



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### List of issues prior to submission of the combined second to fourth periodic reports of Kenya\*

#### A. Purpose and general obligations (arts. 1–4)

1. Please provide information on:

(a) Measures adopted for the comprehensive review of policies and legislation in order to align them with the Convention, in particular through the removal of derogatory terms referring to persons with disabilities, such as “unsound mind”;

(b) The status of the proposed review of the Persons with Disabilities Act, 2003, detailing the timeline and process of the review, in order to align its provisions with the Convention, and on the way in which persons with disabilities, through their representative organizations, are involved in the review process;

(c) The steps taken to develop and adopt the National Disability Policy to strengthen the promotion and protection of the rights of persons with disabilities;

(d) Measures taken to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities, indicating a specific time frame;

(e) Measures taken to disseminate and implement the previous concluding observations of the Committee, and on the involvement of all levels of government, including members of Parliament and county assemblies, in this regard.

#### B. Specific rights (arts. 5–30)

##### Equality and non-discrimination (art. 5)

2. Please provide information on:

(a) Measures taken to ensure that anti-discrimination laws and policies are in line with the Convention, taking into account the Committee’s general comment No. 6 (2018) on equality and non-discrimination, and to recognize the denial of reasonable accommodation as a form of disability-based discrimination;

(b) Legal and other measures taken to prevent and address multiple and intersecting forms of discrimination faced by persons with disabilities, in particular women and girls with disabilities, persons with intellectual disabilities and persons with psychosocial disabilities;

(c) The legal remedies and complaint mechanisms available to persons with disabilities in cases of discrimination and the measures taken to ensure that these are effective, accessible and affordable for all persons with disabilities;

\* Adopted by the pre-sessional working group at its eighteenth session (11–14 September 2023).



(d) The number and percentage of complaints of discrimination on the basis of disability, disaggregated by sex, age, type of court, geographical region, sector in which the discrimination occurred and the sanctions imposed;

(e) The steps taken to end systemic discrimination against persons with psychosocial disabilities, including the failure to recognize them as persons with disabilities in the assessment and registration processes.

### **Women with disabilities (art. 6)**

3. Please provide information on:

(a) Measures taken to ensure that the rights of women and girls with disabilities are mainstreamed in national strategies and policies, including in laws and policies on sexual and reproductive health rights and on protection from domestic violence, and in frameworks and guidelines by the National Gender and Equality Commission;

(b) Measures taken to protect women and girls with disabilities against multiple and intersectional forms of discrimination and to prevent such discrimination, and to ensure that there is appropriate recourse to justice and redress;

(c) The steps taken to establish a formal mechanism to ensure the effective participation of women and girls with disabilities, through their representative organizations, in policymaking, decision-making, gender-responsive budgeting, and programme preparation, implementation and evaluation, and in the monitoring of laws and regulations relating to disability and gender issues, at the national and local levels;

(d) Whether women with disabilities are closely consulted and actively involved, through their representative organizations, in the ongoing discussions on the enactment of the two-thirds gender rule for representation in public affairs, as well as on the role of the National Gender and Equality Commission;

(e) Efforts to include women with disabilities in the implementation of economic empowerment programmes such as the Youth Enterprise Fund, the Women Enterprise Fund, the Uwezo Fund, the National Government Affirmative Action Fund, the Financial Inclusion Fund (Hustler Fund), and Access to Government Procurement Opportunities.

### **Children with disabilities (art. 7)**

4. Please provide information on:

(a) The systems in place to enable children with disabilities to effectively participate in and express their opinion on matters that affect their daily lives on an equal basis with others, and provide data on their participation in the Kenya Children Assembly and other such forums;

(b) Measures adopted to ensure that the principle of the best interests of the child and respect for the evolving capacities of children with disabilities are duly considered in mainstream strategies, programmes and policies on the rights of the child, on an equal basis with other children;

(c) Efforts being made to harmonize the provisions of the Children's Act, 2022 with the Convention, specifically the financial and technical resources allocated to carry out the free services for medical treatment, education and training as stipulated in the Act;

(d) Measures taken to provide parents and families with the information and social and financial assistance they need to care for their children with disabilities and help them participate in family and social life.

### **Awareness-raising (art. 8)**

5. Please provide detailed information on:

(a) Awareness-raising strategies, in close consultation with organizations of persons with disabilities, including campaigns and training programmes targeted at government officials, the private sector and the general public, including at the community

level, undertaken to combat stigma, stereotypes, harmful practices and deep-rooted cultural beliefs against persons with disabilities, including women with disabilities, children with disabilities and those with albinism;

(b) The role played by the media in portraying a positive image of persons with disabilities to end stigma and negative social attitudes towards persons with disabilities;

(c) The effective and meaningful involvement of persons with disabilities, through their representative organizations, in the design and implementation of awareness-raising campaigns, including in the process of dissemination of the disability awareness-raising booklet produced by the Department of Social Development.

### **Accessibility (art. 9)**

6. Please provide information on:

(a) Measures in place to implement articles 22, 23 and 24 of the Persons with Disabilities Act, 2003, which provides for the issuance of adjustment orders for buildings that are not accessible and the provision of accessible transportation;

(b) Measures taken to enforce existing policies and standards, including the Building Code, the KS<sup>1</sup> ISO 21542 standard on building construction (accessibility and usability of the built environment), KS 2952 on accessibility (ICT products and services), and the Communications Authority and ICT departments' accessibility standards, and to enforce existing sanctions for failure to comply with these, and on the resources allocated to ensure implementation;

(c) Steps taken to align existing laws and policies with the Convention, in particular the Building Code of 1968, and to adopt the Consolidated National Action Plan on Accessibility, and a national strategy or accessibility standards/guidelines, in collaboration with representative organizations of persons with disabilities;

(d) Strategies put in place to guarantee access to information and communications technology for persons with disabilities on an equal basis with others, through the provision of information in Braille, Easy Read, sign language and other alternative and augmentative modes and means of communication;

(e) Measures taken to ensure that the ongoing digitization of government services takes into consideration the diverse accessibility requirements of persons with disabilities.

### **Right to life (art. 10)**

7. Please provide updated information on the steps taken to eliminate infanticide of children with disabilities in some communities, and to eliminate the different forms of violence against and the murder of persons with albinism, including ritual killings, and on the measures taken to investigate cases of killings of children with disabilities and persons with albinism and to bring to justice those responsible for such crimes. Please provide information on measures taken to adopt national mental health and suicide prevention plans, and on steps taken to adopt culturally appropriate measures to prevent, identify and address suicidal ideation and cases of suicide among persons with disabilities.

### **Situations of risk and humanitarian emergencies (art. 11)**

8. Please provide information on:

(a) The efforts made to align the National Disability Risk Management Policy, of 2017, with the Convention and with the Sendai Framework for Disaster Risk Reduction 2015–2030;

(b) The measures taken to closely consult and actively involve persons with disabilities through their representative organizations, including those of women and girls with disabilities, in the planning and implementation of plans for disaster and emergency response, rehabilitation and recovery and in climate action efforts, including in the review of

<sup>1</sup> Kenya Bureau of Standards.

the Climate Change Act, 2016, in county climate change committees, and in climate change response and adaptation initiatives;

(c) The steps taken to ensure the inclusiveness and accessibility of preparedness and disaster risk reduction measures and management strategies, for all persons with disabilities, particularly persons who are deaf, hard of hearing or deafblind and persons with visual impairments, in consultation with organizations of persons with disabilities;

(d) The measures taken to address the adverse impacts of climate change, conflicts and hostilities, in particular for Indigenous and Endoroi persons with disabilities.

#### **Equal recognition before the law (art. 12)**

9. Please provide detailed information on:

(a) Measures taken to revise and/or review legal and other policy measures that deny legal capacity to persons with disabilities, in particular persons with psychosocial and/or intellectual disabilities, to enter into contracts, open bank accounts and exercise rights related to family life;

(b) The progress made to completely move away from substituted decision-making to supported decision-making, in full conformity with article 12 of the Convention and with the Committee's general comment No. 1 (2014) on equal recognition before the law;

(c) Measures taken to provide training, in close consultation with and with the active involvement of persons with disabilities through their representative organizations, at the national and county levels for all actors, including civil servants, judges, lawyers, police officers and social workers, on recognition of the legal capacity of persons with disabilities on an equal basis with others in all aspects of life and on the mechanisms of supported decision-making in the exercise of legal capacity.

#### **Access to justice (art. 13)**

10. Please provide information on:

(a) The measures taken to ensure effective access to justice for persons with disabilities, on an equal basis with others, and on measures to ensure that organizations of persons with disabilities have been involved throughout this process;

(b) The legal and policy measures adopted to include the principles of procedural and age-appropriate accommodation for persons with disabilities, including women with disabilities, persons with psychosocial and/or intellectual disabilities, and deafblind and visually impaired persons;

(c) Steps taken to eliminate the requirement for the mental assessment of accused persons with intellectual and psychosocial disabilities and to replace them with assessments of the procedural accommodations and supports that they need to access justice on an equal basis with others;

(d) Any training provided to officials of the judicial system, including police and prison officers, on the provisions of the Convention;

(e) Measures in place to ensure that persons with disabilities are provided with free legal services by the Attorney General as required under section 38 (1) of the Persons with Disabilities Act, 2003, and provide examples of cases in which legal assistance has been provided.

#### **Liberty and security of person (art. 14)**

11. Please provide information on:

(a) The status of implementation of the decision in *Ndegwa and 17 others v. Attorney-General and another*, in which detention in a psychiatric hospital was declared to be unconstitutional;

(b) Measures taken to repeal any discriminatory provisions in criminal procedure laws or criminal laws – specifically section 166 of the Criminal Procedure Code – and to ensure the right to a fair trial for all persons with disabilities;

(c) Steps taken to revise and amend laws, policies and practices that allow for the involuntary detention and hospitalization of persons with disabilities, on the basis of perceived or actual impairment, including the Mental Health Act and the Persons Deprived of Liberty Act, 2015;

(d) Persons with disabilities deprived of their liberty, providing disaggregated data for the last five years.

**Freedom from torture or cruel, inhuman or degrading treatment or punishment (art.15)**

12. Please provide information on:

(a) Measures taken to put an end to torture and ill-treatment, including shackling, in health-care institutions, psychiatric hospitals and other care institutions, and to prevent persons with psychosocial disabilities and/or intellectual disabilities from being subjected to cruel, inhuman or degrading treatment or punishment, both within such institutions and in the family;

(b) Efforts undertaken to eliminate, prevent and punish practices that result in mutilation or death as a result of retrogressive cultural and religious beliefs, including those against children with disabilities;

(c) Measures taken to investigate and prosecute such criminal matters, to enable victims to obtain redress and to impose sanctions on those responsible for such acts;

(d) The number and the living conditions of persons with psychosocial disabilities in Mathare Mental Hospital.

**Freedom from exploitation, violence and abuse (art. 16)**

13. Please provide updated information on:

(a) Measures taken to prevent and punish violence, abuse and harmful practices against persons with disabilities, particularly persons with intellectual disabilities and/or psychosocial disabilities, and women and children with disabilities who are still living in institutions, or are committed in hospitals and places of detention;

(b) Steps being taken to prevent the economic exploitation of children with disabilities through begging;

(c) The mechanisms available to persons with disabilities, particularly women and girls with disabilities, who are victims of exploitation, violence or abuse to report such incidents, and on the necessary protection and support services, such as accessible temporary shelters, psychological support and legal aid.

**Protecting the integrity of the person (art. 17)**

14. Please provide information on measures taken to prevent and prohibit the forced contraception and/or forced sterilization of persons with disabilities, particularly women and girls with disabilities, and describe any awareness-raising activities and indicate whether any strategies have been designed to protect persons with disabilities from this practice.

**Liberty of movement and nationality (art. 18)**

15. Please provide information on:

(a) Steps taken to ensure that all persons with disabilities acquire national identity documents at the required age, including those in rural areas, and to ensure the accessibility of centres for the registration of persons;

(b) Measures taken to ensure the birth registration of children with disabilities immediately after birth, particularly in rural areas;

(c) The progress made to ensure that the registration process of persons with disabilities by the National Council for Persons with Disabilities is accessible, not cumbersome and free of any charges, in order to enable more persons with disabilities to be registered and issued with the disability card and to have access to the needed services;

(d) Measures taken to ensure that refugees and asylum-seekers with disabilities are identified and registered and obtain official identity documents on an equal basis with others so as to facilitate their access to essential supports and services, including disability supports and their exercise of the right to liberty of movement.

### **Living independently and being included in the community (art. 19)**

16. Please provide information on:

(a) Steps taken by the State party to put in place a comprehensive policy framework on the right of persons with disabilities to live independently and be included in the community, as well as information on measures to provide adequate, good-quality, voluntary community-based support;

(b) Measures taken and a time frame set for the effective deinstitutionalization of all persons with disabilities currently living in institutions, including those in institutions run by religious organizations, special boarding schools, orphanages and other non-governmental agencies;

(c) Measures taken to reintegrate children with disabilities who are in segregated institutions into the community, including under the National Care Reform Strategy for Children in Kenya 2022–2032.

### **Personal mobility (art. 20)**

17. Please provide information on:

(a) Measures taken to guarantee access for persons with disabilities to enhanced personal mobility, including through the provision of mobility aids, assistive devices and other assistive technologies and forms of live assistance and intermediaries, and information and communications technology, as well as training and retraining of mobility practitioners and teachers in the use of devices for persons with mobility impairments and persons with visual impairments, in particular in rural areas;

(b) Steps taken to develop a policy or legislation to regulate the acquisition and usage of mobility aids and to ensure the availability and affordability of assistive devices and technology in the local market, particularly in rural areas;

(c) Measures taken to ensure that construction and other infrastructure planning as well as transportation in both urban and rural areas guarantee the personal mobility of persons with disabilities.

### **Freedom of expression and opinion, and access to information (art. 21)**

18. Please provide updated information on:

(a) The steps being taken to ensure sufficient budgetary allocation for the development, promotion and use of accessible modes, means and formats of information and communication, such as Braille, Easy Read, audio description and captioning, including for television content, websites, applications, touch-screen devices and other digital products and services, to enable persons with disabilities to access information according to their requirements and preferences;

(b) The progress of the Kenyan Sign Language Bill, specifically the time frame for its adoption and whether persons with disabilities, particularly deaf persons, have been closely consulted and actively involved in the process.

### **Respect for privacy (art. 22)**

19. Please provide information on the measures taken to effectively protect and promote the right to privacy of persons with disabilities, specifically to enforce the Data Protection

Act, 2019 with respect to the protection of the privacy of all persons with disabilities, particularly women and girls with disabilities and persons with psychosocial and/or intellectual disabilities, both at home by parents, and by caregivers, and to sanction any violations and provide remedies.

### **Respect for home and the family (art. 23)**

20. Please provide information on:

- (a) Measures taken to repeal provisions that are not in accordance with the Convention, including section 11 (2) (c) and section 12 (a) (ii) of the Marriage Act, 2014;
- (b) Measures taken to protect the rights of persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities, with respect to the family, parenthood (including being adoptive and foster parents) and relationships, and to increase awareness among the public about these rights;
- (c) Measures taken to provide support to children with disabilities and their families, and to parents with disabilities to carry out their parental responsibilities.

### **Education (art. 24)**

21. Please provide information on:

- (a) The measures being taken to implement the Sector Policy for Learners and Trainees with Disabilities, of 2018, and on how it is aligned with article 24 of the Convention and the Committee's general comment No. 4 (2016) and with Sustainable Development Goal 4, and whether sufficient human, technical and financial resources have been provided for its implementation;
- (b) The steps taken to move from segregated education to inclusive education for learners with disabilities, specifying the budget that is allocated, as a proportion of the total education budget, for the training of teaching staff, support staff and non-teaching staff on the core competencies and values required for working in inclusive educational environments;
- (c) The efforts being made to provide accessible materials, adaptive learning environments and sufficient individualized accommodation for learners with disabilities at all levels, including for students with visual or hearing impairments;
- (d) Whether persons with disabilities, through their representative organizations, have been involved in the elaboration of the recently adopted competency-based curriculum, and how learners with disabilities have benefited from the curriculum.

### **Health (art. 25)**

22. Please provide information on:

- (a) The availability of accessible health-care facilities, services and equipment and of accessible public health services in urban and remote rural areas as well as in conflict areas for persons with disabilities;
- (b) The measures taken to ensure that persons with disabilities, particularly women and girls with disabilities, have access to comprehensive health-care services, including services related to sexual and reproductive health rights, on an equal basis with others;
- (c) The steps taken to ensure that the human rights model of disability and respect for the dignity, autonomy and requirements of persons with disabilities are included in the training curricula of all medical and health professionals, including community health workers, and in the ethical standards for public and private health care, throughout the State party.

### **Habilitation and rehabilitation (art. 26)**

23. Please provide information on:

- (a) Measures taken to ensure that habilitation and rehabilitation services for persons with disabilities are based on a human rights model of disability and that services are

designed and implemented to enable persons with disabilities to attain and maintain maximum independence, and full inclusion and participation in all aspects of life;

(b) Measures taken to extend access to comprehensive and community-based habilitation and rehabilitation programmes for persons with disabilities, including in rural areas, and to ensure that the services offered to persons with disabilities are on the basis of their free, prior and informed consent.

### **Work and employment (art. 27)**

24. Please provide information on:

(a) Measures taken to eliminate the barriers that entrepreneurs with disabilities face in accessing government procurement opportunities, including by providing skills to persons with disabilities on the process of applying for available opportunities, enhancing the registration of businesses owned by persons with disabilities, and raising awareness among procuring entities on providing opportunities to persons with disabilities;

(b) Measures taken to implement the 5 per cent quota for persons with disabilities in employment provided in section 13 of the Persons with Disabilities Act, 2003, as well as information on the existing enforcement mechanism and on sanctions for non-compliance, in both the public and the private spheres;

(c) The steps taken to prohibit discrimination during recruitment processes and through the demotion or dismissal of persons with disabilities and to ensure fair conditions of service and career advancement;

(d) Incentives provided to private sector employers to promote the employment of persons with disabilities, particularly women with disabilities;

(e) Whether the denial of reasonable accommodation in the workplace constitutes a form of disability-based discrimination and, if so, what remedies are available to victims.

### **Adequate standard of living and social protection (art. 28)**

25. Please provide information on:

(a) Measures taken to accelerate the adoption of the Social Assistance Bill, as well as information on measures taken to extend the coverage of the social protection scheme beyond persons with “severe disability” to all persons with disabilities who have no income;

(b) The steps taken to develop and implement targeted programmes and services for persons with disabilities, particularly women with disabilities, living in situations of poverty, to enable them to meet the additional cost of disability-related expenses.

### **Participation in political and public life (art. 29)**

26. Please provide information on:

(a) The measures taken to ensure that persons with disabilities can vote in secrecy during elections, including through the provision of accessible voting centres and the use of electoral materials in accessible formats, including Braille, tactile ballots, augmentative and alternative modes and means of communication, and all other accessible means, modes and formats of communication of the choice of persons with disabilities;

(b) The participation of persons with disabilities in county assemblies, in line with the provisions of the County Government Act, 2012, amended in 2020, as well as on the sanctions imposed for non-compliance.

### **Participation in cultural life, recreation, leisure and sport (art. 30)**

27. Please provide information:

(a) About the strategy in place to ensure that persons with disabilities, including youth and children with disabilities, can participate in inclusive sporting, leisure and cultural activities, indicating the budgetary allocations;

(b) On measures in place, as well as the annual budget available, to implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

## C. Specific obligations (arts. 31–33)

### Statistics and data collection (art. 31)

28. Please provide information on:

(a) Progress made in the preparation for the proposed national survey on persons with disabilities, including children with disabilities, by the Kenya National Bureau of Statistics, and on measures to ensure the involvement of persons with disabilities, through their representative organizations, in the planning, implementation and monitoring of this process;

(b) Tools developed for data collection, and on whether their use has been coordinated and harmonized by various government agencies, and indicate whether the survey will provide data disaggregated by the criteria of gender, age, disability, being from an Indigenous community, refugees, migrants, geographical factors, and socioeconomic factors, as well as other indicators;

(c) Progress made towards the implementation of the plan of action on the Inclusive Data Charter, signed by the State party.

### International cooperation (art. 32)

29. Please explain how persons with disabilities, through their representative organizations, including those of women and girls with disabilities, are closely consulted and actively involved in:

(a) Foreign policy decisions, in particular in accessing international cooperation funds that are intended for disability-specific projects or are targeted to persons with disabilities;

(b) National plans to implement the 2030 Agenda for Sustainable Development, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, ratified by the State party in 2021.

### National implementation and monitoring (art. 33)

30. Please provide information on:

(a) The role, authority and impact of the Inter-Agency Coordinating Committee, as well as the financial resources available to carry out its work on the implementation of the Convention;

(b) The role and the authority of the National Council for Persons with Disabilities, and inform the Committee whether the government ministries, departments and agencies are disability-inclusive in all their services;

(c) The role of the Kenya National Commission on Human Rights and of the Disability Division of the Ministry of Labour in the monitoring of the implementation of the Convention.

31. Please provide information on how persons with disabilities and their representative organizations are involved in and participate in the monitoring process.