



PERMANENT MISSION OF THE REPUBLIC OF ZAMBIA
GENEVA

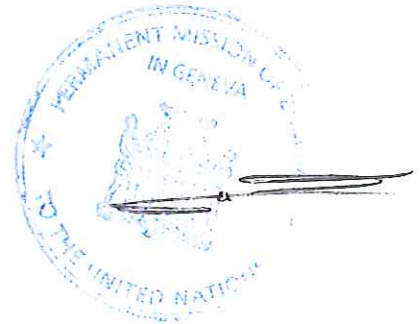
NOTE: 189/18

The Permanent Mission of the Republic of Zambia to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to transmit herewith response to a questionnaire related to the rights of persons with disabilities.

The Permanent Mission of the Republic of Zambia to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 27 September, 2018

The Office of the High Commissioner for Human Rights
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REFERENCE: OHCHR/TESRPRD/DESIB/HRESIS

Subject: Human Rights Council Resolution 37/22

The Office of the United Nations High Commissioner for Human Rights (OHCHR) presents its compliments to all Permanent and Observer Missions to the United Nations Office at Geneva and has the honour to refer to Human Rights Council resolution 37/22 on the rights of persons with disabilities.

The above-mentioned resolution requests the OHCHR “to prepare its next annual thematic study on the rights of persons with disabilities on article 26 of the Convention [on the Rights of Persons with Disabilities, on Habilitation and rehabilitation] in consultation with States and other relevant stakeholders, regional organizations, the Special Rapporteur on the rights of persons with disabilities, civil society organizations, including organizations of persons with disabilities, and national human rights institutions, requiring contributions to be submitted in an accessible format” (paragraph 13) and to make it available prior to the fortieth session of the Council.

The OHCHR would be grateful to receive any relevant information for the preparation of this study. In particular, views and information would be welcome in relation to the following questions:

1. Does your country have laws, policies or guidelines on Habilitation and rehabilitation, at any level of government, which ensure persons with disabilities, including women and children with disabilities to access services and goods, such as assistive devices (please identify and share the text of those provisions), clarifying as follows:

Zambia has laws, policies/guidelines on Habilitation and rehabilitation at government level. The Act of Parliament, The Persons with Disabilities Act, No. 6 of 2012 Section 21, Sub section (1)(b), provides for the mainstreaming of gender into policies, programmes and activities relating to equalisation of opportunities for and integration of persons with disabilities.

The Disabilities Act, No. 6 of 2012 Section 21, Sub section (1)(c), provides for women with disabilities to have equal opportunities to participate in all aspects of life and to ensure the full development, advancement and empowerment of women with disabilities.

a. What are the working definitions in the law on “disability,” “persons with disabilities,” “rehabilitation,” and “Habilitation” used to define policies and budget allocation on Habilitation and rehabilitation, and what are the services and goods delivered under them?

The Persons with Disabilities Act provides definitions for the above terms as follows;

- i. **'Disability'** means a permanent physical, mental, intellectual or sensory impairment that alone, or in a combination with social or environmental barriers hinder the ability a person to fully participate in society on an equal basis with others.
- ii. **'Habilitation'** means rehabilitation of a person born with a disability.
- iii. **'Rehabilitation'** means the process through which persons with disabilities can partially and fully restore their physical, mental sensory or social functional abilities.

Services and goods delivered under this includes:

- i. Medical rehabilitation
- ii. Vocational rehabilitation
- iii. Educational rehabilitation
- iv. Psychosocial rehabilitation
- v. Job placement
- vi. Social protection schemes i.e. Social Cash Transfer
- vii. Provision of assistive devices
- viii. Provision of shelter
- ix. Access to land
- x. Sports rehabilitation
- xi. Access to justice

b. What are the public entities in charge of delivering and monitoring Habilitation and rehabilitation services and goods for persons with disabilities?

- i. Zambia Agency for Persons with Disabilities
- ii. National Vocational Rehabilitation Centre
- iii. National Trust Fund for the Persons with Disabilities
- iv. Zambia Institute of Special Education
- v. Public Universities and Colleges
- vi. Human Rights Commission
- vii. Technical Education, Vocational, Entrepreneurship training
- viii. All government line ministries

c. Are there conditions or restrictions to access, or being eligible to, receive free or affordable Habilitation and rehabilitation services and goods, on an equal basis with others, on grounds of refugee status, migration status, income, origin, sex, gender, or other status?

Persons with disabilities have rights to access rehabilitation services without any restriction as per the provisions of the Persons with Disabilities Act No.6 of 2012.

d. Does legislation or policy establish indicators or markers to assess the level of coverage of Habilitation and rehabilitation services and goods for persons with disabilities, particularly in mainstream and universal policies, disaggregating data by sex and age or other ground?

The National Policy on Disability (2015) has an implementation framework which indicates targets to be achieved during the period of implementation (2016 to 2019). The Zambia Agency for Persons with Disabilities is currently working a

monitoring framework which will set indicators on the implementation of the policy and legislation.

The Seventh National Development Plan departs from sectoral-based planning to an integrated (multi-sectoral) development approach under the theme “Accelerating development efforts towards the Vision 2030 without leaving anyone behind”. The country recognises that often times vulnerable groups, particularly persons with disabilities are often ignored. In its quest of leaving no one behind, the government’s focus will be on infrastructure development, access to social services, such as health, home security, education, skills and entrepreneurship training. Access to employment for people with disabilities will also be supported. Compared to non-disabled persons, they experience higher rates of unemployment and economic inactivity and are at greater risk of insufficient social protection that is key to reducing extreme poverty.

e. Does the law, policy or practice allow for persons with disabilities to be institutionalised by the decision of a third party, against their will, based on rehabilitation (including psychiatric treatment, medical necessity, or need for care)?

The Persons with Disabilities Act does not allow institutionalisation of persons with disabilities against their consent.

However, the Mental Disorders Act of 1951 does allow for detention and institutionalisation of persons who are seen to be a danger to themselves and society. The Act gives leeway to possible forced treatment, involuntary admission and seclusion of persons with mental/ psychiatric disabilities by medical and Rehabilitation specialists without the persons consent. The country is currently repealing this law (Mental Disorders Act).

f. Do legislation or policy differentiate between “primary prevention of impairments” and “secondary prevention of impairments” when allocating resources specifically targeting persons with disabilities?

The Persons with Disabilities Act and the National Policy on Disability provide for primary and secondary prevention of impairment when allocating resources specifically targeting persons with disabilities, however the challenge in resource allocation is reliable disaggregated data that will inform the figures.

g. Does legislation or policy specifically provide for rehabilitation and Habilitation services and goods for persons with disabilities in prison? Are there restrictions for the use of assistive devices while in prison?

According to the provisions of the Persons with Disabilities Act, law enforcement agencies shall take into consideration the disability of a person on arrest, detention, trial or confinement of the persons with disabilities and make reasonable accommodation accordingly including at investigative and other preliminary stages of the matter.

h. Does legislation or policy differentiate between health-related and non-health related rehabilitation and Habilitation services and goods? What are the non-health

related services and goods (for example in the field of education or employment) and how those services match under the working definition of rehabilitation and Habilitation?

Part 5 of the Persons with Disabilities Act differentiates the health – related and non – health related Habilitation and rehabilitation services and goods.

Non –health related

- **Employment Rehabilitation**
- **Education Rehabilitation**
- **Vocational Rehabilitation**
- **Psychosocial Rehabilitation**
- **Sports Rehabilitation**
- **Social Rehabilitation**
- **Legal Assistance**
- **Provision of Personal assistants**

Goods

- **Provision of assistive technology**

i. Are there specific provisions in law establishing time-bound rehabilitation and habilitation services, in order to periodically evaluate if it provides for the purpose of the rehabilitation?

Section 30 of the Persons with Disabilities Act provides for the provision of periodic screening of children with disabilities.

j. Does legislation provide for redress mechanisms and appropriate compensation for human rights violations occurring in rehabilitation and Habilitation contexts, including malpractice, violence, ill-treatment, forced medication, forced institutionalisation or other?

Part IX of the Persons with Disabilities Act provides for redress and appropriate compensation for violating human rights.

2. Do you have examples from your country on?

a. How Habilitation and rehabilitation services and goods are provided, including guidelines and tools to facilitate implementation and assessment of its compliance with human rights of persons with disabilities? (ensuring participation of persons with disabilities in policy design; ensuring participation of the person concerned in the preparation and delivery of the service or goods; person centred control of the service, including the provision of free and informed consent of the person concerned; non-discrimination against and among persons with disabilities on any ground; accountability mechanisms; capacity building for and empowerment of persons with disabilities to exercise control of the services, among others);

We do not have guidelines to assess the provision of Habilitation and rehabilitation services and goods. However, the State Party is in the process of developing guidelines to measure and assess provision of Habilitation and rehabilitation services to persons with disabilities.

Persons with Disabilities participate actively and fully in designing, implementation and monitoring of law, policies, programmes and plans.

b. Strategies to increase coverage of Habilitation and rehabilitation services and goods, including in rural or isolated areas; and

The Persons with Disabilities Act provides for establishment of rehabilitation centres in all districts. The National Policy on Disability also calls for the promotion of community based rehabilitation and habilitation of persons with disabilities.

c. Methodologies to improve quality and budget efficiency of Habilitation and rehabilitation services and goods.

- Appointment of Disability Focal Point Persons in government line ministries and government agencies to coordinate inclusion of disability issues in developmental plans and budgets.

The National Policy on Disability provides targets and budget estimates for implementation and also indicates the responsible institutions.

4. Does your country monitor and collect disaggregated data by disability, sex and age with respect to access and quality of Habilitation and rehabilitation services and goods?

The National Census does not collect such detailed information. Zambia in 2015 conducted a National Disability Survey in which data on disability had been disaggregated by disability, sex, age in relation to Habilitation and rehabilitation services and goods. The report is yet to be published.

The OHCHR would be grateful to receive relevant information at United Nations Office at Geneva, CH 1211 Geneva 10; fax. +41 22 917 90 08; e-mail: registry@ohchr.org; by 23 July 2018, in accessible format so that it can be posted on OHCHR's website. Please do not hesitate to contact Mr. Facundo Chávez Penillas at disability@ohchr.org or Ms. Victoria Lee at vlee@ohchr.org for further information or clarification.

The OHCHR avails itself of this opportunity to renew the assurances of its highest consideration to all Permanent and Observers Missions to the United Nations Office at Geneva.

Geneva, 24 May 2018