

Persons Living with Disabilities and Zambia's Electoral Processes: A Study of Lusaka District

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Abstract- The study sought to explore issues persons living with disabilities in Zambia face in relation to the electoral processes in selected areas of Lusaka District. Specifically, the study aimed at identifying and understanding the consequences of electoral conflicts on electoral processes, accessibility of polling stations, electoral materials and adequacy of laws and policies that focus on participation of persons with disabilities in civic matters such as voting. The study was qualitative in nature and used a descriptive research design. Participants from various institutions, such as electoral commission of Zambia and NGOs working with people living with disabilities as well as in the area of elections, were purposively sampled and a total of 40 people took part in this study. Data was collected using semi-structured interviews. A thematic analytical approach was applied on the collected data. The study has demonstrated that in Zambia, like the rest of the world, persons with disabilities as citizens are faced with several challenges occurring at individual or micro level as well as those determined by the socio-economic environment or macro level in participating in the electoral process. However, the most prominent of them all is inaccessible infrastructure such as polling stations which includes other elements such as inadequate tactile materials for the visually impaired and other assistive devices, and long distances to polling stations. This study has also revealed that electoral conflicts, coupled with negative attitudes, is among the challenges that persons with disabilities face in their quest to participate in the electoral process. Further, the study demonstrates that although laws and policies that are aimed at promoting and mainstreaming disability issues in all sectors of development exist, they fall short of addressing many aspects and challenges faced by persons with disabilities. In view of these findings, the study concludes that there is need to provide voter

education and information in accessible formats (for example, large print, electronic format for voters that use screen-reading technology, written material, and easy-to-understand language for persons with intellectual disabilities) and the provision of closed captions and sign language interpreters on televised voter information announcements.

Indexed Terms- Citizenship, electoral processes, electoral conflicts, Lusaka, persons with disabilities, Zambia

I. INTRODUCTION

The right to vote is critical to democracy and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) underscores the equal rights of persons with disabilities to participate in political life [1]. Yet, in many low-income countries, persons with disabilities are often unable to cast their vote or stand for political office as they are often excluded from political and social engagements and are unable to fully exercise and enjoy their guaranteed rights.

The Australian Agency for International Development, shows that effective democratic development involves making sure that the poorest and most marginalized have a meaningful voice in decisions affecting their welfare [2]. The World Health Organization (WHO) for example, estimates that 15 percent of the world's population has a disability, with 80 percent of these persons living in developing countries, with potentially higher levels in post-conflict States. Yet persons with disabilities, often the poorest of the poor, are frequently overlooked and struggle to achieve better quality of life.

Persons with disabilities or chronic health conditions represent various identities shaped around ethnic, religious, socioeconomic and gender groups – creating a form identity and belonging that Mulubale in his work calls as ‘therapeutic citizenship’ [3]. When such a large, cross-cutting portion of society does not participate in public affairs, it prevents democracy from deepening and allowing all citizens a voice in the way they are governed. Various reasons explain why persons with disabilities engage in politics, in some cases, they pursue interests specifically tied to their disability, such as making public buildings accessible, access to inclusive health and other facilities or having an inclusive education system where they have access to sign language interpretation in schools [4, 5]. Persons with disabilities like any other members of the society, want the opportunity to take part and shape their communities, as such, their interests coincide with wider segments of society when it comes to basic human needs, such as access to clean water, education for their children or developing a safe and secure community.

It is through elections that persons with disability see the opportunity to exercise their power and influence within their communities to shape political outcomes. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) prohibits all forms of discrimination against persons with disabilities and in Article 2 the convention, defines discrimination on the basis of disability as any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field [6]. It includes all forms of discrimination, including denial of reasonable accommodation. The right to participate in political and public life is guaranteed under Article 29 of the UNCRPD. Thus, States Parties are expected to guarantee persons with disabilities their political rights and the opportunity to enjoy them on an equal basis by ensuring an accessible electoral system and providing reasonable accommodation where necessary.

However, in Zambia, the year 2011, saw the Zambia Federation of Disability Organisations (ZAFOD) sue the Electoral Commission of Zambia (ECZ) together

with the Attorney General for failure to provide access to persons with disabilities to take part in elections, *Sela Brotherton vs Electoral Commission of Zambia* (2011/HP/0818), a matter in which the High Court found the Electoral Commission of Zambia to have had unlawfully discriminated against persons with disabilities. In its ruling, the High Court of Zambia found the ECZ with a case to answer and ordered that all elections held after the 2011 elections must be accessible to persons with disabilities.

The right to vote is a unique and singularly important indicator of citizenship in a democracy, in Zambia and throughout the world [7]. For too long, people with disabilities have been in the shadows in exercising this basic civil right. The causes of voter disenfranchisement are myriad, but they include physical inaccessibility, a failure to provide registration and voting materials in accessible formats, a lack of private and independent voting for many citizens, and the denial of the right to vote on the basis of erroneous assumptions about a person’s capability because of his or her disability. The areas of concern affecting the participation of persons with citizens including persons disabilities in the electoral process. In Zambia, there is need to enhance voter education, deal with political intolerance, human rights violation, political and voter education, participation, and life skills required in dealing with challenges of poverty, violence, other undignified forms of treatments men and women suffer [8]. The general objective of this study was to explore the challenges faced by persons with disabilities in the electoral process in selected areas of Lusaka District.

II. METHODOLOGY

This study was qualitative in nature. A descriptive research design was utilized in order to identify and understand the relationship between electoral processes and disabilities. In terms of scope, this study was undertaken in Lusaka district of Zambia with participants drawn from the Electoral Commission of Zambia (ECZ), Disabled People’s Organisations (DPO), Foundation for Democratic Process (FODEP) and individuals with disabilities that had participated in the previous general elections from two compounds. The sample population comprised of 40 people from which 15 were males and 25 females. The justification

for the sample selection is that the Electoral Commission of Zambia is an independent and autonomous Electoral Management Body (EMB) established in 1996. Since its establishment, the Commission has delivered five (5) General Elections (in 1996, 2001, 2006, 2011, 2016 and 2021), with two (2) Presidential By-Elections (in 2008 and 2015) and several National Assembly and Local Government by-elections over the years. While FODEP on one hand has had a traditional mandate in election monitoring and electoral reforms advocacy. FODEP has over the years continued to expand its programmes to other emerging issues which have affected the social and economic life of Zambians. The selection of the persons with disability on the other is hand is indisputably informed by the fact that the the right to participate in national affairs is of great practical importance as it enshrines the principle of political and civil equality in the law and is enshrined under article 75 (2) of the Constitution of Zambia.

The data collection for the study was done through the use of unstructured interview guides which were applied to the participants from ECZ, DPOs, FODEP, in examining challenges and mechanisms being put in place to enhance participation of persons with disabilities in the electoral process. While the focus group discussions were used on the persons with disability. The interviews were administered as face-to-face which increased responsiveness and allowed the researchers to further seek more explanations. Data analysis was done through the process of structural coding, in which the initial raw data (taken from brief notes collected by the researcher during the interview process) was labeled and classified into different thematic areas.

III. STUDY FINDINGS

The findings of this study were analysed to gain some comprehensive meanings from the obtained data through emblematic quotes that represent the views of the participants. Participants from two groups where given identifiers in which Persons with Disabilities where given PD1-PD13, and Disabled People's Organisations (DPO) represented by codes DPO1-DPO7. ECZ officials, FODEP officials are addressed as such. The results are discussed under the identified themes below.

IV. PARTICIPATION OF PERSONS WITH DISABILITIES IN THE ELECTORAL PROCESS

The persons with disabilities were engaged in a focused group discussion to highlight their involvement and consultation as key to achieving full participation. DP2 noted that *“many are times when we are not engaged on matters that involve or affect us. We are the ones who are affected and so we know best what can be done.”*

In another response from from DP5: the participant noted that:

You cannot achieve our full participation without our involvement. The ECZ must get it straight from us, we are the ones that affected and we have the solutions. We can work as polling officers and also be engaged as voter educators. We can communicate and train our colleagues better. If we are seen as officers in these processes, our fellow disabled persons will be encouraged to participate. At this point what is critical is that we have a say in the process.

DP1 a participant in Kanyama compound echoed during a focus group discussion that most ladies with disabilities are not involved in the electoral process. The interviewee further state that *“We too can work as electoral agents or officers”*

The DPOs representatives interviewed also alluded to the planning and design of the electoral process as being vital. ECZ and key stakeholders in the electoral system must plan and design an effective system that takes in to consideration the needs all citizens. *They said it was not feasible and effective to consider persons with disabilities when the processes commence* DPO1 lamented in an interview. They said that some of the requirements have budget implications and cannot be effectively achieved if they come as an after-thought.

DPO 2 argued that there is need for *“post-election deliberation that must seriously consider the needs and challenges of persons with disabilities”*. Consideration of people with disabilities must be made during registration, and equally keeping statistics help in

making decisions and follow up engagements on what can be done to improve the participation of persons with disabilities.

In an interview with some ECZ officials, to the question whether or not persons with disabilities were well represented in electoral decision making, ECZ one noted that they had committees were Zambia Agency for Persons with Disabilities (ZAPD) and other Disabled People's Organisations were represented.

However, some DPOs representatives felt that were not adequately represented as most committees had the presence of ZAPD and being a government institution, it may not necessarily represent their needs adequately on the committees. DPO3 noted that *"we cannot have government speak on our behalf, government needs to hear from us and work on the issues raised by us."* In view of the above response, it shows some level of mistrust DPOs and some government agencies, selected to represent persons with disabilities on the ECZ committees.

DP11 noted that *"the Persons with Disabilities Act mandates ZAPD to promote the participation of persons with disabilities with equal opportunities in the civil, political, economic, social and cultural spheres"*. Even if this is recognised, others felt governments agencies often do not represent citizens well. It was highlighted that DPOs were only part of the voter education committee and hence their role was narrow. Further, DPOs indicated that they did not have adequate funding to effectively implement some of the proposed advocacy strategies. This thus poses a huge challenge to ensure that the duty bearers are held accountable and reminded of what must be done. DPO3 noted that they sometimes received funding when elections got closer and even with that it is difficult to push government and the ECZ in particular to work on some of the areas that may need attention in order to make the electoral process may accessible to persons with disabilities and ensure their full participation.

V. ADVOCACY STRATEGIES TO ENSURE ACCESSIBILITY FOR PERSONS WITH DISABILITIES TO FUTURE ELECTIONS

In responding to the question about what future strategies can be employed to address the issue of participation for persons with disabilities, individuals with disabilities were of the opinion that it was the responsibility of the DPOs to spearhead advocacy work. During a focus group discussion, one of the FDG participant said, *"we have representative organisations that have been given the mandate to speak on our behalf. Yes we can advocate as individuals but we need a more organised ways of fighting for what is due to us"*.

Among the main strategies proposed by the DPOs representatives who were interviewed were: lobbying with the authorities, Litigation, Participation in specialized committees of ZAPD and participating as committee members on the ECZ committees. A FODEP representative for example highlighted the need for informed advocacy through research. The participant stated that *"we have worked with key DPOs to review legislation and conduct research on participation of persons with disabilities. We all agree that every person has a right to vote and this right must not be taken away simply because of one's disability"*.

Both the Zambia Federation of Disability Organizations (ZAFOD) and the FODEP representatives agreed that one of the most effective advocacy strategy is engaging law makers in their advocacy and this works to their advantage as the parliamentarians are able to question and push for the implementation of certain key issues. This helps to keep public institutions in check to ensure that directives from law makers for example are implemented.

Zambia Agency for Persons with Disabilities' (ZAPD) officials were quick to cite the ratification of the UNCRPD in 2010 which meant that Zambia should take steps to ensure the implementation of the provisions through its domestication by firstly putting in place a law that is in conformity with the CRPD provisions. In 2012, Zambia enacted the Persons with Disabilities Act to repeal the 1996 Act. The Act

continued the existence of the Zambia Agency for Persons with Disabilities which was established under the 1996 Act.

A ZAPD representative noted that they make presentation on various issues affecting persons with disabilities as well to give an account of what they are doing in order to promote and protect the rights of persons with disabilities in the country. The participant further narrated that in 2017, *the Agency was summoned by the Parliamentary Committee on Health, Community Development and Social Services to give an update on what was being done to enhance participation of persons with disabilities in the electoral process.* For organisation this was an opportunity to highlight what is provided in the law and also highlight challenges faced by persons with disabilities when it comes to the electoral process.

The ZAPD participant pointed that during the presentation to the parliamentary committee, *“we highlighted challenges faced by persons with disabilities at different levels of the electoral process and also made recommendations on how to improve participation of persons with disabilities in the electoral process for future elections. We feel Informing law makers on key issues is a key strategic advocacy move as they influence what can be done and also ensure that it is done by holding the responsible institution accountable”.*

VI. LAWS AND POLICIES ENSURING FULL PARTICIPATION OF PERSONS WITH DISABILITIES

The researchers checked for the provisions of laws and policies in line with participation of persons with disabilities. Some interviewees indicated that the country did have adequate laws to ensure the participation of persons with disabilities. The ZAPD official highlighted the Persons with Disabilities Act as having key provisions that ensure participation of persons with disabilities in the electoral process.

Section 51 and subsections a, b, c and d of the Persons with Disabilities Act provide for the rights and opportunities for persons with disabilities to vote and be elected directly or through freely chosen representatives.

Some individuals with disabilities said they were aware of existing laws that support the participation of persons with disabilities in the electoral processes, DP6 stated that *the law is there but what is lacking is the implementation. I cannot point to anything that has been done with regards to the implementation of the law and the policy on disability.*

Participant DP7 indicated that;

Most people in these compounds are not aware of the provisions of the law. Now imagine if we Lusaka residents, living in what you may consider the most developed part of Zambia are not informed about these laws, what is the situation for our brothers and sisters out there in the rural areas. I believe the DPOs and government itself still has a lot of work to do. If am not fully aware of the law and what it provides then I cannot hold government accountable.

The participant from FODEP, affirmed that the country did have laws and policies in place although much was needed to implement the provisions of the laws.

We are constantly reviewing these laws and highlighting gaps we identified. For years now, the government has been talking about the repeal of the Mental Disorders Act of 1951 but that bill has not been tabled in Parliament. I will be very surprised to see that law passed before the next general elections.

An official from ECZ said that,

The Electoral Act provided for the participation of all citizens to take part in the electoral process.

VII. PROPOSED WAY FORWARD TO ENHANCING PARTICIPATION

Individuals with disabilities, FODEP and DPOs interviewed agreed that engaging persons with disabilities would ensure that proper measures are put in place to enhance participation of persons with disabilities in the electoral process. ECZ officials spoken to were highly in favour of a more consultative process which would bring on board persons with disabilities on matters of an inclusive electoral system and process. This means also that there will be need to

introduce in future elections to have tactile voting materials for persons with visual impairments so that they too can have a secret ballot.

For effective advocacy, four participants mentioned the need for more funds for DPOs to be able to carry out advocacy activities on issues of accessible electoral processes.

The challenge that DPOs mainly face is lack of funds which if not available may deter active voicing on matters of elections for persons with disabilities.

The need for financial support for DPOs also came out during focus group discussions with persons with disabilities in which DP4 lamented that.

We have witnessed DPOs doing a good job when funding is available, they move from one point to another and call for workshops were are engaged and consulted on some pertinent issues. We can only urge donors and government to fund programmes that are aimed at enhancing our participation in key national processes.

When asked whether they had any complaints or fears with regards to electoral processes, persons with disabilities pointed out that one of the reasons for their lack of participation was the violence that occurs sometimes during these processes.

We are disabled, some of us can't hear and may end up not fleeing for our lives as we may not be aware of what is going on. Some of us may not be able to run or fight back when attacked due to the nature of our disability. The said.

In proposing what should be done with regards to violence, the study participants called for stiffer laws or punishment for people that involve themselves in electoral violence as it usually has a negative impact on the participation of not only people with disabilities but also those without disabilities in the electoral process.

VIII. DISCUSSION

• PERSONS WITH DISABILITIES PARTICIPATING IN THE ELECTORAL PROCESS

The irony of democracy is premised on the fact that people need to be aware of their rights [9]. The findings review that interviewees are aware that persons with disabilities have the right to vote or participate in the electoral process just like any person without a disability and that this is regardless of one's type of disability. FRA (2014) indicates that persons with disabilities should be seen as active citizens keen to be engaged in the political life of their communities. This includes becoming active voters, vying for leadership positions and other types of political activity in large numbers, including being members of political parties, attending political meetings and contacting elected officials. Participating in the electoral processes gives all citizens, regardless of their body or status, a chance to make important decisions pertaining to the running and management of the affairs of the country and to participate in public life and democratic processes [3, 8]. However, society's negative perception towards people with disabilities, discriminatory laws rooted in prejudice also restrict or even prohibit altogether the right to vote, particularly for persons with psychosocial or intellectual disabilities, ostensibly under the guise of protecting the system from fraud or on the basis that disabled voters are not 'rational' and therefore cannot exercise their franchise competently. Beyond legislation denying individuals with disabilities the right to vote, as in automatic disenfranchisement in connection with the imposition of guardianship, stereotypes may also serve to exclude persons with disabilities from being included in public outreach by political parties or from consideration as candidates for public office. Finally, legal provisions that preclude persons with disabilities from voting typically fail to provide any process for court challenge or judicial review and are often vague, arbitrary and lacking in legitimate aim or purpose [10, 11].

In many countries, people with intellectual disabilities and mental problems cannot vote [12]. This is because they are under guardianship and are regarded not to have legal capacity. This means that the law does not

allow them to make important decisions in their lives. However, the UNCRPD under Article 12 provides for the equal recognition of all persons before the law. The Article in section 1 and 2 further provides for states parties to reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law and shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. Countries like Zambia must therefore take appropriate actions and measures to provide persons with disabilities access to support systems that they require in order to exercise their legal capacity.

The opportunity to be involved in political life is at the heart of what it means to live in a democratic society. The right to political participation, including for persons with disabilities, is accordingly firmly grounded in international law, enshrined in the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD), Council of Europe instruments and European Union (EU) primary and secondary legislation. In order for equal participation in the electoral process to be achieved, laws and processes should not contain provisions that restrict the right to vote, while voting procedures, facilities and materials should be appropriate, accessible and easy to understand and use [13]. This promotes an environment in which people with disabilities can fully and equally participate in public affairs as well as form and join organizations concerned with public and political life at various levels. Public participation as a precondition to the genuine realisation of enjoyment of human rights. This extends to all citizens including persons with disabilities [14]. This could be the reason why a considerable number of participants indicated that there should be equal participation in political processes because they believe that Persons with disabilities likewise should enjoy equal access to public service and government jobs at all levels, including working at local government offices, as well as serving in different capacities of public life.

In making its case and justification, ZAPD highlighted Article 45 (1) (c) of the Amended Constitution of Zambia provides for fair representation of the various interest groups in society.

The Constitution in Article 46 further guarantees the right of all citizens to make political choices, to form political parties, to participate in the activities of political parties as well as to vote in elections for any legislative body established under the Constitution, and to do so in secret; and to stand for public office and, if elected, to hold office [15].

• INTERVENTIONS FOR EQUAL PARTICIPATION IN THE ELECTORAL PROCESS

Interviewees revealed the need for more interventions to be implemented by the Electoral Commission Zambia which would cater for all types of disabilities without selection of a particular type of disability. Such interventions should include tactile voting materials for persons with visual impairments, inclusiveness through the provision of accessible polling booths and providing sign language interpretation during adverts on elections. Interventions relating to products and technologies in countries like Ghana were developed and piloted such as tactile ballot guide to allow visually impaired people to vote in confidence [16]. The Ghana Federation raised awareness on the right of people with disabilities to vote as well as on the inclusion of the sign language interpretation during Ghana's 2004 elections. Ghana Association of the Blind record an increase in the number of visually impaired persons who had participated in voting as well as other political activities during the period.

Measures to improve physical accessibility of the elections have been reported in countries such as Mauritius, South Africa, DRC and Cameroon [17]. For example, in Mauritius, voting premises were adapted by ramps and by adjustable height booths to accommodate voters using wheelchairs. The Electoral Commission of Zambia in collaboration with other stakeholders has been providing ramps as well as improving lighting and low-level tables in order to allow people with disabilities to better access the facilities. However, much more needs to be done in the context of Zambia to improve the electoral processes and encourage more persons with disabilities to vote. For Zambia, just like many other countries around the world, the facilities used as poll or registration centres are not owned by the Electoral Board. The inaccessible nature of the infrastructure and facilities therefore

connotes that persons with disabilities face further challenges in areas of education, health and other social amenities.

- THE ROLE OF DPOs IN THE ELECTORAL PROCESS

On the roles played by Disabled People's organizations (DPOs) in the political process is promote the participation of persons with disabilities and serve as essential resource persons to the electoral commission, civic and voter education organizations, and political parties. DPOs as observed in the results advocate for persons with disabilities to be included in voter education initiatives as educators and try to ensure that voting materials reflect the positive image of persons with disabilities. In some countries DPOs have advocated for positive measures in order to ensure that their interests are effectively represented in their legislatures [18]. In Uganda, for example, the Constitution requires that a certain percentage of seats in Parliament be accorded to representatives with disabilities while Namibia, there is a policy of presidential appointment of representatives with disabilities to parliament. In other cases, persons with disabilities may have representation through a Disability Advisor linked to the executive branch, as in the case of the Swedish Disability Ombudsman or Namibian Disability Advisor, or through a Council on Disability, as in the case of the United States National Council on Disability. DPOs played an important role in the process of drafting the CRPD and will continue to play critical roles in the implementation of the treaty [6]. The case of Sela Brother vs. the Electoral Commission of Zambia can be seen as one of the major advocacy steps taken by the DPOs in their efforts to ensure the participation of persons with disabilities in the electoral process. We see many notable efforts such as in 2016, when the Forum for Democratic Process (FODEP) working with the Zambia Federation of Disability Organisations (ZAFOD) and Disability Rights Watch (DRW) conducted a legal analysis on persons with disabilities and the electoral process in Zambia. In the study the organisations made recommendations for an electoral process that is conducive to persons with disabilities.

CONCLUSIONS AND RECOMMENDATIONS

The study revealed that persons with disabilities have the right to vote just like any person in society and that this is regardless of any type of disability with an exception of Persons with Mental Disabilities. The study further revealed that it is important to promote equal participation in the electoral process between the disabled and non-disabled persons. The opportunity to be involved in political life is at the heart of what it means to live in a democratic society. Participants also called for more interventions in order to make the electoral process inclusive through the provision of accessible polling booths, ramps, good lighting, tactile Braille papers or jackets and provide electoral materials in all accessible formats as well as sign language interpreters at all levels of the electoral process. Finally, the study revealed the need persons with disabilities to serve as essential resources person to electoral commissions, civic and voter education organizations, and political parties. DPOs advocate for persons with disabilities to be included in voter education initiatives as educators otherwise we risk having voters who have never even seen a voter card or voting booth [9]. There is need to ensure that voting materials reflect the positive image of persons with disabilities hence the need for more funding towards DPOs.

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