

**An Evaluation of the Extent to which Zambian Employment Legislation
and Policy provide Opportunities for Employment
and Protection from Discrimination of the Disabled**

By

APTON BANDA

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(LLB)
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2011
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By

Apton Banda

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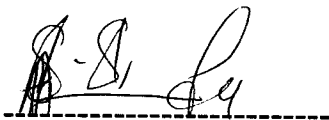
**An Obligatory essay submitted to the University of Zambia Law Faculty in
Partial fulfillment of the requirements for the Award of the Bachelor of Laws
(LLB) Degree.**

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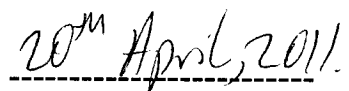
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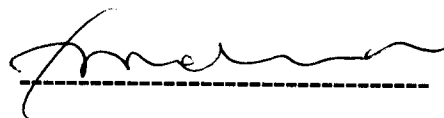
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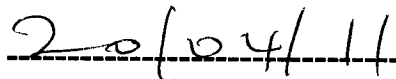
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ABSTRACT

Historically, people with disabilities have been among the most impoverished, politically marginalized and least visible members of their societies globally. There are approximately 650 million disabled people in the world of whom 470 million are of working age. This situation is also true to Zambia as 10 percent of the Zambian population is people with disabilities.

The problem statement of this essay is whether the disabled are sufficiently covered by the current employment laws in the provision of equal opportunities for employment and protection from discrimination. The objective of this essay is advocating the widening of the employment laws so as to cater for the needs of disabled who are in employment and those seeking employment. The methodology used was both desk research and conducting interviews with relevant persons to this research. The essay evaluated the Zambian employment legislation, such as the Employment Act, the Apprenticeship Act and all the other Acts connected and incidental to employment and the conclusion made was that these Acts do not provide opportunities for employment and protection from discrimination of the disabled

The essay will show the extent and the consequences of discrimination on the disabled such as under employment and unmotivated disabled employees as the consequence of this discrimination. The essay has shown that the most important intervention which the law can affect is to include reasonable accommodation. Reasonable accommodation is adjusting the working environment to suit the needs of the disabled workers. It has been noted that the disabled can participate in development of a country through increase of employee productivity and national performance through a more diversified employee base if the disabled are integrated into employment.

The recommendations are that inclusion of disability issues in the Constitution of Zambia and other employment laws is a feasible and technically an easy change to make. This will enhance the legal protection of persons with disabilities in all fields of life including employment. Mandatory Provision of housing to all employees is another recommendation, this will be a motivation to the employees and they will be encouraged to work diligently. This will in turn increase productivity and growth of the economy.

ACKNOWLEDGEMENTS

This work would not have been completed if it was not for the support of my family, guys you really helped me I say thank you. To my God who kept me alive to be able to do this there are no words in which I can express my gratitude. To my young brothers Vincent, Dismas, Felix, Scaver and my only sister Rhoda I say thank you for helping me with my research when I was at home directly and indirectly. Guys we have come a long way the only thing we can do is still keep walking and nothing is impossible in God.

To my Supervisor Mr. F.S Mudenda you not only fire me up to start thinking outside the box but you inspire me with your ability to remember everything you do, to you I say continue being a lecturer here for you teach many to become good at what they are doing.

To my girlfriend (Geraldine), the one person who saw how busy I became during my obligatory essay and who offered me moral and emotional support to you I say continue doing that you will not be disappointed.

To the people who offered the material which I used for my research, the personnel at International Labour Office in Lusaka and all the people I interviewed am indebted to you.

To all my friends and coursees at UNZA, Mwelwa, Cheela, Natasha, Milao, Chris, Martha and all those who are close to me I say let's stay close.

To the UNZA Catholic Choir members let's keep the legacy till we meet in the society.

DEDICATION

This work is dedicated to my parents Venansio Banda and Cecilia Muweleni, my late elder sister Veronica and the almighty God who has always been there for me since my birth here on earth, the only thing I can say let this work be to the greater glory of God (AMDG).

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The Workers Compensation Act Chapter 211 of the laws of Zambia

The National Pension Scheme Act Chapter 256 of the laws of Zambia

The Persons with Disabilities Act Chapter 65 of the laws of Zambia

CHAPTER 1

GENERAL INTRODUCTION

1.0 INTRODUCTION

Zambia is encountering a lot of challenges in many spheres including in the sphere of employment of its citizens especially those who are disabled. In the recent years Zambia has seen the flourishing of many industries in the country. Although industries are on the increase, the number of people who are being employed is small and the people with disabilities who get employed are unnoticeable. The main legislation in Zambia which regulates employment relations is the Employment Act¹ and the Industrial and Labour Relations Act². These two pieces of legislation are the major statutory mechanisms by which government imposes duties which employers are to satisfy during the concurrence of employment such as allow the workers to have leave days with pay.³

The core principle underlying employment is the freedom of contract. The parties can agree on what terms the contract will be governed upon. The employer has a choice as who to employ. Therefore, from this statement it can be noted that the disabled are disadvantaged for it is up to the employer to choose who to employ. But since government has the power to interfere in employment matters as stated above it is possible that they can enact laws which impose obligations on employers to consider for instance the employment of the disabled.⁴

1.1. STATEMENT OF THE PROBLEM

As early as the colonial days it was noted by Patricia Daka in her obligatory essay that the disabled also have the right to live a decent life thus it was noted that that the disabled person's fundamental rights such as education, training and employment as well as the provision of basic necessities of life should be protected by legislation.⁵ It was also noted by Patricia Daka that

¹ Cap.268 of the Laws of Zambia

² Act No.8 of 2008

³ Section 15(1) of Cap 268 of the laws of Zambia

⁴ International Labour Organization. Promoting Decent Work for People with Disabilities through a Disability Inclusion Support Service.2009.p.1

⁵ P Daka. How adequate is the Handicapped Act in promoting the welfare of the disabled people in Zambia. (1993).p.68

many disabled people were denied employment or if given only the menial and poorly remunerated jobs over the world.⁶ The Zambian employment legislation does not provide equal opportunities for employment for the disabled and since the employment legislation does not provide for this, it can be concluded that the employers will not employ the disabled for the law does not compel them to do so.

The Persons with Disabilities Act⁷ enacted in 1996 prohibits discrimination on the grounds of disability. Thus, the issue to consider is whether the law is sufficient in addressing disability based discrimination when accessing employment and when in employment. It is common understanding that disability limits access to employment, leading to economic and social exclusion. Could it be that there is no employment for persons with disabilities as matter of fact or that they are denied access by virtue of their status? It is therefore crucial to critically analyze the extent to which the law provides opportunities for employment and protects persons with disabilities in accessing employment.

Since the colonial days Zambia has tried to enact legislation to empower the disabled like many other governments in the world have undertaken the same efforts to promote employment opportunities for people with disabilities.⁸ Although this has been done that is enacting laws which look into the plight of the disabled such as Person with Disabilities Act the problem is further compounded by government's lack of policies and legislation to employ the disabled. In addition designate some jobs specifically for the people with disabilities, however it is conceded that legislation alone is not enough but goodwill should also be present for this to be successful.

1.2. OBJECTIVES OF THE RESEARCH

The unavailability of employment for the disabled in Zambia which is evidenced by the many numbers of the disabled in the streets seeking monetary help⁹ needs a quick response from the government and its stakeholders. It is also important that the law should be changed to give equal opportunities for employment between the disabled and the able bodied and also safeguard

⁶ P Daka. How adequate is the Handicapped Act in promoting the welfare of the disabled people in Zambia p.60

⁷ Cap 65 of the Laws of Zambia

⁸ International Labour Organization. The Employment Situation of People with disabilities: Towards improved statistical information 2007 p. 1

⁹ International labour Organization. Inclusion of People wit Disabilities in Zambia.2009.p.4

people with disabilities from discrimination at their places of work. The Zambian employment legislation should be widened so that other law will provide for the employment of people with disabilities and should not only be enshrined in section 20 of Persons with Disabilities Act but in the other laws which deal with employment.¹⁰ Therefore, the purpose of this essay is to advocate for the making of laws which provide equal opportunities for employment and protection from discrimination of the disabled as regards employment matters. In order to achieve this objective the following research questions need to be answered.

1.3. RESEARCH QUESTIONS

1. Do the current employment laws provide enough opportunities for employment and protection from discrimination of the disabled?
2. Is there a need for these employment laws to change?
3. What can the government do to change these laws?
4. Is there any assistance to the government from stakeholders if they would want to change these laws?
5. How can employers be encouraged to employ people with disabilities if the law is changed?
6. What sort of jobs should be left to the preserve of the disabled?
7. Will these types of jobs attract the disabled and encourage them to work diligently?
8. Should an incentive be provided to those employers who will employ the disabled?
9. How can discrimination of the disabled be prohibited in places of work?
10. How feasible is this in this current dispersion that is eliminating discrimination of the disabled and can this contribute to development of the country at large?

1.4. RATIONALE AND JUSTIFICATION

The study is important and timely in view of the serious discrimination and lack of employment for the disabled obtaining in the country. The non-protection against the people with disabilities is unwelcome and the prohibition of discrimination in places of work is important. The denial of equal employment opportunities to people with disabilities forms one of the root causes of poverty and exclusion of many members of this group. There is ample evidence that people with

¹⁰ Cap.65 of the laws of Zambia

disabilities are more likely to experience difficulty, segregation and discrimination in the labour market and elsewhere.¹¹

1.5. METHODOLOGY

The research is going to be a qualitative and quantitative one in nature as the mode of data collection will involve both primary and secondary sources. This research will be done mainly by analyzing relevant literature on the employment and protection of the disabled from discrimination. Published and where essential unpublished works will be consulted. Direct interviews with officers at International Labour Organization, Ministry of Community Development and Social services, the societies of the disabled such as Zambia Federation of the Disabled and persons with disabilities will be conducted who will serve as key informants. The National Assembly's library will be consulted for debates on such laws and if there are any proposed amendments to the employments laws and the law development agency will be consulted if there are any new laws being proposed to implement such changes which this essay is advocating for.

1.6. CONCLUSION

People with disabilities can be productive members of the society. In both developed and developing countries, promoting more inclusive legislation and employment opportunities for the disabled requires improved policies, programmes and services concerning people with disabilities.¹² Therefore, the way forward for the government of Zambia is to ensure that productive and decent work is given to people with disabilities. This will enable them realize their aspirations, improve their living conditions and participate more actively in society and further ensuring a disability perspective in all aspects of policy and labour legislation and providing for equal employment opportunities.¹³ To do anything short of this is to perpetrate the discrimination against people with disabilities more and further.

¹¹International Labour Organization. Achieving Equal Employment Opportunities for People with Disabilities Through Legislation: Guidelines. 2007 p.1

¹² International Labour organization. Inclusion of People with Disabilities in Zambia, 2009.p.1

¹³ International Labour organization. Inclusion of People with Disabilities in Zambia,p.4

CHAPTER 2

The Status of Employment Laws in Zambia on the Provision of Equal Opportunities for Employment and Protection from Discrimination of the Disabled.

2.0. Introduction

The chapter will evaluate the extent to which the Zambian Employment Legislation protects from discrimination and provide equal opportunities for employment of the disabled in the country. This chapter will essentially point out the lacunas the Zambian Employment has when it comes to protection of the disabled from discrimination and provision of equal opportunities of employment. The Zambian employment legislation which consists of the Employment Act¹⁴, Employment (special provisions) Act¹⁵, The Apprenticeship Act¹⁶, Minimum Wages and Conditions of Employment Act.¹⁷ The Industrial Labour and Relations Act¹⁸ which deals with industrial relations matters such as formation of trade unions but of much importance to this essay is section 108 which deals with issues arising from dismissal based on discrimination, this section states;

No employer shall terminate the services of an employee or impose any disadvantage on the ground of race, sex, marital status, religion, opinion or affiliation, tribal extraction or status of the employee.¹⁹

The other Acts incidental and connected to employment are Workers Compensation Act²⁰, National Pension Scheme Act²¹ and the Persons with Disabilities Act²² which was mainly enacted to safe guard the interests of the disabled. The Persons with Disabilities Act only touches on employment issues in section 20. But the entire Employment Act inclusive of all the other employment legislation do not touch on the employment of the disabled.

¹⁴ Cap 268 of the laws of Zambia

¹⁵ Cap 265 of the laws of Zambia

¹⁶ Cap 275 of the laws of Zambia

¹⁷ Cap 276 of the laws of Zambia

¹⁸ Cap 269 of the laws of Zambia

¹⁹ Section 108 of Cap 269 of the laws of Zambia

²⁰ Cap 211 of the laws of Zambia

²¹ Cap 256 of the laws of Zambia

²² Cap 65 of the laws of Zambia

2.1 The Employment Act

The preamble to this Act provides that ; it is an act to provide legislation relating to employment of persons; to make provision for the employment of persons on contract of service and to provide for the form of and enforcement of contracts of service and to provide for the form of and enforcement of contracts of service; to make provision for the appointment of officers of the Labour Department and for conferring of powers on such officers and upon medical officers; to make provision for the protection of wages of employees; to provide for the control of employment agencies; and to provide for matters incidental to and consequential upon the foregoing.

The conclusion made from the above preamble is that the legislation is predominantly made to govern issues pertaining to employment of people in Zambia. This means that even the disabled are to be covered under this Act with respect to their employment. Upon a critical analysis of the Act, it is evident that in the area of termination the Act is silent when it comes to termination of employment of a person with disability. It must be noted that in the Employment Act, the plight of pregnant women in employment, is addressed by section 15B which provides that pregnancy is not a ground for termination of the contract of service.

In addition, section 15B of the Employment Act further provides that an employer shall not terminate the services of a female employee or impose any other penalty or disadvantage upon such employee for reasons connected with such pregnancy. The preceding subsection imposes a mandatory obligation on the employer not to terminate the contract of service of an employee on grounds of pregnancy and if dismissed it should be shown that the basis for dismissal is not due to the pregnancy. If pregnancy is the basis, the employer is guilty of an offence.²³ It is a notorious fact that the law is offering protection to a special group of employees that is pregnant women; accordingly it should also follow that employees who become disabled whilst at work ought to be protected also, if the disability they have will not affect their performance of that job.

Section 36 (2) of the Employment Act provides that if an employee is sick or was involved in an accident and get disabled but this does not affect their performance of their contract of employment they cannot be dismissed. Their employment cannot be terminated but this section

²³ Section 15b (3) of Cap 268

does not include disability as one of the grounds not to be used for termination of a disabled employee if he is able to fulfill the contract of employment.²⁴ The law should include it explicitly that even if a person is disabled and the disability does not affect their performance of the job or the fulfillment of the contract of service, termination which is bordered on this is an offence and the employer should pay damages to that employee or reinstate them.²⁵ The law that is section 36(2) of the Employment Act as it stands perpetuates indirect discrimination which is defined as where there is a policy or practice that seems to apply to everyone but in actual fact it puts disabled people at an unfair disadvantage compared with people who are without a disability.²⁶ It is true because the able bodied are covered under this provision but the disabled are not.

The Employment Act does not provide equal opportunities for employment between the disabled and the able bodied. This is true in so far as when it comes to the working place environment. But it should be pointed out that it is the duty of the government to curb this kind of discrimination, hence the Zambian employment legislation as it is now does not mention of offering equal opportunities for these two groups. One is disadvantaged in that the Zambian employment laws including the Persons with Disabilities Act do not provide for reasonable accommodation for the disabled. Disability can sometimes affect an individual's ability to carry out a job in the usual or accustomed way.

Reasonable accommodation requires employers and others to take account of an individual's disability and make efforts to cater for the needs of a disabled worker or job applicant and overcome the barriers erected by the physical and social environment.²⁷ Examples of reasonable accommodation can be a computer keyboard with a Braille reader for a blind person or an adjusted office chair for a person with a back impairment.²⁸ This will make it possible for persons with disabilities to have equal opportunities for employment with any other person. But in Zambia this is not possible for the law does not impose an obligation on the employer to effect

²⁴ International Labour Organization, Disability audit of legislation relevant to education, vocational training and employment of with disability in Zambia.2008.p14

²⁵ International Labour Organization, Disability audit of legislation relevant to education, vocational training and employment of with disability in Zambia.p13

²⁶ International Labour Organization, Disability audit of legislation relevant to education, vocational training and employment of with disability in Zambia ,p.14

²⁷ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines. 2007.p.30

²⁸ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines,P.30

reasonable accommodation that is adapting the workplace to meet the needs of the disabled when they are working.

The failure to provide reasonable accommodation to workers or job applicants who face obstacles in the labour market is not merely a bad employment practice but is increasingly perceived as an unacceptable form of employment discrimination.²⁹ The Zambian Employment Act does not provide for reasonable accommodation measures to be taken by employers who have disabled. Even the Persons with Disabilities Act which provides protection against discrimination to the people with disabilities does not include reasonable accommodation in any of its sections.

Therefore, it is imperative that the Employment Act should in one of its sections provide for reasonable accommodation. Disability should be a protected ground and not to be used as a ground for termination of employment. But it should be mentioned that although persons with disabilities can be employed it is doubtful if the workplace environment will be adapted to suit the needs of disabled workers for employers consider it as an expense. It is important that such an obligation should be enshrined in the laws to compel the employers to adapt their workplace for the benefit of the disabled.³⁰ Reasonable accommodation is a key component of modern anti-discrimination legislation concerning persons with disabilities and should be provided for in the Zambian employment laws.³¹

It should be noted that part VI of the Employment Act has provision on housing and welfare of employees. This provision would have great potential in helping the disabled in that they would get the kind of special, accessible housing arrangements and medical attention specific to their needs.³² The Employment Act lacks a clear provision on provision of houses and medical attention to all workers inclusive of the disabled. The Employment Act does not fulfill the aspect

²⁹ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines. 2007.p.30

³⁰ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through Legislation, p.31

³¹ International Labour Organization, Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia. 2008, p. 14

³² International Labour Organization, Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia.p.14

of accommodation when it comes to persons with disabilities.³³ The only possible way to make this provision bear fruit is to put a 'price tag' on it so that the employer if found liable for non-provision of housing should be made accountable and make good the wrong done. It should be an offence for an employer to refuse to provide housing and medical services to the disabled and other workers. Currently it is not an offence to fail to provide for housing to all employees inclusive of the disabled. Moreover medical facilities are important in today's life, thus the employer should be mandated by the law to provide this, and the wording in the Act must change to include workers with a disability.

2.3 The Employment (special provisions) Act

The preamble to the Employment (special provisions) Act states that it is an act to make special provision with respect to employment during any period when a declaration under Article 29 of the Constitution is in force; and to provide for matters incidental thereto. Article 29 of the Constitution gives the President power to declare war in consultation with the cabinet.³⁴

There is no special relevance in the context of persons with disabilities therefore, during the times of civil strife they can be dismissed without regard to their rights. Hence the disabled are not accorded protection during this time of strife.³⁵ The Act in section 2(b) provides that regulations may be made under it prohibiting the dismissal or the termination in any other manner of the employment of employees. Whether or not previous notice of such dismissal or termination has been given to the employees, except in such circumstances and upon such conditions as may be prescribed by or under the regulations. This includes provision prohibiting any such dismissal or termination except with the approval of an officer or authority specified by or appointed under the regulations.

This section protects the able bodied but when it comes to the disabled this Act is silent, therefore they can be dismissed in times of war without the approval of an officer or authority specified by or appointed under the regulations. It is clear from this section that the disabled are not protected from discrimination by this Act.

³³ International Labour Organization, Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia.p.14

³⁴ Art.29 of Cap.1of the laws of Zambia

³⁵International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia. 2008, p. 14

2.4. The Apprenticeship Act

The preamble to the Apprenticeship Act provides that it is an act to regulate the employment of apprentices in various trades; to provide for the registration, transfer, modification and rescission of contracts of apprenticeship; to provide for the appointment of inspectors and to specify their powers; to provide for the making of regulations; and to provide for matters incidental to or connected with the foregoing. The Act is solely made to govern issues pertaining apprenticeship in the republic of Zambia.

The Apprenticeship Act is quite unfamiliar with the specific notion of persons with disabilities. However, apprenticeship is a very important pathway for persons with disabilities to gain the much needed experience and through that, have better opportunities for employment.³⁶ In this regard, a few notions on reasonable accommodation or affirmative action which is said to be taking positive steps to adapt the work place environment to suit the needs of a disabled person, would be highly appreciated if introduced in the Act.³⁷ In the Apprenticeship Act there is no provision on the disabled.

In application of the criterion for eligibility to be bound as an apprentice in section 11(1) of the Apprenticeship Act it is crucial to note that section 11(1) b, calling for a certificate of physical fitness, should also address the appropriateness of physical fitness.³⁸ For this provision tends to discriminate against the disabled for one their physical state is different from the able bodied and this can be considered as a ground for them to be excluded from the eligibility of being an apprentice.³⁹

2.5 The Minimum Wages and Conditions of Employment Act.

The preamble to the Minimum Wages and Conditions of Employment Act provides that it is an act to repeal and replace the Minimum Wages, Wages Councils and Conditions of Employment

³⁶ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia.p.15

³⁷ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia p. 16

³⁸ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia. 2008 p. 16

³⁹ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia.p.15

Act. To make provision for regulating minimum wage levels and minimum conditions of employment. To provide for matters connected with or incidental to the Act.⁴⁰

The Minimum Wages and Conditions of Employment Act is essentially concerned with fixing the minimum standard conditions of services and salaries which a certain category of employees are to be given. This is done through the statutory instruments which the Minister of Labour makes pursuant to this Act.⁴¹

This Act does not protect the disabled or give them any fair treatment in comparison with the other workers. For instance section 7 of the Act regulates on exemption permits. Section 7 (1) of the Minimum Wages and Conditions of Employment Act provides that If the Labour Commissioner is satisfied that a protected worker, or a person desiring to become a protected worker, is affected by any infirmity or physical disablement, he may, subject to such conditions as he thinks fit, issue to such person an exemption permit. This gives the Labour Commissioner a very open mandate to determine conditions of issuing an exemption permit described in section 7(3) An exemption permit issued under sub-section (1) of section 7 shall, while it is in force and in accordance with its conditions, exempt the employer of its holder from the application, in respect of such holder, of such provisions of this Act, and any statutory order or regulation made hereunder, as is relevant in the particular case. The section is laid down in general terms, this gives a possibility of exemption of any provision in the Act that are relevant to a particular situation which may help the people with disabilities but if these are under exemption permits then they would not be helped.⁴²

2.6 The Industrial and Labour Relations Act

The preamble to the Industrial and Labour Relations Act provides that it is an act to revise the law relating to the formation of trade unions and employers' representative organizations, including the formation of federations of trade unions and federations of employers organizations, recognition and collective agreements, settlement of disputes, strikes, lockouts, essential services and the Tripartite Labour Consultative Council; the Industrial Relations Court;

⁴⁰ Preamble of Cap. 276 of the laws of Zambia

⁴¹ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia. 2008, p. 16

⁴² International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia 2008. p.16

to repeal and replace the Industrial Relations Act, 1990; and to provide for matters connected with or incidental to the foregoing

The Industrial and Labour Relations Act does not have any provisions which protect the disabled in any way. Workers without a disability are covered under section 108 which protects them against termination based on discrimination. The provision provides as follows;

No employer shall terminate the services of an employee or impose any other penalty or disadvantage on any employee, on grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of the employee.⁴³

It must be noted that the Act does not mention discrimination based on disability as a factor upon which a person may question his termination or any disadvantageous treatment they may have been subjected to. There is need to expressly provide in the provisions of the Act that disability is one of the grounds on which discrimination should not be used either for termination or impose any penalty on the employee because of disability. There is need for the persons with disabilities to be protected from discrimination. Section 108 of the Industrial and Labour Relations prohibits that no employee should be subjected to discrimination. It is evident that the Industrial and Labour Relations Act prohibits discrimination in employment, this protection must be extended to the disabled as well. Employers must not treat anyone less favorably because of their disability.⁴⁴

Although the Industrial and Labour Relations Act in section 108 makes mention of status as one of the grounds on which discrimination is prohibited. Status is too wide and can cover a lot of conditions but for avoidance of doubt disability must be provided for under the section as a ground on which discrimination is prohibited on.⁴⁵

2.7 The Workers Compensation Act.

The preamble to the Workers Compensation Act provides that it is an act to make provision for the establishment and administration of a Fund for the compensation of Workers disabled by accidents to, or diseases contracted by, such Workers in the course of their employment, and for

⁴³ Section 108 of the Industrial and Labour Relations Act, Cap.269 of the laws of Zambia

⁴⁴ D Gilbride et al. Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003.p.134

⁴⁵ International Labour Organization, Disability audit of legislation relevant to education vocational training and Employment of persons with disabilities in Zambia.2008.p.13

the payment of compensation to dependants of Workers who die as a result of such accidents or diseases; for the payment of contributions to such Fund by employers; for the grant of pensions and allowances to certain dependants of Workers who, being in receipt of pensions for such disablement, die from causes not connected with such accidents or diseases; for the appointment and powers of a Workers' Compensation Commissioner and the establishment and powers of a Workers' Compensation Board and an Appeal Tribunal; and for matters incidental to and connected with the foregoing.

The Workers Compensation Act was enacted to assist workers financially who become disabled during the subsistence of their employment. The Act is very relevant in the context of persons with disabilities while it mitigates the effects of disability and enables people with disabilities to claim compensation.⁴⁶

The Workers Compensation Act does not protect the disabled in that section 12(5) (c) states that a member of the Board shall cease to hold office if the member is, inter alia, adjudged to be of unsound mind. This is discriminatory against persons with disabilities; particularly the Act does not include a duty to carry out an assessment of the actual effects of contracting (unsound mind) to the carrying out of the tasks of the Board member.⁴⁷

Furthermore, section 52 of the Act, although it prohibits the termination of a contract of service by the employer, without the consent of the commissioner, with a worker who has become disabled in circumstances which entitles the worker to compensation under the Act until the worker has been certified by a medical practitioner to be fit to resume work for which (i) he was employed at the time of the accident or disease concerned compensation (ii) for permanent disablement becomes payable to the worker under the provisions of this Act. Section 62 is weak on two points. Firstly, it does not prevent the employer from penalizing the worker for being disabled for some period of time by terminating the contract once they are well. Secondly, the

⁴⁶ International Labour Organization, Disability audit of legislation relevant to education vocational training and Employment of persons with disabilities in Zambia.p.15

⁴⁷ International Labour Organization, Disability audit of legislation relevant to education vocational training and Employment of persons with disabilities in Zambia.p.15

logic of waiting for the withdrawal of the disability and then terminating the contract seems to be outdated.⁴⁸

The Act in the first schedule regulates on the minimum percentage of disablement per injury. The list includes various types of injuries causing disability but it fails in addressing the pattern of mental disabilities, therefore this Act must cover all kinds of disabilities so as to be in conformity with international instruments such as United Nations Convention on the Rights of Persons with Disabilities.⁴⁹

2.8 The National Pension Scheme Act.

The preamble to the National Pension Scheme Act states that it is an act to establish the National Pension Scheme Authority; to constitute the National Pension Scheme and to provide for matters connected with or incidental to the foregoing. It deals solely with matters concerning the obtaining of pension and who is eligible to obtain pension.

The National Pension Scheme Act does not protect the disabled for instance section 9(1) (c) which allows someone who is partially disabled to be laid off from gainful employment and get their benefits which will not sustain them for a longtime. This is a clear cut discrimination which the law is perpetrating.⁵⁰

The proceeding paragraphs have clearly demonstrated that the Zambian employment legislation needs to be amended so that they can protect the disabled from the many disadvantages they face from such laws. It should also be noted that the current laws are not doing much in terms of helping the disabled find work and protect them from discrimination.

2.8 The Role of Government in Introducing and Implementing Disability related laws

In view of the above discussion, it is quite evident that the employment laws in Zambia have several weaknesses with regards employees with disabilities. The situation fails to offer equal opportunities for all employees regardless of their status for the law does not protect the disabled

⁴⁸International Labour Organization, Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia. 2008, pp. 15-16

⁴⁹International Labour Organization , Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia ,p. 16

⁵⁰ International Labour Organization ,Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia ,p.17

in employment either do they provide for equal opportunities for employment. The guidelines given by the International Labour Organization should be used in introducing employment laws which consider the plight of everyone either disabled or not.

Government's role in introducing and implementing employment legislation which provides equal opportunities for employment and protection from discrimination of the disabled is important. It should be both a legislator and an enforcer. Firstly, government should carry out a review of the employment legislation and see to what extent they protect the disabled from discrimination and provide equal opportunities for employment of the disabled.⁵¹ The International Labour Organization Convention No. 159 which provides that measures should be taken periodically of reviewing employment laws and policy aiming at ensuring that persons with disabilities have equal opportunities for employment with all.⁵² If the government follows this recommendation it will be quite easy for them to introduce laws which provide for protection from discrimination of the disabled and provide for equal opportunities for employment for all. The United Nations Convention on the Rights of People with Disabilities of 2006 gives a good guideline on how governments in the world can go about reviewing and introducing laws to benefit the disabled. That is introducing anti-discriminatory laws and introducing a quota scheme for employing the disabled which employers are to satisfy if they do not then they will be fined.⁵³

The role government can play in introducing and implementing employment laws which are inclusive, is by having consultative meetings or workshops with organizations of the disabled in order to appreciate their views and ensure that those views are reflected in the legislation.⁵⁴ This

⁵¹ International Labour Organisation, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines. 2007.p.66

⁵² International Labour Organisation, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines.p.2

⁵³ International Labour Organisation, Achieving Equal Employment Opportunities for People with Disabilities through Legislation,p.35

⁵⁴ P Davies and M Freeland, Labour Legislation and Public Policy: A Contemporary History. Clarendon Press, Oxford, 1993.p 243.

will ensure enactment of laws that provide for disability protection and equal opportunities of employment for the disabled.⁵⁵

The proper implementation of legislation providing equal opportunities for all workers including the disabled and policies seeking to realize the aspirations contained in these laws is a state responsibility. Therefore, when adopting or revising equal opportunities legislation and policies providing for equal opportunities for all workers, the government should have particular regard to the input of organizations of the disabled.⁵⁶

Furthermore, governments should ascertain the opinion of employers on the introduction of disability related laws. This consultation process provides a unique opportunity in bringing together the different parties with an interest in and affected by disability related legislation and policy. Consulting interested parties will go a long way in ensuring that the varying interests are adequately reflected in the law and policy.⁵⁷

Government should play a role on the enforcement mechanism for issues of disability touch on human rights for which the state is ultimately responsible.⁵⁸ The compliance cannot be left to individuals and private interest groups alone but demand a degree of state involvement. The government should then come up with means on how the law will be enforced, either through tribunals or Courts of law.⁵⁹

The last role government can play in the introduction and implementation of disability related laws is by encouraging the employers through the offering of incentives when the laws are introduced. Incentives inform of tax reduction to encourage them employ workers with disabilities.⁶⁰ If the government can do this then it will be easy to introduce and implement these

⁵⁵ International Labour Organisation, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines, p.64

⁵⁶ International Labour Organisation, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines, p.81

⁵⁷ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.2007.p.70

⁵⁸ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, p.71

⁵⁹ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, p.71

⁶⁰ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.p.59

laws. The government's role in this matter is important as they determine the success of disability related laws. They need to encourage employers by giving them incentives if the law is to succeed.⁶¹

2.9 CONCLUSION

It is obvious that the Zambian employment legislation does not provide equal opportunities for employment and protection of the disabled from discrimination. This is evident from the foregoing evaluation of the employment legislation in Zambia. For instance the Employment Act has no single provision which protects the disabled from unwarranted termination but protects pregnant women.⁶²

The law needs to be amended so as to cover the needs of the disabled and the government as a role to play in this. The government can do this by firstly reviewing employment laws, holding consultations with interested parties who will be affected by these laws. Secondly government can draft the law and put in place enforcement measures and lastly find ways of encouraging employers to employ people with disabilities. If the government can address the above mentioned issues then the plight of disabled may be ameliorated.

It must be noted that the Government is both a legislator and an enforcer therefore its role in the introduction and implementation of disabled related laws can never be over emphasized as it follows that if the state does not take keen interest in revising disability related laws, then the laws on such matters will not be amended let alone enforced.⁶³

⁶¹ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.p.58-59

⁶² Section 15 B of the Employment Act, Cap.268 of the laws of Zambia

⁶³ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.p.82

CHAPTER 3

The Basis and Rationale for Introduction of Anti-Discrimination Laws on Employment in Zambia and the Consequences of Discrimination on the disabled

3.0. Introduction

Historically, people with disabilities have been among the most economically impoverished, politically magnified, and least visible members of their society globally.⁶⁴ This group; represents approximately 10 percent of the world's population or more than 650 million people of whom 470 million are of working age. This includes people with physical, sensory, intellectual and psycho-social disabilities.⁶⁵ The UN statistics show that 83 per cent. of the disabled in developing countries are marginalized, most of them live in poverty and their opportunity to emerge from poverty are limited.⁶⁶ This is due to lack of enabling legislation to promote access to skills development and employment opportunities; and weak implementation and enforcement measure when such legislation is in place⁶⁷.

3.1 Moral and Legal Justifications for Introduction of Anti-Discriminatory Laws.

In many societies it has been noted that there are some people who need special care and for society to be able to do this it has used the instrument of the law to take care of the special needs of people and the disabled are part of the people who need to be taken care of.⁶⁸ Thus scholars have noted that there is well established point that:

Those who fall on hard times through any calamities that are apt to afflict mankind must not be allowed to perish without help and that is no longer a matter of charity. It is a right exercisable against the state which is under duty to make whatever provision it can collectively afford- without discrimination, there as ever, lies a stingy⁶⁹.

⁶⁴ P Steghart, *The lawful Rights of Mankind: An Introduction to International legal Code of Human Right*, Oxford University Press, London. 1995. p.5

⁶⁵ International Labour Organization, *Promoting the Employability of People with Disabilities through Legislation*, 2009.p.1

⁶⁶ International Labour Organization, *Promoting the Employability of People with Disabilities through Legislation*, p.1

⁶⁷ International Labour Organization, *Promoting the Employability of People with Disabilities through*.p.1

⁶⁸ P Steghart, *The lawful Rights of Mankind: An Introduction to International legal Code of Human Right*, Oxford University Press, London. 1995. p. 30.

⁶⁹ P Steghart, *The lawful Rights of Mankind: An Introduction to International legal Code of Human Right*.p.30

It is evident from the above that people who have fallen into certain calamities need help, disability is one such calamity. Therefore government should enact legislation which will advance the interests and rights of the disabled in the area of employment. The disabled have the right to work for everyone has the right to work and people who are disabled form part of the society.⁷⁰ It is right to enact legislation which prohibits discrimination to ensure that people with disabilities are not discriminated against at their workplaces or during their search for employment. Everyone including people with disabilities has the right to work and to just conditions of service.⁷¹

It is morally justified to introduce laws which prohibit discrimination when it comes to employment in that it is the priority of the entire community to provide for the well being of everyone⁷². The introduction of anti-discriminatory laws will act like a shield so that the society will ensure that everyone's well being and needs will be provided for. The law will ensure that everyone's interest is balanced. The needs of modern society includes work and this work must be carried out in an environment free from discrimination⁷³ and since Zambian Employment Legislation does not provide for such anti –discriminatory provisions. It is justified for anti-discriminatory laws which protect people with disabilities in employment to be enacted so as to protect the disabled from discrimination. Hence, nowadays, legislation which prohibits discrimination is regarded as an essential element of the response to employment discrimination. The object of non-discrimination legislation is to prohibit discrimination on the ground of disability, as well as other grounds⁷⁴. The introduction of legislation which prohibits discrimination in employment based on disability will reflect the increasing acknowledgement that disability is frequently used as a reason to exclude people with disabilities in employment.⁷⁵ The current legislation on employment in Zambia does not provide equal opportunities for

⁷⁰ P Steghart, *The lawful Rights of Mankind: An Introduction to International legal Code of Human Right*, Oxford University Press, London. 1995. P. 23

⁷¹ P Steghart, *The lawful Rights of Mankind: An Introduction to International legal Code of Human Right*, p.23

⁷² P Davis and M Freeland, *Labour Legislation and Public Policy: A Contemporary History*, Claredon Press, 1993. p.80

⁷³ R Owens and J, Riley, *Law of Work*, London, Oxford University Press, 2007. P.76

⁷⁴ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities then Legislation: Guidelines*, 2007, p. 25

⁷⁵ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities Through Legislation*, 2007. p.7

employment between the disabled and the able bodied. By making disability a protected ground, the law will extend protection against discriminatory behavior and punish those people who violate the non-discriminatory norm.

The legal justification for introducing legislation which prohibits disability based discrimination to ensure that people with disabilities are safe guarded is firstly due to the concept of equality before the law.⁷⁶ It is noted by Owens that the law especially most constitutions of some countries in the world, provide that there should be no discrimination practiced on any individual based on their race, sex, creed or religion.⁷⁷ Some countries such as China have disability as one of the grounds on which discrimination is not allowed to be practiced whether direct or indirect discrimination.⁷⁸ Direct discrimination occurs when a person is treated less favorably than another similarly situated person because of a particular characteristic protected by non-discrimination law, such as race or sex, without an objective; justification. For instance, an employer advertises for a job and states in the advertisement, no blind people should apply.⁷⁹ Indirect discrimination occurs when an apparently natural differentiation criterion is used. For instance an employer advertises for a job and states; only people with driving licenses should apply.⁸⁰

The concept of equality before the law entails that every individual whether disabled or not as to be treated the same or equally before the law and the concept of equality has come to form an important part of the international concept of the rule of law.⁸¹ Due to this concept, it is justifiable to introduce legislation which ensures that there is no discrimination, either direct or indirect when it comes to employing people inclusive of the disabled. For such legislation which prohibits discrimination based on disability will encourage the full participation of the disabled in the mainstream of the economy. The disabled, if legislation which prohibits discrimination in

⁷⁶ R Owens and J. Riley, Law of Work, Oxford: , Oxford University Press,2007,p. 75

⁷⁷ R Owens and J. Riley, Law of Work,p.75

⁷⁸ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities then Legislation: Guidelines, 2007 .p.11

⁷⁹ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities then Legislation: Guidelines, .p.28

⁸⁰ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities then Legislation: Guidelines, p.28

⁸¹ O H Philips, Constitutional and Administrative Law,(4th Ed) London, Sweet and Maxwell Ltd ,1967, p. 41.

employment based on disability is introduced they will be feeling protected from unwarranted discrimination based on disability and will work with a free mind in their respective jobs.⁸²

The argument for the introduction of legislation which prohibits discrimination in employment in Zambia is strengthened by the fact that the Persons with Disabilities Act is inadequate in protecting the disabled in all areas such as employment. There is discrimination taking place in employment in Zambia. For instance, under employment is taking place, this is where an individual with the qualifications for a higher job is given a lower job.⁸³ There is preferential treatment, therefore, to ensure that this is prohibited; the employment legislation should contain provisions which will prohibit under employment and under payment of the disabled.⁸⁴ There is already a provision in the Persons with Disabilities Act⁸⁵ which prohibits discrimination based on disability. Section 20 of the Persons with Disabilities Act provides that an employer shall not treat a person with a disability differently from a person without a disability when advertising for employment, offering terms or conditions of employment; considering promotion, transferring or training such persons, or when providing any other benefits related to employment. The other laws which concern employment should also follow suit so that this will be concretely enshrined in the laws regulating employment in the country.

If this is done, it will be difficult for employers to evade these laws. For instance, in the Industrial and Labour Relations Act,⁸⁶ section 108 prohibits discrimination on any worker or prospective employee on grounds of sex, race, and status. This section simply shows that these grounds can be used to discriminate and by necessary deduction disability can be used too to discriminate. It is then necessary that disability should be included in the Industrial and Labour Relations Act section 108 as a ground on which discrimination should be prohibited upon.

It is trite that the absence of anti-discrimination law on employment which safeguards the interests of people with disabilities is a form of human rights violation.⁸⁷ The principle of non-discrimination is a key element in the approach of adopting non-discrimination laws and policies, reflecting the principle that people with disabilities are inherently equal human beings and thus

⁸² R Owens and J. Riley, Law of Work, Oxford: Oxford University Press, 2007. P.78

⁸³ R Owens and J. Riley, Law of Work ,p.85

⁸⁴ R Owens and J. Riley, Law of Work, Oxford University Press, Oxford, 2007, P.78

⁸⁵ Cap. 65 of the laws of Zambia

⁸⁶ Cap 269 of the Laws of Zambia

⁸⁷ R Owens and J. Riley, Law of Work, Oxford University Press, Oxford , 2007.P.89

entitled to equal treatment and equal opportunities, particularly with respect to employment.⁸⁸ It has been realized that people with disabilities are also equal with others hence this discrimination results into violation of their human rights, therefore to ensure that this violation is halted the law should intervene forthrightly to stop this violation from continuing any longer.

3.2 The Extent of Discrimination in Places of Work and its Consequences on the

Disabled.

The extent of discrimination cannot be stated accurately as noted by Gilbride, because the disabled do not disclose if they have been subjected to discrimination.⁸⁹ But it has been noted by Zambia Federation of Organizations for the Disabled that the disabled are subjected to unwarranted dismissal or refusal to get employed.⁹⁰ Due to this discrimination, Zambia Federation of Organizations of the Disabled has embarked on a project called advancing disability equality.⁹¹ From this project it was noted that the extent of discrimination in places of Zambia is prominent and real. Although it is not very widespread but it is present as most disabled workers feel its effect. Some of the ways this discrimination is shown is by disabled not getting into employment after they have satisfied all the qualifications for the job and they are the best qualified. A disabled person who is qualified for a job and they have applied for it should in effect get the job but in many instances they do not get employed due to their disability. This is the situation prevailing in Zambia and this is evident from the cases which Zambia Federation of Disability Organizations has followed up.⁹²

The prevalence of disability based discrimination in Zambia is evidenced by cases which Zambia Federation of Disability Organizations has investigated and finalized. If an employee gets dismissed due to their disability, the organization will follow up the case and will make sure that the worker's grievance is met and in most cases since employers are not willing to reinstate

⁸⁸ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, 2007.p.8.

⁸⁹ D Gilbride et al. Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, , 46(3), 2003.p.140

⁹⁰ D Gilbride et al. Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003.p.145

⁹¹ Interview with Ms Ruth Likasi, Zambia Federation of Disability Organization, National Office Lusaka Zambia, Lusaka 4 November, 2010.

⁹² Zambia Federation of Disability Organizations, Disability Discrimination. *Disability Herald*.No.13/2010.p.23

disabled workers they end up paying compensation to them. The extent of discrimination in work places can be noted by unwarranted and baseless dismissals which have no grounds apart from that the worker is disabled.⁹³

A further illustration of the extent of disability based discrimination in employment at workplaces is the under employment and under payment of the disabled people.⁹⁴ Since the disabled in most times are considered not to be competent workers and even though they have the qualifications for that job. The job they will be given if they apply for employment is lower than their qualifications. Under employment is a situation where someone with enough qualifications is given a job which is lower than their qualification. For instance a person qualified to work as an accountant is given a job as a book keeper or as an accounts clerk.⁹⁵ While under payment is where a person work demands a high salary but the actual salary they are given is far below the minimum required for that job.⁹⁶ In Zambia there is a statutory instrument which the minister of labour makes under the Minimum Wages and Conditions of Employment Act which states the minimum salaries for specified workers covered by the general order. For instance the general order of 2011 as of January 2011, qualifying employees (separated into 5 main categories) are guaranteed at minimum the following monthly wages and allowances:

Category I includes General Workers, Cleaners, Handymen, Office Orderlies, the basic Pay is K2, 182 per hour or K419, 000 per month while Transport Allowance is K102, 400 per month (if residence is beyond 3 km radius of duty station). Lunch Allowance is K120, 000 per month or free nutritious lunch Housing Allowance is K125, 700 per month (30% basic pay if housing is not provided). The Minimum Monthly Pay and Allowances is K767, 100.

Category II includes Guard or Watchmen, the basic Pay is K2, 298 per hour or K419, 000 per month. Transport Allowance is K102, 400 per month and Lunch Allowance is K120, 000 per month or free nutritious lunch while housing allowance is K125, 700 per month (30% basic pay if housing is not provided) The total Minimum Monthly Pay and Allowances is K767, 100.

⁹³ Ms Ruth Likasi (officer at ZAFOD).Interview, 4 November,2010.

⁹⁴ International Labour Organization, Achieving equal employment opportunities for people with disabilities through legislation.2007. P.1

⁹⁵ R Owens and J. Riley, Law of Work, Oxford University Press, 2007 Oxford,P.111

⁹⁶ R Owens and J. Riley, Law of Work,p.111

Category III provides the minimum wages for drivers, the basic pay is K3, 125 per hour or K600, 000 per month while transport allowance is K102, 400. Lunch Allowance is K120, 000 per month or free nutritious lunch Housing Allowance is K180, 000 per month (30% basic pay if housing is not provided). Minimum Monthly Pay and Allowances is K1, 002,400

Category IV includes Typist, Receptionist or Telephonist the basic pay is K3, 385 per hour or K650, 000 per month. Transport Allowance is K102, 400 per month (if residence is beyond 3 km radius of duty station) Lunch Allowance is K120, 000 per month or free nutritious lunch Housing Allowance is K195, 000 per month (30% basic pay if housing is not provided). The total Minimum Monthly Pay and Allowances is K1, 067,400

Category V includes Qualified Clerk (with a formal certificate or diploma) and their minimum pay and allowances per month is K 1, 346,900

Such orders will ensure that a worker is not under paid. But in most cases people with disabilities will be subjected to under employment and under payment. This was confirmed by a person with disability that they were being underpaid for they were working as an engineer but their salary was that for a technician.⁹⁷ This is another form of discrimination which takes place at places of work which the disabled go through. Although this kind of discrimination is difficult to prove but in most cases it has been shown that the likelihood of underemployment happening to a disabled person is very high.⁹⁸

Most employers would not want to employ the disabled and the disabled know that if they get a job even if they are under employed or underpaid they do not report their employers for the fear of losing their job as long as they earn some income to sustain their livelihood and their families'.⁹⁹ Such kind of discrimination or treatment of the disabled is usually perpetuated by employers in the private sector, hence disability related laws need to be introduced to curtail this discrimination. Most disabled workers are found in government employment but here too

⁹⁷ P Davies and M, Freeland. Labour Legislation and Public Policy: A Contemporary History, Clarendon Press, Oxford 1993.p.212

⁹⁸ P Davies and M, Freeland. Labour Legislation and Public Policy: A Contemporary History,p.212

⁹⁹ R Owens and J. Riley, Law of Work, Oxford University Press, Oxford, 2007. P.211

disabled persons are usually looked down upon by the able bodied counterparts in that their capacity and efficiency to do work which they are assigned is doubted.¹⁰⁰

Due to the above perception, discrimination based on capacity for them to manage the work allocated to the disabled has increased the underemployment and underpayment of the disabled workers.¹⁰¹ For people with disabilities are viewed as incompetent workers so that the only work they are given is below their qualification. In most circumstances they will be given manual jobs which are far below their qualifications.¹⁰² This practice of underemployment is an illustration of the extent of this discrimination on the disabled. Thus, the discrimination is shown by the underemployment of workers with disabilities and in some instances they are underpaid. This shows that the extent of discrimination on workers with disabilities has reached an advanced level. This is true in so far as employers will even disregard the law such as the Minimum Wages and Conditions of Employment Act¹⁰³, which stipulates the minimum requirement or conditions to be provided to an employee.¹⁰⁴ Pursuant to this Act, there is the general order which gives the minimum wages to be given to a category of workers. It must be emphasized that it is up to the minister to cover certain types of employment, therefore the disabled should be covered under the general order for they need protection.

The consequences of this discrimination on workers with disabilities are that, most of them will eventually resign from their work, as they do not feel welcomed by their fellow workers.¹⁰⁵ It is a notorious fact that if a person is not welcomed they will leave. Most of the people who are disabled will leave their employment to do something where they feel welcomed to. In most cases they end up setting up small enterprises but most of them will opt to go to the street, where they beg for help especially in monetary terms.¹⁰⁶

¹⁰⁰ P Davies and M, Freeland. Labour Legislation and Public Policy: A Contemporary History, Clarendon Press, Oxford 1993.p.212

¹⁰¹ P Davies and M, Freeland. Labour Legislation and Public Policy: A Contemporary History,p.213

¹⁰² P Daka, How adequate is the Handicapped Act in promoting the welfare of the disabled people in Zambia.(1993).p.68

¹⁰³ Cap. 276 Of the laws of Zambia

¹⁰⁴ International Labour Organization. Inclusion of People with Disabilities in Zambia, 2009.p.2

¹⁰⁵ D Gilbride et al. Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003.pp.130-137.

¹⁰⁶ Zambia Federation of Organizations of the Disabled. Disabled gut empowerment, disability herald. Issue No: 013.2010 p.17

The other consequence on the disabled is that they under perform on their work if they remain in employment since they feel isolated and not encouraged.¹⁰⁷ It is well known that workers need to be encouraged and motivated and that is why in many companies, at the end of the year workers are given bonuses. When it comes to the disabled workers who need special attention they do not receive this that is allowing them to work from home or on part time basis.¹⁰⁸ In most cases, employers are not very willing to even employ them and when they are employed they work separately from other workers.¹⁰⁹ In terms of motivation, they do not receive this, for them the motivation is usually achieved by having reasonable accommodation affected to the workplace environment.¹¹⁰ This is motivation in so far as it will make it easy for the disabled worker to carry on his work easily for it will enable the disabled worker to perform the essential functions of the job. The absence of encouragement such as effecting reasonable accommodation, will lead the disabled workers most likely to underperform on their work. This will affect the productivity of the company which will overall have an effect on the development of a nation.¹¹¹

Lastly the other consequence on the disabled is that they will lose confidence in the law if the law does not provide for the protection they need.¹¹² The law is an instrument of social balance and it is meant to settle conflicts between individuals and the state and between individuals. Therefore, if the law does not provide for the protection they need, they will lose trust in it. It is noted by Kitchin that productive and decent work enables people with disabilities to realize their aspirations and this is possible with disabilities if the law provides for such realizations.¹¹³ Thus if the law does not provide for this the people will lose the confidence in it for it is not protecting and providing for what they want. Since it has been already stated that the law is an instrument of social balance, hence it should be used to protect the disabled and give them the much needed confidence in the law.

¹⁰⁷ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces. *Journal of Environmental Health*.65(7), 2003pp.37-39.

¹⁰⁸ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces. *Journal of Environmental Health*,pp.48-51

¹⁰⁹ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces, *Journal of Environmental Health*.p.37

¹¹⁰ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces, *Journal of Environmental Health*.p.38

¹¹¹ R Kitchin, P Shirlow & I Shuttleworth,. On the margins: Disabled people's experience of employment. *Disability & Society*. 13(5), 1998. pp 785-806.

¹¹² R Kitchin, P Shirlow & I Shuttleworth,. On the margins: Disabled people's experience of employment. *Disability & Society*.p.785

¹¹³ R Kitchin, P Shirlow & I Shuttleworth,. On the margins: Disabled people's experience of employment. *Disability & Society*.p.806

3.3. Intervention which the Law Should Take In Disability based Discrimination in

Employment

First and foremost the most paramount intervention which the law can affect is to include reasonable accommodation.¹¹⁴ The reasonable accommodation is adjusting the working environment to suit the needs of the disabled workers.¹¹⁵ If the law will introduce this it will enable the disabled workers feel at ease at their workplaces and this will increase on their productivity. They will be able to work properly for their special needs will be catered for by this reasonable adjustment which the law will demand from employers. The law will be compelling employers to effect reasonable accommodation for the disabled workers. This will ensure employers with disabled employees adjust their workplaces to cater for the disabled employees working needs. The law on employment will require employers to have regard for needs of their disabled workers. Therefore, it will be the duty of employers if they have disabled worker to effect reasonable accommodation.¹¹⁶

The law should define closely what is meant by reasonable accommodation so that misinterpretation is avoided and employers clearly understand what they must do.¹¹⁷ If an employer fails to make such adjustments then they ought to be held guilty of discriminating against the disabled worker. For reasonable accommodation is a key component of modern anti-discrimination legislation concerning persons with disabilities.¹¹⁸

The second intervention in which the law can take is that of shifting the burden of proof when it comes to discrimination cases involving workers with disabilities.¹¹⁹ Under some legislation, a person who considers his or herself wronged because of discrimination has to provide evidence

¹¹⁴ R Kitchin, P Shirlow & I Shuttleworth, On the margins: Disabled people's experience of employment. *Disability & Society* p.807

¹¹⁵ T Raphael, Disabling some old Stereotypes. *Workforce*, 81(8).2002.p. 88

¹¹⁶ T Raphael, Disabling some old Stereotypes. *Workforce*,p.90

¹¹⁷ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation,2007.p.53

¹¹⁸ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation p.30

¹¹⁹ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, pp.32-33

to prove that this has occurred.¹²⁰ Section 108 of the Industrial and Labour Relations Act provides for grounds on which discrimination in employment in Zambia is prohibited.¹²¹ This imposes the burden on the person claiming that they were discriminated against to prove that they had been discriminated against. But this is difficult to do especially for job applicants who are disabled and have been discriminated against. This should be changed and the burden of proof should be shifted onto the employer. It should now suffice for a disabled person to establish before a court or other important authority, facts from which it may be presumed that there has been discrimination. After this is done, it is for the person who allegedly discriminated against them to prove that there has been no discrimination.¹²²

Such a shift of the burden of proof does justice to the fact that it is usually very difficult, if not impossible, for a person to prove that he or she has been subjected to discrimination. A reversal of the burden of proof makes non-discrimination law effective.¹²³ If the law intervenes in such a manner then discrimination based on disability will be eliminated in places of work which have disabled workers.

The third intervention which the employment legislation can take in helping to eradicate discrimination is by the introduction of a quota scheme.¹²⁴ This is probably the best known and most familiar measures aimed at promoting the integration of people with disabilities in the labour market.¹²⁵ Under the quota scheme, the employers will be mandated to employ a specified minimum number of persons with disabilities to ensure that their workforce is made up of a certain percentage of people with disabilities. If there is failure by an employer to follow this there must be a sanction. Those employers who fail must be required to pay a levy or fine. The money raised should go into a fund to support the employment of people with disabilities.¹²⁶ To

¹²⁰ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation*.p.33

¹²¹ Cap.269 of the laws of Zambia

¹²² International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation*, 2007.p.33

¹²³ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation*.p.33

¹²⁴ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation* ,pp.35-50

¹²⁵ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation*.p.35

¹²⁶ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation* p. 36

increase the effectiveness of the quota scheme in securing jobs for persons with disabilities, employers should also be given an option to provide on-the job training or apprenticeship.¹²⁷ If the law introduces this it is difficult to see how discrimination will be perpetuated by the employers for they will be obliged by law to employ a certain number of the disabled.

The fourth intervention which the law can take is by introducing employment support measures especially for the employers to encourage them to employ people with disabilities.¹²⁸ The Income tax Act¹²⁹ provides that:

There shall be exempt from tax the income of any charitable institution or of any body of persons or trust established for the promotion of religion or education, or for the relief of poverty or other distress, if, in relation to the people of the Republic, the income may not be expended for any other purpose.¹³⁰

Thus, the law can provide for exemptions if a company or organization is helping a certain disadvantaged group in society. Therefore, it should follow that companies which will employ the disabled are put in a group where they are exempted to pay the full amount of tax but there is a reduction so that they may be encouraged to employ more disabled persons.¹³¹

These tax incentives can be a reduction in the amount of tax paid to the government, since every company is under an obligation to pay tax according to the number of employees it has.¹³² A combination of tax incentives and employment related support services if introduced will encourage employers to recruit more disabled workers.¹³³ This will also facilitate the retention of persons with disabilities. It will help a lot of disabled people to find employment easily as many employers will be encouraged due to the tax incentives. The employment related support which

¹²⁷ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, p.36

¹²⁸ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, p.38

¹²⁹ Cap. 323 of the laws of Zambia

¹³⁰ Section 6(1) of the Second Schedule of Cap. 323

¹³¹ N Younes, Getting corporations ready to recruit workers with disabilities, *Journal of Vocational Rehabilitation*, 16, 2001, p.100

¹³² International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation. 40

¹³³ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, p.40

will include reasonable accommodation advice and technical aids by the government.¹³⁴ If the employment legislation will implement the above stated, then it will encourage many employers to employ many disabled persons. The discrimination which was being experienced would be stopped and the numbers of the disabled in employment in the country will rise drastically.

3.4. Conclusion

The chapter has endeavoured to show that people with disabilities are equal with everyone else and do have the right to work. They too need to work and since society needs to provide and see that their well being is taken care of the law needs to consider their plight.¹³⁵

The laws on employment should make provisions for elimination of discrimination based on disability by introducing quota schemes which will mandate employers to have a certain percentage of their workers comprising of people with disabilities.¹³⁶ There is need to shift the burden of proof to be borne by the employers in discrimination cases who have to prove that they did not discriminate against the disabled employee or job applicant.¹³⁷ If the law implements this, then discrimination will be eliminated. Furthermore, if incentives are also implemented by the government, employers will be encouraged to employ the disabled. The help of adapting the workplace to suit people with disabilities is another intervention the law and policy of government can take to help eliminate discrimination and create more opportunities for employment of the disabled people.¹³⁸ Anything short of this will not eliminate the discrimination against the disabled and this will make it very difficult for them to find employment. The law which prohibits discrimination on the basis of disability in employment needs to be implemented now and the sooner the better for it has benefits which will benefit the entire nation.

¹³⁴ International Labour Organization, Promoting Decent Work for People with Disabilities through a Disability Inclusion, 2009. P.4

¹³⁵ N Younes, Getting corporations ready to recruit workers with disabilities, *Journal of Vocational Rehabilitation*, 16,2001.pp.89-91

¹³⁶ International Labour Organization, Achieving equal employment opportunities for people with disabilities through legislation. 2007. P.37

¹³⁷ International Labour Organization, Achieving equal employment opportunities for people with disabilities through legislation,p.33

¹³⁸ International Labour Organization, Achieving equal employment opportunities for people with disabilities through legislation,p.52

Chapter 4

How the Disabled can Participate in the Development of a Country and the benefits of Disability related laws on Employment to a Developing Country

4.0. Introduction

This Chapter will look at the participation of the disabled in the development of the country and their contribution to the development of a country. If the employment laws are changed and the disabled are given the chance to be productive they will add to the growth of the country. Approximately 10 per cent of the population of Zambia are disabled and are not in productive activities.¹³⁹ It is established beyond reasonable doubt that the law helps in the development of any state and good laws will set in motion the wheels of development in any area.¹⁴⁰

4.1. The benefits of all inclusive laws on employment in Zambia.

The benefits of legislation which protect the disabled in their employment are that firstly it will help in the reduction of poverty, economic managers suggest that the main engine for poverty reduction is achieving higher growth and enhancing the ability of the poor including persons with disabilities. People with disabilities are considered the poorest of the poor; they too need to participate in the growth of a nation.¹⁴¹ Building the human capital of the poor is important for enhancing productivity and for empowering them. The only way of doing this is by putting them into gainful employment.

The number of disabled who want aid from the government will go down for a good number who are qualified to work will be employed.¹⁴² This will cut down on the funds for welfare which is given to the Ministry of Community and Social Services which spends a lot of money

¹³⁹ International Labour Organization, Zambia Country Profile: Promoting the Employability and Employment of People with disabilities through effective legislation (Southern Africa). 2006.p.4

¹⁴⁰ J Graffam, Employer benefits and costs of employing a person with a disability. *Journal of Vocational Rehabilitation*, 17, 2002.pp. 251-263.

¹⁴¹ C Tomko, The economically disadvantaged and the ADA: Why economic needs should factor into the mitigating measures disability analysis. *Case Western Reserve Law Review*, 52, 2002.p.1060.

¹⁴² C Tomko, The economically disadvantaged and the ADA: Why economic needs should factor into the mitigating measures disability analysis, p.1065

trying to help those in need. If this is done, it will save on the resources of the state and the saved money will be used in other areas of development.¹⁴³

Poverty is a major concern of the Government it cuts across all sectors of society. Several programmes aimed at poverty reduction have been a failure for they have shown little improvement in the situation of the poor including the disabled.¹⁴⁴ Mainstream poverty reduction programmes of the Government do not necessarily address the needs of persons with disabilities.¹⁴⁵ Persons with disabilities have limited access to basic social services, such as public buildings, education, health care, employment and transportation.¹⁴⁶ Employment is one of the ways used to overcome poverty for people who are employed have certain privileges such as social security, medical care and other services which help in the alleviation of poverty.¹⁴⁷ Therefore, the law should ensure that the disabled do get into employment.

The benefit which Zambia will most certainly receive from the international scene is that the donor community will fund it so as to help it implement disability related laws and policy.¹⁴⁸ The funds to aid it in the integration of the disabled in their employment will be availed so that employers will be given incentives in form of equipments to make reasonable accommodation easy for the employers.¹⁴⁹ A law which safeguard the interest of the disabled in employment and protect them from discrimination is supported fully by the donor community such International Labour Organisation and these will help on how to implement disability related laws in employment.¹⁵⁰ If Zambia amends its employment laws to include the disabled people in employment, aid will come from the donors to help it implement this change.

¹⁴³ D Gilbride, , R StensrudVandergoot, K Golden, Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003,p.130

¹⁴⁴ Disabled People and Development: Philippines Country Report, Published by the Asian Development Bank, 2005.pp.16-25

¹⁴⁵ Disabled People and Development: Philippines Country Report. Published by the Asian Development Bank, 2005.p.18

¹⁴⁶ International Labour Organization, Disability audit of legislation relevant to education, vocational training and employment of with disability in Zambia.2008.p6

¹⁴⁷ Disabled People and Development: Philippines Country Report, Published by the Asian Development Bank, p. 45

¹⁴⁸ <http://go.worldbank.org/OCFI93GX30>

¹⁴⁹ <http://go.worldbank.org/OCFI93GX30>

¹⁵⁰ <http://go.worldbank.org/OCFI93GX30>

The benefits of disability protection laws to a country are very important as they help the country in attaining development for all. The people in the country are used fully to benefit everyone. If costs are incurred in the implementation process the donor world is ready to help.¹⁵¹

4.2. Participation of the Disabled in the Development of a Country

As a member of the United Nations, Zambia has reaffirmed the World Programme of Action Concerning Disabled Persons through the promotion of full participation and equalization of opportunities for persons with disabilities. This was an important outcome of the International Year of Disabled Persons, 1981.¹⁵² The State's commitment to develop the capacities of people with disabilities and observance of the International Decade of Disabled Persons 1983–1992 forms the basis of allowing the disabled participate in the development of the country.¹⁵³

It would be difficult to get the companies and communities to understand the participation in the development of a country by the disabled people. It is noted that disability is not inability and the role of disables is important to our future prosperity as a country.¹⁵⁴ The disabled need to be helped to enable them realize their aspirations, for instance, they need accessible premises, the provision of equipment, assistance, transportation and mentality change of both disabled people themselves and their family members.¹⁵⁵ For the nation to appreciate the abilities of the disabled they have to designate certain types of jobs specifically for disabled people.¹⁵⁶

The disabled if integrated into employment will increase employee productivity and national performance through a more diversified employee base.¹⁵⁷ The disabled will be able to participate in the development of the country in that the nation will have a variety of

¹⁵¹ <http://go.worldbank.org/OCFI93GX30>

¹⁵² Disabled People and Development Philippines Country Report, Published by the Asian Development Bank, 2005.p.45

¹⁵³ Disabled People and Development Philippines Country Report, Published by the Asian Development Bank.p.47

¹⁵⁴ N Carr-Ruffin, Diversity success strategies. Butterworth Heinemann, Boston, 1999.p.34

¹⁵⁵ H Katsui, *Towards Equality: Creation of the Disability Movement in Central Asia*, Helsinki University Press, Helsinki, 2005.p.12

¹⁵⁶ H Katsui, *Towards Equality: Creation of the Disability Movement in Central Asia*.p.15

¹⁵⁷ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces, *Journal of Environmental Health*. 65(7), 2003.p. 43

employees.¹⁵⁸ Specialization can be improved if the disabled are added to the workforce of the country.¹⁵⁹ The nation will notice how their participation in the development of the nation is critical for they will increase on employee productivity and a national performance through a more diversified employee base.¹⁶⁰

The participation of the disabled in the development of the country if they are put into certain categories of employment will lower economic costs because of lower absenteeism, decreased employee turnover, and better-than-average safety records.¹⁶¹ Disabled workers are more committed when in employment and rarely miss work apart from serious reasons such as due to illness.¹⁶²

Lower absenteeism has a direct link to employee turnover this is the rate at which workers leave a company and new workers are employed to take their places.¹⁶³ People with disabilities commit themselves to their work and if the law protects them from discrimination and they are offered decent work they will not leave their employment easily. This means more specialization and more work been done faster than on average and increase on productivity which entails more benefit to the country and growth of the Gross Domestic Product (GDP) and Gross National Product (GNP) of the country.¹⁶⁴ If these two are raising this simply means that the country is developing.

Better-than-average safety records is directly influenced by lower employee turnover for if new workers are not that many in a company which requires high safety, safety maintenance will be adhered to for the old employees will know how to maintain this.¹⁶⁵ The disabled are better workers and adhere to maintenance of safety if their work involves observance of safety.

¹⁵⁸ J Graffam et al. Factors That Influence Employer Decisions In Hiring and Retaining An Employee With A Disability, *Journal of Vocational Rehabilitation*, 17/2002a, pp.175-181.

¹⁵⁹ J Graffam et al. Factors That Influence Employer Decisions In Hiring and Retaining An Employee With A Disability, *Journal of Vocational Rehabilitation*, p.180

¹⁶⁰ http://ezinearticles.com/?expert=James_M.

¹⁶¹ T Raphael, Disabling some old Stereotypes. *Workforce*, 81(8), 2002.p. 88

¹⁶² J Graffam et al, U. Making it work: Employer outcomes when employing a person with a disability, Institute of Disability Studies, Deakin University, Melbourne, 2000.p.54

¹⁶³ T Raphael, Disabling some old Stereotypes. *Workforce*, 81(8), 2002p.92

¹⁶⁴ T Raphael, Disabling some old Stereotypes. *Workforce*, 81(8), 2002p.92

¹⁶⁵ www.independentliving.org/docs1/dispeopleintldev.pdf, p. 12

Persons with disabilities can cover jobs for which there are no candidates with the necessary studies and with the necessary qualities.¹⁶⁶ This shows how important it is to include the disabled people in the development of the country for they add something new which the other people cannot. Employing the disabled enables companies which employ them to serve a larger clientele that is including able bodied and disabled customers.¹⁶⁷

Participation of the disabled in the development of the country is significant because they are quality hires.¹⁶⁸ These people are motivated individuals in their work and if one has a motivated workforce their performance is high. Disabled people were rated the same as or better than non-disabled co-workers on punctuality; attendance; work quality; task consistency; overall proficiency.¹⁶⁹ Most companies believe that having a diverse pool of talent contributes to the bottom line.¹⁷⁰

The disabled can participate in the development of a country but there are specific jobs which government should ensure that the disabled have training in for them to participate fully. Some categories of jobs which the disabled can be trained in and show their efficiency are the following:

Computer-related careers, computers can be a perfect solution for the physically impaired.¹⁷¹ Since a computer requires only the use of fingers and vision, it makes a perfect job target area for many people with handicaps. Computer-related jobs involving graphic or web design offer additional possibilities.¹⁷² Disabled if trained in this field and if government makes a deliberate policy to make jobs of this nature a preserve of the disabled a lot of them will be able to find employment and participate in the development of the country.¹⁷³

¹⁶⁶ L. Schur, The difference a job makes: The effects of employment among people with disabilities. *Journal of Economic Issues*, 36(2)/2002, p. 351

¹⁶⁷ T. Raphael, Dismantling some old Stereotypes, *Workforce*, 81(8), 2002, p. 95

¹⁶⁸ Chartered Institute of Personnel Development. (CIPD), *Adapting to disability wasn't so difficult after all: The change agenda*, CIPD London, 2001, pp. 1-6.

¹⁶⁹ J. Graffam, et al, *Making it work: Employer outcomes when employing a person with a disability*, Institute of Disability Studies, Deakin University, Melbourne, 2000, p. 43

¹⁷⁰ Chartered Institute of Personnel Development, (CIPD) *Adapting to disability wasn't so difficult after all: The change agenda*. London: CIPD, 2001 pp. 6.

¹⁷¹ www.goodcareersforthephysicallydisabled.com/ehow.com.htm, p. 1

¹⁷² www.goodcareersforthephysicallydisabled.com/ehow.com.htm, p. 2

¹⁷³ www.goodcareersforthephysicallydisabled.com/ehow.com.htm, p. 2

Designing Careers offers another career alternative for people who are disabled.¹⁷⁴ There are several other design alternatives offering much to physically disabled people with creative talent. In these kinds of jobs the disabled can even work from their homes which offer a good working environment. Two other design careers not affected so much by limited mobility are interior design and clothing design. Creative talent in these two fields is the primary factor contributing to success.¹⁷⁵

Teaching is another career open to the disabled, in this area even blind people can participate.¹⁷⁶ The only requirement is that there should be provision of Braille for the blind teacher and student to use.¹⁷⁷ If this is done then the disabled teacher will be able to teach with no difficulty.

A prospective career which can be left to the preserve of the deaf is that of crane driving in mines and rock drilling and blasting.¹⁷⁸ The deaf are the best to perform under this career because they cannot be affected by the noise. Therefore, they can continue to work under the noise conditions for a long time unlike people who get affected by the noise.

Legal career is another field the disabled can venture in. This work does not involve manual labour which makes it easy for disabled to carry out without difficulties.¹⁷⁹ The field is vast enough that it offers several different options and challenges. Under here they can work as legal secretaries, transcribers, paralegals and lawyers. Physical work within these fields is generally kept to a minimum; most work is performed behind the comfort of a desk.¹⁸⁰

4.3. The necessities of such laws to a developing country like Zambia.

The laws which provide equal opportunities for employment and protection from discrimination of the disabled are of necessity to a nation like Zambia. In that the nation is still developing and needs the participation of everyone in its development inclusive of the disabled.¹⁸¹ The need for

¹⁷⁴ www.goodcareersforthephysicallydisabled.com, p.3

¹⁷⁵ www.goodcareersforthephysicallydisabled.com, p.4

¹⁷⁶ R Kitchin, P Shirlow, & I, Shuttleworth, On the margins: Disabled people's experience of employment. *Disability & Society*, 13(5), 1998. p.800

¹⁷⁷ R Kitchin, P Shirlow & I Shuttleworth, On the margins: Disabled people's experience of employment. *Disability & Society*, p.812

¹⁷⁸ M Edwards and G Sen, NGOs, Social Change and the Transformation of Human Relationships: a 21st Century Civic Agenda. *Third World Quarterly*, Vol. 21 (4)/2000, pp. 605-616.

¹⁷⁹ www.goodcareersforthephysicallydisabled.com, p.5

¹⁸⁰ www.goodcareersforthephysicallydisabled.com, p.5

¹⁸¹ Disabled People and Development: Philippines Country Report. Published by the Asian Development Bank, p.24

development needs the involvement of everyone in the country. For there will be exchange of ideas of all kinds between people of different capabilities and the disabled will have something new to offer to the nation for they have been isolated from the participation of nation growth.

There will be a reference point for government's policies which will be backed by a force of law. Every governmental policy has to have a basis for which it was made and the only requirement for its validity is that it should be made pursuant to an Act of Parliament.¹⁸² Anything short of this can be challenged in the court of law as being an illegal action.

The obligation to employ the disabled will not only be a responsibility of government but also employers in the private sector will be mandated by law to employ people with disabilities.¹⁸³ The essay suggested the introduction of quota schemes which will compel employers in the private sector to employ the disabled. But if this is not observed the employer should be required to pay a fine which will go into a fund benefiting the disabled.¹⁸⁴ The fund will help the disabled in skills development and creation of shelter employment. This is where the disabled are organized into groups of skilled workers and can be hired by companies to do specific jobs for them.¹⁸⁵

Lastly these laws will provide assistance to people with disabilities to seek and get jobs for they will be protected under the law and they will also have equal opportunities with the other people to be in gainful employment.¹⁸⁶ Measures such as reasonable accommodation which will adjust the working place environment to ensure that the disabled are able to carry on their work without any barriers will be entrenched in the law.¹⁸⁷

¹⁸² Dr. L J Edmonds, Disabled People In Development: India Country Report, 2004/pdf.p.25

¹⁸³ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.2007.p.71

¹⁸⁴ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.2007.p.35

¹⁸⁵ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, 2007, p.49.

¹⁸⁶ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation p.84

¹⁸⁷ R Owens and J. Riley, Law of Work, Oxford: , Oxford University Press,2007. P.213

4.4. Conclusion

The chapter has endeavoured to show that employment laws which provide equal opportunities for employment and protection from discrimination of the disabled are beneficial to the nation. The law will help in lowering the government's expenditure on issues of helping the disabled. The law will help in poverty reduction for the disabled form the poorest group of the poor.¹⁸⁸ The disabled can participate in the development of a country for they offer diverse skills and perspective, can cover jobs where there are no candidates, are committed and motivated workers.¹⁸⁹ They exhibit lower absenteeism, decreased employee turnover, and better-than-average safety records.¹⁹⁰ There are some jobs which the disabled are able to perform better than other workers.¹⁹¹

The necessities of the laws providing for equal opportunities for employment and protection of the disabled from discrimination is that it will encourage the participation of everyone in the development of the nation. It will also provide government with the power to make policies to include the disabled into employment by schemes such as quota schemes. The obligation to employ the disabled will be ensured through the quota schemes for all employers.¹⁹²

The law should ensure that everyone participates in the development of the country by ensuring that all people have the opportunity of getting into gainful employment. Everyone should be protected from discrimination based on one's physical makeup.

¹⁸⁸ Disabled People and Development: Philippines Country Report. Published by the Asian Development Bank, 2005.pp.16-25

¹⁸⁹ D Gilbride et al. Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003.p.137

¹⁹⁰ T Raphael. Disabling some old Stereotypes, *Workforce*, 81(8) ,2002.p. 88

¹⁹¹ T Raphael. Disabling some old Stereotypes, *Workforce*,p.95

¹⁹² International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation.2007.p.49.

Chapter 5

Conclusion and Recommendations

5.0. This essay was to evaluate the extent to which Zambian employment legislation and policy provide opportunities for employment and protection from discrimination of the disabled. Chapter one introduced the overall issues which the essay was going to cover and give the premise why the essay was going to be written. It gave the statement of the problem which is that; the Zambian employment legislation does not provide equal opportunities for employment for the disabled and since the employment legislation does not compel anyone to employ the disabled employers will not employ them.

The issue to be considered was whether the law is sufficient in addressing discrimination based on disability when accessing employment and also once employed. It is common understanding that disability restricts access to employment, leading to economic and social exclusion. Could it be that there is no employment for persons with disabilities as matter of fact or that they are denied access by virtue of their disability status? It was therefore crucial to critically analyze the extent to which the law provides equal opportunities to persons with disabilities in accessing employment. Thus the objective of the essay was to show the purpose of making laws which provide equal opportunities for employment and protection from discrimination of the disabled in employment. To do this research questions were formulated and were answered in the process. The research question such as do the current Zambian employment laws provide enough opportunities for employment and protection from discrimination of the disabled? This was answered in the negative in chapter two after an evaluation of the employment legislation had been taken.

The rational and justification of this essay was that there is need to provide the disabled with equal opportunities for employment and protection from discrimination and the prohibition of discrimination in places of work. The remaining chapter went on ahead and looked at the methodology of data collection and the research design which gave a breakdown of the chapters. Then a conclusion was given that People with disabilities can be productive members of the society. In both developed and developing countries, promoting more inclusive societies and employment opportunities for the disabled requires improved laws, policies, programmes and

services concerning people with disabilities.¹⁹³ The conclusion reached here was that the law has to consider all people when it comes to employment.

Chapter 2 evaluated the laws in Zambia which are relevant to employment. The Zambian employment legislation which consists of the Employment Act¹⁹⁴, Employment (special provisions) Act¹⁹⁵, The Apprenticeship Act¹⁹⁶, Minimum Wages and Conditions of Employment Act¹⁹⁷, Industrial Labour and Relations Act¹⁹⁸ which deals with industrial relations matters but of importance to this essay is section 108 which deals with issues arising from dismissal based on discrimination. Other Acts incidental and connected to employment are Workers Compensation Act¹⁹⁹, National Pension Scheme Act²⁰⁰ and the last Act which was mainly enacted to safe guard the interests of the disabled is the Persons With Disabilities Act.²⁰¹

The Acts mentioned above were evaluated separately and the conclusion reached on each one was that they do not provide for equal opportunities for employment and protection from discrimination of the disabled. For instance the Employment Act does not provide for reasonable accommodation of the disabled in workplaces. This is in terms of adjusting the workplace to meet the need of the disabled worker. For example providing a Braille keyboard for a blind worker.²⁰² All the Acts which are concerned with employment when evaluated revealed that they do not consider the concept of disability. For instance the Apprenticeship Act²⁰³ does not provide for the inclusion of the disabled people into being apprentice. The conclusion of chapter two made is that the employment legislation in the country needs to be amended so as to cover the disabled. Firstly provide them with equal opportunities for employment and protect them discrimination which either be direct or indirect and these were defined.

¹⁹³ International Labour Organization. Inclusion of People with Disabilities in Zambia.2009.p.1

¹⁹⁴ Cap 268 of the laws of Zambia

¹⁹⁵ Cap 265 of the laws of Zambia

¹⁹⁶ Cap 275 of the laws of Zambia

¹⁹⁷ Cap 276 if the laws of Zambia

¹⁹⁸ Cap 269 of the laws of Zambia

¹⁹⁹ Cap 211 of the laws of Zambia

²⁰⁰ Cap 265 of the laws of Zambia

²⁰¹ Cap 68 of the laws of Zambia

²⁰² International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through Legislation: Guidelines,2007.p.30

²⁰³ Cap 275 of the laws of Zambia

Chapter 3 gave reasons why the employment laws had to be amended so as to cater for the disabled in their employment needs. The reasons given were both moral and legal ones; these were that society has always wanted to take care of the needy²⁰⁴ and due to this reason that is to take care of people who have special needs laws have been used to intervene. The point is well established: those who fall on hard times through any calamities that are apt to afflict mankind must not be allowed to perish without help and that is no longer a matter of charity. It is a right exercisable against the state which is under duty to make whatever provision it can collectively afford- without discrimination, there as ever, lies a stingy.²⁰⁵ It is morally justified to introduce laws which prohibit discrimination when it comes to employment in that it is the priority of the entire community to provide for the well being of everyone²⁰⁶. The introduction of anti-discriminatory laws will act like a shield so that the society will ensure that everyone's well being and needs will be provided for.

The legal justification for introducing disability related legislation is to safeguard people with disabilities is firstly, due to the concept of equality before the law.²⁰⁷ It is noted by Owens that the law especially most constitutions in the world, that there should be no discrimination practiced on any individual based on their race, sex, creed, religion.²⁰⁸ The concept of equality before the law entitles every individual whether disabled or not to the same treatment before the law and the concept of equality have come to form an important part of the international concept of the rule of law.²⁰⁹ The inadequacy of the Persons with Disabilities Act²¹⁰ on employment of the disabled and protection from discrimination of the disabled makes the argument for introduction of disability related laws in employment more forceful. For it is considered that the absence of disability related legislation on employment which safeguards the interests of people with disabilities is a form of human rights violation.²¹¹ The principle of non-discrimination is a key element in the approach of adopting non-discrimination laws and policies, reflecting the

²⁰⁴ P Steghart, *The lawful Rights of Mankind: An Introduction to International legal Code of Human Right*, Oxford University Press, London. 1995. P. 30.

²⁰⁵ *ibid*

²⁰⁶ P Davis and M Freeland, *Labour Legislation and Public Policy: A Contemporary History*, Clarendon Press, 1993. p.80

²⁰⁷ R Owens and J Riley, *Law of Work*, Oxford, Oxford University Press, 2007. p.75.

²⁰⁸ R Owens and J Riley, *Law of Work*, Oxford, Oxford University Press, p.75

²⁰⁹ O H Philips, *Constitutional and Administrative Law*, Sweet and Maxwell Ltd, London, P. 41.

²¹⁰ Cap 265 of the laws of Zambia

²¹¹ R Owens and J Riley, *Law of Work*, Oxford: , Oxford University Press, 2007.P.89

principle that people with disabilities are inherently equal human beings and thus entitled to equal treatment and equal opportunities, particularly with respect to employment.²¹²

The chapter also looked at the extent of discrimination on the disabled and its consequences on them. The efforts of Zambia Federation Disability Organization were looked at and it was from this that the extent of discrimination in workplaces was shown. The disabled are not getting into employment even after they have satisfied all the qualifications for the job and they are the best qualified. Logically, they should get the job but in many instances they do not get employed and in most cases like this Zambia Federation of Disability Organizations have followed up such cases up.²¹³ The other extent shown was unwarranted dismissals which have no grounds apart from that the worker is disabled.²¹⁴

The extent of disability discrimination is the under employment and under payment of the disabled people.²¹⁵ The disabled in most times are considered not to be competent workers and even though they have the qualifications for that job. The job they will be given if they apply for employment is lower than their qualifications, under employment is a situation where someone with enough qualifications is given a job which is lower than their qualification.

The consequences of discrimination on the workers which are disabled are that most of them will eventually resign from their work, as they do not feel welcomed by their fellow workers.²¹⁶ They under perform on their work if they remain in employment since they feel isolated and not encouraged.²¹⁷ They will lose confidence in the law if they think that they are not being protected.²¹⁸ The law is an instrument of social balance and it is meant to settle conflicts between individuals and the state and between individuals.

²¹² International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities through legislation*, 2007.p.8.

²¹³ Zambia Federation of Disability Organizations, *Disability Discrimination*, Disability Herald.No.13/2010.p.23

²¹⁴ Ms Ruth Likasi (officer at ZAFOD).Interview, 4 November,2010.

²¹⁵ International Labour Organization, *Achieving equal employment opportunities for people with disabilities through legislation*.2007. P.1

²¹⁶ D Gilbride et al. Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003.pp.130-137

²¹⁷ L Parvis, *Diversity and Effective Leadership in Multicultural Workplaces*, *Journal of Environmental Health*. 2003. 65(7), 37-39

²¹⁸ L Parvis, *Diversity and Effective Leadership in Multicultural Workplaces*, *Journal of Environmental Health*,pp.37-39

The chapter then proceeded to look at ways the law can intervene to prohibit this discrimination. Firstly the most paramount intervention which the law can take is to include reasonable accommodation.²¹⁹ The reasonable accommodation is adapting the workplace environment to suit the needs of the disabled workers.²²⁰ The introduction of reasonable accommodation will enable the disabled workers feel at ease at their workplaces and this will increase on their productivity. The second intervention in which the law would take is that of shifting the burden of proof when it comes to discrimination cases involving workers with disabilities.²²¹ Under some legislation, a person who considers his or herself wronged because of discrimination has to provide evidence to prove that this has occurred.²²² Section 108 of the Industrial and Labour Relations Act provides for grounds on which discrimination in employment in Zambia is prohibited.²²³

The third intervention which the employment legislation can take in helping to prohibit discrimination is by the introduction of a quota scheme.²²⁴ This is probably the best known and most familiar measures aimed at promoting the integration of people with disabilities in the labour market.²²⁵ The fourth intervention which the law can take is by introducing employment support measures especially for the employers to encourage them to employ people with disabilities.²²⁶ This employment support measure for employers can take the form of tax incentives. These tax incentives can be a reduction in the amount of tax paid to the government, since every company is under an obligation to pay tax according to the number of employees it has.²²⁷

The chapter concluded that people with disabilities are equal with the able bodied and the laws on employment should make provisions for prohibition of discrimination based on disability by

²¹⁹ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces, *Journal of Environmental Health*, p.807

²²⁰ T Raphael. Disabling some old Stereotypes. *Workforce*, 81(8).2002.p. 88

²²¹ T Raphael. Disabling some old Stereotypes. *Workforce*, pp.32-33

²²² T Raphael. Disabling some old Stereotypes. *Workforce*,pp.32-33

²²³ Cap.269 of the laws of Zambia

²²⁴ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation,2007 pp.35-50

²²⁵ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation,p.35

²²⁶ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation P.38

²²⁷ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation p. 40

introducing quota schemes which will mandate employers to have a certain percentage of their workers comprising of people with disabilities.²²⁸ Furthermore, if incentives are given to employers by the government for employing the disabled it will encourage many employers to take on disabled workers. The help of adapting the workplace to suit people with disabilities is another intervention the law and policy of government can take to help eliminate discrimination and create more opportunities for employment of the disabled people.²²⁹

Chapter 4 essentially considered the benefits of all inclusive laws on employment to the country. It has been pointed out that the number of people with disabilities in Zambia is about 10 per cent of the population and 7 per cent of that are in the employment age.²³⁰ Zambia will most certainly notice a benefit from the international scene, is that the donor community will fund it to help in implementation of disability related laws.²³¹ Zambia should strive to amend its employment laws so that in the near future if there is creation of many jobs, the disabled will also be considered for employment by employers in the private sector. For there will be poverty reduction, economic managers suggest that the main engine for poverty reduction is achieving higher growth and enhancing the ability of the poor including persons with disabilities. Who are considered among the poorest of the poor to participate in the growth of a nation.²³² The number of disabled who want aid from the government will go down for a good number who are qualified to work will be employed.²³³ This will cut down on the funds for welfare which is given to the Ministry of Community and Social Services which spends a lot of money trying to help those in need. If this is done, it will save on the resources of the state and the saved money will be used in other areas of development.²³⁴

²²⁸ International Labour Organization, Achieving equal employment opportunities for people with disabilities through legislation, 2007,p.37

²²⁹ International Labour Organization, Achieving equal employment opportunities for people with disabilities through legislation,p.52

²³⁰ http://www.zamstats.gov.zm/media/chapter_9_disability_final2.pdf.p.141,accessed on 4 June, 2009

²³¹ <http://go.worldbank.org/OCF193GX30>

²³² C Tomko, The economically disadvantaged and the ADA: Why economic needs should factor into the mitigating measures disability analysis. *Case Western Reserve Law Review*, 52, 2002.p.1060.

²³³ C Tomko, The economically disadvantaged and the ADA: Why economic needs should factor into the mitigating measures disability analysis.p.1065

²³⁴ D Gilbride, R StensrudVandergoot and K Golden, Identification of the characteristics of work environments and employers open to hiring and accommodating people with disabilities. *Rehabilitation Counseling Bulletin*, 46(3), 2003,p.130

The participation of the disabled in development was stated and this is through increase of employee productivity and national performance through a more diversified employee base when the disabled are integrated into employment.²³⁵ Lowering of economic costs because of low absenteeism, decreased employee turnover, and better-than-average safety records.²³⁶ Better-than-average safety records is directly influenced by lower employee turnover for if new workers are not that many in a company which requires high safety, safety maintenance will be adhered to for the old employees will know how to maintain this. The chapter also considered some careers in which the disabled are able to work exceptionally such as computer related works, designing works, legal works, teaching and mining works

The necessities of employment laws which enable everyone get into employment is that the nation is still developing and needs the participation of everyone in its development inclusive of the disabled who have so far been left out in developmental projects.²³⁷ A reference point is needed for government's policies which will be backed by a force of law. Every governmental policy has to have a basis for which it was made and the only requirement for its validity is that it should be made pursuant to an Act of Parliament.²³⁸ The obligation to employ the people who are disabled will be ensured by the government in that employers in the private sector will be mandated by law to employ people with disabilities.²³⁹ The obligation will be ensured in that if anyone goes against the law they can be taken to court to answer why they have breached the law. Lastly that assistance will be provided to the disabled to have easy access to employment for they will have the support of the law.

The chapter concluded by stating that employment laws which provide equal opportunities for employment and protection from discrimination of the disabled are beneficial to the nation. Due to the reasons of poverty reduction, increase tax base for the government which will translate into more money for development. It also stated the necessities of the laws providing for equal opportunities for employment and protection of the disabled from discrimination is that it will

²³⁵ L Parvis, Diversity and Effective Leadership in Multicultural Workplaces, *Journal of Environmental Health*. 65(7), 2003.p. 43

²³⁶ T Raphael, Disabling some old Stereotypes. *Workforce*, 81(8) ,2002.p. 88

²³⁷ www.independentliving.org/docs1/dispeopleintldev.pdf.p.24

²³⁸ Dr. L J Edmonds, Disabled People In Development: India Country Report, 2004/pdf.p.25

²³⁹ International Labour Organization, Achieving Equal Employment Opportunities for People with Disabilities through legislation, 2007.p.71

encourage the participation of everyone in the development of the nation. It will also provide government with the power to make policies to include the disabled into employment by schemes such as quota schemes. The obligation to employ the disabled will be ensured through enforcement if there is breach of the law and will provide for assistance to the disabled in seeking employment.²⁴⁰

5.1. Recommendations

The list of recommendation given below is for the purposes that the legislator can amend the law so as to provide for equal opportunities for employment and protection from discrimination of the disabled.

(a) Include disability in the constitution

*Inclusion of disability issues in the constitution of Zambia would be a feasible and technically an easy change to make. The inclusion of disability in the non-discrimination clauses, and more generally the inclusion of social rights in the Constitution and not merely as directive principles of State policy.*²⁴¹ This would enhance the legal protection of persons with disabilities in all fields of life including employment.

(b) Include a broader definition of discrimination in both the Persons with Disabilities Act and the Industrial and Labour relations Act.

A more comprehensive definition of discrimination in the context of disability should be elaborated in both the Acts.²⁴²

(c) Include the protection of persons with disabilities from ill-founded termination of employment and reasonable accommodation of the disabled.

The Employment Act should state precisely that disability should not be used as a ground for termination if the person with the disability is able to perform his obligations under the contract

²⁴⁰ International Labour Organization, *Achieving Equal Employment Opportunities for People with Disabilities* through legislation, 2007, p.49.

²⁴¹ International Labour Organization, *Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia*. 2008, p.23

²⁴² International Labour Organization. *Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia*. 2008, pp.24-25

of employment.²⁴³ It should also give precise measures to be taken to effect reasonable accommodation.

(d)Include a comprehensive minimum income scheme for persons with disabilities. At the moment, there exists no comprehensive minimum income for the disabled.

The Minimum Wages and Conditions of Employment Act do not make provision for this or the National Pension Scheme Act. If this is provided for this will enable a larger group of people with disabilities to enter the invalidity pension scheme and to get minimum income from this scheme.²⁴⁴

(e)Include disability as not been a ground for disqualification for been an apprentice.

The Apprenticeship Act should expressly provide that in the criteria to be eligible to be an apprentice disability does not mean that the person is not physically fit to become an apprentice. Therefore even if one is disabled as long as they can carry out what they tasked to do they qualify to become an apprentice.²⁴⁵

(f)Although Zambia has ratified the United Nations Convention on the Rights of People with Disabilities it should take seriously the ratification of this convention. It should domesticate it through the reconciling of its laws with this convention when it comes to rights of the disabled. The Zambian Government should fully include persons with disabilities in their work and the process the process should be transparent.²⁴⁶

(g)The Persons with Disabilities Act should include provision of reasonable accommodation on section 20 which prohibits the use of disability as a ground for discrimination when employing

²⁴³ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia p.25

²⁴⁴ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia

²⁴⁵ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia.pp.12-15

²⁴⁶ International Labour Organization. Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia. 2008, p.22

people in workplaces. Include the quota scheme in the employment of the disabled. Also include the incentive measures to the employers who employ the disabled.²⁴⁷

(h)Elaborate part VI the Employment Act to include the housing and welfare needs of persons with disabilities as the Act as it stands is silent on provision of these services to the disabled

The current Employment Act does not mention the word disabled under this provision; therefore it is necessary that it is included to show that every worker is covered. As it stands now it perpetrates discrimination, for the disabled are not fully covered in its wording.²⁴⁸

People with disabilities should be included through policies and programs that dedicate financial resources through lending and budget allocations by banking, development, government, and non-government agencies; to ensure that material resources are committed to disability issues; to ensure that organizations and their personnel are knowledgeable; and to ensure the accountability of decision makers and program implementers to advance disability issues as a poverty reduction and growth strategy in their area(s) of development.²⁴⁹ Participation ensures that people with disabilities and their respective organizations are given a voice in decisions that affect their lives and their communities. The priorities are to promote effective participation, including consultation and decision making that involves representatives of people with disabilities.²⁵⁰

If the above recommendations are followed the disabled in Zambia will add to the development of the country which will be beneficial to everyone in the country. The disabled are equal with everyone and are an asset to the nation when it comes to development; they need to be utilized fully.

²⁴⁷ International Labour Organization, Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia,2007.p.26

²⁴⁸ International Labour Organization, Disability audit of legislation relevant to education vocational training and employment of persons with disabilities in Zambia,p.26

²⁴⁹ Disabled People and Development Philippines Country Report. Published by the Asian Development Bank, 2005.p.30

²⁵⁰ Disabled People and Development Philippines Country Report. Published by the Asian Development Bank, p.30

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