

# How a Restricting Humanitarian Policy Framework Compromises the Well-being of Persons with Disability in Disasters Situations in Kisumu County, Kenya

Phitalis Were Masakhwe, Professor Kennedy Onkware, Professor Susan Kilonzo

Department of Emergency Management Studies, Masinde Muliro University of Science and Technology  
PhD, Department of Emergency Management Studies, Masinde Muliro University of Science and Technology  
PhD, Department of Religion, Theology and Philosophy, Maseno University

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**Abstract:** This paper explores how PWD's well-being is realized in disaster situations in Kisumu County of Kenya. Statistics from the National Council for People with Disability indicates 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 (UNCRRD) and UN Charter on Inclusion of Persons with Disability during disasters. 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 because of lack enforcement mechanisms and implementation structures in the policy. The humanitarian policy framework limits humanitarian action to response which compromises the well-being of PWD. For example, during the 2007/2008 Post-Election Violence persons with disability struggled to find food and health services. 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. Therefore, humanitarian policy framework is yet to adequately pay attention to the disabled in disaster situations. This means that persons with disability are much more vulnerable in disaster situation than the able-bodied. Kisumu County suffers from both man-made and natural disasters and as a result the number of PWD has increased due to vulnerability to disasters. The study employed semi-structured questionnaire instruments to gather information on humanitarian policies applicable to PWD in disaster context. It was used with humanitarian officers-98 and government officers-98. Further, the researcher adopted semi-structured interviews with open-ended questions which were employed as one of the methods for data collection to provide qualitative data and were complemented by the quantitative data. The researcher used interviews with the regional director of Kenya Red Cross Society, regional directors of UN agencies, the Kisumu County special programs officer, managers of DPOs and director of National Council for People with Disabilities. Secondary data was collected from a variety of sources which included library books, information from journals and other government documents on contributions of humanitarian organizations to the well-being of persons with disability in disaster context. These documents include the national Policy in PWD, Kenya constitution, 2010, UN conventions on PWD. The variables of the study were subjected to descriptive statistics. The qualitative data was analyzed by consolidating emerging themes from the key informant interviews, topic analysis, and cut and paste methods on the focus group discussion transcripts. Quantitative data was analyzed using descriptive statistics such as frequencies and percentages. The researcher presented data findings in form of frequency tables, pie charts, bar graphs and narratives. From the key findings, the study concludes that the international humanitarian policies, as well as national humanitarian policies are restrictive in nature since they limit how PWD are supposed to be protected in disasters. The reason is that they lack enforcement and implementation mechanisms to support the wellbeing of persons with disability in disasters. The study recommends that international humanitarian policies such as the UN Convention on Inclusion of Persons with Disability and UN Convention on the Rights of persons with Disability be reviewed to clearly capture mechanisms or structures on how to protect persons with disability in humanitarian action. The international humanitarian policy need to broaden its consideration on situation of risk. In its current form, they are too restrictive and thus limit humanitarian agencies operations. The national humanitarian policy such as the National Disability Policy and Disability Act need to be reviewed to indicate clearly what is considered as humanitarian situation. The national humanitarian policy is restrictive in the sense that they do not indicate type of disasters which affect PWD.

**Key Words:** Policy, Humanitarian Policy, Persons with Disability, Convention, restrictive and Disabled

## Introduction

In disaster situations, the UN Charter on Inclusion of Persons with Disability expects member states to protect the rights of persons with disability (UN, 2016). It therefore provides a humanitarian framework to access to services and inclusion of Persons with disabilities in all aspects of life. The charter purposes equalize opportunities by way of prohibiting discrimination in employment, education and health. Kenya as a member state has ratified the International Convention on the Rights of Persons with Disability and the UN Charter on Inclusion of Persons with Disability. This policy expects that persons with disability be part of humanitarian action but a close scrutiny of it fails to propose exactly how to implement these provisions. On the other hand, the Kenya national humanitarian policy indicates that persons with disability need to be protected in disaster context but does not specify nature of disasters. The conclusion here is that humanitarian policy framework is restricts how to protect well-being of person with disability in disasters.

Nationally, the rights of persons with disability are stipulated in the Disability Act, 2003 and the National Disability Policy. Disability Act of 2003 provides a legislative framework to access services (Government of Kenya, 2003). It is evident that the Act does not refer to the rights of persons with disability in disaster situations. On the other hand, National Disability Policy (2009) in Article 11 addresses circumstances of risk of persons of disability during disasters. Despite these provisions, Janzen *et al.*, (2012), on the contrary, argues that the rights of person with disabilities are yet to be mainstreamed in humanitarian action. For example, Abonyo (2015) argues that in 2007 Post Election Violence humanitarian organizations found it difficult to deal with person with disabilities. The gap in these studies is that they fail to propose how persons with disability can participate in entire humanitarian action cycle.

Statistics from the National Council for People with Disability show a significant population of 15,760 people are disabled across Kisumu County. As already noted, the humanitarian policy framework limits humanitarian action to response which means that protection of PWD is compromised from pre-disaster stages. A case in point is the 2007/2008 Post-Election Violence where PWD struggled to locate food and health services (Abonyo, 2015). In Nyando, PWD escaped from foods by being carried on peoples or cattle back at a fee due to lack of better evacuation means (Supriya *et al.*, .2018).

It is evident that the humanitarian policy in its current state is inadequate to protect PWD in disaster situations. This is occasioned by policy weakness on how exactly they are supposed to be protected at different points of humanitarian action. It can be concluded that humanitarian policy framework is insufficient since it restricts protection of PWD. Additionally, measures on mitigating these challenges are not captured from persons with disability's perspective.

## Materials and Methods

Kisumu County totals 2085.9 km<sup>2</sup> and its neighbouring counties are Siaya, Vihiga, Nandi and Kericho Counties. It has an annual relief rainfall that ranges between 1200 mm and 1300 mm annually. The climate of Kisumu County makes it vulnerable to floods in some areas such as Nyando. The population of PWD in Kisumu county is about 15,760 (National Council for People with disability, 2019). Thus, a section of this population was affected by post-election violence in 2007/2008 (Abonyo, 2015). Nyakundi (2010) agrees that during the post-election violence 20% of PWD faced challenge of getting food as a result of protracted Post-Election violence. Due to floods, political unrest and tribal clashes, PWD were carried to safety on someone's back or transported in a cart for a fee. The study used semi-structured questionnaire instruments to get information on humanitarian policies applicable to PWD in disaster situations. They were used with humanitarian officers-98 and government officers-98. The researcher developed semi-structured interviews with open-ended questions as one of the ways for data collection to gather qualitative data. Interviews were used with the regional director of Kenya Red Cross Society (1), regional directors of UN agencies (2), the Kisumu County special programs officer-1, managers of DPOs (3) and director of National Council for People with Disabilities-1. Desk research was done by combing through documents which had issues to do with humanitarian policy. These documents include the national Policy in PWD, Kenya constitution, 2010, UN conventions on PWD. The research instruments were trial tested in Kakamega County. The second instrument was the questionnaire which contained open and closed questions. Questionnaires allow time for respondents to give well thought answers and time to respond to the items. Data was analyzed by way of descriptive statistics. On the other hand, qualitative data was analyzed by fusing emerging themes from the key informant interviews. Quantitative data was analyzed using descriptive statistics such as frequencies and percentages. Data was presented in form of frequency tables, pie charts, bar graphs and narratives. Some limitations in this research were difficulties in allocating PWD due to discrimination. The researcher used snowballing to overcome this challenge.

## Findings and Discussions

On this first objective with regard to humanitarian policy, the researcher requested humanitarian and government officers to state which inclusive aspects UN Charter and National Disability policy safeguard the well-being of PWD. The number of respondents were 196. Three questionnaires were not returned. The following table is a summary of the inclusivity indicators:

**Table: Humanitarian Inclusivity Aspects for PWD**

Inclusion Aspects	Frequency	Percentage (%)
Socio-economic inclusion	39	20.2
Participation in disaster risk reduction	20	10.4
PWD in Humanitarian Agencies	96	49.7

**Source: Field Data, 2019**

The table shows that 96(49.7%) and 39(20.2%) of the respondents agreed that engaging PWD in humanitarian agencies and promoting their socio-economic well-being are aspects of inclusion respectively. 20(10.4%) agreed to their inclusion into disaster risk reduction processes. PWD inclusion into humanitarian agencies would enable their participation in humanitarian participation from planning for disasters. It is at the planning stage that they are excluded from humanitarian action. UN (2016) indicates that persons with disabilities be fully included humanitarian action. It stipulates that signatories of this Charter reaffirm their determination to make humanitarian action inclusive of persons with disabilities. The international humanitarian policy recognizes the need of state parties to include persons with disability in all types of disasters ranging from natural to man-made disasters. As much as the policy is clear on protection of persons with disability in situations on risk as a result of disasters, it is not categorical on the extent of inclusivity. A critical analysis of the Charter on Inclusion of Persons with disability specifically states there should be no discrimination in humanitarian process with regard to persons with disability. It charter condemns and eliminate all forms of discrimination against persons with disabilities in humanitarian programming and policy, including by guaranteeing protection and equal access to assistance for all persons with disabilities.

On the aspect of participation and inclusion of PWD into humanitarian programs, humanitarian policies are not formulated in such a way that person with disability participate actively at all stages of humanitarian response. This means that the voice of PWD does not inform practices of humanitarian agencies that need to protect them in disaster situations. In an FDG interview, a PWD argued:

The voice of persons with disability is not heard due to being left out in humanitarian action. But there is leadership challenge since PWD in institutions do not necessarily represent interests of all persons with disability (FDG interview held on 30<sup>th</sup> May, 2019 at Nyando)

This assertion indicates they are not consulted on how to be included into humanitarian action particularly at pre-humanitarian response stages. The capacity to address issues of disability is not available and if it was then the general support from the people in leadership has not really conceptualised the issues around disability and the importance of including them in various programming. Surpriya *et al* (2018) argue that disability component form part of the response team for some humanitarian organizations like KRCS. The issue is that DPO participation is limited in humanitarian action which makes it difficult to reach PWD and understand their specific needs as it were.

The well-being of PWD can be safeguarded when awareness about disability is promoted in the community and how to handle this group of persons. Inclusivity at this stage is captured in the UN Charter on Inclusion which directs states to develop, endorse and implement policies and guidelines based on existing frameworks and standards, supporting humanitarian actors to improve inclusion

of persons with disabilities in emergency preparedness and responses. For example, early warning systems accessible for people with disabilities especially people who are deaf and deaf blind is critical.

But inclusivity of PWD is affected by other related factors of socio-economic in nature. For example, participation of PWD at planning stage of humanitarian response in disaster context is directly affected by the three aspects of recognition, distribution and representation. The national humanitarian policy has aspects of inclusion of PWD into humanitarian action. For example, Kenya has enacted the National Persons with Disabilities Act 2003 and the established the 'National Council of Persons with Disabilities' (NCPWD). The National Council of Persons with Disability is responsible for the registration of PWD, administering financial support and entitlements and generally mainstreaming disability issues 'in all aspects of socio-cultural, economic and political development.

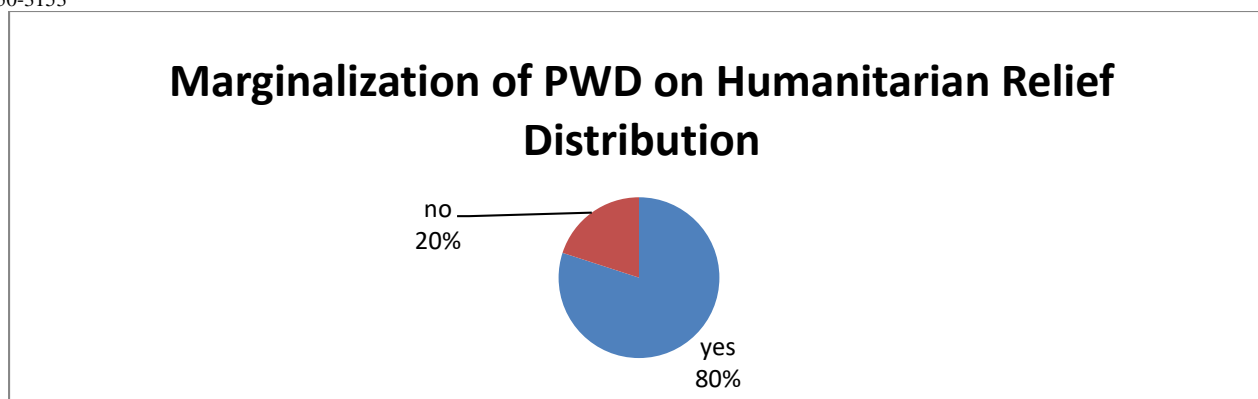
The inclusion aspect in the national humanitarian policy restricts it to disaster-free situations. The policy does not spell out how PWD would be included in humanitarian action process in disaster situations. It only concentrates on humanitarian response stage and thus it considers persons with disability as needy. Therefore, the capacity of persons with disability to contribute to humanitarian action is undermined in the national humanitarian policy. On the other hand, the Kisumu County Bill has aspects of inclusion of PWD into humanitarian action from the planning stage. This is taken care of by the Kisumu County Persons living with Disabilities Bill (Kisumu County, 2014). The Bill calls for representation of PWD in committees all levels on issue of disasters.

Further, there is an identity problem for PWD. A head of household argued that there is an assumption that by nominating someone with disability to a committee or institution then everyone disabled person is represented. Supriya *et al.*, (2018) argue that humanitarian response consider the types of disability to cater for specific needs of persons with disability in Kisumu County. This not true from the findings since representation is more of group identity and not individual needs pegged on nature of disability. Therefore, representation of disabled persons needs to be inclusive based on the nature of disability. In an FDG interview, a PWD lamented:

We are grouped together with women, the youth as marginalized persons. This is too misleading because PWD have special needs that are incomparable with those other groups. Also, the nature of disability determines the needs and thus this needs to be put into consideration (Interview held on 24<sup>th</sup> May, 2019 in Nyando)

This assertion confirms that persons with disability are not identified as standalone special groups in the national humanitarian policy. Thus, this group of person's unique needs is not easily considered as stated in the 2010 Kenyan Constitution. Moreover, PWD capacity and skills were not considered in humanitarian preparedness and response mechanisms. A head of household argued that persons with disabilities are rarely included in committees and associations, or consulted in community decision-making processes. The researcher observed that Disabled Persons Organizations (DPOs) were increasingly present in county and national government committees. This provides an avenue for consultation with persons with disabilities on their needs and ideas. In many contexts, however, these groups did not represent the diversity of persons with disabilities. There is need to consider diversity in disability so that representation in various organization captures the disability aspect.

Marginalization into humanitarian action compromises PWD well-being in disasters. The researcher asked humanitarian and government officers whether the aspect of marginalization is addressed in both international and national humanitarian policy with regard to during humanitarian relief distribution. The total number of respondents was 196. Three questionnaires were not returned. The following figure indicates summary of findings on marginalization of PWD with regard to humanitarian relief distribution.



**Figure: Marginalization of PWD in Humanitarian Relief Distribution**

Source: Field Data, 2019

The figure above indicates that (80%) of the respondents agreed that persons with disability are marginalized in disaster situations while (20%) disagreed. This data indicates that PWD are marginalized when relief is distributed. This means that they miss out on critical relief items after disasters have struck and therefore they are not protected as envisaged in the international and national humanitarian policy framework.

The international humanitarian policy such as the UN (2006) stipulates that partner states ensure that PWD needs is taken care of during emergencies. This not the case in Kisumu County as data indicates. On the other hand, the National Disability Policy (Republic of Kenya, 2009) stipulates that in situations of risk and humanitarian emergencies, the government takes 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. The Act indicates the desire to take care of the well-being of PWD by providing them with food, non-food items and medical supplies. The policy is silent on how PWD are supposed to access humanitarian relief even in post disaster period. However, greater marginalization is encountered when the environment is not altered to accommodate their needs in a socio-economic way.

Therefore, PWD do not access basic facilities and thus suffer and do not get services that touch on their overall wellbeing. In an interview, a head of household argued that allocation of resources end up with those deemed as able bodied who are mostly involved in these activities. The main reason for such occurrences was lack of realization on the part of humanitarian actors that some vulnerable groups like PWDs have special needs that require targeted relief distribution in disaster situations.

In both the international and national humanitarian policy framework, there is lack of structures on how PWD can access basic relief. Due to this, they become more marginalized and forgotten groups during disasters. However, the CRPD provides the most detailed set of international standards pertaining to the rights of people with disabilities in international law. It is a comprehensive convention consisting of 50 articles, which provide coverage of a full range of civil, political, economic, social, and cultural rights applicable to people with disabilities (UNCRPD, 2006). Although humanitarian policy framework stipulates that persons with disability should not be marginalized in any way, Abonyo (2015) found that during the PEV situation they experienced multiple layers of discrimination in Kisumu County. This included being disabled more with ethnicity, gender and sexual discrimination. As a result of these discriminative and stigmatizing factors, the able bodied persons were reluctant in according the disabled persons appropriate support and care which could assist them to cope during and after the conflict

During disasters the well-being of PWD is affected by inadequate structures such that shelters may not be accessible to wheelchair users, and hearing-based early warning systems exclude people who are deaf. Furthermore, sexual abuse against women and girls with disabilities increases in disasters and other crisis. Twigg *et al* (2018) observed that marginalization is a cross cutting theme across humanitarian action cycle. During humanitarian response times, they are unlikely to receive specialized attention as required. An example is where PWD stand on the queue to access relief supplies and have to sometimes compete for supplies with rest regardless

of their extra vulnerability. Supriya *et al.*, (2018), however, found that an organization such as KRCS caters for the welfare of PWD separately while distributing relief. There is need to have clear guidelines on how to eliminate marginalization of PWD during humanitarian relief distribution in the humanitarian policy framework.

On this first objective with regard to humanitarian policy, the researcher requested humanitarian and government officers to state which form of barriers compromise the well-being of PWD. The number of respondents were 196. The following table is a summary of findings on barriers to inclusivity into humanitarian action for PWD:

**Table: Forms of Barriers to Inclusivity of PWD in Humanitarian Action**

Forms of barriers	Frequency	Percentage (%)
<b>Physical</b>	95	49.2
<b>Attitudinal</b>	78	40.4
<b>Institutional</b>	39	20.2

**Source: Field Data, 2019**

The above table indicate that 95(49.2%) of the respondents agreed that persons with disability face physical barriers in disaster situation which makes it impossible for them to fully participate and benefit form humanitarian activities. On the other hand, 78(40.4%) agreed that societal attitudinal barrier hinders persons with disability from most humanitarian actions while 39(20.2%) agreed to institutional barriers. These barriers disadvantage PWD in disaster situations which in turn affect their well-being.

The international humanitarian policy such as the UN Charter on Inclusion of PWD (2016) stipulates that persons with disabilities are disproportionately affected in situations of risk and humanitarian emergencies, and face multiple barriers in accessing protection and humanitarian assistance, including relief and recovery support. The UN Charter indicates that barriers can exclude PWD from humanitarian assistance in periods of emergencies or disasters. The Charter is clear that PWD need to be included in humanitarian planning before disasters hit. However, the policy does not identify specific barriers and provide away of eliminating them. In an FDG interview, a member argued:

Humanitarian organizations/government services are located in urban centres and rarely connect with PWD in rural areas. Most meeting of this organizations are held in accessible places for persons with disability (Interview held on 3<sup>rd</sup> June in Manyatta, Kisumu City)

This statement indicates that persons with disability cannot access services provided by humanitarian agencies. The organizations are stationed in urban centres which in itself is a physical barrier since accessibility to services becomes difficult. In an interview a humanitarian officer argued that in as much as they are located in urban centre most of their activities take place in remote areas of Kisumu County. The national humanitarian policy such as Disability Act (2003) indicates that persons with disabilities are entitled to have a barrier free environment to enable them to have access to buildings, road and other social amenities and assistive devices and other equipment to promote their mobility. Section 22(1) requires that buildings be adapted to suit persons with disabilities (Government of Kenya, 2003). The policy is general and does not address the same element in periods of disasters and therefore restrictive with regard to protection of PWD in disaster situations.

Secondly, attitudinal barriers emanate from socio-cultural beliefs. For example, some cultural beliefs make some families to keep their family members with disabilities at home. These negative attitudes are caused by a misconception about disability. Therefore, attitudinal barrier can prevent persons with disability accessing humanitarian services. In an FDG interview, a DPO member lamented:



Some parents hide a child with a disability at home because they think that disability is a source of shame or witchcraft (Interview held on 22<sup>nd</sup> of May, 2019 in Nyando area of Kisumu County)

This assertion indicates attitudinal barrier that exist in society makes it difficult for PWD to benefit from humanitarian services that touch on their well-being. It was noted that cultural beliefs among residents of Kisumu County.

Lastly, institutional barriers include laws, policies and procedures which can prevent persons with disability from being protected in disaster situations. Such barriers segregate people with disabilities from being employment in humanitarian or government organizations. However, CBM (2018) findings indicate that some humanitarian organizations have drafted inclusive humanitarian programs for persons with disability. The study indicates that the KRCS humanitarian response team had persons with disability. The researcher sought to know factors that contribute to barriers that jeopardize the well-being of person with disability in disaster situation.

### Conclusion

This paper concludes that the international humanitarian policies, as well as national humanitarian policies are restrictive in nature since they limit how PWD are supposed to be protected in disasters and thus exclude PWD into humanitarian action. The reason is that they lack implementation or enforcement mechanisms to support the wellbeing of persons with disability in disasters. Moreover, the international humanitarian policy does not recognize some small scale disasters such as political violence as situations of risk. The national humanitarian policy, on the other hand, does not specify situations of risk.

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