ACCESSIBILITY OF PUBLIC BUILDINGS TO DISABLED PERSONS

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BY

MUTINTA MALU CHILUFYA

A paper presented in partial fulfillment of the requirements for the Award of the Degree of Bachelor of Laws of the University of Zambia.

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ABSTRACT

This research discusses the inaccessibility of public buildings in relation to persons with disabilities. The research identifies inadequacies of these buildings and considers the practical challenges that persons with disabilities are faced with as a result. The research further examines the effect of this inaccessibility on the dignity and right to equality of persons with disabilities as well as their other rights. The research thereafter discusses the contribution that accessible buildings can have on mainstreaming disabled persons in employment, education and health.

Through interviews and a case example, the research established that most public buildings in Lusaka are inaccessible, as they were constructed in a way that hinders reaching or using them freely. Despite being intended for use by the general public they do not take into consideration the needs of persons with disabilities. Findings of this research reveal that these buildings lack ramps, handrails, elevators, user friendly restrooms and other facilities necessary for disabled persons to freely use a building. This state of affairs has resulted in disabled persons facing practical challenges (which are degrading at times) when making use of the services offered in such buildings. The research further established that as a result, there have been negative consequences on disabled persons' inherent dignity and right to equality. In addition, inaccessibility has restricted their enjoyment of the rights to independent living, inclusion in society and equality of opportunity.

The research considered that making public buildings accessible whether by universal design or reasonable accommodation would contribute greatly to the mainstreaming of persons with disabilities in Zambia. This would afford disabled persons an opportunity to participate in employment, education and health on an equal basis with able-bodied persons. Thereby promoting equality and enhancing dignity.

As such the research makes recommendations with the aim of achieving equality and dignity for persons with disabilities through the provision of accessible buildings. There is need to formulate standards of accessibility to be used in conducting extensive country wide access audits on all public buildings. In addition, educating relevant stakeholders on the value of accessible buildings and using tax incentives to motivate property owners to make their buildings accessible.

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DEDICATION

To God Almighty for His guidance. To my mother Ivert M Hamududu, who has taught and shown me that 'disability is not inability'. Through her determination, strength of character and wisdom, she has given me courage to dream and leap for my dreams. Indeed, there is no love like a mothers'. To my late Dad, Dave Malu Chilufya; I think you would have been proud of your 'little girl'. To my late Aunt Ibery k Hamududu who left me with the zeal to treasure all that is just and fair, wish you were here to see your lawyer. And not the least, to my elder brothers Milimo and Warren for their constant love, care and protection.

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Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, of 1995.

The United Nations Convention on the Rights of Persons with Disabilities

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LIST OF ACRONYMS

ADEPt	Advancing Disability Equality Project
CRPD	Convention on the Rights of Persons with Disabilities
ECZ	Electoral Commission of Zambia
ILO	International Labour Organisation
LCC	Lusaka City Council
UHDR	Universal Declaration of Human Rights
ZAPD	Zambia Agency for Persons with Disabilities
ZAFOD	Zambia Federation of Disability Organisations

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1. CHAPTER ONE: INTRODUCTION TO THE RESEARCH

1.1. General Introduction

This chapter covers the basic aspects of the research. These are the introduction, statement of the problem, significance of the research, research objectives and questions, methodology and the chapter layout.

1.2 Introduction

Persons with disabilities have long been a marginalised group in many societies, in Zambia the inaccessibility of most public buildings is reflective of this fact. Disability is considered as "permanent physical or other impairment alone or in combination with social or environmental barriers, which hinders the ability of a person to fully or effectively participate in society on an equal basis with others."[1] Understood in this manner, it can be seen how factors that contribute to disability extend to the environmental barriers outside the control of the person actually possessing a physical or other impairment.

The lack of accessibility to public buildings has created barriers to the advancement of persons with disabilities in many fields such as education, employment and acquiring health services. Furthermore, inaccessibility has resulted in the infringement of the rights to dignity and equality (among other rights) of persons with disabilities. In light of this, Zambia as a party to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) has elected to enable persons with disabilities live independently and to participate fully in all aspects of life by taking

[1]Persons with Disabilities Act No. of 2012, s.2

measures to ensure access to the physical environment on an equal basis with others.[2] The Persons with Disabilities Act[3] provides for accessibility as one of the rights of persons with disability.[4] It is undeniable that accessibility to public buildings as a right provides a favourable platform whereby all the other rights of persons with disabilities can be realised. Accessibility in this regard extends to eliminating barriers that are present in accessing and using public buildings by persons with disabilities.

As such, this research aims to examine the right of persons with disabilities to accessibility of public buildings or places. In light of this, it is necessary to consider the dignity and equality of disabled persons. In addition, the difficulties facing persons with disabilities in accessing public buildings and the effect this has on their rights of independent living, full and effective participation and inclusion in society and of equality of opportunity as provided for in the Persons with Disabilities Act.[5] Furthermore, the importance of accessible buildings in mainstreaming persons with disabilities in society, more specifically in sectors such as health, education and employment.

1.3 Statement of the problem

There has been no clear direction provided by policy makers and legislators towards providing for accessibility of public buildings to persons with disabilities. However, recently steps have been taken to include accessibility as a right for persons with disabilities in the Persons with Disabilities Act.[6] Focus is placed on the inaccessibility of public buildings considering the importance this plays in realisation of other rights. Inaccessible public buildings have negatively

[2] United Nations Convention on the Rights of Persons with Disabilities, Art 9
[3] Persons With Disabilities Act No. 6 of 2012
[4] Persons With Disabilities Act No. 6 of 2012, s.4
[5] Persons with Disabilities Act No. 6 of 2012, ss. 4 (e), (f), (h)
[6] Persons with Disabilities Act No. 6 of 2012, s.4 (i)

affected the inherent dignity and equality of persons with disabilities. Disabled persons' right to independent living is greatly hindered owing to the existing inaccessibility, as such they have to be constantly assisted by others in accessing buildings, so does their right to full and effective participation and inclusion in society. Furthermore, their right of equality of opportunity becomes hard to exercise as the inaccessibility of public buildings or places stands as a barrier to disabled persons using them in the same way as able bodied persons.

1.4 Significance of the research

This research will highlight the challenges of the current status of public buildings (using the Lusaka City Council premises as a case study) in relation to their inaccessibility to persons with disabilities. As well as to show the effect this has on disabled persons realising their rights of independent living, full and effective participation and inclusion in society as well as of equality of opportunity as provided for in the Persons with Disabilities Act.[7] The effects that the inaccessibility of public buildings has is quite apparent, in that disabled persons are faced with difficulty in making use of services offered in these buildings resulting in them as a group in society being left behind in the quest for development. It has become a normal occurrence that a blind person for instance is always with a helper to aid them in their movements, this has a negative effect on the disabled person's dignity and right to live independently and participate actively in society. In relation to the full exercise of their rights as citizens, they fall behind as able bodied persons seem to have an advantage over persons with disabilities. As such institutions whether of education or employment when faced with admitting or employing a disabled person are always prone to consider the difficulties that will arise for a disabled person in accessing the physical environment of that institution.

[7] Persons with Disabilities Act No.6 of 2012, ss. 4 (e), (f) and (h)

Therefore, the research will focus on examining accessibility as a right and a means of meeting other rights of persons with disabilities. The findings of the research will be of importance to policy makers, legislators, city planners, persons with disabilities, future researchers and the nation at large in efforts aimed at integrating persons with disabilities into the mainstream of society through the provision of accessible buildings for all.

1.5 Research objectives

i) To bring to the fore the practical difficulties arising out of lack of accessibility to public buildings being faced by persons with disabilities; how much importance is placed on accessibility by stakeholders (persons with disabilities, disability organisations and town planners).

ii) To explore the effects that lack of accessibility has on persons with disabilities realising their rights to live independently, participate in society and to have equal opportunities in relation to able bodied persons.

iii) To establish the significance of mainstreaming of persons with disabilities into society through the provision of accessible public buildings or places.

1.6 Research questions

i) What are the practical difficulties arising out of lack of accessibility to public buildings being faced by persons with disabilities; how much importance is placed on accessibility by stakeholders (persons with disabilities, disability organisations and town planners)?

ii) What are the effects that the lack of accessibility to public building or places has on persons with disabilities realising their rights to live independently, participate in society and to have equal opportunities in relation to able bodied persons?

iii) What is the significance of mainstreaming of persons with disabilities into society through providence of accessible public buildings or places?

1.7 Research methodology

The research is geographically limited to Lusaka; it will target the Lusaka Civic Centre (which are the LCC premises), members of disability advocacy groups such as the Zambia Agency for Persons with Disabilities (ZAPD) and Zambia Federation of the Disabled (ZAFOD), and persons with disabilities. The Lusaka Civic Centre will be surveyed for accessibility. Primary information will be collected from legislation such as the Persons with Disabilities Act[8] and through interviews with City planners, officers of ZAPD and ZAFOD as well as persons with disabilities. The methods of obtaining this information will be governed by due consideration to the sensitivity of disability issues, confidentiality of the participants and their right to voluntarily participate. Secondary sources will include books, reports, journals, dissertations, as well as available literature from the internet. The qualitative and quantitative data will be obtained from the above mentioned sources.

1.8 Chapter layout

Chapter 1- Introduction

This chapter introduces the research paper and provides the basic aspects of the research. These include the statement of the problem, objectives and research questions, significance of the research, the methodology and the chapter layout. The chapter is designed to furnish a broad outlook on the research and give a foundation to the main elements to be discussed in the research paper. It therefore introduces the subject matter in general terms.

[8] Persons With Disabilities Act No. 6 of 2012

Chapter 2- The right to accessibility and injustices of inaccessibility

This chapter aims to give a clear understanding of accessibility as it relates to disabled persons and its relation to the realisation of other rights guaranteed under the Persons with Disabilities Act. It discusses the social model of disability as a human rights perspective of disability as well as the rights to inherent dignity and equality of disabled persons as they relate to accessibility. Furthermore, it considers the significance placed on accessibility by persons with disabilities themselves and their organisations. It will provide practical findings on accessibility of public buildings to persons with disabilities from the survey of the Lusaka Civic Centre. In addition, the chapter will link the existing lack of accessibility to other rights that persons with disabilities have under the Persons with Disabilities Act (specifically the right to independent living, full and effective participation, inclusion in society and the right to equal opportunity).[9]

Chapter 3-Significance of mainstreaming disabled persons through accessible public buildings

This chapter will discuss the possible effects that having accessible buildings would have on persons with disabilities being included into the mainstream of society. It will discuss the role of universal design and reasonable accommodation in providing accessible buildings, in the quest to mainstream persons with disabilities. Additionally, it will consider in particular, benefits of having accessible buildings on the employment, education and health of persons with disabilities.

Chapter 4- Conclusion and recommendations

This chapter will summarise the important points that will be raised in the course of the research and give recommendations and areas of reform in providing for the accessibility to persons with

[9] Persons with Disabilities Act No. 6 of 2012, ss. 4 (e),(f), (h)

disabilities in public buildings. In the quest to enable them realise their rights on the same level as able bodied persons.

1.9 The different models of disability

In a quest to understand disability issues, models have been created which are the educational, medical and social models of disability. The medical model places a person with the disability at the centre of the problem and as a result they are excluded from mainstream society and prevented from exercising their basic social, economic and political rights.[10] This is reflective of the general approach that society has taken towards persons with disabilities. They have been viewed as lacking autonomy due to their impairments and as being always in need of assistance. Under the medical model disability is conceived as unnatural, biologically produced and therefore problems faced by disabled persons as a result of their own impairment independent of wider socio-cultural, physical and political environment.[11] Disabled persons and their disability are seen to be the problem that needs to be dealt with in isolation, resulting in the view that disabled persons are a burden and not an asset as are able bodied persons.

However, the social model of disability considers disability as resulting from the failure of the physical and social environment to take into account the needs of particular individuals and groups as such society creates disabilities by accepting an idealised norm of the physically and mentally perfect person and by organizing society on the basis of this norm.[12] This perspective promotes making available a setting that is able to accommodate persons with disabilities by structuring the physically environment in such a manner that it is accessible to all, more

[10] Iize G Du Plessis and Tobias Van Reenen, "Introduction," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen (Pretoria: Pretoria University Press, 2011), xxv.
[11] Rob Imrie, Disability and the City: International Perspective, (London: Paul Chapman Publishing Ltd, 1996) 28.
[12] ILO, Achieving equal employment opportunities for persons with disabilities through legislation, (Geneva: ILO Publication, 2007) 14.

especially to persons with disabilities. The social model is most relevant to this research as it focuses on accessibility of persons with disabilities from a human rights perspective (as will be discussed in the next chapter).

1.10 Conclusion

It has been recognized that there is a problem as regards accessibility of public buildings for persons with disabilities in Zambia. As such, the environment brings about the disability and not the impairment nor the person possessing it. Therefore, it is the aim of this research to discuss accessibility of public buildings with due consideration to the social model of disability and the rights of person with disabilities. In addition, the research will assess the inaccessibility of public buildings in relation to the rights of independent living, full and effective participation in society and of equal opportunity.

The next chapter will discuss the meaning of accessibility and human rights perspective of the social model. Furthermore, it will bring to the fore the practical difficulties arising out of lack of accessibility to public buildings being faced by persons with disabilities and the significance placed on it by stakeholders. In addition, it will explore in detail, the effects that lack of accessibility has on persons with disabilities realising their rights to live independently, participate in society and to have equal opportunities in relation to able bodied persons.

2. CHAPTER TWO: THE RIGHT TO ACCESSIBILITY AND INJUSTICES OF INACCESSIBILITY

2.1 Introduction

The foregoing chapter discussed the concept of accessibility of public buildings to persons with disabilities in general terms. It briefly distinguished the medical and social models of disability. Showing that under social model, disability is as being a result of environmental barriers. Therefore, lack of accessibility of public buildings apart from contributing to the disability, results in disabled persons as a group not being accorded equal treatment in comparison to the able-bodied persons. Furthermore, it considered in a broad sense the possible connection between inaccessibility of public buildings and the realization of other rights provided under the Persons with Disabilities Act.[13]

This chapter discusses in detail the meaning of accessibility as reflected in the CRPD and the Persons with Disabilities Act,[14] as well as standards for accessible public buildings. In light of this, it will discuss the social model of disability as it reflects disability as a human rights issue. Focus will be placed on the rights of inherent dignity and equality of persons with disabilities. In addition, the chapter presents the inaccessibility of public buildings in Lusaka, using the Lusaka Civic Centre building as a case study. Furthermore, it discusses the resulting challenges of inaccessibility on persons with disabilities and its effect on their rights to live independently, to have full and effective participation and inclusion in society as well as their right to equal opportunity.

[13] No. 6 of 2012.

[14] Persons with Disabilities Act No. 6 of 2012.

2.2 The meaning of accessibility

In laws and standards on accessibility, accessibility refers to what the law requires to enable the reaching or approaching of something (in this regard a public building).[15] Accessibility is the presence of facilities that enable the easy entry and use of a public building in this regard by persons with disabilities. Therefore, access to buildings is beneficial for enabling disabled persons participate in civic life and essential for education, health care, and labour market contribution.[16] Accessibility provides a platform on which persons with disabilities can acquire education, health care and contribute meaningfully to the labour market.

2.2.1 Accessibility for Disabled Persons in the CRPD and Persons with Disabilities Act

In its approach, the Convention applies human rights to disability, as a result making general human rights specific to persons with disabilities thereby clarifying existing international law regarding disability.[17] Its preamble recognizes the importance of accessibility to the physical (social, economic and cultural) environment, to health and other services in enabling persons with disabilities fully enjoy all human rights and fundamental freedoms.[18] The role that accessibility stands to play in the realization of human rights for disabled persons cannot be underrated. As States that have ratified the convention have undertaken to put in place legislation consistent with the CRPD and to enforce its principles, Zambia having domesticated the Convention is mandated to enforce the principles therein, including providing accessible facilities in order to foster realization of the rights of disabled persons.

[15] WHO, World Report on Disability, (Geneva: WHO Press, 2011) 170.
[16] WHO ,World Report on Disability, 170.
[17] WHO, World Report on Disability, 9.
[18] Convention on the Rights of Persons with Disabilities, Preamble.

This is owing to that fact that the provision of accessibility aims to enable persons with disabilities live independently and participate fully in all aspects of life, on an equal basis with others.[19] As such the provision of accessible facilities should extend to the physical environment, to transportation, to information and communications as well as to other facilities and services open or provided to the public, both in urban and in rural areas.[20] In light of this understanding, accessibility affords disabled persons an opportunity to contribute much more in the running of their communities and to reaffirm equality of all persons. Admittedly, access to the physical environment is just one aspect of accessibility for disabled persons (and the main concentration of this research).

In order to provide accessibility, Zambia is mandated to put in place measures to identify and eliminate obstacles and barriers to accessibility in public buildings.[21] In this regard, lack of accessibility as a right suggests an urgent need of persons with disabilities which the state concerned (in this case Zambia) is required to satisfy.[22] Clearly, a duty is placed on the Zambian government to spearhead the provision of accessible buildings in the country. This is reflected in the Persons with Disabilities Act,[23] as the Minister of Community Development and Social Welfare in consultation with the Minister of Transport, Works and Communication is to formulate and prescribe minimum standards and guidelines for the accessibility of buildings open or provided to the public.[24] The task is to ensure that this formulation of minimum standards is done promptly with the full participation of disabled persons as the affected party.

[19] Convention on the Rights of Persons with Disabilities, Art. 9(1).
[20] Convention on the Rights of Persons with Disabilities, Art. 9(1).
[21] Convention on the Rights of Persons with Disabilities, Art. 9(1) (a).
[22] Du Plessis and Van Reenen, "Introduction," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen, xxi.
[23] Persons With Disabilities Act , ss. 40(3) (a), (c).
[24] Persons With Disabilities Act , ss. 40(3) (a), (c).

The Persons with Disabilities Act has included accessibility as one of the rights of disabled persons under its general principles.[25] This is reflective of the importance that is attached to accessibility, furthermore how it stands to bring about the realisation of the other rights so guaranteed under the Act. The importance of accessibility with regards to the realisation of other rights cannot be overemphasized. As is evidenced by the decision in *Sela Brotherton v Electoral Commission of Zambia*,[26] in which the High Court held that the failure by the ECZ to provide accessible registration and polling stations to persons with disabilities amounted to discrimination based on disability. In addition, it stood to limit the rights of disabled persons who are eligible to participate in voting

2.2.2 Standards of accessibility for public buildings

The Lusaka City Council has guidelines that are to be followed in order to make structures accessible. These are provision of ramps, accessible toilets, signage and lifts.[27] Unfortunately these 'guidelines' are not extensive enough to provide good guidance to occupiers or owners of buildings to implement.

The 'Accessibility for the Disabled: A Design Manual for a Barrier Free Environment'[28] is a manual prepared by approval of the Lebanese Ministry of Social Affairs and the National Committee for the Disabled in collaboration with the United Nations Economic and Social Commission for Western Asia (ESCWA).[29] It presents detailed considerations to be taken in providing accessible environment to persons with disabilities. These include important design considerations on ramps, elevators, lifts, stairs, railings and handrails, entrances, vestibules,

[25] Persons with Disabilities Act No. 6 of 2012
[26] 2011/HP/0818
[27] Interview with Mr. Ignatius Tembo, Acting Chief Architect at Lusaka City Council, on 22nd April 2013 at Lusaka.
[28] http://www.un.org./esasocdev/design/index.html (accessed March 25, 2013)
[29] http://www.un.org./esasocdev/design/index.html (accessed March 25, 2013)

doors, corridors and restrooms.[30] These are the main facilities that persons with disabilities need to be made accessible in order to freely use a building.

2.3 The Social Model of Disability: A Human Rights perspective

The social model of disability rightly fits into the issues of accessibility. Du Plessis and Van Reenen[31] state that the social model places emphasis on the understanding of disability as something which is brought about or caused by the environmental and social barriers. As such a person with a disability is not necessarily disabled due to an inherent condition but because of the arrangement of the physical environment.[32] Given this standpoint it then becomes necessary to consider the legal implications of this social model, which is that failure to provide an accessible environment has the effect of among others violating the rights of disabled persons. As such the social model fits disabilities issues within the realm of human rights.

In relation to the right of disabled persons to live independently, Schneider[33] points out that if the environment changes than the disability will also change and as such in order for a person to enjoy their independence they should able to make choices about when and how they undertake activities (whether indoor or outdoor). This has shown the significant relationship that lies between disability and the environment and how having an accessible environment works to provide independence to persons with disability.

In this regard, the human rights perspective within the social model focuses on the inherent human dignity of persons with disabilities and it is this human dignity that is indicative of the

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[30] http://www.un.org./esasocdev/design/index.html (accessed March 25, 2013)

[31] Du Plessis and Van Reenen, "Introduction," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen xxvi.

[32] Du Plessis and Van Reenen, "Introduction," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen, xxvi

[33] Marguite Schneider et al eds., Disability and Social Change (Cape Town: HRSC Press, 2006), 8.

inherent value of the person with the disability on equal footing with all other persons.[34] It is from this point of view that it is worth noting that failure to provide accessible buildings to persons with disabilities hinders among others, the realisation of disabled persons' right to equality of opportunity.

2.3.1 Rights of persons with disabilities

Under international law, there has been growing momentum to highlight disability as a human rights issue. The CRPD is the most recent and extensive recognition of the human rights of persons with disabilities as it outlines the civil, cultural, political, social, and economic rights of disabled persons.[35] This is owing to the fact that persons with disabilities as a category of persons have been lagging behind in civil, cultural, political, social and economic advancement.[36] Therefore this has resulted in the need to afford them rights, with the aim of achieving equality. As such, the CRPD emphasizes the importance of putting in place measures that will result in equality for disabled persons in all spheres of life. It is worth noting that any reference to human rights within a particular jurisdiction suggests a general human need including the need of persons with disabilities, which the state concerned, is required to satisfy.[37]

2.3.1.1 Rights of disabled persons to inherent dignity and equality

The Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in 1948, recognizes 'the inherent dignity and the equal and inalienable rights' of all

[34]Du Plessis and Van Reenen, "Introduction," Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen, xxvi.
[35] WHO, World Report on Disability, 9.
[36] WHO, World Report on Disability, 9.
[37] Du Plessis and Van Reenen, "Introduction," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen, xxii.

human beings.[38] Through the UDHR, commitment was made to uphold dignity and justice for all and over time international human rights treaties have become more elaborate, focusing on social groups identified to be in need of protection.[39] Persons with disabilities are one such group in need of protection.

As such the purpose of the CRPD is to "promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by people with disabilities and to promote respect for their inherent dignity."[40] Through the domestication of the Convention in the Persons with Disabilities Act,[41] Zambia has undertaken to enforce the rights of persons with disabilities and achieve that purpose. In light of this, the rights of persons with disabilities are intended to eliminate discrimination based on disability and foster equality.

a. **Respect for disabled persons inherent dignity**

The UDHR points to the recognition of 'inherent dignity and the equal and inalienable rights' of all human beings as the 'foundation of freedom, justice and peace in the world.'[42] Dignity refers to the quality of being worthy and this worthiness demands respect.[43] Human beings have this quality of worth by virtue of being human as such it is inherent. In relation to disabled persons, it is important to recognize that as human beings they equally have value. To give effect to inherent dignity, human rights seek to provide mechanisms for realizing a life of dignity by specifying forms of life worthy of persons with dignity.[44]

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[38] Universal Declaration of Human Rights, Art. 1

[39] Foundation of International Human Rights Law. http://www.un.org/en/documents/udhr/hr_law.shtml (accessed June 19, 2013)

[40] Convention on the Rights of Persons with Disabilities, Art. 1

[41] Persons with Disabilities Act No.6 of 2012

[42] Universal Declaration of Human Rights, Preamble.

[43] Jack Donnelly, Research Project on Human Dignity: Human Dignity and Human Rights, University of Denver, 2009 p 12. http://www.udghr60.ch/report/donnelly_humandignity_0609.pdf (accessed June 19, 2013)

[44] Jack Donnelly, Research Project on Human Dignity, 86

The CPRD provides for 'respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.'[45] Therefore, in order for inherent dignity of disabled persons to be a reality, there is need for their autonomy and independence. Under the Persons with Disabilities Act,[46] Zambia has provided disabled persons the right to respect for their inherent dignity. As noted by Donnelly[47] this right 'must be expressed in everyday life through practices that respect and realize human rights.'

Consequently, the accessibility of public buildings aims at making the inherent dignity of disabled persons present in everyday life. Admittedly, this approach provides an environment that places importance on disabled persons and their needs. In addition, this points to the fact that as a group in society, disabled persons require respect for their dignity. Therefore, it is the duty of the government and members of society to respect and safeguard the dignity of persons with disabilities.[48]

b. Equality of disabled persons

The Persons with Disabilities Act, points to the need of equality for disabled persons in opportunities as well as in the enjoyment of human rights.[49] In this regard, there is a difference between formal and substantive equality. The former requires everybody to be equal bearers of rights, resulting in substantive inequality, as the social and economic disparities of individuals are not considered.[50] Substantive equality considers the real social and economic circumstances

[45] Convention on the Rights of Persons with Disabilities, Art. 4.
[46] Persons with Disabilities Act No.6 of 2012, s.4 (a).
[47] Jack Donnelly, Research Project on Human Dignity, 86-87.
[48] Persons with Disabilities Act No.6 of 2012, s. 5.
[49] Persons with Disabilities Act No.6 of 2012 Preamble
[50] Iize Du Plessis and Stefan Van Eck, "Protection of Disabled Employees in South Africa- An Analysis of the Constitution and Labour Legislation," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen (Pretoria: Pretoria University Press, 2011), 239

of groups, in relation to disabled persons, it means their circumstances should be taken into account and adjustments made to accommodate them.[51]

By taking into account the circumstances facing disabled persons their equality would be achieved. The 'circumstances' of interest in this research are provision of accessible buildings. To provide substantive equality it is necessary that barriers that are present in public buildings are removed. By so doing, disabled persons will enjoy whatever services offered therein on equal basis with others, thereby achieving real equality. This enjoyment of services extends to the realisation of rights on an equal basis with able-bodied persons.

2.4 Significance attached to accessibility of the physical environment to disabled persons

In seeking to appreciate the steps that have been taken and those that are yet to be taken in providing an accessible environment to disabled persons, there is need to fully understand how much significance is placed on accessibility for disabled persons in the first place. As it is, the level of significance placed on an issue that gives impetus to its realisation.

The Persons with Disabilities Act[52] has provided good legal basis upon which to advance the call to have accessible buildings for disabled persons. In domesticating the CRPD, the Act has shown the importance of accessibility of public services and buildings to disabled persons. Section 41 provides that a person with disability shall not be denied admission into any premises to which members of the public are admitted.[53] As such the 'owner or occupier of a place to which the public has access shall provide appropriate facilities that make the place accessible to and

[51] Iize Du Plessis and Stefan Van Eck, "Protection of Disabled Employees in South Africa- An Analysis of the Constitution and Labour Legislation," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen , 239.

[52] Persons with Disabilities Act No 6 of 2012.

[53] Persons with Disabilities Act No. 6 of 2012 , ss. 41 (1),(2).

available for use by persons with disabilities in the prescribed manner.'[54] This provision in the legislation imputes a duty on the part of owners or occupiers of public buildings to have their premises accessible to persons with disabilities. This in turn ascribes importance to provision of accessible buildings to persons with disabilities.

Persons with disabilities attach great importance to accessibility of buildings especially public ones in enhancing their daily activities and lives generally. However, with it comes the acknowledgment that most of these buildings are not accessible to them as persons with disabilities. Mr. Thompson Tembo[55] who was diagnosed with glaucoma in 2002 and has been visually impaired since, noted that most buildings in Zambia are not accessible to disabled persons especially those who maybe wheelchair bound, in addition, he pointed out that fire escapes are not designed with disabled persons in mind.

Disabled persons have in the recent past cried foul due to the inaccessibility of most public buildings. Mr. Patrick Muyenga, the Acting Director of Rehabilitation and Research at the Zambia Agency for Persons with Disabilities noted that:

> The Town and Country Planning Act, Persons with Disabilities Act and the CRPD to which Zambia is a signatory provide for all public buildings and facilities to be designed to meet minimum accessibility standards. However, most of the public buildings, including roads and public transport vehicle do not have accessibility provisions.[56]

It is worth noting that the increased call for accessible buildings for disabled persons has not been suddenly awaken by the recently enacted legislation. Rather it has been a continuing plea of disabled persons and their organisations to have buildings which are more accessible to disabled

[54] Persons with Disabilities Act No. 6 of 2012 , ss. 41 (1),(2).

[55] Interview with Mr. Thompson Tembo, Living with Visual Impairment, at the Zambia Library, Cultural and Skills Centre for the Visually Impaired, on 25th April 2013 at Lusaka.

[56] Interview with Mr. Patrick Muyenga, Acting Director, Rehabilitation and Research at the Zambia Agency for Persons with Disabilities(ZAPD) on 12th April 2013 at Lusaka.

persons in an effort to afford them equal opportunities and inclusion into society. The need to have accessible buildings stems from the necessity to accommodate persons with disabilities in society.

Ms. Merreny Kalomba, Paralegal Officer at Zambia Federation of Disability Organisations (ZAFOD) noted that accessibility for disabled persons is important for their inclusion in society and she pointed out that:

> ...an accessible barrier free environment is the first step towards fulfilling the right of people with disabilities to participate in all areas of community life and to ensure that disabled people can participate and have the same choices as non-disabled community members. This includes among other factors an infrastructure that breaks down all physical barriers preventing equal access for disabled persons as the members of a community. As such having a barrier free environment enhances independent living and full participation in all community activities by persons with disabilities on an equal basis with others.[57]

In addition, the organization has, through its human rights project, Advancing Disability Equality Project (ADEPt) taken building owners to court for having buildings that are not accessible to persons with disabilities.[58] ZAFOD has sued Livingstone, Ndola, Lusaka City Councils and Kabwe District Council for approving building plans that do not take into consideration accessibility features for persons with disabilities. Others joined in the matter are the Council of Churches Zambia, Farmers House Plc, African Life Assurance Ltd, Protea Hotels Zambia Ltd and Golden Bridge Hotel Ltd. The matter arose after ZAFOD conducted an audit of these buildings and the owners (and occupiers) failed to make the necessary adjustments to accommodate disabled persons after being given the recommendations by the Audit Team.

[57] Interview with Ms. Merreny Kalomba, Paralegal Officer at the Zambia Federation of Disability Organisations (ZAFOD), on 9th April 2013 at Lusaka

[58] Sight savers, Volume 1, Edition2, April-June 2010, 1. http:zm.sightsaver.org/news.14273.final (accessed April 20, 2013)

(Other buildings audited included the National Assembly building which undertook the necessary adjustments as recommended by ZAFOD). However, the matter is still in court.[59]

As such, accessibility is not seen as an end in itself, rather as a means of achieving a desired end; which is inclusion of disabled persons in the mainstream of society. In addition, this understanding has resulted in disability organisations tasking other institutions with the duty to provide for access to buildings from which their services are to be offered. For instance the Zambia Federation of Disability Organizations (ZAFOD) under its Advancing Disability Equality Project (ADEPt)[60] undertook an Accessibility Audit of 21 Electoral Commission of Zambia (ECZ) registration centres aimed at educating the ECZ and the public on the access needs of all categories of persons with disabilities. The audit sought to establish how accessible the centres were to persons with disabilities, the audit included both observation and practical measurements of dimensions and distances. It was found that none of the centres was accessible to persons with disabilities.

In light of this in *Sela Brotherton (suing as secretary of ZAFOD) v The Electoral Commission of Zambia (ECZ)*[61], where ZAFOD comprising of eleven member organisations consisting of persons with disabilities who were eligible and registered voters brought a petition against the ECZ as the body mandated to supervise elections in Zambia. The dispute arose from the Respondent's alleged failure to initiate legislative reform to ensure equitable participation by persons with disabilities in the electoral process. The Petitioner further alleged that the registration and polling stations, and other services offered by the Respondent at these stations

[59] Sight savers, Volume 1, Edition2, April-June 2010, 1. http:zm.sightsaver.org/news.14273.final (accessed April 20, 2013)

[60]ZAFOD, Disability Access Audit: Findings and Recommendations our suggestion for Action to Improve Accessibility Building/Premises (Lusaka: ZAFOD publication, 2010).

[61] 2011/HP/0818

were not accessible to persons with disabilities, as a result discriminating them. High Court Judge Nigel Mutuna stated that this failure by ECZ to provide accessible polling stations for the purposes of the elections was discriminatory against persons with disabilities. It was pointed out that failure by institutions providing a public service such as elections to give accessible buildings stands to limit the rights of disabled persons who are eligible to participate in that exercise. One of the outstanding facts from this case is that ECZ conducts elections in various buildings none of which are their own, therefore reflecting that most buildings in Lusaka are inaccessible and as noted by Judge Mutuna giving a reflection of the situation nationwide.

From the sentiments of the disabled persons themselves, ZAFOD and ZAPD, it is evident that accessibility is very important to persons with disabilities in realizing other rights guaranteed to them and to achieve their integration in society. Clearly much of the significance placed on accessibility of public buildings is from disabled persons themselves, being most affected and organizations advancing their rights. This stands to explain the current status quo of most buildings in Lusaka.

2.5 Inaccessibility of public buildings: a case of Lusaka City Council premises

In the Zambian context, a public place is considered to be any building, premises or other public indoor or outdoor area, whether privately or publicly owned where the public have access to by right or by payment of a fee or not.[62] In this regard, a public building is one to which the public have access. With this in mind, it is envisaged that such buildings ought to be accessible to all without discrimination in order to foster equal access to services offered therein.

[62] The Persons with Disabilities Act No. 6 of 2012 s. 2.

An assessment of the situation of persons with disabilities under a skills acquisition research conducted in Malawi, South Africa and Zambia brought to the fore the fact that the total population of disabled persons in Zambia were faced with the challenge of inaccessibility to public buildings or places.[63] In the Zambian context, the available statistics from the census carried out in 2000 show 2.9 per cent of the population comprising persons with disabilities.[64] From a research of skills acquisition among disabled persons in Malawi, South Africa and Zambia conducted in 2007, it has been noted that from the total population of disabled persons, challenges arising from lack of accessibility were faced by people with each type of disability represented in the survey.[65] Persons with physical disabilities and the blind being in the majority are the group most affected by inaccessibility to premises. The statistics are also a reflection of the difficulty posed by inaccessibility for persons with disabilities to participate fully in society.

This state of affairs has been confirmed by Lusaka City Council Acting Chief Architect Mr. Ignatius Tembo[66] that public buildings in Lusaka City are not user friendly to persons with disabilities neither are the few available public toilets. According to Mr. Tembo, this is despite the guidelines that the Council as a planning authority have and are supposed to be implementing. These guidelines are aimed at providing easy access to public buildings to persons with disabilities which includes provision of ramps, appropriate signage all public places, lifts to all buildings which are above three story floors and provision of toilets for disabled persons.

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[63] ILO, Strategies for skills acquisition and work for persons with disabilities in Southern Africa: Synthesis Report, ILO Publication, 2007, 9.
http://webcache.googleusercontent.com/search?q=cache:ihAKgiDWYEYJ:www.ilo.org/wcmsp5/groups/public/@ed_emp/@ifp_skills/documents/publication/wcms_107784.pdf+ilo+disability+statistics+in+zambia&hl=en&gl=zm (accessed September 18 2012)

[64] ILO Strategies for skills acquisition and work for persons with disabilities in Southern Africa: Synthesis Report, ILO Publication, 2007, 9

[65] ILO, Strategies for skills acquisition and work for persons with disabilities in Southern Africa: Synthesis Report, 2007, 9

[66] Interview with Mr. Ignatius Tembo, Acting Chief Architect at Lusaka City Council, on 22nd April 2013 at Lusaka

The Lusaka Civic Centre is the premise of the Lusaka City Council; it is comprised of three connected buildings. Apart from having the offices of the Mayor of Lusaka and other Civic leaders, it is in any one of those buildings that activities such as payment of ground and other rates, levies, registration of marriages, application for land, approval of building plans and other activities pertaining to the Local Authority are done. Considering that only the Council is mandated to perform these functions, residents of Lusaka have no choice but to go to the Civic Centre to have these activities done including persons with disabilities. The main building also houses a branch of the Zambia National Commercial Bank (ZANACO).

Unfortunately, the Civic Centre is not accessible to persons with disabilities as the main building only has stairs without a ramp for wheel chair bound persons nor handrails for the visually impaired. Two of the buildings are four stories high but do not have functioning elevators, as the only elevators in the premises have been non-functional for years now. In addition, only one of the buildings has a ramp (only on one of its entrances) this situation is worsened by the fact that the present stairways are steep with guiding rails only on one side.

Mr. Mulunda Habeenzu[67], Public Relations Officer of the Lusaka City Council admitted that the Civic Centre Premises are not accessible to persons with disabilities, and noted that this may discourage them from seeking to make use of the services available at the Centre. Mr. Habeenzu added that to the best of his knowledge, the Council itself does not have a disabled person in its employment.[68] The state of the buildings stands to discourage employment of disable persons

[67] Interview with Mr. Mulunda Habeenzu, Assistant Public Relations Manager, Lusaka City Council, on 25th April 2013 at Lusaka

[68] Interview with Mr. Mulunda Habeenzu, Assistant Public Relations Manager, Lusaka City Council, on 25th April 2013 at Lusaka

and the necessary movements that any job would demand would be hindered by the inaccessibility of the premises.

More alarming is the fact that the Council as the authority mandated to ensure buildings in Lusaka City are disability friendly is housed in an inaccessible place. Thereby giving an impression to possible land developers who visit the Civic Centre to have their plans approved that having an accessible environment may not be very important after all.

2.5.1 Factors contributing to inaccessible buildings

This present inaccessibility of public buildings is surely because of various factors, which include;

a. **Stigma against persons with disabilities and failure to appreciate their value in society**

Stigma stands out as one of the leading reasons to the lack of inclusion of persons with disabilities in many facets of society.[69] Historically, it is said that children born with disabilities or who acquired a disability in childhood were killed as they were seen to be a curse, disabled adults were considered outcasts. Unfortunately the situation has not changed much today, as one disabled person noted 'we are only seen to be good for begging or dancing during some functions little value is placed on our abilities, for instance despite being blind I am an active farmer and I assist my family by contributing to the income through my farming.'[70] This stigma has resulted in little attention being put in issues relating to persons with disabilities, which includes accessibility.

[69]M C Mulenga, Critical analysis of the law governing persons with disabilities in Zambia with particular reference to employment. Submitted in partial fulfillment for the award of Bachelor of Laws Degree(2011)

[70]Interview with Ms. Chipo Mbewe , Living with Visual Impairment, at the Zambia Library, Cultural and Skills Centre for the Visually Impaired, on 25th April 2013 at Lusaka

b. Little value placed on accessibility generally

As seen from the Civic Centre, buildings audited by ZAFOD[71] and other Buildings in Lusaka there is little value placed on accessibility of buildings generally. Little emphasis has been place by the Council in this case as the planning authority to ensure that buildings are user friendly to all. As such, this presents a picture that accessibility may not be very important to foreign investors and land developers coming to Lusaka.

c. Inadequate enforcement of the law

The repealed Persons with Disabilities Act[72] made provision for accessibility, which was recognized by the Courts[73] and the present Act[74] specifically and adequately provides for accessibility and requires that all buildings be accessible to persons with disabilities. However, the problem arises in the area of enforcement as mentioned by Mr. Ignatius Tembo;

> ...despite the provision of accessibility for disabled person in public buildings being mandatory under the Law, the Council is facing numerous challenges in enforcing the law such as lack of manpower (building inspectors) to ensure that all buildings are friendly to the disabled. In addition, the Council is faced with lack of resources to sensitize the public about the need to provide all the requirements for the disabled in a public place.[75]

d. Lack of Political will

There happens to be a general lack of political will regarding issues to do with disabled persons. It is undeniable that human rights requires functions to be performed by the state in order to ensure a good legal order which functions in an inclusive and integrated way with regards to the

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[71] ZAFOD Disability Access Audit: Findings and Recommendations our suggestion for Action to Improve Accessibility Building/Premises

[72] No. 33 of 1996

[73] By the High Court in the Case of Sela Brotherton v ECZ (2011/HP/0818)

[74] Persons with Disabilities Act No.6 of 2012

[75] Interview with Mr. Ignatius Tembo, Acting Chief Architect at Lusaka City Council, on 22nd April 2013 at Lusaka

human needs of all its legal subjects including those of persons with disabilities.[76] However, no or little response is given to schools for the persons with disabilities as such disabled persons feel that they are not needed as these schools or centres were meant to be operated by the government.[77] For instance the Zambia Library, Cultural and Skills Centre for the Visually Impaired in Chilenje has resorted to using the premises are as an overnight parking lot to raise funds due to the lack of funding.[78] Successive governments have not put in a deliberate policy to ensure that buildings are built to be accessible to persons with disabilities. Such a move would serve to greatly aid in providing more accessible buildings.

2.6 Challenges faced by disabled persons due to inaccessibility of public buildings

There is an appreciation of the fact that the environment does contribute to one being disabled or not. As noted by ZAFOD, a person is handicapped when he or she is denied the opportunities generally available in the community necessary for the fundamental elements of living, including family life, participation in social and political groups, religious activity, access to public facilities, freedom of movement and the general style of daily living.[79]

Apart from hindering the enjoyment of rights, inaccessibility presents practical challenges to persons with disabilities. Reaching the entrances of an inaccessible building is difficult due to the lack of ramps, in addition same ramps maybe too steep and do not meet required standards in order for a wheelchair bound person to freely use them. Where there are stairs, lack of handrails

[76] Du Plessis and Van Reenen, Aspects of Disability Law in Africa: Introduction, eds. Iize G Du Plessis and Tobias Van Reenen (Pretoria: Pretoria University Press, 2011) xxi

[77] Interview with Ms. Chipo Mbewe, Living with Visual Impairment, at the Zambia Library, Cultural and Skills Centre for the Visually Impaired for the Blind, on 25th April 2013 at Lusaka

[78] Interview with Ms. Chipo Mbewe, Living with Visual Impairment, at the Zambia Library, Cultural and Skills Centre for the Visually Impaired for the Blind, on 25th April 2013 at Lusaka

[79] Interview with Ms. Merreny Kalomba, Paralegal Officer at the Zambia Federation of Disability Organisations (ZAFOD), on 9th April 2013 at Lusaka

presents a problem to a blind person to walk unaided. The size of stairs also makes it difficult for a disabled person to freely use them. The doors of entrances have handles that are high for a wheelchair bound person to reach. Furthermore, when in need of conveniences, restrooms do not have facilities suitable for persons with disabilities.

2.6.1 Inaccessibility of public buildings and the Right to Independent Living

Independent living refers to:

> Control over one's life based on the choice of acceptable options that minimize reliance on others in making decisions and in performing everyday activities. This includes managing one's affairs, participating in day-to-day life in the community, fulfilling a range of social roles, making decisions that lead to self-determination, and minimizing physical or psychological dependence on others.[80]

Persons with disabilities have the right to independent living,[81] therefore there is need to have an environment that facilities the realization of this right. It cannot be denied that at an individual level, a disabled person is entitled to have control over their life.

Given the current state of public buildings, persons with disabilities have to depend on others on a daily basis. Even those who may be skilled and have employment are forced to be dependent on others for their daily movements, a disabled person's day-to-day activities are tailored to suit their helper's program or to conform to the building. In addition, it gives no meaning to inherent dignity, as it is degrading for disabled persons to always ask for assistance or to be assisted when they can easily do things independently if all buildings are built to be accessible for all or universally designed.[82] As an important part of the society, disabled persons are to given an

[80] An International Summit Conference on Independent Living, Washington DC, September 21-25, 1999. www.ilm.org/htm/projects/international/23-days.htm (accessed May 3, 2013).
[81] Persons with Disabilities Act, No.6 of 2012, s. 4 (e).
[82] Interview with Ms. Merreny Kalomba, Paralegal Officer at the Zambia Federation of Disability Organisations (ZAFOD), on 9th April 2013 at Lusaka.

enabling environment, which includes accessible buildings, which would affirm their inherent value as human beings and reinforce their self-determination.

2.6.2 Inaccessibility of public buildings and the Right to Full Participation and Inclusion in Society

As a result of disabled persons, restriction in living independently their right to participate full and be included in society is equally restricted. Inclusion in any society calls for one to be able to make an independent contribution, which can be appreciated by all.[83] Such contribution is hindered when one is unable to freely move due to inaccessibility of buildings.

As has been mentioned, persons with disabilities have dignity, which needs to be given effect in daily life. Having inaccessible buildings, results in persons with disabilities being in constant need of assistance by others to get around. This should not be that case as they have as much dignity as do able-bodied persons and should be free to move around independently and participate in their society. To make this reality, buildings should be made accessible to all.

2.6.3 Inaccessibility of public buildings and the Right to Equality of Opportunity

The aim of the disability legislation is to accord persons with disabilities the right to be on equal footing as able-bodied persons. The failure to provide accessible buildings has resulted in infringing the rights of persons with disabilities in addition, causing the destruction of human enthusiasm by denying the persons concerned equal enjoyment of human rights and fundamental freedom.[84] This equality of opportunity is to be present in employment education, health and other social amenities, however, with the current state of buildings disabled persons remain far

[83] WHO, World Report on Disability, 174.

[84] Du Plessis and Van Reenen, "Introduction," in Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen, xvi

behind in competing equally with their counterparts in seeking these services or being availed some of these opportunities. By taking into account accessibility of buildings equality can be made substantive, making it real to persons with disabilities.

2.7 Conclusion

This chapter discussed the concept of accessibility in detail with reference to the CRPD and the Persons with Disabilities Act and the required standards for accessible buildings. In addition, it considered the human rights perspective within the social model of disability. In light of which, it emphasised the rights of inherent dignity and equality of persons with disabilities as being realised through provision of accessible buildings. Furthermore, the chapter presented the inaccessibility of public buildings in Lusaka, using the Lusaka Civic Centre building (Lusaka City Council premises) as a case study. Furthermore, it discussed the challenges of the prevailing inaccessibility on persons with disabilities and its effect on their rights to live independently, to have full and effective participation and inclusion in society as well as their right to equal opportunity.

3. CHAPTER THREE: MAINSTREAMING DISABLED PERSONS THROUGH ACCESSIBLE PUBLIC BUILDINGS

3.1 Introduction

The foregoing chapter discussed the human rights perspective within the social model with focus on the rights on inherent dignity and equality of disabled persons. It considered the right to accessibility under the Convention on the Rights of Persons with Disabilities and standards for accessible public buildings. In addition, it presented the inaccessibility of public buildings in Lusaka, using the Lusaka Civic Centre building as a case study. Furthermore, it discussed how inaccessibility has negatively affected disabled persons' rights to live independently, to have full and effective participation and inclusion in society as well as their right to equal opportunity.

This chapter will discuss the concept of mainstreaming disabled persons through the provision of accessible public buildings. Consideration will be given to the concepts of universal design and reasonable accommodation. It will consider how the provision of accessible buildings can contribute to mainstreaming of disabled persons in the employment, education and health sectors of Zambia. Furthermore, the chapter will consider the learning experience of how the how the region of Gujarat in India is using accessible built environment to mainstream rights of disabled persons.

3.2 Mainstreaming of disabled persons in general

> Mainstreaming is the process by which governments and other stakeholders ensure that persons with disabilities participate equally with others in any activity

> and service intended for the general public, such as education, health, employment, and social services.[85]

Mainstreaming occurs in recognition to the fact that disabled persons, like able-bodied persons have needs to be met and contribution to make to the country's development. Efforts are being made to promote the inclusion of disabled persons in society while at the same time foster the need for them to have equal opportunities.

It should be noted that mainstreaming calls for commitment at all levels, and ought to be considered in all sectors and included in new and existing legislation, standards, policies, strategies, and plans.[86] Each particular sector may have its own programs which are relevant in order to mainstream disabled persons. The concept of mainstreaming disabled persons should be incorporated into legislation (whether specific to disabled persons or other general legislation), standards employed in the provision of services to the public, policies drawn up by relevant government ministries to achieve their particular aims.[87]

Ultimately, mainstreaming of disabled persons results from the recognition and respect for their dignity and enhancing of equality. Efforts made to include disabled persons in society should be motivated by respect for their dignity as human beings. Therefore, in giving effect to this inherent dignity, mechanisms should be provided in order to realize a life of dignity by specifying forms of life worthy of persons with dignity.[88] The appreciation that disabled persons are persons of worth should lead to have that reflected in everyday life. Chapter two of this study has shown that specifying and providing accessible buildings is one such way.

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[85] WHO, World Report on Disability, 264.
[86] WHO, World Report on Disability, 264
[87] WHO, World Report on Disability, 264
[88] Jack Donnelly, Research Project on Human Dignity; Human Dignity and Human Rights, University of Denver, 2009 p 86. http://www.udghr60.ch/report/donnelly_humandignity_0609.pdf (accessed June 3, 2013)

That realization results in the need to have equality for disabled persons in relation to able-bodied persons. The rationale being that; as both groups comprise of human beings with inherent dignity, the services available to able-bodied persons should be available to disabled persons as well. Implementing formal equality in this case would not result in meaningful equality. For instance both groups have the right to education, however for a disabled person who is unable to have access a school building that right is not meaningful to them. As pointed out by Du Plessis Iize G and Stefan Van Eck[89], formal equality actual results in substantive inequality. As such there is need to consider disabled persons circumstances and to take the necessary adjustments to accommodate them.[90] One of the circumstances in need of consideration is the accessibility of buildings as this has proven to be a barrier to disabled person enjoying their rights.

3.3 Mainstreaming through an accessible physical environment and public buildings

In seeking to mainstream disabled persons by providing accessible buildings, the overall physical environment cannot go without being changed. This is owing to that fact that in order to reach a public building disabled persons are supposed to travel from their homes either on foot or by public (or private) transport. The various routes and means to be used to reach these buildings equally need to be accessible. As pointed out by Mr. Patrick Muyenga from ZAPD,

> accessibility for disabled persons is a wide concept not restricted public buildings but the physical environment as whole, therefore there is need for road planners to take into consideration disabled persons in the construction of road, pavements and have traffic lights that can be of help to disabled persons as well.[91]

[89] Du Plessislize G and Stefan Van Eck, "Protection of Disabled Employees in South Africa; An Analysis of the Constitution and Labour Legislation," in Aspects of Disability Law in Africa, 239.
[90] Du Plessislize G and Stefan Van Eck, "Protection of Disabled Employees in South Africa; An Analysis of the Constitution and Labour Legislation," in Aspects of Disability Law in Africa, 239.
[91] Interview with Mr. Patrick Muyenga, Acting Director, Rehabilitation and Research at the Zambia Agency for Persons with Disabilities(ZAPD) on 12th April 2013 at Lusaka.

The CRPD stipulates the importance of interventions to improve access to different domains of the environment apart from public buildings which include roads, transportation, information, and communication, these domains are interconnected as such disabled persons will not be able to benefit fully from improvements in one domain if the others remain inaccessible.[92]The goal is to enable disabled persons to be as fully independent and possibly to remove dependence on others.

Of concern to this study are the barriers in public buildings that hinder the inclusion of disabled persons in society[93] which needs to be removed in order to mainstream disabled persons. Wherever services or activities are done for the general public, a building will be present in form of a hospital, classroom block, office premise or shopping mall, therefore, if disabled persons are to enjoy these services or activities on equal footing as others there is need to have accessible buildings. As such, it is important to consider the provision of accessible buildings as a way of means of mainstreaming disabled persons.

Mainstreaming of disabled persons through the use of accessible buildings means the government and other stakeholders are to commit to have public services and activities done in buildings that easily accessible to disabled persons. As provided for in Section 40(3) of the Persons with Disabilities Act, the Minister responsible for Transport, Works and Communication is to prescribe minimum standards and guidelines for the accessibility of facilities and services provided to the public, in addition, the Minister is to prescribe that private entities take into account all aspects of accessibility for persons.[94] In this regard the task is on the government to provide the minimum standards to be followed in order to make services and facilities accessible

[92]WHO, World Report on Disability, 2011

[93] As mentioned in Chapter 2

[94] Persons with Disabilities Act No.6 of 2012, s. 40(3)

to the disabled person. Unfortunately, these minimum standards for accessibility have not yet been provided by government.

Private persons providing public services are equally given the task to ensure that their premises are accessible to disabled persons. Section 41(2) of the Persons with Disabilities Act puts a duty on owners or occupiers of a public building to provide appropriate facilities that make the premises accessible to and available to disabled persons.[95]

The provision of accessible public buildings would result in disabled persons being able to participate in all activities that able-bodied persons are able to participate in. Inclusion in society and equal opportunity stand out as the main aims of mainstreaming disabled persons.

3.4 Accessibility through universal design and reasonable accommodation

Two main ways that buildings can be made accessible is by universal design or reasonable accommodation.

a. Universal design

Universal design occurs at the construction of the building as it provides that the design of the building makes it usable by all persons, to the greatest extent possible, without the need for adaptation or specialized design.[96] With the construction industry in Zambia currently thriving, use of universal design would be of great assistance in ensuring that public buildings constructed are all accessible to disabled persons, thus reducing the need to adapt the building in order to make it accessible to disabled persons. The City Councils as the town planners[97] could ensure

[95] Persons with Disabilities Act No.6 of 2012, s. 41(2)
[96] Persons with Disabilities Act No.6 of 2012,s. 2
[97] The Town and Country Planning Act, Cap 283, s. 5(2)

that all buildings built in Zambia are universally designed to take into consideration all the needs of disabled persons.

b. Reasonable Accommodation

On the other hand reasonable accommodation refers to 'necessary and appropriate modification, adaptation or adjustments which does not impose undue burden, where necessary to ensure that disabled persons exercise on an equal basis with others of all human rights and fundamental freedoms.'[98] In relation to buildings, older buildings or those built without any consideration to accessibility needs of disabled persons can be modified to ensure that such buildings are accessible to disabled persons. It is the duty of occupiers and owners of inaccessible buildings to put in place the necessary modifications to make their premises accessible to disabled persons.

As stated from the definition, reasonable accommodation is to be done without imposing an undue burden. However, refusal to put in place steps to reasonably accommodate persons with disabilities amounts to discrimination. Reasonable accommodation is not temporary, but seeks to generate equality and not to repair inequalities therefore steps to reasonably accommodate persons with disabilities are progressive.[99]

The Supreme Court of Canada discussed reasonable accommodation in *Council of Canadians with Disabilities v. Via Rail Canada Incorporated.*[100] In the late 2000, the respondents bought 139 used cars and car parts however, none of them were accessible to persons with disabilities using personal wheelchairs. There was no intention to enhance accessibility when the cars were

[98] Persons with Disabilities Act No.6 of 2012,s. 2

[99] http://www.eracomm.eu/dalaw/kiosk/documentation/EmploymentIssues/Reasonable%20Accomodation%202011.pdf (accessed June 19, 2013)

[100] [2007], 59 C.H.R.R. D/276, 2007 SCC 15

bought. The Appellants took a successful complaint to the Agency, alleging that 46 features of the said cars constituted "undue obstacles" to mobility of persons with disabilities. When given an opportunity to show that removal of obstacles would cause undue hardship the respondent refused to provide costs estimates.

The Court held that the respondent had to modify their cars so that they could be accessible to persons with disabilities. The Court noted that to redress discriminatory exclusions, human rights law is in favour of approaches such as reasonable accommodation that encourage independence and access. More specifically accommodating people who use wheelchairs enables persons with disabilities to access public services and facilities independently thus fostering same comfort, dignity, safety and security as those without physical limitations.

In relation to public buildings, the above case demonstrates that owners or occupiers cannot rely on the fact that they would be an 'undue burden' placed on them if they take steps to reasonably accommodate persons with disabilities. Failure to do so amounts to discrimination against people with disabilities. Similarly despite the different economic circumstances, owners and occupiers in Zambia should not be allowed to continue having inaccessible buildings on the basis that putting measure to reasonably accommodate persons with disabilities would result in an undue burden on their part. A duty has been placed on any person who provides services to the public to put in place necessary facilities that make the services available and accessible to persons with disabilities in the prescribed manner.[101] Therefore occupiers or owners of public buildings are to take all necessary measures to ensure that their buildings are accessible. Persistent failure to provide the necessary facilities to make a building accessible can be taken to be constructive

[101] Persons with Disabilities Act No.6 of 2012, s.42

denial of admission to those premises. In light of which a person with disability has the right to recover damages in any court of competent jurisdiction.[102]

3.5 Possible benefits of accessible buildings

By providing accessible public buildings it is envisaged that certain benefits will follow to persons with disabilities, which will enable disabled persons live on an equal basis with others. The importance of employment, education and health cannot be underrated. Admittedly, these services are provided in buildings of some sort which are supposed to be public, thereby emphasising the need of disabled persons to have accessible buildings if they are to acquire meaningful health care, education and ultimately employment. In addition, these services are interconnected, as good health affords one an opportunity to enjoy education and employment. Education helps secure good employment whose benefits include more resources that help afford better healthcare.

3.5.1 Benefits of accessible buildings to the employment of disabled persons

Mainstreaming has the goal of providing equal opportunities to disabled persons. As such, by applying the principle of substantive equality,[103] it is apparent that inaccessible buildings are a hindrance to disabled persons securing employment. It results in a denial of equal employment opportunities to disabled persons. ILO points out that this lack of equal employment opportunities forms one of the root causes of the poverty and exclusion of many disabled

[102] Persons with Disabilities Act No.6 of 2012, s.41(3)

[103] Iize Du Plessis and Stefan Van Eck, , "Protection of Disabled Employees in South Africa; An Analysis of the Constitution and Labour Legislation," Aspects of Disability Law in Africa, 239

persons, as a result they are disproportionately affected by unemployment or have low-paid and low-skilled jobs with little or no opportunities for career progression.[104]

In light of the challenges presented in chapter two of this study, a disabled person's quest to find employment is hindered by the inaccessible buildings. Job interviews maybe called at a building that is inaccessible and if they fortunate to get that employment, work would be made difficult by the inaccessibility of the building in which they have to work in everyday.

The Persons with Disabilities Act to promote the employment of disabled persons provides that the government is to give tax rebates for business organisations that make reasonable accommodation and appropriate facilities required by disabled persons.[105] In this regard, employers are to provide accessible buildings and facilities to their present or future employees, thereby making available an environment that affords equal employment opportunities. The presence of economic benefit to the employers through the tax rebates stands to encourage taking steps to reasonably accommodate disabled persons. In addition, makes available resources that an employer can use to make the work premises as accessible as possible.

3.5.2 Benefits of accessible buildings to the education of disabled children and adults

The value of education to any society cannot be overlooked; as such quality education should be made available to all. Education is usually offered in buildings designated as schools, for the pupils or students of those institutions to appreciate the education they are receiving it is important that those buildings are accessible. As such the Minister of Community Development, Mother and Child Health (as the Minister responsible for disabled persons in conjunction with the Minster responsible for Education) are to 'take measures to ensure that any physical facility

[104] ILO, Achieving Equal Opportunities for People with Disabilities through Legislation: Guidelines, (Geneva: ILO Publication, 2007) p.1

[105] Persons with Disabilities Act No.6 of 2012,ss. 37(2),(3a-b)

at any public educational institution is accessible to learners with special education needs.'[106] The need to have accessible buildings in learning institutions helps ensure that disabled children or adults seeking education are not denied that opportunity due to the inaccessibility of the buildings present at that school or university.

Removing barriers and providing reasonable accommodation and support services is required to ensure that children and adults with disabilities are not excluded from mainstream educational opportunities.[107] To foster equality and inclusion, it is important that disabled children or adults pursuing education should be able to acquire it in mainstream educational institutions as do able-bodied persons. Presence of accessible education buildings is one way in which this can be achieved. It is only in exceptional circumstances upon assessment by ZAPD and the Ministry of Health that a disabled person can be refused admission to mainstream educational institution and instead by admitted in a school offering special education needs.[108]

Education provides a good platform upon which an individual can secure employment; as such provision of equal opportunities of education for disabled persons contributes into disabled persons securing good employment. In addition, Zambia cannot achieve the Millennium Development Goal of universal completion of primary education without ensuring access to education for disabled children.[109]

[106] Persons with Disabilities Act No.6 of 2012,s. 22(3)
[107] WHO, World Report on Disability, 205
[108] Persons with Disabilities Act No.6 of 2012,s. 25
[109] WHO, World Report on Disability, 205

3.5.3 Benefits of accessible public buildings to the health care of disabled persons

Article 25 of the CRPD emphasizes the right of disabled persons to attain the highest standard of health care, without discrimination.[110] 'Good health is a prerequisite for participation in a wide range of activities including education and employment.'[111] In order to ensure that persons with disabilities person realize their right to quality health care, there is need to have accessible health care centres. In light of this, the Minister of Health is mandated to avail appropriate facilities and personnel to local health institutions for the benefit of persons with disabilities.[112]

Accessible buildings in the health sector are important as acquiring health services should be done in an environment that promotes dignity and equality. Health centres have various instruments used in conducting tests and other necessary procedures; these equally need to be accessible.

3.6 A Lesson from the Indian Experience

Inaccessibility of public buildings presents difficulties to persons with disabilities in many countries apart from Zambia. However, other countries have endeavoured to put in place measures that have resulted in greater accessibility of buildings to persons with disabilities. These actions are as a result of appreciating and respecting the dignity of persons with disabilities. By putting in place such measures, disabled persons are being included into society and they are afforded an opportunity to make contribution to their countries. One such country is India.

[110] The Convention on the Rights of Persons with Disabilities, Article 25
[111] WHO, World Report on Disability, 57
[112] Persons with Disabilities Act No.6 of 2012,s. 28 (1d)

An Indian local development organization after conducting a research in the region of Gujarat identified accessibility to physical spaces as virtual for mainstreaming the rights of people with disabilities.[113] The Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act provides for non-discrimination in the built environment and mandates the government and local authorities to take steps to provide access within the limits of their economic capacity and development.[114] Steps to be taken consist of putting ramps in public buildings, adapting toilets for wheel chair users, Braille symbols and auditory signals in lifts.[115] By providing these services it is envisaged that persons with disabilities will lead a dignified and comfortable life.

Ways in which this provision has been implemented includes[116]:

- Educating architects, builders, engineers, persons with disabilities and rehabilitation professional, on the need for an accessible built environment. They have been shown how to comply with the with the provisions of the Act and access by laws
- Through conducting access audits on public buildings, modifications were made to most of those audited by providing ramps, lifts, accessible toilets, adjustable counter heights and improved signage

[113]Civil society engagement for mainstreaming disability in development process report of an action research project initiated in Gujarat with multi-stakeholder partnership. Gujarat, UNNATI and Handicap International, 2008. (Accessed from WHO, World Report on Disability, p.236)

[114] Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Section 46. http://socialjustice.nic.in/pwdact1995.php?pageid=18 (accessed June 25, 2013)

[115] Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Section 46.

[116]Civil society engagement for mainstreaming disability in development process report of an action research project initiated in Gujarat with multi-stakeholder partnership. Gujarat, UNNATI and Handicap International, 2008.

- In addition, design institutes are offering elective courses in universal design. With government support, the State Administrative Training Institute for government officials in Ahmedabad, has become a model of accessible building.

Irrespective of the economic differences, Zambia and India are both faced with the responsibility of upholding rights of disabled persons. The steps taken by India come with the acknowledgment of this responsibility. As such, the Zambian government can draw lessons from the steps taken in India, by promoting engagement with persons with disabilities and other stakeholders to discuss disability issues. Involvement of the government provides a good platform on which policies and plans can be put in place to make buildings accessible.

By including architects and other personnel engaged in construction there is a higher likelihood of having buildings built with due consideration to the needs of persons with disabilities. This underscores the urgent need to include disabled persons in the activities of society, putting in place deliberate measures to ensure that there is equal access to all services and activities provided to the public.

3.7 Conclusion

This chapter has discussed the concept of mainstreaming disabled persons and how it can be achieved through the provision of accessible public buildings. Consideration was given to the concepts of universal design and reasonable accommodation. It considered how the provision of accessible buildings can contribute to mainstreaming of disabled persons in the employment, education and health sectors of Zambia. Furthermore, the chapter discussed measure being put in place in the region of Gujarat in India by way of learning experience to have an accessible built environment as means of mainstream rights of disabled persons.

4. CHAPTER FOUR: CONCLUSION AND RECOMMENDATIONS

4.1 General conclusion

This research focused on the inaccessibility of public buildings and the difficulties faced by persons with disabilities as a result. In light of the social model of disability, when the physical environment is not accessible it results in the disability of an individual. Public buildings by their nature should be accessible to all members of the public. However, a survey done at the Lusaka Civic Centre building, the premises of the Lusaka City Council revealed lack of ramps, operating elevators, handrails and other necessary facilities for accessibility. In addition, the restrooms do not have facilities for the convenience of persons with disabilities. The accessibility Audit by ZAFOD on twenty one of ECZ's registration and polling centres in Lusaka revealed that none of them were accessible to persons with disabilities. The Lusaka City Council as the planning authority of Lusaka admitted that most public buildings in Lusaka are not accessible to person with disabilities.

The research has shown that the lack of accessible buildings is due to stigma against persons with disabilities resulting in little attention being given to their accessing many facilities including buildings. Other factors include little value being placed on accessibility generally, inadequate enforcement of the law and lack of political will. The lack of political will stems from the failure of successive governments to put in place a deliberate policy which favours accessible buildings for persons with disabilities. This state of affairs has resulted in discrimination against persons with disabilities. They face numerous difficulties in accessing and using these public buildings. These include difficulties in gaining entry into buildings due to lack of ramps or handrails, steep stairways. The use of these buildings is also difficult due to lack of elevators and

convenient restrooms. Consequently, persons with disabilities are unable to enjoy their rights to independent living, full participation and inclusion in society and equality of opportunity provided under the Persons with Disabilities Act.[117] Leading to limited control over their lives and restricted inclusion in society.

The research established that the social model of disability places emphasis on disability being a result of environmental barriers. Within the human rights perspective of the model, failure to provide an accessible environment has the effect of violating the rights of disabled persons. This is because persons with disabilities have the right to inherent dignity and equality as promulgated in the Universal Declaration of Human Rights and the Convention on the Rights of Persons with Disabilities. These rights are further given effect in the Persons with Disabilities Act.[118] Due to this quality of worth, there is need to have a form of life that signifies dignity. In addition, substantive equality requires that the social and economic circumstances of persons with disabilities are taken into account and adjustments made to accommodate them. This is the only way that meaningful equality can achieved. Therefore, it is important to take into account the circumstances of the current prevailing state of public buildings in order to achieve equality for disabled persons. The Persons with Disabilities Act[119] provides that persons with disabilities have the right to accessibility.

Accessibility in this regard is providing facilities that enable persons with disabilities freely reach and use public buildings. In this way, accessibility assists in realization of the rights to independent living, full participation and inclusion in society and equality of opportunity. Accessibility of public buildings can be achieved by use of universal design or reasonable

[117] Persons with Disabilities Act No.6 of 2012
[118] Persons with Disabilities Act No.6 of 2012
[119] Persons with Disabilities Act No.6 of 2012

accommodation. Universal design being most relevant at construction as it ensures that the buildings are usable by all persons without the need to make any future adjustments. Reasonable accommodation is useful to buildings which are already inaccessible. Occupiers and owners of buildings should not be allowed to use 'undue burden', as an excuse for the failure to reasonably accommodate persons with disabilities. Therefore, necessary adjustments are be made to the buildings to ensure that persons with disabilities exercise all human rights and fundamental freedoms on equal basis with others.

The research further argued that the provision of accessible buildings has a large contribution to make in the mainstreaming of persons with disabilities. The aim of mainstreaming being to enable persons with disabilities participate in any activity or service intended for the general public on equal basis with others. Three important sectors in which provision of accessible buildings can be of great assistance in mainstreaming persons with disabilities are health, education and employment. Due to the interconnectedness of these sectors it is prudent to have accessible buildings to promote the right of disabled persons to education, health care and employment. By so doing, promoting equality for disabled persons. The government has a pivotal role in providing a platform to advance the rights of disabled persons as shown through the experiences in Gujarat, India.

4.2 Recommendations

The inaccessibility of public buildings in Lusaka has presented considerable challenges to persons with disabilities. In addition, it has hindered their enjoyment of other rights and goes against their inherent dignity and right to equality. Therefore, there is an urgent need to reform the current state of public buildings so as to make them accessible to all. In light of this, measures can be taken in the following ways:

4.2.1 Formulate standards of accessibility for public buildings

The initial step towards having accessible public buildings is the formulation of standards by the government as provided under the Persons with Disabilities Act.[120] These standards should be able to specify what facilities a building being constructed should have in order to accommodate persons with disabilities. In addition, they should prescribe adjustments to be made in order to reasonably accommodate the needs of persons with disabilities. These standards should take into consideration all types of disabilities and not concentrate on one type only. As such the relevant standards, should have criteria for to ensure enough space and manoeuvring clearances for wheelchair and walking-aid users as well as meet the needs of the needs of people with sensory impairments to avoid hazards and find the right way.[121]

This is the responsibility of the government as is provided in the Persons with Disabilities Act as 'the Minister shall, in consultation with the Minister responsible for transport, works and communication, prescribe minimum standards and guidelines for the accessibility of facilities and services open or provided to the public'.[122] Therefore, this process is to be headed by government and in order to adequately serve persons with disabilities, there is need to engage them in this process. This engagement can be done through recognised disability organisations such as ZAFOD and ZAPD, by so doing the standards will take into consideration the real needs and difficulties of disabled persons as regards accessing buildings. The importance of having such standards is that they will be tailored to suit the Zambian environment.

[120] Persons with Disabilities Act No.6 of 2012

[121] WHO, World Report on Disability, 174

[122] Persons with Disabilities Act No. 6 of 2012 s. 40(3a)

4.2.2 Conduct extensive access audits

Alongside the formulation of standards, there is need to conduct extensive access audits on all public buildings and places not just in Lusaka but in all provinces of the country.[123] The primary responsibility should rest on the government, firstly because they have a duty to ensure integration of all their citizens. Additionally, government institutions such as the City Councils are present in all parts of the country and best placed to inspect the accessibility of public buildings resulting in accessible public buildings country wide. Important partners in this exercise are disability organisations such as ZAFOD who have valuable experience in conducting access audits. ZAFOD has been conducting such audits by taking persons with different impairments to a building being audited and analysing if they are able to get around unaided. This method has proven to be expensive on human resource, time and money. Therefore the quick formulation of standards and guidelines will greatly assist in having a basis upon which audits can be conducted.

Local authorities can make use of their planning authority and permitting of building plans to ensure that only plans showing adequate access for persons with disabilities are allowed. These audits are accompanied by recommendations on how a particular inaccessible building can be made accessible. All buildings cannot have same recommendations as their inaccessibility differs, as such audits provide a case to case finding, placing the responsibility on specific owners or occupiers. With the Persons with Disabilities Act mandating all owners or occupiers of public buildings to ensure that their premises are accessible to persons with disabilities.[124] Failure to make the recommended adjustments should be meet with penalties. The Persons with

[123] Du Plessis and Van Reenen, "Introduction," Aspects of Disability Law in Africa, eds. Iize G Du Plessis and Tobias Van Reenen, xxi.

[124] Persons with Disabilities Act No. 6 of 2012 s. 42

Disabilities Act gives persons with disabilities the right to sue an occupier or owner whose building is not accessible and recover damages in a competent court of jurisdiction.[125]

4.3.3 Educating stakeholders on the right of persons with disabilities to accessible public buildings

a. The general public

In an effort to fight against stigma attached to persons with disabilities, the general public should be educated on the rights of persons with disabilities. The Ministry responsible for persons with disabilities should educate the public on the value of persons with disabilities and the need to respect the rights of persons with disabilities.

b. City planners, architects, builders, land developers, building owners or occupiers

City planners, architects, builders, land developers, building owners or occupiers and other players in the construction industry. Architects, builders and other professional in the construction industry should be well educated on the need to have accessible buildings. From the example given of India, an accessibility course can be included in the curricula to enable better education and awareness.

c. Persons with disabilities and their organizations

Persons with disabilities need to be made aware that they have the right to freely and independently access a public building. Armed with knowledge, they can demand their right from occupiers or owners of inaccessible buildings.

[125] Persons with Disabilities Act, No 6 of 2012 s.41 (3)

4.3.4. Maximize the use of tax incentives to motivate property owners to construct accessible buildings

Providing tax incentives to building owners or occupiers for having accessibility facilities put in place would greatly encourage them to make buildings accessible. For those in business these incentives may be put in as capital allowances under the Income Tax Act.[126] The Zambia Revenue Authority (ZRA) as the body mandated to collect revenue[127] can be tasked with the duty of ensuring that such property owners receive these incentives on proof that such adjustments have actually been made. Therefore, for every improvement made to make their building more accessible a building owner will get an allowance. Not only would this motivate owners of buildings but it would stand to benefit disabled persons.

4.4 Conclusion

This chapter has shown that inaccessibility of public buildings poses various challenges to persons with disabilities and infringes on their rights. There is need to formulate standards to be used in Zambia as the basis of having accessible buildings. Additional, educate professionals in the construction industry and make use of tax incentives as a means of promoting accessibility of public buildings.

[126] Cap 323 of the Laws of Zambia

[127] Income Tax Act, Cap 323, s.2

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