Policy brief: The labour market situation in Kenya: promoting right to work and employment for persons with disabilities

Key policy messages

1. The Government of Kenya has made progress in formulating a number of policies that aim to enhance different elements that promote the right to work on an equal basis. These include promotion of open, inclusive and accessible work environments and prohibition of discrimination on the basis of disability.

2. The impact of these policies on persons with disabilities with regards to access to work and employment opportunities is minimal; a situation attributed largely to inadequate enforcement mechanisms by the Government. The other reason relates to failure by public and private sectors to consider persons with disabilities on an impartial basis for employment opportunities.

3. Persons with disabilities can compete equitably in the job market and contribute to the country’s economic growth. This however should be supported by policies and strategies that enhance capacity building efforts and empowerment mechanisms that are conducive for persons with disabilities.

Overview

Kenya’s commitment to promotion of access to the labour market on an equal basis for persons with disabilities is evidenced in the different policy instruments. Some of the key instruments include the Employment Act (Revised Edition 2012 [2007]); Kenya National Employment Policy (2014); PWD Act (2003); National Disability Development Fund (NDDF); Article 54 (2) of the Kenya Constitution; Ministry of Labour (MoL) Strategic Plan (2013 – 2017); The Public Procurement and Asset Disposal Act (2015); Labour Regulations Act (2007); Occupational Health and Safety Act (2007); and Remuneration and Taxation Act. These instruments adopt a generalised approach to labour market access. However, specific reference to persons with disabilities with respect to right to work and potential opportunities for employment is provided for in different but subtle ways. For instance, the National policy states that out of all the people that are employed, 5% should constitute persons with disabilities. The Public Officers’ Ethics Act 2003 on the other hand has provision for non-discrimination for persons with disabilities in public service employment opportunities. The Disability Policy states that “the Government shall conduct awareness campaigns in collaboration with organizations of and for persons with disabilities, parents groups, and other service providers”.
Arguably, this should translate into targeted awareness creation efforts to reduce stigma and discrimination of persons with disabilities. In addition to the fact that employment opportunities for persons with disabilities are spread out across formal and informal sector, there are other efforts by the Government towards creating sustainable self-employment opportunities for persons with disabilities. These include business grants and tender procurement, opportunities like the Uwezo fund etc. Other efforts include the access to government procurement opportunities [AGPO] capacity building initiative which focuses on funds management leading to issuance of AGPO certificates. Despite these policy and practical related efforts, there is minimal tangible evidence to demonstrate positive impact with regards to improved right to labour market and related benefits for persons with disabilities.

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

**Results**

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

![Figure 1: Analysis of different elements in Kenya's policies and legal instruments linked to the labour market](image)

1. Kenya policy and legal instruments related to labour market take cognisance of disability with respect to different elements shown in Figure 1.
2. Inclusivity and the implementation plan rank high because of explicit mention of non-discrimination in the main disability policy as well as setting aside a 5% quota for persons with disabilities in elective and appointive positions.

3. Despite Kenya having fairly good policy and legal instruments, the analysis of these instruments identified a few gaps:
   - A lack of clear budget allocations to guide work and employment strategies for persons with disabilities;
   - Inadequate accessibility of workplaces and information access for persons with disabilities still remains a challenge; and
   - Further, the Government enforcement mechanisms of the existing policy and legal instruments is weak.

4. The poor monitoring and enforcement structures result in noncompliance with the 5% employment policy for persons with disabilities and discriminative funding mechanisms.

5. Further secondary data analysis according to Wafula et al. (2017) and qualitative interviews with persons with disabilities and their families on their experience in labour markets to better understand current policy and practice reveal that persons with disabilities still face several barriers in accessing employment. These are confounded by the following factors:
   - The extent of access to employment varies with type of disability, severity of disability, education attainment.
     - Access to employment could be attributed to poor infrastructure and difficult terrain that did not allow people with disability to access education and subsequently employment (Cobley 2012).
     - Barriers on access to employment are linked to existing means of production which in rural settings is largely attributed to farming and small enterprises (AU for the Blind, 2007).
   - Low literacy and skilled levels among persons with disabilities’ limit competition in the job market.
   - The public and private sectors unwillingness to employ persons with disabilities.
   - Employment opportunities and lack of disability-friendly work environments.
     - Persons with disabilities and in particular women found it easier to migrate to towns as it has more opportunities for employment (Ingstad and Grut 2007).
   - Poor remuneration and discrimination of persons with disabilities when compared with persons without disabilities.

Recommendations

1. Lack of Government enforcement mechanisms for policy instruments that promote right to work on equitable basis should be strengthened.
2. The Government should formulate and implement policy instruments that provide for i) budgetary allocation to support increased employment opportunities for persons with disabilities both in the public and private sector and ii) information management systems that enhance increased awareness of employment opportunities for persons with disabilities.
3. The Government should include in the performance contracting system enforcement mechanisms that positively promote the employment of people with disabilities. These include the enforcement of the existing 5% employment policy and enforcement of procurements regulations hence increased access to business grants and lucrative tenders by persons with disabilities.

4. The AGPO capacity building initiative should be reviewed in order to address gaps and challenges relating to access of business grants and tender procurement opportunities by persons with disabilities. This capacity building programme and others which are related should also consider mentorship as a way of empowering persons with disabilities. This would go a long way in building their confidence related to doing business and job performance as employees.

5. The public and private sector should make deliberate efforts to employ persons with disabilities in compliance with the relevant Kenyan employment policies.

**Bibliography**


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**Bridging the Gap: Examining disability and development in four African Countries** is a three-year research programme funded by the ESRC/DFID Poverty Alleviation Research Grant programme. The programme is based at the Leonard Cheshire Disability and Inclusive Development Centre, University College London. For more information about the programme, visit [gap.leonardcheshire.org](http://gap.leonardcheshire.org)

This research has been funded by UKAID from the UK Government. However the views expressed do not necessarily reflect the UK Government’s official policies.