Children, Migration and the Right to Health Conference: Sydney, 2019

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**Title:** Asylum Applications in Kenya and Tanzania: Challenges faced by Unaccompanied Children with Disabilities

**Date:** 26 July 2019
Motivation

- Previous research.
- Current experience.
Location, location
Stats/lay of the land

Refugee population (UNHCR-June, 2019)

- Kenya-474,000.
  - 16% (NBO), 84% (camps).
  - 55% below 17 years.
- Tanzania-340,000 (Jan 2019)

Asylum seekers (2018)

- Kenya-50,000
- Tanzania-40,000
- Half are children?

CWDs?
UCWDs?
Children-Terms?

- Vulnerable
- Inquisitive
- Scared
- Manipulate
- Trust
- Innocent
- Violent
- Smart
- Caring
- Attention
Overall protection

General duty to protect UMs.

- Best interest of the child (CRC)
- PWDs (CRPD art 11 - situations of conflict: ‘all necessary measures’; art 12 African Charter on PWDs)
Layers of Protection

• **International**
  - CRPD, CRC, ICESCR, ICCPR-due process provisions.

• **Regional**
  - Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa, 2018

• **Domestic**
  - Refugee Legislation.
  - Disability specific.
  - Constitutional provisions re: due process, equality, dignity, access to information, movement, socio-economic.
Protection Concerns

Flight, RSD and post-RSD.

- Cultural attitudes-CWDs hidden (shame/protect family).
- Discrimination.
- Communication barriers.
- Movement/access.
- Access to justice-AJS?
- Health
Protection Concerns (con’t)

- Dignity (*MWK & Another v The AG & Others* [2017] eKLR (Mativo J, handed down 18 Dec, 2017)-tied to privacy and prohibition from degrading treatment.

Protection Concerns (con’t)

- Movement/access.
- Resettlement-health test
- Repatriation
Conclusion: Interventions

- Local NGOs (hearing devices); Intnl-wheel chairs.
- Judiciary (court of appeal nominee-reasonable accommodation)
- Government commissions (Kenya National Commission on Human Rights)
- Continental courts and Commissions
- ACHPR Special Rapporteur on Refugees, Asylum seekers and Displaced Persons in Africa
- Law Schools & other monitoring agencies.
- Community
- “Persons with Special needs”-burden?
Conclusion: Interventions (con’t)

- Stats.
- Access to Infor.
- Inclusion, inclusion, inclusion.