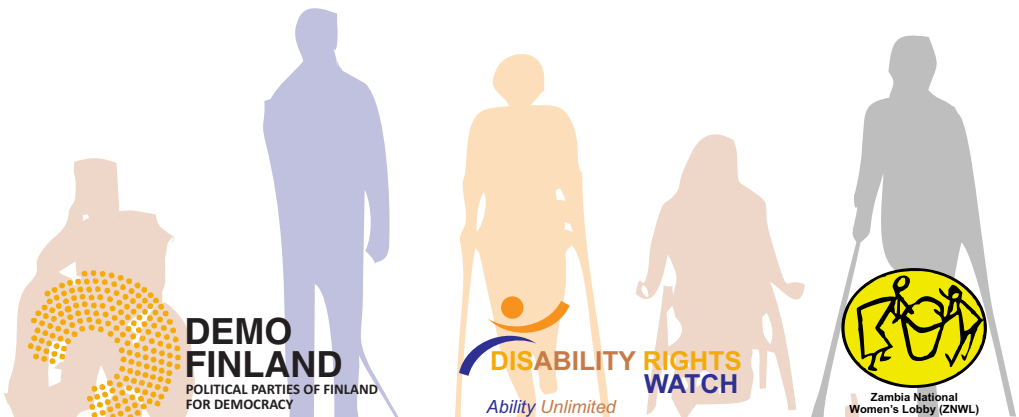


POLICY BRIEF No. 3 2021

DESIGNING AN INCLUSIVE ELECTORAL SYSTEM



ENHANCING POLITICAL PARTICIPATION OF PERSONS WITH DISABILITIES

KEY POINTS

- The full and equitable participation of persons with disabilities in political and public life is essential to building and sustaining strong, vibrant democracies.
- The abilities of persons with disabilities to participate equally in politics as activists, voters, members of civil society, party members or leaders, government officials and elected leaders results in tangible gains for democracy.
- The current design and structure of the Zambian electoral system has not only excluded persons with disabilities but made it difficult for them to actively participate in the electoral processes especially as candidates.
- Participation of women with disabilities in political and public life is one of the key characteristics of an inclusive democracy.
- An inclusive electoral process is vital for inclusive national development as it creates an environment for all citizens to contribute positively.
- The implementation of an inclusive electoral system to enhance the participation of persons with disabilities will require the existence of an anti-discrimination legal framework that prohibits all forms of discrimination on the basis of disability.
- An inclusive electoral system depends on the availability and provision of support services and devices: It is insufficient to have a strong anti-discrimination legal framework, or accessible environments and services. Some persons with disabilities may require different forms of assistance and support to live and fully participate in electoral processes including in their communities.
- Vital lessons can be drawn from the design and implementation of electoral quota systems from other jurisdictions to inform Zambia's inclusive electoral system design.

CONTEXT AND BACKGROUND

The number of persons with disabilities elected to both local government and the national assembly since has remained very low since Zambia attained independence in 1964. This has resulted in poor representation of their interests and challenges in government policies and programmes. Only three persons with disabilities at local government and one at national assembly were elected in the 2021 Zambia general elections.

The participation of men and women with disabilities in the electoral process as candidates is very critical to national democracy. To enhance the participation of persons with disabilities in the electoral processes, there is need for Zambia to redesign the current electoral system for the local government and national assembly.

The disability inclusion knowledge among political parties is slowly improving. With continued engagement, political parties will have improved knowledge which will result in them taking practical steps to include persons with disabilities within their parties. Strong collaboration among different stakeholders especially those that promote the rule of law, human rights, Organization of and for persons with disabilities including political parties and government ministries like the Ministry of Community Development and Social Services, Ministry of Local Government and Rural Development, Ministry of Justice, Ministry of Home Affairs and Internal Security and other line ministries is key if we are to achieve the inclusion of persons with disabilities. It is vital to join effort with all key players to ensure the inclusion and effective participation of persons with disabilities in public and political life.

LEGAL FRAMEWORKS ON THE POLITICAL PARTICIPATION OF PERSONS WITH DISABILITIES

The Constitution of Zambia (Amendment) 2016

One of the guiding values and principles of the public service is the representation of persons with disabilities in the composition of the public service at all levels. Further the constitution gives power to the president to nominate at least 8 members to the National Assembly, in doing so, the constitution requires that there is equitable representation of women, youth and persons with disabilities in the nomination.

The CRPD and The Persons with Disabilities Act 2012

The Persons with Disabilities Act, 2012 is the principle anti-discrimination law pertaining to persons with disabilities in Zambia. It is also the main domestication instrument for the CRPD. It commits the government to, “take measures to ensure that persons with disabilities effectively and fully participate in political and public life on an equal basis with others...”

Despite having these provisions in the Supreme law of the land and the Persons with Disabilities Act, persons with disabilities are still lacking adequate representation in the national assembly, local government as well as in public service.

THE ZAMBIAN ELECTORAL SYSTEM AND ITS EFFECT ON THE REPRESENTATION OF PWDS

Current Electoral System

The Electoral Commission of Zambia defines the electoral system as a set of rules on how votes are converted into seats for political or civic authority. The Constitution of Zambia (Act 2 of 2016) under Article 62(1), establishes the parliament of Zambia. The composition consists of a total of 156 First Past The Post (FPTP) constituency-elected MPs, 8 nominated by the president, the Vice president, the speaker and deputy speaker. Article 68(2) of the constitution further establishes the national assembly which consist of the president and 167 MPs, including the appointed MPs and other aforementioned representatives. The Zambian electoral system are processes are to ensure the following principles are followed for citizens to effectively participate in the electoral process; (a) equal and universal suffrage; (b) no discrimination based on gender or disability when providing electoral services; (c) transparent and credible electoral process; (d) no special privileges accorded to a political party or social group, except for persons with special needs; (e) no impediments to lawful inclusion in the electoral register; just to mention a few. These principles have not been well utilized to benefit the full and effective participation of the persons with disabilities in the electoral processes.

The FPTP electoral system and representation of persons with disabilities

The first past the post electoral system has disadvantaged the representation of persons with disabilities both at the Local Government and the National Assembly.

In order for one to succeed with this system one need to have stable financial muscles for nomination fees, campaigns and managing all political related activities. Persons with disabilities have limited finances mainly as a result of poor provision of reasonable accommodation in the education system, employment and economic empowerment programs.

Below are some of the key disadvantages of the FPTP electoral system to the participation of men and women with disabilities.

1. The FPTP excludes minorities from fair representation. Under this system, parties tend to put up the most broadly acceptable candidate in a particular constituency so as to avoid alienating the majority of electors. Thus it is rare, for example, for a candidate with disability who may not have much influence to be given a major party's nomination in a majority of candidates with support on the ground
2. The FPTP excludes women from the legislature. The 'most broadly acceptable candidate' syndrome also affects the ability of women to be elected to legislative office because they are often less likely to be selected as candidates by male-dominated party structures. These is evidenced by the fact that at the national assembly level on 20 female candidates were elected. This is a reduction from the 2016 elections where there we 28 female candidates. If women are not adopted in constituencies where parties have strong support, it simply means that chances of get elected in areas where parties have weak support are very slim the case of the 2021 general election.
3. Further, the FPTP tends to favor those with financial muscle. Huge finances are needed for nomination and managing campaigns and other election related activities. Persons with disabilities in Zambia, have not only experienced political participation limitations, but also access to high education is still a limitation among many men and women with disabilities. This has caused many of them to have not been able to get decent jobs to earn them enough money to sponsor their political careers under the current electoral system.

Persons with disabilities face a number of challenges when it comes to political participation. Financials, stigma, discrimination, low education and political violence and systemic exclusion among other challenges. The FPTP system has proved to be difficult for persons with disabilities to actively join the mainstream politics and participate effectively.

Despite these challenges, persons with disabilities are now risking their lives in a hostile environment just to ensure they have representation on the table. Having representation of marginalized groups in parliament and local government is necessary for inclusive development. The country should develop an inclusive electoral system or introduce electoral systems that reserves a certain percentage of seats at parliament and local government for marginalized groups.

STRUCTURE OF AN INCLUSIVE ELECTORAL SYSTEM

The design of an inclusive electoral system should be inspired by the desire to have all citizens participating in the electoral process and be represented at all decision-making levels. The design of an electoral system follows a number of criteria which include the critical rights that all minorities are entitled to as follows:

- i. The right to participate in public life, and not to be discriminated against. Each minority group should be treated equally regardless of the minority group they belong. The recognition of these rights will inform the design and development of the inclusive programmes.
- ii. The right to choose to be or not to be associated and not suffer any detriment because of this. This would imply that any electoral system that forces people to declare their identity and gives them privileges for doing so (or detriment for not doing so) would be illegal.
- iii. Additionally, the design of an inclusive electoral process should consider the representation of every individual regardless of social status.

An inclusive electoral process is vital for inclusive national development as it creates an environment for all citizens to contribute positively. The implementation of an inclusive electoral system to enhance the participation of persons with disabilities will require the following key elements;

- The existence of an anti-discrimination legal framework that prohibits all forms of discrimination on the basis of disability. States must adopt solid

anti-discrimination legal frameworks that prohibit all forms of discrimination on the basis of disability and guarantee equal and effective legal protection to all persons with disabilities against discrimination on any grounds, including the denial of reasonable accommodation.

- Accessibility; this is a basic requisite for persons with disabilities to be able to access and enjoy all electoral processes, and to participate fully and independently in society.

Without access to the physical environment, transportation, information and communications, persons with disabilities cannot fully exercise political rights, participate in development programs and policies nor benefit from them.

- Availability and provision of support services and devices: Sometimes it is insufficient to have a strong anti-discrimination legal framework, or accessible environments and services. Some persons with disabilities may require different forms of assistance and support to live and fully participate in electoral processes including in their communities.

These elements are key if we are to successively include persons with disabilities in the electoral process.

CASE STUDY: UGANDAN ELECTORAL SYSTEM

In the quest to become disability inclusive in the electoral system, Zambia can draw lessons from Uganda whose electoral systems takes into account the inclusion of persons with disabilities, women and youth.

The Ugandan government takes the inclusion of persons with disabilities, women and youth in the electoral process and in decision-making serious. The Constitution of Uganda provide for the composition of parliament and local government. The composition of the Parliament of Uganda is prescribed by the Constitution under article 78. Currently there are **375** members of Parliament:

a) 238 directly elected members representing constituencies (238 in total); b) 112 elected women, to represent each of the 112 districts of Uganda; c) 25 representing the following **Special Interest Groups**: Uganda Peoples Defence Forces (the national army) (10 representatives); Workers: five (5) representatives; Youth: five (5) representatives; and Persons with disabilities: five (5) representatives.

The members representing special interest groups are elected by secret ballot in electoral colleges that comprise of leaders in those groups from grass root level. Each interest group holds elections within their electoral college, and the winners are determined by a first past the post method. The key thing worth noting from the Ugandan electoral system is the provision of seats in parliament guaranteed for special interest groups.

The composition of the local government council for Uganda also provides for the representation of 2 youth councilors, 2 councilors with disabilities and women councilors who form one third of the council.

In order for Zambia to increase the representation of persons with disabilities, women and youth should draw lessons from the Ugandan electoral systems which has seen the inclusion of marginalized groups in parliament and local government council.

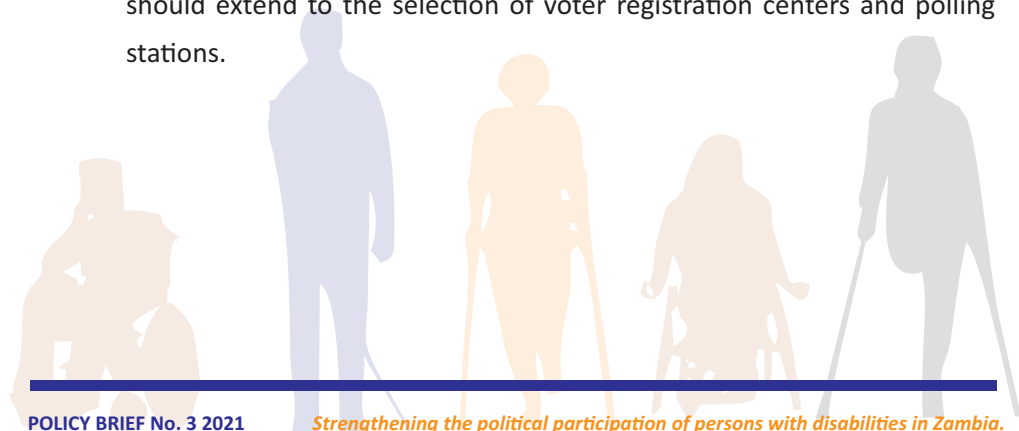
CONCLUSION AND RECOMMENDATIONS

The political participation of all citizens in the electoral process and national development is very critical and is a sign of true democracy. Persons with disabilities have not fully enjoyed their political rights due to among are reasons the current Zambian electoral system that has disadvantage them. The FPTP electoral system has proved to be challenging for men and women with disabilities.

To enhance the political participation and representation of persons with disabilities in decision-making positions, the following recommendations are made for consideration;

1. Introduction of the MMES (adding the proportion representation seats for the marginalized groups- the introduction of MMES will secure seats of the marginalized groups.
2. Party quota systems, political parties to introduce quota systems within their political parties to provide a certain percentage of seats reserved for marginalized groups especially in region they hold strongholds. This will increase the number of marginalized groups on the ballot paper.

3. The need for strong and implementable anti-discrimination framework that prohibits all forms of discrimination on the basis of disability is necessary. The States through the Electoral Commission of Zambia must adopt solid anti-discrimination legal frameworks that prohibit all forms of discrimination on the basis of disability and guarantee equal and effective political participation of all persons with disabilities, through adequate provision of reasonable accommodation.
4. Persons with disabilities should be given access to all information pertaining to electoral process. This will enable them engage in politics from an informed point of view and contribute positively to national development.
5. The Electoral Commission Zambia should enhance the coordination with organization of and for persons with disabilities as well as stakeholders that promote good governance.
6. The nomination fees for marginalized groups should be subsidized to an amount that will be within their levels of income.
7. Have a solid policy framework in the area of accessibility that include strategies and action plans with specific timelines to make public and private facilities and services accessible to all persons with disabilities, this should extend to the selection of voter registration centers and polling stations.



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A series of silhouettes of diverse people, including a person with a cane, a person in a wheelchair, and a person with a hearing aid, are positioned at the bottom of the page. The silhouettes are in various colors: purple, orange, and grey.

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