



3 June 2024

The Clerk of Parliament  
Attention: Portfolio Committee on Public Service, Labour and Social Welfare  
Parliament of Zimbabwe  
Mt Hampden  
Harare

Dear Mr Kennedy Mugove Chokuda,

**Re: Persons with Disabilities Bill H.B.2, 2023-Submissions**

Reference is made to the above matter.

The Women's Institute for Leadership Development (WILD) applauds the introduction of the Persons with Disabilities Bill (H.B. 2, 2023). This Bill has the potential to significantly improve the lives of people with disabilities in Zimbabwe by aligning legislation with the constitution and establishing a dedicated commission to promote and protect their rights.

However, WILD recognizes that women and youth with disabilities, mothers and caregivers of disabled individuals, and disability rights advocates, are often underrepresented in discussions on disability rights, despite their critical role in ensuring effective policies. To address this gap, WILD conducted a WhatsApp discussion on May 10th, 2024, specifically focused on promoting gender responsiveness and inclusion in the Persons with Disabilities Bill. This discussion included women and youth with disabilities, parents and caregivers of people with disabilities, and women disability activists and advocates from Lupane, Plumtree, Bulawayo, and Gwanda.

Below are compiled insights and perspectives from this discussion for the Parliament's consideration. WILD believes these insights will contribute to strengthening the Bill's effectiveness in addressing the needs of all people with disabilities in Zimbabwe, especially women.

**Submissions**

**The Model of the Bill**

Participants expressed concerns that the current Persons with Disabilities Bill (PWDs) (H.B.2, 2023) leans towards a charity model. This model, they felt, undermines the agency of persons with disabilities (PWDs) by portraying them as passive recipients of aid. Participants advocated for a human rights approach. This approach emphasizes the dignity, independence, and self-determination of PWDs. By framing disability as a rights issue, the bill can ensure PWDs have equal opportunities to participate in all aspects of society.

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**i) Composition of the Commission for Persons with Disabilities (PWDs):**

Section 4(a) of the Bill proposes that the *‘Minister appoints commissioners from a panel of names submitted to him or her by organizations or associations, which, in his or her opinion qualify to be registered in the Register of Organizations, and after the Register is established, the Minister shall accept nominations only from organizations or associations that are registered’*

The current provision in the Persons with Disabilities Bill limiting commission appointments to individuals nominated by registered organizations of persons with disabilities raises several concerns:

- **Exclusion:** It potentially excludes competent and passionate individuals who are not affiliated with such organizations. Expertise and dedication to improving the lives of PWDs should be key considerations, regardless of membership.
- **Rural Representation:** This approach may hinder the spirit of regional representation enshrined in Section 18 of the Constitution, as 77% of PWDs reside in rural areas where disability organizations might be scarce.
- **Diversity of Impairments:** Limiting nominations to organizations might not guarantee representation for the diverse range of impairments within the disability community. The commission should strive for equitable representation to address the specific needs of various disability groups.

**Clause 4:** Concerns exist regarding the appointment process for commissioners and the inclusion of civil servants.

**Recommendations:**

- A broader nomination process that considers individuals with relevant expertise and experience in disability rights advocacy, even if they are not affiliated with registered organizations.
- To ensure regional representation, the nomination process should actively seek candidates from rural areas, potentially through partnerships with local authorities or community leaders.
- The selection criteria should explicitly consider the need for commissioners with diverse impairments to ensure a well-rounded commission that effectively addresses the needs of all PWDs.

**ii) Section 18: Accessibility**

*Section 18 (a) reasonable access to all indoor and outdoor places, public transport and information. (b) access to the use of sign language, braille or other appropriate means of communication*

While the Persons with Disabilities Bill commendably expands the concept of accessibility to information, communication, buildings, and infrastructure, concerns remain regarding the current format of the bill itself.

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- **Limited Accessibility Formats:**

The current options (online and printable English versions) exclude a significant portion of the PWD community. Individuals who require accessible formats like large print, Braille, or simplified versions are unable to analyse the bill independently.

- **Jargon and Readability:**

The extensive use of legal and technical jargon makes the bill difficult to understand for people without legal training, especially for PWDs with limited access to formal education.

The concept of "reasonable" accessibility lacks clear definition. This ambiguity creates room for varying interpretations and potentially inadequate implementation. Focusing solely on "reasonable" accessibility may lead to the adoption of minimal standards that fail to address the diverse needs of all PWDs.

### **Recommendations:**

- To ensure truly inclusive access, we urge the creation of the bill in alternative formats catering to diverse needs, including large print, Braille, and simplified language versions.
- Revise the Bill's language to be clearer and less reliant on legal jargon.
- This will improve comprehension for all stakeholders, particularly the PWD community the bill aims to empower.
- By implementing these recommendations, the bill's message and intent will become readily accessible to all citizens. This fosters greater participation from the PWD community in the public discourse surrounding the bill and empowers them to understand how it will impact their lives.
- We urge the amendment of Section 18(a and b) to replace "reasonable" accessibility with a commitment to **full** accessibility. This shift emphasizes the importance of ensuring that public transport systems are universally accessible and usable by everyone, regardless of disability.

### **iii) Excessive Powers of the Minister**

The devolution and decentralization process is premised on the need to decentralize administration activities by the government to bring government services closer to the people. Ironically, the Bill bestows excessive power on the Minister and is centralized on the person of the minister which is akin to centralizing services in contrast to the spirit of the devolution agenda. If the Bill is approved in the current state, it will lead to issues like abuse of power or neglect of other duties due to pressure by the minister. Alternatively, due to bureaucracy and red tape, centralizing the Bill on the person of the Minister or office of the Minister can affect the spirit behind devolution and the full improvement and participation of persons with disabilities in development processes.

The current wording in Clause 4, "The Minister shall take all necessary steps within the power and competence of his or her ministry," lacks a clear commitment to action.

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## Recommendations

- The Bill should be amended to limit ministerial powers and empower the Commission to undertake and advise the minister on issues that affect persons with disabilities. Further, the Bill should provide for the establishment of disability desks in all government ministries and local authorities to make sure that the interests of PWDs are well-catered for and enhance access to decision-making processes.
- Replace non-committal language with "The Minister shall take all **appropriate and measurable** steps within the power and competence of his or her ministry." This revision clarifies the expectation for concrete and demonstrable progress.

### iv) Section 34: Right to Education

The section lays a good foundation for inclusive education for PWDs. However, incorporating a gender lens and addressing potential gender disparities would further strengthen its effectiveness.

#### Areas of Strength:

- The Bill uses gender neutral language “persons with disabilities” throughout ensuring inclusivity for both girls and boys with disabilities.
- Focus on individual needs through emphasis on individualised support measures and reasonable accommodations (e & f) caters to the diverse needs of PWDs, which may differ by gender.
- 34 (d) guaranteed access to lifelong learning opportunities which benefits women with disabilities who may have faced educational barriers earlier due to gender norms.

#### Areas of Improvement:

- The section does not explicitly address potential gender disparities in education access for PWDs. Data collection on how girls and boys with disabilities experience education differently would be valuable.
- The section does not mention addressing the issue of gender-based violence, which can be a significant barrier for girls with disabilities in accessing education.
- The section could benefit from mentioning specific support mechanisms that address the unique needs of girls with disabilities, such as menstrual hygiene management facilities or safe transportation to and from school.

### Section 35 (h): Right to Health

The Bill acknowledges the devolution and decentralization of services, including healthcare. While the Bill commendably recognizes the need for specialized healthcare for persons with albinism (Section 35(h)), it falls short in two key areas:

- **Limited Scope:** The Bill currently focuses solely on albinism, neglecting the specialized healthcare needs of individuals with other disabilities, such as sensory, psycho-social, epilepsy, and autism.

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**Ambiguity on Support:** Even for albinism, the Bill fails to clearly define the type of specialized healthcare support to be provided.

### **Recommendations:**

To ensure equitable access to healthcare and align with the spirit of devolution, following amendments are proposed:

1. **Expand the Scope:** Broaden the Bill's language to explicitly acknowledge the diverse healthcare needs of people with various disabilities, including sensory, psycho-social, epilepsy, and autism.
2. **Define Specific Support:** For each disability mentioned, outline the specific types of specialized healthcare services to be made available at decentralized district and provincial hospitals. This clarity will ensure proper implementation and resource allocation.
3. Ensure sign language interpreters are available in all government health institutions.
4. Consider establishing health insurance specifically for PWDs.

### **vii) Section 37 (3): Work and Employment**

The Bill commendably addresses discrimination in recruitment processes, a longstanding barrier to employment for PWDs. However, concerns remain regarding the effectiveness of the proposed measures in achieving equitable employment outcomes.

### **Limitations of the Current Bill:**

- **Inadequate Workforce Target:** The proposed 2% minimum workforce requirement for government institutions and parastatals is considered insufficient to address the historical underrepresentation of PWDs in the workplace.
- **Ambiguity on Disability Coverage:** The Bill lacks clarity on the specific types of disabilities included in the employment quota.
- **Enforcement Concerns:** The absence of a mechanism for auditing company registers raises concerns about potential abuse of the quota system.

### **Recommendations for Increased Employment Opportunities:**

- **Raise Minimum Quota:** We recommend amending the Bill to increase the minimum PWD workforce requirement to at least 5%. This revised target reflects a more ambitious and impactful approach towards achieving equitable employment for PWDs.
- **Dedicated Disability Desks:** To enhance recruitment efforts, we propose that government departments and other employers establish dedicated disability desks. These desks would be responsible for:
  - Screening and recruiting PWDs
  - Making workplaces more disability-inclusive

- **Auditing and Transparency:** To ensure compliance with the employment quota, we recommend the establishment of a clear auditing process for company registers. This will deter abuse and promote transparency.

#### viii) **Section 39: Participation in political and public life**

This Section gives PWDs the right to participate in electoral processes as voters and candidates. However, it does not offer affirmative action for PWDs to be in quotas to improve their participation in politics just like other socially marginalized groups such as women and youths. There is a necessity for representation of Persons with Disabilities (PWDs) in central, provincial, and local government to stir the devolution agenda on behalf of persons with disabilities.

#### **Recommendations**

To address this gap and ensure meaningful participation in political and public life, we urge the inclusion of quotas for PWDs in parliament and senate. Similar to the existing quotas for women and youth, this will:

- **Increase PWD Representation:** Guarantee a minimum number of PWD voices within government, promoting policies that address their specific needs and concerns.
- **Effective Devolution:** Empower PWDs to participate actively in the devolution process, ensuring local government initiatives are inclusive and accessible.

#### ix) **Terminology:**

Clause 23(5) of the Persons with Disabilities Bill (H.B. 2, 2023) currently states: "all persons with disabilities who are of sound mind are entitled, on an equal basis with others". This wording raises concerns about the use of the term "sound mind."

- The clause implies that a person's mental capacity determines their eligibility for rights and protections, which is inconsistent with the spirit of the bill promoting equal rights for all PWD. We propose removing the phrase "of sound mind" altogether. This ensures that all persons with disabilities, regardless of their mental capacity, are entitled to the rights and protections outlined in the bill.

The Bill should use inclusive language and avoid outdated terms like "deaf and dumb." The bill must use inclusive language which promotes the empowerment of PWDs by recognising them as individuals with agency and self-worth. It helps to combat negative stereotypes and misconceptions often associated with outdated terminology.

The Bill should explicitly mention youth with disabilities.



## **Section 45: Establishment of Assistance Fund for Persons with Disabilities**

- Replace "Assistance Fund" with "National Disability Fund" to remove charitable connotations.
- The bill could benefit from outlining clear mechanisms for transparency and public oversight of the fund's management.
- The dual control structure, the Minister acts as trustee, while the Commission administers the Fund (Clause 45(2, 3)). This could lead to potential bureaucratic hurdles or conflicting priorities.
- The bill does not specify criteria for allocating funds towards different activities listed in Clause 48. Establishing clear criteria would ensure strategic and impactful use of resources.
- A framework for monitoring and evaluating the effectiveness of funded programs could be beneficial to demonstrate the fund's impact on PWDs.
- The Bill should be clearer on the type of support the government will provide, especially for medical interventions.
- Government should be the main source of funding, not relying solely on donors.

## **Other Considerations**

- The World Health Organization (WHO) defines disability as "any temporary or long-term reduction in a person's ability to participate in society due to a physical, sensory, cognitive, or mental health condition." This definition acknowledges the significant impact that mental health conditions can have on an individual's daily life, potentially hindering their ability to work, engage in social activities, or pursue education.
- Mental health conditions are increasingly recognized as a significant public health concern, affecting a substantial portion of the Zimbabwean population. The PWD bill has the potential to provide crucial protections and support for individuals with mental health conditions, fostering greater social inclusion and participation. The bill can acknowledge this by incorporating a clear definition of "mental health disability" that focuses on conditions with a long-term and substantial impact on daily life. The focus should be on providing support and removing barriers, not reinforcing stigma. Educational campaigns can help address negative perceptions. The bill can provide a framework for flexible accommodations that address fluctuating needs. Zimbabwe can learn from countries like the United States with the ADA, which demonstrates the effectiveness of including mental health conditions in disability legislation.

## **Conclusion**

- The Persons with Disabilities Bill is a positive step towards protecting and promoting the rights of PWDs in Zimbabwe. However, there are areas that require improvement to ensure the Bill is truly inclusive, empowering, and enforceable. WILD urges Parliament to consider the concerns raised in this submission and make the necessary amendments to strengthen the Bill.

*Women's Institute for Leadership Development (WILD) is a non-profit making organisation based in Bulawayo. It seeks to invest in building and strengthening the power of women's involvement in leadership and decision-making, both in rural and urban communities of Zimbabwe. The organisation continues to help harness women's capacity, connections, and credibility they need to unlock their potential as catalysts of local and national leadership transformation and policy progress.*