It is estimated that 10 percent of the world’s population are persons with disability. Due to intrinsic and extrinsic factors, a very small percentage of Persons With Disabilities get basic formal education and worse still a smaller number get to tertiary levels. However, for these individuals to benefit fully from higher education system, they need a considerable modification of their environment and provision of special services. These are provisions outlined in the Persons with Disability Act (2003). During post-independence period, several commissions of education have been formed resulting to reports and sessional papers, each reporting on the plight of education for persons with disabilities. The Koech Commission of 1999 specifically noted that there were over 1,000 past recommendations by the previous commission that had not been implemented due to lack of a legal framework. The Person with Disabilities Act was then enacted in 2003. Unfortunately, six years after the enactment of the Act, the full implementation of its provisions are yet to be realised. This paper, therefore, explores the extent to which Persons with Disability Act 2003 has been implemented in public universities in Kenya and its impact to the students learning and the general social interactions with reference to visually, hearing, and physically impaired. The results are based on a qualitative mixed research study conducted in a public university in Kenya in 2009. It is hoped that the results of this study will shed light on the present situation, challenges and potential hindrances for persons with disability with the aim to help them achieve their full capability and potential. Stakeholders in education such as policies makers, administrators, financiers and educators will gain insights on the same with an aim of providing equitable accessible education for Persons With Disabilities (PWDs) so as to offer them equal footing with the normal students.

2 Background to the Study
A conducive learning environment is essential for every student in any educational institution if optimal learning is to take place. For PWDs, certain environmental conditions are paramount for them, to aid in their learning and overall wellbeing. The Persons with Disabilities Act (2003) is a document that was enacted by the Parliament in 2003. It gave this study the basis of evaluating tertiary institutions both governmental and non-governmental in order to establish if “what is” is “what ought to be.” This paper therefore, evaluates selected areas of the Act and the extent to which it has been implemented in institutions of higher learning in Kenya. A case study of Moi University was selected for the study.

PWDs have been treated by different communities as different and sometimes in an inhumane way. It is estimated that about 10 percent of any population consists of individuals with disabilities.
(Ndurumo, 1993). This therefore means that, with the current population of the Kenya which is estimated at 36,000,000, there should be 3,600,000 PWDs in the country.

3 History of Education for PWDs

PWDs were treated in an inhumane way by different communities. In discussing this, Payne and Mercer (1975) and Payne and Thomas (1978), both as cited by Ndurumo (1993), gives the five historical eras in regard to PWDs. The first era was that of extermination, which involved infanticide. Newly born infant were killed if found with any form of physical deformities or severe mental retardation. An example of such societies that practiced infanticide was the Greeks, the Romans and Africans.

The second era was that of ridicule where PWDs were used as court clowns and for entertainment of the privileged people in the society. During the third era, the middle age, the church took the responsibility towards PWDs. They were kept in asylums and given humane care. The fourth and the final eras were those of education and vocational training. These were aimed at making the individuals self reliant. However, it should be noted that such treatments ranging from extermination during the first era, to education and vocational training in the final, are still practiced by different communities and societies.

4 The Pre-Colonial Times in Kenya

Consideration for PWDs in Kenya formally started during the World War I with rehabilitation of wounded army officers who returned from war in 1945 (Randiki 2002, as cited in Mbui, 2003). Services offered at this time were for the physically impaired, visually impaired and the brain damaged. Later on, other impairments were included.

Special education was initially managed by the Salvation Army and Lutheran Churches. These churches offered prayers, counselling and rehabilitation of war victims. NGOs such as the Rotary Club, Kenya Red Cross, and others, played an important supportive role. These churches also gave medical care and other facilities (Mbui, 2003).

Formal education for PWDs in Kenya dates back to 1946 with the establishment of vocational training for the blind at Thika. The focus, at this point, was in education for the blind. Later on, in 1948, education for the mentally retarded was introduced, followed by education for the deaf in 1958, and later for the physically impaired in 1962.

5 Post-Colonial Times in Kenya

Soon after independence in 1964, the Government appointed a committee on the “care and rehabilitation of the disabled,” called the Ngala Mwendwa Committee, to:

1. Study and advice on the number and types of disabled persons.
2. Formulate a programme for training and placement of persons with disabilities.
3. Co-ordinate services for the disabled. The formation of this committee resulted to Sessional Paper No. 5 of 1968 on Special Education (Mbui 2003). This led to the establishment of the first rehabilitation centre in Nairobi in 1971 under the Ministry of Culture and Social Services to prepare the disabled school leavers for employment. The Ministry of Education also established the special education inspectorate section and an administrative unit for the purpose of effective management and supervision of special education programmes. Other units followed in each province.

In 1985, the Kenya Institute of Special Education (KISE) was established to respond to the expanding need for manpower training in all areas of services for the disabled and to carry research and advice on the development of special education. By 1987, special education within the Ministry of Education catered for about 8,000 children in 56 special schools and 46 integrated programmes. There was also training in 10 vocational and rehabilitation centres. Chieni notes that by 1987 the
Government had established 27 educational assessment centres in some special schools in order to identify handicapped children early with an aim of placing them appropriately in schools. However, it is worth noting that all along that in the Kenyan history, tertiary level education for PWDs was not emphasised.

6 Legal Frameworks Related to Persons with Disability in Kenya

In Kenya, there have been several commissions and legal frameworks in place in relation to PWDs, since the attainment of independence. Such commissions and reports include: The Ominde Report of 1964, The Gachathi Report (1976), The Mackay of 1981, The Kamunge Report (1988), The Koech Report (1999), Persons with Disabilities Act (2003), The Children’s Act (2002), and Government Reports on Special Education. These commissions and reports discussed the management of special education, training of teachers, appropriate curricula and examinations, among other areas.

The Ominde Report of 1964 known as The Kenya Education Commission. It stipulated the following:

1. that all people should be served without discrimination,
2. that education be used as an instrument for conscious change of attitude and relationships thus foster respect for human personality,
3. that individuals with mild impairment to continue in regular schools, and
4. that teachers should be trained in special education so as to handle children with mild impairment in regular schools (Randiki, 2002).

The Gachathi Report of 1976, also known as The National Education Committee on Education Objectives and Policies, emphasised on the improvement of education and other services to PWDs both in schools and in communities. The Report suggested, among others:

1. Early identification and placement of PWDs,
2. Creation of awareness to the public of the causes of disabilities with an aim of prevention,
3. Collection of data to establish the extent and nature of handicaps and the need to provide special education,
4. To establish five primary school with special education for early educational intervention,
5. To integrate children with disabilities in regular schools and provide special equipment grant in regular schools for integrated learners,
6. To enable each child with disability to possess basic literacy equipment, and
7. To provide curriculum.

The Report recommended that children with disability who were being isolated from the rest of the society by separating them from the ordinary education instructions and put in special education should be avoided. This resulted to establishment of Kenya Institute of Education (KIE) to create curriculum and provide material for learners with special needs. The need for co-coordinated assessment for learners with special need was felt. Education assessment and resource services were established in 1984 by the Kenya government through the assistance of the Royal Danish Government (DANIDA).

The Mackay Report of 1981, also known as The Presidential Working Party, noted lack of training for teachers in special education and recommended special education programme to be established at Kenyatta University. The Kamunge Report of 1988, and The Koech Report of 1999 recommended on the management of special education, training of teachers, appropriate curricula and examinations, among other areas. On the other hand, The Koech Report specifically noted that there were nearly 1,000 past recommendations not implemented because of lack of a legal framework. It is probably because of this highlight of unimplemented recommendations, that the Government of Kenya came up with The Children Act (2002) and The Persons With Disabilities Act (2003), which stipulate the legal rights of children, and rights and privileges of PWDs. Among such rights are: right to appropriate education, rights to appropriate recreational facilities, mobility rights, rights to assistive devices,
rights to non-discriminatory environment which is accessible to persons with physical impairment, non-discriminatory treatment, and so on.

7 Statement of the Problem
As noted above, The Koech Report of 1988 specifically noted that there were nearly 1,000 past recommendations not implemented because of lack of a legal framework. This is important if “what is,” is to be translated to “what ought to be.” Research and reports by indicate that a legal framework should ideally have a positive influence on students with disabilities’ academic achievement, social skills, and social adjustments. However, as noted earlier, even after the enactment of The Persons With Disabilities Act (2003), students in learning institutions continue to face challenges that are institution related. It is in light of this that questions arise on the role of the Act in lessening the challenges or whether the Act has been implemented in institutions of learning.

8 Aim of the Study
This study aimed at evaluating the extent to which Persons With Disabilities Act (2003) has been implemented in public universities in Kenya. The seven areas evaluated are:
1. Discrimination of students with disabilities by lecturers, fellow students and university staff,
2. Availability of appropriate health facilities,
3. Accessibility and mobility of university facilities and building,
4. Enhancement of civic rights for students with disabilities,
5. Enhanced and modified transportation for PWDs,
6. Availability of appropriate sports and recreational facilities, and
7. Availability of special services for PWDs.

9 Methodology
The study was conducted in Moi University and the key informants were the students with physical, hearing and visual impairment and the university Dean of Students. This study employed mixed research design of qualitative approaches. Designs used were ethnography, phenomenology and naturalistic inquiry. The study attempted to give a “thick description” as possible in order to give the readers of the results of the study an experience of “being there” (Geertz, 1973 as cited in Somekh and Lewin, 2005).

This study being an ethnography studied students with disabilities with an aim of interpreting their world, constructing meaning from their situation and circumstances with a need to understand their peculiar challenges they face, and their learning environment (Goldbart and Hustler in Somekh and Lewin, 2005). Sampling was done purposively since all students with disabilities were involved.

Instruments used were Semi-Structured Interviews for students with disabilities and the Dean of Students, for the purpose of determining the level of satisfaction of students with disabilities with the structure in place in the institution, and how these structures affects them in learning and socialisation process. Observational schedules were also used to determine physical structures in place for students with disabilities. Visual recordings were done of the physical structures and audio recordings done for interviews with students with disabilities. Informed consent was sought from the students before embarking on the study.

In regard to the validity of the instruments used, a group of judges with knowledge in special education were used to determine the content validity of the instruments alongside the objectives of the research and The Persons With Disabilities Act (2003). Reliability was established through Triangulation.
10 Data Presentation and Analysis
Student with disabilities attending Moi University from 2001-2009.

Table 1: Students with Disabilities Attending Moi University.

<table>
<thead>
<tr>
<th>Disability</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physically Impairment</td>
<td>25</td>
<td>2</td>
<td>27 (71.1%)</td>
</tr>
<tr>
<td>Visual Impairment</td>
<td>6</td>
<td>3</td>
<td>9 (23.6%)</td>
</tr>
<tr>
<td>Hearing Impairment</td>
<td>1</td>
<td>1</td>
<td>2 (5.3%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>32</strong></td>
<td><strong>6</strong></td>
<td><strong>38</strong> (100%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Academic year</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001/2002</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2002/2003</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2003/2004</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>2004/2005</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2005/2006</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2006/2007</td>
<td>8</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>2007/2008</td>
<td>14</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>2008/2009</td>
<td>8</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>32</strong></td>
<td><strong>6</strong></td>
<td><strong>38</strong> (100%)</td>
</tr>
</tbody>
</table>

It is notable that enrolment of students with disabilities is very low. As noted earlier that persons with disabilities in a population account for 10 percent. It is therefore expected that with an approximate population of 20,000 students at Moi University, 2,000 of them should be individuals with disabilities. This clearly does not portray equity.

10.1 Discrimination and Use of Offensive Language
The study observed that there was no direct discrimination to students with disabilities. However, there was non-obvious form of discrimination such as not being allowed opportunities to participate in class activities such as answering questions in class for the hearing impaired, participating in practical aspects of learning for the physically impaired and the visually impaired. The lecturers and educators have not been trained to handle such cases. Communication barriers for the hearing impaired and the mobility limitations for the physically impaired hindered optimal socialisation process that is paramount for formal and informal learning in the university.

Notably, as discussed earlier, *The Ominde Report of 1964, The Mackay Report of 1981 and The Koech Report of 1999* noted shortage of teachers to handle children with disabilities either in regular schools or special schools. In addition, KIE further recommended a 1:12 ratio for other categories of disability except mentally retarded children with the ratio of 1:6. In educational institutions in Kenya, the current teacher-student ratio ideally should be 1:40. However, the current ratio in
public universities is up to 1:700. Therefore, having individualised teaching has become close to impossible.

10.2 Availability of Appropriate Health Facilities
Due to the nature of the disabilities, students with disabilities need specialised health services. However, this is not the case at Moi University. The University health centre was found not to offer such services. Thus students with disabilities reported to have special health services outside the services offered by the university and at their cost.

10.3 Accessibility and Mobility to University Facilities and Building
Students with physical impairment consisted of 71 percent of the population of students with disabilities. The study observed that students in Moi University experience architectural barriers and especially in major building such as the library, lecture hall, administrative offices, counselling offices, halls of residence, and dinning halls. One of the student with physical handicap reported that “I did not attend a whole semester’s lectures because it was practically not possible to get to the second floor, and I did not want to bother my friends to carry me up and down the stairs – at least not with my weight.” Yet another student in a wheelchair reported to have always been pushed to read behind the issue desk in the library while his friend enjoyed the luxury of getting books of their choice from the upper floors in the library. Lifts in the university were non-functional and in
some buildings non-existent and therefore making accessibility to some building impossible if not
difficult. However, the study noted that some pavements and buildings had ramps that helped in
mobility of the physically handicapped and the visually impaired.

10.4 Enhancement of Civic Rights
The study observed the process of electing students leaders at Moi University in March 2009.
There was no explicit discrimination in the voting process since all students had the right to vote.
However, one blind student reported not to have voted since the voting materials were not friendly
to him. He pointed out that “Voting is a confidential matter that no one should know who you
select as your chosen leader, why then should there be no voter’s papers written in Braille.” Some
of the voting areas had architectural barriers for the physically impaired. The hearing impaired
pointed out that no person is available for them to be able to translate for them in sign language any
information to be communicated or any issue to be asked or raised by them.

10.5 Enhancement and Modification of Transportation System
The study observed that transport system in the university was not modified to fit individuals with
physical handicap and especially those in wheelchairs. This become uncomfortable for these student
to travel in the University vans or buses.

10.6 Appropriate Sports and Recreational Facilities
Sports and recreation are important for students as is the famous saying that “works without play
makes jack a dull boy.” The study noted that there were no sporting activities and recreational
facilities designed for students with hearing, visual and physical impairment. During major sporting
activities in the University, there should be assistive services for students with disabilities which is
not the case.

10.7 Special Services
Moi University was noted to have special services for the visually impaired. There is the provision
of transcribing services, Braille machine and Braille paper. However, there is lack of readers to help
the visually impaired in personal studies, personal guide and books written in Braille. One visually
impaired student was reported saying “It makes me feel under the mercies of others and especially
when I need to study. I have to beg for my friends or workers in the library to look for me materials
I need to study and then beg them further to read for me. Sometimes, they get me what they think
I need not what I tell them I need.”

The hearing impaired, on the contrary, have not been provided with special services interpreters
in lecture rooms and other public meetings. This makes communication and socialising difficult.
The physically impaired reported not being provided with assistants especially where mobility is a
major problem. However, there are incidences that the office of the Dean of Students has provided
aides who are fellow students on work study programme.

10.8 Persons With Disabilities Policy
The University has no policy in place regarding PWDs. However, the Institute of Gender and
Research Development (IGERD) has proposed such a plan and five-man committee appointed to
come up with a policy that safeguards the rights of PWDs at Moi University.

11 Recommendations
The study therefore recommended the following:
1. Implementation of Persons With Disabilities Act (2003),
2. Development and implementation of university’s students with disabilities policy,
3. An establishment of Office of Students with Disability under the Dean of Students,
4. Education of students, lecturers and all staff member on the needs of students with disabilities and ways of handling them to avoid discriminatory acts,
5. Appropriate health facilities,
6. Making university facilities and buildings accessible,
7. Enhancement of civic rights for students with disabilities,
8. Enhanced and modified transportation for persons with disabilities,
9. Availability of appropriate sports and recreational facilities for PWDs, and
10. Availability of special services for persons with disabilities such as sign language interpreters for the hearing impaired, readers and personal guides for the visually impaired, and personal aides for the physically impaired.

12 Conclusion
In the above report, it is notable that there are numerous challenges that are faced by students with disabilities in learning institutions and especially if they are to learn in an integrated environment with non-handicapped students. The study noted that the seven areas of the persons with disabilities evaluated were to a small extent implemented. Therefore, these challenges bring into focus the need for implementing The Persons With Disabilities Act (2003). The future of students with disabilities depends on how the current generation and institutions handle the current challenges facing these individuals and the efficiency of implementing this Act to aid them to access equal learning and social opportunities as the non-handicapped students.

13 References