

# Exploring the Right to Work for Persons with Disabilities in Zimbabwe as an Enabler to Inclusive Participation in Economic Development

TJ Mafongoya\*

Online ISSN  
1727-3781

**P·E·R**

Pioneer in peer-reviewed,  
open access online law publications

## Author

Takudzwa J Mafongoya

## Affiliation

Zimbabwe National Defence  
University

## Email

tamafongoya@yahoo.com

## Date Submitted

13 May 2024

## Date Revised

31 July 2025

## Date Accepted

31 July 2025

## Date Published

03 October 2025

## Editor

Prof Tumi Mmusinyane

## Journal Editor

Prof Wian Erlank

## How to cite this contribution

Mafongoya TJ "Exploring the Right to Work for Persons with Disabilities in Zimbabwe as an Enabler to Inclusive Participation in Economic Development" *PER / PELJ* 2025(28) - DOI <http://dx.doi.org/10.17159/1727-3781/2025/v28i0a18646>

## Copyright



## DOI

<http://dx.doi.org/10.17159/1727-3781/2025/v28i0a18646>

## Abstract

Article 27 of the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD) provides for the right to work for persons with disabilities (PWDs). Zimbabwe, as a party to the CRPD, is obliged to put in place progressive positive measures for the protection, promotion, and enjoyment of the right to work by PWDs. In light of the international obligations arising from the CRPD, the *African Charter on Human and Peoples Rights* and the *African Disability Protocol*, this article examines the existing legal framework on the right to work for PWDs in Zimbabwe, including the other types of disabilities entitled to benefit from PWDs' substantive right to work. Additionally, this article critically analyses the scope and extent of the protections (if any) attaching to the right to work for PWDs in Zimbabwe. Therefore, the article adopts a desktop approach whereby existing statutes and texts are examined, focussing on their utility towards the respect, protection, promotion, and realisation of the right to work for PWDs in Zimbabwe. In conclusion the article offers recommendations on ways the right to work can be fully realised by PWDs in Zimbabwe as a catalyst for the inclusive participation of PWDs in the economic development of Zimbabwe, both in the public and private sectors, on an equal basis with their peers without disabilities.

## Keywords

Barriers; dignity; disabilities; economic development; equality; persons with disabilities; protection; right to work.

.....

## 1 Introduction

Notably, PWDs are generally considered to be objects of embarrassment,<sup>1</sup> and at best, of condescending pity and charity.<sup>2</sup> The definition for a PWD in Article 1 of the CRPD<sup>3</sup> is adopted for the purposes of this article, in terms of which a PWD includes "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in the society on an equal basis with others." According to the Zimbabwe National Statistics Agency (ZNSA) in its 2017 Inter-censal Demographic Survey, PWDs make up an estimated 9% of the population, representing more than 1.2 million people.<sup>4</sup> The ZNSA posits that poverty levels are higher for PWDs, with 74.1% of them living in poverty, compared with 69.5% those fully abled, and 32.2% of PWDs living in extreme poverty, compared with 28.5% of those fully abled. In this context PWDs face multi-layered discrimination, exclusion, and marginalisation in their day-to-day lives due to a lack of awareness of the obligation on state and non-state actors alike to put in place legal, social, and economic measures that promote equality in the enjoyment of human rights. Observably, the right to work as provided in Article 27 of the CRPD occupies a central place in state economic development since employment adds to the empowerment of persons, leading to their economic, social and financial emancipation, making it easier for them to access quality health care services, education and recreation facilities, for instance. Hence, a lack of awareness of the normative right to work and the functionality of the same right as a human right leads to the disempowerment of persons in general and particularly for PWDs, who are afflicted with monumental environmental barriers by virtue of their living with disabilities. The impact of such economic, social, and financial disabilities is evident in the unemployment rate among PWDs, which is estimated to be as high as 80%, costing the economy up to 7% of GDP in terms of lost workforce potential. Vision Ability Zimbabwe<sup>5</sup> noted that the Reserve Bank of Zimbabwe National Financial Inclusion Strategy (NFS2, 2022-2026) emphasises the need to address the barriers and challenges that people with disabilities and other marginalised groups face in accessing financial services. Without a right to work it is next to impossible for PWDs to access financial services. The examination of the right

---

\* Takudzwa Josia Mafongoya. LLBS (Hons), LLM, Cert (Software Eng). Lecturer, Faculty of Social Studies, Zimbabwe National Defence University, Zimbabwe. E-mail: tamafongoya@yahoo.com. ORCID: <https://orcid.org/0009-0008-0449-5115>. Thank you to the reviewers for the incredible input and feedback.

<sup>1</sup> UN 2006 <http://www.un.org/News/Press/docs//2006/sgsm10797.doc.htm>.

<sup>2</sup> The then United Nations Secretary General, Kofi Annan, welcoming the adoption of the CRPD.

<sup>3</sup> *Convention on the Rights of Persons with Disabilities* (2006).

<sup>4</sup> ZIMSTAT 2017 <https://zimbabwe.unfpa.org/en/publications/inter-censal-demo-graphic-survey-2017-report>.

<sup>5</sup> Vision Ability Zimbabwe 2024 <https://vaz.org.zw/financial-inclusion-for-people-with-disabilities/>.

to work is imperative, considering that the Zimbabwe Government has put in place and is implementing the National Development Strategy 2021-2025, which sets out the pathway towards a prosperous and empowered upper middle-income society by 2030.

Consequently, the article seeks to examine the relevance of the realisation of the right to work as an enabler of economic development. It does so through adopting a desktop approach. The article first addresses the normative understanding of a PWD, then examines the Zimbabwe legal framework on the right to work, in particular as provided in the *Constitution of Zimbabwe* (Amendment Number 20) 2013, the *Labour Act* Chapter 28:01, the *National Disability Policy*, 2021 and the *Persons with Disabilities Bill*, 2023. The article concludes thereafter.

## **2 Persons with disabilities**

To fully comprehend the scope and extent of the right to work provided in Article 27 of the *Convention* it is imperative to understand the definition of a PWD. Although there are various definitions of a PWD, the definition in the CRPD remains fundamental and germane for the purposes of legal standardisation. In line with Preamble (e) to the CRPD, which describes “disability” as an evolving concept and fluid in nature, Article 1 of the CRPD defines PWDs as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in the society on an equal basis with others.” In accordance with this definition PWDs are expected to effectively contribute to society on an equal basis with others, without attitudinal and environmental barriers affecting their inclusive participation. The definition in the CRPD is wide, includes various types of disabilities, and does not limit disability to physical disability. It is worth noting that the first *Constitution of Zimbabwe* (1979) published as a Schedule to the *Zimbabwe Constitution Order*, 1979 (SI 1979/1600 of the United Kingdom) recognised only physical disability for legal purposes and excluded non-visible disabilities like speech or hearing impairment. That position has changed, since section 56 of the *Constitution of Zimbabwe* (Amendment Number 20), 2013 proscribes discrimination based on disability, which is defined in the *Disabled Persons Act* to include other types of disability apart from physical disability, such as intellectual disability. As a result, Article 27 of the CRPD guarantees the right to work and employment for PWDs on an equal basis with others in the public and private sector. This applies to Zimbabwe as a signatory of the CRPD.

Furthermore, Article 1 of the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa* (2018) (the *African Disability Protocol*) adopts a definition of a PWD similar to that of the CRPD, adding psycho-social, neurological and developmental impairments as types of disability recognised at law. Clearly the expansion of the definition in

the Protocol is relevant in that its application extends the scope of the right to work for PWDs in Zimbabwe. In Article 19 every PWD is guaranteed the right to work to protection against unemployment and to protection of the conditions of employment.

State parties, including Zimbabwe, are obliged to put in place progressive legislative, administrative and institutional measures for the realisation of the right to work. Zimbabwe ratified the *African Disability Protocol* and adopted it on 28 January 2018. Its provisions remain fundamental in determining best practice in the protection of the rights of persons with disabilities in that the Protocol provides an African legal context for the protection and promotion of the rights of PWDs. Biegon<sup>6</sup> notes that the historical African context led to the formulation of the *African Charter*, which has transformed the rights of PWDs from the illusory into substantive, realistic recognition.<sup>7</sup> It is worth noting that the *Constitution of Zimbabwe*<sup>8</sup> does not include a provision that expressly defines PWDs. However, unlike the previous *Lancaster House Constitution*,<sup>9</sup> section 22 of *Constitution of Zimbabwe, 2013* provides for a national objective wherein it recognises the rights of persons with physical or mental disabilities only.

Despite the unfortunate limitation of the recognition of only two types of disabilities, which limitation is contrary to the wide definition in the CRPD and the Protocol, it is worth acknowledging that section 22 of the *Constitution* can be considered progressive in that it includes the rights of PWDs among the national objectives and for the first time in a Constitution, albeit these are limited to only the rights of those with physical and mental disabilities only. Without doubt, the introduction of a restricted appreciation of disability violates accepted international best practice, which considers disability as a fluid and evolving concept which is not time-locked.<sup>10</sup> Hence, a progressive interpretation by the state, the judiciary and associated institutions could aid the alignment of the *Constitution* with the CRPD, which has a wider understanding of what constitutes disability.<sup>11</sup> Thus, the *Constitution* remains restrictive as it falls short of the definition in the CRPD, which does not limit the scope of the definition to two types of disabilities only. Apart from the national objectives, the *Constitution* does not contain any other provision that expressly defines PWDs. This vague limitation leaves room for the exclusion of other groups of PWDs, thus permitting the exclusion, marginalisation, discrimination against and inequality in the enjoyment of the rights of PWDs and the unequal allocation of resources to various groups of the Zimbabwean citizenry.

---

<sup>6</sup> Biegon "Promotion and Protection of Disability Rights" 56-57.

<sup>7</sup> Kamga 2013 *AJICL* 219-237.

<sup>8</sup> *Constitution of Zimbabwe, 2013*.

<sup>9</sup> *Constitution of Zimbabwe (Lancaster House), 1979*.

<sup>10</sup> Mégret 2008 *Hum Rts Q* 494-516.

<sup>11</sup> Harpur 2011 *Val U L Rev* 1-14.

In addition, the Zimbabwe *Disabled Persons Act*<sup>12</sup> provides a limited definition of PWDs, including the characterisation of PWDs as "disabled persons", which definition is retrogressive, obstructive, and contrary to best practice as per the CRPD. Without doubt, the term "disabled person" is pejorative and discriminatory, suggesting incapacity on the part of the person. The pejorative definition impacts on the application of any rights associated with it, including the right to work.<sup>13</sup>

The Disability-Inclusive Language Guidelines in the *United Nations Disability Inclusion Strategy* launched in 2019<sup>14</sup> posit that people-first language should emphasise the person as a human being and not the disability. Hence, the definition should focus on the person or group before referring to the disability in order to align with the dictates of international disability law and best practice as provided by the CRPD and the Protocol. Examples of such expressions would be "children with albinism," "students with dyslexia," "women with intellectual disabilities" and: "persons with disabilities".

Therefore, although PWDs are recognised in Zimbabwe, there is an urgent need for the definition of PWDs to be made wider and more inclusive through the adoption of a human rights approach, which in this context is an approach that mandates the recognition and full participation of PWDs in national development. The Danish Institute for Human Rights<sup>15</sup> posits that a human rights-based approach applicable to sustainable development fundamentally shifts the primary objective of development from charity to the duty to respect, preserve and fulfil human rights. Hence, it is important that the means justify the end in that without clarity on the definition of PWDs in Zimbabwe, it becomes a disabling factor towards the full application of the CRPD thus hindering the inclusive participation of PWDs in national development.

### **3 Legal frameworks for the protection of the right to work for persons with disabilities in Zimbabwe.**

#### **3.1 *Convention on the Rights of Persons with Disabilities***

To understand the right to work in Zimbabwe, it is critical that this article should examine the legal framework that provides for the right to work for PWDs (if any). There is an intersection between the enjoyment of the right to work and other rights for PWDs in that the right to work enables the maintenance of a decent standard of living for PWDs and their families. Hence, the provision of the right to work remains essential as an enabler of and avenue for participation

---

<sup>12</sup> *Disabled Persons Act* 5 of 1992 (Chapter 17:01).

<sup>13</sup> Briant, Watson and Philo 2011 <https://eprints.gla.ac.uk/57499/1/57499.pdf> 100.

<sup>14</sup> UN 2019 [https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN\\_Disability\\_Inclusion\\_Strategy\\_english.pdf](https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf).

<sup>15</sup> Danish Institute for Human Rights 2023 [https://www.humanrights.dk/files/media/document/HRBA\\_14.pdf](https://www.humanrights.dk/files/media/document/HRBA_14.pdf).

in national development in Zimbabwe. It is worth noting that Goal 8 of the United Nations Sustainable Development Goals, as discussed in the United Nations Report of the International Labour Organisation on recent developments in work and employment statistics, reaffirms that the right to work for persons with disabilities remains a *sine qua non* for economic development in member states.<sup>16</sup>

The legal obligations that arise from the CRPD are further buttressed by other contemporary International Conventions that are benchmarked on the CRPD. For instance, the right to work is provided for in Article 23 of the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)* which provision obliges state parties to put in place legislative provisions that ensure the protection of women with disabilities including taking specific measures to nurture and facilitate their access to employment, professional and vocational training opportunities. Therefore, the implementation of the right to work ought to be holistic, wide, and encompassing for both males and females.

Inevitably, without the realisation of the right to work, other rights like the right to healthcare and education are affected due to the lack of the related financial resources necessary to access and enjoy the legal protections arising from the said rights falling under the socio-economic rights. Considering the above, the right to work demands the acceptance of PWDs as able persons ready to fully participate on an equal basis with others and without encountering any barriers against their contributing to Zimbabwe's national development. As previously discussed, the adoption of a human rights approach which views persons as equal and as deserving equal opportunities is imperative in the protection and promotion of the right to work, unlike the primitive medical model of disability which views persons with disabilities as disabled persons needing of treatment.<sup>17</sup>

The human rights model is anchored in the equality and non-discrimination of persons, regardless of their abilities. Therefore, the status or disability of a person should not be a key determinant in appointing candidates for employment. Unlike the medical model of disability, which considers PWDs as needing care and treatment before they can be considered complete human beings, the human rights model underscores equality, the equal protection of the law, and the right to full and active participation in social life of all persons demands addressing the environmental and attitudinal barriers in accommodating persons with disabilities in the workplace.

---

<sup>16</sup> UN 2015 <https://unodp.un.org/content/sustainable-development-goals-sdgs>.

<sup>17</sup> Darling and Heckert 2010 *International Journal of Disability, Development and Education* 131-143.

In line with the above, the CRPD affords the right of persons with disabilities to earn a living through work that is freely chosen and accepted. Taken, the right to work safeguards the principles of equal opportunity, equal treatment, and non-discrimination.<sup>18</sup> Thus, PWDs are free to choose the type of employment they want and to compete equally with their peers who have no disabilities in the workplace or job market. This provision addresses the previously dominant welfare approach to disability, wherein employing a person with a disability would be seen as granting a favour. However, it would be naïve to forget the intersectionality of the rights of PWDs and the economic realities in the job market, which militate against the full and substantial enjoyment of the right to work by PWDs.<sup>19</sup>

Peta and Moyo<sup>20</sup> note that if disability is addressed in isolation, other injustices may arise pertaining to other attributes of the same subjects, such as their gender. Therefore, an all-encompassing approach is needed, in which there is an acknowledgement of the intersectional nature of various identity markers in framing the oppression of PWDs and addressing these identity markers simultaneously. This is germane to the application of the right to work of PWDs in the Global South.

Although Article 27 safeguards the right to work for all PWDs, it is common cause that not all persons living with disabilities are guaranteed employment. The purpose of insisting on the right to work is the placement of stress on granting equal access to work and employment opportunities to PWDs on an equal basis with others. This includes creating an environment without barriers which affect the realisation of the right to work for persons with disabilities. Article 27(1)(a) to (k) of the CRPD lists measures which if implemented by the state and non-state actors could assist with the provision of a favourable work environment for persons with disabilities, which measures include equal pay for equal work, continuation with in employment if the disability develops whilst the subject is in employment, promotion prospects and reasonable accommodation for persons with disabilities. In the Zimbabwean context, it is the writer's view that the right to work cannot be limited to formal employment since the informal/small and medium sectors are also work opportunities critical and relevant to national development. The application of the CRPD in the informal sector cannot be overemphasised.

### **3.2 Constitution of Zimbabwe (Amendment Number 20), 2013**

The reality of the right to work for PWDs in Zimbabwe can be measured by analysing the existing legal framework that supports or regulates the implementation of the right. This article therefore now interrogates the

---

<sup>18</sup> Schulze *Understanding the UN Convention on the Rights of Persons with Disabilities* 143.

<sup>19</sup> Moyo and Manyatera 2014 *Midlands State University Law Review* 103-135.

<sup>20</sup> Peta and Moyo "Rights of Persons with Disabilities in Zimbabwe" 97.

provisions in the *Constitution of Zimbabwe*,<sup>21</sup> the *Labour Act*<sup>22</sup> and the *Disabled Persons Act*.

The *Zimbabwean Constitution* in section 65 guarantees fair labour standards in the workplace. Considering that section 65 is the primary provision addressing the right to fair labour standards and work for every person, the provision applies to PWDs and entitles them to benefit as participants in the job market. Notably, many PWDs remain unemployed, which exclusion is the product of discrimination and marginalisation in the employment arena. According to Ncube, Modise and Gregg<sup>23</sup> negative discrimination in regard to disability and gender can limit subjects' access to the open labour market, necessitating the implementation of the provisions in sections 22 and 24 of the *Constitution*, which deal with the protection and promotion of the rights of PWDs on an equal basis with others. Section 24 addresses the provision of fair work and labour relations as a national objective, implying that the state is expected to put in place measures for the enjoyment of the right to work for PWDs, whereas section 22 addresses the rights of PWDs and obliges the state to recognise the rights of PWDs and to treat PWDs with respect and dignity.

Sections 22 and 24 fall under the national objectives clauses in the *Constitution*, whose enforceability is arguably different from that of the rights provided in the Bill of Rights, since the national objectives do not fall under the Declaration of Rights. However, the fact that section 83 of the *Constitution of Zimbabwe* falls under the Bill of Rights suggests the importance of the rights of PWDs in the national dispensation and suggest that the enforcement of the rights is more than simply a national objective.

If section 65 of the *Constitution*, providing for fair labour standards, were to be extended to the right to work for PWDs, it would still fall short of the protection and standard expected in terms of the CRPD, in that section 65, as read with section 83, is limited to the availability of resources. Clearly, contemporary discourse on the realisation of socio-economic rights,<sup>24</sup> also known as second generation rights, has observed that states raise excuses based on the non-availability of resources<sup>25</sup> to justify their providing the bare minimum in this context, especially when the non-realisation of the rights goes to the root of other inter-related rights which are universal in nature.<sup>26</sup> Arguably, this has a negative effect on the enforcement and realisation of the rights of persons with disabilities in Zimbabwe.

---

<sup>21</sup> *Constitution of Zimbabwe*, 2013.

<sup>22</sup> *Labour Act* 16 of 1985 (Chapter 28:01).

<sup>23</sup> Ncube, Modise and Gregg 2023 *Open Journal of Social Sciences* 652-665.

<sup>24</sup> Kondo 2017 *AHRLJ* 163-193.

<sup>25</sup> Horsten 2006 *PELJ* 179.

<sup>26</sup> Kapindu 2013 *AHRLJ* 140.

It is noteworthy that the right to work is linked to other rights and the failure to protect it results in the subject's inability to finance the exercise of the right to health and the right to education, among other rights which are necessary for the self-reliant and inclusive participation of PWDs in national development. The contribution of the citizenry at every level including PWDs towards national development remains key for national growth. John Vaizey<sup>27</sup> defines national development as the total contribution of all citizens to the stock of physical human resources, knowledge, and skill.

The United Nations Decade Report<sup>28</sup> defines national development as growth plus change. Change, in turn, is social, cultural, economic, qualitative, and quantitative.

Considering the above, is the right of persons living with disabilities to work is fully realised, inevitably the nation would grow due to the reduction in the social dependability of persons living with disability, the establishment of enablers of national development through job creation in the formal and informal sectors, the incorporation of PWDs into the public and private sector, and the generation of revenue in an equity-based barrier-free environment. With such involvement, the right to work for persons with disabilities would become a reality, and the empowerment of all groups of society would contribute to national development.

The *Constitution* recognises that every citizen has the right to enjoy what it provides. Given the existence of the Supremacy of the Constitution clause,<sup>29</sup> National Objective for Persons with Disabilities clause,<sup>30</sup> the Empowerment and Employment Creation Objectives clause,<sup>31</sup> the Labour Rights clause,<sup>32</sup> the Right to Equality and Non-Discrimination clause<sup>33</sup> and the Rights of Persons with Disabilities clause respectively<sup>34</sup> the implementation of the right to work becomes a necessary nexus to the participation of persons with disabilities to the national development of Zimbabwe. Critically, for the realisation of the right to work it is necessary to align all the subsidiary legislation and policies in line with the *Constitution* as the supreme law providing for the active participation of PWDs in national development.

The mere existence of a legal provision does not translate into active enjoyment of the right by the targeted groups. It appears that for the full participation of PWDs in national development, there is an urgent need for the infusion of equality with equity<sup>35</sup> in the interpretation of the rights provided. The legal

---

<sup>27</sup> Vaizey 1968 *Journal of Educational Thought* 159-166.

<sup>28</sup> UN Department of Economic and Social Affairs *United Nations Development Agenda*.

<sup>29</sup> Section 2 of the *Constitution of Zimbabwe*, 2013.

<sup>30</sup> Section 26 of the *Constitution of Zimbabwe*, 2013.

<sup>31</sup> Section 14 of the *Constitution of Zimbabwe*, 2013.

<sup>32</sup> Section 65 of the *Constitution of Zimbabwe*, 2013.

<sup>33</sup> Section 56 of the *Constitution of Zimbabwe*, 2013.

<sup>34</sup> Section 83 of the *Constitution of Zimbabwe*, 2013.

<sup>35</sup> Fredman 2001 *Industrial Law Journal* 145-154.

framework and the judiciary as transformative interpreters of the law<sup>36</sup> must eradicate formal inequality and introduce substantive equality. Also, more effort beyond legislation ought to be exerted to promote the active participation and awareness of the rights of persons with disabilities as captured in the *Constitution of Zimbabwe* and other subsidiary legislation. This effort should include, but not be limited to, the promotion of awareness among persons with disabilities, and the promotion and protection of the rights of persons with disabilities, as was advocated in a CRPD Committee case, *Gröninger v Germany*.<sup>37</sup>

In *Gröninger v Germany* the CRPD Committee observed that in Article 27 the CRPD enshrines the rights of PWDs to benefit from appropriate measures relating to the promotion of employment opportunities such as real access to general placement services as well as support in finding and obtaining employment. It can be gleaned from this there is a need for awareness, and that active participation in national development is not limited to formal employment but includes informal employment. This insight is buttressed by section 14 of the *Constitution*, which mandates the state to create opportunities for both formal and informal employment.

Awareness of their constitutional rights and freedoms would encourage PWDs to participate in national development. The rationale is supplied in section 7 of the *Constitution*, which mandates the promotion of public awareness of the *Constitution* to all persons. Without doubt, the *Constitution* cements the right to work as an imperative and fundamental right, not a favour. Hence, the State has an obligation to create an environment for the realisation of the right to work for persons with disabilities, as a legal right and not a favour. The statutory provisions in the *Constitution* ought to transcend the form and translate into substance. If that takes place there is a possibility that poverty among persons with disabilities may be alleviated, that they may be empowered and ultimately that the self-dependency PWDs may reduce their dependency on central government for financial resources.

### **3.3 Labour Act (Chapter 28:01)**

The *Labour Act* is the principal statute addressing employment rights and procedures in the private sector in Zimbabwe. Although the *Labour Act* has sought to incorporate the principle of equality in the workplace, it remains necessary to further bolster the right in Section 5 dealing with the protection of employees against discrimination. It is the writer's view that the *Labour Act* requires amendment in order to make it sensitive to the realities of the needs of persons with disabilities as stipulated in the CRPD, particularly with respect to

---

<sup>36</sup> Chaskalson 2003 *ICON* 590.

<sup>37</sup> *Liliane Gröninger v Germany* (Communication No 2/2010) CRPD/C/D/2/2010 of 4 April 2014.

the right to work.<sup>38</sup> Unfortunately, the amendment of the *Labour Act* in July 2023 under Amendment 11 of 2023 did not address the rights of persons with disabilities.

Suggested amendments to the *Labour Act* include provisions that recognise informal employment and the inclusion of statutory benefits payable for the establishment of informal employment by PWDs, including tax rebates for companies employing persons with disabilities. The above suggestion would address employment creation as an enabler of national development and increase the means of production. It would be ideal for the amendment to be housed in the *Labour Act* as the supreme statute addressing employment relations in Zimbabwe. Its provisions are superior to those of any other statute dealing with employment issues in Zimbabwe. This is a trite statement, as discussed in various cases including but not limited to *City of Gweru v Masinire*<sup>39</sup> and *Tamanikwa v Zimbabwe Manpower Development Fund*, which emphasised that notwithstanding any inconsistency arising among statutes, the *Labour Act* and its provisions are supreme in employment matters in Zimbabwe.<sup>40</sup> This is relevant since the *Persons with Disabilities Bill* (which is still in the legislature) seeks to introduce a new statute that partly addresses employment affairs.

Furthermore, it is worth noting that the *Labour Act* should seek to address relations prior to employment and post-employment engagement. This would include the state's emphasising its obligation to create an enabling environment to establish enterprises, including discouraging shelter workshops and encouraging support for employment<sup>41</sup> that could reasonably accommodate persons with disabilities in general. In addition, persons with disabilities should be able to choose freely how and where to work. This would enable their informed and willing participation in national development. Moreover, the *Labour Act* ought to expressly include among its provisions positive measures to harness the interest of PWDs. These positive measures should include but not limited to a mandatory disability recruitment threshold, and tax credits for enterprises and persons with disabilities. The Government of Zimbabwe must be commended for the inclusion of a tax credit in section 13 of the *Finance Act* (Act 7 of 2021) making it possible to award credits to employers who employ persons with physical disabilities. This seems to have been replicated in the *Persons with Disabilities Bill*, which is still under consideration and before the Parliament.

However, the limitation of the benefit in the *Finance Act* to only persons with physical disabilities contradicts the generosity of spirit embodied in the CRPD, which provides an all-inclusive definition of persons with disabilities. In addition,

---

<sup>38</sup> Article 27 of the CRPD.

<sup>39</sup> *City of Gweru v Masinire Supreme Court of Zimbabwe* SC56/2018 (SCZ).

<sup>40</sup> *Tamanikwa v Zimbabwe Manpower Development Fund* SC33/2013 (SCZ).

<sup>41</sup> Section 74 of the *Constitution of Zimbabwe*, 2013.

regarding the regulation of employment, the *Labour Act* ought to cement the prohibition of discrimination by including the mandatory need for the inclusion of equity as a corollary to equality. This is necessary in the recruitment procedures and promotions. Additionally, the obligation to create accessible workplaces, the implementation of reasonable accommodation in the workplace, training, fair working conditions and self-employment remain critical to the realisation of the right to work as enumerated in the CRPD. Making workplaces accessible and affording reasonable accommodations would encourage national development.

Persons living with intellectual and/or mental disability face a great impediment to attaining employment. This is an issue that must be addressed. This would require an amendment of the *Mental Health Act*<sup>42</sup> with respect to how it addresses persons with disabilities, especially those with mental disabilities. Although the focus is on the *Labour Act* (28:01), the suggestions of amendments would be applicable for the *Public Service Regulations*,<sup>43</sup> which regulate employment in the public sector in Zimbabwe.

### **3.4 National Disability Policy, 2021**

Admirably, the coming of the *Zimbabwe National Disability Policy* launched on the 9<sup>th</sup> of June 2021 by His Excellency, the Zimbabwe President ED Mnangagwa, cannot go unnoticed. A reading of the policy would indicate the state's commitment to addressing the needs and aspirations of PWDs in the national development matrix. The foreword of the policy spells out clearly the importance of persons with disabilities. The President notes that:

The reality is that no one plans to be born with disability, and no one plans to acquire disability hence disability can happen to anyone at any time. Persons with disabilities are therefore present in all communities and societies of the world including in all rural and urban areas in Zimbabwe. The multi-dimensional and multi layered nature of disability demands collective responsibility and accountability, within our context of the whole Government approach.<sup>44</sup>

The policy introduces an expansive definition of a PWD aligned to that in the CRPD. In addition, the policy includes persons with albinism as PWDs and affords persons with albinism an opportunity to actively participate in national development as a recognised group of persons. This was not the position before the development of the policy. However, the policy remains no more than a guide for the state, and it would be ideal to have the provisions replicated in a statutory instrument for justiciable implementation, an attribute peculiar to statutes and not to policies. Policies are not legally enforceable. However, they are a useful tool to highlight a government's priorities. According to *R (All the*

---

<sup>42</sup> *Mental Health Act* 15 of 1996 (Chapter 15:12) (as amended).

<sup>43</sup> *Public Service Regulations* Statutory Instrument 1 of 2000.

<sup>44</sup> *National Disability Policy, 2021* 3.

*Citizens) v SOS*,<sup>45</sup> public law has not reached the stage at which all administrative policies have become enforceable as a matter of law.

Taking the above into account, the writer believes that the assessment and enjoyment of the contents of a policy can be considered only upon its implementation and the measurement of the results attained.

### **3.5 *Persons with Disabilities Bill, 2023***

Currently the *Persons with Disabilities Bill*, which is under debate in Parliament, suggests some statutory changes, which changes would have an effect on PWDs' right to work.

Section 37 of the Bill provides the right to work for persons with disabilities. However, the Bill subjects the right to work to the availability of resources and the competencies of the responsible Ministry. Mindful of the constitutional provisions that relate to the availability of resources in rights enforcement, the limitation in section 37 of the Bill adds no value to the existential problem of the enforcement of socio-economic rights in general and those of persons with disabilities in particular. In addition, section 37 emphasises rights already provided in the *Constitution* under the national objectives and section 83 of the *Constitution*, respectively. Therefore, one cannot expect the Bill to provide stronger entitlements than the *Constitution* unless the constitutional provision is amended. Such an attempt would be *ultra vires* the Supreme Law. Hence, there is a need to progressively amend the *Constitution* to remove the negative measures limiting rights to the availability of resources.

On the other hand, it is worth commending the Persons with Disabilities Bill for boldly introducing progressive measures to encourage the participation of employers in inclusively recruiting persons with disabilities. Section 37(3) seeks to mandate employers to have at least two per centum of the workplace to be persons with disabilities if the employer has a workforce of more than fifty employees. This would also require the submission of returns on the progressive implementation of the same, and it would be applicable two years after the Bill's becoming law.

Furthermore, section 37(5) of the Bill seeks to introduce a tax benefit for employing persons with disabilities, to a maximum threshold of USD\$2500.00 per annum. Without doubt, the provision is admirable. However, safeguards should be put in place to avert a retrogressive slump which would emphasise the charity aspect of disability that views persons with disabilities as welfare objects undeserving of independence.

---

<sup>45</sup> *R (All the Citizens) v SOS* 2022 EWHC 960.

## 4 Conclusion

With the launch by the Zimbabwe Government of the National Development Strategy 2021-2025, which sets out the pathway towards a prosperous and empowered upper middle-income society by 2030, PWS' right to work remains imperative. Hence, it is in PWDs' best interests for Zimbabwe to align itself with and adhere to the CRPD provisions on the recognition and protection of the rights of PWDs in general and the right to work in particular for the inclusive participation of PWDs in Zimbabwe's national development agenda.

With the full participation of all groups of society in general and PWDs in particular, inevitably the State would benefit from the incremental reduction of the burden of financially supporting PWDs. The CRPD mandates the creation of employment opportunities for PWDs on an equal footing with others. The creation of opportunities entails putting in place policies that open up education facilities to incorporate PWDs as part of an empowerment value chain enabling their attainment of knowledge, the management of resources and the creation of jobs for all persons, including PWDs. An improved legal framework protecting the right to work as enshrined in Article 27 of the CRPD would enable the transformative and progressive participation of PWDs in national development.

## Bibliography

### Literature

Biegon "Promotion and Protection of Disability Rights"

Biegon J "The Promotion and Protection of Disability Rights in the African Human Rights System" in Grobbelaar-Du Plessis I and Van Reenen T (eds) *Aspects of Disability Law in Africa* (Pretoria University Law Press Pretoria 2011) 53-84

Chaskalson 2003 *ICON*

Chaskalson A "From Wickedness to Equality: The Moral Transformation of South African Law" 2003 *ICON* 590-609

Darling and Heckert 2010 *International Journal of Disability, Development and Education*

Darling RB and Heckert DA "Orientations Toward Disability: Differences Over the Life course" 2010 *International Journal of Disability, Development and Education* 131-143

Fredman 2001 *Industrial Law Journal*

Fredman S "Equality: A New Generation" 2001 *Industrial Law Journal* 145-154

Harpur 2011 *Val U L Rev*

Harpur P "Time to Be Heard: How Advocates Can Use the Convention on the Rights of Persons with Disabilities to Drive Change" 2011 *Val U L Rev* 1-14

Horsten 2006 *PELJ*

Horsten D "The Role Played by the South African Human Rights Commission's Economic and Social Rights Reports in Good Governance in South Africa" 2006 *PELJ* 176-197

Kamga 2013 *AJICL*

Kamga S "A Call for a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa" 2013 *AJICL* 219-249

Kapindu 2013 *AHRLJ*

Kapindu R "Courts and the Enforcement of Socio-economic Rights in Malawi: Jurisprudential Trends, Challenges and Opportunities" 2013 *AHRLJ* 125-151

Kondo 2017 *AHRLJ*

Kondo T "Socio-economic Rights in Zimbabwe: Trends and Emerging Jurisprudence" 2017 *AHRLJ* 163-193

Mégret 2008 *Hum Rts Q*

Mégret F "The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?" 2008 *Hum Rts Q* 494-516

Moyo and Manyatera 2014 *Midlands State University Law Review*

Moyo A and Manyatera G "International and Domestic Perspectives on Disability and Education: Children with Disabilities and the Right to Education in Rural Zimbabwe" 2014 *Midlands State University Law Review* 103-135

Mubangizi 2020 *LDD*

Mubangizi JC "A Human Rights-based Approach to Fighting Corruption in Uganda and South Africa: Shared Perspectives and Comparative Lessons" 2020 *LDD* 225-247

Ncube, Modise and Gregg 2023 *Open Journal of Social Sciences*

Ncube S, Modise M and Gregg A "Employment of Women with Disabilities in Zimbabwe in the Fourth Industrial Revolution" 2023 *Open Journal of Social Sciences* 652-665

Peta and Moyo "Rights of Persons with Disabilities in Zimbabwe"

Peta C and Moyo A "The Rights of Persons with Disabilities in Zimbabwe" in Moyo A (ed) *Selected Aspects of the 2013 Zimbabwean Constitution and the Declaration of Rights* (Raoul Wallenberg Institute of Human Rights and Humanitarian Law Lund 2019) 86-125

Schulze *Understanding the UN Convention on the Rights of Persons with Disabilities*

Schulze M *Understanding the UN Convention on the Rights of Persons with Disabilities: A Handbook on the Human Rights of Persons with Disabilities* (Handicap International Lyon 2010)

UN Department of Economic and Social Affairs *United Nations Development Agenda*

United Nations Department of Economic and Social Affairs *United Nations Development Agenda: Development for All* (UN New York 2007)

Vaizey 1968 *Journal of Educational Thought*

Vaizey J "Education and Economic Development" 1968 *Journal of Educational Thought* 159-166

### **Case law**

*City of Gweru v Masinire Supreme Court of Zimbabwe* SC56/2018 (SCZ)

*Liliane Gröninger v Germany* (Communication No 2/2010) CRPD/C/D/2/2010 of 4 April 2014

*R (All the Citizens) v SOS* 2022 EWHC 960

*Tamanikwa v Zimbabwe Manpower Development Fund* SC33/2013 (SCZ)

### **Legislation**

*Constitution of Zimbabwe (Lancaster House)*, 1979 (*Zimbabwe Constitution Order*, 1979 (SI 1979/1600 of the United Kingdom))

*Constitution of Zimbabwe* (Amendment Number 20), 2013

*Disabled Persons Act* 5 of 1992 (Chapter 17:01) (as amended)

*Finance Act* 7 of 2021

*Labour Act* 16 of 1985 (Chapter 28:01) (as amended)

*Mental Health Act* 15 of 1996 (Chapter 15:12) (as amended)

### **Government publications**

*National Disability Policy*, 2021

*Persons with Disabilities Bill*, 2023

*Public Service Regulations* Statutory Instrument 1 of 2000 (as amended)

### **International instruments**

*African Charter on Human and Peoples Rights* (1981)

*Convention on the Rights of Persons with Disabilities* (2006)

*Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa* (2018)

*Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (2005)

## Internet sources

Briant, Watson and Philo 2011 <https://eprints.gla.ac.uk/57499/1/57499.pdf>  
Briant E, Watson N and Philo G 2011 *Bad News for Disabled People: How the Newspapers are Reporting Disability. Project Report. Strathclyde Centre for Disability Research and Glasgow Media Unit, University of Glasgow*  
<https://eprints.gla.ac.uk/57499/1/57499.pdf> accessed 15 July 2025

Danish Institute for Human Rights 2023  
[https://www.humanrights.dk/files/media/document/HRBA\\_14.pdf](https://www.humanrights.dk/files/media/document/HRBA_14.pdf)  
Danish Institute for Human Rights 2023 *Measuring a Human Rights-Based Approach to Development* [https://www.humanrights.dk/files/media/document/HRBA\\_14.pdf](https://www.humanrights.dk/files/media/document/HRBA_14.pdf) accessed 28 March 2025

UN 2006 <http://www.un.org/News/Press/docs//2006/sgsm10797.doc.htm>  
United Nations 2006 *Statement by Secretary-General: On the Adoption of the Convention on the Rights of Persons with Disabilities*;  
<http://www.un.org/News/Press/docs//2006/sgsm10797.doc.htm> accessed 12 June 2024

UN 2015 <https://unodp.org/content/sustainable-development-goals-sdgs>  
United Nations 2015 *Sustainable Development Goals*  
<https://unodp.org/content/sustainable-development-goals-sdgs> accessed 30 July 2025

UN 2019 [https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN\\_Disability\\_Inclusion\\_Strategy\\_english.pdf](https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf)  
United Nations 2019 *United Nations Disability Inclusion Strategy*  
[https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN\\_Disability\\_Inclusion\\_Strategy\\_english.pdf](https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf) accessed 30 July 2025

Vision Ability Zimbabwe 2024 <https://vaz.org.zw/financial-inclusion-for-people-with-disabilities/>  
Vision Ability Zimbabwe 2024 *Financial Inclusion for People with Disabilities*  
<https://vaz.org.zw/financial-inclusion-for-people-with-disabilities/> accessed 29 January 2025

ZIMSTAT 2017 <https://zimbabwe.unfpa.org/en/publications/inter-censal-demographic-survey-2017-report>  
Zimbabwe National Statistics Agency 2017 *Inter-censal Demographic Survey Report* <https://zimbabwe.unfpa.org/en/publications/inter-censal-demographic-survey-2017-report> accessed 28 February 2025

## List of Abbreviations

AHRLJ	African Human Rights Law Journal
AJICL	African Journal of International and Comparative Law
CRPD	Convention on the Rights of Persons with Disabilities
Hum Rts Q	Human Rights Quarterly
ICON	International Journal of Constitutional Law
LDD	Law, Democracy and Development
PELJ	Potchefstroom Electronic Law Journal
PWD / PWDs	Person with Disabilities / People with Disabilities
UN	United Nations
Val U L Rev	Valparaiso University Law Review
ZIMSTAT	Zimbabwe National Statistics Agency
ZNSA	Zimbabwe National Statistics Agency