardless her/his differences |
| BEING L A B E L L E D | | Interviewee reports being labelled in consequence of disability |

| | |
|--|--|
| RESPONSES A B U S E DISCRIMINATION | TO ways in which the interviewee responds or has & responded in the past to situations of abuse and discrimination |
| DISTANCING | when the interviewee chooses to avoid or distance her/himself from situations and contexts in which she/he has experienced abuse and discrimination |
| RESISTANCE | when the interviewee chooses to keep returning to and or tries to change situations and contexts in which she/he has experienced abuse and discrimination |
| REPORT/LEGAL ACTION | when the interviewee chooses to report or complain about the situation or context in which she or he has experienced discrimination |
| REASONS FOR NOT REPORTING | reasons that the interviewee gives for not having reported situations or contexts in which she/he has experienced discrimination |
| 'NOTHING WOULD HAVE HAPPENED' | when the interviewee is convinced that report and legal action would not have had any significant consequences in terms of changing situations and contexts of discrimination, including because she/he does not trust authorities. |
| LACK OF ACCESS | when the interviewee was prevented from reporting due to lack of access to appropriate administrative and/or legal structures or lack of access to information about how to proceed to make a claim |
| FEAR | when the interviewee was prevented from reporting for fear of its consequences |
| LACK OF FINANCIAL MEANS | when the interviewee was prevented from reporting due to lack of financial resources |
| CORRUPTION | interviewee did not report because she/he knew or thought that she/he would have to bribe the authorities |
| SELF-BLAME | interviewee did not report because she/he has interiorized feelings of shame and inferiority |

| | |
|----------------------------------|--|
| SYSTEMIC ROOTS OF DISCRIMINATION | social, political and economic factors that create the discrimination interviewees experience or have experienced in the past on grounds of their disabilities |
| ECONOMIC | When the acts of exclusion and discrimination against people with disabilities are related to the ways in which economic (production) activities are organized and delivered |
| SOCIAL | acts of exclusion and discrimination against people with disabilities are related to the ways in which social (reproduction) activities and social relationships operate and are organized |
| LEGISLATIVE | acts of exclusion and discrimination against people with disabilities are related to the lack of adequate laws or policies to protect their rights and/or to the way existing laws and policies operate |
| RECOMMENDATIONS | suggestions to improve the situation of people with disabilities in Kenya |
| RAISE AWARENESS | raise awareness and educate society about disability and how to deal with people with disabilities |
| ECONOMIC SUPPORTS | government supports to improve access to work for people with disabilities |
| SOCIAL SUPPORTS | government supports to improve the living conditions and income of people with disabilities and their families |
| REPRESENTATION | improve the participation and representation of people with disabilities in the government |
| RESPECT | government should show more respect and be considerate of the needs of people with disabilities |
| LEGISLATION | develop and implement new laws and policies to protect the rights of people with disabilities |

| | |
|------------------------------|---|
| PEER SUPPORT | people with disabilities should get together and support each other |
| GENDER & DISAB | ways in which gender and disability intersect to compound or protect from discrimination |
| ETHNICITY & DISAB | ways in which ethnicity and/or race interacts with disability to compound or protect from discrimination |
| CLASS & DISAB | ways in which class (being poor or rich) intersects with disability to compound or protect from discrimination |

APPENDIX E

DRPI-Kenya Project Personnel

Project Coordinator

Cornelius Ojangole

Project Sponsors/ Technical Support

Dr. Elly Macha

Executive Director, African Union of the Blind (AFUB)

Dr. Marcia Rioux, Canada

Dr. Bengt Lindquist, Sweden

Directors & Principal Investigators, Disability Rights Promotion International (DRPI)

Erik Staff

International Programs Manager

Swedish Association of the Blind and Partially Sighted (SRF)

Research & Technical Support - Kenya

Dr. Kithure Kindiki, Faculty of Law, University of Nairobi

George Kimyua Kaimba

Anthony Mureithi Kaimba

Additional Technical Support

Rita Samson, DRPI Project Coordinator

Paula Pinto, Doctoral Candidate (Sociology) York University, DRPI Consultant

Jennifer Walker, Masters Candidate (Critical Disability Studies), York University; DRPI Student

Monitoring Teams & (Field Assistants)

Nairobi Site

Chomba wa Munyi (Eric Murai)

Benta Nthenya (Christopher Muindi Kilonzo)

Milka Mwangi (Milka Mwangi)

(these 3 Monitors took turns working in pairs with each other)

Rift Valley Site

Phyllis Leina (Phyllis Wangui)

Ben Gachoka (Betty Koech)

Susan Kilima (Caroline Munyua)

(these 3 Monitors took turns working in pairs with each other)

Nyanza Site

Evelyne Anambo (Phillip Wamalwa)

Jackeline Osoro (Evelyne Muchoki)

Fred Haga (Titus Omondi)

Florence Pataka (Rose Anyango)

Organizational Partners

African Union of the Blind (AFUB)

Kenya Union of the Blind (KUB)

Centre for Disability Rights Education & Advocacy (CREAD)

Disability Rights Promotion International (DRPI)

Swedish Association of the Blind and Partially Sighted (SRF)

(* see Appendix F for further information about each organization)

Project Management Team

Monica Mbaru

Martin Kieti (representing KUB)

Mike Ngunyi (representing CREAD)

George Ochich Otieno (representing participating universities)

Disability and Human Rights Task Force

Chomba Wa Munyi, KUB

Martin Kieti, KUB

Eunice Oniala

Amina Abdalla

Samson Muoki

George Otieno Ochich, Moi University

Commissioner Lawrence Mute, Kenya National Commission on Human Rights

Matthew Kimanzi, Senior State Counsel – Kenya Law Reform Commission

Mary Runo

Mike Ngunyi, Executive Director – CREAD

**Appendix F.
Memos of Understanding with Field Personnel**

A. MOU with Field Monitors

MEMORANDUM OF UNDERSTANDING

Between:

African Union of the Blind (AFUB) with Kenya Union of the Blind - (KUB) and Centre for Disability Rights Education and Advocacy (CREAD).

For

Disability Human Rights Monitoring - in Kenya.

SUMMARY.

Project Title: Country Disability and Human Rights Monitoring Mechanism (CDHRM)

Funding Partners: Swedish Association of the Visually Impaired (SRF) and Disability Rights Promotion International (DRPI).

Period of MoU: Two weeks – 14 days
Funding period: March 22nd to April 5th 2006

Total amount for Monitoring: [total amount of payment]

This financial support is to be received by each monitor or field assistant for the purpose of this MoU.

Report and accounts due: within 7 days of the following disbursement.

1. Objectives:

These objectives/activities are based on the International Disability Human Rights Pilot Project activities: (**Monitoring**) provided by AFUB:

OVERALL PROJECT GOAL

To ensure comprehensive and sustainable international system to monitor human rights of people with disabilities as a basis for achieving equality and development in society, in particular to carry out fact-finding about disability in Kenya.

1.1. Specific Objectives of the Country Disability and Human Rights Monitoring Mechanism:

1.1.1. **Objective 1:** To effectively monitor visually impaired peoples and other disabled persons' Human Rights situations using fact-finding methods as taught in the training session in Nairobi (February 13th -19th, 2006)

1.1.2. **Objective 2:** To enhance the sustainability of DHR activities in national organisations/associations of blind and partially-sighted people and of other disabled persons.

1.2. Output indicators for objectives/Activities

- 1.2.1. **Indicator 1:** a copy of the signed consent form from each interviewee.
- 1.2.2. **Indicator 2:** tape recording of interview, if permission has been granted by interviewee
- 1.2.3. **Indicator 3:** Written interview notes for each person interviewed.
- 1.2.4. **Indicator4:** Correctly coded interview sheet using the code as established at the training.
- 1.2.5. **Indicator5:** written narrative about the experience and any comments about the process and ways of improving it.

2. Funding:

- 2.1 African Union of the Blind, AFUB, agrees to provide monitor [name] with funding support for work within the Disability Human Rights Monitoring Project Activities.
- 2.2 For the period March 22nd to April 5th 2006 AFUB, will provide [name] [amount of money] only as funding support for DHR monitoring.
- 2.3 This agreement is for 14 days. Payment will be made twice, as stated below, and in agreement with the budget. A signed receipt from AFUB is required on receipt of this fund.
- 2.4 Payment will be by cash to [name] Monitor.

3 Other support from AFUB.

- 3.1 AFUB will from time to time monitor progress of the activities carried out by the monitors and field assistants.
- 3.2 AFUB will conduct planning meetings with MT, KUB, CREAD, Monitors and Field Assistants and other Partners during and after the project period.

4 Budget

- 4.1 This funding support will be used in accordance to the budget agreed upon by stakeholders and AFUB as spelt out in the table below (not included).
- 4.1 Under no circumstances should these funds budgeted above be spent on any other activity unless the AFUB Executive Director/Project coordinator has granted prior permission in writing.
- 4.2 Under no circumstances should funds released to the monitor or field assistant be handed to, other than the identified interviewee, except on written instructions from the AFUB Executive Director or project coordinator.

5 Progress Reporting:

- 5.1 In order for AFUB to measure the progress being made, or otherwise, and to report and account to stakeholders and funders, the monitor/field assistant is required to provide the following:
- 5.2 A daily narrative and technical report should be availed to the project coordinator by:
 - 7 days from the start period March 22nd-29th 2006.
 - 14 days from the start period April 5th 2006
- 5.3 All assets availed to the monitor/field assistant for the purpose of the project activities shall be in his/her custody on behalf of AFUB for the period of the project activities.

6. Agreement to be signed:

- 6.1 [Name] is among the 20 monitors participating in activities of the Disability Human Rights Monitoring Project in Kenya being funded by this CDHRM. It is advised that this agreement be read during a specially convened meeting of monitoring team members and the coordinator DHR project - AFUB.

7. Agreed by:

Project Management.

Date.....

Management Team member - in the region.

For Monitor.

Date.....

For AFUB:

Date.....

Project coordinator.

B. MOU with Field Assistants

MEMORANDUM OF UNDERSTANDING

Between:

African Union of the Blind (AFUB) with Kenya Union of the Blind - (KUB) and Centre for Disability Rights Education and Advocacy (CREAD).

For

Disability Human Rights Monitoring - in Kenya.

SUMMARY.

Project Title: Country Disability and Human Rights Monitoring Mechanism (CDHRM)

Funding Partners: Swedish Association of the Visually Impaired (SRF) and Disability Rights Promotion International (DRPI).

| | |
|--------------------------------|--|
| Period of MoU: | Two weeks – 14 days |
| Funding Period: | March 23 rd to April 6 th 2006 |
| Total activity for Monitoring: | [total amount to be paid] |

This financial support is to be received by each monitor or field assistant for the purpose of this MoU.

Report and accounts due: within 7 days of the following disbursement.

Objectives:

These objectives/activities are based on the International Disability Human Rights Pilot Project activities: (**Monitoring**) provided by AFUB:

Overall Project Goal

To ensure comprehensive and sustainable international system to monitor human rights of people with disabilities as a basis for achieving equality and development in society, in particular to carry out fact-finding about disability in Kenya.

1.1. Specific Objectives of the Country Disability and Human Rights Monitoring Mechanism:

1.2.6. **Objective 1:** To effectively monitor visually impaired peoples and other disabled persons' Human Rights situations using fact-finding methods as taught in the training session in Nairobi (February 13th -19th, 2006)

1.2.7. **Objective 2:** To enhance the sustainability of DHR activities in national organizations/associations of blind and partially-sighted people and of other disabled persons.

1.3. Output indicators for objectives/Activities

1.3.1. **Indicator 1:** a copy of the signed consent form from each interviewee.

- 1.3.2. **Indicator 2:** tape recording of interview, if permission has been granted by interviewee
- 1.3.3. **Indicator 3:** Written interview notes for each person interviewed.
- 1.3.4. **Indicator4:** correctly coded interview sheet using the code as established at the training.
- 1.3.5. **Indicator5:** written narrative about the experience and any comments about the process and ways of improving it.

3. Funding:

- 2.1 African Union of the Blind, AFUB, agrees to provide field assistant [name] with funding support for work within the Disability Human Rights Monitoring Project Activities.
- 2.2 For the period March 23rd to April 6th 2006 AFUB, will provide [name] [amount of money] only as funding support for DHR monitoring.
- 2.3 This agreement is for 14 days. Payment will be made twice, as stated below, and in agreement with the budget. A signed receipt from AFUB is required on receipt of this fund.
- 2.4 Payment will be by cash to [name]- Field Assistant.

3 Other support from AFUB.

- 3.1 AFUB will from time to time monitor progress of the activities carried out by the monitors and field assistants.
- 3.2 AFUB will conduct planning meetings with MT, KUB, CREAD, Monitors and Field Assistants and other Partners during and after the project period.

4 Budget

- 4.1 This funding support will be used in accordance to the budget agreed upon by stakeholders and AFUB as spelt out below (not included)
- 4.1 Under no circumstances should these funds budgeted above be spent on any other activity unless the AFUB Executive Director/Project coordinator has granted prior permission in writing.
- 4.2 Under no circumstances should funds released to the monitor or field assistant be handed to, other than the identified interviewee, except on written instructions from the AFUB Executive Director or project coordinator.

5 Progress Reporting:

- 5.1 In order for AFUB to measure the progress being made, or otherwise, and to report and account to stakeholders and funders, the monitor/field assistant is required to provide the following:
- 5.2 A daily narrative and technical report should be availed to the project coordinator by:
 - 7 days from the start period March23rd -30th 2006.
 - 14 days from the start period April 6th 2006

5.3 All assets availed to the monitor/field assistant for the purpose of the project activities shall be in his/her custody on behalf of AFUB for the period of the project activities.

6. Agreement to be signed:

6.1 [name] is among the 21 monitors/field assistants participating in activities of the Disability Human Rights Monitoring Project in Kenya being funded by this CDHRM. It is advised that this agreement be read during a specially convened meeting of monitoring team members and the coordinator DHR project - AFUB.

7. Agreed by:

Project Management.

Date.....

Management Team member - in the region.

For Field Assistant.

Date.....

For AFUB:

Date.....

Project coordinator.

Appendix G

DRPI- Kenya Organizational Partners

African Union of the Blind (AFUB)

The African Union of the Blind (AFUB) was founded in Tunis Tunisia in 1987 under the Organization of African Unity (OAU) resolution CM/Res.944 (XL) as a Continental Non-Governmental umbrella Organization of National Associations of and for Blind and Partially Sighted people in Africa and represents one of the six regional unions of the World Blind Union (WBU).

The Organization

AFUB is a registered International Non-Governmental Organization (INGO) in Kenya and enjoys consulate status with the Kenya Government's Ministry of Foreign Affairs. AFUB also enjoys Observer status in the African Union (AU) and has a mandate to operate in all African Union member states through OAU resolution CM/Res.944 (XL) where it seeks to initiate, promote and sustain development programs to uplift the standards of living of blind and partially sighted people in Africa. Currently AFUB has a membership of 52 national organizations of the blind from 52 African countries (Djibouti and Comoro Islands have not yet formed their national organizations).

Vision

A Continent Where blind and partially sighted people are dignified, are not marginalized and discriminated on the basis of their visual impairment.

Mission

AFUB's mission is to spearhead the establishment, the Strengthening and unity of organizations of blind and Partially Sighted People in Africa, for the Purpose of building their Capacity in advocating for the rights, social inclusion, and full participation of blind and partially sighted people in the society.

This is achieved through partnership, capacity building and coordination of programs in close cooperation with governments, United Nation Agencies, International Development Agencies, Private Sector, Civil Society Organizations and Faith Based Organizations.

Kenya Union of Blind (KUB)

The Kenya Union of the Blind (KUB) is a non governmental and non profit membership organization founded in 1959 by blind persons from Thika School for the Blind. It was registered in 1960 as a union under the Societies' Ordinance Act with the aim of working for the co-operation, unity and social integration of blind persons in Kenya with a view to improving their standards of living.

Ever since, KUB has grown to establish itself as the national organization of the blind in Kenya, opening district based branches in more than 40 districts around the country.

The Vision of KUB is to see a barrier free society in which persons with visual impairments enjoy full and equal opportunities.

KUB's Mission is to promote the social inclusion of persons with visual impairments through uniting and empowering them as well as advocating for their rights.

At KUB, we believe in human dignity, equalization of opportunities, social responsibility, rule of law and organizational ethics.

KUB's programs and activities are designed and implemented around three key result areas: Advocacy and Representation, Personal Empowerment and Organizational Development

In order to promote its Mission, KUB networks with several agencies and partners, both within the blindness sector and within other mainstream sectors. KUB is also a member of several disability organizations, including the World Blind Union and the African Union of the Blind.

Centre for Disability Rights, Education & Advocacy (CREAD) was created early in 2005 as inter-Disabled People Organisations Program to develop, disseminate and implement a proactive and scientific methodology for protection and promotion of the human rights and dignity of disabled people as a follow up on recommendation of a Disabled People's Organisations' workshop on Strategic Advocacy in Limuru, Kenya.

CREAD's objectives are; to promote, protect the legal status and human rights of the persons with disabilities, to influence policy, law reforms and change the *ablist* mentalist in society that is harmful and which discriminates against persons with disabilities, to lobby for mainstreaming of disability in the justice system, to contribute to the development of human rights state with focus of improving the social, economic and political status of disabled people in the country, and to work towards eradication of violence, torture and all forms of degrading treatment of disabled people.

CREAD's five Point Strategy includes; annual State of the Disabled peoples rights reports, Disability Legal Aid Clinic, Disability Rights Resource development, Disability Rights Research, Lobbying and Advocacy

For more information Email admin@cread.or.ke or visit Website www.cread.or.ke

Disability Rights Promotion International (DRPI) is a collaborative project working to establish a comprehensive and sustainable global system to monitor the human rights of people with disabilities. The project emerged from an international seminar convened in November 2000 by Dr. Bengt Lindqvist, United Nations Special Rapporteur on Disability (1994-2002). DRPI is working to build capacity within existing international and national human rights mechanisms and within disability organizations, to develop the tools, methods

and infrastructure needed to monitor disability rights issues. In order to ensure that comprehensive information is collected about the human rights situation of people with disabilities, DRPI has adopted a holistic approach involving monitoring in three focus areas: individual experiences of people with disabilities; government law, policy and programs; and media coverage and depiction of disability.

The project is currently in its second phase which involves primarily the development and field testing of disability rights monitoring tools and training sessions. This phase emphasizes: capacity building (increasing capacity to understand disability rights as human rights, to engage with human rights mechanisms, and to monitor disability rights); monitoring (establishing ongoing international collaborations and sustainable monitoring programmes in various locations around the world); and raising awareness and encouraging action (providing information to facilitate disability and other groups' engagement with the international and regional human rights systems using the monitoring data).

DRPI is co-directed by Dr. Lindqvist and Dr. Marcia Rioux, Professor in the School of Health Policy and Management (Critical Disability Studies) at York University in Toronto, Canada. Further information about DRPI can be found on the project website at www.yorku.ca/drpi.

Swedish Association of the Visually Impaired (SRF) is the main organisation of blind and partially sighted in Sweden. SRF is a non-governmental organisation where its members actively participate in decision making. SRF was established in 1889 and is a national association with approximately 15.000 visually impaired members, 170 local branches and 24 regional affiliates. 250 officers/secretaries are employed in the organisation, about half of which are visually impaired themselves.

The aim of SRF is to achieve a society based on equality and solidarity where people with visually impairment can participate on the same terms as everybody else.

SRF divides its work into two main areas: safeguarding interests, and managing co-operative activities.

Cooperative activities

The commitment of the people it concerns is the only guarantee of success. Only the visually impaired themselves know what is necessary to improve their situation in order to achieve full participation.

Areas SRF are particularly engaged in are; meetings, discussions and social activities in the 170 local branches, training to help people who have recently become visually impaired to overcome their insecurity, leadership training, meeting of parents of visually impaired children in order to exchange experiences, individual counselling about rights and services, initiatives on new kinds of service.

Safeguarding of interests

Creating a society that is equal is the responsibility of everybody. SRF's nationwide involvement serves to ensure that the government, municipal authorities and businesses follow official guidelines for creating a society with equal rights for all.

Priority is given to the following areas; guarding against discrimination of people with impairments, rehabilitation and compensatory training of people who have recently become visually impaired, vocational training and changing of attitudes to give unemployed visually impaired people a fair chance, giving visually impaired people access to new information technology, maintaining a general welfare system that applies to all citizens.

International involvement

SRF is involved in two areas of international activity:

Firstly, there is co-operation between national associations within the World Blind Union. There is a constant exchange of ideas, as well as co-operation between national associations in order to influence international authorities such as the United Nations and the European Union. SRF has been particularly active in bringing the situation of women with visually impairment to the fore. Secondly, there is material and personal support for organising projects in developing countries aimed at building strong national organisations of the visually impaired. In a globalising world, these and other types of co-operative development are becoming more and more important.

Swedish Organisations' of Disabled Persons International Aid Association (SHIA) is a non-governmental organisation with 27 members, comprising Swedish Disabled People's Organisations actively concerned with international development co-operation. One of the member organisations is SRF - The Swedish Association of the Visually Impaired. SHIA is an administrative support organisation for its members focusing on solidarity, human rights, inclusion and accessibility. SHIA functions as a link between its members and Sida, the Swedish International Development Cooperation Agency. For more information www.shia.se shia@shia.se