



Kenya Disability Law Guidebook



Written in plain English by Kupenda for the Children staff and professional legal consultants, the *Kenya Disability Law Guidebook* offers a broad legal framework for understanding and responding to questions related to the rights of children with disabilities in Kenya. It provides a one-stop reference to help you understand the current laws related to such areas as:

- General Rights
- Guardian/Caregiver Rights
- Healthcare
- Work
- Employment
- Financial Assistance

This guidebook serves as a resource in determining what steps are appropriate when faced with challenging situations that involve the rights of children with disabilities in Kenya.



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Introduction

Purpose

This law guidebook is a simplified summary of Kenyan disability policy, so that those who have disabilities or are associated with them can be aware of their rights.

This guidebook is meant to be an introduction and a simple guide to Kenyan laws that concern people with disabilities. It must be noted that this guidebook is not comprehensive. If the reader wants to know more about a specific law, she or she should look it up. All of the laws and policies have been cited so the reader can find them in the respective legal documents.

The following policies and laws are summarized in this document:

- The Children Act, 2001. Kenya Gazette Supplement No. 95 (Acts No. 8). Printed by the Government Printer, Nairobi, 4th January 2002.
- The National Special Needs Education Policy Framework published by the Ministry of Education of the Republic of Kenya, May 2009.
- The Persons With Disabilities Act, 2003. Kenya Gazette Supplement No. 111 (Acts No.15) Printed by the Government Printer, Nairobi 9th January 2004.

Anyone can use this guidebook to learn more about the rights of people with disabilities. However, this guidebook was written to benefit people with disabilities, their caregivers and people who work to promote the rights of people with disabilities. It was also written so that people who deny people with disabilities their rights can be informed that they are breaking the law and subsequently change their actions.

Disability Defined

Disability is defined by the Kenyan government as “a physical, sensory, mental, or other impairment, including visual, hearing, learning or physical incapability, which impacts adversely [negatively] on social, economical or environmental participation” of the person.¹

Background

People with disabilities have the same rights as every other Kenyan citizen; therefore all laws protecting Kenyan citizens also apply to people with disabilities. In order to protect the rights of people with disabilities, the Kenyan government realized the necessity of creating special policy that applies to people with disabilities. People with disabilities face special challenges

¹ The Persons With Disabilities Act 2003, page 284

and are more vulnerable because of their disability. Therefore, special laws and policies to ensure their rights as citizens of Kenya are in place.

People with disabilities face a great deal of discrimination at all levels of society and their rights are often violated. This happens for multiple reasons. 1) People with disabilities are not aware of their own rights. 2) Parents of children with disabilities are unaware of their children's rights, or their own rights as parents and 3) Laws concerning people with disabilities take a long time to become a part of the legal system and are not enforced. Even people who are responsible for the enactment of these policies are unaware of the rights that people with disabilities have.

Many people with disabilities in Kenya experience discrimination.² However, discrimination of any kind against people with disabilities is illegal.³ Discrimination is treating anyone with disabilities differently in negative manner, or denying them their rights⁴ Discrimination can come in many forms; it might be as "small" as calling someone with a disability a rude name, or it may be as "big" as denying a person with a disability a job merely because they are disabled. It is common practice to charge a person in a wheelchair more to use public transportation. Discrimination can also be bigger than a single person's actions or attitudes. It can also be part of a larger social structure that creates a negative environment for people with disabilities in their community.

It is common for children born with disabilities to be concealed by their parents because the parents are ashamed of the disability, it is also common for people with disabilities to be neglected, abused, denied jobs, denied education and even killed because neither they nor their caregivers are aware of the laws that protect them. All of these things are forms of discrimination, and they are all illegal. Because of this discrimination against people with disabilities, it is not only important for people with disabilities and their caretakers to know about their rights, it is also important for the community, educators, potential employers, and business owners to know the rights of people with disabilities. When people with disabilities are given the rights that they legally have, given the tools necessary to help them overcome the difficulties presented by their disability, and the community accepts them as full members of society, they are able to flourish.

² The National Special Needs Education Policy Framework, 2009, Page 11

³ The National Special Needs Education Policy Framework, 2009, Section 1.3, Page 16

⁴ The Persons With Disabilities Act, 2003, Page 285



Section 1: Basic Rights

All people have the right to life, and this includes people with disabilities.⁵

Everyone, including people with disabilities have the right to be healthy⁶

All children, including children with disabilities have the right to free primary education and equal access to higher education⁷

People with disabilities have the right to be employed like anyone else⁸

People with disabilities have the right to vote like any other person⁹

Children with disabilities have the right to be treated with dignity, given appropriate medical treatment, special care, education and training free of charge or at a reduced cost whenever possible¹⁰

People with disabilities have a right to have an active role in making decisions that concern them¹¹

People with disabilities have right to live in a community that accepts them, and does not discriminate against them because of their disability

If any of these rights are violated, a person with disabilities has a right to free legal services¹²

⁵ The Children Act, 2001, Part II - Section 4 - Page 505

⁶ Persons With Disabilities Act, 2003, Part III - Section 20 – Page 296

⁷ The National Special Needs Education Policy Framework, 2009, Section 1.5 Page 17

⁸ Persons With Disabilities Act, 2003, Part III – Section 12 – Page 292

⁹ Persons With Disabilities Act, 2003, Part IV - Section 29 - Page 302

¹⁰ The Children Act, 2001, Part II – Section 12 – Page 509

¹¹ The National Special Needs Education Policy Framework, 2009, Section 2.8 Page 29

¹² The Persons With Disabilities Act, 2003, Part VII - Section 38 - Page 307



Section 2a: Children’s Rights and Parent/Guardian Responsibility

It is the duty of the child’s family to ensure the child’s survival, wellbeing and development¹³.

It is illegal to abuse, neglect, sell or abduct a person with disabilities ¹⁴

Children with disabilities, like all other children, have the right to play and participate in cultural events. ¹⁵

It is illegal to treat a child cruelly¹⁶

Parents have the duty to give their child:¹⁷

- a. An adequate diet
- b. Shelter
- c. Medical care
- d. Education and guidance

What is neglect?

Neglect can come in many forms. According to the Children Act, “a person having parental responsibility, custody, charge or care of a child shall be deemed to have neglected such child...if the person concerned has failed to provide adequate food, clothing, education, immunization, shelter and medical care.”¹⁸ Children need a great deal of care, and some children with disabilities need even more care than their peers. Children with conditions like epilepsy and cerebral palsy need to be given special medication and their bodies need help staying healthy. If a parent fails to give his or her child the medication he or she needs to remain healthy, that parent is guilty of neglect. Furthermore, parents are also guilty of neglect if they do not take their children to school. Children with disabilities have the right to education, and if the parent denies them of that right, they are guilty of a crime.

Many children who have cerebral palsy or are physically handicapped have trouble moving around on their own. Sometimes, their parents will leave them at home by themselves. Because the child is unable to move around, to get water or food for himself or herself, and

¹³ The Persons With Disabilities Act, 2003, Part VII - Section 38 - Page 307

¹⁴ The Children Act, 2001, Part II - Section 5 – Page 506

¹⁵ The Children Act, 2001, Part II – Section 17- Page 510

¹⁶ The Children Act, 2001, Part II – Section 18 – Page 510

¹⁷ The Children Act, 2001, Part III – Section 24- Page 513

¹⁸ The Children Act, 2001, Part X – Section 127 – Page 599

with no one there to help, she or he goes hungry and thirsty. This is cruel to the child, and the parent who does this is guilty of neglect.

If parents neglect their child, what is the consequence?

Neglecting a child is a serious crime. The penalty for neglecting a child is a fine of up to 200,000 Ksh or 5 years in prison.¹⁹

Section 2b: Parent/Guardian Rights

Having a child with disabilities presents unique difficulties, and because of this parents of children with disabilities have special rights.

Parents who have a child with disabilities should receive counseling and guidance from schools²⁰

Parents of children with disabilities might extend their parental right past their child's eighteenth birthday, especially if the child has a severe disability and needs special care²¹

Single parents of children with special needs are entitled to receive financial assistance from the National Development Fund²²

¹⁹ The Children Act, 2001, Part X – Section 127- Page 599

²⁰ The National Special Needs Education Policy Framework, 2009, Section 2.15 – Page 37

²¹ The Children Act, 2001, Part III – Section 28 – Page 518

²² The Persons With Disabilities Act, 2003, Part III – Section 34 – Page 304



Section 3: The Right to Education

Children with disabilities, like all other children, have the right to free primary education.²³ Furthermore, children with special needs have the right to have their disability accommodated for in their education.²⁴ For example, a child who is deaf has the right to learn Kenyan Sign Language and attend a school that is taught in Kenyan Sign Language. A child whose ability to communicate is affected by an impairment such as cerebral palsy has the right to use a communication board, and to attend a school that allows him or her to use that method of communication.

While special schools are needed for children with severe disabilities, inclusive education is the ultimate goal.²⁵ Children with disabilities who have the ability to participate in a mainstream classroom are required to do so.²⁶ These schools are required to adjust their requirements in order to allow such students to attend their school. For example, a child who is missing a limb should attend a mainstream school, and that school is required to make any adjustments necessary. For example, the school is required to adjust the physical education requirement for a child who has only one leg.

Beyond primary education, people with disabilities have the right to obtain secondary, and post-secondary education like everyone else. They have the right to equal access to these institutions, and it is illegal for these institutions to discriminate against people with disabilities.²⁷

²³ The Children Act, 2001, Part II Section 7 – Page 507

²⁴ The Persons With Disabilities Act, 2003, Part III – Section 18 – Page 295

²⁵ The National Special Needs Education Policy Framework, 2009, Section 1.5 Page 17

²⁶ The Persons With Disabilities Act, 2003, Part III – Section 18 – Page 295

²⁷ The National Special Needs Education Policy Framework, 2009, Section 1.7- Page 19



Section 4: Healthcare

People with disabilities, especially those who have cerebral palsy, epilepsy or other physical disabilities need special healthcare. Like everyone else they have the right to be healthy, but in order to become and remain healthy they often need certain medications, surgery and physical care like Occupational Therapy. These medications, surgery and special care can be very expensive, but people with disabilities have the right to obtain whatever care they need. So, it is the government's duty to provide resources for people with disabilities to access such care whenever possible.²⁸

[Who provides money to help with healthcare costs for people with disabilities?](#)

There are several different ways people with disabilities in Kenya can access the healthcare they need. The National Council for Persons With Disabilities is supposed to put together a national health program that enables people with disabilities to receive “free rehabilitation and medical services” and “essential health services...at an affordable cost.”²⁹

Other than the Kenyan government, people with disabilities can receive healthcare from any NGO or CBO that provides such services.

[What happens if a doctor or medical practitioner causes a disability?](#)

Sometimes disabilities can be caused by a doctor's carelessness, and if a doctor is found to have caused a disability because of carelessness, he is guilty of an offence. The punishment is a fine up to 100,000 Ksh or one year in prison. The doctor may also be ordered by the court to give the patient money to compensate for his mistake.

²⁸ The Persons With Disabilities Act, 2003, Part III - Section 20 – Page 296

²⁹ Same as above.



Section 5a: Work and Employment

People with disabilities have the right to work and be employed just like every other Kenyan.³⁰

When considering people for a job, a potential employer cannot discriminate against people with disabilities. If an employer does not hire a person with a disability, his refusal to hire that person cannot be wholly or mainly based on that person's disability. If the disability keeps the person from being able to do the job, or the accommodations that the employer needs to make for that person are unreasonable, the employer is not under an obligation to hire that person.

³¹

As an incentive, employers who hire people with disabilities are eligible for a tax deduction of up to 25% of the salary of their employee with a disability.³²

Section 5b: Financial Assistance for People With Disabilities

People with disabilities are free from income tax.³³

There is a National Development Fund that is supposed to help pay for training people with disabilities, pay for projects that benefit people with disabilities, help provide devices and services that assist people with disabilities, provide allowances for people with disabilities that have no other source of income such as people with severe disabilities, aged people with disabilities and single parents of children with disabilities.³⁴

³⁰ The Persons With Disabilities Act, 2003, Part III – Section 12 – Page 292

³¹ The Persons With Disabilities Act, 2003, Part III - Section 15 - Page 293

³² The Persons With Disabilities Act 2003, Part III – Section 16 – Page 294

³³ The Persons With Disabilities Act 2003, Part III – Section 12- Page 292

³⁴ The Persons With Disabilities Act, 2003, Part III – Sections 32-34 – Pages 303-305



Section 6: Other Legal/Political Rights

People with disabilities have a variety of other rights, these rights center around the same principle; people with disabilities are just as important as everyone else and they deserve the same kind of access to amenities and resources that other people have, Furthermore, they have the right to have their disabilities accommodated for in the public sector.

People with disabilities have the right to easily move around and have access to all amenities, which includes reasonable access to buildings and public transportation. This means that it is illegal to charge a person with disabilities more to use public transportation. This also means that all public buildings need to at least have a ramp so that people in wheelchairs can easily access the building. These changes were to be made within 5 years of the implementation of the Persons With Disabilities Act.³⁵ Most buildings are still inaccessible to people with disabilities³⁶ The penalty for not making adjustments in order to accommodate disabilities after receiving an adjustment order is a fine of up to 20,000 Ksh, and/or up to a year in prison.³⁷

People with disabilities have the right to enter any public place or venue. Someone cannot refuse to let a person with a disability enter a public building or a public event because the person is disabled.³⁸

People with disabilities have the right to use any government-owned sports facility for free³⁹ and to participate in national sporting events like anyone else⁴⁰

People with disabilities have the right to free legal services if rights are violated, or if they are accused of a capital crime, such as murder⁴¹

If a person with disabilities is refused bail, he or she has the right to be held in a facility that accommodates his or her disability⁴²

All legal cases concerning a person with disabilities are required to be completed quickly and with regard for the person's disability⁴³

³⁵ The Persons With Disabilities Act, 2003, Part III Section 21-24 Pages 297

³⁶ The Persons With Disabilities Act, 2003, Part III Section 21-24 Pages 296-97

³⁷ The Persons With Disabilities Act, 2003, Part III Section 26, Page 300

³⁸ The Persons With Disabilities Act, 2003, Part III -Section 25 - Page 299

³⁹ The Persons With Disabilities Act, 2003, Part III -Section 28 - Page 301

⁴⁰ Same as Above

⁴¹ The Persons With Disabilities Act, 2003, Part VII - Section 38 - Page 307

⁴² The Persons With Disabilities Act, 2003, Part VII - Section 38 - Page 308

⁴³ Same as above

People with disabilities have a right to have assistance in voting⁴⁴

People with disabilities have a right to phone service that accommodates their disability⁴⁵

⁴⁴ The Persons With Disabilities Act, 2003, Part IV - Section 29 - Page 302

⁴⁵ The Persons With Disabilities Act, 2003, Part VII – Section 4 – Page 308



Appendix A: Where to Go to Receive Aid

The National Council for Persons With Disabilities:

Address: PO Box 66577 - 00800 Nairobi

Tel / Fax: 020 445 2877

UDPK – All disabilities

Address: 66577-00800 Waiyaki Way, Nairobi

Tel: 2820 820 8208

Special Needs Empowerment Programmes – Deaf/ Blind

Address: 46972 00100 Kayole, Nairobi

Tel: 0720 316 962

Cerebral Palsy Society of Kenya – Rehabilitation for Physically disabled

Address: PO Box 5324 – 00202 Nairobi

2013876 0733 785 213

Self Reliance Disabled Women Group – All disabilities

Address: 67 Ruaraka Kahawa West, Nairobi

Tel: 0720 325 742

Deaf Initiatives Network Kenya

Address: 44077 – 00100 Villa house Ongata Rongai, Nairobi

Tel: 0733 574 089

Kenya Sports Federation of the Deaf – Hearing Impaired

Address: P.O. Box 46437 – 00100, Nairobi

Tel: +254-733-952194

Users and Survivors of Psychiatry in Kenya (USPKenya) – Mentally Disabled

Address: P.O. Box 452 – 00606 Kangemi PCEA Church Compound, Nairobi

Tel: +254-712445355 or +254-737944393

Regional Deaf Women Initiative Network

Address: 22924 00400 8-4-4 Building University way, Nairobi

Tel: 31826 262 0721 334 638

United Disabled Persons of Kenya, Nairobi – All disabilities
Address: 13488 00800 Kabete Orthopedic Workshop Complex, Nairobi
Tel: 020 444 3830

Efficient for challenged Persons – All Disabilities
Address: 55722 – 00400 Jerusalem Estate, Nairobi
Tel: 0720 824 040

Tunaweza Disabled Women Group – All Disabilities
Address: 98213- 80100 Ziwa la Ng'ombe, Mombasa
Tel: 0723 381 524

Kuhenza for the Children's Foundation – All Disabilities
Address: PO Box 9 Gede Majomboni road, opposite Mobil Petrol Station
Tel: 020 233 5960 0733 316 584

DT 72 International NGO
Address: PO Box 95626-80106 1207/1 MN Links Road Nyali, Mombasa
Tel: +254 725 808 151



Appendix B: Handbook Outline

From the Executive Summary of *The National Special Needs Education Policy Framework* produced by the Kenyan Ministry of Education May 2009:

“They (people with disabilities) are **the most disadvantaged and marginalized** groups and experience discrimination at all levels of society. A complex web of economic and social issues including gender inequality, create barriers within mainstream education, social and economic life to learners with special needs and disabilities. Therefore a disproportionate numbers of children and adults with special needs are unable to access quality education and are illiterate.

Disabled persons, **especially children**, face a host of problems as a result of their special needs. Many children with special needs live in hostile, bleak environments...they are disempowered and marginalized, have no opportunity for advancement and **largely remain voiceless** as a result of inbuilt social, cultural, economic prejudices, violence and abuse. **Their rights are usually violated** since existing **legislation suffers slow implementation**” (11).

1. Children with Special Needs and Disabilities

- a. All discrimination against people with disabilities is illegal (Section 1.3 0 - Page 16)
- b. General/ Miscellaneous
 - i. The Ministry of Education Policy Handbook 2009
 1. People with disabilities experience a great deal of discrimination (ES 11).
 2. Many people with disabilities do not have access to good education (ES 11).
 3. There are more boys than girls involved in special needs education –this presents a problem that must be solved (Section 2.11 - Page 42)
 4. People with disabilities are especially vulnerable to disasters (Section 2.13 - Page 35)
 5. There is a lack of awareness about disabilities (Section 2.9 Page 30)
 6. Those who care for people with disabilities often neglect them
 - ii. The Persons With Disabilities Act 2003
 1. The right to easily move around and have access to all amenities (Part III Section 21-24 Pages 296-97) This includes reasonable access to all buildings
 2. The right to enter any public place or venue (Part III -Section 25 - Page 299)
 3. The right to use any sports facility owned by the government for free (Part III -Section 28 - Page 301)
 4. The right to participate in national sporting events (Part III -Section 28 - 301)

5. The right to vote (Part IV - Section 29 - Page 302) -- May be assisted by someone to vote
6. Right to free legal services if rights are violated, or accused of wrongdoing (Part VII - Section 38 - Page 307)
7. A right to phone service that accommodates their disability (Part VII – Section 4 – Page 308)

iii. The Children Act:

1. All children have a right to life, and it is the duty of the family to ensure the survival and development of the child (Part II - Section 4 - Page 505)
2. Right to have their opinion taken into consideration (Part II - Section - 4 Page – 506)
3. No child should be discriminated against (Part II - Section 5 – Page 506)
4. A right to be protected from abuse, neglect, sale, trafficking or abduction (Part II – Section 13 – Page 509)
5. A child has the right to leisure, play and participation in cultural events (Part II – Section 17- Page 510)
6. No child may be tortured or treated cruelly (Part II – Section 18 – Page 510)

iv. The Proposed Constitution:

1. The state is to promote the use of Kenyan Sign Language, Braille and other forms of communication and technologies that people with disabilities use (Chapter 2, Section 7, Page 4).
2. All state organs and officers have the duty to address the needs of people with special needs and disabilities (Chapter 4, Section 21, Page 6)
3. The State cannot discriminate against persons based on any special need or disability (Chapter 4, Section 27, Page 7)
4. If a person with disabilities is accused of a crime, upon their arrest they have the right to be informed of that crime in a language they understand. They also have the right to a trial that accommodates their disability and is conducted in a language they can understand (Chapter 4, Sections 49-51, Page 9).
5. Persons with disabilities have the right to be treated with dignity, to access education, to have reasonable access to all public places and transport, to use any means of communication, to access materials and devices that help them overcome the constraints of the disability (Chapter 4, Section 54, Page 10)
6. At least five percent of persons in elective and appointive bodies are persons with disabilities (Chapter 4, Section 54, Page 10)
7. The special needs and disabilities of voters must be taken into account during elections (Chapter 6, Section 82, Page 13)
8. Twelve members of the National Assembly to represent special interest groups, among those persons with disabilities (Chapter 8, Section 97, Page 16)

9. Two members of the Senate to represent persons with disabilities (Chapter 8, Section 98, Page 16).
10. People with disabilities have the right to be represented in Parliament (Chapter 8, Section 100, Page 16).
11. One of the official languages of Parliament is Kenyan Sign Language and Parliament may be conducted in that language (Chapter 8, Section 120, Page 18).
12. The local government is required to protect the rights of people with disabilities (Chapter 11, Section 174, PAGE 27).
13. People with disabilities have the right to participate at all levels of public service (Chapter 13, Section 232, Page 35).

c. Medical

i. The Persons With Disabilities Act 2003

1. The right to be healthy “...enable people with disabilities to receive free rehabilitation and medical services in public and private health institutions” (Part III - Section 20 – Page 296)
2. Any doctor that causes a disability is guilty of a crime (Part VIII – Section 46 – Page 311)

ii. The Children Act

1. Children have a right to healthcare (Part II – Section 9 – Page 507)
2. Disabled children have the right to appropriate medical treatment. (Part II – Section 12 – Page 509)

d. Parental Responsibilities

i. The Persons With Disabilities Act

1. It is illegal to conceal a person with disabilities to deny them any of these rights (Part VIII – Section 45 – Page 310). Note: This applies to parents who hide their children because they are ashamed, etc.

ii. The Children Act 2001:

1. All children have the right to live and be cared for by their parents (Part II – Section 3 – Page 506)
2. Duty to give the child (Part III – Section 24- Page 513)
 - a. An adequate diet
 - b. Shelter
 - c. Medical care
 - d. Education and guidance
3. The parents has a duty to protect the child from neglect, discrimination and abuse (Part III – Section 24- Page 513)
4. Parental responsibility might be extended past a child’s eighteenth birthday (Part III – Section 28 – Page 518)
5. Children have the right to be safe and protected from harm
 - A right to be protected by police and local authority (Part IV – Section 40 – Page 531)

6. The person who has custody of a child is responsible for their wellbeing (Part VII – Section 81- Page 555)
- iii. In the case of neglect
 1. If a child with a disability is treated poorly an authorized officer may take him or her out of the situation (Part X – Section 120 – Page 590)
 2. There is a penalty for cruelty and neglect of a child, up to 200, 000 Ksh or 5 yrs in prison (Part X – Section 127- Page 599)
Failure to: Provide adequate food, clothing, education, immunization, shelter and medical care
- e. Education
- i. The Ministry of Education Policy Framework 2009
 1. All children, including children with disabilities, have the right to education (Section 1.5 Page 17)
 2. Because of challenges with special education, the government needs to develop special policy for children with disabilities.
 3. The government is supposed to give money for special education.
 4. People with disabilities have equal access to all educational institutions
 5. Access to services that meet the needs of people with disabilities
 6. No discrimination in admission to any school
 7. Transitions between levels of education in accordance with ability
 8. Special Schools are necessary for children with severe special needs, but inclusive education is the overall goal
 9. People with special needs ought to be involved in decisions that concern them.
 - ii. Persons With Disabilities Act 2003:
 1. The right to be educated (Part III – Section 18 – Page 295)
 2. Learning institutions need to accommodate for a person’s disability and adjust requirements according to their disability (Part III – Section 18 – Page 295)
 3. Special schools are required for the deaf, blind and mentally handicapped (Part III – Section 18 – Page 295)
 - iii. The Children Act: Every child had the right to free basic education
 1. Every child had the right to free basic education (Part II Section 7 – Page 507)
 2. Children with disabilities have the right to be treated with dignity and to be given appropriate medical treatment, special care, education and training free of charge or at a reduced cost whenever possible (Part II – Section 12 – Page 509)
- f. Work/ Employment
- i. Persons With Disabilities Act 2003:
 1. People with disabilities have the right to be employed like anyone else (Part III – Section 12 – Page 292)
 2. Employer cannot discriminate against people with disabilities (Part III - Section 15 - Page 293)
Exceptions:

- a. If the refusal to employ the person is not wholly or mainly because the person is disabled
 - b. If the disability prevents the person from doing the job
 - c. If special accommodations need to be made in order for the person with disabilities to work that are not reasonable for the employer to provide
 - 3. Employer is eligible for a tax deduction for employing someone with a disability (up to 25% of the person's salary) (Part III – Section 16 – Page 294)
 - ii. The Children Act 2001:
 - 1. Children should not work if it gets in the way of education or is dangerous (Part II – Section 10 – Page 508)
- g. Financial
 - i. The Persons with Disabilities Act 2001:
 - 1. Free from income tax (Part III – Section 12- Page 292)
 - 2. National Development fund for persons with disabilities
 - Supposed to:
 - Help pay for training for people with disabilities
 - Pay for projects that benefit people with disabilities
 - Help provide devices and services that assist people with disabilities
 - Provide allowances for people with disabilities that have no other source of income
 - People with severe disabilities
 - Aged people with disabilities
 - Single parents of children with disabilities
 - (Part III – Sections 32-34 – Pages 303-305)
- ii. The Children Act 2001:
 - 1. Children with disabilities have the right to be treated with dignity and to be given appropriate medical treatment, special care, education and training free of charge or at a reduced cost whenever possible (Part II – Section 12 – Page 509)

2. Support Available for Parents

- a. Financial
 - i. The Persons with Disabilities Act 2003:
 - 1. National Development fund to provide assistance to single parents of children with special needs (Part III – Section 34 – Page 304)
 - ii. The Children Act:
 - 1. For children born out of wedlock, the father may have to give financial provision (Part VII – Section 97 – Page 565)
- b. Guidance
 - i. The Ministry of Education Policy Handbook
 - 1. It is important that parents and family members of children with special needs receive counseling.

ii. The Children Act 2001

1. Parents and guardians have the right to guidance on raising a child with disabilities “ parents/ guardians of children with special needs have the right to be counseled by a professional” → this is supposed to happen at the schools



Appendix C: The Draft Constitution

The Draft Constitution of 2010 contains more rights for people with disabilities. The following is a list of all the sections concerning people with disabilities in this Draft.

1. The state is to promote the use of Kenyan Sign Language, Braille and other forms of communication and technologies that people with disabilities use (Chapter 2, Section 7, Page 4).
2. All state organs and officers have the duty to address the needs of people with special needs and disabilities (Chapter 4, Section 21, Page 6)
3. The State cannot discriminate against persons based on any special need or disability (Chapter 4, Section 27, Page 7)
4. If a person with disabilities is accused of a crime, upon their arrest they have the right to be informed of that crime in a language they understand. They also have the right to a trial that accommodates their disability and is conducted in a language they can understand (Chapter 4, Sections 49-51, Page 9).
5. Persons with disabilities have the right to be treated with dignity, to access education, to have reasonable access to all public places and transport, to use any means of communication, to access materials and devices that help them overcome the constraints of the disability (Chapter 4, Section 54, Page 10)
6. At least five percent of persons in elective and appointive bodies are persons with disabilities (Chapter 4, Section 54, Page 10)
7. The special needs and disabilities of voters must be taken into account during elections (Chapter 6, Section 82, Page 13)
8. Twelve members of the National Assembly to represent special interest groups, among those persons with disabilities (Chapter 8, Section 97, Page 16)
9. Two members of the Senate to represent persons with disabilities (Chapter 8, Section 98, Page 16).
10. People with disabilities have the right to be represented in Parliament (Chapter 8, Section 100, Page 16).
11. One of the official languages of Parliament is Kenyan Sign Language and Parliament may be conducted in that language (Chapter 8, Section 120, Page 18).
12. The local government is required to protect the rights of people with disabilities (Chapter 11, Section 174, PAGE 27).
13. People with disabilities have the right to participate at all levels of public service (Chapter 13, Section 232, Page 35).