

**PERSONS WITH DISABILITIES AND EDUCATION: HOW ADEQUATE IS THE  
ZAMBIAN LAW IN PROMOTING EDUCATION OF PERSONS WITH  
DISABILITIES?**

**By**

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Being a Directed Research essay submitted to the University of Zambia Law Faculty in  
Partial fulfillment of the requirements for the Award of the Bachelor of Laws (LLB) Degree.

## DECLARATION

I, CHITUNDU CHONGO, computer number 26108691, do hereby declare that this Directed Research Essay is my genuine work and to the best of my knowledge, information and belief, no similar piece of work has previously been produced at the University of Zambia or any other Institution for the award of Bachelor of Laws Degree. All other works in this essay have been duly acknowledged. No part of this work may be reproduced or copied in any manner without the prior authorization in writing of the author.

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## **ABSTRACT**

The purpose of this dissertation was to examine the laws governing the education of persons with disabilities. It attempted to establish whether persons with disabilities are provided with equal and appropriate education as persons without disabilities. It then examined the laws and the policies governing the education of persons with disabilities.

Through research, it was found that there is no specific legislation designed to promote education among persons with disabilities and that the general education system does not address the need for special needs education as this is not included in the Education Act. However, there are various pieces of legislation and policies which take into account the need for persons with disabilities to be provided with equal access to education. However, it was found that the laws and the policies are not adequate; as a result, persons with disabilities face a lot of challenges in accessing appropriate education.

Considering the fact that persons with disabilities have the right to equal and appropriate education, the dissertation recommends that the Education Act and the various pieces of legislation must be reviewed to ensure that they adequately promote education among persons with disabilities and that there is need to have a specific legislation to deal with the education of persons with disabilities.

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This paper is dedicated to my parents Mrs. Regina Mulaula Chongo and Mr. Emmanuel Chongo, and my young sisters Laida K. and Tombi Chongo.

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## **TABLE OF STATUTES**

The Constitution of Zambia, Cap 1 of the Laws of Zambia

The Education Act, Chapter 134 of the Laws of Zambia

The British Education Act, 1996

The Individuals with Disabilities Education Act, 2004

The Persons with Disabilities Act, Chapter 65 of the Laws of Zambia

The Technical Education, Vocational and Entrepreneurship Training (TEVET) Act, 1998

## **CONVENTIONS**

The Convention on the Rights of the Child

The International Covenant on Economic, Social and Cultural Rights

The United Nations Convention on the Rights of Persons with Disabilities

The Universal Declaration of Human Rights

## **POLICIES**

Ministry of Education: Educating our Future. Lusaka: Ministry of Education (1996).

Ministry of Education: Educational Reforms. Lusaka: Government Printer (1977).

Ministry of Education: Focus on Learning. Lusaka: Ministry of Education(1992).

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## **LIST OF ABBREVIATIONS**

EIP	Individualized Education Programme
FAPE	Free Appropriate Public Education
LRE	Least Restrictive Environment
TEVET Act	Technical Education, Vocational and Entrepreneurship Act
TEVETA	Technical Education, Vocational and Entrepreneurship Authority
TVTC	Technical and Vocational Teachers' College
UNZA	University Of Zambia
ZAMISE	Zambia Institute of Special Education

## CHAPTER 1

### GENERAL INTRODUCTION

#### 1.0 INTRODUCTION

This chapter gives an introduction to the research and in general terms gives the outline of the research. It also deals with the basic aspects of the research. These include the statement of the problem, objectives the research questions, significance of the study, the methodology and the chapter lay out.

#### 1.1 PERSONS WITH DISABILITIES AND EDUCATION

According to the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities include,

“those persons who have long term physical, mental, intellectual or sensory impairments which, in interaction with barriers, may hinder their full and effective participation in society on an equal basis with others.”<sup>1</sup>

The Persons with Disabilities Act<sup>2</sup> defines a disability as,

“ Any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered to be normal for a human being.”

In other words, disability refers to a condition seen to be a significant impairment or abnormality as compared to the usual standards of an individual or group. An individual is considered to be disabled if they have an impairment that reduces their ability to carry out activities in the manner considered normal for a human being. These may include physical, a visual impairment including blindness, hearing impairment or deafness, emotional and behavioural disorders, as well as developmental disorders.<sup>3</sup>

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<sup>1</sup> United Nations Convention on the Rights of Persons with Disabilities, Article 1

<sup>2</sup> The Persons with Disabilities Act, Cap 65 of the laws of Zambia, section 2

<sup>3</sup> [www.disabled-world.com/disability/education](http://www.disabled-world.com/disability/education). / Accessed on 22nd November 2010.

The Republic of Zambia is signatory and party to a number of international and regional human rights instruments. Included in most of these instruments is the right of every person to education. For instance, the Universal Declaration of Human Rights provides that,

“Everyone has the right to education. Education shall be free at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.”<sup>4</sup>

Furthermore, the International Covenant on Economic, Social and Cultural Rights provides that,

“State Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity and to the strengthening of the respect for human rights and fundamental freedoms.”<sup>5</sup>

The Covenant further states that, “

The State Parties to the Covenant recognize that, with the view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all, and in particular, by the progressive introduction of free education; (c) higher education shall be made equally accessible to all, on the basis of capacity by every appropriate means, and in particular, by the progressive introduction of free education.<sup>6</sup>

In addition, the Ministry of Education, which has the overall responsibility for education in Zambia, upholds the principle that every individual has an equal right to education opportunities. This means that every individual, regardless of their personal circumstances or capacity, has a right of access to and participation in the education system.<sup>7</sup> Education is not a privilege but a basic right for everyone. Education is a means for enhancing the well being and quality of life for the entire society, as through education, individuals can acquire skills for human survival.

In both developing and developed countries, promoting more inclusive societies and employment opportunities for people with disabilities requires improved access to basic education, vocational training relevant to labour market needs and jobs suited to their skills, interests and abilities.<sup>8</sup> They also need to obtain decent and productive work in order for them

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<sup>4</sup> Universal declaration of Human Rights, Article 26 (1)

<sup>5</sup> International Covenant on Economic, Social and Cultural Rights, Article 13(1)

<sup>6</sup> International Covenant on Economic, Social and Cultural Rights, Article 13(2)

<sup>7</sup> Ministry of Education: Educating our Future ( Lusaka: Ministry of Education, 1996) Page3

<sup>8</sup> International Labour Organization, ‘Inclusion of People with Disabilities in Zambia,’ ILO Report (October 2009) Page 1

to improve their living conditions and participate more actively in society.<sup>9</sup> Therefore, persons with disabilities are entitled to equal access to education as persons without disabilities.

It is the duty of the government to protect and promote the social well-being and achieve good quality of life for every person through all-embracing economic development.<sup>10</sup> In this regard, states should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings.<sup>11</sup> They should ensure that the education of persons with disabilities is an integral part of the educational system.<sup>12</sup>

However, persons with disabilities face serious challenges due to their disabilities. As a result, the majority lives in poverty and tends to resort to street begging as a means of survival. Further, the literacy levels among persons with disabilities are very low. This therefore calls for the provision of a special kind of educational treatment that will reduce the imbalance between them and members of the community without disabilities. They require special education treatment designed to meet their unique individual needs, and proper assistance in order for them to concentrate and attain the full development of their inherent and maximum potential. Like persons without disabilities, persons without disabilities have the right to live independently and be included in the community.

## **1.2 SPECIAL NEEDS EDUCATION IN ZAMBIA**

Students with special needs are individuals who require special education and related special services in order to achieve their fullest potential.<sup>13</sup> They are also called exceptional. In Zambia, the exceptional child or individual is one who differs from others in mental, physical or social characteristics to such an extent that, for the full development of inherent potential, he or she needs a modification of school, college or university provision and practice, or

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<sup>9</sup> International Labour Organization, 'Inclusion of People with Disabilities in Zambia.' Page 4

<sup>10</sup> Ministry of Education: Educating our Future Page 3

<sup>11</sup> Standard Rules on the Equalization of Opportunities for Persons with Disabilities, Rule 6:United Nations Documents

<sup>12</sup> Standard Rules on the Equalization of Opportunities for Persons with Disabilities, Rule 6:United Nations Documents

<sup>13</sup> R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream.3<sup>rd</sup> Ed (Merril Publishing Co., New York, 1991.Page 9

special educational services.<sup>14</sup> More specifically, an exceptional child is one who has a physical, hearing, speech or visual impairment, is significantly different from others mentally, whether by being very bright, being a slow learner, or being severely impaired mentally, or is socially maladjusted or emotionally disturbed.<sup>15</sup>

Special education is education especially designed and adapted to suit the needs of unfortunate disabled children who may be suffering from mental or physical disability.<sup>16</sup> It is the education conducted in such a way as to address the individual differences and needs of the disabled person, whose special needs reduce their ability to learn independently. The process involves individually planned and systematically monitored arrangement of teaching procedures, adapted equipment and materials, accessible settings and other interventions designed to help learners with special needs achieve a higher level of self-sufficiency in the school and community than would be available if the student were only given access to a typical classroom education.<sup>17</sup>

In Zambia, the underlying principle of educating persons with special needs is that they should be integrated, to the greatest extent possible, into ordinary schools and colleges, however, establish special institutions where necessary. Integration means, awarding disabled children the opportunity to participate in as many of the same activities and be educated in the same manner as their non-disabled peers to the greatest extent possible.<sup>18</sup> Integration can reduce the social stigmas as people come to accept and respect their differences. In addition, it improves the academic achievement for many students with disabilities and it can facilitate adjustment to communicate settings when they become adults.

Integration is usually for persons with less severe disabilities but may require modifications to the general curriculum, provision of aides and equipment as well as physical adaptations to enable the disabled person participate in the educational environment to the fullest extent possible.<sup>19</sup> Hence, special education is not an educational programme entirely different from that normally provided for pupils of the same age, but refers to those aspects which are

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<sup>14</sup> Ministry of Education: Educating our Future. Page.66

<sup>15</sup> Ministry of Education: Educating our Future. Page.66

<sup>16</sup> Ministry of Education: Educational Reforms (Lusaka: Ministry of Education, 1977).Page 23

<sup>17</sup> [www.disabled-world.com/disability/education/](http://www.disabled-world.com/disability/education/) Accessed on 22nd November 2010.

<sup>18</sup> J. Dean, Managing Special Needs in the Primary School (Routledge, London, 1996).Page.5

<sup>19</sup> [www.disabled-world.com/disability/educatio/](http://www.disabled-world.com/disability/educatio/) Accessed on 22nd November 2010.

unique or are additional to the regular education programme.<sup>20</sup> In other words, special education is the education provided where the general school system does not adequately meet the needs of persons with disabilities.

Furthermore, persons with special education needs are also catered for through special education schools, which are usually for persons with severe disabilities. There are also specialised units attached to ordinary schools for the blind, and deaf, as they can only be dealt with in a special school owing to the nature of the education methods required.<sup>21</sup> For example, the particular communication needs of the deaf and blind such as sign language and Braille respectively, may not be adequately met by the general school system. Lastly, there are special teaching units attached to hospitals for children who are hospitalised for long periods.<sup>22</sup> Units are special classes or rooms equipped with special training and learning resources for persons with special educational needs.

In order to ensure that appropriate education provision is made, disabled children have to be identified and assessed using trained and knowledgeable personnel as well as appropriate machinery which will reliably differentiate them from normal children. It is necessary to identify the causes of the disability in order to determine their individual needs and give full attention to their physical, mental, social and emotional development.<sup>23</sup> This process is known as assessment.

Assessment includes evaluations and tests by trained professionals to determine what disabilities a child might have and the most appropriate ways of dealing with the disabilities.<sup>24</sup> The assessment (diagnosis) stage is initiated to determine whether an individual has a disability, whether special education is required, and what types of special or related services are needed.<sup>25</sup> Assessment of students with special needs is important in determining their specific strengths and weaknesses. This stage contributes to the development of an appropriate education for those students identified as having disabilities.

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<sup>20</sup>Ministry of Education: Educating our Future. Page 67

<sup>21</sup>Rehabilitation and Care of the Disabled in Britain, June 1962. Page 1

<sup>22</sup>Ministry of Education: Focus on Learning ( Lusaka: Government Printer 1992). Page 82

<sup>23</sup> Ministry of Education: Educating our Future. Page.65

<sup>24</sup> R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 25

<sup>25</sup>R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 54

Further, it is also important to have an efficient management and supervision system of special education if it is to be effective. Currently, there are two inspectors for this area and one education officer, all based in Lusaka.<sup>26</sup>

This paper attempts to investigate the adequacy of the relevant laws which govern the education of persons with disabilities in Zambia. This is because only a small percentage of disabled children are catered for in schools despite the fact the number of disabled persons has increased significantly. According to the World Health Organization estimates, some 690,000 to 1 million women and men in Zambia, or 7 to 10 per cent of the population, have a disability.<sup>27</sup>

There is need to focus on the improvement of education of persons with disabilities because, not only do they have the right to education, but they also have the potential to contribute to the well being and development of the country. This therefore calls for enactments exclusively for the education of persons with disabilities, to ensure a learning environment best suited for their educational needs.

By the United Nations Convention on the Rights of the Child<sup>28</sup>, children are entitled to special training care designed to help them lead a full and active life in society. Furthermore, the United Nations Convention on the Rights of Persons with Disabilities states that,

“Persons with disabilities should be guaranteed the right to inclusive education at all levels, regardless of age, without discrimination and on the basis of equal opportunity.”<sup>29</sup>

Therefore, the Zambian government has an obligation to ensure that disabled persons have access to education by providing a suitable education system supported by law.

### **1.3 STATEMENT OF THE PROBLEM**

The consensus of expert opinion is that ten to fifteen percent of children are exceptional and require active intervention and specialized services.<sup>30</sup> This means that in Zambia there were

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<sup>26</sup> Ministry of Education: *Educating our Future*. Page.68

<sup>27</sup> International Labour Organization, ‘Inclusion of People with Disabilities in Zambia.’ Page.1

<sup>28</sup> International Convention on the Rights of the Child, Article 23(3).

<sup>29</sup> United Nations Convention on the Rights of Persons with Disabilities, Article 24

160,000 to 250,000 children of primary school age in 1995 with special educational needs arising from physical and mental causes.<sup>31</sup> However, only a small percentage of persons with disabilities are able to access education.

The small number of disabled persons having access to education has raised concerns as to what the causes are and what the government's response has been. The government therefore, through the Ministry of Education has adopted educational policies which include provision for special education to cater for the needs of persons with special educational needs. The principle has been that they should to some great extent be integrated into the mainstream, but special institutions must be established where necessary.

The government, also in response to the call for a comprehensive and enforceable anti-discrimination legislation for persons with disabilities repealed The Handicapped Persons Act<sup>32</sup> and enacted the Persons with Disabilities Act<sup>33</sup> which contains provisions that prohibit discrimination against persons with disabilities in all sectors, including the education sector. Further, the Technical Education, Vocational and Entrepreneurship Training (TEVET) Act, 1998, requires that the special needs of people with disabilities be taken into consideration. Also, the Constitution<sup>34</sup> contains a provision which requires the state to provide equal and adequate educational opportunities in all fields, at all levels for all.

Although some breakthroughs have been recorded, questions still remain as to whether these have been effective in ensuring that persons with disabilities get equal access to education as members of the community without disabilities.

The extent of the adequacy of the legal framework and the policies governing the education of persons with disabilities needs to be reviewed. This is because, although every person has a right to education, which right is not limited by any disability, very few persons with disabilities have access to education and they face a lot of challenges in accessing appropriate and equal education. This undermines the Ministry of Education's principle that every

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<sup>30</sup> Ministry of Education: Educating our Future. Page 66

<sup>31</sup> Ministry of Education: Educating our Future. Page 66

<sup>32</sup> The Handicapped Persons Act, Cap 55 of the Laws of Zambia

<sup>33</sup> The Persons with Disabilities Act, Cap 65 of the Laws of Zambia

<sup>34</sup> The Constitution of Zambia, Cap 1 of the Laws of Zambia

individual has an equal right to educational opportunities. In view of this, it is clear that there are weaknesses in the law governing the education of persons with disabilities.

## **1.4 OBJECTIVES OF THE STUDY**

### **1.4.1 GENERAL OBJECTIVE**

To critically analyze the legal framework governing education of persons with disabilities and the current government policies on education and establish whether these have contributed to the challenges faced by the disabled in accessing equal and appropriate education in Zambia.

### **1.4.2 SPECIFIC OBJECTIVES**

- a. To evaluate the role played by special education in promoting education among persons with disabilities.
- b. To give a comparative analysis of Zambia's legal framework governing special education with that of the United States of America and Britain.
- c. To evaluate the current system of assessment of persons with disabilities in Zambia.
- d. To highlight the factors which contribute to the inefficiencies in the management and supervision of the special education system.
- e. To highlight the challenges that persons with disabilities face in accessing appropriate and equal education.
- f. To propose the relevant legislative and administrative framework to achieve the full promotion of education among persons with disabilities.

## 1.5 SIGNIFICANCE OF THE STUDY

The paper is important and comes timely in that, where as the number of disabled persons has significantly increased, very few are able to access education. The paper identifies the reasons why the disabled are not given the necessary attention they need in these modern times in accessing education. The paper is also important because it establishes how persons with disabilities can be helped to attain equal access to education, and thereby attain the relevant qualifications for employment in the open labour market. This in turn helps them stop being dependent on their families and communities.

The paper is therefore a contribution to the promotion of education of persons with disabilities in that it comes at a time when there is a desire among persons with disabilities to be given equal opportunities as persons without disabilities in all sectors of life, in order for them to be able to live independently and participate fully in all aspects of society.

## 1.6 OPERATIONAL DEFINITION OF TERMS

Below are definitions of the key terms which will be referred to in the research.

**Assessment:** Includes, evaluations and tests by trained professionals to determine what disabilities a child might have and the most appropriate ways of dealing with the disabilities.<sup>35</sup>

**Disability:** Any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered normal for a human being, and would or would not entail the use of supportive or therapeutic devices and auxiliary aids, interpreters, white cane, reading assistants, hearing aids, guide dogs or any other trained animals trained for that purpose.<sup>36</sup>

**Environment:** Includes the physical environment in which the student works, the human environment or the individuals with whom the student has the opportunity to interact, the

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<sup>35</sup> R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 25

<sup>36</sup>The Persons with Disabilities Act, Cap 65 of the Laws of Zambia, Section 2.

affective environment or the feelings and emotional tone surrounding the student, and the geographical environment or the location of the school.<sup>37</sup>

**Identification:** The process of seeking out and designating children with disabilities who require special education and related services.<sup>38</sup>

**Integration:** Awarding disabled children the opportunity to participate in as many of the same activities and be educated in the same manner as their non-disabled counterparts to the greatest extent possible.<sup>39</sup>

**Special Education:** Education designed and adapted to suit the needs of the unfortunate disabled children who may be suffering from mental or physical disability.<sup>40</sup>

## **1.7 METHODOLOGY**

This research has been done mainly by analysing relevant literature on persons with disabilities and education. Direct interviews with persons from some institutions of learning catering for persons with disabilities have been conducted and accordingly noted and have been incorporated in the research depending on the response's relevance to the subject.

## **1.8 OUTLINE OF CHAPTERS**

### **CHAPTER 2**

#### **A REVIEW OF THE ASSESSMENT SYSTEM AND MANAGEMENT AND SUPERVISION OF SPECIAL EDUCATION IN ZAMBIA**

This Chapter discusses the meaning and significance of assessment and the assessment system used in Zambia. It also discusses the management and supervision of the special education system and how these impact on the persons with disabilities' right to education.

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<sup>37</sup>R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 28

<sup>38</sup>R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 25

<sup>39</sup>J. Dean, Managing Special Needs in the Primary School. Page.5

<sup>40</sup>Ministry of Education: Educational Reforms. Page 23

### **CHAPTER 3**

#### **THE LEGAL FRAMEWORK GOVERNING THE EDUCATION OF PERSONS WITH DISABILITIES IN ZAMBIA**

This chapter reviews the relevant laws which govern the education of persons with disabilities in Zambia. These include; the Constitution, chapter one of the Laws of Zambia, the Technical Education, Vocation and Entrepreneurship Training (TEVET) Act no.13 of 1998 and The Persons with Disabilities Act, chapter 65 of the Laws of Zambia. It also highlights the three national policies on education put in place by the government, which include provisions for special education to cater for the education of the disabled. These are; Educational Reforms (1977), Focus on Learning, (1992), and Educating Our Future (1996). The chapter also gives a comparative analysis of the laws governing the education of persons with disabilities in the United States of America and Britain to Zambia.

### **CHAPTER 4**

#### **FACTORS AFFECTING THE ACCESSIBILITY TO EDUCATION BY PERSONS WITH DISABILITIES**

This chapter discusses the achievements that the Zambian government has made in providing access to education by persons with disabilities. The chapter also discusses the factors that affect the accessibility to equal and appropriate education by persons with disabilities and stresses that these factors are linked to the current legal framework.

### **CHAPTER 5**

#### **CONCLUSIONS AND RECOMMENDATIONS**

This chapter gives recommendations and possible areas of reform in the laws governing the education of persons with disabilities.

## 1.2 CONCLUSION

This Chapter has dealt with the basic aspects of the research conducted and given a prelude to the subject. It has also highlighted the salient features of the subsequent Chapters. It is the opinion of this chapter that special educational services give persons with disabilities an opportunity to have appropriate and equal access to education, as members of the society without disabilities, thereby enabling them to participate fully in the activities of society and live independently. However, very few persons with disabilities are able to access appropriate and equal education in Zambia. Among the reasons for this is that most of them have not been assessed. Chapter two therefore discusses the meaning and significance of assessment and the effectiveness of the assessment system used in Zambia. It also discusses the management and supervision of the special education system and how these impact on the persons with disabilities' right to education.

## **CHAPTER 2**

### **A REVIEW OF THE ASSESSMENT SYSTEM AND MANAGEMENT AND SUPERVISION OF SPECIAL EDUCATION IN ZAMBIA**

#### **2.0 INTRODUCTION**

Chapter one discussed the accessibility to education among persons with disabilities in Zambia. This Chapter discusses the meaning and significance of assessment of persons with disabilities and the assessment system used in Zambia. It also discusses the management and supervision of the special education system and how these impact on persons with disabilities' right to education.

#### **2.1 ASSESSMENT OF PERSONS WITH DISABILITIES**

It has been noted that persons with disabilities face a lot of challenges as a result of their disabilities. Therefore, as regards education, they need special education treatment and proper assistance based on their unique needs in order for them to receive appropriate training. They need to be provided with education in a way that addresses their individual differences and needs where the general school system does not adequately meet their needs.

To determine whether a student has a disability and is eligible for special educational services, an assessment of the student must be conducted. Assessment involves collecting and gathering information about the student, using a variety of techniques and information sources which can be expected to shed considerable light upon the student's strengths and needs, the nature of his or her disability and how it affects educational performance, and what type of instructional goals and objectives should be established for the student.<sup>41</sup> In other words, assessment involves the ways in which information about a student can be collected in order to determine if the student is eligible for special educational services and related services and to make informed decisions about that student's educational placement and instruction.

In order for the assessment to be effective, it should be conducted by a team of experts who can judge the abilities and disabilities of the student. This team must gather the most accurate

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<sup>41</sup> B.P. Waterman, 'Assessing Children for the Presence of a disability,' News Digest, Volume 4 (1994). Page 2

and current information available so that the individual's strengths and needs and, ultimately, the services and supports required can be determined.<sup>42</sup>The student must be assessed in all areas related to the suspected disability. In addition, the assessment must be non-discriminatory. That is to say, the tools and procedures used must be validated for the purposes for which they are used. They must not be culturally, linguistically, or ethnically discriminatory.<sup>43</sup>This means that, the background, culture and language of the student must be taken into account when conducting the assessment.

### **2.1.1 THE SIGNIFICANCE OF ASSESSMENT**

Assessment in educational settings is important in that it helps in the screening and identification of those students who may be experiencing learning problems, as well as in determining whether a student has a disability and is eligible for special education and related services, and in diagnosing the specific nature of the student's problems or disability.<sup>44</sup> Furthermore, assessment is vital for Individualized Education Program (IEP) development and placement. That is to say, assessment assists in providing detailed information about the student so that an IEP may be developed and appropriate decisions may be made about the student's educational placement.<sup>45</sup> In addition, assessment is vital for instructional planning, that is, it assists in the development and planning of instruction appropriate to the student's special needs as well as for the evaluation of student's progress.<sup>46</sup>

### **2.1.2 SOURCES, APPROACHES AND METHODS OF ASSESSMENT**

Information about the student's skills and needs can come from many sources which can help determine whether a student is eligible for special education and plan for their education.

Firstly, information from parents, teachers or specialists who suspect that a child may have a disability as a result of his or her lack of progress or leaning or behaviour problems can be vital for determining whether the student has to under go an assessment in order to have a comprehensive picture about the student's skills and needs. This is because it is only after the

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<sup>42</sup> R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 54

<sup>43</sup> R. B. Lewis and D. Doorlag, Teaching Special Students in the Mainstream. Page 56

<sup>44</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.2

<sup>45</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.2

<sup>46</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.2

child has been identified as having behaviour or learning difficulties that they can be referred for formal evaluation.

Secondly, using a variety of assessment approaches, such as testing, reviewing the student's school records, looking at the student's work, observations, interviews and pre-referral procedures also plays an important role in determining the eligibility for special education.

Most assessments include tests. Tests may be informal, meaning a measure developed locally or they may be commercially developed, that is, formal measures, commonly called standardized tests. Unlike informal tests, standardized tests have detailed procedures for administration, timing, and scoring.<sup>47</sup> Those responsible for the test must ensure that they choose the appropriate tests and instruments, suitable to the student, if the information is to be accurate.

Reviewing school records may involve looking at the number of times the student has changed schools because it may affect academic performance. It also may involve looking at the attendance, the history of grades and test scores.<sup>48</sup> On the other hand, looking at the student's work may include examining and analysing the student's work in order to find out the nature of his or her difficulties and suggest possible solutions to the difficulties.<sup>49</sup>

Interviewing the student, his or her parents, teachers and other adults or friends can provide very important information about the student that relates to the observed or suspected disability. The information collected should relate to the individual's major life activities such as how the person performs at home, at school, in interpersonal relationships, and during leisure time.<sup>50</sup> On the other hand, observations, which include observing school records and the environment where the student operates, can help identify the factors that are influencing the student.<sup>51</sup> The observer must not be biased. He must take into consideration the student's culture or language.

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<sup>47</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.4

<sup>48</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.4

<sup>49</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.4

<sup>50</sup> R. B. Lewis and D. Doorlag, Teaching Special Education in the Mainstream. Page 54

<sup>51</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.'Page.5

Pre-referral procedures involve situations where schools systems recommend or require that before an individualised evaluation of the student is conducted, his or her teacher meet with an assistant team to discuss the nature of the problem and what possible modifications to instruction or the classroom might be made. This helps prevent unnecessary evaluation and the possibility of misdiagnosis and over identification of special education students.<sup>52</sup> These procedures are particularly helpful and important to those students with different cultural backgrounds from the majority or those with behavioural problems.

Thirdly, using methods such as ecological assessment, direct assessment, dynamic assessment or task analysis also can help determine whether a student is eligible for special education and thereby plan for strategies that address their particular needs.

Ecological assessment involves directly observing and assessing the child in the many environments in which he or she operates, in order to know how the different environments influence the student and his or her school performance.<sup>53</sup> Direct assessment models on the other hand, suggest that assessment be directly tied to the instructional curriculum so as to enable the teacher to match to a student's current abilities and pinpoint areas where curriculum adaptations and modifications are needed.<sup>54</sup>

Dynamic assessment refers to several different but similar approaches to evaluating student learning so as explore the nature of learning, with the objective of collecting information to bring about cognitive change and to enhance instruction. It also includes a dialogue or interaction between the examiner and the student<sup>55</sup>. On the other hand, task analysis involves breaking down the task into the basic sequential steps, components, parts or skills necessary to accomplish the task.<sup>56</sup>

It is important to note that the mode of assessment employed must be developed in a way that gives the assessor correct information about the individual's performance.

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<sup>52</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.' Page.5

<sup>53</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.' Page 10

<sup>54</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.' Page 10

<sup>55</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.' Page 10

<sup>56</sup> B. P. Waterman, 'Assessing Children for the Presence of a Disability.' Page 11

### **2.1.3 ASSESSMENT OF PERSONS WITH DISABILITIES IN ZAMBIA**

In Zambia, assessment of persons with disabilities is done at the University of Zambia, as well as in clinics and hospitals, one of them being the University Teaching Hospital. The University of Zambia Assessment Centre deals with intellectual or cognitive assessment, where they assess the mental abilities of the student suspected to have a disability. This is done by way of the referral process, whereby, after the student has been identified as having a significant delayed development by his parent, caregiver or teacher, they are taken for diagnostic assessment at the centre.<sup>57</sup>

As regards the procedure and tools used for assessing disabled persons in Zambia, the kind used are those used and developed in the western society, particularly, the United States of America. In order for the assessment to be effective, the tools used for measuring must possess certain qualities, the most important of which are reliability and validity.

Reliability refers to the consistency of a measurement, or the degree to which an instrument measures the same way each time it is used under the same condition with the same subjects.<sup>58</sup> In short, a tool or measuring device is reliable if it is consistent or if the measurement produces similar results when it is repeated. A person's score in a test must be similar if given the same test twice.

Validity on the other hand, refers to whether a study measures or examines what it claims to measure or examine.<sup>59</sup> In other words, a particular test is said to be valid if it is able to measure the characteristic it says it measures.

However, the researcher found that the tools used for assessment of persons with disabilities in Zambia lack reliability and validity.<sup>60</sup> This is because the tools are developed abroad in the

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<sup>57</sup> Interview with Mr Kalima Kalima, Lecturer, Department of Educational Psychology, Sociology and Special Education, University of Zambia, 12<sup>th</sup> January, 2011

<sup>58</sup> <http://trochim.human.cornell.edu/kb/constval/> Accessed on 14th January, 2011

<sup>59</sup> <http://trochim.human.cornell.edu/kb/constval/> Accessed on 14th January, 2011

western world; hence they are culturally biased towards the Zambian society. Therefore, the tools are not reliable or valid in that they are not suitable for the different backgrounds or cultures of disabled persons in the Zambian society, as they are developed in a way that suits the western culture. This means that the tools cannot be expected to give accurate information about the disabled student being assessed, thereby making it difficult to determine their strengths and needs as well as the services and supports required in order for them to achieve success in school. This in turn may lead to inappropriate education being provided to the student.

For instance, a child born and raised in the United States of America is highly likely to have more exposure than a child born and raised in Zambia, particularly in rural Zambia because they have easier access to technology. Therefore, one cannot expect a child coming from rural Zambia to perform according to their mental capacity if the tools used do not take into consideration their language and cultural background.

Furthermore, many persons with disabilities in Zambia have not been assessed mainly due to the fact that there are only two main centres for assessment in the entire country, that is, the University of Zambia and the University Teaching Hospital. This makes it difficult for those persons who are suspected of having disabilities but are unable to go to either of the two centres due to lack of resources, to undergo assessment so that the appropriate educational planning can be made for them.

For example, it has been found through a verbal interview by the researcher with Mr. Kalima Kalima, from the University of Zambia Assessment Centre,<sup>61</sup> that most of the times, the University of Zambia Assessment centre is usually booked. Hence, if a child suspected of having a disability is taken for assessment but they cannot be attended to at that particular time, they would have to go back without undergoing assessment and told to go back at a later time. However, most of the times the parents or guardians do not have money to go back there and if the staff from the centre is unable to assist them with money, their child will be left unattended to. As a result, their disability will remain undetected, hence, they will not receive appropriate education.

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<sup>60</sup> Interview with Mr. Kalima Kalima, Lecturer, Department of Educational Psychology, Sociology and Special Education, University of Zambia, 12<sup>th</sup> January, 2011

<sup>61</sup> Interview with Mr. Kalima Kalima, Lecturer, Department of Educational Psychology, Sociology and Special Education, University of Zambia

## **2.2 MANAGEMENT AND SUPERVISION OF SPECIAL EDUCATION IN ZAMBIA**

The effectiveness of special education provision in meeting the needs of special education students depends to a large extent on the efficient management and supervision of the special education system. The first attempts to educate disabled children were made by missionaries and voluntary agencies in the early 1990s. The Ministry of Education then took over the responsibility of educating disabled persons in 1971.<sup>62</sup>

Upon transferring the responsibility of special education to the Ministry of Education in 1971, an inspectorate of special education was also created through which the ministry discharges its functions. However, the inspectorate is highly over centralized. There are only two inspectors for this area and one education officer, all based in Lusaka. There are no special education inspectors or education officers in any other part of the country.<sup>63</sup>

Further, although the Directorate of Special Education has adequate personnel, they are not adequately funded. This makes it difficult to monitor and supervise the programmes in special schools and units. This in turn makes it difficult for the schools and units to generate information on their needs and how they are being met. For instance, the researcher found that at Kabulonga Boys, the inspectors only inspect about once in a year.<sup>64</sup> The situation is also the same at Munali Girls' High School. As a result, proper planning for this area cannot be made, as the needs and problems of the students and the institutions are not known.

## **3.0 CONCLUSION**

This chapter has highlighted that in order to determine what kind of special educational services a person with a disability needs, they have to be assessed in all areas related to the disability, by specially trained personnel and machinery, taking into account the language and cultural background of the person. However, Zambia does not have an effective assessment system due to the fact that the procedure and tools used are developed in the western society, hence are culturally biased towards the Zambian society. In addition, many disabled children have not been assessed because they are only two main centers for assessment in the entire

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<sup>62</sup> M.D. Kalabula, 'Inclusive Education in Africa: A Myth or Reality? A Zambian Case Study,' *ISEC* ( July, 2000) .Page 6

<sup>63</sup> Ministry of Education: *Educating our Future*.p68

<sup>64</sup> Interview with Mr. Chanda, Boarding Master, Kabulonga Boys' High School, Friday, 4<sup>th</sup> Feb, 2011.

have not been assessed because they are only two main centers for assessment in the entire country, both based in Lusaka. Therefore, many disabled persons are left undetected. It is also the opinion of this chapter that the management and supervision of special education in Zambia is not effective, as the Directorate is inadequately funded and the inspectorate is highly over centralized. As a result, many persons with disabilities do not receive appropriate education.

Chapter three reviews the relevant laws which govern the education of persons with disabilities in Zambia. It also highlights the education policies put in place by the government, which include provisions for special education to cater for the education of the disabled. The chapter therefore discusses the position of the law in promoting and improving the right of the disabled to have access to educational opportunities. The chapter also gives a comparative analysis of the laws governing the education of persons with disabilities in other jurisdictions to Zambia.

## **CHAPTER 3**

### **THE LEGAL FRAMEWORK GOVERNING EDUCATION OF PERSONS WITH DISABILITIES IN ZAMBIA**

#### **3.0 INTRODUCTION**

Chapter two discussed the meaning and significance of assessment and the assessment system used in Zambia. It also discussed the management and supervision of the special education system. This chapter reviews the relevant laws which govern the education of persons with disabilities in Zambia. These include; the Constitution, chapter one of the Laws of Zambia, the Technical Education, Vocation and Entrepreneurship Training (TEVET) Act no.13 of 1998 and The Persons with Disabilities Act, chapter 65 of the Laws of Zambia. It also highlights the three national policies on education put in place by the government, which include provisions for special education to cater for the education of the disabled. These are; Educational Reforms (1977), Focus on Learning, (1992), and Educating Our Future (1996). The chapter also gives a comparative analysis of the laws governing the education of persons with disabilities in the United States of America and Britain to Zambia.

#### **3.1 THE LAWS GOVERNING THE EDUCATION OF PERSONS WITH DISABILITIES IN ZAMBIA**

In Zambia, there is no legislation specifically designed to protect persons with disabilities regarding their educational rights. Furthermore, the *Zambian Education Act*<sup>65</sup> which is responsible for the promotion, development and control of schools, educational institutions and services, does not address the need for special education and the provision of reasonable accommodation in education. There is no reference to either providing special attention to students with special needs or a duty for learning institutions to provide accommodation for students with special needs.<sup>66</sup> However, their protection is afforded through a number of pieces of legislation and educational policies discussed below.

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<sup>65</sup> The Education Act, Chapter 134 of the Laws of Zambia

<sup>66</sup> International Labour Organization, 'Disability Audit of Legislation Relevant to Education, Vocational Training and Employment of Persons with Disabilities in Zambia.' *ILO Report*, (October 2008). Page 11

### **3.1.1 THE CONSTITUTION, CHAPTER 1 OF THE LAWS OF ZAMBIA**

The inclusion of education of persons with disabilities in the constitution which is the supreme law of the land is under Part IX of the constitution which contains the directive principles of state policy. The directive principles of state policy address issues in economic, social and cultural rights. Paragraph (e) of Article 112 states that,

“the state shall endeavour to provide equal and adequate educational opportunities in all fields and at all levels for all.”

The Article further goes on to state in paragraph (f) that,

“the state shall endeavour to provide to persons with disabilities, the aged and other disadvantaged persons such social benefits and amenities as are suitable to their needs and are just and equitable.”

This means that the state must provide education to all persons, including persons with disabilities. It also entails that the government must take the interests of persons with disabilities into account when making educational provisions. That is, the government must provide facilities and resources suitable to their special needs.

### **3.1.2 THE TECHNICAL EDUCATION, VOCATIONAL AND ENTREPRENEURSHIP TRAINING ACT NO.13 OF 1998(AS AMENDED BY ACT NO.11 OF 2005) (TEVET ACT)**

The TEVET Act establishes the Technical Education, Vocational and Entrepreneurship Training Authority (TEVETA) and defines its functions. It also provides for the establishment of government institutions of technical education, vocational and entrepreneurship training and regulates all institutions providing technical education, vocational and entrepreneurship training. Technical education, vocational and entrepreneurship institutions are important in helping trainees prepare for jobs that are based on manual or practical activities. They also empower people with practical skills to enhance self-reliance and contribute to national economic development. Training disabled persons in this area enables them to attain maximum independence and full inclusion in all aspects of life.

Part IV of the TEVET Act provides conditions for the registration of private institutions which provide technical education and vocational training. Subsection (3) of section 15 states that,

“the Authority shall issue a certificate of registration to every institution on the payment of a prescribed fee if satisfied that-(a) the institution meets the technical education, vocational and entrepreneurship training standards set by the Authority; (b) the premises and facilities of the institutions, including any hostel or other buildings used by persons attending the institution are suitable for that purpose.”

This entails that persons with disabilities are supposed to be taken into consideration, as the institutions are required to ensure that their premises and facilities used by persons attending the institutions are suitable. Meaning, if there are persons with disabilities, their special needs must be taken into account. For instance, the buildings must be accessible for the physically disabled. They should also provide facilities such as Braille and hearing aids for the visually impaired and deaf or hard of hearing, respectively, or any other technical aids and appliances that disabled persons may need in order for them to benefit from the training.

### **3.1.3 THE PERSONS WITH DISABILITIES ACT, CHAPTER 65 OF THE LAWS OF ZAMBIA**

The persons with disabilities Act guarantees the equality and non-discrimination of persons with disabilities in different fields of life, including education.<sup>67</sup> Section 21 states that,

“ a learning institution shall be guilty of discrimination against a person with a disability if that institution; (a) refuses or fails to accept, to admit such person on the grounds of his disability, (b) gives terms or conditions on which it is prepared to admit such a person because of his disability, (c)denies or limits any person with a disability access to any benefit provided by that learning institution, (d) expels that student or pupil on the grounds of his disability or (e)discriminates against the person in any other way on grounds of that person’s disability.”

Further, section 22 states that,

“any person who establishes a special school for persons with disabilities shall provide adequate facilities for them.”

Section 23 further goes on to state that,

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<sup>67</sup> International Labour Organization, ‘Disability Audit of Legislation Relevant to Education, Vocational Training and Employment of Persons with Disabilities in Zambia.’ Page18

“(1) an institution of learning admitting persons with disabilities shall establish and maintain a special fund for the repair, servicing and purchase of technical aids and appliances for persons with disabilities, (2) Parliament shall make provision for and provide the funds referred to in subsection (1), and (3), The Minister may make regulations for the administration of the funds provided under subsection (2).”

It follows therefore that the Act prohibits discrimination on the basis of disability in learning institutions; hence persons with disabilities are given opportunities to access education on an equal basis with others. In addition, the Act also ensures their funding and that the learning institutions adequately provide them with facilities they may need.

### **3.2 THE NATIONAL POLICIES ON EDUCATION**

The Ministry of Education, which has the overall responsibility over education in Zambia, has formulated a number of policies on education in its bid to equalize educational opportunities for all persons regardless of personal circumstances or capacity since 1977. The Educational Reform Document which has been superseded by Focus On Learning (1992) and Educating Our Future (1996), had elaborate recommendations on special needs education and clearly specified the need for integration, early childhood special needs education, adapted curricula to meet identified and specified individual needs, staff development, integrated administration, inter-ministerial co-operation, and adequate funding for special needs education to be more meaningful and beneficial.<sup>68</sup>

All the three policies provide that all disabled children are entitled to education and should receive basic and further education. They also state that since disabled children are a special kind, there should be positive discrimination in their favour in the provision of facilities and amenities for educational purposes. It is for instance stated in the current policy, Educating our Future, of 1996 states that,

“The Ministry of Education will ensure equality of educational opportunity for children with special educational needs, commit to providing education of particularly good quality to pupils with special educational needs and improve and strengthen the supervision and management of special education across the country.”<sup>69</sup>

However, both the statutory and policy provisions cited above do not adequately promote the education of persons with disabilities.

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<sup>68</sup> M.D Kalabula M.D Inclusive Education in Africa: A Myth or Reality? A Zambian Case Study.' Page7

<sup>69</sup> Ministry of Education: Educating our Future.Page68

Firstly, the constitutional provision cited above is not, as stated in Article 111, justiciable and is therefore not legally enforceable in any court, tribunal or administrative institution or entity. This means that the state is not obliged to provide adequate materials, facilities and amenities needed by children or students with special educational needs in order for them to have equal and appropriate education.

Secondly, the TEVET Act does not expressly provide for the interests of disabled persons to be taken into account where admission and accessibility into the institution is concerned. It makes no mention of special education or training of persons with disabilities. One has to infer from the wording of the Act that the special needs of people with disabilities must be taken into consideration.

Thirdly, the Persons with Disabilities Act, although well developed in the context of education and vocational training where prohibition of discrimination against persons with disabilities in education is concerned, it is not comprehensive. It makes no mention of accommodation and adaptation of the surrounding environment and structures of the institutions. That is to say, it does not ensure accessibility to the physical environment. Therefore, even where they are admitted or accepted into an institution of learning, persons with disabilities will still be discriminated against if the physical environment and infrastructure are inaccessible.

Finally, although the national policies on education have well developed provisions on special education, they have no legal force. They cannot therefore be legally enforceable in any court, tribunal or administrative institution or entity. Further, they do not address issues of technical education, vocational and entrepreneurship training. Technical education, vocational training and entrepreneurship enhance the education and employment of persons with disabilities.

In addition to the above, both the pieces of legislation and the policies do not provide for procedural safeguards by which disabled children or students can have legal recourse if they are denied access to education or if their educational needs are not adequately met. Furthermore, they do not compel the government to provide funding for special needs education and education authorities to identify and assess students suspected of having disabilities, so that appropriate planning can be made for them.

Based on the above, a conclusion can be drawn that having no comprehensive legal framework specifically designed to protect students or children with special education needs regarding educational rights denies persons with disabilities equal and appropriate educational opportunities. This is further compounded by the fact that the Education Act does not cover education and disability. The laws do not support and protect disabled persons from irrational decisions that may be taken by the regular institutions regarding their educational rights. This situation is however different from that of the United States of America, where there is a specific, comprehensive federal law which governs the education of persons with disabilities, and Britain, where persons with disabilities are included in the general education system under the Education Act.

### **3.3. EDUCATION OF PERSONS WITH DISABILITIES IN THE AMERICAN AND BRITISH EDUCATION SYSTEMS**

As compared to Zambia, the educational provisions concerning the education of persons with disabilities in the United States of America and Britain are comprehensive and they adequately protect their educational rights as well as their parents.

#### **3.3.1 UNITED STATES OF AMERICA: INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 2004**

Unlike Zambia, the United States of America, where Zambia borrows most of its special educational programmes, has a specific, comprehensive federal law which governs the education of persons with disabilities, called the Individuals with Disabilities Education Act (IDEA). IDEA governs how states and public agencies provide early intervention, special education, and related services to children with disabilities.<sup>70</sup> It addresses the educational needs of children with disabilities from preschool through to age 21 in cases that involve 13 specified categories of disability, including, learning disabilities, speech or language impairments, mental retardation, gifted abilities, behaviour disorders and emotional disturbance, physical impairments and special health care needs, hearing loss, visual

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<sup>70</sup> [www.idea.ed.gov/](http://www.idea.ed.gov/) Accessed on 13<sup>th</sup> December, 2010.

impairments, and other low-incidence disabilities, that is, autism, deaf-blindness, and traumatic brain injury).<sup>71</sup>

Firstly, IDEA guarantees Free Appropriate Public Education (FAPE) for all children with disabilities, that is, an educational program that is individualized to a specific child, designed to meet that child's unique needs, and from which the child receives educational benefit.<sup>72</sup>Schools are required to provide students with an education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living at no cost, as well as their families.<sup>73</sup>Each child has the right to receive free appropriate public education.

Secondly, the Act guarantees specifically tailored programme to meet the individualized needs of each student with disabilities, called Individualized Education Programme or IEP.<sup>74</sup>The IEP specifies the services to be provided and how often, describes the student's present levels of performance and goals for the school year and procedures by which outcomes are evaluated.<sup>75</sup>In other words, an IEP describes how the student's disabilities affect academic performance, and specifies accommodations and modifications to be provided for the student. This plan must be developed for every child that receives special education services.

Thirdly, IDEA not only provides every child with a disability the right to an appropriate education, but also requires integration with students without disabilities to the greatest extent possible. It provides that an IEP must be designed to meet the unique educational needs of that one child in the Least Restrictive Environment or LRE, appropriate to the needs of that child.<sup>76</sup> This means that the students with disabilities must be educated with students who do not have disabilities to the greatest extent possible unless education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Fourthly, IDEA requires students with disabilities to be provided with related services such as transportation and such developmental, corrective, and other supportive services as are

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<sup>71</sup> R. B. Lewis and D. Doorlag, *Teaching Special Students in the Mainstream*. Page 5

<sup>72</sup> Individuals with Disabilities Education Act, 2004, Section 601(d)

<sup>73</sup> R. B. Lewis and D. Doorlag, *Teaching Special Students in the Mainstream*. Page 25

<sup>74</sup> Individuals with Disabilities Education Act, 2004, Section 614(d)

<sup>75</sup> S. Kirk, et. Al. *Educating Exceptional Children* (Boston: Houghton Mifflin Harcourt, 2009)Page39

<sup>76</sup> Individuals with Disabilities Education Act, 2004, Section 612 (a) (5)

required to assist a child with a disability to benefit from special education.<sup>77</sup> In addition, IDEA provides funds to assist states in the education of students with disabilities and requires that states ensure their rights and their parents are protected.<sup>78</sup> IDEA also ensures early intervention services for infants and toddlers with disabilities and their families.<sup>79</sup>

Finally, IDEA also includes a set of procedural safeguards designed to protect the rights of children with disabilities and their families and to ensure that children with disabilities receive a FAPE. The procedural safeguards include the opportunity for parents to review their child's full educational records; full parent participation in identification and IEP team meetings; parent involvement in placement decisions; Prior Written Notice; the right of parents to request independent educational evaluations at public expense; Notice of Procedural Safeguards; Resolution Process; and objective mediation funded by the state education agency and impartial Due Process Hearings.<sup>80</sup>

### **3.3.2 BRITAIN: THE EDUCATION ACT OF 1996**

In Britain persons with special educational needs are provided for under Part IV of the Education Act of 1996. It provides that,

“A child has special educational needs if he or she has a learning difficulty which calls for special educational provision to be made for him or her.”

This means that, by addressing the need for special education in the Education Act, persons with disabilities are included in the general education system.

The Act also makes it a duty of local educational authorities to integrate children with disabilities in their areas in regular schools from nursery school. The local educational authorities are also empowered to identify and assess children with special educational needs if the child has a special educational need and it is necessary for them to determine the special educational needs provision which any learning difficulty he may have calls for. This means that the local education authorities are legally obliged to provide for the needs of a child with special education needs once the needs are identified.

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<sup>77</sup> Individuals with Disabilities Education Act, 2004, Section 602(26)(A)

<sup>78</sup> Individuals with Disabilities Education Act, 2004, Section 611(a)

<sup>79</sup> Individuals with Disabilities Education Act, 2004, Part C

<sup>80</sup> Individuals with Disabilities Education Act, 2004, Section 615

However, in Zambia, the educational authorities are not compelled to identify or assess children suspected of having disabilities because there is no legal framework providing for such. Neither are they obliged to provide for the needs of a child with special education needs, once it has been identified that the child has special education needs. This means that the parent, guardian or caretaker of the child cannot have recourse to the courts if they do not or fail to identify or assess their child.

From the above, a conclusion can be drawn that, unlike in Zambia, persons with disabilities in the United States of America and Britain are fully protected and granted equal access as regards their educational rights.

### **3.4 CONCLUSION**

This chapter has discussed the legal framework responsible for the promotion of education of persons with disabilities. The chapter has highlighted that the laws governing the education of persons with disabilities are not adequate in that, where as the provisions under the constitution and the national policies on education are not justiciable, the Education Act excludes persons with disabilities from the general education system in that it does not address the need for special needs education or accessible learning environment for persons with disabilities. On the other hand, the TEVET Act and the Persons with Disabilities Act are not all encompassing. It is the opinion of this chapter the law plays an important role in promoting the education of persons with disabilities, as both the government and education authorities would be obliged to ensure that the specific special educational needs of persons with disabilities are met. Based on this premise, chapter four discusses that despite a number of achievements that the Zambian government has made in providing access to education by persons with disabilities, there are various factors that affect the accessibility to equal and appropriate education by persons with disabilities in Zambia. In doing so, the chapter stresses that these factors are linked to the current legal framework.

## **CHAPTER 4**

### **FACTORS AFFECTING THE ACCESSIBILITY TO EDUCATION BY PERSONS WITH DISABILITIES**

#### **4.0 INTRODUCTION**

Chapter three gave a critical analysis of the relevant laws which govern the education of persons with disabilities in Zambia. These include; the Constitution, chapter one of the Laws of Zambia, the Technical Education, Vocation and Entrepreneurship Training (TEVET) Act no. 13 of 1998 and The Persons with Disabilities Act, chapter 65 of the Laws of Zambia. It also highlighted the three national policies on education put in place by the government. These are; Educational Reforms (1977), Focus on Learning, (1992), and Educating Our Future (1996). This chapter discusses the factors that affect the accessibility to equal and appropriate education by persons with disabilities, despite the measures put in place by government to promote education among persons with disabilities, and stresses that these factors are linked to the current legal framework.

#### **4.1 ACHIEVEMENTS MADE IN PROMOTING SPECIALS NEEDS EDUCATION**

Upon taking over the responsibility of educating persons with disabilities, the Ministry of Education has made quite a number of achievements, among them, the inclusion of persons with disabilities in mainstream institutions, training of specialised teachers and the establishment of specialised institutions where special education teachers are trained, modification of the education curriculum and modification of infrastructure and environments.

##### **4.1.1 INTEGRATION OF PERSONS WITH DISABILITIES IN MAINSTREAM INSTITUTIONS**

One of the achievements the government has made in promoting the accessibility to education by persons with disabilities as a result of its policies is the introduction of inclusive education to enable pupils with disabilities access equal education with pupils without disabilities. An inclusive school is where every pupil is supported by his/her peers and other

members of the school community in the course of having his/her educational needs met.<sup>81</sup> In addition, all pupils are provided with appropriate educational opportunities and resources within the school or class.<sup>82</sup> Inclusive education is also known as integration, where, special units or classes are set up in ordinary schools or where a special school and ordinary school share the same site and are able to interact and share activities with their non-disabled counterparts.<sup>83</sup> Integration promotes access to education in schools by all learners, regardless of their disabilities.

The Ministry of Education states in its policy that,

“To the greatest extent possible, the Ministry will integrate pupils with special educational needs into mainstream institutions and will provide them with necessary facilities. However, where need is established, the Ministry will participate in the provision of new special schools for the severely impaired.<sup>84</sup>

The main reason for integrating students with disabilities into the ordinary schools is to enable them prepare for integration into the various aspects of society when they become adults and to be accepted by other people in society.

This has been an achievement on the part of the government in that a number of mainstream institutions round the country have been able to accommodate persons with disabilities. An example of these institutions is Kabulonga Boys High School, where pupils with various physical disabilities are able to attend ordinary classes, together with non-disabled pupils. Indeed the integration policy has worked to the advantage of persons with disabilities in that many people have come to accept them the way they are instead of looking down on them. Moreover, the researcher found that integrating students into mainstream institutions motivates them to work harder, as they have to compete with their non-disabled counterparts, as opposed to situations where they are secluded.<sup>85</sup>

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<sup>81</sup>D. Ndhlovu, 'Challenges Faced by Pupils with Disabilities in Accessing Education in Inclusive Schools in Zambia.' <http://danielndhlovu.wordpress.com/> Accessed on 16<sup>th</sup> February, 2011

<sup>82</sup> D. Ndhlovu. 'Challenges Faced by Pupils with Disabilities in Accessing Education in Inclusive Schools in Zambia.' <http://danielndhlovu.wordpress.com/> Accessed on 16<sup>th</sup> February, 2011

<sup>83</sup> [www.moe.gov.zm/index2.php/](http://www.moe.gov.zm/index2.php/) Accessed on 16<sup>th</sup> February, 2011

<sup>84</sup> Ministry of Education: *Educating our Future*.Page69

<sup>85</sup>Interview with Kabulonga Boys High School Pupils with Disabilities,4<sup>th</sup> February, 2011

#### **4.1.2 TRAINING OF SPECIALISED TEACHERS**

Training teachers in special education so as to enable them understand the special educational needs of persons with disabilities is vital, as it is an important tool in ensuring that the special educational needs of persons with disabilities are adequately met. In other words, if special education is to be effective, teachers must be trained in such a way as to enable them understand how to meet the needs of persons with disabilities. On this aspect, the education policy states that,

“The Ministry will give attention to the educational needs of exceptional children by training an adequate number of teachers in special education, designing appropriate curricula and teaching materials, prescribing specifications for special furniture, equipment, aids and infrastructure provision.”<sup>86</sup>

This has also been achieved to some extent. For instance, institutions offering specialised teacher training have been established, such as the Department of Educational Psychology, Sociology and Special Education at the University of Zambia and the Zambia Institute of Special Education (ZAMISE), where already practicing teachers are trained in special education needs. Other colleges such as Nkurumah University College and Copperbelt University College also train teachers in special education needs. The Technical and Vocational Teachers’ College in Luanshya also offers training for teachers in special education needs. This has been further compounded by the fact that the conditions of service for the teachers of special education have been improved, which in turn has resulted in the recruitment and retention of qualified teachers.

#### **4.1.3 MODIFICATION OF THE EDUCATION CURRICULUM**

Having an educational curriculum suitable to the requirement of special needs of persons with disabilities is also important if they are to have a successful educational experience. To a large extent, special schools in Zambia follow the national standard education curriculum. However, since problems abound with the degree and nature of the disabilities, a Special Education Curriculum Unit was established in 1982 to design and review educational supplementary materials for pre-school, basic education and teacher training colleges.<sup>87</sup> The

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<sup>86</sup> Ministry of Education: *Educating our Future*. Page 69

<sup>87</sup> M. D. Kalabula, ‘Integrating visually handicapped children into Zambian ordinary secondary schools,’ [www.icevi.org/publications/icevi/Accessed](http://www.icevi.org/publications/icevi/Accessed) on 21st November, 2010

unit was also mandated to evaluate tests, implement the programmes and adequately prepare teachers in the use of the new curriculum, while ensuring their availability.<sup>88</sup>

Currently there is a special needs education curriculum development department at the National Curriculum Development Centre (CDC) and a special needs education examination department at the National Examinations Council of Zambia.<sup>89</sup> In addition, the additional time that disabled students are given and the placement of a specialist teacher in the Examination Department to deal specifically with the problems that disabled students face during examinations in respect of adaptation and modification of certain items in examination papers are also part of the achievements that the government has made.

#### **4.1.4 MODIFICATION OF THE PHYSICAL ENVIRONMENT**

Having a suitable learning environment and structures adapted to suit the needs of persons with disabilities is vital in ensuring their full participation in the education system. This is another achievement that has been made is that many learning institutions have modified the surroundings and infrastructure to suit and meet the needs of the disabled persons. For instance, at the University of Zambia, the path leading to the graduation podium and library has been modified, by putting ramps. They have also put voice instructions in the elevators and this is helpful for those who are visually impaired.

However, despite the above achievements and improvements made in the provision of education to persons with disabilities, education and training opportunities for persons with disabilities still remain limited as a result of many factors, some of which are discussed below.

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<sup>88</sup>M. D. Kalabula. 'Integrating visually handicapped children into Zambian ordinary secondary schools,' [www.icevi.org/publications/icevi/](http://www.icevi.org/publications/icevi/) Accessed on 21<sup>st</sup> November, 2011

<sup>89</sup> M. D. Kalabula, 'Perceptions of Disability in Zambia: Implications for Educational Services and other Service Delivery.' Page 7-9

## **4.2 FACTORS AFFECTING THE ACCESSIBILITY TO EDUCATION BY PERSONS WITH DISABILITIES**

### **4.2.1 INCREASE IN POVERTY**

The increased levels of poverty as a result of the economic hardships the country is facing have narrowed access to education for persons with disabilities. The country's economy has gone down due to factors such as privatisation of most public corporations which has led to a lot of people being laid off and the reduction of donor aid due to various disputes and concerns about the growing corruption in the country. Moreover, the implementation of the strategies aimed at achieving goals set in the policy to educate persons with disabilities has not been feasible due to scarce resources. Consequently, the government has reduced support for the education sector, hence, placing the burden on the families.

However, many of the families cannot afford even the low costs associated with participation in school or training programmes because they do not have a stable financial base to provide educational needs for their children. Therefore, those that cannot afford to pay for all the children would rather pay for those without disabilities because they believe that the disabled child is likely to perform poorly because of the disability than the child without a disability.

### **4.2.2 FINANCIAL DIFFICULTIES**

As for those who are able to go to school, they still face financial difficulties in terms of the requirements that they need. It has been observed that in order to obtain services and supports from schools or institutions, students must establish that they have a disability and how it impacts them. This requires them to undergo medical or psychological evaluations which cost a lot of money. This is coupled with different expectations or requirements by schools and this hinders their access to adequate and equal education because the costs present a challenge to financially challenged families. Hence, disabled students without a sufficient financial support system do not gain adequate access to education. For instance, the pupils with disabilities from Kabulonga Boys complained that the boarding fee they are required to pay is high, and a lot of families cannot afford to pay.

### **4.2.3 DISTANCE TO SCHOOLS**

Most schools are not located within easy reach and they do not offer boarding facilities for those children with disabilities who may have difficulties getting to the schools, especially those on wheel chairs and crutches. Moreover, most parents may not be comfortable with their disabled children walking long distances. For instance, in the entire Lusaka district, only a few schools offer boarding facilities for pupils with disabilities. These are, Kabulonga Boys High School, Munali Girls High School and Cheshire Homes. Hence, a lot of pupils with disabilities are hindered from school participation. In this regard, they do not have access to equal and appropriate education.

### **4.2.4 SCARCITY OF RESOURCES AND FACILITIES**

Another factor affecting the accessibility to education is the lack of appropriate facilities and resources such as hearing aids, Braille and other technological aids as well as learning tools. This is further compounded by the fact that the materials and facilities needed are expensive and not locally obtained.<sup>90</sup> Although it is the duty of government to provide these facilities and resources, it lacks the political will to do so. Hence, very few persons with disabilities are catered for in terms of education. Further, where the government is able to provide boarding facilities in schools and learning institutions for persons with disabilities, they are not adequately provided with the basic necessities they need such as nutrition and health care as well as the general physical and emotional support they need in order to participate actively and benefit from their education.

For instance, the researcher found that at Kabulonga Boys, despite the hostel having partnered with a private clinic which offers free medical services to them, there is no vehicle to take those who fall sick to the clinic so they have to wait until a well wisher offers their vehicle for them to be taken to the clinic. The students also complained of not being provided with healthy diets. They complained that at some point they were given stale fish.

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<sup>90</sup> P. Daka, 'The Handicapped Persons Act in Zambia: How Adequate is it in Promoting the Welfare of the Disabled in Zambia?' *Obligatory Essay* (1993).Page 52

The administrators of the education system, including teachers not trained in special education lack understanding of the special needs of students with disabilities. They do not know how to handle disabled students in their work. This is usually the case in schools where disabled students have been integrated into the mainstream.

For instance, the researcher through a verbal interview with pupils with disabilities at Kabulonga Boys found that teachers usually dictate notes despite the fact that there are pupils in the classes who are very slow in writing because of their disabilities. Other teachers would write the notes on the board but rub them before giving chance to those pupils who are slow in writing because of their disabilities to finish writing. It was further found that unlike, the case during examinations, the disabled pupils are not given extra time during end of term tests. This causes them to usually perform poorly and prevents them from progressing.

#### **4.2.6 NEGATIVE ATTITUDES FROM PARENTS, TEACHERS AND FELLOW PUPILS**

Ignorance, neglect, superstition and fear are social factors that throughout the history of disability have isolated persons with disabilities and delayed their development.<sup>91</sup>

Many parents would rather hide the disability of their children for fear of being laughed at. They hide the information concerning the child's disability. The problems of the child therefore remain undetected and untreated. The other reason families do not give information about their child's disability is because they believe that the child will not be able to perform well because of the disability, hence taking them to school will be a waste of money and time. The parents think they cannot benefit from education. Instead they prefer to pay for their non-disabled children to attend school. They consider their disabled children as being incapable of doing anything on their own and therefore in need of welfare support, rather than capable of working. This in turn denies them the opportunity to engage in any meaningful activities

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<sup>91</sup> Standard Rules on the Equalization of Opportunities for Persons with Disabilities: United Nations Documents

Furthermore, the attitudes of ordinary teachers and fellow pupils towards disabled pupils discourage them to participate in the school activities and learning. For instance, it has been found through a verbal interview by the researcher with disabled pupils at Kabulonga Boys' High School that they are either associated with pity or looked down upon by some of the pupils without disabilities and that if they are slow in learning, the teacher would treat them in an unkind or harsh manner despite their knowledge of the disability.

#### **4.2.7 HUMAN RESOURCE**

Inadequate human resource has also contributed to the factors that affect the accessibility to education by persons with disabilities. Firstly, there are very few specialised teachers who attend to persons with disabilities. For instance, in schools where disabled pupils have been integrated into ordinary schools, despite having pupils with disabilities in the classes, the pupils are usually taught by ordinary teachers who do not know how to handle pupils with special education needs. Moreover, these teachers are usually busy because they teach both morning and afternoon classes. This makes it difficult for the pupils with disabilities who usually lag behind due to their disability to seek help from the teachers after classes.

Secondly, the fact that the government provides no incentives for those trained in special education and related services also contributes to the problem of human resource, thereby affecting the accessibility to education by persons with disabilities. For instance, despite training a good number of personnel in special education and related services, most of them join other organisations which do not even deal with persons with disabilities because of the better conditions that these organisations offer. As for those who work for learning institutions where there are students with disabilities, most of them do not do the work properly or in the interest of the students with disabilities due to lack of incentives.

Thirdly, there are very few special education inspectors charged with the responsibility of supervising institutions. As result, they rarely inspect so they do not know what the needs and requirements are of the disabled students as well as the institutions. In addition, they do not ensure that set goals and standards put in place are implemented and complied with. This affects persons with disabilities in that even where they are given opportunities to attend

#### **4.2.8 INACCESSIBLE PHYSICAL ENVIRONMENT**

Most of the buildings and infrastructure in schools and learning institutions are not disability friendly. For instance, at Kabulonga Boys where pupils with physical disabilities have been integrated into the mainstream, the library is located upstairs. This makes it impossible for the disabled students to have access to it. In addition, some of the classes for optional subjects are located upstairs, meaning those who cannot manage to climb the steps will have to pick other subjects which they are not even interested in. Furthermore, at the University of Zambia, one has to climb a set of steps to get into some lecture theatres or to pass through the security check point in the Main Library. This makes it difficult for those disabled students on wheel chairs unless with the aid of fellow ordinary students who might not always be there.

#### **4.2.9 INSUFFICIENT FUNDING**

Unfriendly infrastructure, inadequate learning resources, and inadequate human resource can be attributed to inadequate funding.<sup>92</sup> The general policy of the Government is that every person in Zambia, regardless of their place of residence, gender or disability should be able to participate fully and on an equal basis in education. However, in practice, there are great imbalances in provision of funds and resources, particularly for disabled children.<sup>93</sup> They do not have adequate provision in terms of funding. The government allocates limited funds for those with special education needs as compared to the funds allocated to persons without disabilities. As a result, the government's lack of commitment to special needs education has restricted the development and implementation of the relevant policies in the education of persons with disabilities. This in turn leads to inefficient service delivery, thereby affecting the accessibility to education by persons with disabilities. Hence the majority of students with disabilities are not yet able to benefit from the education system.<sup>94</sup>

All the above mentioned factors affecting the accessibility to education by persons with disabilities can be linked to the fact that the legal basis upon which measures to achieve the objectives of full participation and equality of persons with disabilities in education can be achieved is not adequate.

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<sup>92</sup> D. Ndhlovu, 'Challenges Faced by Pupils with Disabilities in Accessing Education in Inclusive Schools in Zambia.' <http://danielndhlovu.wordpress.com/> Accessed on 16<sup>th</sup> February, 2011

<sup>93</sup> M.D Kalabula, 'Inclusive Education in Africa: A Myth or Reality? A Zambian Case Study.' Page 5

<sup>94</sup> M.D Kalabula, 'Inclusive Education in Africa: A Myth or Reality? A Zambian Case Study.' Page 5

It has been noted in the previous chapter that there is no specific legislation, regulating and promoting the education of persons with disabilities and that the Education Act does not address the need for special education needs. The various pieces of legislation and education policies referred to in the previous chapter which are responsible for ensuring that persons with disabilities have equal access to education are not adequate in that they do not ensure that the rights of persons with disabilities and their parents are protected. Neither the government nor the education authorities are compelled to provide special education and related services or funding to persons with disabilities. Therefore, if their education is not being adequately promoted or provided, they cannot claim against the government or the education authorities because the laws and the policies do not provide for mechanisms through which the parents or guardians of disabled children can claim or demand the right services for their children.

Further, because the legal framework does not adequately promote education for persons with disabilities, parents do not feel obliged to send their disabled children to school and the heads or principles of learning institutions do not feel obliged to admit persons with disabilities into the learning institutions or to ensure that the learning environment is suitable for students with special needs. In addition, the fact that the authorities are not compelled by any of the laws to identify and assess persons with disabilities so as to ensure that the necessary educational provision is made for them makes it possible for the persons with disabilities to be provided with services which may not suit or meet their needs.

### **4.3 CONCLUSION**

This chapter has highlighted some of the many challenges that persons with disabilities face in accessing education. It is the opinion of this chapter that all these challenges are as a result of not having an adequate legal framework. Chapter five discusses the conclusions and specific areas where the law should come in to assist persons with disabilities in their attainment of education.

## **CHAPTER 5**

### **CONCLUSION AND RECOMMENDATIONS**

#### **5.0 INTRODUCTION**

Having discussed the accessibility to education by persons with disabilities and the inadequacies in the law legal framework governing the education of persons with disabilities, this chapter discusses conclusions and the possible areas of reform in the legal framework governing the education of persons with disabilities.

#### **5.1 GENERAL CONCLUSIONS**

The focus of this paper has been to determine whether persons with disabilities are awarded equal access to education as persons without disabilities. An evaluation of the adequacy of the laws governing education of persons with disabilities in Zambia has also been done. A general conclusion can be drawn that there are a lot of shortfalls in the laws that govern the education of person with disabilities. Various weaknesses in the law governing the education of persons with disabilities have been highlighted.

The paper has revealed that in Zambia, there is no legislation specifically designed to protect persons with disabilities regarding their educational rights. Furthermore, the Zambian Education Act which is responsible for the promotion, development and control of schools, educational institutions and services, does not address the need for special education. However, their protection is afforded through several pieces of legislation and educational policies.

Among the weaknesses is that the laws and the policies do not provide for procedural safeguards by which disabled children or students can have legal recourse if they are denied access to education or if their educational needs are not adequately met. The paper has pointed out that the constitutional provision, Article 111, is not justiciable and is therefore not legally enforceable in any court, tribunal or administrative institution or entity.

The paper has also established that the TEVET Act does not expressly provide for the interests of disabled persons to be taken into account where admission and accessibility into the institution is concerned.

Furthermore, the paper has established that the Persons with Disabilities Act, is not all encompassing. It makes no mention of adaptation of the surrounding environment and structures of the institutions. Therefore, even where they are admitted into an institution, persons with disabilities will still be discriminated against if the buildings are inaccessible.

The paper has also determined that, although the national policies on education have well developed provisions on special education, they have no legal force. They cannot therefore be legally enforceable in any court, tribunal or administrative institution or entity. Further, they do not address issues of technical education, vocational and entrepreneurship training.

The research revealed that the assessment system used in Zambia is not effective because the tools, methods and approaches used are developed in the western world and that many disabled have not been assessed as a result of only having two main centers for assessment. These are not reliable or valid in that they do not take into account the languages and cultural background of persons with disabilities in Zambia. Therefore, their needs are not adequately met. In addition, the paper has determined that the management and supervision of special education in Zambia is neither efficient nor effective.

The paper has further revealed that, despite the Ministry of Education recording quite a number of achievements in the promotion of education among persons with disabilities, such as, the inclusion of persons with disabilities in mainstream institutions, training of specialized teachers, modification of the education curriculum and the modification of the environments, there are various factors affecting the accessibility to education by persons with disabilities.

It has revealed that the increased levels of poverty as a result of the economic hardships the country is facing have narrowed access to education for persons with disabilities. Consequently, the government has reduced support for the education sector, hence, placing the burden on the families, most of which are poor. In addition to increased levels of poverty, it was found that those who are able to go to school still face financial difficulties in terms of meeting the requirements that they need or expected to by the schools.

The paper has further shown that most schools are not located within easy reach and they do not offer boarding facilities for those children with disabilities who may have difficulties getting to the schools.

Furthermore, the paper has established that the government does not adequately provide for facilities and resources needed by persons with disabilities such as hearing aids, Braille and other technological aids as well as learning tools hence very few are catered for. Moreover, the materials and facilities are expensive and not locally obtained. Furthermore, where the government is able to provide boarding facilities in schools and learning institutions for persons with disabilities, they are not adequately provided with the basic necessities they need such as nutrition and health care as well as the general physical and emotional support they need in order to participate actively and benefit from their education.

Another factor shown to be hindering persons with disabilities from accessing equal and adequate education is that administrators of the education system, including teachers not trained in special education lack understanding of the special needs of the individual children, hence; do not know how to handle disabled students in their work.

The dissertation has also highlighted that most parents are embarrassed to reveal information concerning their child's disability while others withhold information about their child's disability because they believe that the child will not be able to perform well because of the disability, hence taking them to school will be a waste of money and time. This also hinders them from obtaining equal and adequate education.

Furthermore, it has been determined that the attitudes of ordinary teachers and fellow pupils towards disabled pupils discourage them to participate in the school activities and learning. In addition, the paper has also determined that inadequate human resource has also contributed to the factors that affect the accessibility of education by persons with disabilities. It has found that there are very few specialised teachers who attend to persons with disabilities and that supervisors responsible for the supervision of special education rarely supervise the institutions, hence the needs and requirements of the institutions are not known.

Lastly, it has been established that most of the buildings and infrastructure in schools and learning institutions are not disability friendly, thereby making it impossible for the students to have access to them.

Moreover, it has been established that the government allocates limited funds for those with special education needs as compared to the funds allocated to persons without disabilities. This therefore leads to inefficient service delivery, thereby affecting the accessibility to education by persons with disabilities.

## **5.2 RECOMMENDATIONS**

Having discussed the accessibility to education by persons with disabilities and the adequacy of the law promoting the education of persons with disabilities, there is need for the education sector to ensure that persons with disabilities are provided with equal and adequate access to education at all levels. It is against this background that this paper recommends that urgent measures be taken in the following ways:

There is need to have constitutional provisions which specifically promotes the right to equal and adequate education for persons with disabilities, as the constitution is the supreme law of the country which ensures that people's basic human rights and freedom are protected.

Moreover, there is need to have a specific legislation to deal with the education of persons with disabilities, like that of IDEA of the United States of America, which legislation should reflect the standards set by the Constitution and the International Instruments which have been signed and ratified by the state.

Further, it is recommended that, like in the United Kingdom, persons with disabilities should be included in the general school system through the Education Act. It should be amended to include all aspects of special needs education that have been identified by the study and also the International Instruments on persons with disabilities. The same should also be done for the Persons with Disabilities Act as regards the educational provisions. For instance, they should take into account the adaptation of the surrounding environment and structures of the learning institutions as provided under the United Nations Convention on the Rights of Persons with Disabilities. The integration policy must also be supported by these pieces of

legislation and it must also extend to technical education, vocational and entrepreneurship training.

Other recommendations that can be advanced are that there is need to establish Assessment Centres in all the districts in the country and the need to develop tools and approaches which are not culturally biased as well as train specialists to assess persons suspected of having disabilities, so as to ensure that the right diagnosis is made and in turn, provide suitable and adequate services to the disabled person.

Management and supervision must be improved and strengthened by, for example, decentralizing and engaging more personnel. Monitoring and evaluation must also extend to the inspectorate for special education so as to ensure the programmes and strategies put in place are implemented effectively.

For integration to succeed there must be enough specialised teachers as well as specialised learning materials, equipment and adequate funding in all institutions otherwise disabled persons would be denied quality education. Furthermore, transport to reach school and boarding units must also be provided in the ordinary schools.

The pupils at Kabulonga Boys recommended that the government should come in and provide bursaries for boarding fees as well as for other requirements for those disabled pupils coming from economically and financially challenged homes. In addition, all institutions where there are persons with disabilities should maintain a special fund disabled persons could obtain loans for the repair or purchase of technical aids and appliances.

It is further recommended that schools, school buildings and other infrastructure must be modified and designed in such a way as to cater for various disabilities. In addition, teaching aids, specialised learning materials and equipment must be provided to special education needs students at no cost and they must be locally produced and designed.

Lastly, it is recommended that education of persons with disabilities should be among the duties of all local education authorities like in the United Kingdom and United States of America where it is the responsibility of Local Education Authorities to identify and ensure

that disabled children in their areas are assessed and provided with adequate education facilities and special services failure to which they can be held accountable.

### **5.3 CONCLUSION**

Persons with disabilities have the potential to contribute to the well being and development of the country. This can only be possible if they are provided with appropriate education; taking into account their special educational needs which arise as a result of their disabilities. However, it is contended that currently they are not given adequate and equal access to education. Their access to education can be improved if it is supported by the above recommendations. Like non-disabled persons, persons with disabilities are also entitled to equal and appropriate education, in order for them to live independently. This therefore calls for appropriate measures to be put in place, to ensure that their different education needs are adequately provided for.

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