



THE HANDICAPPED PERSONS ACT OF ZAMBIA:

HOW ADEQUATE IS IT IN PROMOTING THE WELFARE OF
THE DISABLED IN ZAMBIA?

BY

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DEDICATIONS

TO: My Parents: Who bore the plight of my being

TO: Sr. Rosalinda: 'Hope for the Handicapped.'

TO: Richard Jere

TO: Maria Pia Ruggeri

"Pedagogy of the Oppressed"

It is the disabled people who must identify their own needs and how to meet them.

"... those who recognise, or begin to recognise themselves as oppressed must be among the developers of the pedagogy. No pedagogy that is truly liberating can remain distant from the oppressed, treating them as unfortunates and by presenting for their emulation models from among the oppressors. The oppressed must be their own example in the struggle for their redemptions..."

Indeed, disabled people identify the forces which oppress them and organise themselves against these forces - physical and attitudinal barriers.

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I remain solely responsible for any errors in this text.

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INTRODUCTION AND IDENTIFICATION OF THE PROBLEM

There is a large and growing number of persons with disabilities in the world today. The estimated figure of 500 million is confirmed by the results of surveys of segments of population coupled with the observations of experienced investigations.¹ In most countries at least one person out of 10 is disabled by physical, mental or sensory impairment and at least 25 percent of any population is adversely affected by the presence of disability.²

The cutting in spending on social expenditure by the government has caused a lot of misery among Zambians. The prominent result has been the increase in poverty among the low income groups.³ It has been estimated that with a low level of poverty line, about 80% of rural households and other low income groups and 20% of urban households in Zambia are poor.⁴ Since for every society, the poorest constitute the disabled persons,⁵ it means that even in Zambia the poorest of the 80% rural and 20% urban households may be mostly the disabled. Unlike able-bodied persons, the disabled cannot fend for themselves both socially and economically due to the limited opportunities society offers them.

"We are accustomed to thinking of the aid we extend to the disabled as being based entirely on a wish for their goodwill. We extend sympathy, encouragement, goodwill and also more substantial help but we put a price tag to it, because we do not help these people in their economic pursuits."⁶

However, in the end, it is not the individual disabled who losses but society as a whole.

Economically, the fact that the social structure either acts indifferently towards the disabled or excludes them from production means that society itself is incurring a loss. All those thousands of people especially in urban areas where family ties have broken to a point of insignificance are wasted labour force which if properly trained and employed could increase production. The dependence ratio has increased so much that the little earned by able-bodied, economically active persons is consumed by the disabled and other dependants. This automatically reduces the standard of living.

There is need for every nation to provide for the wellbeing of its citizens; this is especially so with regard to those citizens who by certain misfortune or disability do not have access to all the necessary services and facilities provided in their country. The disabled are in this predicament.

The discussion, therefore, involves the law relating to the disabled: The Handicapped Persons Act of Zambia,⁷ and how it may be used as a tool for improving the welfare-social, cultural, economic or otherwise of the disabled in Zambia.

OBJECTIVE

The intention is to show that whereas the number of disabled persons has increased significantly since the attainment of independence in 1964, very little has been done in terms of legislation for the special needs of the disabled in Zambia. The disabled would like to be active and not passive members of the society. They have got the potential to contribute to the economic, technological, social and cultural development of the country. However, they do not have the necessary legal support to make such a progressive contribution.

This study seeks to evaluate the current government policies on the social welfare of the handicapped with the view of making proposals in this field and to find out what has been done to upgrade the general living standards of the people. Moreover, it seeks to assess the strengths (if any) and weaknesses of the Zambian Handicapped Persons Act in the promotion of the welfare of the disabled; and thereby examine the role played by the Council for the Handicapped which is established by the Act, and to emphasise the pertinent need for legislation in this field.

The importance of the study is that it tries to find out how the disabled persons can be helped economically and socially with proper legislation. Through this study alone, we cannot help them, however, through adequate government policy changes, a lot can be achieved.

There is need for legislation because the state, especially in the third world, controls development resources and has "access to financial and technical resources in a substantial measure ... the state should be primarily responsible for providing services for the (handicapped) just as it is primarily responsible for providing social services in general."⁸

Although it is true that the disabled are equally covered by legislation in the sense that legislation does not exclude them expressly or impliedly; they however, have special or peculiar difficulties and thus the need for positive discrimination in their favour to reduce the imbalance.⁹ There should be equality before the law in the sense that all citizens should be catered for according to their own particular requirements in society. The disabled form a category which requires special protection. It is, therefore, right and proper to advocate enactments exclusively for the disabled.

Handicapped or Disabled defined

This essay does not contain any technical legal terms. For this reason, terminologies will be defined as they appear in the text. The words handicapped or disabled are used interchangeably to mean those persons who by reason of defect of mind, senses or body, or congenital or acquired are unable to take part in normal education, occupation and recreation or require special assistance and training to enable them to take part in normal education, occupation and recreation.¹⁰

Methodology

The study is descriptive and as such data used for analysis was secondary. Papers, books, seminar presentatives, periodicals, pamphlets and other offical documents on the topic are used for direction and clarification. Data was collected from the Zambia Council for the Handicapped, Ministries of Education, Youth and Sport, Labour and Social Services, Community Development and social welfare, through interviews. It was discovered that there was no material on the legal point of view as regards the topic. Most references mention the law in passing. There was lack of material concerning the failures and successes of recommendations passed or implemented through the serminars. Moreover, there was inadequate material for reference and concrete analysis of the actual and present situation for the disabled.

ABSTRACT

The essay begins with an examination of the recognition of the rights of the disabled under the common law, and the concern for their affairs, individual capacity and status of this group that led to the enactment of certain legislation in England to faster social change and promote the disabled person's social welfare and equality; and the effort made by legislation in eradication of the social barriers and restric-tions to social participation, and their assumption of certain roles in society. English law is examined for our purposes because much of English laws are applicable in Zambia. In this chapter, the reader is familiarised with the achievements in English law as regards the welfare of the disabled.

In Chapter 2, the reader is introduced to the Zambian social policy as it affects the welfare of the disabled persons directly. The legislative measures governing the provision of main services for disabled persons are described in brief and the organisational and administrative structure of the services is also described. Since the Zambia Council for the Handicapped occupies an important strategic position in the social and economic development and welfare of the disabled people in Zambia, the organisation is naturally expected to take the lead in promoting the welfare of this group of persons in society at large. In view of this, it is essential to familiarise ourselves with the constraints to success in this endeavour encountered by the council. The chapter gives an account of the nature of the council, its origin, and what it does. Attempts to analyse the successes and failures of the Council and the Handicapped Persons Act are made. Some measures to realise the disabled person's full participation and equalisation of opportunities are discussed.

Chapter 3 examines the educational system with special emphasis on special education of the disabled. The education received by both the disabled and able-bodied persons especially general education has often been criticised. Many scholars ¹¹ have pointed out that schools' efforts are often directed towards getting more pupils through examinations regardless of how much they have learnt about interests and abilities so that they become self-understanding and self directing. If this is the case, then the whole concept of

education especially for the disabled losses value because the education of the disabled consists of a gradual insight of his responsibilities. In Zambia, not only is the education system inadequate but also the special education units are too few. There are also no statistics to show the actual number of disabled graduates. No blind woman has graduated from the University of Zambia. The few number of disabled persons at this higher institution could be due to the obstacles they face in the educational system in Zambia. In most cases, ordinary colleges are not open to visually handicapped and deaf students as a matter of right.¹² Even individual colleges use their discretion in accepting such students. This clearly reflects viewed segregation that the educational system has towards the disabled.

Whereas in Tanzania, and other countries all over the world, there is a law in the form of a Quota Scheme¹³ in Zambia, there is no legislative measure to protect disabled person's employment rights. Chapter 4 examines employment opportunities for the disabled in Zambia. They are usually left to compete with other able-bodied people on the open labour market. For the disabled, competition becomes harder as they face such difficulties as negative beliefs, attitudes and behaviour for employment.

Mobility is the key to the physical, social and economic independence of a disabled person. Chapter 5 attempts to analyse mobility constraints faced by the disabled and the implications these constraints have on the socio-economic

advancement and general welfare of the disabled. The aim of this chapter is to provide suggestions on how to improve disabled people's mobility geographically and occupationally.

Chapter 6 postulates disabled people's role in development with particular reference to Zambia. It attempts to substantiate why disabled people must not be left outside National Development. Disabled persons contribution to national-economic development and to state revenue, as well as to family and national welfare advancement, are other points of argument advanced in support of the claim. Some measures to realise disabled people's full participation in development are discussed.

Measures suggested include legislation for protecting disabled people's fundamental rights such as education, training and employment.

FOOTNOTES

1. World Programme of Concerning Disabled Persons

UN Decade of Disabled Persons 1983 - 1992
(New York: UN. 1983) p 10
2. Ibid:
3. Bequele A.R. and Van der Hoeven (1980) Poverty and Inequality in Sub-Saharan Africa: International Labour Review Vol. 119 No. 3 and ILO (1981)
4. Ibid:
5. Feiguson (1960): Handicapped Youth: A report on the Employment Problems of Handicapped Young People in Glasgow, Oxford. p 29
6. Ibid: p 270
7. Chapter 551 of the Laws of Zambia
8. Pausewang, S. and Saebones A: The Handicapped in Zambia, A report to Norad on the Zambian Council for the Handicapped and the situation for the Handicapped in Zambia (Lusaka, 1980) p 12
9. Mutale, J.N. Legislation and Services for the blind
A resource paper presented to the first Southern African Regional Seminar of the African Union of the Blind (Lusaka: 1989).
10. s 2 - Cap 551 of the Laws of Zambia
11. Benyani and Chinapah (1989) (eds): Proceedings of the National Workshop on childhood and adolescent mental problems in Zambia.

Nyangu, N. (1989): Analysis of Zambia's educational system and how it prepares youths for participation in National Development, BA Thesis, UNZA.
12. Vinayagum (1989), p 3
13. The Disabled Persons (Employment) Act 1982

CHAPTER ONE

TITLE: RECOGNITION OF THE RIGHTS OF THE DISABLED PERSONS UNDER THE COMMON LAW

Fundamental principles underline the very existence of rules and laws. Before rules are laid down, there must be a group of persons who share common values, beliefs, and attitudes. For example, values such as education, training and employment are recognised by most people as life chances; beliefs such as that disabled persons, too need education, training and employment and that these are naturally entitled to these values; attitudes such as that disabled persons are denied full participation and opportunity equalisation in education, training and employment. It is such values, beliefs and attitudes as these that inspire a group of persons, who share them to make rules, legislations and laws to foster social change in favour of the under-privileged. These values, beliefs and attitudes are the fundamental principles depicted by constitutional objectives of legislation.

Disabled person's fundamental rights, such as education rehabilitation of all forms, training and employment, as well as the provision of basic necessities of life for these disabled persons who are permanently unemployable, have to be protected by legislation.

A country's social policy refers to a decision or decisions of government on the treatment of a community or communities of people in a nation. Such decisions are a reflection of

the government's thinking and attitude towards that community of people of which is in question for instance, in a nation where a Government believes that all the disabled are sick people, there will be no employment or rehabilitation policies to support the disabled to work because such people are socially known to be too sick to work. Social policy in such a country may either be that Government should provide all the disabled with free welfare reliefs of food, clothing, shelter and any other basic necessities of life. Or it may be for each family to be responsible for all the care of a disabled member of the family because that person will always be too sick to work or do anything for his own welfare.

In this Chapter, an examination will be made on the laws that have been passed both in England and Zambia concerning the welfare of the handicapped. English law is examined for our purposes because by virtue of Chapters 4 and 5 of the Laws of Zambia,¹ English law may be applied to the extent permitted under the relevant sections therein. Particular legislation passed in England, especially those made before August 17th 1911 may apply to Zambia pursuant to chapters 4 and 5.

However, there is no imported legislation pertaining to disabled persons that is applicable to Zambia. The only Act concerning the welfare of the disabled persons in Zambia is Cap 551, The Handicapped Persons Act. Other Acts relevant for this purpose with certain particular provisions relating to the same are the Income Tax Act ² - section 15

which exempts the handicapped from payment of tax; and under Education Act of Zambia³ which provides for special education of the disabled persons.

An examination of the role played by these Zambian Acts will be provided in Chapter 2 of this essay.

1.1 COMMON LAW

Apart from the legislation that was specifically passed to cater for the special needs of the disabled persons in England, the law-making body included provisions in most of the Acts applicable in England to promote and protect the welfare of the handicapped in all areas of their lives, and to facilitate for the full enjoyment of their fundamental rights and freedom as human beings.

Some of the specific legislation regarding the same; that are relevant for our purposes are:

- The Handicapped Pupils and Special Schools Regulations 1959.
- The Chronically Sick and Disabled Persons Act 1970
- Education (Handicapped Children) Act 1970
- Disabled Persons (Employment) Act 1944
- Disabled Persons (Employment) Act 1958
- Trading Representations (Disabled Persons) Act 1958
- Disabled Persons (Designated Employment) order 1946
SRO 1946 No. 1257

Acts that provides for the same are:

- Land Compensation Act 1973 section 38 (3)
- National Assistance Act 1948 section 29
- Employment and Training Act 1973
- Education Act 1944
- Housing Act 1957 section 143

These Acts are discussed in detail below under the sub headings: Education, Employment and Training, Accommodation and Welfare of disabled persons, access to and provision of public services, and participation in development.

'Disabled person'

has been defined as "a person who, on account of injury disease or congenital deformity is substantially handicapped in obtaining or keeping employment or in undertaking work or his own account of a kind which apart from that injury, disease or deformity would be suited to his age, experience and qualifications."⁴

These are the persons to whom the following provisions in the respective English legislation will apply.

1.2 EDUCATION: SPECIAL EDUCATIONAL TREATMENT

In fulfilling its duty to secure that sufficient schools are available for its own area, every local education authority must in particular have regard to the need for securing that provision is made for pupils who suffer from any disability of mind or body. This must be secured by providing special educational treatment either in special schools or otherwise.⁵

Special schools are schools which provide for pupils suffering from any disability of mind or body, education by methods appropriate to that disability.⁶

A local authority also has power to make provision for education otherwise than at school where the disabled is unable to attend a suitable school for the purpose of receiving primary and secondary education.

The local authority has the duty to ascertain what children in its area require special education treatment. In order to fulfil this duty any officer may serve notice in writing upon the parent of any child who has attained the age of 2 years requiring him to submit the child for examination by a medical officer for advice as to whether the child is suffering from any disability of mind or body, as to the nature and extent of the disability, if the parent fails without reasonable excuse to comply with this requirement, he is liable to a fine, or conviction.⁷

The Secretary of State must be given information by local education authorities as to the provision of special education facilities for children suffering from certain handicaps. Where education of pupils in special schools is impracticable or incompatible with the provision of efficient instruction in the school or would involve unreasonable public expenditure, the arrangements may

instead provide for the education of the pupils in special schools appropriate to the category to which the pupils belong or in schools not maintained by a local authority.

The special education treatment provided for handicapped pupils must be appropriate to their disability, ages, abilities and aptitudes. These schools must be kept at a satisfactory level of efficiency, state of hygiene and cleanliness. No pupil may be admitted to a special school or retained in it unless it is suitable for him having regard to his age and sex and to the nature of his handicap, nor may he be refused admission to or exclude from the school except on reasonable grounds, if he can properly be given a place.⁸

The appropriate Secretary of State may pay grants to an establishment for the further education and training of disabled persons provided it complies with certain of the regulations of special schools and that establishment provides courses of training for persons suffering from disability of mind or body in preparation for their employment. Courses must be appropriate to the disability of the students and include provision for their general education and their physical training and recreation.⁹

Any person undertaking the provision of any building or premises open to the public, facilities at universities, colleges, schools, halls of university parking

facilities and sanitary conveniences whether on payment or otherwise shall in the means of access to these make provision, in so far as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting these buildings or premises who are disabled.¹⁰

1.3 EMPLOYMENT

Provision is made by the Disabled Persons (Employment) Act of 1944 and 1958 to enable disabled persons to secure employment or work on their own account.

A register of disabled persons has been established by the Secretary of State and any employer who has a substantial number of employees is under a duty to give employment to a quota of persons registered as handicapped by disablement. Certain classes of employment have been designated as affording specially suitable opportunities for the employment of disabled persons.¹¹ Special provision is made for enabling registered persons who are seriously disabled to obtain employment or work on their own account under special conditions.¹²

Officers and servants may be appointed by the Secretary of State for the purpose of the Acts who shall act accordingly. Expenses incurred to be paid by the Government. A National Advisory Council is also established under the same to advise and assist the Secretary of State in matters relating

to the employment, undertaking of work on their own account or training of disabled persons.¹³

A registered disabled person receives a certificate of registration which he must, upon request, produce to his employer or prospective employer. It is received in evidence and until the contrary is proved is sufficient evidence of the facts in it.¹⁴

There are certain conditions of qualifications and disqualifications from registration or retention to register.

Conditions for retention of registration are: where applicant has attained the age at which his parents cease to be under obligation to cause him to receive efficient full-time education to his age, ability and aptitude; that he requires and deserves to engage in some form of remunerative employment or to work on his own account; that he has some reasonable prospects of obtaining and keeping some form of such employment or work; that he is resident in Great Britain.

An applicant may be disqualified from entry into the register; where he is an in-mate of a prison; whole-time patient at a hospital; inmate in sanatorium or similar institution in circumstances that make it impossible for him to undertake employment or work on his own account

or attend for industrial training; if he is a person of habitual bad character. He may be disqualified from retention of register for failure to satisfy the foregoing conditions; failure to or neglect to attend for or complete industrial training; that he has persistently and without reasonable cause refused to undertake suitable employment on his own account.¹⁵

The Secretary of State may after consultation with organisation, representatives, employers and workers or both by order designate classes of employment which appear to him to afford specially suitable opportunities for the employment of disabled persons.¹⁶

It is the duty of a person who has for the time being or who in accordance with his normal practice and apart from transitory circumstances would have, not less than 20 persons in his employment to give employment to a quota of registered disabled persons, and where he is not doing so at times when vacancies occur to allocate vacancies for that purpose. An employer may not employ any person who is not registered disabled. Contravention of this section is an offence.¹⁷

It is also an offence for an employer having a quota obligation to discontinue without reasonable cause the employment of a registered disabled person if immediately after the discontinuance the number of registered disabled

persons in his employment excluding persons employed in a designated employment would be less than his quota.¹⁸

An employer may apply to permit to take or offer employment to persons who are not registered disabled persons. It may be granted when expedient, having regard to the nature of work in question and the qualifications and suitability of any registered disabled person.

Records must be kept showing compliance with the quota obligation. These must be inspected, and contravention is an offence.¹⁹

For registered disabled persons who by reason of the nature of severity of their disability are unlikely either at any time or until after the lapse of a prolonged period to be able otherwise to obtain employment or to undertake work on their own account, facilities may be provided for enabling them to obtain employment or to undertake work on their own account under special conditions and for their training for such employment or work.²⁰

In appointing members of Consultative Council under the Employment and Training Act 1973,²¹ regard is to be had to the desirability of including one or more persons with experience of the disabled.

Under the Youth Employment Service, there should be provision for inclusion of one person with special knowledge and

experience, and special responsibility for the employment of young disabled persons in the Committee, or the disabled person himself.²²

The National Advisory Council established under the Disabled Person's (Employment) Act 1944 has the duty to give advice as is necessary on the training of persons concerned with the placing and training of disabled persons in employment.

1.4 ACCOMMODATION AND WELFARE OF DISABLED PERSONS

The local authority has the function to provide accommodation to persons who by reason of their age; infirmity are not able to fend for themselves; and to make arrangements for promoting the welfare of disabled persons of any description (blind, deaf, dumb, crippled) and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity. Arrangements may be made for giving information to such persons of the services available to them, instructions in their own homes or elsewhere in methods of overcoming the effects of their disability; providing workshop where such persons may be engaged in suitable work, and hostels where they can live; helping such persons in disposing of the produce of their work; compiling and maintaining classified registers of the persons to whom arrangements such as these relate.²³ Voluntary

organisations may be employed whose objects are the promotion of the welfare of disabled persons.²⁴ Disabled persons in need of care and attention, who are living in insanitary conditions and not receiving proper care attention may be moved to suitable premises where adequate care will be given on the application of a Medical Officer to court with jurisdiction to make an order for such removal. Any person who wilfully disobeys or obstructs the execution of such an order will be guilty of an offence.²⁵

The local authority is under the duty to provide welfare services, and publish general information as to the services provided, and shall ensure that any relevant to his needs, and designed to secure his safety, comfort and convenience.²⁶ In housing conditions, the special needs of the disabled and in any proposals prepared and submitted, the Housing Authorities shall distinguish any houses which they propose to provide which make special provision for the needs of such persons. In appointing persons to be members of General Housing Advisory Committees regard shall be had to the inclusion of one or more persons with knowledge of the problems involved in housing the disabled persons, and to the person or persons with that knowledge being or including the disabled persons or person.²⁷

In the case of compulsory acquisition of a dwelling which has been constructed or substantially modified to meet the

special needs of a disabled person and is occupied by that person, if the person occupying that premises so elects, the compensation is to be assessed as if the dwelling were land which is devoted to a purpose of such a nature that there is no general demand or market for that purpose. Compensation will be on a basis of the reasonable cost of equivalent reinstatement and the Lands Tribunal has no discretion in applying the measure of compensation nor is it required to be satisfied of an intention to reinstate.²⁸

The amounts of disturbance in such dwelling may include an amount equal to any reasonable expenses incurred, in respect of a dwelling to which the disabled person is removed, comparable modifications which are reasonably required for meeting the special needs of the disabled person.²⁹

1.5 ACCESS TO AND PROVISION OF PUBLIC PREMISES AND PUBLIC SANITARY CONVENIENCES

Any person undertaking the provision of any building or premises to which the public are to be admitted, any parking facilities and sanitary conveniences to be available (if any) shall, make provision, in so far as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the building or premises who are disabled.³⁰

Committees established which are concerned with such building or provision shall include one or more persons

with special knowledge, experience and responsibility of the special needs of the disabled member of the public.

Such Committees shall make reports or research and development work, increase the range of activities and independence of well-being of disabled persons and in particular such equipment that might improve the indoor and outdoor mobility of such persons.³¹

1.6 PARTICIPATION IN DEVELOPMENT

Under the Trading Representations (Disabled Persons) Act 1958 - Control is provided of the making of representations by traders with respect to the employment or assistance of the blind or other disabled persons, in connection with the production, preparation, packing or sale of goods and for purposes connected therewith, especially goods sold as made by or for the benefits of disabled persons. Penalties are instigated if such business is conducted without registration under this Act.

It is submitted from the foregoing that in England, the disabled persons are socially required to be given special education, care and treatment, and assistance for them to learn and work on their own account, to earn income and therefore, live independently. The law recognises their full potential as full human beings entitled to basic rights and freedoms enjoyed by all.

In an endeavour for full participation and equality for the disabled, it is submitted that under the common law, the following rights are recognised for the handicapped:-

- right education
- right to rehabilitation
- right to employment
- right to economic security
- right to independent living
- right to participate in social, cultural and political activities
- right to influence

and that these rights are protected by the legislation alluded to.

Authorities are under a legal duty to ensure that they are provided for and obeyed. Non-compliance calls for instigation of penalties: liable on conviction to a fine or imprisonment. This is important as it ensures that laws are complied with, and further enhances the full enjoyment of these rights, well-being and social welfare of the disabled.

These persons are not regarded as a minority group, dependent on their families or other able-bodied members of the community, but are able to be educated, trained, be employed and contribute to development, integrate with their communities and live independently.

1.7 FOOTNOTES:

1. The English Acts (Extent of Application) Act and British Acts Extensions respectively.
2. Chapter 668 of the Laws of Zambia
3. Chapter 340 of the laws of Zambia
4. Disabled Persons (Employment) Act 1944 s 3
5. Halsbury's Laws of England Vol 15, 174 Paragraph 174
6. Ibid: paragraph 73
7. Education Act 1944 s 8 (1), 32, 33, and 34
8. Handicapped Pupils and Special Schools Regulations 1959 Regulations: 7, 11 and 11 (3)
9. Education Act 1944 s 10
10. The Chronically Sick and Disabled Persons Act 1970 & 4 (1)
11. Disabled Persons (Employment) Act 1944
12. Employment and Training Act 1973
13. Disabled Persons (Employment) Act 1944 s 7 (2)
14. Disabled Persons (Employment) Act 1958 s 2 (1)
15. Ibid: sections 10, 11, 12
16. Disabled Persons (Designated Employment) order 1946 No. 1257 Art 2
17. Disabled Persons (Employment) Act 1944 s 9 (1)
18. Ibid: see s 9 (3), 9 (5), 7 (b) and 7 (c)
19. Ibid: s 14 (1), (4) and (6)
20. Ibid: s 15 (1) d (5)
21. s 14 (1)
22. The Chronically Sick and Disabled Persons Act 1970 s 13
23. National Assistance Act 1948 s 29
24. Ibid: s 30
25. Ibid: s 47
26. The Chronically Sick and Disabled Persons Act 1970 s 15
27. Housing Act 1957 s 143
28. Land Compensation Act 1973 s 45 (1) (a) and (b)
29. Ibid: s 38 (3)
30. The Chronically Sick and Disabled Persons Act 1970 s 4
31. Ibid: s 14 and 22

CHAPTER TWO

TITLE: ROLE AND OPERATIONS OF THE ZAMBIA COUNCIL FOR THE HANDICAPPED

In Zambia, social policy requires disabled people to be accorded general welfare, to be educated, trained, employed and rehabilitated. Moreover, the disabled are socially required to be given special care, treatment and assistance for them to learn and to work those things for which clear sight, sound mind, sense and physical body energy would otherwise be required. People's health, too is socially to be taken care of to prevent more people from becoming handicapped.

This social policy has been translated into various laws and policies which are administered by government and private organisations. By African standards, Zambia has taken important strides towards realising these goals.

In 1968, the Handicapped Persons Act¹ was passed to establish the Zambia Council for the Handicapped. The Council has a special legal and social standing in the affairs of the disabled people in the country. It is expected to be the coordinator of all services which are available to the disabled people in Zambia. The Council has a unique position, and for this reason, the section is devoted to some notes about the origins of the Council, its current role and position in the affairs of the disabled.

2.1 HISTORICAL BACKGROUND

This history goes back to 1961 after the Northern Rhodesia

Society for the blind had been formed in 1953 by a few Europeans and Zambians on the Copperbelt. The society was a voluntary, non-governmental organisation and its objectives where prevention of blindness and provision of education to the blind.

Once it was recognised by the Government, the society received from the Government financial grants in aid which were then channelled to mission schools for the blind which existed at that time. In this way, the society had some control over the education of the blind.

In the late 1950s, the society decided to limit the education of the blind to four years only. Thereafter, the blind had to be sent to Kambowa (Ndola) for training in agriculture and this is why the Kambowa Centre for the blind was started in 1958. The reason for this policy was the security of jobs to be given to the blind once they were highly educated and trained.

Offended by this education policy, the blind passed a vote-of-no confidence in the society and formed the Northern Rhodesia Blind People's League in 1961 which called for replacement of the society with a government organ which would be more sympathetic to the blind than had been the society.

In 1963, the Government accepted the demand and disbanded the Northern Rhodesia Society for the Blind transferring its responsibility, assets and liabilities to the Northern Rhodesia Council for the Blind, which had been working since 1961 in the background status of advisor to the Government.

A Council for the physically handicapped also existed in 1963 as a private association of well wishers. It had no office anywhere but it was running a tailoring project for the physically handicapped at Matero, after care centre in Lusaka.

In 1965, the Government fused the two Councils which became the Zambia Council for the blind and Handicapped and all the disabled people have since been administered under one roof as a result of this Government move. The move was further tightened up in 1968 with the enactment of the Handicapped Persons Act which repealed the Blind Persons Ordinance of 1961 and created the Zambia Council for the Handicapped. When the Zambia Council for the Handicapped was re-established under the Handicapped Persons Act of 1968, the vagueness of the original objects was not removed.

2.2 THE ACT IN DETAIL

As already alluded to, the Act was enacted to establish a Zambia Council for the Handicapped to provide for the voluntary registration of the handicapped persons of all categories.

It defined handicapped persons as those persons who by reason of defect of mind, senses or body, congenital or acquired, are unable to take part in normal education, occupation and recreation or require special assistance and training to enable them take part in normal education, occupation and recreation.²

It also provides for the registration of associations of the handicapped having as their objectives, the promotion of the welfare of the handicapped.³

Its functions include to advise the Minister⁴ in regard to all matters relating to the welfare, training, rehabilitation health and employment of the handicapped and in all matters relating to the prevention of any type of handicap to promote public interest in the welfare of the care of the handicapped.⁵

The Council has powers to acquire property, enter into contracts, to employ augment earnings of persons engaged in promoting the welfare, training or employment of the handicapped, raise funds for the welfare of the handicapped, assist by grant-in-aid or loans to institutions or associations which will be a direct benefit to the disabled, establish communities for any specified area regarding the employment and training of the handicapped.⁶

2.3 STRUCTURE

The Council is a part-time body of 25/26 members. It is headed by the Commissioner for the Handicapped who has power to impose certain conditions limiting the number of the disabled in any age group who may be admitted to any institution, ensure that the institutions are adequately staffed as regards both qualifications and experience of persons, providing for the keeping of any association of records of handicapped persons admitted to these institutions. The Council has power to inspect institutions of the

The members of the Council are appointed by the Minister who is responsible for social welfare. Members are representatives of their Ministries, Government departments and private organisations whose work is similar or related to that of the Council.

Members include the Chairman of the Council who is currently the Permanent Secretary of the Ministry of Labour, Social Development and Culture, Commissioner for the Handicapped, a representative each from the Ministries of General and Higher Education, Health, Department of Labour, Zambia Red Cross Society. Then, nine area Committee Chairmen representing the geographical provinces of Zambia, and five associations of the handicapped.

The Council appoints the Executive Board of ten members and this Board is in turn free to appoint any professional or Adhoc Sub-Committee for any purpose. At the moment, there is the Administrative and Finance Committee which is responsible for recruitment, promotion, discipline and dismissal of senior council employees. The Council Committee is also responsible for ensuring discipline in the administration of funds. There is administration which is vested in the Secretary-General of the Council. This comprises the Senior Management Committee at the Headquarters, nine provincial offices and their committees, fourteen rehabilitation and welfare centres, one training centre for the deaf and physically handicapped at Fisenge near Luanshya, two farming cooperatives for the physically handicapped in Mongu, Western Province. And Cooperates with associations

2.4 ORGANISATIONAL AND SERVICE STRUCTURE

At Government level, services of the disabled in Zambia are directly or indirectly administered at least in six government ministries which are: the Ministry of Labour, Social Development and Culture, the Ministry of General Education, Youth and Sport, Ministry of Higher Education, Science and Technology, Ministry of Health, Ministry of Finance and Development Planning, the Ministry of Power, Transport and Communications.

These are the Ministries that the Zambia Council for the Handicapped mostly deals with. Others too, such as the Ministry of Agriculture, Ministry of Commerce may equally be relevant to some services of the disabled. Their responsibility for the affairs of the disabled are not stated categorically and are therefore not as conspicuous or obvious as the responsibility of the six Ministries mentioned above.

The work of these ministries is executed either by the Ministries themselves or through their department or through statutory and private organs which are attached to these ministries by the nature of their work. Under the Ministries of Labour, Social Development and Culture, the department of Social Development provides reliefs of food, clothes and shelter.

Workmen's Compensation Fund Control Board is responsible for rehabilitation of those injured and made disabled

through employment accidents. The National Vocational Rehabilitation Centre in Ndola is responsible for training the disabled in various skills.

The ministry of General Education, Youth and Sport provides education through a host of special units for the disabled which are attached to primary and secondary schools. There are also special residential schools for each class of disabled children. Some of these special schools are run jointly by the Ministry and Mission Agencies of some religious orders. Zambia Association for Children and Adults with learning disabilities is one private association which is related with this Ministry for promotion of education and training of the mentally retarded.

The Ministry of Higher Education, Science and Technology is responsible for training through its department of Technical Education and Vocational Training (DTEVT) and a host of trades and teachers training colleges; universities, support this Ministry in its training programmes.

Zambia Airways, Zambia Railways and the United Bus Company of Zambia are statutory organisations under the Ministry of Power, Transport and Communication. The three organisations have a concessionary transport policy under which legally registered disabled travellers pay concessionary rates of the normal fares. On Zambia Airways

this concession is available only its domestic routes because international flights have to be paid for in full.

The Posts and Telecommunication Corporation, also under the ministry of Power, Transport and Communications, has a policy of transporting free of charge Braille literature for the blind, cassettes and any sound records to be used by the blind.

Some 105 hospitals of which at least 28 belong to mission agencies and twelve to the Zambia Consolidated Copper Mines are responsible for medical rehabilitation which includes physiotherapy services, provision of prosthetics, spectacles to people with vision problems, surgical operations on limbs, specialised treatment of the mentally sick and immunisation of people against disabling diseases. These institutions are directed in their work by the Ministry of Health.

The Flying Doctor Service is one statutory organisation working with the ministry in prevention of disabilities and its work is based in the rural areas. Zambia Society for the Prevention of Sight is a private organisation which is actively involved in the work of prevention of blindness. The Society works with the Flying Doctor Service. Mental Health Association of Zambia is another private organisation which is dedicated to the social, other than medical rehabilitation of the mentally sick especially those who have once been sick but have now recovered some sanity of mind for them to be capable of work.

The ministry of Finance and Development Planning allows free importation of goods for use by or for the disabled people without any custom to be charged. Also the Ministry of Finance and Development Planning through its Income Tax department administers a disability allowance tax policy under which disabled tax payers are allowed an income rebate; provided that the applicant for that allowance is a legally registered disabled person with the Zambia Council for the handicapped. The tax allowance is doubled if a disabled working person is married to a non-working disabled person.⁷

2.5 THE ROLE OF THE ZAMBIA COUNCIL FOR THE HANDICAPPED IN COMMUNITY -BASED -REHABILITATION AND INSTITUTIONAL CARE

"Rehabilitation" has been defined by the World Health Organisation (WHO) and International Labour Organisation (ILO) as a comprehensive and long-term process of restoring the functional capacity of the disabled individual to the highest level possible.⁸ The process involves medical, educational, social, psychological, vocational and environmental aspects of life, which must be coordinated to yield the best results possible. However, it could be argued, it is not every disabled individual who needs all components of rehabilitation, depending on the degree and nature of disablement, as well as social conditions. Indices of rehabilitation include sensory and physical functioning, psychological integrity, economic independence and eventually, social intergration.⁹ In other words, rehabilitated individuals must as far as possible be able to do things for himself, given technical aids and facilities, as well as opportunity.

He should be self-reliant, not dependant, he should earn a living - not subsist on charity; he should be resourceful to the family and the community not a burden on them.

Social integration of the disabled individual must be the ultimate goal of rehabilitation, and any rehabilitation package which falls short of achieving this goal is deficient, it might be argued. Unfortunately, social integration is out of question in the absence of economic independence.

One major disadvantage of this approach is that it is not suitable for those disabled persons who are too severely handicapped to work competitively or to do any work at all, but who seriously deserve caring. These persons are usually referred to rehabilitation institutions which look after persons that are so severely handicapped that they may hardly be accepted on to the open labour market; nor can some of them manage to work on their own account outside the institutional setting.

The disadvantage of the institutional approach tend to overwhelm its merits. Long-term institutionalisation does not only separate the individual from his family and community for life; but also renders him emotionally insecure and instils in him a sense of institutional dependence. For example, the Zambia Council for the Handicapped has since 1984 been retiring aged disabled

persons working in its institutions. Not surprisingly, a majority of the retired are reluctant to return to their home villages, or to leave the institution.

Secondly, institutions for the disabled, particularly those in urban areas, frequently receive from the general public material donations, such as food stuffs and clothing. The donors insist that the donations be distributed only to disabled families resident in the receiving institutions to the exclusion of their able-bodied colleagues. One effect of this practice is that the disabled persons so treated come to assume that their welfare problems are so peculiar that their earnings have to be supplemented with charitable handouts. To strengthen this point, quite a few disabled individuals employed in the institutions of the Council in urban areas, or their disabled wives sneak out of the centres and engage themselves in street beggary in spite of their monthly wages being no lower than those payable to their able bodied contemporaries on the open labour market. Another effect is that those able-bodied families working with disabled persons in the institutions get the idea that, by being discriminated against in the giving and distributions of alms, they are different from their disabled counterparts and look at them as special people. This kind of feeling can make social integration difficult. Disabled persons also tend to be distanced from the mainstream society by making the general public feel incapable to tackle problems of individual disabled persons. Again, social integration becomes jeopardised.

The following are the merits of community-based-rehabilitation as opposed to institutional care referred to above:-

Firstly, the strenuous conditions that go with community based rehabilitation train the rehabilitee to realise that his success largely depends on his own assertiveness; determination and hardwork. He develops self confidence, self actualisation and self-image. These virtues are factors of economic independence and social integration.

Secondly, community-based-rehabilitation helps the individual to be accepted to his family and community as part of them because he is seen to contribute to the well-being of the family and that of the community, like his able-bodied contemporaries. He has not been shut away in an institution to be given special protection and shelter from the vagaries of life in the mainstream community so as to look different.

Finally, community-based-rehabilitation services are cheaper to provide and likely to benefit many more disabled persons than institutional services because basic responsibilities for rehabilitees such as housing and water supply, which are the responsibilities of rehabilitation agency under an institutional setting are the responsibility of the community or rehabilitees themselves.

Admittedly, the role of Zambia Council for the Handicapped is negligible. Although the organisation has come to realise that the community-based-rehabilitation approach seems to be the only answer to reaching many more disabled

people in need of socio-vocational rehabilitation services, there are many historical, technical, economic, political and sociological factors that severely restrict the Council's capacity to respond to the concept of rehabilitation.

First, we have already implicitly shown that Zambia Council for the Handicapped is a classical agency, having been established in 1961. In those days, the concept of community-based-rehabilitation was not popular; nor was it as refined as it appears to be today. Zambia was a British Colony, and among all the industrialised countries Britain is one of the countries which has the most highly institutionalised rehabilitation and welfare systems. ^{??} Therefore, institutional care became the pre-occupation of the Council. Throughout the 1960s, ~~attempts~~ were made by the Zambia Council for the Blind to train at Kambowa, near Ndola, blind persons in horticulture and rural crafts with a view to enabling them earn a living by employing these skills on their own accord, whether in their home district or in what were called after-care centres special farming institutions by the Council for the purpose; unfortunately, the programme failed.

For one thing, the living standards of the training institutions (Kambowa) was not equated to the standard of the rural setting under which the trained graduates were expected to work.

For another, some trained graduates were trained to work on Kambowa farm as gainful employees of the Council. This practice demoralised their colleagues who were treated differently.

For a third, those of the graduates who were sent back to their villages were given basic tools such as a rope, a hoe, an axe, a saw, a hammer. They were expected to be assisted to resettle by local authority, despite that there was no public policy to this effect, no organised programme at the local level and no liaison between the training institution and the local authority concerned. The tools given were meaningless in the absence of other facilities and services.

For a fourth, after-care services where trained graduates were supposed to work on the land as individual peasant farmers, were institutions just like Kambowa farm centre where their colleagues received guaranteed monthly wages regardless of productivity. Those in after-care centres found no reason to believe that they were different from their contemporaries employed at Kambowa.

Consequently, after-care centres were abolished and transformed into farm employment centres, for instance Kambowa, through beneficiaries. Those who had been sent to their home districts came back to Kambowa and other farm centres of the Council in search of employment. In 1970; it was found necessary to close down the training

institution because it had produced more graduates than could be employed by the Council.

In the 1970s a slightly different approach from the after-care system was attempted by the Council. This time it decided to change all the existing farm employment centres into what were called family farm resettlement schemes - known as Family Unit Schemes. Kambowa was the first to be declared a family Unit Scheme. Under the Second National Development Plan, generous Government capital grants were injected into the programme; tractors were provided as well as equipment. However, the programme failed because, firstly, the settlers were not keen to work hard because they had been literally forced into the programme regardless of personal interest and working ability. It meant that the settlers would no longer receive guaranteed wages. Instead, they would receive subsistence allowance on a diminished scale.

Secondly, the settlers knew that the institution authority, the Council - was there for them to fall back on and so they perpetually looked forward to the Council's incessant assistance technically and financially. The settlers never became self-supporting.

Thirdly, the maintenance of the family units proved even more expensive than the employment institution tractors and water installations had to be kept in good running order at all times; but this was not always possible.

Farm inputs had to be supplied on time and in required proportions, but it was common to supply them late and in insufficient quantities. By 1982, all the farm institutes had become farm employment centres as before.

Secondly, the rehabilitation staff of the Council are institution care oriented for historical reasons.

Throughout the world, old-fashioned traditionalists in the service to the disabled are orthodox believers in the institutional approach and will do everything possible to preserve institutionalism even after the policy has efficiently changed. Therefore, it will take some time for the rehabilitation personnel of the Council to become adequately retrained, reoriented and experienced in the new-world wide concept of community-based rehabilitation.

Thirdly, institutions are costly to run and maintain, let alone build - more so for developing countries.

The Council runs one sheltered employment centre, twelve farm employment institutions and two farm settlements; all of which are residential and run at a substantial loss. Seventy percent of the Council's annual outlay is spent on the running of these institutions in terms of personal emoluments alone.

The Council is left with no funds to maintain, let alone replace, the structures of these institutions. Therefore institutional buildings are dilapidated and, in some cases, falling apart. Since it is increasingly so

difficult for the Council to run and maintain the existing institutions, it is not possible for the agency to increase the scope of rehabilitation services.

Among the most glaring solutions to the Council's financial crisis are the following:-

- (a) a substantial reduction in the establishments
- (b) turning all the farm employment institutions into cooperative establishment; and
- (c) stepping up the Council's fund raising drive.¹⁰

The first solution is politically a highly sensitive one. Not less than eighty percent of the Council's labour force consists of disabled persons. Not even the Ministry of Labour, Social Development and Culture has the courage and competence to sanction a mass-pruning of disabled workers without incurring serious political repercussions leading to an immediate reinstatement of the pruned. For instance, in 1984, the Executive Board of the Council, under the Chairmanship of the Permanent Secretary in the ministry of Labour, Social Development and Culture, sanctioned the retirement of a number of aged and unemployed disabled persons working in the institution of the Council. When the retired demonstrated at State House, the same Executive Board, under the Chairmanship of the same Permanent Secretary, ordered a quick reinstatement of the retired. Quite often, the Council has received Ministerial directives to employ disabled individuals in the Council institutions irrespective of availability of vacancies or funds.

Disabled beneficiaries will not settle for anything less than the guarantee of wages at public rates. Any changing of the employment institutions into cooperatives or similar establishment is utterly unacceptable to them. Even if the beneficiaries of the existing employment institutions readily accepted to become cooperative members, instead of employees, as long as they continue to work under an institution setting, they were likely to regard the Council as their perpetual welfare cushion. In this way, the attainment of economic self reliance is very unlikely. Moreover, as experience has shown, they will not work hard enough to sustain themselves because they have been conditioned for a long time to receiving wages unrelated to their productivity.

2.6 INADEQUACY OF THE ZAMBIA COUNCIL FOR THE HANDICAPPED WORKS, AND THE HANDICAPPED PERSONS ACT

These are complaints that are genuine and justified, heard or received from the disabled individuals, non disabled members of society who are interested in affairs of the disabled or even from the Government.

The Council concentrates too much little financial resources available on institutional rehabilitation of less than 1,000 disabled persons who work in Agricultural Centres. Services of the disabled persons outside these centres cannot receive adequate attention because funds are not available.¹¹

Statutory pension payments under the Workmen's Compensation Fund Control Board to people injured and disabled through accidents in the course of their regular employment are too small and inadequate for pensioners to live on permanently. There is no social security protection to disabled people under this compensation scheme and many of them have been reduced to object poverty.

Technical learning aids are either inadequate or not available in many residential special schools run for the disabled by the Ministry of General Education, Youth and Sport. Special units of disabled children in Primary and Secondary Schools are not functioning as expected especially those of the blind, deaf and mentally retarded children either because of poor teaching attention given by teachers to these children, or learning aids not available to the children in units at such schools.

As a result, intolerably too few of the children in such units have qualified for entry to institutions for higher learning such as colleges or universities. This leaves them unqualified for employment in the open labour market and perpetuates their being dependants of their families and communities.

One other problem regarding the concessionary transport policy administered by the four statutory organisations referred to is that this policy is voluntary as it is not covered by any legislation or a formal agreement between

the Zambia Council for the Handicapped and the four organs, or between the Council and the Ministry of Transport, Power and Communication. This means that disabled beneficiaries of this policy are in a weak position as one of these transport organs may withdraw the service any time without any legal consequences to itself.

The Council encounters many insurmountable financial problems which militate against becoming self-reliant. These problems are not discernible to the public. A great deal of labour force in the Council's production institutions consists of severely handicapped persons whose services cannot be accepted by any other employer; but for whom the Council has the moral and political obligation to look after.

Therefore, the production institutions are run at a substantial loss. Because of its moral and political obligations for employment of even severely disabled people the Council is compelled to maintain an establishment far in excess of its regular income.

Many private associations, some of them formed by the disabled persons themselves, exist to champion the cause of their disabled members. Some of them are the Zambia National Federation of the Blind, Zambia National Association for the Physically Handicapped, Zambia Federation for Sports of the Disabled and the Atlantic Association for the Handicapped, to mention but a few.

Most of these associations face serious financial limitations. Most of them depend on foreign aid such that it is quite unlikely that they will continue in existence once such aid is withdrawn. These associations do not appear to be doing anything now to establish their own financial basis to prepare for times ahead when their projects will begin to crumble and bring untold hardships to those who will be benefitting from such projects at the time. Such developments are likely to become crises and not just problems. There is a lot of room for inefficiency and instability of these associations due to untrained leaders who are inadequately knowledgeable about accepted standards of leadership skills, public relations, writing and record keeping. They do not translate their constitutional aims and objectives into concrete programmes of action and lack plans to utilise the available funds properly. They hardly formulate media in a professional manner for submission to the state, nor do they evaluate objectively and challenge, where necessary, public policies affecting the lives of the disabled persons. They hardly make development initiatives in the areas of their operation through research. Disability associations should identify social and economic problems common to all disability groups and fight together for public solutions to such problems. Legislation in certain fields of human welfare, such as employment and social security are examples of such fields.

One biggest problem in Zambia is the apparent government complacency that all is well with the disabled persons in Zambia. There is some political will in the government to see things improved for the handicapped, that will is sometimes demonstrated by the government too late and usually on an adhoc basis. There is no legal evaluation after a period of time of those already existing services to test the adequacy and to improve upon them in keeping with the economic, social and thinking changes of the time. Although the Handicapped Persons Act is the only and most important of all legislation covering the welfare of disabled persons, this law has not been amended since 1972 to take account of the difficulties of this disadvantaged group that is quickly acquiring a second-class citizen status due to discrimination in important fields such as education, employment and development which inhibit their progress and success towards self-sufficiency and independent living. There is no legal redress provided for by the Act.

The Act's objectives are very vague and ambiguous and do not sufficiently cater for the special needs of the disabled persons in Zambia. In relation to employment, education and training, the Act merely states that it will be the duty of the Council to advise the Minister in regard to the education, training and employment of the

disabled persons.¹² It does not state how this will be done. The Council merely uses its discretion. There is no legal obligation binding the employer in the open labour market for employment of a trained disabled person, the head or Principal of a College to accept such person where there is a vacancy when he is adequately educated; and no legal redress to which the disabled can turn to when unfairly treated. The Act does not provide for penalties regarding the same. Nor for any qualifications or disqualifications pertaining to the registration of handicapped persons in Zambia, nor for what use the registration card from the Council will be, or circumstances in which it may be withdrawn.

Such legal provisions are necessary and vital for planning, equality and fairness and equal participation of the disabled in employment opportunities, education, decision making and development of society and the country as a whole.

There is inherent weakness in the Act as a whole as it does not contain any provisions relating to the basic rights and freedoms of the handicapped. The Council does not have any person to decide on accessibility of the handicapped to public places and buildings, or advise the Ministry of Finance and Development Planning concerning the special

needs of the disabled persons in the construction of public places, universities, schools, sanitary conveniences and vehicles. This has been ensured through legislation in many countries all over the world.

As alluded to above, the Council faces too many serious financial limitations to be able to cater for all the disabled persons in Zambia. It also lacks properly trained, skilled and experienced personnel to advance the causes of the disabled persons. To a large extent, disabled persons are exposed to physical, cultural and social barriers which handicap their lives, even if rehabilitation assistance is available.

Matters concerning the disabled persons should be treated within the appropriate general context and not separately. Each Ministry or other body within the public or private sector responsible for, or working within a specific sector should be responsible for those matters relating to disabled persons which fall within its area of competence.

There is pertinent need for revision of the present Act or repealing it altogether so that it is aimed at giving the disabled people more opportunities, protection, guarantees, independence, rights, accessibility to buildings, rebates on all transport modes within Zambia, as against

discrimination against the disabled persons in Zambia.

An analysis of the situation of the disabled persons has to be carried out within the context of different levels of economic and social development. The ultimate responsibility for remedying the conditions that lead to impairment and for dealing with the consequences of disability rests with the Government. This does not weaken the responsibility of society in general, or of the individual or of organisations. Government should take the lead in awakening the consciousness of populations regarding the gains to be derived by the society from inclusion of disabled persons in every area of social, economic and political life.

Many countries have taken important steps to eliminate or reduce barriers to full participation. Legislation has in many cases been enacted to guarantee to disabled persons the rights to, and opportunities for, schooling employment and access to community facilities, to remove cultural and physical barriers and to proscribe discrimination against disabled persons.

2.7 FOOTNOTES

1. Cap 551 of the Laws of Zambia
2. Ibid: s 2
3. s 18 Ibid
4. Minister of Community Development and Social Welfare
5. s 16 of Cap 551
6. Ibid s 17
7. s 15 Cap 668
8. Training manual for Disability Associations by
J.G.N. Mutale p 37
9. Ibid p 39
10. Ibid: p 45
11. Ibid: p 55
12. s 17 Cap 551

CHAPTER THREE

TITLE: EDUCATION

3.0 GENERAL VIEW OF EDUCATION

Socio-economic development is the prime objective of developing nations and the realisation of this objective requires optimum level of resource allocation into various channels. The achievement of the optimum growth rate, therefore, requires that resources should be allocated optimally in both physical and human capital formation. This is important because human resource constitutes the ultimate basis for the wealth of nations. Capital and natural resources are passive factors of production; human beings are the active agents who accumulate capital, exploit natural resources and build social, economic and political organisations.¹

Clearly, a country which is unable to develop the skills and knowledge of its people and utilise them effectively in the national economy will be unable to develop anything else.² Development of the human resource and the achievement of economic development through this can be done by investing in education.

However, all literature about education, employment and economic development revolve around two fundamental economic processes of:-

- (i) the interaction between economically motivated demand with a politically responsive supply in the determining of how many school places are provided, what kind of institutions is promoted and who gets access to these places.
- (ii) Distinction between social verses private benefits and costs of different levels of education.

In the third world countries, Zambia inclusive, people demand education because it is the major means of securing modern sector employment. Most of these countries are basically rural depending on agriculture for the people's livelihood. The difference between modern sector employment and traditional rural employment is that in modern sector jobs depend initially, on the levels of completed education whereas income earning opportunities in traditional society have no fixed educational requirements. Therefore, the greater the modern sector - traditional sector income difference, the greater will be the demand for education.

Many scholars have asserted that education systems are reflections of their societies because they mirror the strengths, weaknesses, successes and failures of the society they are created to serve.³ In a country where, for instance, nothing is officially done for the disabled, the educational reforms and policies will not reflect any positive step towards the disabled.

3.1 EDUCATION IN ZAMBIA

Prior to 1970, education of the handicapped was a responsibility of the Zambia Council for the Handicapped. However, it did not (and still does not) have enough funds to implement most of its policies. This state of affairs was a disservice and an impediment to the advancement of the disabled.

In 1970, the former President of the Republic, Dr. Kenneth Kaunda assented to the incorporation of education for the disabled in the general system of education.⁴

In 1972, the Handicapped Persons Act⁵ was amended to transfer all educational matters relating to the disabled from the ministry of Labour and Social Services to the Ministry of Education.⁶

In 1971, the government set up a Special Education Inspectorate so as to improve the standards of the handicapped. At present, there is an Inspectorate in both Ministries of Education, that is General Education Youth and Sport and Higher Education, Science and Technology. An inter-ministerial Steering Committee on Special Education advises on the organisation and improvement of education for the handicapped.⁷

The Committee comprises representatives from the Ministries of Education, Labour and Social Services and

Health. The functions of the Inspectorate are:-

1. inspecting schools where there are disabled pupils
2. giving advice on the curricula
3. Providing and delivering needed materials to schools
4. giving advice on the transfer and promotion of teachers for the handicapped.

The efficiency of the Inspectorate is hampered by insufficient funds and transport; consequently, most institutions that require the services of the Inspectorate especially those in rural areas, suffer adversely.⁸

As the need to review the whole system of education arose, the Government introduced the Education Reforms in October, 1977. The intention was to provide free education to all citizens of the country equally. Chapter V thereof is devoted to special education for all categories of disability.

Special Education is defined as "Education especially designed and adopted to suit the needs of unfortunate handicapped children who may be suffering from mental or physical disability."⁹ The underlying promise in the Reform is that:-

"all handicapped children, like any other children are entitled to education by full-time or part-time study as any other children. Further, since the handicapped children are a special case, there should be "positive discrimination" in their favour in the provision of facilities and amenities for education purposes."

To enhance the implementation of special education, the Government greatly encourages integration of the handicapped in ordinary schools. This is important for socialisation but it depends on the nature and degree of the disability and so some special schools have been established.

Education for the handicapped is provided in three major ways:-

(i) Special Schools

These have been designed exclusively for the disabled: Cheshire Homes, Dagama School for the Handicapped in Luanshya and others.

(ii) Ordinary Schools

These have special units attached to them - for example Kabulonga Boys with a unit for the physically handicapped, and Munali Boys with a unit for the blind in Lusaka.

(iii) Ordinary Schools Without Units

The disabled can attend these depending on how convenient it is to that particular individual.

Resource teachers are provided where there are reasonably a large number of disabled children in an ordinary school.

This chapter concentrates on special education as provided in special schools and units attached to ordinary schools due to the fact that these are the institutions that were established

essentially for the education of the disabled. It is also important to understand how teachers for the handicapped are trained in Zambia.

3.2 TRAINING OF TEACHERS FOR THE DISABLED

Lusaka College for Teachers for the Handicapped is the only institution in the country set up for specialised training in the teaching of the disabled. It was found necessary to set up the College to help spearhead development of special education and ensure that the disabled got the same educational opportunities as the able-bodied.

The College enrolls serving Primary and Secondary School teachers who undergo training in various skills in special education. Upon graduation, the teachers are employed in special schools, special units and in hospital teaching services to cater for long and short term patients.¹¹

The College, however, cannot increase its output due to limited accommodation and classroom space. There is also a problem of inadequate reading literature and equipment for training, as well as lack of transport for day-to-day activities. Teachers from the College are not promptly used, nor are those trained abroad. Even after training, teachers return to the same routine or ordinary classroom teaching.¹²

The Inspectorate for Special Education is inadequate to supervise teachers due to heavy administrative responsibilities.

3.3 PRIMARY AND SECONDARY SCHOOL EDUCATION

This is provided by both the state and the Missionaries. There are several schools for almost all the disability groups. For a disabled child to be enrolled, there must be a medical report ascertaining the disability; the candidate must be under the age of 12 for a place in Grade 1.

Physically Disabled Children are "those who may have a physical impairment that prevents them from functioning normally in some way or who may suffer from various diseases that prevent them from benefiting from the ordinary schools."¹³

Considerably, a large number of Grade 7 school leavers who are not accepted for Grade 8 enter the labour force. It is estimated that Grade 7 school leavers enter the potential labour market at the rate of 75,000 per year.¹⁴ One can comfortably assume that this high rate of Grade 7 drop outs includes disabled children in ordinary schools because, among other things, these children have difficulties in learning and could generally lag behind. These children do not acquire enough skill to start earning a living.

Although production work is introduced in the ordinary schools, this does not help the disabled children much. For instance, a disabled child will not be able to participate in the normal work involved in the field

nor will the leper who does not have hands. In cases where the disabled children are taught crafts which they can manage according to their disability, the skill does not help much after school due to lack of capital.

Certain scholars¹⁵ argue that the educational system does not prepare the children for the out of school life. For example, in Secondary Schools, children are taught more academic than practical courses. Children, therefore, aim to get higher on the education ladder and study for passing examinations. When they leave school, they do not know how to cope with life.

Physically handicapped children are more accepted than the deaf and blind. This is because the physically handicapped are more accepted in society and so parents do not shun taking them to school. Also physical disabilities vary but it concerns the limbs and arms usually. This means these children can be as bright as their peers. The only problem may be related to practical things such as production unit and writing. On the other hand, the blind and deaf may not have the same chance due to poor facilities for their special disabilities. In ordinary schools such facilities as hearing aids, braille and specialised teachers are not found. This means that very few blind and deaf or dumb children enrol in these schools.

It is not possible to give the exact number of handicapped children in schools. In 1980, it was estimated that there were about 944 such persons in special units and boarding schools, seven special Primary Schools for the physically handicapped and 33 units; one special secondary school and 14 units in ordinary secondary schools for the physically disabled. In 1984, there were 2,095 handicapped pupils categorised as physically handicapped (741), deaf (254), blind (600) and mentally retarded (500) enrolled in mostly Primary School institutions designated as special schools and units.¹⁶

This is a very small number when compared to those handicapped across the country. Data available at the Ministry indicates that there are 2,385 children with various handicaps attending schools throughout the country in 1987. The 2,385 children were categorised as those attending Primary School - 1,231 and units - 475, Secondary Special Units - 340 as well as hospitals teaching services programmes - 330. The two sets of figures above indicate a very slow pace of special education expansion. In 1989, the number of handicapped children enrolled in special schools increased statistics on secondary schools for the physically and mentally handicapped and the blind were not found. However, the blind are better catered for than the mentally retarded.

Considering the number of disabled children in the country, it is most unlikely that these institutions are adequate. There is need to establish more schools.

3.4 PROBLEMS OF ACCESS TO EDUCATION FOR DISABLED CHILDREN

3.4.1 Economic Factors

Inflation is a problem that the Zambian nation has had to grapple with for a long period. Inflationary tendencies have meant an erosion of the buying power of the Zambian Kwacha. This means that an average Zambian is pressed not only by his limited salary but also by inflation. There is also heavy personnel tax. It is evident that most poor people have to forego some vital and basic needs such as education. Parents now have to pay for most of the social services that used to be free or subsidised. Because of this, for example, a parent who has to pay for his six children and who can only afford to pay for three will have to decide which of his children to support. Such a parent, if he had a choice would not choose to pay for a disabled child because due to the disability, the probability of passing examinations by that child will be low. Parents who cannot afford to pay for all their children would rather see that their normal children went to school instead of disabled ones.

Due to economic hardships, access to education for the handicapped children narrows so that in the end they may be excluded altogether. As the government reduces its share of supporting education, the burden falls on the parents. In the home, decisions on who to send to school also start, so that the disabled children who are disadvantaged are more likely to be excluded. If such trends occur and continue unchecked, there will be no disabled children or very few of them in schools.

3.4.2 Financial

The Government can no longer afford to provide facilities needed by disabled children such as hearing appliances, braille, reading glasses and other technical aids. With lack of these basic needs for these children, very few will be catered for in schools. Due to lack of facilities, schools have only managed to cater for 10 percent of the estimated number of handicapped children in the country.

3.4.3 Lack of Places at Schools

First and foremost, disabled children are at a disadvantage compared to their peers because of their disabilities. Almost in all things that they do, they are slightly behind their peers and because of this, the disabled children may even start school

later than their friends. By the time they are taken for enrolment, there may be no more places in Grade One. Today, there are over-enrolment rates in Grade One and if the disabled children got enrolled, they do not get personal attention which they need. These children usually have a poor performance so that their parents may stop them from attending classes altogether.

3.4.4 Distance To Schools

Disabled children usually find it hard to go to school because they may be too far away. Parents may not also feel comfortable to let their disabled children go to school with their peers if the distance to these schools are long. This, therefore, means the handicapped children may not go to school.

3.4.5 Lack Of Special Care

If they manage to go to school, unspecialised teachers find it hard to help them in their academic work. Without the special help that these children need, their performance may be bad, and so, they may not even progress in school. This has been evident in the poor performance of the disabled children in Grade Seven to Grade Eight.

3.4.6 Attitudes From Fellow Pupils

Bad attitudes that disabled children get from their fellow friends may discourage them to continue school. Lack of acceptance of these children in school is likely to discourage their participation in school activities and learning. Usually teachers do not help the situation much.

Integration, as emphasised in the Educational Reforms is unattainable if there are no conducive conditions. More effort should be made to improve the educational conditions for the handicapped by intensifying the coordinated efforts of the medical, social and educational services for the disabled. There is also need to design schools, school buildings and equipment in such a way as to cater for various disabilities.

For integration of handicapped children into ordinary schools to succeed, there must be special teachers in all schools where there are handicapped children. Otherwise, there will be no equality in terms of absorption of knowledge and consequently no real integration. Another matter is that:

"in Zambia, transportation is a big problem which makes it even more difficult for a handicapped child to reach school. A handicapped child cannot walk long distances. Thus. it would be necessary to provide

handicapped children with special means of transport to reach schools or to have small boarding units at the nearby school.¹⁷

The policy of integration must be adequately supported by legislation. There is need to pass the necessary laws if special education is to produce the desired results: the equalisation of educational opportunities for the handicapped children, and children without handicaps. The aim should be to make as many children as possible mobile so that they attend normal schools in the Community. There will always be cases with severity of handicaps that residential placement is the only way of educating the children.

Special Units do not function as expected because of the non-availability of teaching aids in such schools. This results in few handicapped children from special units qualifying to university and other institutions of higher learning.¹⁸

Disabled children will be hindered in active curricula participation if the structural and/or the administrative conditions of institutions are unfavourable. Architectural barriers are an example of special problems faced by the physically disabled.

Comprehensive special education legislation should be passed. All schools should be designed with the

handicapped in mind. If all schools can cater for all disabilities, the policy of integration will be promoted on a wider scale. Measures taken in some countries, particularly Britain (Chapter 1) can provide a model for the provision of special education.

British Education Acts of 1921 and 1944 - the former stipulated which classes (or categories) of children should attend special schools and defined the classes. Zambia could adopt this position.

Special education should be among the general duties of all local education authorities.¹⁹ Slightly and seriously disabled children could have different special education so as "to emphasise that physical or mental handicap existed in all degrees, from the very slight to the serious, and that special educational treatment was not a matter of segregating the seriously handicapped from their fellows, but of providing each case the special help or modifications in regime or education suited to the needs of the individual child."²⁰

Further, the Special Health Service and Handicapped Pupils Registration, 1953, defined the various categories of pupils requiring special education. The principle was to provide for those who could not go to ordinary schools without detriment to their health or educational development, to be satisfactorily educated

under the normal regime of ordinary schools.²¹

Moreover, the Minister²² could rule on the requirements to be complied with as a condition of approval as a special school.

The intention of the English 1944 Act was to try as much as possible to integrate handicapped pupils in ordinary schools - which were renovated or altered to accommodate large numbers of disabled children. Large houses were bought by local education authorities and adopted as schools for the handicapped. Improvement in planning and building schools was, however, recognised as even more economical than adopting houses.²³

Cuba, Japan and Sweden have also made great advances in special education by passing adequate legislation.²⁴

3.5 TECHNICAL EDUCATION AND VOCATION TRAINING²⁵

In 1968, the Government decided to expand technical education and vocational training. This resulted in the present pattern of training programmes; and in 1972 the Technical Education and Vocational Training Act²⁶ was passed. This Act also established the Department of Technical Education and Vocational Training (DTEVT). Technical education and vocational training is Zambia's approach to apprenticeship scheme obtaining in other countries. The duration of training varies with the course, but the minimum is 3 years. The Trades Training Institute that provide

technical education and vocational training are scattered throughout the country.

There is only one special training institute for all disabilities: the National Vocational Rehabilitation Centre in Ndola. However, there are two institutions especially for the physically handicapped and deaf persons and one exclusively for the physically handicapped.

Courses common to the physically handicapped are woodwork, metal work, tailoring, typewriting, radio and television repairing and weaving.

Unfortunately, Chapter IV of the Educational Reforms which deals with technical education and vocational training does not mention anything about special educational or training reforms for handicapped students. The Technical Education and Vocational Training Act is also silent.

It has been realised in other parts of the world that technical education and vocational training (or vocational education as it is called), is important in the welfare of handicapped persons. Because of this view, many countries, for example Austria and Columbia have integrated technical and vocational education into the mainstream of special education.*

In Columbia, a developing country with similar problems to Zambia, the government has not only become aware that education is a right of the handicapped child, but has also created within several institutions in the public sector, divisions and departments responsible for ensuring that this right to education is a reality. Columbia and Austria have passed legislation for the integration of technical and vocational education into special education. **

3.6 TERTIARY EDUCATION

This is one crucial area which is generally lagging behind in terms of accessibility by disabled students. Whereas there are several special schools and many units accommodating handicapped pupils at lower levels, there is only a handful of the same persons in institutions of higher learning. Ordinary colleges are still not open to the blind and deaf "as a matter of right"²⁷

Individual colleges can use their discretion in acceptigg such students and if they are turned away, they have no legal recourse.

Tertiary education needs to be reviewed to promote the participation of the disabled. At the University of Zambia, main campus, handicapped students are accorded the same treatment as able-bodied students including being accommodated upstairs. Over the years, the intake has increased steadily, but the accommodation and environment remain the same. This is so despite the fact that those

persons have disabilities such as paralysis of the legs or confinement to wheelchairs. The situation may be summarised as follows:

"... Because the University of Zambia (or any other institution of higher learning) was not architecturally designed administratively structured and socially organised with the needs of physically handicapped students in mind, these students ... encounter some mobility and social problems. These problems would in turn produce academic and emotional problems.²⁸

By the United Nations Declaration of Human Rights²⁹ education is not a privilege but a basic right. By the United Nations Convention On The Right Of The Child handicapped children are entitled to 'special care and training designed to help them to lead a full and active life in society.'³⁰ Zambia has ratified the convention . ~~Zambian~~ children should not, therefore, be exceptions to these internationally recognised fundamental human rights. By not creating a conducive educational environment supported by law, the Zambian Government is denying its disabled citizens this right to education.

Countries cited in this chapter as models have improved their educational provisions for the handicapped by passing comprehensive legislation. In Sweden and Japan, for example, they have separate legislation for the

education of the disabled although the emphasis is still on integration. ***

Similarly, in Britain, statutory regulations made pursuant to the Education Act, 1944, have made significant development. Zambia could adopt some of its provisions in an Act for special education.

As regards tertiary education for the handicapped, the government should extend the provisions made for special education in Primary and Secondary schools to this higher level. The Government's policy of integration should also be clearly defined, especially in connection with tertiary education.

The following proposals can be considered as necessary statutory requirements for the augmentation of special education and enhancement of integration:-

- (i) all schools should meet specified and standardised building designs;
- (ii) all special schools should be situated near medical facilities, or medical personnel should visit them from time to time;
- (iii) where there are multi-storey buildings, elevators should be installed;
- (iv) all institutions where there is a reasonable number of disabled persons should maintain a special fund where the disabled could obtain loans for the repair or purchase of technical aids and appliances.

- (v) handicapped persons should have access to all facilities and services offered by their institutions including all sections of libraries, dining halls, administrative offices and recreation halls;
- (vi) special education inspectors should ensure by visiting these institutions, that the requirements are complied with; failure should amount to an offence;
- (vii) the cost of education of the disabled should be met by the government.

The whole system of educating the disabled should be revised and laws passed to restructure special education and technical education and vocational training; the government should also not neglect those institutions that it has already established.³¹

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ADDENDUM

Other References

Chapter Three

1. Page 59 (last paragraph)

attended a major international conference held in Zimbabwe in Harare in January 1990, on "Accessibility and independent living of the disabled; including conceptualisation methods and strategies."

2. Page 60 (at the end of the third paragraph)

*Conference in Zimbabwe, January, 1990.

3. Page 62 (end of the second line)

*Attended conference in Lesotho March 1991 on "Full Participation and Equalisation of Opportunities of the Disabled People in Africa"

CHAPTER FOUR

TITLE: EMPLOYMENT OPPORTUNITIES

Former President of the Republic, Dr. Kenneth Kaunda, in his capacity as President, once said: "Zambia must undertake action-oriented research to fully determine the nature and extent of the problem of disabled people in the country." He said that this would map out appropriate strategies to deal with the problems of the needy in Society, and that this exercise must become a permanent feature of national planning. "The greatness of any nation could only be measured by the manner it treated the weak and the disabled of the society and not by the size of the country, population, wealth, technology or military superiority."¹ It is the aim of this chapter, therefore, to evaluate the extent of the exercise undertaken to achieve this aim, if at all.

Many persons with disabilities are denied employment or given only menial and poorly remunerated jobs, all over the world. This is true even though it can be demonstrated that with proper assessment, training and placement the great majority of disabled persons can perform a large range of tasks in accordance with prevailing work norms. In times of unemployment and economic distress, disabled persons are usually the first to be discharged and the last to be hired. In some industrialised countries experiencing the effects of recession, the rate of unemployment among disabled job-seekers is double that of able-bodied applicants for jobs.²

Many disabled people live in rural areas. When the family economy is based on agriculture or other rural occupations and when the traditional extended family exists, it may be possible for most disabled persons to be given useful tasks to perform. As more families move from rural areas to urban centres, as agriculture becomes more mechanised and commercialised as money transactions replace barter systems and as the institution of the extended family disintegrates, the vocational plight of disabled persons becomes more severe. For those living in urban areas, competition for employment is heavy, and other economically productive activity is scarce. Many disabled persons in such areas suffer from enforced inactivity and become dependent; others resort to begging.

Full participation in the basic units of society, family, social groups and community is the essence of human experience. The right to equality of opportunity for such participation is set forth in the Universal Declaration of Human Rights and should apply to all people including those with disabilities. In reality, however, disabled persons are often denied the opportunities of full participation in the activities of the socio-cultural system of which they are a part. This deprivation comes about through physical and social behavior that have been evolved through ignorance, indifference and fear.

Attitudes and behaviour often lead to the exclusion of disabled persons from social and cultural life.³ People tend to avoid contact and personal relationships with those who

are disabled. The pervasiveness of the prejudice and discrimination affecting the disabled persons and the degree to which they are excluded from normal social intercourse produce psychological and social problems for many of them.

Too often, the professional and other service personnel with whom the disabled persons come into contact fail to appreciate the potential for participation by disabled persons in normal social experiences and thus do not contribute to the integration of the disabled in employment.⁴

Because of these behaviours, it is often difficult or almost impossible for disabled persons to get employment, let alone have close and intimate relationships with others. Marriage and parenthood are often unattainable for people who are identified as 'disabled' even where there is no functional limitation to preclude them.

Handicapped persons are usually denied the opportunities generally available in the community that are necessary for the fundamental element of living, including family life, education, employment, having financial and personal security, participation in social and political groups.

The skilled labour latent in the disabled persons should be utilised. When they are employed, the handicapped cease to be a burden to their families and ultimately to the nation. They, then, become productive citizens who contribute and

and participate in national economic, social, cultural, technological and scientific development.⁵

In most cases, a disabled person does not only suffer from a loss of some functional ability, but also from the loss of self-image and self-confidence as a direct response to negative assumptions, beliefs and attitudes of his community including his family towards him or her.

Individual adult members are respectable and acceptable differently according to their respective socio-economic positions in the family. These adult members of the family who are dependent on others for their livelihood are naturally less respected than those who are economically independent. In the same manner, economically dependent disabled persons are hardly acceptable for social integration, because they have nothing to contribute to the corporate life of the community. This stigma is extended by the community even to disabled children on the assumption that they will be unproductive even in their adult life due to disability.

4.1 THE ZAMBIAN EXPERIENCE

The disabled persons in Zambia in common with other disabled persons all over the world are currently living in difficult and challenging times. Out of the thousands of disabled people in Zambia, only about 3% are employed;⁶ and a good number of them in the services of the Zambia Council for the Handicapped.

They face difficulties such as beliefs and attitudes and behaviour for employment. Scholars have written to express their view on this situation. Osei-Hwedie maintains that: "... it does not really matter whether these people were originally employed or not, or whether they can still perform their jobs after being disabled. As soon as the label is applied, all the doors to employment are closed immediately. In institutions where jobs are scarce and unemployment very high, and where there are many of the so called 'normal' people who are employed, the disabled people stand no chance of being employed."⁷

The most important employment service for the disabled persons is a section in the Personnel Division of the public Service Commission responsible for placing only blind in public offices. Apart from the Workmen's Compensation Act which provides for compensation for injuries arising from accidents in the course of employment there is no legislation in Zambia which is drafted or formulated to cater for the particular needs of the disabled persons within or without employment. This is against article 23(1) of the Universal Declaration of Human Rights which states: "Everyone has a right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment."⁸

The disabled persons in Zambia are, therefore, left with no legal protection. Legislation should be passed if the

nation is to benefit from the massive potential of both skilled and unskilled manpower which is latent in most disabled persons.

The Zambia Council for the Handicapped is preoccupied with the employment of the disabled under the following:

4.2 PLACEMENT OF THE DISABLED PERSONS IN EMPLOYMENT

This involves negotiations for employment opportunities in all sectors of the economy for those handicapped persons who are adequately trained either at the National Vocational Rehabilitation Centres in Ndola, training centres run by the Council and any other Colleges in the Country who are unable to find employment on their own account due to refusal by employees despite the fact that most of these disabled persons possess the required qualifications. The occupations mainly include clerical, telephone operating, semi-skilled and skilled factory jobs.

To perform this function, the Council depends purely on social goodwill, since there is no law in Zambia to protect disabled person's employment rights. Employer's traditional apathy against employing persons with disabilities, coupled with the country's economic slump and lack of legal safeguards makes the placement practice increasingly difficult. The physically handicapped tend to be more acceptable than the wheelchair bound and the deaf and dumb, due to better possibilities

of communication and physical mobility.⁹

4.3 SHELTERED EMPLOYMENT

The Council provides sheltered employment to disabled persons who could hardly find access to the open labour market due to severity of disability, employer's prejudicial and discriminatory tendencies and other negative factors. Kang'onga Production Centre near Ndola with its subsidiary basket shop at Kambowa is the only facility of the Council for sheltered employment. The Centre produces baskets, brushes and furniture. It has high potential for employing many more disabled persons with the existing technical staff, workshop, floor capacity and equipment. Unfortunately, it is usually restricted by limitations in worker's housing accommodation.

4.4 FARM RESETTLEMENT SCHEME

The Council maintains two farm resettlement schemes in Kasempa and Zambezi districts of North-Western Province for leprosy burnt-out patients. The Council takes care of the farm management side of the schemes while the department of social development takes care of the welfare of the settlers by providing occasionally foodstuffs and clothing. A few able-bodied labourers are employed in these settlements to help severely handicapped settlers.

4.5 FARM EMPLOYMENT

The Council runs 12 farm centres for the employment of disabled persons - the blind, deaf and dumb, mentally retarded and physically handicapped. The blind are in excess because the farm centres were once exclusively for the blind and ever since, their employment capacity has not increased much due to serious financial constraints. The few disabled persons of other categories who are in these institutions have replaced blind persons who left the institution or died.

4.6 SOCIAL REHABILITATION OF DISABLED WOMEN

The Council created a special sector in the department of rehabilitation, for social rehabilitation of disabled women. This section under the headship of a woman rehabilitation officer has assisted disabled women and able-bodied wives of workers in the institution of the Council to form women's clubs for Handcraft Training purposes. Each club is equipped by the women's section, supervised and served by a full-time homecraft teacher.

Although all might appear well regarding the employment of disabled persons, there are a lot of financial constraints encountered by the Council. Lack of funds to buy farm implements, for instance, ploughs, oxen, fertilizer and chicken - people do not produce enough to feed themselves. Lack of trained personnel due to poor salaries and conditions of service. Too few manage to assist in all forms and activities. It is extremely

difficult for the Council to maintain these existing services, let alone create new ones as these Centres are run at a loss. It is handicapped by financial problems.

Most of these training Centres cater for the employment of uneducated disabled individuals who lack the proper skill and training required on the open labour market.

There are many unemployed, skilled, qualified disabled people who are hindered from equal participation in employment. The leading group being the mentally sick, the blind who are a common sight along Lusaka's main Cairo Road, Kamwala and Soweto markets. It is difficult to get accurate statistics, but they are increasing in number. According to 1980 statistics, about 43% physically handicapped persons, and 38% blind persons were employed. Information on the deaf and dumb was not published. The Zambia Council for the Handicapped tried to follow up the registration of disabled. According to 1987 annual report, 24 physically handicapped persons were employed, and 11 of the blind; 27% of the deaf school leavers were also employed. 51% of them were employed due to social factors that contribute to the unfavourable employment position of the deaf.¹⁰

The mentally recovered are the section of the disabled who are badly hit by unemployment. It has been submitted that in Zambia, there is a great need to teach the Government ministries, parastatals and private agencies the need to offer employment to mentally retarded and

recovered persons. One writer argues that it does not matter whether a mental patient was employed or not but when he recovers, his chances of employment are few. This is because employers are prejudiced about the mentally disabled person's mental stability.¹¹

4.7 CONSTRAINTS TO EMPLOYMENT BY THE DISABLED

Accepting the principle that a disabled person should be entitled to greater protection than other members of society, it is noted that there is discrimination practiced in most cases by employers against disabled persons. It has often been noted that unemployment problems experienced by the disabled do not necessarily stem from their inability to perform certain jobs but more often from the discriminatory attitude of employers. Most employers show a definite lack of confidence in employing disabled persons, and therefore prefer to employ able-bodied persons.

The negative attitude by the employers is reinforced by the Doctor's attitude to "play safe". The medical fraternity itself fosters uncertainty by its own over-cautious attitude to their employment by their vague advice on medical forms to employers, which is hardly calculated to inspire confidence. Employers usually do not employ the disabled because they are afraid of the accident that may happen. They believe disabled people have a high risk to accidents than normal people. Moreover, they think disabled people are

a liability to the company in that transport will have to be provided, jobs adapted to their needs, which would incur financial loss.

Employers also believe that the disabled people may reduce productivity. This is because they think disabled people are either slow or mostly absent from work. Perhaps the most serious behaviour to employment of the disabled especially the mental patients is the public's fear and stigma. In fact, for many persons with a disability, society's attitude is more devastating than the disorder itself. Part of this antipathy may be due to an increasing fear of a convulsion, but according to medical experts, attacks are most likely to occur when the patient is idle.

The other constraint is related to the education of the disabled. Zambia, like most third world countries, takes an active role in educating the normal people but is reluctant to educate the disabled persons. Yet, for an individual to be employed, he/she must have some education. Because of the negligence of the government to provide proper education facilities to these people, the disabled are not employed. The condition becomes worse when it is coupled with their disabilities.

It is common knowledge that education provided in Zambia does not prepare people for employment. It continues with students aspiring to pass examinations but not to prepare

for outside school life and employment.

The disabled persons participation is limited by their educational attainment. Many disabled people do not have the academic qualifications. Their parents who out of their ignorance or indifference do not make any effort towards ensuring that they are educated. This insufficient educational and training opportunities for the disabled hinders them from competing favourably with the able-bodied. Some of them like the blind and deaf are so hindered due to their nature of disabilities.

There are very few people who benefit from the training facilities at the National Vocational Rehabilitation Centre. The College is looked down upon by employers as sub-standard training. Sometimes the College has very few trained lecturers due to poor salaries and conditions of service.

Another contributory factor is the negative attitude by society in general: able-bodied persons are not willing to accept the handicapped as equal partners seeking employment on the labour market.

The Zambia Council for the Handicapped lacks funds to train and employ quality staff. It lacks expertise to provide services and to know particularly the needs of the deaf, and the mentally retarded. The deaf do not have employment placement services similar to those

accorded by the government to other groups of the disabled.

"Very often the deaf have to offer themselves door to door to prospective employers for possible employment. They fail to achieve their aim due to language and communication difficulties."¹² Sometimes wrong officers are assigned to attend to the employment needs of the deaf resulting in communication breakdown. This proves why the employment exchange services offered by the government through the Council proved unpopular among this group of the disabled. They experience difficulties in communication with the blind job-placement officers: deaf clients speak in sign language which the blind job-placement officers do not see. Blind officers speak in ordinary language that the deaf client do not hear. This prospect of difficult communication induces the deaf to shy away from the Council.

Registration of the disabled persons under section 17 of the Act is inconsistent, irregular and inaccurate. This makes it difficult to plan for the disabled for any services that might be available, as the Council is unable to have the exact figures. Accurate registration would be essential and helpful for allocation of resources, as it does under the Disabled Persons (Employment) Act of 1944, England, referred to above.

Reasons for poor registration include: ignorance of the society about the need and use of such registration, long distances to the centres, and generally the

reluctance by parents and families of the disabled children or disabled adults to register. They do not see the need to register if they are certain they are not going to be assisted. Added to this is the fact that most parents do not want to expose the fact that they have children who are disabled.

The rural nature of much of the country makes job opportunities very scarce in many parts of the country even for the able-bodied majority. The few available jobs are concentrated in the urban areas where competition for them is too stiff for the handicapped to stand a good chance of winning.

The absence of a strong government policy concerning the employment of the disabled does not help to ameliorate the situation.

During the meeting of the Inter Ministerial Committee on the creation of employment opportunities for the disabled held on 8th April, 1993, a task force was appointed under the Chairmanship of the Labour Department to explore employment opportunities for the disabled in the informal sector. The agencies which were supposed to be members are: the department of youth, self-employment projects, the National Vocational Rehabilitation Centre, the Small Industries Development Organisation, the Zambia Federation of Employers and the Village Industry Service. The task force was required to submit a report of its findings to the main Committee at its next sitting on 4th May 1993. However, this

It should support the integration of the disabled into open employment through a variety of measures such as:-

(i) Incentive - Oriented Quota Schemes

In these cases, employers are obliged by law to reserve for registered disabled persons employment to prescribed percentage of the total vacancies in their establishment. Quota Schemes may be difficult to enforce: slightly impaired persons benefit more than severely disabled persons because the employer prefers to recruit them. Legislation accordingly with necessary sanctions can alleviate the situation for example, in England, under the Disabled Persons (Employment) Acts 1944 and 1958. All employers with more than 20 employees must employ 3% of disabled persons. Non-compliance is an offence.

The disabled in Zambia should be educated on the need, use and benefits for proper legislation, and the government should ensure that accurate records are kept for planning purposes. Conditions for admissions, retention and expulsion therefrom should be outlined in legislative form.

(ii) Reserved or Designated Employment

Particular occupations may be reserved for the disabled. However, the employers and the public tend to think that disabled persons are only suitable or fit for such jobs. This is a misconception which can be eradicated through public education and information concerning the nature and effect of disability. The Zambia Council for the Handicapped Committee proposed the following occupations to suit the kinds of disability:-

(a) Employment Opportunities For the Blind

Telephone Operating, Teaching in Secondary Schools, Braille Music Teaching, Handicraft, General Administrative Work, Braille Shorthand Typing.

(b) Employment Of The Deaf And Dumb

Boiler Making, Panel-Beating, Black-Smithing, Tractor-Caterpillar Drivers, Clerical Work, Carpentry.

Other jobs include Copy Typing, Book Binding, Cane Cutting, Farming and Cooperative. Most of this work's noise will not affect them.

(iii) Loans or grants for small businesses and Cooperatives

- (iv) Exclusive contracts or priority production rights
- (v) Tax rebates, contract compliance or other technical of financial assistance to enterprises employing disabled workers.

Employers may be induced to employ disabled persons by the provision of tax rebates for those who do.

For instance, if for example, the employer is a body corporate, the amount of tax it pays to the Government will be reduced in proportion to the number of disabled employees it has. Under this arrangement, disabled persons are not regarded as liabilities to their employers but as valuable assets. Zambia introduced such a policy

in 1985 under section 43 D(1) of the Income Tax Act.¹³ A deduction of K120,000 per annum is

allowed in ascertaining the gains or profits of a business in respect of each disabled person employed. This was to encourage employers to employ the handicapped.

- (vi) Inducement Allowance

By law, the Government may be obliged to bear the responsibility for paying wages to disabled persons in certain occupations on behalf of their employers during probation or on jobs as an inducement for employers to engage disabled persons.

- (vii) The Government may subsidise or totally finance the adaptation of equipment or buildings by

employers for the employment of the disabled. It should support the development of technical aids and facilitate access for disabled persons to aid and assistance which they need to do their work.

Jobs can be adopted for the disabled by modification of equipment, tools and environment and also by working laws - that is fitting the job to the worker. This method prevents employers from declaring redundant those workers who have been disabled in service.

Where a firm is able to retain or employ disabled in its service by adapting his job to suit his residual capacity, it is very likely that the cost of adaptation will be less than that of recruiting a new employee and giving him the necessary initial induction training. The contention is that instead of providing monetary compensation for disablement, the law should state that job adaptation should be given priority wherever possible unless it is impracticable.¹⁴

Experience has shown that the cost of retaining employment in most successful costs has been surprisingly low. Adaptation does not demand high level knowledge, skill or vast resources: it only needs creativity and imagination.¹⁵

Adaptation of jobs, equipment and the working environment and the provision of occupational

health programmes helps to prevent the generation of occupational disabilities or diseases and their exacerbation. In most cases in Zambia, where disabled persons have been employed, it has not been considered necessary to adapt or suit the environment to the special needs of the handicapped, as these persons have been able to adapt themselves to the working environment.¹⁶ The excuse regarding the cost of adaptation, therefore, does not hold.

The policy and supporting structures, however, should not limit the opportunities for employment and should not hinder the vitality of the private sector of the economy. There should be mutual cooperation at the central and local level between government and employers and workers organisations in order to develop a joint strategy and joint action with a view to ensuring more and better employment opportunities for disabled persons. These services should include vocational assessment and guidance, vocational training, placement and follow up. The government should not leave the welfare of the disabled to the Zambia Council for the Handicapped or Associations for the disabled persons. The work should be the direct responsibility of each respective Ministry in the Government so as to cover participation in all areas.

When acting as employers, central and local government should promote employment of disabled persons in the public sector. Laws and regulations should not create

obstacles to the employment of disabled persons.

To eliminate the negative attitude, prejudice and discriminatory attitude of employers and the general public concerning the employment of disabled persons, the government should encourage a comprehensive public information programme about the rights, contributions and unmet needs of disabled persons that would reach all concerned, including the general public. In this connection, attitude change should be given utmost importance. Guidelines should be developed in consultation with organisations of disabled persons to encourage the news media to give a sensitive and accurate portrayal of, as well as fair representation of and reporting on the disabled. They should be able to represent their problems to the public. There has been much public awareness and education concerning AIDS, CHOLERA and other diseases but none about the nature and extent of disability.

The government should seriously address the welfare of the disabled persons, their rights and obligations in society. It should issue directives in form of ministerial regulations for all employers to maintain proper records of their disabled employees.

Legal redress should be provided for where the disabled persons are discriminated against. The present Act contains no provision regarding the same.

Employment legislation for the disabled is very difficult to enforce; its success will depend very largely on, inter alia, attitude, economic condition, social policy, cultural attitudes and the concerted efforts of the handicapped themselves. Legislation that has succeeded in England may not succeed in Zambia. However, it does provide a guideline.

It has been observed that the definition of 'disabled' under the ~~Zambian~~ Act should be drawn more widely like that under the England Act referred to above, so as to include and encompass all disability categories.¹⁷

'... it recognises the economic potential of the disabled making their employment a statutory obligation, an industry within certain wide limits. It gives emphasis to the importance of upgrading disabled persons to their maximum capacity.'¹⁸

The need for such laws has been recognised in several other states. For instance, Tanzania has passed an Act with the same title and objectives as the British Act: The Disabled Persons (Employment) Act 1982.¹⁹

Since there is no legislation whatsoever for the employment of the disabled in ~~Zambia~~, there are no protective measures for fair and favourable conditions of service for the disabled either. The law can do a lot in this respect.

It is sad that not even the constitution of Zambia²⁰ the highest law of the land contains any particular or specific provision protecting the disabled from discrimination based on their disabilities. It is this author's contention that when it is being reviewed or revived, as is about to be done, a person with knowledge and experience with the special needs of the disabled or the disabled, should be included in the Committee to be appointed so as to ensure that the needs of these persons are represented.

Zambia should seriously consider making its own version of the Disabled Persons (Employment) Act, taking into account its resources and above all the needs of the handicapped and their labour potential.

Through this study alone, nothing can be done to help them, through legislation (government policy) a lot can be achieved.

4.8 FOOTNOTES

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CHAPTER FIVE

TITLE: PHYSICAL AND OCCUPATIONAL MOBILITY CONSTRAINTS
OF DISABLED PEOPLE

The physical and occupational mobility constraints of disabled people are psychological, physical, social and attitudinal responses to the impairment of the body or mind.

"Physical mobility" may be defined as the ability to move from one point to another within a given geographical area.¹ This type of mobility is essential to an individual's independent living. Such factors as socio-economic development of a country, the nature of degree of impairment, degree of self-assertiveness of individual disabled persons, physical town planning, social policy and social attitudes will determine the extent of the constraints.²

Experience shows that it is largely the environment which determines the effect of an impairment or a disability on a person's daily life. There are mobility and architectural barriers which disabled persons come across as they commute from place to place so as to take part in various activities such as education, work; the latter refer to obstacles presented by physical structures like multi-storey buildings, foot-bridges, pavements and others. The present law is silent on this matter.

There are several bodies established under several Zambian Acts such as the Town and Country Planning Act,³ the Roads and Road

Traffic Act⁴ - Planning Authorities and Roads and Road Traffic Commission involves in considering public use of various facilities and amenities, and road safety. The Bureau of standards also tries to ensure that established standards relating to public services and facilities are maintained. All these government bodies function using terms of reference that are too general to cater for the particular and special needs of the disabled. The Planning Authorities hardly consider the disabled when permitting plans for various development projects, for instance, cinema halls, sanitary conveniences.

It is this author's contention that the criteria presently used in determining accessibility by the public are adverse to the interests of the disabled who require specially designed public buildings and specially planned transport services.

Legislation should be used to remove mobility and architectural barriers and to facilitate equalisation of opportunities.

5.1 OCCUPATIONAL MOBILITY CONSTRAINTS

"Occupational mobility" may be classified into horizontal and vertical mobility. Occupational "horizontal mobility" may be defined as restricting one's opportunity to change jobs according to choice from establishment to establishment; while the occupational "vertical mobility" is an opportunity to

earn one's promotion from rank to rank within the same establishment. Horizontal mobility is usually external while vertical mobility is internal.⁵

Directly or indirectly, disablement impose intrinsic constraints on both horizontal and vertical mobility by narrowing down the range of occupations of one's choice or limiting one's access to places of work. The intensity of disability - imposed constraints depends on the nature and degree of disablement, as well as the nature of occupation. One disability may be serious for one type of occupation, whereas the same disability will not affect the performance of another type of occupation. For example, a wheelchair-bound person may make a good Accountant or Administration, or any sedentary job; but he cannot work as an electrical engineer or a carpenter because these types of occupation demand climbing and a great deal of dexterity.

Handicap-imposed constraints are negative social attitudes as responses to impairments and disability. These include under-ratings of impaired person's residual functional abilities; exaggerations of disabilities; stigmatisation of disabled persons; attribution of mistaken disabilities to impairments. In brief, prejudicial and discriminatory practices and tendencies of employers.⁶

Since handicap imposed constraints are social, they vary from culture to culture. In response to attitudinal constraints of occupational mobility, the disabled tend to construct their assumptions and expectations accordingly, which are referred to as self-concept. In societies where occupational prejudices and discrimination against the disabled are minimal, disabled people's occupational expectations are likely to be higher than they are in societies where indifferent attitudes towards residual functional abilities of disabled people prevail.

Educational training constraints of occupational mobility result from poor education and training of the disabled. Severely disabled people such as the blind, the deaf and the wheelchair-bound, have scarce opportunities for education and training. For one thing, their education and training involves expensive technical aids and study materials, such as braille writing machines, cassette recorders, ordinary typewriters, braille books, audio visual instruments or alterations to existing premises and infrastructure. For another, negative social attitudes towards the employability of disabled persons tend to discourage generous public spending on the education and training of disabled persons. For a third, in some countries, a majority of public training institutions are not willing to integrate severely impaired students with the able-bodied students for fearing communication problems, provision of technical aids and alterations to buildings.

Again, educational and training constraints are not stereo-typed throughout the world. They are determined by many factors such as social and economic factors. Sweden and the United States are examples of societies where progressive policies for the disabled, backed up by strong national economies exist. Where the will to educate the disabled is weak, a poor economy simply worsens the situation. Higher standards of education and training among disabled people tend to reduce the effects of impairment on occupational mobility in a compensatory fashion.

The immobility of handicapped persons is a waste of valuable resource to the nation of individuals who possess valuable vocational or other skills. The ability to travel where, with whom and when one chooses is an essential aspect of civilised life. Leaving aside the pursuit of pleasure, individuals want to travel to earn a living, to enter into contracts, and to fulfill social obligations. Disabled people are no different.⁷

Getting on and off vehicles (buses or trains) can be cumbersome for a person who is handicapped. Worse still, commuters are often required to hold onto some hand rails, balance or stand. The inherent handicaps (or disadvantages) of disabled people are ignored.

Consequently, they face a greater risk than able-bodied persons whenever they venture outside their homes.

Handicapped travellers have been defined as those with an inability to perform one or more actions required by existing transport systems at a comfortable level of efficiency.⁸ Before any services are to be provided for persons within that definition, however, a survey should be carried out to determine the frequency of occurrence of such persons in a given community and the effects of existing availability of transport services on their social or cultural life. In the United Kingdom, it was discovered that immobility had an impact on employment opportunities for the disabled. This affected their choice of work and their earnings. Difficulty in travelling was the most common reason given for being unemployed.⁹ It is, therefore, pointless to create employment for the disabled if going to and from their work takes up too much of their time and makes it difficult for them to cope.

It is submitted that creation of employment should be accompanied by improved transport services. Although specially designed transport systems are costly to establish, the costs would be minimised if the needs of handicapped travellers were taken into account at design stage; the expense would be a fraction of that involved in adopting existing systems and often it is not technically feasible to renovate existing services to the extent required.¹⁰ The Zambian Government could learn a lot from the English law referred to in the first chapter.

There should be laws obliging planners to conform to certain stipulated standards of station and vehicle designs. Buses assembled in the country or imported should meet stated standards. They should have specific parking points with clear, legible, sign posts indicating their particular destinations to enable the deaf board the right buses. All mini-buses, in the country should have carriers for wheelchairs.

It has been realised that transport cannot reach ideal standards if there are too many transporters with different terms of reference. Another hindrance can be lack of a central advisory service control on the needs of handicapped travellers and no central control over the day-to-day decisions of these authorities, decisions that cover the design of systems and selection of vehicles and there are central funds available to help them make their transport systems more accessible.¹¹

At present, a central advisory board on vehicle selection would suffice. Since the country does not manufacture any vehicles, a service covering special design is not necessary. Perhaps there should be a clause in the Handicapped Persons Act to the effect that executive members of the Zambia Council for the Handicapped should form the advisory body on the selection of public transport.

Removal of mobility barriers is very technical, but can be a gradual process. There are practical, economic and administrative constraints limiting the percentage of the total population that can be comfortably accommodated on public transport. In Britain, though nominal progress has been made since the passage of the Chronically Sick and Disabled Persons Bill resulting in the Act itself, the department of environment, however, issued a circular drawing the attention of transport operations and manufacturers to the needs of the handicapped.¹²

The department also sponsored research through the Transport and Road Research Laboratory into improved bus designs. British Railways have acknowledged that their new carriage stock is or can be accessible to wheelchair passengers and have issued a useful statement of intent. Improved bus designs may be tied to the treasury grants, but accessibility is not yet a condition for all grants for public transport.¹³

5.2 PHYSICAL CONSTRAINTS

It has been observed that many handicapped persons are excluded from active participation in the community because of doorways that are too narrow for wheelchairs, steps that cannot be mounted leading to buildings, buses, trains and aircrafts; telephones and switches that cannot be reached; sanitary facilities that cannot be used. Similarly, they can be excluded by other types of

barriers such as oral communication which ignores the needs of the hearing impaired, and written information that ignores the needs of the visually impaired. Such barriers are the result of ignorance and lack of concern; they exist despite the fact that most of them could be avoided at no great loss by careful planning.¹⁴

In developing countries like Zambia, numerous physical or environmental barriers severely restrict the mobility of disabled people. These include steep kerbs instead of rampy ones, flights of steps such as those found in the university environments and other public places, roadside open trenches, lack of adequate pedestrian crossing facilities, unsystematic adjacency of town buildings and absence of pavements in most parts of the towns, poor transport facilities and high centralisation of town bus stops. Steep kerbs, narrow doorways and steps will seriously restrict the mobility of a wheelchair user. Open trenches and unsystematic adjacent buildings as well as absence of pavements can be a menace to the mobility of a blind person: and flights of steps to the mobility of a physically handicapped individual. Physical problems of the disabled's mobility in developed countries have become very minimised over the years through constant pressure on the government by disability association. Thus, some countries have enacted legislation and launched public campaigns to eliminate such barriers. The United Nations International Year of the Disabled Persons (IYDP), 1981,

has greatly helped in conscientisation of the public in favour of removing or minimising physical barriers to public places by substituting ramps for flights of steps in buildings, as far as possible; widening doorways enough to accommodate wheelchairs and flattening kerbs. For example, it is very easy for a disabled person on a wheelchair to move about; Heathrow Airport in London by using the ramp system. It is easier for a blind person in that city to cross a road much busier than Cairo in Lusaka by simply pressing a button of traffic lights. The crossing light signal is accompanied by a bleep to assure the blind person of his crossing safety. ^{**} In Scandinavian countries, and the United States, for instance, some public buildings are equipped with talking or braille lift. In other buildings switches in lifts are accessible even to persons on wheelchairs. ***

Elimination of physical barriers is cheaper than elimination of mobility barriers because building does not necessarily require advanced technical expertise.

This is a favourable situation because most social activities today take place within the confines of particular buildings such as classrooms, offices, churches. It is essential for any civilised nation to ensure that all its citizens have access to these public places without hindrance. Sometimes societies only cater for persons in full possession of their physical and mental faculties.

They have to recognise the fact that despite preventive efforts, there will always be people with impairments and disabilities and that societies have to identify and remove obstacles to their full participation. It is the duty of every government to ensure that the benefit of developmental programmes also reach disabled citizens.¹⁵ Measures of this effect should be incorporated into the general planning process and the administrative structures of every society.

The best solution would be to enact laws for elimination or reduction of architectural barriers. A serious call is hereby made to parliament to seriously address this issue.

Handicapped persons cannot effectively take part in most social events because the planners of various public facilities do not bear any legal obligation to consider the interests of the handicapped. In Britain the problem has reduced over the years with the assistance of the Chronically Sick and Disabled Persons Act 1970.¹⁶

In the rest of Europe, there is also a significant agreement on catering for the disabled entitled: "Resolution Agreement AP (72) 5 on the Planning and Equipment of Buildings with a view to making them more accessible to the handicapped. It was adopted by the Committee of Ministers on 16th October, 1972 at the 17 214th meeting of the Council of Europe.

This agreement invites member governments 'to inform faculties of architecture and town planning and schools to use standardised measures common to all buildings and installation used by the public.'¹⁸

Some measures considered to be taken were:-

- entrances should be at road level, adequately wide to permit the passage of wheelchairs
- handrails should be constructed on all staircases. These should be designed in such a way as to offer real support and an easy grip.
- staircases should be straight, with broad steps to allow use of crutches. No 'open' staircases.
- lifts should be installed whenever possible: the doors and cages of which should be adequately wide.
- in post offices, theatres, banks, stations, there should be outside and inside counters at an appropriate height for the handicapped with wheelchairs.
- in public booths, there should be facilities specially designed to meet the needs of the handicapped.

Reduction of physical barriers undoubtedly calls for considerable funds and involvement of wide range of technical experts; what is needed is the determination of what barriers exist and the number of persons who encounter them. Consultations with the disabled persons themselves is also necessary. The law should then be passed accordingly. The Chronically Sick and Disabled Persons Act 1970 of England could be a guideline for a corresponding Zambian Act.

The Government could work hand in hand with its respective local authorities to eliminate and reduce these barriers continued existence of mobility and architectural barriers is restriction on an individual's freedom of movement which by the Universal Declaration of Human Rights (that Zambia has ratified) is a basic right of every individual.¹⁹

5.3 SOCIAL ATTITUDES

Negative social attitudes towards disabled people can also create mobility constraints for the disabled. In most countries all over the world, disabled persons on wheelchairs are refused admission to some cinema and other theatres on the ground that their wheelchairs might obstruct other people's way in the event of a fire accident. In some European hotels and restaurants, blind persons with guide dogs are refused entry.

On the other hand, in Britain, like in many Western countries, members of the general public are culturally conscious of mobility needs of the blind. When a blind person needs to cross a road, when there is no special crossing facility, someone will certainly see him across almost instantly without even asking for such help. In contrast, in other societies a blind person will sweat to extract a guiding help from the general public. For instance, in 1984 a blind air passenger nearly missed his flight at Moscow International Airport because the Airport ground staff were indifferent to his mobility needs, unlike in a majority of Western Airports not to mention many African Airports.

Fortunately, in Zambia the general public are fast becoming enlightened on individual physical mobility needs of the disabled especially the blind. During the 1960s and before, it was not common for a blind person to be denied a guiding help even if he requested for it in the street, or at a bus or nearby railway station. He would often be referred to the police for assistance. Public bus conductors usually blamed some blind passengers for travelling without being accompanied by a sighted guide. A deaf person will find it very difficult to find his way about an unfamiliar locality where members of the general public are not tolerant enough to cope with his communication medium. It is not uncommon even today for an enquiring deaf person to be lampooned, instead of being assisted.

In the final analysis it is liberal social attitudes that will facilitate even the removal of physical barriers to disabled people's physical mobility.

It costs so much to alter buildings and infrastructures. Aids such as artificial limbs, calipers, wheelchairs, optical aids, guide dogs and white canes, as well as mobility training of the blind will go a long way to minimise mobility problems of the disabled, but where social attitudes towards the disabled are negative, alterations to buildings and infrastructures as well as the provision of technical aids will tend to be under-rated and given low priority by policy makers and administrators.

The government and its ministries especially those referred to in Chapter 2 should work towards making the physical environment accessible to all, including persons with various types of disability. It should adopt a policy of observing accessibility aspects in the planning of human settlements. This should ensure the disabled persons access to all new public buildings and facilities, public housing and public transport systems.

Furthermore, disabled person's associations, assisted by donor agencies could raise enough funds for the alterations to existing public buildings and facilities to make them more accessible to the persons with disabilities. But first, the Government must pass laws regarding the same. In doing so, they would encourage the provision of support services to enable disabled persons to live as independently as possible in the community. Moreover, the disabled would have the opportunity to develop and manage these services for themselves, as is done in many other countries.

5.4 FOOTNOTES

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ADDENDUM

Other References

Chapter FIVE

Page 94 "backed up by strong national economies exists"

*Conference on October, 12 1992, New York, USA -
Presentation to UN General Assembly by Chairperson
of Disabled Peoples International (DPI): Joshua Teke
Malinge.

Page 99 "...his costing safety
.....
.....on wheel chairs

*Conference on October 12, 1992 New York, USA

CHAPER SIX

TITLE: THE ROLE OF DISABLED PEOPLE IN DEVELOPMENT

6.0 THE ZAMBIAN EXPERIENCE

"There is a large cost to each community and country that fail to protect the rights of, and foster opportunities for disabled persons. Not only are many people with impairments allowed to become unnecessary dependants and incapable of activity that is economically and socially productive; but their dependence is also a drain upon the energies and resources of family members and society as a whole."¹

This sums up by implication what must be the role of disabled people in development. An attempt is made to substantiate why the disabled people must not be left outside National Development, appealing to the United Nations Declaration on Rights of disabled persons. It suggests certain measures that have to be taken by the state in order to realise disabled person's full participation and opportunity equalisation in development.

6.1 JUSTIFICATION OF DISABLED PEOPLE'S PARTICIPATION IN DEVELOPMENT

Disabled people in any society are not special human beings with special needs. They are members of the community who, by no fault of their own happen to have special difficulties in meeting ordinary needs, such as food, clothing, shelter, education and employment.

It is in recognition of this fact that the United Nations Organisation with its specialised agencies has made many declarations on the natural right of disabled persons in a bid to stimulate the awareness of all nations of the need to include disabled people in all areas of human development.

The United Nations Bill of Rights of Disabled Persons include the World Programme of Action on the International Year of Disabled Persons which was adapted by the United Nations General Assembly Resolution No. 34/154 of January 30th, 1980, and the Vienna Affirmative Action Plan of the unsponsored World Symposium of Experts in 1981. These down-to-earth documents are centred around disabled person's full participation and equalisation of opportunities in development.

The International World Health Organisation has estimated that at least 10% of the population of every developing nation is disabled.² If we add to this percentage the population of children and the aged, we would remain with a very small able and responsible minority of the national population to fend for the weak minority, yet a significant proportion of disabled people could be educated, rehabilitated and trained into socially responsible and economically productive members of the national population.

One rehabilitation specialist, Dr. Henry H. Kissler introducing the first Symposium on rehabilitation in Africa in Kampala (1964) as quoted by Mr. Kebby Musokotwane in his capacity as Acting Minister of Labour and Social Services, opening the first National Rehabilitation in Zambia in Lusaka

in 1979, said: "no nation can afford a luxury of wasted manpower. There is not only the cost of hospitalisation, drugs and surgical supplies, braces and artificial limbs, but there is also the hidden cost in the loss of productivity of individuals. It is important to restore these individuals to working capacity, to restore them to economic independence."

If disabled persons are not assisted to gain economic independence they will necessarily depend on the family members and charity as beggars or recipients of residual statutory services.

Once productive, disabled persons will equally contribute positively to state revenue through tax paying and contributions to social security schemes and other state financial responsibilities of productive individual citizens. Therefore, the nation cannot afford to forego the potential contribution of the disabled to state revenue.

Another reason why disabled persons should participate in social and economic development of the nation is that the quality of any society is determined by the qualities of its individual members - the disabled included.³ One

British politician, Sir Keith Joseph, in W. Jordan's

"Poor Parents: SOCIAL POLICY AND THE CYCLE OF DEPRIVATION."⁴

argues that the characteristics of poor families prevent individual members of such families from taking advantage of the education, cultural and other opportunities that would enable them to break out of their poverty. The result is a cycle of deprivation. Deprivation will,

unfortunately, not discourage disabled persons from bearing children. These children will be poor, too, because their disabled parents cannot socialise them through education and training into socially responsible and economically independent citizens. In the final analysis, there will be a generation of able-bodied beggars, prostitutes, thieves, drug abusers, armed bandits and other anti-social elements as descendants of deprived disabled parents. Therefore, it is in the interest of society to include disabled people in social and economic development and then, disabled parents will ably upbringing, educate and train their offspring into responsible and productive members of society.

6.2 BEGGARY AMONG THE DISABLED IN ZAMBIA

An appreciable fraction of the disabled in Zambia have taken to begging and this has been in many different ways. The usual and familiar pattern has been the one where beggars are seen strewn along a main street or are spread upon an area with small bowls soliciting for, normally, cash donations. The simplest form of begging may be referred to as inter-family mutual assistance whereby a housewife, regardless of social status may occasionally seek complimentary assistance from a neighbouring housewife, regardless of social status, in form of such essentials as mealie meal, salt, sugar, cooking oil, by way of begging. In the African society this form of begging is by no means humiliating among good neighbours unless it is overexercised. As long as it is done sparingly, not as a matter of habit, the practice is an indicator of sound neighbourliness.

Appealing for or collecting funds or donations in kind from the general public for a charitable cause is another form of begging. This practice is socially acceptable in most parts of the world.

A third form of begging is whereby genuinely or self-styled needy individuals solicit for donations - financial or material from the general public in business streets or from house to house.

A fourth form of begging is a rather sophisticated one exercised by crooks who are not necessarily poor. They pose pretentiously as representatives of some legitimate charitable service programmes.

While the first two forms of begging are legitimate and respectable, the third form is humiliating and stigmatic - that is, those who practice it are socially regarded with shame as social misfits who have fallen by the wayside in the eyes of society. This form of begging is commonly referred to as "street beggary." The fourth form is no less than a crime. It is referred to under the law as "beggary on false pretences." It is these last two forms of begging that this paper attempts to discuss.

6.3 CHARACTERISTICS OF STREET BEGGARY

Street beggars include both blind men and women mainly of the working age group. Though the physically handicapped have joined the blind persons, they are in the minority. The beggars do everything possible to make themselves look charity-deserving: clothing themselves in tatters, bare foot, uncombed hair, unkempt hair and anything they can

think of that will make them attractive to public sympathy. This means that how much money they may collect from the street is hardly put to good use - at least not for clothing. They have turned themselves into bottomless baskets of charity. They are accompanied by children of the school-going age thus depriving the children of the educational opportunity. It is not all the street beggars who are needy in the strictest sense of the word. Some of them are employed in Zambia Council for the Handicapped Institutions in peri-urban areas or their husbands are. Some of these practice beggary during leave, while others sneak away from work on flimsy excuses or during weekends. The beggar's strategic points are busy commercial places such as banks and supermarkets. Each of them usually occupies a special ground to himself or herself and does not expect intrusion of another beggar. Some of the beggars are quite saucy to public disapproval of the practice: ready to react vehemently to any member of the general public who disapproves their abuse of the accompanying children.

6.4 CHARACTERISTICS OF BEGGARS ON FALSE PRETENCES

Most of the beggars on false pretences are elite with a command of good English language. Unlike their street cousins, they do everything possible to make themselves presentable in a bid to convince their potential donors that they are officials representing a good cause for the blind. Some of these beggars are employed as telephone operators in Government offices and banks and practice beggary on a part-time basis during working hours. Others are those who have left employment and become professional

beggars on a full-time basis. Since most of the beggars on false pretences have access to telephones by virtue of their employment, they use this facility to make appeals to potential donars. Sometimes appeals are made in writing on printed official letter-heads stolen from real disability organisations or from Zambia Council for the Handicapped offices or faked in the names of fictitious organisations. Some of the beggars do maintain private post boxes and bank accounts in the names of fictitious organisations to facilitate the receiving of cheques and clearance of crossed ones from donars. They also keep receipt books stamped with stolen or forged office seals. Some of them have managed to legalise themselves by forming Associations with no more serious objectives than beggary in practice. These kinds of beggars do not solicit for only money; but also donations in kind.

Whatever the reason or reasons and in whatever manner begging is perpetuated, begging or soliciting for donations, as it is legally termed, is illegal.⁵

6.5 FACTORS OF BEGGARY AMONG BLIND PERSONS

6.5.0 Negative Attitudes to Employment

Just as there are individuals among able-bodied people with negative attitudes to work, so are there among blind people individuals who are too lazy to work or who regard employment to be less rewarding monetarily than beggary. To such beggars the availability of employment opportunities will make no difference to their lives. They will not be persuaded to take up gainful employment

in substitution for beggary. If they do, they are not likely to stick to jobs. Thus we have some blind telephone operators and some of the workers in the institutions of Zambia Council for the Handicapped, as pointed out earlier, practicing beggary.⁶

6.5.1 Shortage Of Employment Opportunities

It would be naive for anyone to pretend that all is well for blind people in this country. Throughout the third world, blind people are found among the poorest of the poor.⁷ Their training facilities and employment opportunities are scarce. Since their social, economic and cultural needs are all traditionally classified as social welfare needs, these needs tend to receive little or no attention at all, because social service in many developing countries are accorded low development priority in terms of public spending. Zambia is no exception. At present in Zambia, job opportunities are hardly available for not only blind persons, but also for other disability groups.

6.5.2 Negative Self-Concept

Social attitudes towards blind people tend to be patronistic not egalitarian - they do not encourage equality of opportunities; but rather they reinforce blind people's perpetual dependency on public charity. Functional effects of blindness tend to be exaggerated, playing down the residual functional potentials of the victim of blindness.⁸ This misconception leads the community to associate blind people with charity. In response to this association, or negative social attitudes towards them, some blind persons come to accept the

socially-imposed position of spoon-feeding or negative self-concept.

6.5.3 Lack Of Social Security Measures For The "Poorest Of The Poor"

In countries where income security provisions are available to cushion the economic hardships of the poorest of the poor, like the blind, beggary has no legitimacy and it is almost non-existent.⁹ Even if employment opportunities were available for all the blind people in Zambia, it is not every blind person who would be employed for various constraints, including negative attitudes to work, lack of required skills, limited accessory facilities and services. Income security would serve two purposes: firstly, as a safety net to protect genuinely needy blind persons against falling into the shameful practice of beggary. Secondly, it would justify public disapproval and prohibition of beggary.

6.5.4 Lost Identity

Once an individual begins to think that he or she has nothing to lose by conducting oneself contrary to social norms and socially acceptable moral standards, the individual has fallen by the way-side or has lost identity. Hardship does not weaken or lower a person's moral integrity, but it simply reveals the true nature and character of the victim. In 1991, the population of the blind people in Zambia was estimated at 70 thousand.¹⁰ Although the number of blind beggars is not known to us one can safely estimate that they are over a thousand

throughout Zambia. This means that the majority of blind
Zambians are decent citizens suffering quietly out of
public sight. Therefore, these blind individuals who have
taken refuge in beggary may be said to have lost their
identity. They are no more shameful than their able-bodied
contemporaries who have lost identity and taken refuge
in banditry, vandalism, pickpocketing, prostitution,
alcoholism, drugs and the like. Able-bodied misfits, unlike
the blind, may not attract public sympathy in beggary, just
as blind misfits may not succeed in refuge camps of able
bodied misfits. Therefore, beggary among blind people
in Zambia should not be isolated from the wide spectrum
of crime and social delinquency.

6.6 EFFECTS OF BEGGARY ON DEVELOPMENT PROSPECTS FOR THE BLIND

Beggary like any other social antithesis is anti-clock
wise to the socio-economic advancement of blind people
and damaging to their human dignity as a section of the
Zambian community.

Firstly, it entrenches negative social attitudes towards
blind people in general, thus creating a vicious cycle.
Since blind people are but a small section of the national
population, any serious blunder publicly committed by
only few individuals is irretrievably imputed to the entire
section of the blind. Beggary among blind persons
reasserts able-bodied people's mythical perception of
blindness as a calamity which impairs the functional ability
of its victim beyond restoration thus rendering him or her
permanently dependent on public charity.

Secondly, those children who accompany their parents or guardians on begging sprees become disadvantaged in two ways. First, they are deprived of the educational opportunity thus perpetuating the cycle of poverty in the family. Second, the experience of these children in beggary is likely to impair their psychological development. They tend to assume parasitic values of life in substitution for aspirations to self-reliance. They have no chance of peer-group socialisation. They hardly learn any new skills as they grow up other than the technics of attracting public sympathy.

Finally, beggary on false pretences erodes social goodwill towards legitimate causes for disabled people. The beggars of this type are dangerous weeds capable of choking the seeds of development. When benefactors come to realise that some of the donation appeals received by them are false, they become upset and confused: finding it difficult to distinguish genuine from false ones. The consequence is their loss of interest in entertaining charitable appeals altogether.

6.7 MEASURES TAKEN TO REDUCE BEGGARY AMONG BLIND PEOPLE

During the 1970s Zambia Council for the Handicapped discussed street beggary at least at three annual general meetings, in December 1972, December 1976 and April 1978, trying to persuade the police to remove the beggars from the streets. In 1976, the then Commissioner of Police, Alias Katambi, was invited to attend the 1976 Annual General Meeting of the Council, to enlighten the organisation on the legal implications of street beggary.

The Commissioner acknowledged that the police were aware of street beggary in Zambia as a social problem; but there was no specific law to back them up in removing the beggars from the streets. for ethical reasons, the police could not bear harassing blind beggars by manhandling them publicly for the fear of obvious public embarrassment. He said "the police could arrest anyone suspected of begging on false pretences, because beggary on false pretences was a crime under the law."¹¹

In 1978 the Central Committee of the Party (UNIP) directed the Department of Social Welfare to study beggary and make recommendations on blind beggars, Mishanga Sellers, Juvenile delinquents, alcoholics, and other social misfits. The Council was to participate in the survey; but it did not take place due to lack of funds.

In 1993, the Ministry of Community Development and Social Welfare announced the availability of funds for repatriation of the disabled, especially beggars. The blind immediately visited the Ministerial offices and demanded money for repatriation. On discovering that the Ministry was issuing tickets to the respective destinations and not money, about 29 of them changed their minds and intentions about leaving the streets.¹³ The Minister¹⁴ then appealed to the public not to give to the blind because doing so encouraged them to stay in towns. Other measures taken by the Government included paying rent for houses used by the disabled registered with the Ministry of Community Development and Social Welfare Scheme, while clothing and school fees for the blind was met by the government, as well as basic foodstuffs.

It also spent over K12,000 per month on feeding various blind persons with their families.¹⁵

The Zambian Federation for the Blind feels that the law against begging should be reviewed and stiffened because that is the only way to prevent people from begging in streets without permission. The public also feels that the Government should take strategic measures to rid the cities of beggars. The Government also announced that if the disabled went to the villages food allocation would be continued.

6.8 WHAT SHOULD BE DONE

Although beggary among blind people may never be eliminated altogether due to its worldwide historical basis, it should not be allowed to explode out of proportion so as to minimise its adverse effects, as we have analysed above. The following measures may help to control the practice:--¹⁶

- (a) Unemployment among blind people, as a contributory factor of beggary, may be reduced by integrating blind persons in ordinary vocational programmes, including training colleges and Trades Training Institutes as well as Land Resettlement Programmes.
- (b) The Zambia National Federation for the Blind and Zambia Council for the Handicapped should cooperate to educate blind persons from time to time - especially those in schools and Institutions of Zambia Council for the handicapped on the adverse effects of beggary.

- (c) Zambia Council for the Handicapped should discipline those of its employees that are involved in beggary and investigate those suspected of involvement in beggary. The disciplinary measures should not exclude the possibility of termination of employment with a view to substituting genuinely needy beggars for ungrateful ones. Genuinely needy beggars are those beggars who are prepared to abandon beggary if offered employment.
- (d) The Government should strictly enforce the law against beggary on false pretences regardless of whoever is found practising it. Section 23 of the Handicapped Persons Act¹⁷ prohibits anybody from publishing appeals to the general public for "subscriptions, contributions, donations or other forms of gifts for the welfare of the Handicapped; or ... organise, hold, assist or be concerned in any collection of money, or attempt to collect any money, from house to house or in any street, by sale of goods or otherwise, for the welfare, education, training, rehabilitation or health of the handicapped," without the express permission of the Commissioner for the Handicapped subject, of course, to any other written law. As far as we know, there is no other written law that has been introduced to supersede this proviso. This law has hardly been enforced since the enactment of the Act in 1968. It should be strictly enforced to curb the incidence of beggary on false pretences. Sub section (2) of section 23 imposes the fine of K50 or 6 months imprisonment on anyone convicted

of contravening sub section 1 of the section as quoted above. Today K50 is not even equivalent to the 15n of the 1968. Therefore, there is urgent need to amend this subsection of the Act.

6.9 FULL PARTICIPATION AND EQUALISATION OF OPPORTUNITIES

Disabled persons are not less rightful members of society; nor are they less entitled to its resources than their able-bodied contemporaries. What is factual is that their impairments and disabilities are special difficulties which constraint their access to life chances. These special difficulties tend to make them look different in the eyes of society. They are not readily accepted for social integration. Their disablements are exaggerated and their residual functional abilities underated, disputed or ignored completely through either ignorance or prejudice. Therefore, the realisation of their full participation and opportunity equalisation is paradoxical and cannot be left to social goodwill alone.

▲
Certain drastic measures have to be taken in their favour by the state. Some of these measures will no doubt prove unpopular in some sections of society; but over the years such measures will naturally crystallise themselves into the ethics of society. Fifty years ago not many white people could even dream of the feasibility of a black government. The black man was, and still is, in South Africa, regarded as inferior and incapable of governing by the white man.

The call made to government in the previous chapters is hereby reiterated. Disabled persons fundamental rights

such as education, rehabilitation of all forms, training and employment, as well as the provision of basic necessities of life for those disabled persons who are permanently unemployable, have to be protected by legislation. In Zambia, we have the Handicapped Persons Act which as discussed above is inadequate and vague. There is no concrete legislation in the form of Quota Scheme to protect employment rights of disabled persons.

There is no law in Zambia for the provision of basic welfare assistance to the disabled persons - more particularly the unemployable - although the department of Social Development provides short-term relief assistance to the destitute, including disabled destitute, under the central welfare assistance scheme which has been decentralised provincially.

As far as possible, services for the disabled have to be integrated with general community services. The provision needs of these people cannot be abrogated to one government ministry or a special agency alone. Since disabled people are ubiquitous throughout the community, these services do not have to be highly centralised into permanent residual institutions unless it is absolutely necessary.

The disabled in this country have advocated having a special government ministry; but only to influence public policy and public spending in favour of special services and facilities for the disabled as well as coordinate such services and facilities. The disabled have complained that they are not adequately represented especially in so

far as development funding is concerned.

Disabled individuals who approach public offices for assistance are often referred to the Zambian Council for the Handicapped even in cases where the Council is not competent to provide the form of assistance needed.¹⁸ This is because most public offices in Zambia, like in many other countries do not consider themselves being competent to serve disabled persons even when the services normally provided by them are not irrelevant to the particular needs of such disabled individuals who approach these offices. Disabled women and youth should be taken care of when planning women's and youth development programmes by the state.

Disabled person's employment opportunities in Central Government, Local Government and the Private Sector should be increased, as the state is the largest employer in the country. Today, most of the switchboards in the public service are operated by blind persons. Very little has been done to place in public service employment other disabled persons, like the wheelchair bound and the deaf, in an organised manner.

A technical aid scheme should be introduced by Zambia Council for the Handicapped supported financially by the state, to assist disabled individuals who need such aids in their employment. A special committee in the Ministry responsible for works planning should be formed to look continually into alterations to public buildings and town infrastructure in order to make them accessible to disabled persons, including those on wheelchairs, and

ensure that university and college graduates are easily absorbed into public service and placed in suitable occupations.

Community-based rehabilitation should not be left to special agencies alone. It will be greatly boosted through ordinary financial-lending facilities. Financial lending institutions, for example, Lima Bank, Small Industries Development Organisation have all to be induced through public policy in some cases or public educational campaigns, in others, to open their doors to potentially enterprising disabled individuals or groups without prejudice. It is much easier for a disabled person to find employment than it is for him to obtain a business loan from a public institution.

The Zambian Society is quite far from fully integrating disabled people in development. However, there is sufficient goodwill on the part of the government to achieve the goal. What appears to be lacking is complementary effort in the forms of social research, professional advice and informed pressure on the part of the service organisations and pressure groups like disability associations. The country seriously needs social surveys into specific problem areas affecting the development of disabled people.

International Development agencies should take care of disabled peoples socio-economic interests in their technical cooperation and assistance packages with Zambia in a substantial measure.

The Government must invest in a continuum of new and strengthened programmes to liberate people with disabilities from dependency and empower them to be equal and productive participants in the mainstream: productivity-oriented education for all citizens, economic, technological independent living, vocational rehabilitation, transitional personal assistance and community based supports for productivity and quality of life. Legislation means saying no to ignorance, no to prejudice and yes to dignity, respect and equal opportunities to all people. It is a courageous reallocation of society's resources.

6.9 FOOTNOTES

1. Paragraph 11 of the Vienna Affirmative Action Plan of the World Symposium of Experts on Technical Cooperation and Assistance in Disability Prevention and Rehabilitation - Sponsored by UN (Vienna, 1981).
2. GRZ/UNESCO, 1979: p 72
3. Mutale: Training Manual for Disability Associations in Zambia 1990 p 35
4. London, 1974
5. Section 23 of the handicapped Persons Act Cap 551 of the Laws of Zambia.
6. Mutale: Supra, p 28
7. Mutale: "Beggary Among Blind Persons In Zambia"
A resource paper presented to leadership Training Seminar for Visually Handicapped Women, 1991.
8. Ibid:
9. Ibid:
10. GRZ/UNESCO, 1991
11. Mutale: "Beggary Among Blind Persons In Zambia."
A resource paper presented to Leadership Training Seminar for Visually Handicapped Women, 1991.
12. Ibid:
13. Zambia Daily Mail: 19th June, 1993
14. Ibid: Minister of Community Development and Social Welfare - Princess Nakatindi.
15. Ibid:
16. Mutale: "Beggary Among Blind Persons In Zambia."
A resource paper presented to Leadership Training Seminar for Visually Handicapped Women, 1991.
17. Chapter 551 of the Laws of Zambia
18. Interview with Mr. J.N. Mutale at Zambia Council for the Handicapped offices on 28th May, 1993.

CHAPTER SEVEN

TITLE: NEED FOR LEGISLATION

7.0 INTRODUCTION

It is submitted that in England, the Disabled persons are socially required to be given special education, care and treatment, and assistance for them to learn and work on their own account, to earn income and therefore, live independently. The law recognises their full potential as full human beings entitled to basic rights and fundamental freedoms enjoyed by all.

In an endeavour for full participation and equality for the disabled, it is submitted that under the Common Law, the following rights are recognised for the handicapped:-

- the right to education
- the right to rehabilitation
- the right to employment
- the right to economic security
- the right to independent living
- the right to participate in social, political and cultural activities.
- the right to influence

and that these rights are protected by legislation.

Disabled persons are not regarded as a minority group, dependent on their families or other able-bodied members of the community, but are able to be educated, trained, employed and contribute to development, integrate with their communities and live independently.

Back at home, the situation can be summarised as follows: "Disabled Protest"¹; "More Aid Needed For Handicapped"²; "Disabled Reject K175 Million Complex"³; "Deaf and Dumb, Little For Training Chances"⁴; "Disabled Reject Zambia Council For The Handicapped"⁵; "Kill Us, and Throw Our Burnt Ashes In River: Disabled Tell Minister."⁶ This is the order of the situation for the Handicapped in contemporary Zambia. Such headlines are not uncommon in the country's news media, and reflect the fact that the social welfare of the disabled is in disarray and something must be done to reduce the social imbalance. The best solution could be adequate legislation to guarantee protection and curb the imbalance prevailing today. Most social services for the disabled in Zambia are currently provided through government policy and social goodwill. The Zambia Council for the Handicapped established to cater for the disabled in Zambia encounters many insurmountable financial problems which militate against becoming self-reliant. Most of its institutions are run at a substantial loss; and it lacks skilled and experienced social workers to implement its policies. The situation is worsened by the fact that the Handicapped Persons Act is inadequate, vague and has not been repealed since 1972 to cater for the needs of the disabled in contemporary Zambia. It is silent on the recognition of the rights of the disabled. What is lacking is adequate legislation.

The following recommendations are made, therefore, to promote the welfare of the disabled:

7.1 SUMMARY OF RECOMMENDATIONS

(a) Education

- (i) the Government should introduce the basics of special education in major teachers training colleges.
- (ii) special education should be regarded as a monolithic whole from primary to tertiary education. Hence there should be one special education inspectorate with the legal status of a government department.
- (iii) all handicapped persons should be able to enter an institution of learning of their choice. Even the most severely handicapped should be able to gain admission to colleges and universities. For this purpose, school buildings and premises ought to be standardised. The Education Act should be, accordingly, be amended.
- (iv) special education should be compulsory and non-compliance should be an offence.

(v) special education must be integrated into technical education and vocational training and the TECHNICAL EDUCATION AND VOCATIONAL TRAINING ACT should have a provision for that purpose

(vi) Zambia should adopt some of the provisions of the British Education Act, 1944 on special education.

(b) Physical and Mobility Constraints

(i) Airports, railways and bus stations, and bus stops should not present any barriers to the disabled, to this effect, there must be statutory provisions for standardised planning conducive to the travelling needs of the handicapped.

(ii) Public service vehicles should be standardised. For example, they should all have carriers.

(iii) Major Local Governments (e.g. Lusaka Urban District Council) should operate one or two buses especially designed for the disabled. The number of buses can be determined by the frequency of "handicapped travellers" in the district.

(iv) The HANDICAPPED PERSONS ACT should be amended so that Zambia Council for the Handicapped is empowered to advise planners and transporters

or important public services, facilities and amenities as they are likely to affect the disabled.

- (v) Handicapped persons should have access to all new buildings and transport systems. Wherever feasible, existing structures should be renovated.⁷

- (vi) Zambia should adopt the CHRONICALLY SICK AND DISABLED PERSONS ACT, 1970 and some of the provisions of Resolutions AP (72) 5.

(c) Employment

- (i) the government should device ways and means of creating employment for the disabled who should not be restricted in choice of job; at the same time, employers should not be compelled to employ the disabled.
- (ii) the WORKMEN'S COMPENSATION ACT should have a clause incorporating "job adaptation" therein so that where practicable, handicapped persons are retained on the job.
- (iii) The HANDICAPPED PERSONS ACT should be amended to include a provision for a disability allowance for disabled employees in the low income bracket.

(iv) A "disabled Persons" pension scheme should be introduced and the ZAMBIA NATIONAL PROVIDENT FUND ACT⁸ amended to that effect.

(v) The SMALL INDUSTRIES DEVELOPMENT ACT⁹ could also be amended to provide for specific incentives to the handicapped whenever they establish a village enterprise. Better still, all legislation relating to self help schemes should have particularised provisions for financing projects managed by the disabled.

(vi) Zambia should adopt the English Disabled PERSONS (EMPLOYMENT) ACT, 1944.

(d) Development

(i) Disabled person's fundamental rights such as education, rehabilitation of all forms, training and employment as well as the provision of basic necessities of life for those disabled persons who are permanently unemployable, have to be protected by legislation.

(ii) Services for the disabled have to be integrated with general community services, and should not be abrogated to one government ministry or special agency alone.

- (iii) Disabled women and youth should be taken care of when planning women's and youth's Development Programmes by the state.
- (iv) A technical aid scheme should be introduced supported by the Zambia Council for the Handicapped and the state should finance it.
- (v) Unemployment among blind people, as a contributory factor of beggary, may be reduced by integrating blind persons in ordinary vocational programmes, including training colleges and Trades Training Institutes as well as Land Resettlements Programmes.
- (vi) Disciplinary measures should be instigated on all employees of the Zambia Council for the Handicapped and Federation for the Blind that are involved in beggary, which include termination of employment.
- (vii) Government should strictly enforce the law against beggary on false pretences regardless of whoever is found practising it.
- (viii) The handicapped Persons Act provision relating to beggary on false pretences should be strictly enforced to curb beggary, and should be amended.

(e) Miscellaneous

- (i) The legal status of the Zambia Council for the Handicapped should be reviewed with the aim of granting it more autonomy so that, inter alia, it could generate its own funds and formulate its own policy. The HANDICAPPED PERSONS ACT must, therefore, be amended.
- (ii) the Posts and Telecommunications Act¹⁰ should be reviewed. It provides for the free transportation of literature used by the blind. To provide services to all disabled persons indiscriminately and to avoid the exclusion of other disability groups. The word "blind" should be replaced by "handicapped". The word "literature" should be replaced with technical aids and appliances.
- (iii) Under the CUSTOMS AND EXCISE ACT¹¹ the Customs and Excise (Rebates, Refunds and Remissions) (General) Regulations should be amended to include a clause that wholesalers can import technical aids and appliances used by the handicapped duty-free. Selling prices of these items, however, should be subject to Government control. Individuals should only purchase them after submitting a prescription from a medical practitioner.

(iv) By the BRITISH ACTS EXTENTION ACT¹² the following British statutes should have force in Zambia:-

- (a) the MENTAL DEFICIENCY ACT, 1913
- (b) the MENTAL TREATMENT ACT, 1930
- (c) the NATIONAL HEALTH SERVICE ACT, 1946
- (d) the EMPLOYMENT AND TRAINING ACT, 1948
- (e) the NATIONAL ASSISTANCE ACT, 1948

This will ultimately mean that only one significant British Act will not apply to Zambia: the LUNACY ACT, 1890, which however, can be enforced if need be by the ENGLISH (EXTENT OF APPLICATION) ACT¹³ as it was passed prior to August 17, 1911.

With such legal safeguards, the welfare of the disabled in Zambia should certainly be guaranteed.

7.2 CONCLUSION

There could be several reasons why there is no legislation for the welfare of the disabled. One such reason is deficiency in the training of professionals especially social workers and lawyers. Legal education is generally concentrated on "those areas of law which affect the wealthy and big property and merchantile interests."¹⁴ Many of the difficulties enumerated in this essay might have been avoided had lawyers been involved in social welfare procedures.

There are two principal reasons why lawyers do not generally involve themselves in social welfare legislation. Firstly, they are not trained to cover housing legislation, social security law(except possibly for industrial injuries) or the functions of local authorities in relation to the allocation of council houses and temporary accommodation.

Secondly, statutory legal aid is not available in the tribunals set up to hear disputes under social welfare legislation.¹⁵ In view of this, therefore, to minimise social welfare problems such as those faced by the disabled, it is recommended that lawyers should receive basic training in social welfare law.

Finally, if the law making organ in Zambia does not seriously and promptly address itself to the plight of the disabled, they will perpetually enjoy the status of being second-class citizens.¹⁶ This is not only 'repugnant to international morality'¹⁷ but also an ignoble social injustice.

7.3 FOOTNOTES

1. Times of Zambia, Wednesday, January 17, 1990
2. Zambia Daily Mail, Thursday, May 3, 1990
3. Zambia Daily Mail, Wednesday, January 17, 1990
4. Times of Zambia, Monday, 30th April, 1983
5. Zambia Daily Mail, Tuesday, June, 1993
6. Zambia Daily Mail, Friday, June 18, 1993
7. World Programme of Action Concerning Disabled Persons
United Nations Decade of Disabled Persons 1983 - 1992
(New York: UN, 1983) p 30
8. Chapter 513 of the Laws of Zambia
9. No. 13 of 1981
10. Amendment No. 3 of 1987: Chapter 606 of the Laws
of Zambia.
11. Chapter 662, Supra.
12. Chapter 5, Supra.
13. Chapter 4, Supra.
14. Boswell and Wingrove, op. cit; p 454
15. Ibid:
16. Times of Zambia, Wednesday, June 6, 1990
Minister of state for Higher Education, Science
and Technology, J. Kasongo is reported to have
said that disabled people had been treated as
second class citizens for a long time; unfortunately,
he did not suggest any remedies to their social
ills.
17. Mutale: "Check-list of services for people with
Disabilities in Southern Africa, p 8

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- The Commissioner for the Handicapped:
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- Mr. Mutale J.O.N. : Deputy General Secretary. (Development)
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- Dr. Kalabula : Ministry of Education
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