



Equal Zimbabwe



Equal Zimbabwe: National campaign policy brief

February 2024



Sightsavers

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Background

The Equal Zimbabwe national disability rights campaign is a coalition campaign that sets out to promote the inclusion of persons with disabilities in society and eliminate barriers towards the full enjoyment of their rights. This campaign seeks to influence policymakers and duty bearers to enact new legislation on disability to replace the current Disabled Persons Act of 1992, as well as to ensure the operationalisation of Section 83 of the Constitution of Zimbabwe.

The goal of the coalition is to ensure that persons with disabilities in Zimbabwe are afforded clear and pronounced enforceable rights through a holistic legal instrument that also contributes to the domestication of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), as well as contributing towards the achievement of the Sustainable Development Goals (SDGs) and the pledge of the 2030 Agenda for Sustainable Development to leave no one behind.

Equal Zimbabwe is a coalition of over twenty organisations of persons with disabilities (OPDs) from across the country, as well as several civil society organisations

(CSOs). It is led by a steering committee of elected OPD members with Sightsavers Zimbabwe forming the campaign secretariat. As the secretariat, Sightsavers is responsible for the administration of the campaign and for the coordination of the campaign activities engaging all the coalition partners.

This policy brief has been developed from a series of studies and interviews with disability sector stakeholders. It outlines the relevant gaps and identifies policy recommendations in order to ensure the equal enjoyment of rights by persons with disabilities in Zimbabwe.



**Protect.
Defend.
Promote.
Disability
rights.**





Pick Nkomwa, executive director at Nkomwa Foundation, Pedzayi Mangayi, executive director at Hope in Motion and Mthandazo Moyo (with his aide), executive director at National Clinic and Counseling for Persons With Disabilities in Zimbabwe.

Introduction

Zimbabwe has a rich history of advancing the rights of persons with disabilities going back to the early 1990s. Zimbabwe was one of the first countries in Africa that enacted disability legislation, in the form of the Disabled Persons Act [Chapter 17:01] of 1992. In addition, on 23 September 2013, Zimbabwe made great strides towards recognising the rights of persons with disabilities by duly ratifying the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and its Optional Protocol.

In 2013, Zimbabwe adopted a constitution which has been largely accepted as being very progressive¹. The Constitution of Zimbabwe (herein after referred to as the Constitution), was partly a product of the people of Zimbabwe's input and went through a referendum in which it received overwhelming support from Zimbabweans. During the outreach programme, disability was one of the thematic areas and the outreach teams included persons with disabilities. In the Constitution, disability was considered as both a national development and human rights issue.

This is not to suggest that the Constitution's treatment of disability is without challenges. Firstly, while the Constitution was a great initiative in affording persons with disabilities with unrestricted rights, it appears to contain certain provisions that follow the medical model of disability, which puts it somewhat in conflict with the rights-based approach. Secondly, the Constitution lacks clarity in its definition of disability and persons with disabilities, as it only expressly identifies people with physical and mental disabilities.²

Thirdly, the Constitution subjects the recognition of the rights of persons with disabilities to the availability of resources (as noted in Sections 22 and 83), which is not done in respect of other groups.

While there is room to seek more disability-friendly legal provisions to protect and empower persons with disabilities, the constitutional recognition of the rights of persons with disabilities at different levels should be considered as a significant milestone for a country that historically did not formally protect the rights of persons with disabilities.³ It is important to re-emphasise at the onset that Zimbabwe is a state party to the UNCRPD, and it is this standard that all other legal provisions that make up the disability legal framework of Zimbabwe should be measured against. The Convention has not yet been domesticated to be part of our law as is required in terms of section 327 of our Constitution, but it provides sufficient persuasive and moral authority on our country.

This policy brief includes key recommendations that have been adopted and developed from academic literature by key scholars; organisations and analysts on the subject matter over the last 10 years; OPDs; the National Disability Policy of 2021; and the parliamentary report, from the Thematic Committee on Gender and Development on the plight of persons with disabilities and the challenges faced by women and girls with disabilities in Zimbabwe. A series of consultations with OPDs and disability stakeholders, including umbrella bodies such as the National Association of Societies for the Care of the Handicapped (NASCOH) and the Federation of Organisations of Disabled People in Zimbabwe (FODPZ), as well as consultations with the Ministry of Public Service, Labour and Social Welfare, were also instrumental in the development of this policy brief.



Florence Mudzingwa, executive director at Hope Resurrect Trust.



Loveness Sibanda (with her aide), national director of the Disabled Women's Support Organization (DWSO) and also the Chairperson of the National Disability Board.

1 Constitution of Zimbabwe 2013.

2 Section 22, Persons with Disabilities reads: "The state and all institutions and agencies of government at every level must recognize the rights of persons with physical or mental disabilities".

3 "The Rights of Persons with Disabilities in Zimbabwe", Christine Peta and Admark Moyo.

The Disabled Persons Act of 1992

The Disabled Persons Act of 1992 (DPA) is the major law that addresses disability in Zimbabwe. It is no secret that the DPA is now outdated. This is because in its current state the DPA is not a human rights document, in that it does not confer any rights to persons with disabilities or confer any obligations on the state.⁴

The DPA also follows the outdated medical model of disability in all its provisions. The DPA depicts a person with a disability as a person with a physical, mental or sensory disability, including a visual, hearing or speech-related functional disability, which gives rise to physical, cultural or social barriers inhibiting the individual from participating at an equal level with other members of society in activities, undertakings or fields of employment that are open to other members of society. This definition does not comply with the UNCRPD definition. The definition given above internalises disability. It has also been

suggested that the name ‘Disabled Persons Act’ should be discarded in favour of the internationally preferred terms like ‘Persons with Disabilities’. All these factors are not surprising given that the DPA pre-dates both the UNCRPD and the Constitution. For these reasons, the DPA should be repealed and substituted by an entirely new Act that is in line with the provisions of the Constitution and the CRPD. All these factors and more were expressly captured in the Thematic Committee on Gender and Development report presented before parliament in November 2019.



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The late National Association of Societies for the Care of the Handicapped (Nascoh) director, Henny Masaya speaking at the first National Planning Workshop in March 2023.

⁴ “A Critical Analysis of the Legal and Institutional Frameworks for the Realization of The Rights of Persons with Disabilities in Zimbabwe”, Esau Mandipa.

The parliamentary report of the Thematic Committee on Gender and Development

In 2019, the parliamentary Thematic Committee on Gender and Development produced a damning report on the living conditions of persons with disabilities in Zimbabwe. The report highlighted the findings of the committee, including high levels of stigmatisation and discrimination faced by persons with disabilities, in particular women and girls with disabilities. The committee concluded that despite the significant efforts made by the government, persons with disabilities still experience challenges in accessing social services such as health, justice, social protection, grants and loans, education, information, building facilities, assistive technology and other social amenities.

Consequently, the thematic committee also made recommendations, including: “The Ministry of Public Service, Labour and Social Welfare should bring up a law which fully domesticates the United Nations Convention on the Rights of Persons with Disabilities.”

It has been four years since the report was published in parliament and the recommended law, ‘fully’ domesticating the CRPD, has not yet been enacted. Progress in the advancement of disability policies has progressed nonetheless with the launch of the National Disability Policy.



Equal Zimbabwe OPD partners going through a group exercise during the first National Planning Workshop in March 2023.

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The National Disability Policy of 2021

The National Disability Policy (NDP) was launched by the government in June 2021. Its purpose is “to guide the State and all institutions and agencies of government, development partners and all sectors at every level in formulating and supporting the implementation of laws, policies and intervention strategies that lead to fulfilling, promoting, protecting and respecting the rights of persons with disabilities in Zimbabwe.”

The policy was designed to address the oppression, marginalisation and discrimination that is experienced by persons with disabilities as well as to reduce inequalities and to empower persons with disabilities to improve standards of living for themselves and their families. The

drafting process was very much influenced by the UNCRPD as seen in the similarities in most of the provisions. It was certainly an attempt to domesticate the UNCRPD, but true domestication has not been achieved, as the NDP is not an enforceable act of law but rather a strategic plan of action.



Agness Chindimba, executive director of Deaf Women Included leading a group discussion on the key stakeholders to engage to influence inclusive policy development.

Gaps within the disability legal framework

Another weakness of the DPA is that it only makes provision for adjustment orders relating to already constructed buildings. It does not apply to new buildings under construction or those to be constructed. Many new public buildings are inaccessible to persons with disabilities. This has resulted in extreme difficulties to persons with disabilities when it comes to access to public services such as cinemas and sporting arenas. The DPA also does not address the right to employment for persons with disabilities.

The National Disability Policy attempts to address the gaps contained within the entire disability legal framework (including other acts) and even contains a detailed implementation strategy. But the unavailability of an updated supporting act of law, as well as a gap within the wording of the disability provisions contained in the constitution (sections 22 and 83), which makes any state national disability-inclusive initiative subject to the availability of resources, disarms the influence of the NDP against many non-aligned statutes.

With the intervention of the Inter-Ministerial Taskforce on the Alignment of Legislation to the Constitution (IMT) Technical Committee, more than 40 legal instruments, such as the Education Amendment Act and the Judicial Laws Amendment Act have been realigned to the Constitution. However, over 20 more acts, including the Mental Health Act [Chapter 15:12], the State Services (Disability Benefits) Act of 1971, the Social Welfare Assistant Act (1988) and the Disabled Persons Act, still need realignment.



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OPD partners electing members of the Steering Committee during the third and final National Planning Workshop in October 2023.

Status of the Persons with Disabilities Bill

In 2019, information that the legislature was introducing a new Persons with Disabilities Bill spread among OPDs and interested parties. In the same year, a draft of the Bill emerged and was reviewed through a series of stakeholder engagements. In 2023, the launch of the National Disability Policy has somehow preceded the enactment of a new repealing act.

The Parliamentary Bill Tracker has indicated that the bill has been going through 'fine-tuning at the executive ministerial level, pending approval from the Cabinet Committee on Legislation (CCL). New

information from the Department of Disability Affairs has indicated that the CCL has finally approved the Bill and it will be brought before parliament for reading and approval in due course.



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OPD partners keenly following proceedings during the Stakeholder Mapping.



No provision of Social protection Services to PwD by gov

Unenforceable Policy by the gov

The lives of Pwds will remain Poor

No focus on Disability Programming by Govt

CRPD remains undomesticated by the gov



Lack of passing PwDs Act



Information Deficit on law making Processes by PwDs

Disunity of Disability Movement by the PwDs

Conflicting Interests by PwDs

Disability is not Perceived as National Priority by the Govt

Recommendations

It is clear that the regulatory framework addressing disability matters is not entirely aligned to the Constitution and the CRPD. It has also been noted that the regulatory framework is fragmented, with various pieces of legislation addressing different aspects of disability in a manner that points to a gap in coordination. In order to address these gaps and others, the following steps must be taken:

The Persons with Disabilities Bill must be brought before Parliament for reading and approval.

The Bill must also go through a comprehensive consultation process which is truly inclusive of people with all forms of disabilities from across the country. People with psychosocial disabilities have reported that they are usually denied access to participation in national processes, including platforms where decisions about their rights are discussed due to a misconceived notions about their intelligence and state of mind.

The main legislation on disability must be brought in line with section 83 of the Constitution as well as the UNCRPD.

The current law (the DPA) is now out of sync with the disability rights model. The new act should be able to render practical section 83 of the Constitution as well as the other sections dealing with disability.



Group photo of the Equal Zimbabwe partners at the end of the first planning workshop in March 2023.

Beyond the enactment of a new act on disability, other new pieces of legislation are needed to ensure that persons with disabilities can realise their rights.

For instance, while the Constitution is clear that sign language is an officially recognised language and ought to be improved, there is no operational framework within which that can be achieved. There is a need for a Sign Language Act, which will provide for how sign language can be developed, taught and made available in public places.

Other legislation must align with section 83 of the Constitution as well as the UNCRPD.

For example, Zimbabwe’s Mental Health Act still uses outdated terminology, and there is other legislation that refers to persons with mental impairments as idiots, mentally retarded, imbeciles and insane. These laws also need to be brought into line with the human rights model of disability and should meet the threshold set in section 83 of the Constitution.

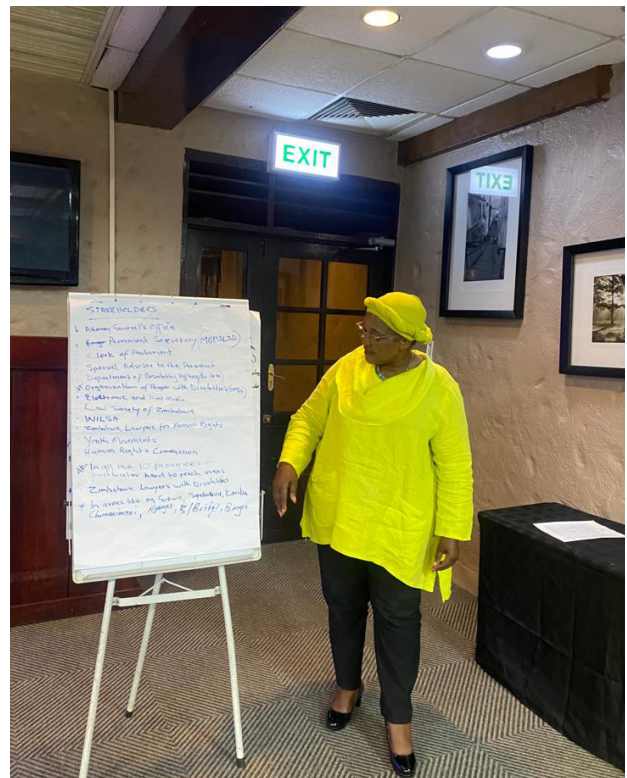
There must be reform in the education sector.

The amended Education Act did not provide for inclusive education. It is imperative that the new Disability Act addresses this. There also needs to be an inclusive education policy that comprehensively spells out the strategic action to be taken in order to effectively implement the directives stated in the National Disability Policy and the Constitution.

For disability laws, policies and provisions to be meaningful, there must be continuous awareness-raising in line with article 8 of the UNCRPD.

This must be done by both government and organisations of and for persons with disabilities.

While the enactment of a new law on disability would be a major milestone in the history of Zimbabwe, the ultimate goal and requirement is for effective implementation of the new aligned act to be instituted. A new aligned act with limited operationalisation will not advance the livelihoods of persons with disabilities in Zimbabwe.



Tabeth Sibanda, director at Kukura Neshungu, doing a group presentation at the second National planning workshop.

Conclusion

Even though the legal framework for persons with disabilities in Zimbabwe is still a work in progress, the headway that has been made so far is highly commendable and shows that the government is committed to advancing the rights of persons with disabilities.

There is still a long way to go before the rights of persons with disabilities are upheld and safeguarded. The Equal Zimbabwe campaign is committed to making this vision of the future a reality.



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Elected Steering Committee Members: from left, Leonard Marange (Chairperson), Timothy Mudarikwa, Tabeth Sibanda, Agness Chindimba, Pick Nkomwa, Pedzisai Mangayi, Senzeni Mutevedzi and Mercy Maunganidze.

List of Equal Zimbabwe OPDs

1. Autism Organization Zimbabwe
2. Federation of Organisation of Disabled Persons in Zimbabwe (FODPZ)
3. Deaf Women Included
4. National Association Society of Care for the Handicapped (NASCOH)
5. Zimbabwe Association of the Visually Handicapped
6. Zimbabwe Women with Disabilities in Development (ZWIDE)
7. Disabled Women's Support Organization
8. Disability Network Goromonzi
9. Zimbabwe Albino Association (ZIMAS)
10. Zimbabwe Parents of Handicapped Children Association (ZPHCA)
11. Nkomwa Trust
12. Quadriplegics and Paraplegics Association of Zimbabwe (QUAPAZ)
13. National Clinic and Counselling for Persons With Disabilities in Zimbabwe
14. National Council for the Disabled Person in Zimbabwe
15. Kukura Neshungu
16. Zimbabwe Down Syndrome Association
17. Hope in Motion
18. Hope Resurrect Trust
19. Centre for Disability Development
20. Chimhanda Disability Organization



Equal Zimbabwe

Leaving no place and no one behind for an Equal Zimbabwe

Join our campaign and let your voice be heard
in support of enacting a new persons with
Disabilities Act

www.equalzimbabwe.org



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