



Rights of persons with disabilities

Introduction

Disability can be defined as a physical or mental impairment, which has substantial and long-term adverse effects on a person's ability to carry out normal activities. Common forms of disability range from intellectual, physical, mental, deafness or hearing impairment and blindness or vision impairment. Sometimes society, not the actual physical or mental impairment, prevents people with disabilities from functioning normally and experiencing equality of opportunities. Although persons with disabilities should enjoy the same rights enjoyed by able-bodied people, they often face social, legal, and practical barriers in claiming and enjoying those rights on an equal basis with others. They face marginalization, discrimination, limited access to education and healthcare, reduced economic participation and are more vulnerable to poverty than people without disabilities. This disparity can be addressed by setting up and implementing a legal and policy framework which promotes and protects the rights of persons with disabilities complimented by behaviour change programmes for society.

Causes of disabilities

Causes of disabilities are multiple and can be man-made or natural. Man-made causes include road accidents, violence (crime or war), and general environmental mismanagement resulting in increased vulnerabilities for humans. Natural causes include untreated child and adulthood diseases, trauma, congenital disorders that exist at or before birth, usually hereditary or as a result of environmental influences.

Policy and regulatory environment

Persons with disabilities are recognised in the National objectives in the Constitution of Zimbabwe. Section 22 specifies that;

- (1) The State and all institutions and agencies of government at every level must recognise the rights of persons with physical or mental disabilities, in particular their right to be treated with respect and dignity.
- (2) The State and all institutions and agencies of government at every level must, within the limits of resources available to them, assist persons with physical or mental

disabilities to achieve their full potential and to minimise the disadvantages suffered by them.

(3) In particular, the State and all institutions and agencies of government at every level must –

- a. Develop programmes for the welfare of persons with physical or mental disabilities, especially work programmes consistent with their capabilities and acceptable to them or their legal representatives;
- b. Consider the specific requirements of persons with all forms of disability as one of the priorities in development plans;
- c. Encourage the use and development of forms of communication suitable for persons with physical or mental disabilities; and
- d. Foster social organisations aimed at improving the quality of life of persons with all forms of disability.

(4) The State must take appropriate measures to ensure that buildings and amenities to which the public has access are accessible to persons with disabilities.

The Zimbabwean Constitution protects the rights of all citizens and provides that

persons with disabilities have the rights to enjoy all the rights enjoyed by persons without disabilities. Part 3 of the Constitution, obliges the state under Section 83 to take appropriate measures, within the limits of the resources available to it, to ensure that persons with disabilities realise their full mental and physical potential, including measures;

- a) to enable them to become self reliant;
- b) to enable them to live with their families and participate in social, creative or recreational activities;
- c) to protect them from all forms of exploitation and abuse;
- d) to give them access to medical, psychological and functional treatment;
- e) to provide special facilities for their education; and
- f) to provide State-funded education and training where they need it.

The rights of persons with disabilities are also named in treaties, international norms and standards that include the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment; the **Convention on the Rights of the Child**; the UN

Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol (A/RES/61/106); the African Charter on Human and Peoples' Rights (ACHPR); and the SADC Protocol on Gender and Development.

State of persons with disabilities in Zimbabwe

Legal provisions for persons with disabilities are inadequate for their rights to be enjoyed in full. Persons with disabilities in Zimbabwe are vulnerable to the following: social exclusion and discrimination; lack of services and support in health, education and others; inadequate care and support; unemployment and lack of meaningful opportunities; limited access to information and communication; and patronage.

- a. *Social exclusion and discrimination:* Persons with disabilities, as a result of stigmatization, are “hidden” from the public view or ignored. Due to effects of stigmatisation of disability, persons with disabilities are “hidden” from the public view or ignored. Some of them are kept invisible, not mentioned as family members or just regarded as absent because of their conditions. This exclusion makes them feel unacceptable and shunned, undermines their capacity to have a social existence and integrate.
- b. *Lack of services and support:* Most public buildings and amenities for social, health and education services are not readily

available, accessible and of value to the needs of persons with disabilities. Service providers for health, justice, law enforcement, education and others have limited or no language or mobility facilities for the disabled. Service costs are not structured to meet their demand and affordability considerations.

- c. *Employment:* While the nature of their access to education, training and impairments reduces their competitiveness against the able-bodied, no preferential treatment or affirmative action for the employment or access to income generating opportunities is offered. Resultantly most disabled persons get relegated to menial, exploitative or lowly paid employment or trade for their livelihoods.
- d. *Inadequate care and support:* Care and support for persons with disabilities is not fully supported by legislation and government budget provision. Disability policies on inclusive education and development are more theoretical than practical. For instance some special education schools have limited or no teaching staff trained in special education. Costs of managing diagnosis, rehabilitation and management of disability are left to their families with no state contributions. Tax exemptions for persons with disabilities and their children are insignificant in comparison to needs.

e. *Access to information and communication:* Most state and non-state institutions are not obliged to package services and information to benefit persons with disabilities such as those who are hard of hearing, the blind, the mentally challenged or those with learning disabilities. Resultantly persons with disabilities are left out of services and information that has universal relevance.

Recommendations

Society should not view persons with disabilities as a medical or charity issue requiring cures or pity. This is patronizing and denigrating. Effects of disability should be identified with the intention of addressing them, not for use as justification for isolation. Persons with disabilities should not be viewed not as "objects" of charity with medical requirements, but autonomous "citizens" with rights, capable of claiming those rights and making their own decisions based on their free and informed consent as active members of society. The Government of Zimbabwe should be more responsive to

the needs of persons with disabilities in line with Constitutional provisions and international standards and norms.

Conclusion

Despite the existence of enabling policies for inclusive development for the disabled, disability perspectives and persons with disabilities remain invisible in mainstream development and policy - making processes. Persons with disabilities do not enjoy the same rights and standards of equality and dignity as everyone else. Relevant training, rehabilitation or use of technology reduces and isolates their social, legal and practical barriers making them capable but differently abled within the confines of their disabilities. Segregation, exclusion and marginalization limit the potential of persons with disabilities and their enjoyment of a host of human rights when they have feelings, needs and aspirations similar to those who are more able. Issues relating to persons with disabilities are not the burden of the health profession, their families and charity organisations, but the state.

The Human Rights Bulletin is produced by the Zimbabwe Human Rights NGO Forum ("the Forum") and is distributed **free of charge** through its member NGOs. If you would like to distribute copies, please contact us at;

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