



USAWA NA HAKI

DECEMBER 2021 ISSUE

INSIDE

Editorial.....	pg2
Directors Desk.....	pg3
Climatic Action.....	pg5
World Day of Remembrance for Road Traffic Victims.....	pg6
International Day of Persons with Disabilities.....	pg8
LPO Financing Programme.....	pg10
Virtual Open Day.....	pg11
Legal Aid Clinic.....	pg12
New registration System.....	pg13
Access to Justice.....	pg16



EDITORIAL

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Kindly Submit your article to Newsletter@ncpwd.go.ke by 20th March. The next issue will be published in April 2022

In this issue, we focus on some of our key activities during the second quarter of the financial year 2021/22. One of the most memorable activity is the acceptance of His Excellency the President of the Republic of Kenya to grace the International Day of Persons with Disabilities celebrations at the Kenyatta International Convention Centre in Nairobi on 3rd December 2021. It is the first time in the history of the celebrations that a sitting president has graced the event in Kenya.

The presence of the president came with good tidings- The order to fast track the finalization of the Persons with Disabilities Amendment Bill 2021; the launch of the NCPWD registration system which is expected to revolutionize the registration of persons with disabilities in the country; the launch of the report on the Status of Implementation of the Global Disability Summit recommendations to mention but a few.

We have also carried an article on the NCPWD new registration system highlighting the features and how the new system will improve in developing a data base of persons with disabilities in Kenya. Key among this is the capturing of the socio-economic data on persons with disabilities which will form the basis of planning and allocation of resources to programmes targeting persons with disabilities.

The article on access to justice looks at the various instruments that protect the rights of children with disabilities. The article also looks at the challenges that children with disabilities face in the quest for justice including access to built environment and buildings, inaccessible communication materials, unaffordable justice fees among others.

Usawa na Haki is a quartely newsletter Published by the National Council for Persons with Disabilities

DIRECTOR'S DESK.



During the third quarter of this financial year beginning January 2022, we will be rolling out a new registrations system for persons with disabilities that was launched by His Excellency President Kenyatta during the celebrations to observe the International Day of Persons with Disabilities. The new system will address the perennial challenges of registering persons with disabilities under the current system which include among others: delays in production of disability identification cards, availability of fake disability identification cards produced fraudulently among others. The new system will also enable us capture accurate administrative socio-economic data on persons with disabilities which is critical for planning purposes.

Welcome to our Quarterly **Usawa na Haki** newsletter for the period October to December this year. As promised during the launch of our first issue, we remain committed to regularly publish this newsletter as our platform for sharing various issues in the disability sector. I am also pleased to highlight some of our key activities since the publishing of the last issue.

On 3rd December 2021, the disability fraternity was privileged to host His Excellency the President of the Republic of Kenya as our Chief Guest during the observance of the International Day of Persons with Disabilities. The event which took place at the Kenyatta International Convention Centre brought together close to 1000 participants out of which 600 were persons with disabilities. This was the first time a sitting Head of State graced the occasion in the country.

In his speech, the President directed that we fast track the finalization of the review of the Persons with Disabilities Act no. 14 of 2003. We have already commenced the process of engaging with our parent Ministry and other stakeholders to have the Bill passed in the lifetime of the current Parliament. It is our hope that the relevant stakeholders including the Office of the Attorney General and the National Assembly will gift persons with disabilities this new law.

“

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We will be communicating to our clients and the public at large the timelines for migrating from the current system to the new system. Once this exercise is complete, the current disability identification cards will become null and void. We therefore urge our clients to be on the lookout so that they are not left out during the migration. This communication will be done through our various social media platforms, our county offices, in various forums and other media channels.

Forging and strengthening partnerships with key stakeholders continued to be our key strategy of promoting inclusion of persons with disabilities. In the last couple of months, we were able to strengthen partnerships with various stakeholders. Early in December, we signed a Memorandum of Understanding with KCB Bank Kenya Ltd. aimed at revamping our LPO Financing programme.

The LPO Financing Programme supports businesses of persons with disabilities that are registered with the National Treasury under Access to Government Procurement Opportunities (AGPO) to finance LPOs, LSOs and contracts awarded by Government procuring entities. This support was introduced to improve financial capacity of persons with disabilities' registered businesses to undertake procurement under the AGPO affirmative action initiative. The LPO financing programme offers persons with disabilities an opportunity to access businesses they would otherwise not. The programme was temporarily halted due to some challenges including delayed payments by procuring entities and default by PWD businesses financed.



Lighting up of the Kenyatta International Convention Centre as part of the celebrations to Observe the International Day of Persons with Disabilities. The event was courtesy of Google and my Purple Spaces-a movement of lighting up iconic buildings across the world to celebrate and raise awareness on the economic contribution of the 386 million employees with disabilities around the world.



Cabinet Secretary Prof. Margaret Kobia, EGH, with NCPWD Board Chair Peter Muchiri during Performance Contract signing ceremony.

Going forward, we will continue developing and strengthening partnerships with our current partners for the benefit of persons with disabilities. We are confident that through these partnerships we will be able to achieve our goal of promoting inclusion of persons with disabilities.

We are also pleased to report that in the recent Cabinet reshuffle, we are now domiciled under the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes headed by Cabinet Secretary Prof. Margaret Kobia, PhD, EGH. Prof. Kobia has a proven track-record as a performer, from her time heading the Kenya School of Government, to the huge gains the country has made on matters gender mainstreaming under her leadership. We are confident that under her guidance, much will be achieved as far as disability mainstreaming in the public service and the country at large is concerned.

In conclusion, as we enter the new year, we take this opportunity to wish all our clients a Happy 2022 full of prosperity



CLIMATIC ACTION THROUGH MULTILEVEL GOVERNANCE

The 7th Annual devolution conference was held at Makueni Boys High School, Makueni County. The conference's main theme was "Multi-level Governance for Climate Action". The event centred on urgent climate action to slow down effects of the unpredictable climatic conditions.

The NCPWD's Executive Director, Harun Hassan participated as a panelist on 25th November 2021 in a session moderated by Polycarp Igate, Equity Bank's Chief Operations Officer, themed 'Vulnerability and resilience in the face of climate change.'

in his remarks, the Executive Director informed the participants that climate change was progressively becoming a strong accelerator of disability due to factors such as conflicts especially in ASAL areas as a result of loss of pastures and water areas.

The overall objective of the conference was to **Strengthen sub-national governments to act on climate change and develop stronger mitigation capacities.**

The focus on climate action was necessitated by the adverse [impact of climate change in socio-economic development in Kenya](#). This has resulted in poor living conditions in some areas, occurrence of floods, drought, unregulated release of industrial wastes and increased burden on health.



MULTI – LEVEL GOVERNANCE FOR CLIMATE ACTION
SUB-NATIONAL MOBILIZATION IN UNLOCKING THE FULL POTENTIAL OF CLIMATE ACTION IN THE POST COVID-19 ERA

He also noted that there was lack of a clear framework that addresses disability issues on matters disaster mitigation and climate action This is despite persons with disabilities bearing the brunt of the climate change crisis.He called on the national and county governments present

to involve persons with disabilities during design of climate mitigation measures. Other discussants in the panel included Turkana Governor Josphat Nanok, World Food Programme Deputy Director Emmanuel Bigeninama, Commission on Revenue Allocation CEO Dr. Moses Sichei and Indigenous Livelihoods Enhancement Partners Executive Director Kimaren Riamit.



Executive Director NCPWD, Harun Hassan addressing the delegates in the 7th Annual Devolution Conference in Makueni County.

Commemorating the World Day of Remembrance for Road Traffic Victims

The National Council for Persons with Disabilities in partnership with the National Transport Safety Authority (NTSA) on 21st November 2021 commemorated the World Day of Remembrance for Road Traffic Victims at the National Spinal Injury Hospital in Nairobi.

The theme for the event was '**Act for Low Speed Streets**'. Statistics show that about 30-40 percent of road crashes are attributed to speeding

At the Spinal Injury Hospital, 90 percent of patients brought in for rehabilitation are road crash victims, in their most productive years ranging from 18 - 40, illustrating the impact of road crashes on families' and the country's wellness and economy.

The event provided space for psychosocial support. Patients and attendees - including staff from the Council.

the Kenya Defense Forces, NCPWD Chairperson Peter Muchiri and Executive Director Harun Hassan (who are former patients of the hospital) - shared their stories and offered words of encouragement to the patients at the hospital. As part of the celebrations the Council also donated assistive devices to the hospital, and launched a registration exercise for patients in the hospital.

Also in attendance were KDF's Captain Beattah Suba, NTSA Deputy Director Dr. Duncan Kibogong and Spinal Injury Hospital's Dr. Kihara and Risper Chebet.



One of the road crash survivors making his remarks while Commemorating the World Day of Remembrance for Road Traffic Victims

INTERNATIONAL DAY FOR PERSONS WITH DISABILITIES CELEBRATIONS AT KICC

This year's International Day of Persons with Disabilities' national celebrations were held on 3rd December 2021 at the Kenyatta International Convention Centre in Nairobi. The event was graced by His Excellency the President of the Republic of Kenya, President Uhuru Kenyatta. It was for the first time in the history of the celebrations in Kenya that a sitting president graced the celebrations.

In his address to the participants, the President noted that observing the Day provides an opportunity for the country

to reflect on the journey traveled in enhancing disability inclusion, and also take stock of areas that require more work. The president further highlighted the achievements made by his government in promoting inclusion of persons with disabilities including employing persons with disabilities in key government positions, putting in place policies and legal frameworks that promote inclusion, establishment of institutions that provide programmes and services to persons with disabilities among others.



President Uhuru Kenyatta addressing the participants

The president also issued a number of directives- That the Attorney General and the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes hasten the process of reviewing the Persons with Disabilities Act 2003 and have the Persons with Disabilities Amendment Bill 2021 enacted by Parliament before the current term of Parliament expires.

That the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes and the National Council for Persons with Disabilities ensure that the registration of persons with disabilities under the newly launched registration system is done at no charge. He also appealed to county governments to consider waiving the cost of assessment in gazetted health facilities, which is a requirement for registration.

He further directed the Ministry of Health to fast track the integration of rehabilitation services at all levels of Healthcare system - including policy and in the Universal Health Coverage.



NCPWD Board Chairperson Peter Muchiri making his remarks during the international day of Persons with Disabilities at KICC.

The president also directed that the Ministries of Health and Education ensure progressive increase in human resource for rehabilitation in the national and county levels, and also support institutions of higher learning develop capacity for training.

Revamping the LPO Financing Programme

On 9th December 2021, the Council signed a Memorandum of Understanding with KCB Bank Kenya Ltd at the NCPWD's Board room on LPO Financing programme. The signing of the MOU signaled the revamping of the LPO Financing programme offered by the National Council for Persons with Disabilities.

The LPO Financing programme was started by the Council in 2016 to support businesses of persons with disabilities that are registered with the National Treasury under Access to Government Procurement Opportunities (AGPO) to finance LPOs, LSOs and contracts awarded by Government procuring entities. This support was introduced to improve financial capacity of persons with disabilities registered businesses to undertake procurement under the AGPO affirmative action initiative. The LPO Financing programme offers persons with disabilities an opportunity to access businesses they would otherwise not.

In the Financial Year 2019, the programme encountered major challenges including delayed payments by procuring entities and default by Persons with Disabilities' financed businesses. It was therefore suspended to enable review hence the reason why it was re-designed to address the challenges encountered earlier and will now be administered through Kenya Commercial Bank Kenya Limited.

The Memorandum of Understanding was signed by the Executive Director Harun Hassan and KCB's Director of Corporate Affairs Esther Waititu. The programme when relaunched early next year will benefit AGPO-registered businesses owned by persons with disabilities – with a loan facility to a maximum Sh500,000 per borrower – at zero interest and a 5% management fee.



Signing of the MOU on LPO Financing.

Details on how financing will be administered will be communicated to the public during the relaunch and on various social media platforms of the Council. In addition, the operationalization of the programme including the modes of application will be announced during the relaunch.

First Virtual Tax Exemption Open Day Held



Sample Presentation of the virtual Tax exemption during the open day

This event was held as part of the buildup activities to observe the International Day of Persons with Disabilities.

The NCPWD Executive Director, Harun Hassan, took the opportunity to appreciate KRA and the Ministry of Health for participating in the countrywide tax exemption vetting exercises conducted in September where out of 2,000 applications, 1,858 applications were recommended for award of tax exemption certificates. He also noted the new measures put in place to ensure accountability of officers involved in the vetting processes.

Margaret Karanja the Chief Manager, Tax Exemption Unit at the KRA's Domestic Taxes Department and the KRA team presented on the requirements for tax exemption and its legal framework. Ms. Karanja called for more similar forums to sensitize employers on actioning tax exemption provisions availed to their employees who are persons with disabilities.

Dr. Julius Ogato - Director in the Directorate of Healthcare Services at MOH acknowledged delays in issuance of disability medical assessment reports due to personnel challenges, and noted ongoing efforts to digitize the process and also decentralize the assessment activity to the county levels.

Legal Aid Clinic Held in Coastal Region

The National Council for Persons with Disabilities held its first Coastal Region Legal Aid Clinic on 18th November 2021 at Tononoka Grounds in Mombasa.

The legal aid clinic in Mombasa was the second one after the pilot one that was held in Nairobi early in the year. The clinic aimed at informing the development of a proper referral system to handle legal cases and issues brought forward by persons with disabilities, with institutions in the legal front addressing cases that relate to their mandates. Partners present included Office of the Ombudsman, FIDA-Kenya and Sheria Mtaani.

“Council had taken deliberate efforts to go a step further in easing access to justice for persons with disabilities: from office relocation of the legal department to putting in place reporting mechanisms”

The Executive Director, Harun Hassan noted that the Council had taken deliberate efforts to go a step further in easing access to justice for persons with disabilities: from office relocation of the legal department to putting in place reporting mechanisms, pushing for policy reforms and organizing fora to reach more persons with disabilities across the country. He pledged the Council's commitment in reinventing its processes to be more impactful and keep the needs of persons with disabilities at the core of the Council's agenda.



Harun M. Hassan, NCPWD Executive Director, engaging with persons with disabilities during the clinic.

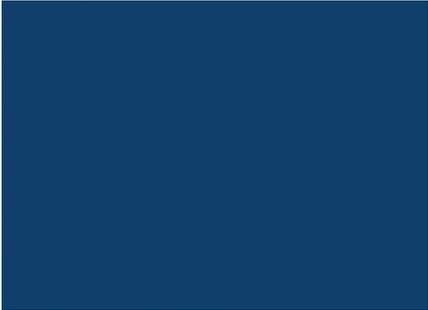


On the sidelines, Mr. Hassan also visited House of Hope Coast– a centre by Spina bifida & Hydrocephalus Association Kenya (SHAK) – a disabled persons organization. The centre which houses children with Spina Bifida and their parents has its building constructed and run by volunteers who are parents of children with the condition.

The Council has over the time supported the Centre on matters advocacy and legal issues. The Executive Director encouraged the management of the Centre to continue pushing in fighting stigma, raising awareness and spreading hope among families and persons with the condition.



CEO visit to House of Hope Coast– a centre by Spina bifida & Hydrocephalus Association Kenya (SHAK)



Council launches new registration system

Every country needs basic information on its residents for purposes of planning, development and improvement of the residents' quality of life. Good planning is based on reliable, up-to-date, accurate and detailed information on the state of the society in the country. This information makes it possible to plan better services, improve the quality of life and solve existing problems.

Statistical information, which serves as the basis for constructing planning forecasts, is essential for the democratic process since it enables the citizens to examine the decisions made by the government and other service providers and decide whether they serve the public they are meant to help.

As a body mandated to promote the rights of persons with disabilities in Kenya, one of the key functions of the Council is to register all persons with disabilities.



Display of the new Disability card

Section 7(1c) of the Persons with Disabilities Act 2003 mandates the Council to register persons with disabilities and also organisations, institutions and associations of and for persons with disabilities. To achieve this, the Council has established a fully-fledged department that is responsible for registration of all persons with disabilities. The department carries out the registration in partnership with other key partners including the Ministry of Health and Social Services department.

Data on disabilities makes it possible for the Council to acquire an indication of the state of persons with disabilities in the country, which may assist in planning special services for this population. Through this data the council is able to design appropriate programmes to meet the specific needs of persons with disabilities depending on the type of disabilities, their socio-economic needs, poverty levels among others.

Since its inception in 2004, the Council has been registering persons with disabilities as provided for in the Act. Currently the total number of persons with disabilities registered by the Council stand at slightly over 560,000. This is low compared to the total number of persons with disabilities existing in the country.

This figure does not capture all the persons with disabilities in the country. In addition, the data base of persons with disabilities registered lacks critical bio data, of those registered.

It is this respect that the Council has developed a new registration system which will address much of the challenges posed by the current system. The new registration system will address the gaps such as weak approval and verification processes systems as well as gather more data points on Employment and Education levels of Persons with disabilities.

In the new system, the reporting structure has also been improved. This will go a long way in providing instant statistics on disability throughout the country, and hence inform on the needs of PWDs during planning. In the new system, the reporting structure has been enhanced and the system will also offer a new generation disability identification card with security features that will be able to deter fraud cases.

Some of the key reports that will be generated by the new system will include

- Location Number Reports
- Disability Nature Reports
- Year Registration Reports
- Age Group Reports
- Multiple Disability Reports
- Tax Exemption Reports
- General Card Print Statistics
- Periodic Card Reports
- PWD Registration Reports
- User Registration Reports
- Education Qualifications
- Education Level Reports
- Employments Reports
- Disabilities Cause Reports

The new system was launched on 3rd December 2021 by His Excellency the President of the Republic of Kenya during the celebrations to observe the International Day of Persons with Disabilities at the Kenyatta International Convention Centre in Nairobi. During the launch the president urged the Council to ensure that all persons with disabilities are registered. He also directed the Ministry of Health and the County governments to ensure that persons with disabilities are not charged any fee for medical disability assessment.

To this end, the Council is developing a road map that will see the migration of persons with disabilities currently registered to the new registration system. The time table and procedures of migrating will be communicated to the public at the beginning of the new year.

“The new system was launched on 3rd December 2021 by His Excellency the President of the Republic of Kenya during the celebrations to observe the International Day of Persons with Disabilities at the Kenyatta International Convention Centre in Nairobi.”

ACCESS TO JUSTICE FOR CHILDREN WITH DISABILITIES

Access to justice is a fundamental right for all. In this article, Nyambura Mathenge discusses the various challenges children with disabilities face in accessing justice, the instruments that have been put in place and what should be done to address challenges of access to justice by children with disabilities.

The right of access to justice refers to the ease with which one can get to and make use of effective dispute resolution mechanisms available in justice systems. It covers the recognition and protection of rights, the equal access to the judicial mechanisms providing such protection, the expeditious dealing with claims and the affordability.

Various efforts have been made in this area to ensure that children with disabilities, herein referred to as CWDs, have reasonable and quality access to justice. This is illustrated through legislations that have been enacted at the local and international level. At the domestic level, this area is governed by the 2010 Constitution of Kenya, Persons with Disabilities Act of 2003 and the Children's Act of 2001.

The Constitution of Kenya defines a disability as any physical, mental, psychological, sensory or other impairment having a substantial or long-term effect on an individual's ability to do ordinary day-to-day activities. It entitles CWDs to freedom from discrimination and a right to access justice at a reasonable fee. Article 54 calls for the due respect and accommodation of PWDs by granting them reasonable and quality access to institutions and facilities and to devices and materials that they need to overcome the constraints that they face.

The Persons with Disabilities Act entitles CWDs to an environment amiable to the nature of their disability and the expeditious and fair determining of their cases. During the determination of such cases, the Chief Justice is mandated with making rules on the provision of free Braille services, sign language interpretation and physical guide assistance. The Children's Act further provides that where the court is considering whether or not to make an order on a CWD, it is required to give particular regard to the ability of any person or institution to provide any special care and attention that may be required.

At the international level, the Convention on the Rights of Persons with Disabilities (CRPD) calls for the consideration of the CWD's best interests through the provision of procedural and age-appropriate accommodations. The International Principles and Guidelines on Access to Justice for Persons with Disabilities on the other hand call for the provision of access to legal notices and information in a timely manner and on an equal basis with others. Additionally, the United Nation Convention on the Rights of the Child (UNCRC) calls for the provision of the needed special care and assistance free of charge and subject to the available resources.

Despite the particular stipulation of this right by the various domestic and international legal instruments above, there are situations where its enforcement has not been adhered to.

One such shortfall is in their accessibility. This is exemplified by buildings that only have staircases and no ramps thus making it inaccessible and very hectic for CWDs particularly those who are physically challenged. Another shortfall is illustrated through instances where CWDs have been discriminated against such as where they are denied an opportunity to report crimes at the police station because of their disability. A case example is illustrated by girl with intellectual disability who was defiled and whom the officers refused to help on the grounds that she seemed 'insane'.

In addition to that, there are instances where the method of informing them fails to take into account appropriate formats such as Braille and sign language. Consequently, their right to participation is infringed. In addition to that, the hindrance to their right to participation is exemplified where a person with intellectual disability victim of a certain crime is dismissed by the police officers as mad and automatically unable to express themselves.

Another shortfall is demonstrated by the unaffordability of the fees required as was illustrated in the case of a male CWD who was sodomized. The victim's father went to the police station after obtaining the necessary documents from the hospital but was unable to pay one thousand Kenyan shillings asked for by the police officers. Unfortunately, this contributed to the dead end of the case.

From the shortfalls described above, it is evident that there is need to adopt measures that will improve the implementation of the right of access to justice for CWDs.

First, there's need to put in place entrances and pathways in facilities that take into account the various types of disabilities and how each of them can be catered for so as to promote accessibility.

Secondly, formal measures and mechanisms need to be put in place to ascertain their right to express their views in the justice process including the views of those staying in rural areas and from minority communities as these two groups are often inhibited by negative cultural practices.

Third, there should be put in place measures aimed at availing adequate fiduciary support and benefits for families of CWDs and supplement that with effective creation of awareness to parents and guardians of such benefits. Finally, both private and public actors should be made aware of the prohibition of discrimination against CWDs and their right of participation. Such a measure should involve gathering the views of CWDs on the processes involved as this ascertains their effective inclusion and participation.

Nyambura Mathenge was an Intern at the NCPWD Legal department



Photo courtesy: World Bank.

Capturing International Day of Persons with Disabilities Celebrations in pictorials at KICC. 3rd December 2021.



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