



# Access to Gainful Employment for Women and Youth with Psychosocial Disabilities in Africa: A Case Study

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## Abstract

Persons with psychosocial disabilities face.

## Introduction

Despite the fact that many African countries have signed and ratified the UN Convention on the Rights of Persons with Disabilities (CRPD)<sup>1</sup> and adopted the Sustainable Development Goals (SDGs),<sup>2</sup> yet employment of persons with psychosocial disabilities in Africa is perceived to be much lower when compared to the general population and when compared to the different categories of disabilities. Considering the aspirations of SDG8<sup>3</sup> read with Article 27 of the CRPD,<sup>4</sup> there are substantial barriers to the participation of persons with psychosocial disabilities that need to be addressed.

Heightened levels of exclusion are often faced by individuals with specific types of impairments, such as persons with psychosocial disabilities, as well as by those experiencing multiple discrimination due to the intersection of disability with other aspects of identity such as gender and age.<sup>5</sup> There is generally a lack of data on disability and employment but available evidence suggests that people with disabilities are more likely to be unemployed than their peers without disability, especially youth and women.<sup>6</sup>

Women and youth with psychosocial disabilities face several barriers in access to employment in the open labor market that include attitudinal barriers related to mental illness, lack of supports in case of crisis, social stigma and discrimination, and perceptions of persons with psychosocial disabilities as lazy, destructive, and unproductive (Ebuenyi et al., 2020). Other barriers include the lack of social support,

<sup>1</sup>For example, Uganda signed and ratified the CRPD and its Optional Protocol on 25 September 2008 without any reservations. For others, see <https://www.un.org/disabilities/documents/maps/enablemap.jpg>

<sup>2</sup>Uganda was one of the first countries to develop its 2015/16–2019/20 national development plan in line with the SDGs. <https://www.ug.undp.org/content/uganda/en/home/sustainable-development-goals.html>

<sup>3</sup><https://sdgs.un.org/goals/goal8>

<sup>4</sup>Article 27 <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#27>

<sup>5</sup>Inclusion Works Uganda Situational Analysis June 2020 update [https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/15481/Uganda\\_IW\\_SITAN\\_June%202020\\_updated.pdf?sequence=5&isAllowed=y](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/15481/Uganda_IW_SITAN_June%202020_updated.pdf?sequence=5&isAllowed=y)

<sup>6</sup>UN Department of Economic and Social Affairs Disability <https://www.un.org/development/desa/disabilities/youth-with-disabilities.html>

social protection measures to cover disability related extra costs that are compatible with work including health insurance and denial of reasonable accommodation at workplaces (Ebuenyi et al., 2019).

While many impairments are observable, and thus are generally accepted by employers as requiring accommodation on the job (e.g., in the form of assistive technology, duty modifications, and assistive devices), a psychosocial disability is not obvious. Persons with psychosocial disabilities are denied reasonable accommodation discussed in the proceeding chapter (for example, flexible working hours, short but frequent breaks, breaking down large projects into smaller achievable tasks, minimizing environmental stimuli – noise, lights, access to a resting place in the middle of a working day) in work places because there is generally a lack of clarity as to their reasonable accommodation needs (Holness, 2016), as stipulated in Article 2 of the CRPD establishing that denial of reasonable accommodation constitutes discrimination on the basis of disability.

As observed by the Stakeholder Group of Persons with Disabilities for Sustainable Development, “Multiple intersecting factors restrict persons with disabilities’ access to decent work and employment, including: inadequate laws and policies; discriminatory social norms and hiring practices; a lack of access to education and training; unequal access to resources, information, technology and networks; accessibility challenges; lack of reasonable accommodations in the workplace.”<sup>7</sup>

Many women with psychosocial disabilities live in poverty; given that many are unemployed, those who are employed work mostly in marginal, seasonal, and menial jobs.<sup>8</sup> Indeed, persons with psychosocial disabilities in Africa are vulnerable to situations of forced labor and exploitation due to prejudice related to the misconceptions around their “mental capacity.”<sup>9</sup> Africa has the world’s youngest population, and it is growing rapidly. The 2030 Agenda for Sustainable Development underscores the importance of promoting rights of young people and meeting their needs, in all their diversity.<sup>10</sup>

Existing vulnerabilities and discrimination also need to be considered especially in the context of the COVID-19 pandemic and its aftermath. The marginalization faced by persons with disabilities in social, economic, and health terms, as well as limited access to public services, will add to the threat to lives and livelihoods that the COVID-19 crisis poses.<sup>11</sup>

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<sup>7</sup>Stakeholder Group of Persons with Disabilities for Sustainable Development, “Ensuring inclusion and equality for persons with disabilities:” (submitted during the High Level Political Forum 2019), page 6, available at [https://sustainabledevelopment.un.org/content/documents/23201Persons\\_with\\_Disabilities\\_Stakeholder\\_Group\\_Position\\_Paper\\_HLPF\\_2019.pdf](https://sustainabledevelopment.un.org/content/documents/23201Persons_with_Disabilities_Stakeholder_Group_Position_Paper_HLPF_2019.pdf)

<sup>8</sup>Disability, gender, and employment relationships in Africa: The case of Ghana (nih.gov)

<sup>9</sup>Thematic study on the work and employment of persons with disabilities: (un.org), para. 52.

<sup>10</sup>UN Economic Commission for Africa; Africa’s youth and prospects for inclusive development regional situation analysis report <https://www.ohchr.org/Documents/Issues/Youth/UNEconomicCommissionAfrica.pdf>

<sup>11</sup>ILO Policy Brief June 2020, COVID-19 and the World of Work, Ensuring the inclusion of persons with disabilities at all stages of the response. [wcms\\_746909.pdf \(ilo.org\)](https://www.ilo.org/public/what/working/workingpapers/wpl/2020/06/wpl202006.pdf)

This chapter has been developed from research conducted under the fellowship awarded to Dorothy under the “Making DPOs equal partners of inclusive development in Africa” project, funded by the Norwegian Agency for Development Cooperation (Norad), implemented by the International Disability Alliance and its members.<sup>12</sup> The focus of this particular fellowship was on women and youth with psychosocial disability and the right to employment under Article 27 of the CRPD.

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## Analytical Framework

The framework of this research initiative is based on the human rights related to work and employment in the CRPD and other human rights frameworks.

The right to work is a fundamental human right. The Universal Declaration of Human Rights recognizes that everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment (art. 23, para. 1).<sup>13</sup> The right to work has been reiterated in different contexts in a number of human rights instruments, and as human rights are indivisible and interdependent, they must all be read as a continuum.

Referring specifically to persons with disabilities, Article 27 of the Convention sets out the right to work of persons with disabilities and constitutes one of the most detailed provisions of the Convention.

The Article opens with the reiteration of the right of persons with disabilities to work on an equal basis with others and emphasizes the free choice and acceptance of work, elimination of discrimination (including through provision of reasonable accommodation), and a work environment that is open, inclusive, and accessible to persons with disabilities. The Article also reflects the eight fundamental conventions related to rights at work as identified by the ILO<sup>14</sup> by addressing access to labor

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<sup>12</sup>The project, implemented by the International Disability Alliance and the African Disability Forum, is working towards influencing the disability rights movement to shape the development agenda in sub-Saharan Africa towards the full and effective realization of human rights of persons with disabilities has increased. One important component of the project is supporting IDA’s members’ members in sub-Saharan African to develop and strengthen underrepresented groups of persons with disabilities by the disability rights movement, to build evidence for advocacy and engage in using this to reform laws, policies, programs, and/or hold governments and INGOs accountable for progress in leaving no person with disability behind. To this end, fellowships were awarded to members of IDA members of Down Syndrome International, Inclusion International, World Blind Union, World Network of Users and Survivors of Psychiatry, and World Federation of Deafblind. Dorothy Nakato is a fellow with the World Network of Users and Survivors of Psychiatry. This project is specifically focused ensuring that policies, programs, and investments necessary to realize their human rights are developed, implemented, and monitored with clear and evidence-based guidance and their direct participation, through their representative organizations. <https://www.internationaldisabilityalliance.org/norad>

<sup>13</sup>See the Universal Declaration of Human Rights art. 23, para. 1.

<sup>14</sup>Forced Labour Convention, 1930 (No. 29), and the Protocol of 2014 thereto; the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration

and trade union rights, general technical and vocational guidance programs, employment services, career advancement, job retention, and return to work programs. Persons with disabilities are protected from servitude, slavery, forced or compulsory labor, on an equal basis with others. Importantly, the Article also addresses inclusion within the private sector. This Article has been further supported by the recent General Comment on Article 27 issued by the Committee on the Rights of Persons with Disabilities.<sup>15</sup>

Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) mandates States Parties shall take all appropriate measures to eliminate all forms of discrimination against women in the field of employment, in order to ensure, on a basis of equality of men and women, the same rights.

Article 15 of the African Charter on Human and People's Rights<sup>16</sup> provides for every individual's right to work under equitable and satisfactory conditions and for equal pay for equal work.

Article 3(1) of the Protocol to the African Charter on the Rights of Women in Africa and the right to work reaffirms women's right to dignity inherent in all human beings.<sup>17</sup>

The researcher also considered the legal frameworks of the different countries included in the study (Uganda, Kenya, Malawi, Zambia, and Nigeria), such as national constitutions, employment legislations, disability legislations, mental health legislations, among others.

An important guiding point to this research were Dorothy's anecdotal experiences from her peer support work on the challenges that were being experienced by women and youth with psychosocial disabilities, which developed into a study.<sup>18</sup> In this chapter, based on the case studies collected during the research, the authors seek to highlight:

- Barriers that women and youth with psychosocial disabilities face in access to gainful employment in the open labor market
- Key elements that support access to the rights of women and youth with psychosocial disabilities to work and employment under Article 27 of the CRPD
- Recommendations to States Parties and Organizations of Persons with Disabilities towards realization of the rights under Article 27 for women and youth with psychosocial disabilities

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Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138); and the Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>15</sup> Committee on the Rights of Persons with Disabilities, General Comment No. 6 (2018).

<sup>16</sup> [https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf)

<sup>17</sup> The Protocol to the African Charter on the Rights of Women in Africa and the right to work, [https://www.un.org/en/africa/osaa/pdf/au/protocol\\_rights\\_womeafrica\\_2003](https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_womeafrica_2003), Article 3(1).

<sup>18</sup> See "Researcher Standpoint and Background" as an annexure below.

## **Barriers and Enablers: Learnings from the KII Discussions**

The study found that in general, employment is a huge challenge in these countries, especially for youth and women, due to many factors including lack of spaces and supports created for youth to join employment, social and cultural norms that hinder women from accessing employment, lack of policies and procedures for employment for the general public, and lack of disaggregated data on employment.

The employment situation for youth and women with psychosocial disabilities is worse due to the misconceptions and prejudice against persons with psychosocial disabilities.

Youth and women with psychosocial disabilities face enormous challenges. Being mostly employed in the informal sector, they have less employment opportunities due to their invisibility in the mainstream of society. There is also no disaggregated data by age, sex, or disability, which poses the challenge of finding out how many persons with psychosocial disabilities are in employment.

In this section, general learnings will be presented, along with select case studies from the research.

### **Job Placement and Affirmative Action**

Most respondents were not aware of the specific policies addressing job placement for persons with disabilities in their countries. This lack of awareness means that employers, especially in the private sector, and persons with disabilities themselves cannot benefit from these policies. It is important that States popularize these policies including through the media.

In addition, specific policies addressing job placement for persons with disabilities in all the five countries are not sufficient and do not promote employment of persons with disabilities. For example, in Uganda, the Income Tax Act provides for a 20% tax incentive to every private company where 5% of its employees are persons with disabilities. However, this tax incentive is not attractive enough for the private companies for it has not yielded any results.

It is important to ensure that affirmative actions are in line with the Convention. Some examples of affirmative action consistent with the Convention include:<sup>19</sup>

- (a) Ensuring that employers do not restrict persons with disabilities to certain occupations, reserved jobs, or specific employment units.
- (b) Ensuring that employers do not restrict persons with disabilities from opportunities for promotion and career growth.

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<sup>19</sup>General Comment No. 8, para. 42.

- (c) Taking steps to ensure that work promoted under these measures does not constitute “fake” employment, whereby persons with disabilities are engaged by employers but do not perform work or do not have meaningful employment on an equal basis with others.
- (d) Incorporating a disability, gender, and age perspective across the organization.

## **Recruitment Processes, Including Advertising, Selection, and Interviewing**

Most of these processes do not include and address the needs of women and youth with psychosocial disabilities seeking employment. During interviews, most persons with psychosocial disabilities do not disclose their disabilities owing to the fact that if disclosed at that stage, there will be high chances of not continuing to the next stage due to prejudices and misconceptions that employers have about psychosocial disabilities such as “incompetency,” “dangerous,” and “destructive.” Privacy is an important issue to be considered as consequences of disclosing a disability can expose a person to stigma and discrimination.<sup>20</sup>

### **Case Study: The Job Interview (Nigeria)**

“I must have passed the interview but due to my disclosure, I lost the employment opportunity”

A young woman with a psychosocial disability living in Nigeria shared that she was called for an interview in which she did well. At the end of the interview, she disclosed that she had a psychosocial disability. She observed a negative facial expression from the interviewers. They told her they would contact her for the next steps. She never heard back from them.

## **Participation of OPDs and Professional Training Programs for Staff**

The research found that to some extent public and private employers have conducted training programs on disability awareness for staff, but there has been no specific training on enabling inclusion of person with disabilities at workplaces. In the case of Uganda, the National Union of Persons with Disabilities (NUDIPU) confirmed that training on inclusion of persons with disabilities at workplaces for staff is mandated in human resource manuals but are not implemented. NUDIPU is keen on conducting staff orientation trainings including trainings on disability inclusion at workplaces in

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<sup>20</sup>From the General Comment No. 8, para. 74: Respect for the privacy of employees with disabilities requires employers to obtain the consent of an employee with disabilities to share the disability – or impairment-related information that is disclosed to them, for example, with the staff in the human resources department.

the near future. Many organizations choose to put the burden of sensitization on the person with disability who has been hired. Not only is that problematic but also, as explained by the CEO of NUDIPU, “It does not guarantee that when you have a disability, you know disability inclusion.” That underlines the importance of conducting trainings on inclusion of person with disabilities at workplaces with proper methodologies that are based on a cross-disability and equity lens.

Kenyan OPDs got an opportunity through Inclusion Works (IW) project to conduct trainings on inclusion of persons with disabilities at workplaces. In Uganda and through IW, human resource managers through the Human Resource Managers’ Association of Uganda (HRMAU) benefitted from sessions on disability inclusion.

### **Case Study: Isaac (Uganda)**

“I am enjoying my work, feel supported and I do not experience any stigma at the workplace”

Isaac is a youth with psychosocial disabilities, aged 25, from the Jinja District of Uganda. He is a member of the TRIUMPH Mental Health Support and Recovery Program (TRIUMPH). He applied for a job through the Inclusion Works program<sup>21</sup>, which links youth with disabilities to potential employers. He feels that he benefited greatly from this experience.

The Inclusion Works program worked in close consultation with TRIUMPH. This helped to support Isaac through peer support, sharing work-related issues with peers and mentors, and access to psychosocial support. TRIUMPH also supported the employing organization – Child Restoration Outreach (CRO), Jinja – to create an enabling work environment, including creating a resting space for any staff who may need it on occasion.

CRO staff received training on disability inclusion at the workplace from the National Union of Disabled Persons of Uganda (*NUDIPU*), an umbrella organization of persons with disabilities. CRO representatives reported appreciating working with persons with psychosocial disabilities as part of the team that together brings development of the organization. After his internship of 3 months, this organization retained him as a full staff member. CRO staff reaffirmed that working with Isaac helped them to also undo the fears, the stigma that they had working with persons with psychosocial disabilities.

### **Addressing Discrimination and Harassment**

The research found that discrimination on the basis of disability is prohibited in most of the countries’ legal framework including their constitutions, equal opportunity laws, and employment laws. In International Human Rights Law, discrimination

<sup>21</sup> <https://www.internationaldisabilityalliance.org/inclusion-works>



takes several forms and may occur simultaneously as well: direct discrimination, indirect discrimination, denial of reasonable accommodation, harassment, and discrimination by association. This expansive definition is not always reflected.

Harassment is a form of discrimination when unwanted conduct related to disability or other prohibited grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating, or offensive environment.<sup>22</sup> This is commonly experienced by persons with psychosocial disabilities at the workplace. Protection from harassment in connection with work and employment extends throughout the employment cycle and States Parties must implement effective remedies through the enactment and enforcement of specific and comprehensive antidiscrimination legislation.<sup>23</sup>

### **Case Study: Mark (Uganda)**

“My supervisor at one time doubted whether I am telling the truth about my disability since it is invisible”

Mark is a 28-year-old youth with psychosocial disabilities. He disclosed his disability to his employer along with the work schedule adjustments he needed, which were initially agreed upon. Even so, his own suggested adjustments were not respected, and measures were taken purportedly in his best interests, but hampered his full and effective participation at the workplace.

Along the course of employment, his supervisor violated the agreement especially on work schedules and he was called to work longer hours and more days than initially agreed.

At one point, he requested to take a week off while taking medication as he had gone for a medical review and was not feeling well. The medication he was prescribed required him to get adequate sleep. On informing his supervisor, the response was that the supervisor was “. . . tired of those issues of yours - going for medical reviews” and instead told him to go for a month’s leave, which he never asked for. These insensitive and incapacitating words and gestures made him feel guilty and reinforced the belief that disability is an individual problem.

### **Providing Reasonable Accommodation**

The research found that in all the countries there has been no complete harmonization of all the domestic laws with the CRPD. The mandate to provide reasonable accommodation has not been explicitly stated in the domestic laws, including the employment laws of the different countries as provided in Article 2 of the CRPD.

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<sup>22</sup>Committee on the Rights of Persons with Disabilities, General Comment No. 6 (2018), para. 18.

<sup>23</sup>Committee on the Rights of Persons with Disabilities, General Comment No. 6 (2018), para. 22.

In Uganda, reasonable accommodation is recognized under the Persons with Disabilities Act of 2020. However, it has not entirely come into force since the Government is still in the process of issuing regulations to support the legislation. In Kenya, the circular on remuneration for a personal guide for public officers living with disability<sup>24</sup> issued by the Salaries and Remuneration Commission has provisions for support but does not include persons with psychosocial disabilities. There are efforts to amend the Kenya Persons with Disabilities Act 2003, with a proposal on reasonable accommodation.<sup>25</sup>

Reasonable accommodation is a relatively new concept that governments are struggling to understand.<sup>26</sup> There is an added complexity when it comes to persons with psychosocial disabilities, compared to other disabilities that are generally accepted by employers as requiring accommodations that are tangible: for example, customized seating, assistive devices and technology, and sign language. In that sense, the supports required by persons with psychosocial disability are not obvious and there can be considerable diversity in the range of supports that persons with psychosocial disability need to thrive in the workforce.

There is no exhaustive list of reasonable accommodations possible, nor is it desirable. The CRPD recognizes the diversity of the disability movement. Even so, from the research, some examples of reasonable accommodations that were proposed by persons with psychosocial disabilities included:

- Time off for follow-up visits to clinic/psychiatrist/psychologist.
- Flexible time to accommodate effects of medication such as drowsiness.
- Frequent breaks.
- Extended sick leave should a relapse occur.
- Reduced stress working environment.
- Use of email for daily instructions.
- Minimize distractions by enclosed office.
- Need for job coach or mentor.
- Easing the employee into changes in the organization.
- Breaking large tasks into small achievable tasks that promotes motivation and improves the mood of the employee.
- Access to peer supports.
- Working from home if one chooses.

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<sup>24</sup>[https://repository.kippra.or.ke/bitstream/handle/123456789/3825/Remuneration-for-a-Personal-GuideFor-Public-Officers-Living-With-Disability-Ref-No.SRC\\_TS\\_NCPWD\\_3\\_18\\_80-Dated-26th-August-2019-1.pdf?sequence=1&isAllowed=y](https://repository.kippra.or.ke/bitstream/handle/123456789/3825/Remuneration-for-a-Personal-GuideFor-Public-Officers-Living-With-Disability-Ref-No.SRC_TS_NCPWD_3_18_80-Dated-26th-August-2019-1.pdf?sequence=1&isAllowed=y)

<sup>25</sup>See, for instance, a proposed amendment from 2020, the Persons with Disabilities Bill 2020, <http://www.parliament.go.ke/sites/default/files/2021-03/The%20Persons%20with%20Disabilities%20%28Amendment%29%20Bill%202020.pdf> where

<sup>26</sup>This is reflected in the General Comment No. 6 on equality and nondiscrimination CRPD/C/GC/6.

**Case Study: Support from Staff (Uganda)**

A woman was hired by an electricity transmission company and did not disclose the fact that she had been diagnosed with bipolar disorder at the time of interview. After a period of 2 years of great work and having shown greater potential over other employees, she experienced a mental health-linked relapse. It was like a surprise to the employer, but because the employer had appreciated her potential, the employer and fellow staff have supported her to continue working. She has been with the same company for close to 8 years now.

**Equal Pay for Equal Work**

In the formal employment sector, there is likely to be equal pay for equal work for women and youth with psychosocial disabilities. However, if the pay is based on output, which is becoming increasingly common in the “gig economy,” women and youth with psychosocial disabilities will face barriers, because reasonable accommodation is still unknown and unavailable for them to effectively participate in the workforce, thus affecting their equal pay for equal work.

In the informal sector, women and youth with psychosocial disabilities face great challenges to get equal pay for equal work. The common misconception is that employers are doing them a favor and also that women and youth with psychosocial disabilities, especially those in rural areas, are not right holders. Women with psychosocial disabilities are often paid in kind instead of money.

**Career Advancement**

Inclusive employment does not stop at the point of entry into the workplace. Persons with disabilities should also have access to career advancement opportunities including the right, on an equal basis with others, to be considered for promotion through fair, merit-based, and transparent processes. However, persons with disabilities experience higher barriers to career advancement for a variety of reasons, and this is even more so for women with disabilities. The CRPD Committee has recommended that States Parties evaluate direct and indirect barriers to career advancement encountered by persons with disabilities, in particular by women with disabilities.<sup>27</sup>

**Case Study: Stigma-Based Evaluations (Uganda)**

A woman with psychosocial disabilities was appointed as a head teacher in one of the private schools in Uganda. After 1.5 years of excellent performance, she experienced a mental health episode. She was hospitalized, and after 2 months of recovery, she felt she was ready to return to work, though she still experienced physical weakness

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<sup>27</sup> Committee on the Rights of Persons with Disabilities, General Comment No. 8 (2022), para. 36.

and drowsiness as side effects of the medication. She faced high levels of exclusion and stigma from her fellow teachers to the extent that she felt isolated at school.

The school Board of Directors held several meetings to dismiss her based on fears of nonperformance and that she could endanger learners. With the support of an OPD – TRIUMPH – representing persons with psychosocial disabilities, the school Board of Directors was supported to retain her, but she was still demoted to a class room teacher. She did not know that she could request for reasonable accommodation and the school did not know how to support her.

## **Access to Technical and Vocational Training and Rehabilitation**

The study found that there is little access to technical and vocational trainings for women and youth with psychosocial disabilities. This is because women and youth with psychosocial disabilities do not have access to information about the training opportunities, especially those in rural areas. Technical and vocational training is important, because women and youth with psychosocial disabilities face greater challenges in the formal education systems coupled with lack of adequate community support services. As a result, very few are able to complete school to be able to compete favorably in the open labor market.

There is also no reasonable accommodation in the training institutions for persons with psychosocial disabilities. The instructors in these institutions are not trained on disability inclusion on how to work with a diversity of disability groups. This leads to many dropping out before completion of the course.

### **Case Study: No Accommodation (Malawi)**

At an institute for technical and vocational training, a young woman with psychosocial disability was keen on joining a course. She shared that she has social anxiety so she would perform well working with few people like groups of 10 or less or one to one. The institution said that they could not offer such a service. She therefore could not benefit from the training.

## **Access to Self-Employment, Entrepreneurship, the Development of Cooperatives, and Starting One's Own Business**

Due to a labor market that is often unfriendly to persons with disabilities, self-employment has often been seen as one of the few options available – indeed, it is for many persons with disabilities the only real option to work.

The study found many mainstream economic empowerment programs for women and youth that would benefit those with disabilities such as Youth Livelihood Programs, Women Empowerment Fund, and other disability specific programs being implemented in different countries. But it can be surmised that not many women and youth with psychosocial disabilities benefit from these programs.

In the countries examined, there was no process for ensuring the inclusion of the diversity of persons with disabilities. The procedure for assessment of psychosocial disability was also problematic. Issues around processes mean that people who do not have disabilities that are evident, including psychosocial disabilities, are more at risk of being excluded. Individuals and groups are required to register and open bank accounts before their application, which are made in English, can even be considered. This creates additional barriers for persons with disabilities. There is also a lack of disaggregated data by sex, age, and disability on the beneficiaries of these programs.

## **Exploitation and Forced Labor**

It is evident that women and youth with psychosocial disabilities are faced with situations of forced labor and exploitation. As has been elaborated in the General Comment, States Parties should pay attention to the right of persons with disabilities to choice, consent, and freedom from coercion. The risk of coercion stems from the fact that persons with disabilities often face wider social vulnerability, a lack of meaningful alternatives, and relations of dependency or care that become exploitative. This risk needs to be considered for the purposes of understanding whether consent has been given.<sup>28</sup>

Women and youth with psychosocial disabilities are forced to do work that they have not freely chosen. And this mainly stems from their families, who see them as a “burden” and unable to contribute anything to their well-being and that of their family, increasing family expenses in terms of psychiatric medicines, food, and loss of time and work for the caregivers. So, they are at times forced by family members to engage in work they have not chosen but instead chosen for them by family members or forced to engage in domestic work that is unpaid.

### **Case Study: “Keeping Her Occupied” (Uganda)**

A young woman with psychosocial disabilities who has been employed in an office was told to chase away loitering goats which were eating up flowers. This young lady spent a whole day under the sun, sweating, using a lot of energy throwing sticks at the stubborn goats. Her line manager explained that this was the only way to keep her occupied. The researcher also found out that there was no pay for the work done, which clearly makes this an instance of exploitation.

## **Impact of COVID-19**

Inequalities for persons with psychosocial disabilities with regards to work and employment existed before COVID-19. The pandemic, however, has vastly

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<sup>28</sup>Committee on the Rights of Persons with Disabilities, General Comment No. 8 (2022), para. 52.

exacerbated the situation. Increased stress and anxiety have been difficult for persons with psychosocial disabilities, leading to frequent relapses and many people experiencing mental breakdowns.<sup>29</sup>

The breakdown in the support systems for persons with psychosocial disabilities like peer support group meetings stopped due to the lockdown measures, inaccessible psychiatric and psychosocial support services, inability to take walks which is therapeutic to some persons with psychosocial disabilities, etc.

There has also been a documented increase in abuses and human rights violations towards women and youth with psychosocial disabilities.<sup>30</sup> While many pivoted easily into the online world, the same was not as easy for women and youth with psychosocial disabilities.

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## Observations on Legal Reform and Policy Initiatives

Following the review, in these countries, there has been a progress on legal reforms and policy initiatives.

### In Uganda

*IGA Daniel v. AG*<sup>31</sup> is a strong step forward for the equality rights of persons with disabilities. In particular, the Constitutional Court of Uganda at Kampala reviewed the human rights framework applicable in Africa, the Ugandan Constitution, and previous Court decisions and then decided as follows at page 22, lines 11–17:

“Following the reasoning and decision in the above case, we find that the language of section 130 of the Penal Code Act is dehumanizing. The words “idiots” and “imbeciles” are derogatory and detract from the dignity that should be accorded to all disabled persons under Article 24. We find this is not permissible and justifiable as the language contravenes Articles 20, 21(1), (2) and (3), 23, 24, 28 and 35 of the Constitution”

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<sup>29</sup>See also Ebuenyi et al. (2022).

“In the face of the existing challenges faced by people with psychosocial disabilities and the inaccessibility of social assistance provision, the pandemic containment measures worsened participants’ psychological well-being. The lockdowns and other restrictions caused much worry and distress for persons with psychosocial disabilities. Participants reported that they felt hopeless, helpless and depressed in the worst times of the crisis.”

<sup>30</sup>See, for example, UNFPA and Women Enabled, “The impact of COVID-10 on women and girls with disabilities” [https://www.unfpa.org/sites/default/files/pub-pdf/NEW\\_UNPRPD\\_UNFPA\\_WEI\\_-\\_The\\_Impact\\_of\\_COVID-19\\_on\\_Women\\_and\\_Girls\\_with\\_Disabilities.pdf](https://www.unfpa.org/sites/default/files/pub-pdf/NEW_UNPRPD_UNFPA_WEI_-_The_Impact_of_COVID-19_on_Women_and_Girls_with_Disabilities.pdf)

<sup>31</sup>Center for Health, Human Rights and Development (CEHURD) and Iga Daniel vs. the Attorney General <https://www.cehurd.org/wp-content/uploads/2015/11/constitutional-petition-64.pdf>

The Uganda Persons with Disability Act, 2020, explicitly has a provision on nondiscrimination in employment for persons with disabilities.<sup>32</sup> It further recognizes a failure to provide reasonable accommodation as discrimination.

## In Kenya

The Access to Government Procurement Opportunities (AGPO) initiative<sup>33</sup> for women, youth, and persons with disabilities was operationalized in the Public Procurement and Disposal Act 2005. In the Public Procurement and Disposal (Preference and Reservations) Amendment Regulations, 2013, procuring entities are mandated to allocate at least 30% of its procurement spending for the purposes of procuring goods, works, and services from micro and small enterprises owned by youth, women, and persons with disabilities.<sup>34</sup> However, it has been found that the scheme has not benefitted persons with disabilities as much as it was intended, with currently only 4.9% of businesses being owned by persons with disabilities.<sup>35</sup> The situation regarding underrepresented groups of persons with disabilities is even more concerning, for instance, of the 3000 odd persons with intellectual disabilities that are members of the Kenyan Association of the Intellectually Handicapped, none of them has accessed this scheme, attributing this to the qualifications for the process, which are quite onerous for small organizations run by persons with disabilities.<sup>36</sup> It is important for the authorities to capture disaggregated data on the persons with disabilities who do access this program and to ensure that in the overall 30%, each beneficiary group is allocated a 10% quota, for it to be truly effective.

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## Recommendations

This section of the study offers general recommendations to States Parties and also specific recommendations to organizations of persons with psychosocial disabilities.

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<sup>32</sup>Uganda Persons with Disability Act, 2020, <https://ulii.org/akn/ug/act/2020/3/eng%402020-02-14>

<sup>33</sup><http://wtochairs.org/sites/default/files/KENYA%20ASSESSMENT%20OF%20ACCESS%20TO%20GOVERNMENT%20PUBLIC%20PROCUREMENT%20OPPORTUNITIES%20FOR%20>

<sup>34</sup>Regulation (31) (1). This particular kind of clause has been highlighted by the CRPD Committee with caution: while procurement measures giving preference to enterprises run by or employing persons with disabilities is a form of affirmative action, preferential purchasing policies that promote or support segregated employment are not affirmative action measures consistent with the Convention (Committee on the Rights of Persons with Disabilities, General Comment No. 8 (2022), paras. 41 and 42).

<sup>35</sup>Hivos, *Kenya's Efforts to Empower Women, Youth and Persons with Disability through Public Procurement* <https://hivos.org/assets/2021/02/Agpo-Report-Web-version-Full-Report.pdf>

<sup>36</sup>Interview with Fatma Haji, KAIH, February 2023.

## Recommendations to States Parties

States are obligated to respect, protect, and fulfill the right to inclusive employment in its full presentation under Article 27. This entails:

- Removal of all laws and policies or guidelines that prohibit or interfere with the employment of persons with psychosocial disabilities, including laws related that interfere with the equal recognition before the law of persons with psychosocial disabilities.
- Prohibiting disability-based discrimination, including workplace harassment, in the area of work and employment, and ensuring that legislation creates the obligation to provide reasonable accommodation and stipulates that denial of reasonable accommodation constitutes discrimination.
- Ensuring that private sector and informal sector employers do not discriminate against persons with psychosocial disabilities.
- Promoting widespread understanding and acceptance among employers, including in the private sector, as well as persons with disabilities themselves, of the concept of reasonable accommodation and the consequences of unlawful denial of the same.

In addition, States Parties should adopt positive measures, including affirmative action to increase employment of persons with psychosocial disabilities in the public and private sectors, including affirmative action measures which are non-discriminatory and fully inclusive of persons with disabilities.

Access to employment does not stand alone; there are multiple rights that, when realized, support the realization of Article 27. This includes inclusive education, the right to live independently and within the community, the implementation of social protection schemes that support addressing disability-related costs in seeking employment, and access to assistive devices, among others. This is especially important for persons with psychosocial disabilities who are moving from institutional care into the community as Article 19 of the CRPD is progressively realized. States must also mobilize resources for persons with psychosocial disabilities to start their own enterprises by providing access to financial services, seed funding, etc., for persons with psychosocial disabilities to start their own enterprises.

Both State actors and employers carry the responsibility of ensuring that all positive measures or programs are designed and promoted in a way that recognizes the value of diversity in the workplace and equal career development for all.

States Parties should ensure equal access to vocational training and rehabilitation programs that are nondiscriminatory, accessible to, and inclusive of all persons with disabilities, especially those experiencing multiple and intersecting forms of marginalization, including through providing reasonable accommodation.

States Parties must include indicators on disability when collecting data on employment so as to allow for well-informed and targeted efforts to be made to improve the employment situation of persons with disabilities, and capture data on the inclusion of underrepresented groups.



States must involve representative organizations of persons with disabilities in the design, implementation, evaluation, and monitoring of all policies and programs related to the employment of persons with disabilities. An independent mechanism to monitor the implementation of the Convention, as provided for under Article 33 of the Convention, can play a role in helping to create stronger links between social partners already engaged in employment policy and monitoring and representative organizations of persons with disabilities.

## **Recommendations to the Private Sector**

While the private sector engagement depends a lot on the involvement of the State (by framing laws, regulations, and offering incentives) and the OPDs (for providing expertise), still there are a few suggestions for the private sector as they are increasingly being seen as desirable employers of persons with disabilities with several private sector-led initiatives to promote employment of persons with disabilities.<sup>37</sup>

- National Chambers of Commerce and Industry should engage with OPDs to learn about good practices for the employment of persons with disabilities, including psychosocial disabilities.
- Human Resource Managers' Associations and similar bodies should develop, in consultation with OPDs, equal opportunity policies for all employees, including for persons with disabilities. This should include clear policies on reasonable accommodation and supports for the career path of persons with disabilities for industry-wide adoption.
- Recognition of private sector organizations that employ and successfully retain a diverse pool of persons with disabilities, including youth and women.

## **Recommendations to Organizations of Persons with Psychosocial Disabilities**

OPDs have an important role in ensuring that persons with disabilities are aware of their rights and have the support of an organization to realize them. In the case of psychosocial disability, this is especially important, as conditions remain extremely medicalized and a shift to the social model is happening gradually. OPDs must:

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<sup>37</sup>For example, the Valuable 500, which is a global collective of 500 CEOs and their companies committed to employing persons with disabilities and innovating for disability inclusion. <https://www.thevaluable500.com/>

- Build the capacities of women and youth with psychosocial disabilities on the CRPD to know and advocate for their rights, and to also include more women and young people in leadership roles.
- Raise awareness on the rights and potential of persons with psychosocial disabilities. This will combat stigma and misconceptions about persons with psychosocial disabilities and also combat gender stereotypes against women and youth with psychosocial disabilities.
- Build partnerships and collaborations with both public and private employers to give support and job coaching to employees with psychosocial disabilities.
- Conduct trainings on inclusion of persons with disabilities at workplaces in different workplaces (private and public) including OPDs.
- Increase advocacy for inclusion of persons with psychosocial disabilities in all development spheres.
- Advocate for inclusive policies at workplaces such as gender policies alongside Human resource policies.

### **Good Practice**

TRIUMPH is an OPD in Uganda that advocates for the inclusion and rights of persons with psychosocial disabilities and also employs persons with psychosocial disabilities. They have identified some good practices in their experience that have worked for inclusive employers.

Mentorship and job coaching.

Appreciating the diversity and value that each one of them brings to the organization.

Avoid work-related stress that can result in many errors.

Sharing love, and everybody comes to work with the courage that she/he is loved and valued. This is because persons with psychosocial disabilities come from a journey full of loss and suffered violence.

Respecting the recovery journey using the World Health Organization (WHO) Recovery wellness plan. Here we ask “What keeps you well at work? And what causes you to become unwell?”. Share with the management the support that you need to be productive at work.

Using empowering words; consistently communicating their value to the organization.

Entering from the point of strength, not only bring out the negatives about the employee.

Listen nonjudgmentally.

Determine not to give up on an employee with psychosocial disabilities.

Promoting exposure since most persons with psychosocial disabilities are not even exposed due to many barriers they face in the society.

## Conclusion

Notwithstanding the specific manner in which the right to dignified employment has been articulated under the human rights instruments and in CRPD Committee jurisprudence, the trickle-down effect into national legislation and frameworks, and further into the reality of labor force participation, is yet to be seen. The labor force participation rate of women and youth with psychosocial disabilities in Africa continues to be very low and undesirable when compared to the general population and when compared to the different categories of disabilities.

The dearth of context-relevant scientific evidence on issues of persons with psychosocial disabilities, particularly on the situation of women and youth with psychosocial disabilities in Africa, is of concern. There is a lack of evidence on work and employment of women and youth with psychosocial disabilities in Africa. It is hoped that this study will benefit the policy makers, governments, public and private employers, and OPDs. The experience of women and youth with psychosocial disability in the labor force is also essential for any study or programs on the transition from informal economy to formal economy for rural women and youth with psychosocial disabilities, as well as while studying access to social protection.

In this study, it is evident that women and youth with psychosocial disabilities are willing and can work on an equal basis with others, given the appropriate support they require to perform the inherent requirements of their work on an equal basis with others. It highlights the numerous challenges they face in their course of work and employment, including: disclosure of mental health impairments amounting to discrimination; failure to articulate and understand reasonable accommodation; lack of meaningful alternatives and situations of coercion; unequal pay and recognition for work of equal value; and the myriad ways in which women and youth with psychosocial disabilities experience multiple and intersectional discrimination in work.

However, this study also highlights the facilitators to gainful employment for women with psychosocial disabilities, such as empathetic employers and simple measures for reasonable accommodations. Other factors that have shown to be important are closer and meaningful consultation and involvement of OPDs of persons with psychosocial disabilities right from the hiring process; linking women and youth with psychosocial disabilities to potential employers; and mentorship and coaching.

The first-person accounts that were shared with the primary researcher also underline the transformative nature of steady and dignified employment. There is a global shift in medicalized approaches to mental health to a recognition that socio-economic factors, including unemployment, have a huge impact on mental health (Macintyre et al., 2018). While this was not something focused on during the KIIs, where participants received support, they appeared to have overall better outcomes in other facets of their lives. Any measures to improve outcomes for persons with psychosocial disabilities and to support their inclusion in the community must also include measures towards inclusive employment. As we move towards

implementation of the deinstitutionalization guidelines<sup>38</sup> and discussions on community inclusion<sup>39</sup>, it becomes essential to also consider the barriers being experienced by women and youth with psychosocial disabilities and to address them by scaling up some of the good practices that have been seen.

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## Annexure 1: Key Terminologies

**United Nations Convention on the Rights of Persons with Disabilities (CRPD):** An international human rights treaty of the United Nations intended to protect the rights and dignity of persons with disabilities.

**Disability:** The preamble of the CRPD recognizes that “disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.”

**Persons with disabilities:** CRPD Article 1 states that “persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

**Organizations of persons with disabilities (OPDs):** These are organizations established predominantly with the aim of collectively acting, expressing, promoting, pursuing, and/or defending the rights of persons with disabilities. OPDs. They employ, are represented by, entrust or specifically nominate/appoint persons with disabilities themselves. They may represent one or more constituencies of persons with disabilities or operate cross disability. General Comment No. 7<sup>40</sup> gives more clarity on what OPDs are, as opposed to organizations working for persons with disabilities.

**Psychosocial disabilities:** The Mental Health and Human Rights Resolution of the Office of the United Nations High Commissioner for Human Rights (OHCHR, 2017) defines persons with psychosocial disabilities as, “persons who, regardless of self-identification or diagnosis of a mental health condition, *face restrictions in the exercise of their rights and barriers to participation* on the basis of an *actual or perceived* impairment.”

The term “**work**” is broad and includes unpaid work in the home or in a family enterprise, paid work for another person or organization in the formal or informal economy, and self-employment.

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<sup>38</sup>Committee on the Rights of Persons with Disabilities, Guidelines on deinstitutionalization, including in emergencies (2022) <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd5-guidelines-deinstitutionalization-including>

<sup>39</sup>Office of the High Commissioner on Human Rights, Support systems to ensure community inclusion of persons with disabilities, including as a means of building forward better after the coronavirus disease (COVID-19) pandemic (2023) <https://www.ohchr.org/en/documents/thematic-reports/ahrc5252-support-systems-ensure-community-inclusion-persons-disabilities>

<sup>40</sup>Committee on the Rights of Persons with Disabilities, General Comment No. 7 (2018), paras. 10–14.

**Livelihood** is “the means by which an individual secures the necessities of life.” It may involve work at home or in the community, work alone or in a group, or for an organization, a government body, or a business. It may be work that is remunerated in kind, in cash, or by a daily wage or a salary.

**Reasonable accommodation** means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. Discrimination on the basis of disability includes all forms of discrimination, including denial of reasonable accommodation (CRPD).

The **formal economy** is regulated by the government and includes employment in the public and private sectors, where workers are hired on contracts with a salary and benefits, such as pension schemes and health insurance.

The **informal economy** is the unregulated part of a country’s economy. It includes small-scale agriculture, petty trading, home-based enterprises, small businesses employing a few workers, and other similar activities.

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## Annexure 2: Researcher Standpoint and Background

Dorothy Nakato is an Indigenous woman with psychosocial disabilities from rural Uganda.

She experienced many barriers as a learner with psychosocial disabilities and earned a bachelor’s degree in commerce majoring in accounting from Makerere University. She began advocacy for persons with psychosocial disabilities in 2017. Dorothy is a co-founder and Executive Director of Uganda National Self-Advocacy Initiative (UNSAI) – A peer-led organization of persons with psychosocial disabilities.

After completing the Bridge CRPD-SDGs Training, Dorothy began passionately advocating for policy change through conducting research, writing policy papers, and storytelling on good practices. She has also been trained as an inclusive facilitator on the rights of persons with disabilities. She has been awarded fellowships with IDA-WNUSP, Transforming Communities for Inclusion, and the Zero Project as an Impact Transfer Fellow. Recently, Dorothy won a prestigious award with Zero Project on independent living and being included in the community for persons with psychosocial disabilities.

The International Disability Alliance (IDA) is a global alliance of organizations of persons with disabilities. With member organizations around the world, IDA represents the estimated one billion people worldwide living with a disability. This is the world’s largest – and most frequently overlooked – minority group. IDA aims to promote the effective and full implementation of the UN CRPD worldwide, as well as compliance with the UN CRPD within the UN system, through the active and coordinated involvement of representative organizations of persons with disabilities at the national, regional, and international levels. IDA supports organizations of

persons with disabilities (OPDs) at national and regional levels through trainings and disseminating resources and information.<sup>41</sup>

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### **Annexure 3: Methodology of the Study**

As this project was being conceived in a context where there was little or no research, the methodology developed was around Key Informant Interviews (KII). The interviewees included youth and women with psychosocial disabilities both from the rural and urban areas.

Interviewees also included a few individuals in pivotal positions related to the implementation and/or monitoring of Article 27 of the CRPD, including organizations of persons with disabilities (OPDs), Human Rights Commissions, and government bodies. These interviews were conducted online because of COVID-19 restrictions.

A semi-structured interview guide was developed and used with 21 participants of the KIIs. A desk review was conducted to complement the qualitative interviews and contextualize individual experiences, as well as inform recommendations. Information was also collected from stakeholders by way of a discussion webinar on gainful employment for women and youth with psychosocial disability.

### **Limitations**

There were several limitations to this study:

COVID-19 hindered face-to-face KIIs. Consequently, these were held online. This meant that many KII participants especially women and youth with psychosocial disabilities in the rural areas could not participate, as they do not have access to computers or smart phones.

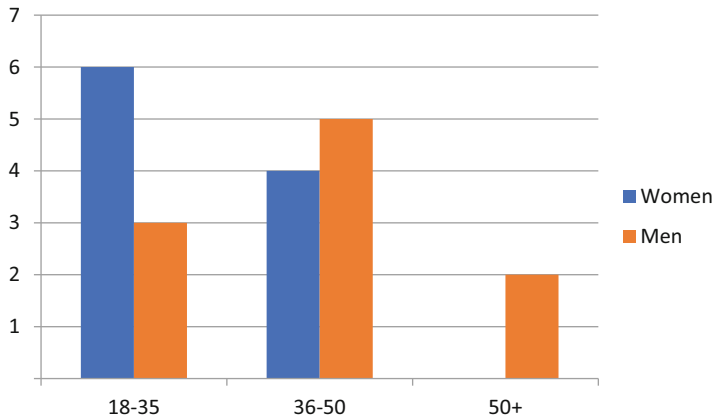
Challenges posed by frequent internet disconnections with the KII participants consumed a lot of time.

With regards to Kenya, there was a specific challenge, as the researcher had not obtained a “research license.”<sup>42</sup> Government officials in Kenya who were contacted

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<sup>41</sup>For IDA, Amba Salelkar, Capacity Building Senior Technical Advisor, worked on this paper with Dorothy.

<sup>42</sup>In Kenya, a research license denotes permission to undertake research and is issued by the National Commission for Science, Technology and Innovation (NACOSTI) as per the ST&I Act to regulate and assure quality in science, technology, and innovation sector and advice government on matters related thereto. The Science, Technology and Innovation (ST&I) Regulations 2014, Legal Notice No. 108 (Research Licensing) Regulations, 2014, obligates all persons intending to undertake scientific research in Kenya to obtain a license in accordance with the Act. The Act states that any person undertaking or intending to undertake research in the country, or who accesses, handles, or transfers any materials or technology or moves it within, from, or into the country, shall apply to the Commission for the grant of a license. This was a learning for the overall fellowship program as well, in that in many country contexts, a license was required for research of any kind.



**Fig. 1** Chart showing number of participants disaggregated by age and gender

for the research expressed an inability to participate as there was no research license issued by the National Commission for Science, Technology and Innovation to the researcher.

## Participants

A total of 21 (14 women and 7 men)<sup>43</sup> between the ages of 18 and 60 years responded to the Key Informant Interview. Most key informants were between the ages of 18 and 35 and women because they were directly targeted as they face multiple and intersecting forms of discrimination in the area of work and employment (Fig. 1).

<sup>43</sup> Among the key informants, there was no one who identified as transgender or nonbinary people.

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