

Chapter 34

A Restrictive Humanitarian Policy and the Wellbeing of the Disabled in Disasters in Kisumu County

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ABSTRACT

This paper explores how PWD's well-being is realized in disaster situations in Kisumu County of Kenya. There is a significant population of 15,760 persons with disability across Kisumu County. Their well-being is protected by the international humanitarian policy. At the national level, the well-being of persons with disability is taken care of in the Disability Act 2003 and the National Disability Policy. Despite existence of a humanitarian policy framework, the well-being of the disabled is compromised in disaster situations within Kisumu County. The humanitarian policy framework limits humanitarian action to response, which compromises the well-being of PWD. The study employed semi-structured questionnaire instruments to gather information on humanitarian policies applicable to PWD in disaster context. From the key findings, the study concludes that the international humanitarian policies as well as national humanitarian policies are restrictive in nature. The policy lacks enforcement and implementation mechanisms to support the wellbeing of persons with disability in disasters.

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INTRODUCTION

In situations of risk and humanitarian emergencies, the UN Charter on Inclusion of Persons with Disability stipulates that partner states have the responsibility to protect the well-being of persons with disability (UN, 2016). This charter, thus, provides a humanitarian framework for access to services and inclusion of Persons with disabilities in all aspects of life. It provides for the achievement of equalization to opportunities by prohibiting discrimination in employment, education and health. Kenya has ratified the International Convention on the Rights of Persons with Disability and the UN Charter on Inclusion of Persons with Disability. The international humanitarian policy expects inclusion of persons with disability into humanitarian action but it fails to indicate implementation mechanisms on the same. On the other hand, the national humanitarian policy calls for protection of persons with disability in disaster situations but fails to point out exactly how such protection is supposed to be achieved. The humanitarian policy framework is therefore restrictive in nature with regard to the well-being of person with disability in disasters.

At the national level, the rights of persons with disability are taken care of in the Disability Act, 2003 and the National Disability Policy. Kenya enacted the Persons with Disability Act of 2003 which came into force in June 2004. This Act provides a legislative framework for access to services and inclusion of Persons with disabilities in all areas of life. The act provides for the achievement of equalization to opportunities by elimination of discrimination in employment, education and health among others. On accessibility, the Act promotes accessibility of physical structures and to information of services to Persons with disabilities (Government of Kenya, 2003). This Act does not refer to the rights of persons with disability in disaster situations, and therefore, is restrictive. National Disability Policy (2009), however, in Article 11 addresses situations of risk and humanitarian emergencies of persons of disability during disasters. It also identifies the fact that different disabilities require specific approaches to meet their information and communication needs (Government of Kenya, 2009). Janzen *et al.*, (2012), on the contrary, argues that the rights of person with disabilities are yet to be mainstreamed into humanitarian action. To illustrate this, Abonyo (2015), for example, the 2007 Post Election Violence and other humanitarian emergencies presented Kenya with unprecedented challenges on how to deal with person with disabilities. In the past, in most crises, the government's responses have consistently taken into account the special needs for the persons with disabilities by facilitating the provision of emergency aid and supplies to them in camps and host communities. Thus, this protection is limited to response stage alone. The gap in these studies is how persons with disability can participate in entire humanitarian action cycle so that their protection is adequate.

Despite existence of a humanitarian policy framework, the well-being of the disabled is compromised in disaster situations within Kisumu County because of lack of clarity on implementation of the policy. Statistics from the National Council for People with Disability indicate that a significant population of 15,760 people are disabled across Kisumu County. Their well-being is protected by the UN Conventions on the Rights of Disabled People (UNCRPD) and UN Charter on Inclusion of Persons with Disability during disasters. Further, the humanitarian policy framework limits humanitarian action to response to disasters thus protection of person with disability is compromised from pre-disaster stages. For example, during the 2007/2008 Post-Election Violence persons with disability struggled to find food and health services (Abonyo, 2015). Some suffered as a result of floods in Nyando since they were unable to escape from floods in 2015. The disabled escaped from floods by being carried on peoples or cattle backs at a fee since better evacuation means were non-existent (Supriya *et al.*, 2018).

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