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الدورة الرابعة والثلاثون

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البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## تقرير المقررة الخاصة المعنية بحقوق الأشخاص ذوي الإعاقة عن

زيارتها إلى زامبيا

مذكرة من الأمانة

تشرف الأمانة بأن تحيل إلى مجلس حقوق الإنسان تقرير المقررة الخاصة المعنية بحقوق الأشخاص ذوي الإعاقة عن بعثتها إلى زامبيا في الفترة من ١٨ إلى ٢٨ نيسان/أبريل ٢٠١٦. وفي هذا التقرير، تتناول المقررة الخاصة بالدرس القضايا المتصلة بمهمتها في زامبيا في ضوء القواعد والمعايير الدولية لحقوق الإنسان. وبالاستناد إلى المعلومات التي جمعت قبل الزيارة وفي أثناءها وبعدها، تسلط الضوء على التقدم الذي أحرزته زامبيا منذ تصديقها على اتفاقية حقوق الأشخاص ذوي الإعاقة عام ٢٠١٠ في مجال حماية حقوق الأشخاص ذوي الإعاقة من خلال تشريعاتها وسياساتها وبرامجها، ولا سيما في ما يتصل بالحماية الاجتماعية. وتبرز أيضاً الثغرات القائمة والمواطن التي تحتاج إلى تحسين، كما تؤكد الحاجة إلى تنفيذ السياسة والإطار القانوني المتعلقة بالإعاقة تنفيذاً شاملاً. وأخيراً، تقدم المقررة الخاصة توصيات من أجل مضاعفة الجهود المبذولة لضمان تعزيز حقوق الأشخاص ذوي الإعاقة في زامبيا وحمايتهم.



الرجاء إعادة الاستعمال

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## Report of the Special Rapporteur on the rights of persons with disabilities on her visit to Zambia\*

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\* Circulated in the language of submission only.

## **I. Introduction**

### **A. Programme of the visit**

1. The Special Rapporteur on the rights of persons with disabilities visited Zambia, at the invitation of the Government, from 18 to 28 April 2016. The objective of the mission was to assess the level of enjoyment of the rights of persons with disabilities and the opportunities and challenges in the country, with a view to documenting good practices and making recommendations for improvement.

2. The Special Rapporteur visited Lusaka and Ndola. At the national level, she paid a courtesy visit to the First Lady of Zambia and met with ministers and other senior representatives of the Ministry of Community Development and Social Welfare, the Ministry of Foreign Affairs, the Ministry of Gender and Child Development, the Ministry of General Education, the Ministry of Higher Education, the Ministry of Health, the Ministry of Home Affairs, the Ministry of Information and Broadcasting Services, the Ministry of Justice, the Ministry of Labour and Social Security, the Ministry of Local Government and Housing, the Ministry of National Development Planning, the Ministry of Works and Supply and the Ministry of Youth and Sports, and with representatives of the Zambia Agency for Persons with Disabilities and the Central Statistical Office. She also met with the Chief Justice, the Attorney General, and with representatives of the Electoral Commission of Zambia and the Human Rights Commission. At the provincial level, she met with the Chief of the Kaonde people of North-Western Province, the Permanent Secretary of Copperbelt Province, the Provincial Coordinator of the Zambia Agency for Persons with Disabilities for Copperbelt Province as well as a senior education standards officer for special education.

3. Moreover, she met with many persons with disabilities and their representative organizations, representatives of civil society and non-governmental organizations working on human rights, development and disability issues, the United Nations country team, donors and international cooperation actors. She also participated in the Lusaka Social Protection Colloquium, during which the recently adopted National Policy on Disability was officially launched.

4. Lastly, she visited the Chainama Hills College Hospital in Lusaka, the psychiatric unit of the General Hospital in Ndola, the National Vocational Rehabilitation Centre, the Kang'onga settlement for persons with disabilities in Ndola, the Saint Anthony Home for Children in Ndola and the Cheshire Homes school in Kablonga (Lusaka).

5. The Special Rapporteur warmly thanks the Government of Zambia for the excellent cooperation extended to her prior, during and after the visit. She particularly thanks all the persons with disabilities and their representative organizations who shared their situation, concerns and desire for change. She is grateful to the United Nations Resident Coordinator and her Office, the United Nations country team and the United Nations Development Programme for their valuable assistance before and throughout the visit.

### **B. Context**

6. Zambia is a constitutional republic governed by a democratically elected president and a unicameral national assembly. Since it gained independence in 1964, the country has experienced three major phases of governance: the multiparty system from 1964 to 1972, the one-party system from 1972 to 1991 and the return of the multiparty system since 1991. Following the death in office of President Sata in October 2014, the Patriotic Front

candidate Edgar Lungu was elected President in a by-election in January 2015 to complete his term. In August 2016, President Lungu was re-elected for a five-year term.

7. Zambia is classified as a lower-middle-income country in the medium human development category, ranked 139 out of 188 countries and territories in the Human Development Index in 2014.<sup>1</sup> In 2005, Zambia qualified for debt relief under the International Monetary Fund/World Bank Heavily Indebted Poor Countries Initiative, which released it from 80 per cent of its annual debt-service commitments.<sup>2</sup> This development reflected macroeconomic stability and sound fiscal policies, which resulted in good growth in the following decade despite the adverse international economic climate. Nonetheless, economic growth in Zambia has not translated into significant poverty reduction. According to the 2015 Living Conditions Monitoring Survey, 54.4 per cent of the population lives below the poverty line and 40.8 per cent live in extreme poverty. In rural areas, the poverty rate is three times that in urban areas (76.6 per cent compared with 23.4 per cent).<sup>3</sup>

8. Results from the 2010 census of national population indicate that the population of Zambia stood at approximately 13.1 million, growing at a rate of 2.8 per cent per annum. Of that population, 49.3 per cent were males and 50.7 per cent females. In terms of distribution, 60.5 per cent were residing in rural areas and 39.5 per cent in urban areas. The census also estimated that 45.4 per cent of the population was below 15 years of age.<sup>4</sup>

9. With respect to data on persons with disabilities, there is a wide disparity in the available statistics. A national representative survey of living conditions among persons with disabilities conducted in 2006 by the Norwegian Research Organization SINTEF and others revealed a disability prevalence of 13.1 per cent.<sup>5</sup> The 2010 census, which did not include the short set of questions of the Washington Group on Disability Statistics, revealed that 2 per cent of the Zambian population had a disability.<sup>6</sup> Finally, the preliminary results of the National Disability Survey conducted in 2015 by the Central Statistical Office and the University of Zambia indicate a disability prevalence of 7.2 per cent.<sup>7</sup>

## II. Situational analysis and achievements

### A. Legal framework

10. Zambia ratified the Convention on the Rights of Persons with Disabilities in 2010 and most of the core international and regional human rights treaties. Several optional protocols are pending ratification: the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the

<sup>1</sup> See <http://hdr.undp.org/en/composite/HDI>.

<sup>2</sup> See <https://www.imf.org/external/np/exr/facts/hipc.htm>.

<sup>3</sup> Republic of Zambia, Central Statistical Office, *Zambia: 2015 Living Conditions Monitoring Survey: Key Findings*, p. 9. Available from [www.zamstats.gov.zm/report/Lcms/LCMS%202015%20Summary%20Report.pdf](http://www.zamstats.gov.zm/report/Lcms/LCMS%202015%20Summary%20Report.pdf).

<sup>4</sup> Central Statistical Office, *2010 Census of Population and Housing: National Analytical Report*, 2012.

<sup>5</sup> SINTEF, *Living Conditions among People with Activity Limitations in Zambia: A National Representative Study*, 2006. Available from <http://www.sintef.no/globalassets/upload/helse/levekarog-tjenester/zambialcweb.pdf>.

<sup>6</sup> Central Statistical Office, *2010 Census of Population and Housing*, p. 69.

<sup>7</sup> Information provided to the Special Rapporteur by the Zambia Agency for Persons with Disabilities.

three optional protocols to the Convention on the Rights of the Child. In April 2013, Zambia submitted its combined second to fourth periodic reports to the Committee on the Rights of the Child (CRC/C/ZMB/2-4), which was reviewed in January 2016 and included matters relating to the rights of children with disabilities. However, Zambia has yet to present its first and second reports to the Committee on the Rights of Persons with Disabilities.

11. In relation to the domestic normative framework, the Constitution of Zambia is the supreme law of the land. The Bill of Rights embodied in Part III of the Constitution provides for the protection of fundamental human rights and freedoms, but excludes economic, social and cultural rights, such as the right to education or social protection. These rights are placed under Part IX of the Constitution, which deals with directive principles of State policy, including article 112 (f), which requires the State to provide to persons with disabilities social benefits and amenities suitable to their needs, in a just and equitable manner. These rights may be attained to the extent that State resources permit; consequently, they are not justiciable and cannot be legally enforced in any court, tribunal or administrative institution.

12. Zambia adopted a new Constitution in January 2016, which introduced positive changes such as the inclusion of disability as one of the prohibited grounds of discrimination in article 23, contributing to strengthening the protection system for persons with disabilities. However, the Constitution still contains provisions that contravene the Convention on the Rights of Persons with Disabilities, as illustrated in section C.1 below. The constitutional referendum held in August 2016 presented an important opportunity to broaden the protection of human rights in Zambia, with the proposal to include economic, social, cultural and environmental rights in the Bill of Rights and the recognition of specific rights for persons with disabilities, older persons and other categories of individuals. However, these important constitutional amendments will not be enforced as the minimum requirements for the results of the referendum to be valid have not been met: despite a majority of voters having agreed to amend the Bill of Rights, only 44.4 per cent of eligible voters participated, whereas a minimum of 50 per cent is required by law for the referendum to be valid.<sup>8</sup>

13. In 2012, Zambia enacted the Persons with Disabilities Act, which seeks to domesticate the Convention on the Rights of Persons with Disabilities.<sup>9</sup> The Act promotes respect for the inherent dignity of persons with disabilities and ensures the equal enjoyment of several important human rights and freedoms by persons with disabilities. It contains progressive provisions to ensure that persons with disabilities are accorded the necessary and appropriate assistance and reasonable accommodation when they come in contact with law enforcement officers during arrest, detention or trial. However, the Act only domesticates some provisions of the Convention while excluding other important ones, such as those relating to the rights of women and children with disabilities, the right to a nationality, respect for privacy and freedom of opinion and expression.

## **B. Institutional and policy frameworks**

14. Overall, Zambia has a wide range of well-formulated and well-intended policies and strategies to realize the rights of persons with disabilities. The Special Rapporteur commended the adoption in December 2015 of the National Policy on Disability and the

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<sup>8</sup> See [https://www.elections.org.zm/results/2016\\_referendum](https://www.elections.org.zm/results/2016_referendum).

<sup>9</sup> Zambia has a dualist legal system, which requires domestication of international instruments after ratification or accession through enabling legislation to become enforceable in a court of law.

National Implementation Plan on Disability, developed in broad consultation with representative organizations of persons with disabilities. They provide an important framework to enhance coordination among State institutions tasked with implementation. The Special Rapporteur was pleased to attend the official launch of the National Policy by the Minister of Community Development and Social Welfare during a social protection colloquium in Lusaka.

15. According to the Persons with Disabilities Act, the Zambia Agency for Persons with Disabilities is responsible for promoting the rights of persons with disabilities, registering and delivering services to them, advising on disability issues and mainstreaming disability in all aspects of national development. The Special Rapporteur acknowledged the efforts under way to restructure and strengthen the Agency through the recruitment of personnel, skills training and an increased budget, and to gradually transition from service provision to persons with disabilities to focus exclusively on the effective implementation and coordination of disability rights issues within the State apparatus. While the Agency is mandated to oversee compliance by State institutions with the Persons with Disabilities Act, the Special Rapporteur noted with concern that it lacked inspectors to exercise this oversight function, pending the adoption of the statutory instruments enabling the enforcement of sanctions for non-compliance with the Act.

16. The disability certification process, managed by the Zambia Agency for Persons with Disabilities, acts as a gateway to access services and benefits. While the registration process of persons with disabilities and the issuance of certificates were mainly centralized in Lusaka, during the visit the Agency reported that it had acquired several machines to enable the issuance of disability cards in most provinces and was about to train staff on how to use new software for registration purposes. The Special Rapporteur noted that the registration process entailed a determination of disability procedure founded broadly on a medical assessment, which should be progressively revised to incorporate a rights-based approach.

17. The National Disability Survey, commissioned by the Government in 2015 and covering all 10 provinces of Zambia, included the short set of questions of the Washington Group on Disability Statistics. The preliminary survey results indicated a national disability prevalence of 7.2 per cent, with further disaggregation by age, sex, province, type and severity of disability. The final results have yet to be released, and the Special Rapporteur encouraged their prompt dissemination and the inclusion of the questions of the Washington Group on Disability Statistics in all other demographic surveys, which would allow Zambia to disaggregate all collected national data by disability and obtain internationally comparable data.

18. Zambia also benefited from several important social reforms, particularly through the introduction of the National Social Protection Policy in 2014, which considers disability as one of its main pillars, and the expansion of social cash transfers and other funds for persons with disabilities to some 70 districts in the country. The revised sixth National Development Plan for 2011-2016, which aims to promote inclusive growth and significantly reduce hunger and poverty, is also inclusive of persons with disabilities in all its programmes. The Special Rapporteur encouraged the relevant authorities to ensure that the seventh National Development Plan for 2017-2021, which was under development at the time of the visit, would incorporate the Sustainable Development Goals in the national development framework at all levels of governance and would prioritize the mainstreaming of disability across the various sectors.

19. In recent years, Zambia has developed other policies that are inclusive of persons with disabilities, such as the National Child Policy (2015), the National Youth Policy and the Youth Employment and Empowerment Action Plan of 2015. However, the Special Rapporteur regrets that other mainstream policies and plans, such as the revised National

Gender Policy (2014) and the Strategic Plan for Gender 2014-2016, make no reference to children and adults with disabilities. The Minister of Gender and Child Development assured her that references to disability would be included in future revisions of the National Gender Policy.

## **C. Issues to be addressed as a priority**

### **1. Legal and policy harmonization**

20. Despite the positive developments highlighted above, the Special Rapporteur expressed concern about the existence of policies and legislation that are discriminatory towards persons with disabilities. She noted for instance the widespread use of pejorative language to refer to persons with disabilities in several official documents (e.g., persons of “unsound mind”, “imbeciles”, “mentally retarded”), as well as the existence of different definitions of disability based on medical criteria that are contrary to the spirit of the Convention on the Rights of Persons with Disabilities.

21. The Special Rapporteur was particularly concerned about the discriminatory provisions against persons with psychosocial disabilities contained in the outdated Mental Disorders Act of 1951, which is not compliant with the Convention but which continues to be in effect and applied by national authorities. For example, the Act authorizes psychiatric interventions without free or informed consent, and the arrest and detention of individuals with psychosocial and intellectual disabilities on the grounds of their disability or non-criminal behaviour associated with such disabilities, with minimal recourse for appeal and review. The Act refers those persons as “idiots”, lunatics”, or persons “apparently mentally disordered or defective”. The Special Rapporteur was pleased about the plan to replace the Act with a new mental health bill, and welcomed the request for technical assistance she received from the Ministry of Health to review the new bill for compliance with the Convention. However, despite repeated requests and efforts to engage on this issue, to date she has not received a copy of the draft bill.

22. Other legislation containing discriminatory provisions against persons with disabilities include the Constitution (e.g., arts. 6 (2), 13 (1) (h), 16 (2) (i), 65 (1) (b), 70 (2) (d) and 83 (1) (b)),<sup>10</sup> the Penal Code Act No. 87 (e.g., art. 139 on “defilement of imbeciles or person with mental illness”), the Criminal Procedure Code Act No. 88 (procedure in case of insanity or other incapacity of an accused person), the Prisons Act No. 97 (e.g., art. 70 on “mentally disordered or defective prisoners”), the Electoral Act No. 13 disqualifying persons with psychosocial disabilities from registering as voters (art. 7 (1) (d)), the Electoral Commission Act No. 17 enabling the removal of a member who is “insane or otherwise declared to be of unsound mind” (art. 5), the Citizens of Zambia Act No. 124 restricting registration as a citizen for people “adjudged or otherwise declared to be unsound of mind” (art. 17) and the Will and Administration of Testate Estates Act No. 60, which disqualifies people from legal acts on the basis of a disability (arts. 4 and 5).

23. The Special Rapporteur urged the Government to repeal or amend all discriminatory legislation or provisions as a matter of priority and to fully harmonize its national policy and legislative framework to reflect the State’s commitment to abide by the Convention. Moreover, she urged the authorities to promptly adopt several statutory instruments in the areas of education, health, accessibility and employment to accelerate the implementation of the Persons with Disabilities Act and other disability-related policies.

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<sup>10</sup> See section H of the present report for further details.

## **2. Implementation and independent monitoring of the Convention on the Rights of Persons with Disabilities**

24. The implementation and the enforcement of the provisions contained in the policy and legal frameworks on disability in Zambia are a major challenge, to be addressed as a priority. While the adoption of the National Implementation Plan on Disability is an important accomplishment, it must be followed by time-bound benchmarks and effective implementation plans at the provincial and district levels, along with the corresponding budgetary and fiscal measures. The lack of coordination among ministries tasked to mainstream and implement disability provisions within their institutions seems to have impeded significant progress in this regard, and coordination should therefore be strengthened.

25. The Special Rapporteur urged the Government to establish a mechanism to coordinate the implementation of the Convention in Zambia through its relevant ministries, under the overall coordination of the Zambia Agency for Persons with Disabilities, as provided by article 33 (1). The Government's initiative to designate senior disability focal points within most of the line ministries, which are tasked with mainstreaming disability rights in public policies, programmes and initiatives and identifying policies that are not compliant with the Convention, can be considered a good practice. To enhance the effectiveness of this initiative, the focal points should be empowered with a clear mandate, terms of reference and full-time responsibility to mainstream disability within their respective ministries, and be equipped with adequate resources, knowledge and training to perform their tasks effectively. Moreover, the Agency should ensure overall coordination among the focal points, with periodic strategic meetings to assess progress in implementation.

26. She also observed that Zambia had not yet designated or set up an independent mechanism, compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), to monitor the implementation of the Convention, as required by its article 33 (2). Zambia could give due consideration to officially designating the Human Rights Commission as the State's independent monitoring mechanism for the Convention.

## **III. Challenges and opportunities identified in Zambia**

### **A. Stigma and discrimination**

27. Traditional and cultural beliefs play a significant role in the way impairment is perceived in Zambian society. In fact, it has traditionally been associated with misfortune or punishment in the family, caused by ancestral spirits or witchcraft. Owing to these beliefs, many persons with disabilities are discriminated against and are excluded from their communities and society, as they are considered to be incapable of carrying out daily activities. The Special Rapporteur received multiple allegations of children and adults with disabilities being confined at home by their relatives owing to the belief that they were cursed, and of mothers giving birth to children with disabilities being abandoned or divorced by their husbands owing to misconceptions and stigma attached to impairment.

28. Myths and beliefs about impairments have serious repercussions on the right to life and the physical integrity of persons with disabilities. For instance, the Special Rapporteur spoke with several persons with albinism who reported that they lived in constant fear of being attacked and killed for their body parts, to be used in witchcraft rituals by people who believed them to be ghosts or magical beings. Stigma and discrimination also had an impact on their access to other basic rights, such as health care and adequate housing. She was told



about landlords refusing to rent accommodation to persons with albinism because of fear that they would run away overnight to escape attack, leaving their bills unpaid.

29. Discrimination based on HIV/AIDS status is also widespread in Zambia. With an estimated 1.2-1.3 million people living with HIV/AIDS,<sup>11</sup> persons with disabilities are at high risk of contracting the virus, owing to lower education and literacy rates, poverty and the risk of sexual and other physical violence. Persons with HIV/AIDS who acquire an impairment face higher levels of discrimination and must be given access to services for persons with disabilities. Despite the adoption of the National HIV and AIDS Strategic Framework 2011-2015, which identified persons with disabilities as one of the key populations in the national HIV/AIDS response, in practice the State has been unable to make such response accessible to adults and children with disabilities, in particular those with sensory impairments and persons with psychosocial disabilities.

30. Women and girls with disabilities, particularly those of low economic status, also face numerous barriers in enjoying their rights. The Special Rapporteur was informed about the alarming situation of street children with disabilities, especially blind and deaf girls, who are exposed to abuse and are often excluded from programmes targeting survivors of sexual and gender-based violence. Moreover, women and girls with disabilities in general are at heightened risk of sexual and gender-based violence and of contracting HIV/AIDS, owing to existing beliefs that having sexual intercourse with persons with a disability — who are often viewed as virgins and asexual — can cure the virus. The State must take action to protect women and girls with disabilities against all forms of violence and ensure their access to justice on an equal basis with others.

31. The Special Rapporteur was also deeply concerned about the stark disparity between urban and rural areas in the enjoyment of the rights of persons with disabilities. The lack of accessibility and of essential services in rural and remote parts of Zambia disproportionately affects persons with disabilities in situations of poverty, including children and adolescents, older persons with disabilities, indigenous persons with disabilities and those living with HIV/AIDS.

32. The Special Rapporteur noted the lack of involvement of public and private media in campaign efforts to change the perception of disability in Zambian society, while they sometimes contribute to strengthening stigma. In this regard, the Independent Broadcasting Authority, responsible for regulating the broadcasting industry in Zambia and providing licences, should raise awareness, monitor the media and ensure that they do not use discriminatory language and portray persons with disabilities in a stigmatizing manner. The Authority should also adopt regulations for media outlets on providing information in accessible formats.

33. To tackle stigma and the multiple forms of discrimination faced by persons with disabilities, authorities at the national, provincial and local levels must work with the media to undertake widespread awareness-raising and anti-discrimination campaigns to combat stereotypes, myths and beliefs associated with impairments, including albinism, and portray a positive image of disability. In this regard, traditional chiefs can play a crucial role in changing perceptions about persons with disabilities, contribute to removing stigma associated with them and encourage their inclusion in society, for example by explaining to families and communities the benefits of identifying and registering persons with disabilities. Authorities must take firm action to prevent and sanction all forms of discrimination against persons with disabilities.

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<sup>11</sup> Joint United Nations Programme on HIV/AIDS, 2015 estimates, available from [www.unaids.org/en/regionscountries/countries/zambia/](http://www.unaids.org/en/regionscountries/countries/zambia/).

## **B. Accessibility**

### **1. Accessibility of the physical environment**

34. During the visit, the Special Rapporteur observed that some buildings were accessible to persons with physical disabilities, including new shops and malls. However, the majority of public and private infrastructure — including roads, schools, hospitals, courts, police stations, public administration offices, hotels and new buildings — is inaccessible, despite the existence of national accessibility standards adopted by the Zambia Bureau of Standards. The Ministry of Works and Supply and its technical staff in charge of monitoring the construction and maintenance of public buildings should apply these standards and consider making an accessibility needs assessment of existing infrastructure to be refurbished, coupled with a time-bound plan to make it accessible. The establishment by the Zambia Agency for Persons with Disabilities of an inspectorate, mandated to carry out inspections of any premises, services or amenities intended for public use and empowered to issue adjustment orders and fines in case of non-compliance, is a positive development. The Agency should accelerate the recruitment and training of inspectors.

35. Barriers to accessing public transport are also a major challenge in Zambia and have an impact on the rights of persons with disabilities to live independently and to participate fully in all aspects of life. The State should adopt regulations to make public transport available, accessible and affordable for persons with various kinds of disability, as prescribed by section 42 of the Persons with Disabilities Act, allocate funds and adopt a time-bound plan to progressively acquire a fleet of accessible vehicles across the country.

### **2. Access to information and communication**

36. The Special Rapporteur observed that the Zambian kwacha is accessible to blind persons, that sign language interpretation is provided in the main news programme twice a day and that a few mainstream public health awareness-raising campaigns are accessible to deaf persons. However, there are no medicines or other essential products in Braille, the Zambian sign language has not yet been recognized as an official language, and interpretation services for deaf persons are non-existent in public hospitals, police stations, courts and other public locations, thus denying them the possibility of communicating effectively and accessing basic goods and services. Moreover, campaigns to raise awareness on critical issues, such as the prevention of gender-based violence and communicable diseases, public health and reproductive rights, are generally not accessible to the variety of persons with disabilities, particularly the blind, the deafblind, autistic persons and those with intellectual disabilities. The Special Rapporteur also noted a general lack of knowledge about the situation of persons with cerebral palsy and of existing low-cost communication methods available to enable their participation in society, and urged the State to devote more efforts to raise awareness on their situation across the country.

37. The Special Rapporteur noted that in general, low-cost information and communications technologies (ICT) in Zambia are neither user-friendly nor accessible or readily available to persons with disabilities. She was informed that the Zambia Agency for Persons with Disabilities was about to conclude a memorandum of understanding with the Zambia Information and Communications Technology Authority, a body responsible for regulating the ICT sector, to improve accessibility in this domain. In Ndola, she observed that while the National Vocational Rehabilitation Centre was equipped with computers, owing to a lack of awareness about the availability of free open source screen reader software, staff were resorting to regularly downloading the free trial version of more expensive screen readers.

## C. Participation of persons with disabilities

### 1. Political participation

38. In September 2011, the High Court of Zambia adopted a judgment in a case<sup>12</sup> in which the Zambia Federation of Disability Organisations sued the Electoral Commission of Zambia for discrimination in the electoral process, arguing that most polling stations were not accessible and that the Commission had failed to provide reasonable accommodation to persons with disabilities during previous elections. The Court ordered the Commission to formulate a detailed plan and to introduce measures by the next election to ensure the equal participation of persons with disabilities in exercising the right to vote.

39. As the country prepared for general tripartite elections on 11 August 2016, during her visit the Special Rapporteur noted the efforts that were being planned by the Electoral Commission, in consultation with the Zambia Agency for Persons with Disabilities and organizations of persons with disabilities, to ensure the accessibility of the electoral process for persons with disabilities. Efforts comprised the inclusion of persons with disabilities as educators in the Voter Education Programme; the printing of Braille ballot papers and ballot paper jackets; accessibility and reasonable accommodation measures across polling stations (e.g., ramps, priority voting, assistance with casting the vote); the production of educational and voter registration materials in accessible formats for the deaf and the blind (e.g., videos, manuals); the production of posters and other informative materials with illustrations of persons with disabilities; the setting up of some 40 voter educators clubs in schools; and the recruitment of sign language interpreters for relevant awareness-raising campaigns. According to a preliminary statement issued by the European Union Election Observation Mission shortly after the elections, 72 per cent of the polling stations observed were assessed as physically accessible to persons with disabilities. However, the Electoral Commission failed to establish procedures allowing persons with disabilities who were unable to vote at a polling station to vote elsewhere.<sup>13</sup>

40. Despite these important endeavours, the Special Rapporteur was particularly concerned that the right to vote and to stand for election for persons with disabilities is intrinsically linked to legal capacity. In fact, article 6 (2) of the Constitution provides that any person who under the laws of Zambia is adjudged or otherwise declared to be of “unsound mind” cannot be registered as a citizen; article 65 (1) (b) disqualifies a person from being elected as a member of the National Assembly for the same reason; and article 70 (2) (b) (2) disqualifies a person from being elected as a Member of Parliament if that person has a “mental or physical disability that would make the person incapable of performing the legislative function”. Article 75 (1) provides that anyone who is registered can vote in elections unless that person is disqualified by parliament. In this regard, article 7 (1) (d) of the Electoral Act disqualifies from voting any person “who, under any law in force in Zambia, is adjudged or otherwise declared of unsound mind or is detained under the Criminal Procedure Code during the pleasure of the President”. Moreover, article 133 (2) (f) of the Constitution prohibits a person declared of “unsound mind” to be elected as a member of the House of Chiefs. The Special Rapporteur urged the State to revoke these discriminatory provisions.

41. The Special Rapporteur highlighted the importance of taking measures to secure access to information and communication for persons with disabilities, including those with intellectual disabilities, and recommended that the Electoral Commission conduct a post-

<sup>12</sup> *Brotherton N.O. v. Electoral Commission of Zambia*, judgment of 18 September 2011. Available from [zambialii.org/zm/judgment/high-court/2011/32](http://zambialii.org/zm/judgment/high-court/2011/32).

<sup>13</sup> See [https://eeas.europa.eu/sites/eeas/files/eu\\_eom\\_preliminary\\_statement\\_13\\_aug\\_zambia.pdf](https://eeas.europa.eu/sites/eeas/files/eu_eom_preliminary_statement_13_aug_zambia.pdf).

election evaluation of how persons with disabilities had been integrated in the electoral process to identify good practices and lessons that would serve as a basis for improving their participation in future elections.

## 2. Participation in decision-making processes

42. As per the Persons with Disabilities Act, persons with disabilities occupy half of the seats on the Board of the Zambia Agency for Persons with Disabilities, the governing body of the Agency. Moreover, article 20 (2) (e) provides that the Minister of Community Development and Social Welfare ensures the representation of persons with disabilities in all national and local decision-making positions, while article 21 (1) requires the Minister, in collaboration with the Agency and other State institutions, to integrate a disability perspective in all national policies and plans. In this regard, the Agency coordinates the consultation processes with organizations of persons with disabilities and manages a national trust fund for persons with disabilities that can be used, inter alia, to provide skills training to organizations of persons with disabilities.

43. The Special Rapporteur was pleased to learn — from civil society and State officials — that persons with disabilities and their representative organizations had been consulted and had participated in the domestication process of the Convention, which led to the adoption of the Persons with Disabilities Act, and that those organizations were the main drivers of the ongoing process to amend the Act, under the overall coordination of the Zambia Agency for Persons with Disabilities. She acknowledged that organizations of persons with disabilities at the national and provincial levels had been consulted in the development of the National Policy on Disability and others, including the National Youth Policy (2015), the National Sports Policy (both under review at the time of the visit), the seventh National Development Plan and the National Disability Survey. However, she expressed concern about the lack of consultation and involvement of persons with disabilities and their representative organizations in the design and development of other mainstream public policies and legislation affecting them, including the revised National Gender Policy.

44. To increase the participation of persons with disabilities in public life, the Special Rapporteur called on the State to consult with those persons and have them participate in all policymaking and legislative processes. More efforts are needed to make consultations accessible, including by guaranteeing the accessibility of all facilities, procedures and information related to public decision-making and consultation, and by providing capacity-building. Authorities should also take measures to ensure the representation and adequate contribution of all disability sectors across the country in the consultations, including persons with multiple disabilities. The meaningful participation of women and girls with disabilities in all decisions affecting them also requires strengthening, for example in the area of sexual and reproductive rights.

## D. Education

45. According to data of the Ministry of General Education, there are some 8,000 primary schools and 794 secondary schools in Zambia, including 24 special education schools and 220 special education units within mainstream schools. Higher education is provided by 3 public universities, 32 private universities and colleges, 48 public technical universities and colleges and 239 technical and vocational institutions.<sup>14</sup> The 2010 census

<sup>14</sup> Southern African Regional Universities Association, *A Profile of Higher Education in Southern Africa*, Volume 2: *National Perspectives*, chap. 15, Zambia, p. 108.

indicated a literacy rate of 70.2 per cent for the overall population, with stark discrepancies between rural (60.5 per cent) and urban (83.8 per cent) areas and between men (73.2 per cent) and women (67.3 per cent), while the literacy rate for the population with disabilities nationally was 58.6 per cent. The highest level of education attained by the majority of persons with disabilities was primary education. The proportion of persons with disabilities that had never attended school was higher (34.4 per cent) than that of those without disabilities (20.9 per cent).<sup>15</sup> Although early childhood education has been strengthened in recent years with the support of the United Nations Children's Fund (UNICEF), access is still very limited, especially among disadvantaged groups.<sup>16</sup>

46. The Special Rapporteur welcomed the efforts made in recent years by the Ministry of General Education and the Ministry of Higher Education to improve access to education for children, youths and adults with disabilities. They included the enactment of the Education Act (2011), the introduction of a mandatory course in special education needs for primary school level at the teacher training colleges of education, the development of a revised curriculum for primary school learners with disabilities, the removal of examination fees for children with disabilities reaching grades 9 and 12, the availability of bursaries for trainees with disabilities in vocational training and the pilot inclusive vocational training centres run by the Technical Education, Vocational and Entrepreneurship Training Authority.

47. Notwithstanding the above, the Special Rapporteur was alarmed to learn that 38,000 children dropped out of school at grade 10 in 2015 because of an insufficient number of secondary schools. In this context, it was mainly students with disabilities who were affected as they were competing with other children for admission. Moreover, the vast majority of children with disabilities were excluded from the general education system because of the multiple barriers to accessing education on an equal basis with others, owing to the lack of accessible infrastructure, the unavailability of assistive devices and materials adapted for different types of impairments and the lack of individual learning plans and accommodation in the classrooms.

48. According to data from the Ministry of General Education, some 11,250 learners with "mild" or "moderate" disabilities were enrolled in schools in 2015. However, learners considered to have more "severe" disabilities (e.g., deaf-blind children, children with Down syndrome or cerebral palsy) were not enrolled in either mainstream or special education schools. Very few students with disabilities reach the tertiary level of education (77 were enrolled in colleges in 2015) without benefiting from the required support and accommodation. It is also of concern that the education faculty is the only one currently admitting persons with disabilities, and that there is a limited choice of vocational training and careers for persons with disabilities.

49. The Special Rapporteur urged the two ministries to adopt a time-bound plan for the progressive implementation of an inclusive quality education system across Zambia and to provide learners with disabilities the support needed to access education on an equal basis with others. The plan should entail adjusting the physical environment to make all national schools and universities accessible, adapting educational materials and learning methodologies, training teachers and providing learners with disabilities with the required support and reasonable accommodation, including sign language interpretation, audio and Braille materials, personal assistance and note taking. She also recommended converting the existing special education schools in resource centres for children with disabilities and

<sup>15</sup> Central Statistical Office, *2010 Census of Population and Housing*, pp. 23 and 73.

<sup>16</sup> See [www.unicef.org/zambia/annual\\_report\\_Zambia\\_web.pdf](http://www.unicef.org/zambia/annual_report_Zambia_web.pdf).

using the Zambian social protection framework to increase access to education for children with disabilities.

## **E. Work and employment**

50. Zambia has adopted a number of laws and policies pertaining to the right of persons with disabilities to work and their employment. These include the Workers' Compensation Act (1999), which regulates workers' compensation for impairments acquired in the workplace; the National Employment and Labour Market Policy (2006, currently under revision), which provides for improved care and support services to persons with disabilities, among other groups; the Citizens Economic Empowerment Commission Act (2006), which aims at empowering persons with disabilities economically through start-up businesses; and the Employment Act (2015).

51. The Persons with Disabilities Act prohibits discrimination on the basis of disability for all forms of employment, addressing, among other subjects, conditions of recruitment, hiring and employment; continuance of employment; creation, classification and abolition of positions; determination of wages, pensions and other benefits; apprenticeship, promotion and career advancement; and safe and healthy working conditions. The Act further allows the setting of an employment quota for persons with disabilities in the public and private sectors. However, the statutory instrument required to enforce this provision has yet to be adopted.

52. Inadequate or lack of access to education, discriminatory attitudes and practices among employers and inaccessible work environments are among the factors contributing to the extremely high levels of unemployment among persons with disabilities in Zambia.<sup>17</sup> However no official data are available on employment rates among persons with disabilities in the formal and informal sectors. Preliminary data from the National Disability Survey indicates that persons with disabilities are less engaged in formal employment than those without disabilities. The Special Rapporteur was unable to obtain information on the number of persons with disabilities employed in the public sector.

53. The Special Rapporteur acknowledged the introduction of tax rebate incentives for employers who recruit persons with disabilities and the establishment of the national Business and Disability Network, hosted by the Zambia Federation of Employers, to support employers that recruit workers with disabilities. However, she noted with concern the practice, common among employers, of encouraging the early retirement on medical grounds of workers who acquire an impairment at work, instead of investing in their reintegration in the labour market.

54. In Ndola, she visited the Kang'onga Production Centre, managed by the Zambia Agency for Persons with Disabilities and the Technical Education, Vocational and Entrepreneurship Training Authority National Vocational Rehabilitation Centre. She praised both centres for becoming increasingly inclusive by also accepting persons without disabilities. She encouraged the Authority to make all its technical and vocational institutions across the country inclusive of persons with disabilities and to strengthen cooperation with the Agency.

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<sup>17</sup> Ministry of Community Development and Social Welfare, National Policy on Disability, 2015, p. 7.

## F. Social protection

55. Zambia has a long history of contributory social security schemes based on the social insurance model, which are limited to the provision of protection against the loss of income resulting from retirement, disability and death. Therefore, the majority of the working population, including persons with disabilities, lack adequate social security coverage because they are mainly engaged in informal employment.

56. The Special Rapporteur commended the State for its efforts to make the social protection framework inclusive of persons with disabilities, including through the adoption of the National Social Protection Policy in 2014, which considers disability as one of its core pillars, and through the current development of a social protection act. Moreover, several non-contributory social protection programmes can be accessed by persons with disabilities, such as the National Trust Fund for Persons with Disabilities, the Social Cash Transfer programme (with some 182,000 beneficiaries with “severe” disabilities), the Public Welfare Assistance Scheme, the Food Security Pack programme and the Social Protection Fund. Persons with disabilities are eligible for benefits under these programmes if they fall under certain poverty and/or vulnerability thresholds. However, she expressed concern that not all persons with disabilities who meet the eligibility criteria manage to access these programmes, because some are not adequately funded and are not available everywhere in the country, and funds are disbursed irregularly, with long delays and not in full.

57. The Special Rapporteur encouraged the State to mainstream disability in all its other social programmes, including in the Women Empowerment Fund, the Youth Empowerment Fund and the Citizens Economic Empowerment Fund. She called on the relevant authorities to ensure the prompt disbursement of funds for the adequate implementation of its mainstream and disability-specific funds and programmes, and to ensure that information about how to apply for these funds is made accessible to the diverse population of persons with disabilities.

58. In 2006, Zambia introduced the user fee removal policy,<sup>18</sup> which abolished health fees and progressively provided free access to primary health care for everyone across the country. The Special Rapporteur was informed that the Ministry of Health was about to implement a contributory national social health insurance scheme for employees of the formal sector, which would be free of charge for persons with disabilities, and that a social health insurance bill was being considered.

## G. Health

59. According to data of the Ministry of Health, in 2012 Zambia had a total of 1,956 health facilities, compared with 1,883 in 2010. The health system consisted of 6 specialized level III hospitals, 19 general hospitals, 84 district hospitals, 1,540 urban and rural health centres and 307 health posts, with a total of over 25,000 beds.<sup>19</sup> In its National Health Strategic Plan 2011-2015, the Ministry provided the strategic framework for ensuring the effective organization and management of the health sector in Zambia and identified major challenges, including insufficient medical staff; inadequate and inequitable distribution of health infrastructure, equipment and transport; and challenges related to health information

<sup>18</sup> From 1964 to 1991, health care was free for all Zambians. In 1991, user fees were introduced to improve the quality of health-care services, but over time this policy proved to have a negative effect on the equity of access to health care and to increase poverty.

<sup>19</sup> See <http://www.moh.gov.zm/docs/facilities.pdf>.

systems and weaknesses in the health systems governance. In 2013, the Ministry adopted a national health policy, and is in the process of developing a national health service act.

60. In relation to access to health-care services for persons with disabilities, the Persons with Disabilities Act requires the Ministry of Health to provide free general and specialized medical care, including rehabilitation and assistive devices, for persons with disabilities. In practice, however, there is limited availability of specialized equipment, services and personnel across the country. Ensuring access to free quality health-care services for persons with disabilities (including prosthesis, HIV/AIDS and reproductive health services) as close as possible to their homes, in refugee camps and in remote and rural areas should be prioritized.

61. The Special Rapporteur observed with concern that public health services and campaigns were not accessible to the variety of persons with disabilities, especially in rural areas, and that the rights to individual autonomy and to give free and informed consent to medical care were generally not respected. The Ministry of Health indicated that qualified sign language interpreters had been employed in the main hospitals to facilitate communication with deaf persons. However, she was informed of cases of pregnant deaf women who were prescribed the wrong medication because of barriers that hindered communication with doctors and nurses.

62. The Special Rapporteur noted the absence of mechanisms to promote the availability of assistive devices and technologies to persons with disabilities. Community-based services are not yet available throughout Zambia, as physiotherapists are located only in major hospitals and a few districts where rehabilitation is provided to persons with disabilities in institutions and communities.

63. She was alarmed to learn that the only trained neurosurgeon in Zambia capable of performing surgeries on children with spina bifida and hydrocephalus is also charged with administrative issues, resulting in a long waiting list for children in need of surgery and/or a shunting device. The Ministry of Health noted that a few additional neurosurgeons had recently been trained abroad, who would train other surgeons to address this urgent need.

## **H. Deprivation of liberty, denial of legal capacity and forced treatment**

64. The Special Rapporteur noted with concern that persons with psychosocial and intellectual disabilities were denied legal capacity. It is generally assumed that a person with a psychosocial or intellectual impairment has no legal capacity owing to a lack of “mental capacities”. This assumption pervades all aspects of life, affecting the exercise of other human rights such as personal liberty, health, family and property. This is illustrated, for instance, in the Constitution, which provides that a person can be deprived of his personal liberty if he “is, or is reasonably suspected to be, of unsound mind ... for the purpose of his care or treatment or the protection of the community” (art. 13 (1) (h)). In addition, article 16 (2) (i) allows limitations in the administration of property of “a person of unsound mind”. These provisions are not compliant with the Convention on the Rights of Persons with Disabilities and should be amended.

65. Deprivation of liberty on the basis of disability is also an accepted practice in Zambia. The Mental Disorders Act, inherited from the colonial period, enables the deprivation of liberty of persons “apparently mentally disordered or defective” on the grounds of being “dangerous to himself or to others” or “wandering at large and unable to take care of himself”. Similarly, under section 167 of the Criminal Procedure Code, a person found unfit for trial or not guilty by reason of “insanity” can be detained indefinitely under the “pleasure of the President” provision. While this provision was intended to protect persons with disabilities, it is contrary to the Convention as it excludes them from



all legal proceedings, leaving their fate in the hands of the President. Several persons with disabilities were detained in prisons and psychiatric facilities under this provision at the time of the visit, including 49 in the forensic ward of the Chainama Hills College Hospital. Moreover, under this provision, persons with psychosocial disabilities are also at risk of being denied the right to vote and stand for election.

66. The Persons with Disabilities Act makes it clear that in case of inconsistency between the provisions of any written legislation affecting the rights of persons with disabilities and the Act, the latter prevails. However, this provision is not widely known or applied in practice, leading to widespread inconsistencies. The Special Rapporteur therefore strongly encouraged the Ministry of Justice to repeal all legislation that is inconsistent with the Act and the Convention on the Rights of Persons with Disabilities.

67. The Special Rapporteur visited the Chainama Hills College Hospital in Lusaka — the only level III referral hospital for mental health services in Zambia — which was accommodating some 190 people in seven wards, including those detained in the forensic ward under the “pleasure of the President” provision. She was informed about plans to build a new hospital and recommended that funds should rather be invested in the provision of support services within communities across the country. She acknowledged the positive efforts of the hospital administration authorities to end institutionalization through implementation of the Mental Health Policy (2005) and their intention to progressively establish community-based services for persons with psychosocial disabilities. She commended the authorities for engaging directly with organizations of persons with psychosocial disabilities with the aim of adopting a human rights-based approach to the provision of mental health services. Nonetheless, she observed that persons with psychosocial disabilities were hospitalized without their free and informed consent, and subjected to seclusion and forced treatment. She urged the authorities to take immediate measures to stop these practices, which are inconsistent with international human rights law.

68. In Ndola, the Special Rapporteur visited the psychiatric unit of the General Hospital — the second-largest psychiatric unit in Zambia, although devoid of psychiatrists — located in an old structure composed of three wards, to which patients are referred from the entire northern part of the country. She was appalled by the deplorable conditions in the male acute ward, which was overcrowded, stank, had insufficient bedding and very poor hygiene. Many internees were lying on the floor, some in the bathrooms surrounded by excrement and urine. While the conditions in the male rehabilitation ward and in the female ward were adequate, she was alarmed to learn about the practice of sterilizing women with disabilities without their free and informed consent, often at the request of family members. She urged the Ministry of Health to take immediate action to stop this practice. She took note that a new, modern facility, with a capacity of 120 beds, was being built to house the psychiatric unit by the end of 2016.

69. The Special Rapporteur was also informed about the extremely harsh and deplorable conditions in the psychiatric rehabilitation centres under the responsibility of the Ministry of Health located in remote areas of the country, such as Nsadzu in Eastern Province, Kawimbe in Northern Province and Litambya in Western Province. She recommended a moratorium on new admissions until these facilities are permanently closed and replaced by community-based support services across the country.

## **I. Access to justice**

70. Notwithstanding the provisions of the Persons with Disabilities Act that require the judiciary and law enforcement agencies to enable persons with disabilities to participate effectively in legal proceedings and to provide reasonable and procedural accommodation

(arts. 8 and 9), access to justice is a major challenge in Zambia. The non-justiciability of economic, social and cultural rights in the Constitution has a negative impact on disability rights litigation and hinders access to justice for persons with disabilities. Additionally, the high poverty level in Zambia has detrimental effects on access to justice, as persons with disabilities living in poverty are least likely to be able to afford a lawyer or to pay court fees. Those living in rural areas have to bear additional costs and travel long distances to access professional legal advice, the police or a court.

71. The Special Rapporteur was informed that when persons with disabilities, particularly women and girls, attempt to file complaints of abuse or discrimination, they are usually overlooked by the authorities owing to stigma and prejudicial attitudes. For instance, despite the existence of victim support units in police stations mandated to focus on sexual and gender-based violence, these units are not always adequately resourced and trained to handle complaints by persons with disabilities. She was also informed of the case of two deaf men who had been accused of murder who had not been given the possibility to challenge the accusation and their detention in court, owing to the lack of sign language interpreters.

72. Persons with disabilities are confronted with additional barriers, such as the inaccessibility of most police stations and court premises and the lack of procedures for providing accommodation, including sign language interpretation and documentation in accessible formats. Persons with psychosocial and intellectual disabilities are particularly affected, as they are deemed unable to instruct a lawyer or to stand trial, and are thus denied access to justice on an equal basis with others.

73. She urged the police and the judiciary to implement measures to guarantee access to justice for all persons with disabilities, including by making all police stations and court buildings accessible; training police officers and personnel working in the field of administration of justice on disability rights and the Convention; providing sign language interpretation and documentation in accessible formats; and developing protocols and guidelines for procedural and age-appropriate accommodation for persons with disabilities. While it is a positive development that disability rights courses are being taught at the Law School of the University of Zambia, they should be part of the curriculum of all law schools in Zambia.

#### **IV. Role of the United Nations and international cooperation actors**

74. Despite advances at the normative, policy and institutional levels, the allocation of adequate and sufficient financial and human resources to ensure the effective implementation of human rights and fundamental freedoms for persons with disabilities remains a challenge. While in recent years Zambia has received significant aid and technical cooperation from the international community, most mainstream international cooperation programmes did not include the rights of persons with disabilities. Moreover, the majority of disability-specific programmes were not sufficiently inclusive as they targeted only certain types of impairments while excluding others (e.g., autistic persons), and were often based on the medical or charity models.

75. The Special Rapporteur noted vast disparities in the level of awareness of disability issues among United Nations country team and international cooperation actors in Zambia. She strongly encouraged them to include the rights of persons with disabilities in all their cooperation strategies and programmes, make all their projects inclusive and accessible and target persons with disabilities in all awareness-raising campaigns (e.g., the “He for She” campaign). She observed that existing disability-specific responses are often one-off

initiatives that lack sustainability and are disconnected from other initiatives. She encouraged donors to make use of the Cooperating Partners Group — a forum for bilateral and multilateral cooperating partners in Zambia — to coordinate disability strategies, share information and promote and support the effective inclusion of persons with disabilities in all international cooperation efforts.

76. Finally, she urged the United Nations to advocate that efforts to support the implementation of the Sustainable Development Goals in Zambia should include the rights of persons with disabilities in a cross-cutting matter.

## **V. Conclusions and recommendations**

### **A. Conclusions**

77. **Zambia has made considerable progress since its ratification of the Convention on the Rights of Persons with Disabilities in 2010 to protect the rights of persons with disabilities in its legislation and programmes. It has adopted legislative amendments and policy measures aimed at enhancing their protection, especially in the area of social protection. State authorities have shown a keen interest, commitment and political will to ensure and guarantee the protection and enjoyment of the rights of persons with disabilities in Zambia, an essential prerequisite for their realization. Consequently, there are good opportunities and great potential for Zambia to become a disability champion in the African region.**

78. **Notwithstanding the above, Zambia must build on the momentum created by the adoption of the Persons with Disabilities Act, the National Policy on Disability and the National Implementation Plan on Disability and make greater efforts towards their implementation. While the establishment of a solid legal and policy framework constitutes an essential step towards the protection of persons with disabilities, it needs to be strengthened and followed by comprehensive implementation, enforcement and monitoring. Ensuring equal access for persons with disabilities in key areas such as education and employment is a necessary precondition to contributing to poverty reduction and guaranteeing their social and economic inclusion in Zambia.**

79. **The implementation of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals, as well as the seventh National Development Plan, constitutes a great opportunity to foster development that is inclusive of persons with disabilities. The Special Rapporteur's report on disability-inclusive policies (A/71/314) contains useful guidance in this regard. She looks forward to a continued dialogue and collaboration with the Government of Zambia and other actors on the implementation of her recommendations.**

### **B. Recommendations**

#### **1. General**

80. **The Special Rapporteur recommends that the Government of Zambia:**

(a) **Strengthen the institutional data collection and analysis capacity of the Zambia Agency for Persons with Disabilities and the Central Statistical Office and ensure that all data collected relating to the situation of persons with disabilities are disaggregated, at a minimum, by sex and age;**

(b) Promptly disseminate the final results of the National Disability Survey conducted in 2015 and include the set of questions of the Washington Group on Disability Statistics in all other demographic surveys to be conducted;

(c) Train State officials at the national, provincial and district levels, including members of the police, the judiciary and the legislature, on the rights of persons with disabilities and the obligations stemming from the Convention, in cooperation with organizations of persons with disabilities;

(d) Accelerate the certification process of persons with disabilities at the provincial level to ensure access to existing services and benefits.

## 2. Legal and institutional framework

81. The Special Rapporteur recommends that the Government of Zambia:

(a) Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the optional protocols to other international human rights instruments to which Zambia is party;

(b) Conduct a comprehensive legislative review to fully harmonize the national legal framework with the provisions of the Convention, including by revoking discriminatory provisions of the Constitution, the Penal Code, the Criminal Procedures Code, the Prisons Act, the Electoral Act and the Mental Disorders Act;

(c) Ensure that any new legislation on mental health fully complies with the Convention;

(d) Adopt the required statutory instruments on accessibility, health, education, transport and employment to enable the adequate implementation of the Persons with Disabilities Act;

(e) Promptly submit the combined first and second State party report to the Committee on the Rights of Persons with Disabilities;

(f) Continue strengthening the capacities of the Zambia Agency for Persons with Disabilities to coordinate disability issues within the State apparatus and monitor the implementation of the Convention;

(g) Allocate adequate resources for the effective implementation of the National Plan on Disability and ensure the participation of persons with disabilities, including children and youth, in its implementation and evaluation;

(h) Establish, under the overall direction of the Zambia Agency for Persons with Disabilities, a mechanism to coordinate the implementation of the Convention within the State and enhance the effectiveness of the disability focal points by providing adequate terms of reference and training and attributing full-time responsibilities to them;

(i) Designate or create an independent monitoring mechanism compliant with the Paris Principles, such as the Human Rights Commission, to monitor the implementation of the Convention in accordance with article 33 (2);

(j) Ensure that the seventh National Development Plan and other policies designed to advance the implementation of the Sustainable Development Goals is disability inclusive, with clear indicators to monitor progress in relation to persons with disabilities.

**3. Stigma and discrimination**

82. The Special Rapporteur recommends that the Government of Zambia:

- (a) Develop and carry out public awareness-raising campaigns on the rights of persons with disabilities, sensitize the media to promote a positive image of disability and dispel attitudinal barriers and stigma, in coordination with organizations of persons with disabilities, authorities and traditional chiefs;
- (b) Prevent and sanction all forms of discrimination against persons with disabilities, including by raising awareness and monitoring the use of discriminatory language against persons with disabilities in the media;
- (c) Strengthen education programmes and enhance awareness on the situation of children with cerebral palsy, including in local communities.

**4. Accessibility**

83. The Special Rapporteur recommends that the Government of Zambia:

- (a) Apply the national accessibility standards issued by the Zambia Bureau of Standards for the construction and maintenance of all public and private infrastructure, and improve accessibility by adopting a time-bound plan to make all public services, infrastructure, transport and media accessible;
- (b) Accelerate the recruitment and training of inspectors of the Zambia Agency for Persons with Disabilities;
- (c) Adopt regulations to guarantee the provision of information in accessible formats, including ICTs.

**5. Participation**

84. The Special Rapporteur recommends that the Government of Zambia:

- (a) Assess the participation of persons with disabilities in the tripartite elections of August 2016, including in relation to accessibility, support and accommodation, to determine the extent of the exercise of their right to vote and to stand for elections;
- (b) Ensure the participation of the variety of persons with disabilities and their representative organizations in the development and implementation of laws and policies that directly or indirectly concern them, including through the organization of accessible consultations across the country and the conduct of training programmes to build their capacities.

**6. Education**

85. The Special Rapporteur recommends that the Government of Zambia:

- (a) Adopt as a priority a plan to implement an inclusive education system across the country, through adjustments to the physical environment, adaptation of educational materials and learning methodologies and teacher training, and provide the necessary support and accommodation for all students with disabilities, including those with multiple disabilities. The plan should have clear timelines and benchmarks for implementation and evaluation;
- (b) Convert the existing special education schools in resource centres to support the inclusion of children with disabilities in regular schools;

(c) **Include children with disabilities in ongoing efforts to expand early childhood care and development education;**

(d) **Make all technical and vocational institutions administered by the Technical Education, Vocational and Entrepreneurship Training Authority inclusive of persons with disabilities.**

## **7. Social protection**

**86. The Special Rapporteur recommends that the Government of Zambia:**

(a) **Allocate and disburse sufficient funds for the implementation of social protection programmes for persons with disabilities;**

(b) **Mainstream disability in all existing social protection programmes, such as the Women Empowerment Fund, the Youth Empowerment Fund and the Citizens Economic Empowerment Fund.**

## **8. Health**

**87. The Special Rapporteur recommends that the Government of Zambia:**

(a) **Establish comprehensive, rights-based care and recovery programmes for persons with disabilities;**

(b) **Provide medical care for persons with disabilities as close as possible to their homes and in refugee camps, including access to HIV/AIDS and reproductive health services.**

## **9. Deprivation of liberty, denial of legal capacity and forced treatment**

**88. The Special Rapporteur recommends that the Government of Zambia:**

(a) **Guarantee the exercise of legal capacity to all persons with disabilities by repealing all forms of formal and informal substituted decision-making;**

(b) **Support initiatives to implement supported decision-making regimes, including ongoing projects developed by representative organizations of persons with disabilities;**

(c) **Take immediate measures to stop forced institutionalization, forced treatment and forced sterilization of persons with psychosocial disabilities in psychiatric hospitals and units;**

(d) **Implement a moratorium on new admissions to the psychiatric rehabilitation centres in Nsadzu, Kawimbe and Litambya until they are permanently closed, and take measures to conduct a deinstitutionalization process and reintegrate internees in the community.**

## **10. Access to justice**

**89. The Special Rapporteur recommends that the Government of Zambia:**

(a) **Repeal all provisions that deny access to justice to persons with intellectual and psychosocial disabilities;**

(b) **Make all justice proceedings accessible to the variety of persons with disabilities, including through the provision of legal aid and of information in accessible formats, sign language interpretation, and protocols for procedural and age-appropriate accommodation.**

**11. International cooperation**

90. **The Special Rapporteur recommends that the United Nations and international cooperation actors:**

(a) **Mainstream disability rights in all their programmes, strategies and projects and make them accessible to persons with disabilities;**

(b) **Support the reform efforts of the State to achieve compliance with the Convention and coordinate disability strategies through the Cooperating Partners Group for the effective inclusion of persons with disabilities in all international cooperation efforts and the Sustainable Development Goals.**

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