

**DISABILITY POLICY AUDIT IN NAMIBIA, SWAZILAND,
MALAWI AND MOZAMBIQUE**

Final Report

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List of Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
AMEDO	The Mozambican Association of Disabled People
CBR	Community-Based Rehabilitation
CRPD	UN Convention of the Rights of Persons with Disability
DFID	Department for International Development
DPO	Disabled People's Organisation
DPP	Disability and Development Partners
CIDA	Canadian International Development Agency
ESRA	The Economic and Social Reform Agenda
FAMOD	Forum for Mozambican Association of Disabled People
FEDOMA	Federation of Disability Organisations in Malawi
FODSWA	Federation Organization of People with Disabilities in Swaziland
FRELIMO	Front for the Liberation of Mozambique
GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
ILO	International Labour Organisation
MDG	Millenium Development Goals
NDS	National Development Strategy
NFPDN	National Federation of Persons with Disabilities in Namibia
NGO	Non-Governmental Organisation
OSSREA	Organization for Social Science Research in Eastern and Southern Africa
PWD	Person/People with Disabilities
PRSP	Poverty Reduction Strategy Papers
SAFOD	African Federation of the Disabled
SCF	Save the Children Fund
SEN ??SNE	Special Needs Education
SINTEF	The Foundation for Scientific and Industrial Research, Norwegian Institute of Technology
SWAPO	South-West People's Organisation
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VET	Vocational Education and Training

1.1 Preamble

This disability policy audit research has been commissioned by the Southern Africa Federation of the Disabled (SAFOD), under the auspices of its disability research programme, which is funded by the UK Department for International Development (DFID). The research provides an analysis of disability policy and practice in four Southern African countries: Namibia, Swaziland, Malawi and Mozambique. The timing of this research could not be more opportune, given that the UN Convention on the Rights of Persons with Disability came into force in May of this year, after five years of negotiations in New York. This Convention is of historic and landmark importance, as it is the first time that disabled people will be able to hold their respective governments to account for the promotion and enforcement of disability rights. However, as will be demonstrated throughout this report, the UN Convention should not be perceived as a panacea, because it has yet to be determined to what extent this ostensibly legally-binding international treaty can be effectively enforced.

At the outset of this report, it is important to explicitly state that this is very much a pilot study, from which lessons can be learned for more in-depth research at a later date. As will be described in greater detail below, only five days of fieldwork was allocated in each of the four designated countries. Therefore, while it is acknowledged that it is possible to gather some meaningful data over such a short time span, it is inevitable that a far more nuanced in-depth analysis could have been achieved if more time was available.

1.2 Research Objectives

This disability policy audit research in Namibia, Swaziland, Malawi and Mozambique had the following objectives:-

1. To undertake a review of existing disability policy and practice in the four countries;
2. To assess the extent to which each country's policy and practice were in the alignment with the principles of the UN Convention on the Rights of Persons with Disabilities;
3. To assess to what extent disability policy had been mainstreamed in each of the four designated countries; and
4. To provide an assessment of to what extent disabled people's organisations have been effective and been engaged in the policy-making process with regard to disability issues.

In addition, in due recognition that this is a pilot study, within the Terms of Reference for this study, the research team were asked to make specific recommendations for how analogous future research studies should be developed.

1.3 The Research Team

An explicit and concerted effort was made to recruit a team of researchers who had personal experience of living and working with a disability, as well as a proven track record of working in the field of disability and international development. The team was headed by Dr Raymond Lang, Research Fellow at the Leonard Cheshire Disability and Inclusive Development Centre, University College London. Dr. Lang provided strategic oversight of the project, providing advice where necessary to the other researchers, as well as conducting fieldwork in Namibia. Ms Sebezile Matsebula, an independent consultant on disability and development and the former Director of the Disability Unit in the Office of the Presidency, South Africa conducted fieldwork in Swaziland. Mr Forward Mlotshawa, an independent consultant on disability and development with extensive experience of working in Southern Africa undertook fieldwork in Malawi and Mozambique.

Throughout the duration of the research project, there were regular e-mail and telephone exchanges between the research team. The project began with the development of a semi-structured questionnaire that acted as an aide-memoir for the research team when conducting fieldwork in each of the designated countries. In addition, the research team had a face to face meeting in Johannesburg, chaired by Dr Lang, on Monday 16th July 2008. The purpose of this meeting was to review the progress that had been made to date, particularly to review the substantive findings of the fieldwork that had already taken place in Namibia, Swaziland and Mozambique. It also reviewed the timetable and milestones for the completion of the project.

1.4 Methodology

This disability policy audit research utilised a three-fold methodology: a background literature review, focus group discussions and key informant interviews.

For each of the four designated countries included within this research, a detailed, comprehensive review of existing literature regarding disability policy and practice was undertaken. This included reviewing existing government legislation, policy papers produced by relevant Government Ministries, as well as any statistical data regarding the prevalence of disability. In addition, a concerted effort was made to access "grey" literature produced by disabled people's organisations and NGOs working in the disability sector. Furthermore, where they existed, a review of any academic studies regarding disability in the four countries was undertaken. These included, for example, the Disability Living Conditions Surveys in Namibia and Malawi, conducted by SINTEF, a Norwegian-based think tank in Oslo (Eide, A. et. al. 2003 and Eide, A. et.al. 2004). Furthermore, the background literature review includes some description and analysis of the broader political, economic and social context of each country. The rationale for conducting the background literature review was to identify the existing and insufficient gaps in disability policy, in order to assess the extent to which each country was ready to implement the UN Convention on the Rights of Persons with Disabilities.

It was originally intended that the team would collect statistical data from bilateral and multilateral donor agencies with an operational presence in each of the four countries. However, this proved to be unrealistic: this can partially be explained by insufficient time available to undertake the fieldwork, as well as reluctance on the part of the donor

agencies to divulge such sensitive information. Previous research experience has shown that donor agencies are very reluctant to provide information that is publically available and that has been published. This is particularly the case at country level.

A strong underlying principle of this research project has been to actively engage with the disability movement, in order to get their opinions regarding the policy-making process vis-a-vis disability. To that end it was originally intended to conduct group discussions with the leaders of the disability movement in each country. It was possible to conduct focus group discussions in Mozambique and Swaziland, but this was not the case in Namibia and Malawi. The failure to do so in the latter two countries can be attributed to a multiplicity of factors. Firstly, given the fact that only five days were allocated for fieldwork in each country, by necessity all fieldwork had to be conducted within the capital cities. In Namibia and Malawi, DPO are scattered throughout the country, and therefore it would not be possible for them to travel to attend focus group discussion meetings in the time allocated.

However, a concerted effort was made to meet with the leadership of the national umbrella DPO in both Namibia and Malawi, so as to gain their perspective with regard to disability policy and practice. Furthermore, it should be noted that at least in the case of Namibia, the National Federation of People with Disabilities in Namibia was sent a draft copy of the chapter on Namibia for comment and correction. However, to date no response has been received from the Federation.

In each country, key informant interviews were held with politicians, senior civil servants with specific responsibilities for disability issues in relevant Government Ministries, the leaders of the disability movement, as well as representatives from NGOs and international NGOs working in the disability sector. These proved to be invaluable, in as much as they gave an insight into the challenges and constraints of implementing a genuinely inclusive disability policy, each from an alternative viewpoint. They also provided the basis for assessing to what extent each country was in an effective position to implement the UN Convention.

Finally, this research has utilised the “stepping stool to inclusion” that was originally developed by Philippa Thomas, Social Development Adviser for the UK's Department for International Development in Zimbabwe. This analytical tool has already been successfully utilised in analogous disability policy analysis in Zimbabwe and Nigeria. The objective of this tool is to present, in a simple table, the basic components and their inter-relationships that are necessary to support the inclusion of disabled people to realise their equality of rights and opportunities. It can also identify those areas where interventions are likely to have the most effective, strategic impact in promoting equality, disability rights and social inclusion. Under this framework there are three essential components that are necessary for effective inclusion: the state, disability services and disabled people's organisations. The stepping stool to inclusion approach maintains that each of these three distinct components must be in equilibrium and interact with each other in mutually supportive and reinforcing ways.

1.5 Structure of the Report

Chapters Two, Three, Four and Five present the substantive findings and inferences from the fieldwork conducted in Namibia, Swaziland, Malawi and Mozambique respectively. Each chapter begins with an analysis of the historical, political, social and economic characteristics of each country, in which disability policy and practice are contextualised. In turn, each chapter proceeds to describe and analyse the current status of disability policy and practice, as well as providing some assessment as to what extent each country is in a position to implement the tenets of the UN Convention.

Chapter Six attempts to provide a comparative analysis of disability policy and practice between the four countries. This is achieved by presenting the "stepping stool to inclusion", thereby drawing out the commonalities and differences that exist. The chapter then provides an analysis of the major factors that militate against the effective implementation of genuinely inclusive disability policy and practice. In addition, the chapter concludes by making a series of recommendations regarding undertaking similar disability policy audit studies in other countries, both in terms of addressing the substantive issues and improving the research process for such studies.

REFERENCES

Eide, A., and Loeb, M. ed. (2004) *Living Conditions among People with Activity Limitations in Malawi: A National Representative Survey*, SINTEF, Oslo

Eide, A., van Rooy, G, and Loeb, M. (2003), *Living Conditions among People with Activity Limitations in Namibia: A Representative, National Survey*, SINTEF, Oslo

2.1 Introduction

This chapter presents the findings and inferences gathered during the fieldwork undertaken for the Disability Policy Audit in Namibia. This fieldwork was conducted between the 8th - 12th June, 2008. Key informant interviews were held with senior government officials who have a specific mandate and responsibility for implementing disability policy and service provision within the country. Specifically, interviews were conducted with the Special Adviser on Disability Issues who directly reports to the Office of the Prime Minister, and senior officials working within the Ministry of Education. During the course of the fieldwork, a concerted effort was made to interview senior officials in the Ministry of Health and Social Services, but this did not materialise.

Furthermore, a concerted effort was made to interview the leaders of the national disability movement within Namibia. However, it was not possible to hold and facilitate focus group discussions with a wide range of disabled people's organisations (DPOs), this being partly attributed to the widespread geographical disbursement of DPOs throughout the country. It should be borne in mind that Namibia has a total population of 1.9 million people, spread over a geographical area equivalent to the combined landmass of France and Germany. Notwithstanding these logistical and geographical constraints, key informant interviews were nevertheless held with senior representatives from the National Federation for Persons with Disabilities in Namibia, which is the main umbrella DPO within the country. In addition, an interview was conducted with the Hon Ms Alexia Manombe-Ncube, a Member of Parliament in the Namibian Government, who herself is a person with a disability, and has spearheaded and promoted disability rights throughout the whole country for many years.

This study further draws upon existing background published and "grey" literature produced by the Namibian Government and DPOs working in Namibia, in addition to the 2004 Disability Living Conditions Survey, conducted by SINTEF, a Norwegian research institute that has undertaken a series of such studies throughout Southern Africa.

2.2 Political, Social and Economic Context

In order to contextualise the findings and inferences of this audit of disability policy and practice, this section provides a brief review of the political, economic and social context of Namibia. Historically, Namibia was a German colony between 1884 and 1915 and was then known as German South West Africa. During the First World War, South Africa (which was part of the British Commonwealth) occupied the country until it gained independence on the 9th February, 1990. However, during the 1960s, despite the fact that many other African nations were gaining independence, South Africa was unwilling to grant autonomy to Namibia. Consequently, in 1966 South-West Africa People's Organisation (SWAPO), the military wing of the People's

Liberation Army of Namibia, launched a protracted guerrilla war to gain the country's independence.

SWAPO came to power in 1990, and elected Sam Nujoma as its first President under Namibia's new Constitution. After three terms in office, Nujoma was succeeded by President Hifikepunye in 2005. Under the 1990 Constitution, Namibia is governed within the context of a presidential democratic republic, in which the President is elected for a five-term period. There is a strict separation of powers whereby legislative power is exercised through a bicameral Parliament, the National Assembly and the National Council, as well as an independent judiciary. One of the most difficult issues that successive SWAPO administrations have had to deal with is that of land reform. Due to Namibia's former colonial rule and history of apartheid, approximately 75% of the land is owned by 25% of the population, the vast majority of which are white farmers. However, despite a commitment to land reform, the redistribution of land has been slow, this being hampered by the fact that under the Constitution, the land can only be bought if and when farmers are willing to sell.

Economically, Namibia is heavily dependent on mining and manufacturing, each of which account for 80% of Gross Domestic Product (GDP). The country has significant deposits of diamonds, and as well as having large quantities of lead, copper, gold, silver, zinc and tungsten. Furthermore, Namibia is the fourth largest exporter of uranium, and is likely to be the world's global market leader by 2015. Unfortunately 50% of the population is dependent on subsistence agriculture for its livelihood.

Despite the fact that Namibia can be considered a middle-income country, with per capita GDP being as much as five times greater than many African countries, there are gross income inequalities within the country, this being partially explained by the fact that there is a rich urban-based economy and a poor agricultural based economy. Namibia has the highest Gini coefficient (which measures income inequalities) in the world at 0.70. It should also be borne in mind that Namibia has the lowest population density in the world, roughly 2 people per km.

A further compounding problem that besets Namibia is the HIV/AIDS pandemic, which in the 2001 Census was estimated to affect 24% of the total population. In addition, in the north and central regions of the country, malaria is a major issue. However, the results of the 2006 HIV Sentinel Survey, commissioned by the Ministry of Health and Social Services, estimated that there had been a decline in the prevalence rate to 19.9%, with no marked statistical differences existing between rural and urban areas. Furthermore, research has shown that the probability of contracting malaria is 14.5% greater if it is concurrent HIV.

In its assessment of the current political and economic situation in Namibia, the World Bank states:-

"Namibia is a middle-income country whose considerable successes rest on a strong multi-party parliamentary democracy that delivers good economic management, good governance, basic civic freedoms, and respect for human rights. ... Namibia has made great progress in addressing the structural problems: access to basic education has become more equitable and primary

health care coverage is more widespread. Namibia is among the top 10 countries worldwide in share of GDP spent on education, and second only to South Africa on the [African] continent in per capita expenditures on health. The Government has improved access to safe water and sanitation; it has laid the foundation for gender parity, and launched programmes to protect the country's environment and natural resources. Namibia is also one of the very few countries in Sub-Saharan Africa that maintains a social safety net for the elderly, the disabled, orphans and vulnerable children, and war veterans, and has a Social Security Act that provides for maternity leave and medical benefits. Despite these advances, Namibia's human development indicator is 125 out of 177 countries surveyed in the 276 Human Development Report. Although Namibia is on track to meet some of the Millennium Development Goals, it will be challenging to meet the HIV/AIDs goal." (World Bank Namibia Country Brief, April 2008)

Table 2.1 below provides a statistical summary of the developmental challenges that face contemporary Namibia.

Table 2.1: Statistical Summary of Developmental Challenges in Namibia
Total Population: 2.0 million
Life expectancy at birth: 49.89 years
Male: 50.39 years
Female: 49.38 years
Income per capita: US\$ 3,000
Infant mortality rate per 1,000 live births: 46
Child malnutrition (% of children under 5): 24%
Structure of the Economy (% of GDP)
Agriculture: 11.3%
Industry: 31.0%
Manufacturing: 12.9%
Services: 57.7%

2.3 Prevalence Rates and Living Conditions of Disabled People in Namibia

The 2001 Census, conducted by the Government of Namibia estimated that there were approximately 85,000 disabled people living within the country, this being roughly equivalent to 5% of the total population. Table 2.2 below presents the data regarding disability that was collected during the 2001 Census. It is interesting to note that the categories of impairment are predominantly "medical" in their orientation. Furthermore, the distinction is made between impairment of the hands and legs, which perhaps is an artificial distinction. Also, no distinction is made between mental disability and mental illness, which are perceived to be very different within Western societies. It should also be noted that there are approximately an equal proportion of men and women who are considered to have a disability.

TABLE 2.2: Category of Impairment by Gender
Source: Government of Namibia Census, 2001

Category of Impairment	Number			Percentage		
	Total	Male	Female	Total	Male	Female
Blind	29,948	16,688	13,261	35.0	38.0	31.8
Deaf	18,313	9,590	8,723	21.4	21.8	21.0
Impaired Speech	9,756	4,778	4,978	1.4	10.9	12.0
Impairment of Hands	11,659	5,615	6,044	13.6	12.8	14.5
Impairment of Legs	20,560	9,890	10,670	24.0	22.5	25.6
Mental Disability/Mentally Ill	4,782	2,316	2,466	5.6	5.3	5.9
Other	4,562	2,440	2,122	5.3	5.5	5.1
Not Stated	14,673	7,479	7,194	17.1	17.0	17.3
Total	85,567	43,966	41,601			

2.4 SINTEF Disability Living Conditions Survey, 2004

At this juncture, it will be both insightful and instructive to summarise the principal findings and inferences of the "living conditions among people with activity limitations in Namibia: a representative national survey", published by SINTEF, a Norwegian-based research institute. The overall objectives of this survey were to provide a in-depth analysis of the living conditions of disabled people living in Namibia. This was a collaborative initiative between SINTEF, the Southern African Federation of the Disabled, the National Federation of People with Disabilities in Namibia, the Norwegian Federation of Organisations of Disabled People, the University of Namibia, and the Ministry of Lands, Resettlement and Rehabilitation.

This national survey compared and contrasted the living conditions of households with disabled family members and households without any members who were disabled. Consequently, data was collected from 2,286 households in which there was at least one disabled person, and 1,356 households where there was not. Furthermore, the total of 2,537 disabled people who were initially identified, 2,528 were subsequently interviewed in depth. The categories of impairment of those interviewed, disaggregated by gender, is presented in Table 2.3 below.

TABLE 2.3: Category of Impairment disaggregated by Gender
(Source Eide A. et. al. 2002)

Category of Impairment	Male		Female		Total	
	N	%	N	%	N	%
Seeing	209	15.5	242	20.6	451	17.9
Hearing	129	9.6	119	10.1	248	9.8
Communication	97	7.2	59	5.0	156	6.2
Physical	561	41.7	446	37.9	1,007	39.9
Intellectual/Emotional	228	17.0	178	15.1	406	16.1
Other	121	9.0	133	11.3	254	10.1
Total	1,345	100.0	1,177	100.0	2,522	100.0

The principal findings of the survey are summarized below.

Demographics

Of the 2,537 disabled people identified in the 2,286 households with disabled members, it was found that there was a significant gender difference. 46.6% of disabled people were females compared with the corresponding figure of 53.8% of non-disabled households. There was no discernible difference in marital status between disabled and non-disabled households.

It was estimated that the disability prevalence was 1.24% in urban areas and 1.75% in rural areas, giving an overall national prevalence rate of 1.62%. This is significantly lower than the 5% prevalence rate estimated in the 2001 Census cited above. The disparity between these two estimates may be attributed to the manner in which questions regarding disability were phrased in the two studies.

It was also found that there were systematic differentials between disabled people living in rural and urban environments. This is analogous to similar studies that have been undertaken in Zimbabwe, Malawi and Southern Africa. The prevalence rates for disability tend to be higher in rural areas, this being partially explained by the lack of adequate service provision, in connection with higher degrees of economic poverty. Given that 80% of the population of Namibia live in rural areas, this finding has profound implications for the future provision of disability services throughout the country.

Education

It was found that school attendance among the disabled members of households were lower than those in non-disabled households. The proportion of those who have never attended school was twice as high for disabled households than for non-disabled households (38.6% versus 16.2%). There was also a significant gender disparity, (41% of girls never attended school compared with 37% of disabled boys). This compared with 17% of non-disabled girls and 15% of non-disabled boys. It appears that individuals with sensory impairments (seeing and hearing) and communication problems are overrepresented in not receiving any form of formal education. A very significant and startling finding was that over 50% of all disabled children aged over 5 years did not receive any form of primary education.

Income and Employment

It was found that that 90% of disabled people were unemployment compared with 78 % of their non-disabled counterparts. This is not at all surprising, given the high level of unemployment that exists within the country in general. The mean monthly income for households with disabled family members was N\$867 and N\$1,159 for non-disabled households. Significantly more households with one or more disabled family members have no one employed (56%) compared with non-disabled households (41%).

Employment for disabled people was higher in urban areas. It was found that households with disabled family members have a lower mean income, combined with less mean expenses regardless of seasonal fluctuations. Furthermore, households with a disabled family member, on average, have fewer possessions compared with households without disabled members. Fewer disabled households stated that salaried work was their primary source of income (24% versus 40%), and this reflects the fact that fewer households with disabled family members had someone working. Slightly more disabled households received their family income from cash cropping and subsistence farming. 6% of all such households stated that the disability grant was their primary source of family income.

Access to Services

The survey showed that the large majority of disabled people were able to access health services, with over two-thirds of respondents actually doing so. It was found that hospitals and primary health care clinics were the most accessible. However, there was gross inadequacy in the provision of vocational rehabilitation, counselling services, and access to assisted devices. With regard to the latter, it was found that less than one-fifth of disabled people interviewed were actually using any form of assistive device. Furthermore, only one-third of all assistive devices were professionally maintained.

2.5 Principal Findings and Inferences from Fieldwork

2.5.1 Constitutional Position of Disabled People in Namibia

The 1990 Namibian Constitution explicitly recognizes the inalienable human rights and freedoms of all its citizens, and by implication this must include disabled people. Article 8 (respect for human dignity), Article 10 (equality and freedom from discrimination), Article 14 (the family) and Article 20 (education) are of particular significance. Furthermore, Article 8 (1) explicitly states that "*the dignity of all persons shall be inviolable*", while Article 10 emphatically states that "*all persons shall be equal before the law*" and "*no person shall be discriminated against on the grounds of sex, race, colour, ethnic origin, creed or social or economic status*". Article 20 of the Constitution makes the provision for free primary education. Many other Articles are complementary and reinforce the basic human rights of all Namibians.

The Namibian Government signed the United Nations Convention on the Rights of Persons with Disabilities on the 25th April 2007, and ratified the Convention (including the Optional Protocol on the 4th December, 2007). By so doing, the Government of Namibia has explicitly made a commitment to ensuring that disability rights are upheld and protected, and sufficient financial resources are made available to ensure that such aspirations are effectively achieved. However, as will be demonstrated within this report, there is scant political support for disability issues in Namibia. During a key informant interview, the Hon Ms Alexia Manombe-Ncube, a Member of Parliament in the Namibian Government was of the opinion that her fellow MPs were not aware of what the full implications of ratifying the Convention were. In common with many other low-income countries in Africa, politicians and senior civil servants invariably perceive disabled people and disability issues in terms of "charity/welfare" and not in terms of human rights. In order to address this

widespread misconception, Ms Manombe-Ncube wishes to facilitate a workshop for Members of Parliament in Namibia, which would underline the importance and ramifications of the UN Convention. Ideally, this workshop will be facilitated by members of Parliament from other African countries who themselves have a disability, but this is subject to gaining sufficient funding.

The Government of Namibia is also a signatory on the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1959 Declaration of the Rights of the Child, the 1971 Declaration on the Rights of Mentally Retarded Persons, and the 1969 Declaration on Social Progress and Development. All of these international human rights instruments have a direct bearing and application to securing and protecting the rights of disabled people. It has also ratified the 1992 Continental Plan of Action for the African Decade for People with Disabilities.

However, notwithstanding the constitutional rights delineated above, concerning the ratification of the UN Convention, the reality of the situation is that many disabled people are subjected to discrimination, social marginalisation and exclusion, with their basic human rights being violated. In common with many other low-income countries, Namibia does not have the political will nor the administrative infrastructure that will ensure that disabled people in the country are able to exercise their basic and inalienable human rights.

2.5.2 Responsibilities for Disability Issues with the Namibian Government

The primary responsibility for disability issues within the Namibian Government lies with the Ministry of Health and Social Services. At the present time, the Ministry is responsible for the provision of prosthetics and orthotics as well as wheelchairs. Despite having prime responsibility for disability issues, many stakeholders believe that the Ministry of Health and Social Services has a predominantly medical understanding of disabled people and disability issues and still operates under a charity/welfare approach. When independence was declared in 1990, the responsibility was at that time held by the Ministry of Lands, Resettlement and Rehabilitation. Responsibility was subsequently transferred to the Ministry of Health and Social Services in 2005.

In addition, a Disability Unit was established in 2001 located in the Prime Minister's Office in year. In recent years, this Unit has represented the Government of Namibia at the negotiations on the UN Convention on the Rights of Persons with Disabilities, attending the Ad Hoc Committee meetings which were held in New York. Currently, the Unit is in the process of writing a "layman's guide" to the UN Convention. It is also in the process of establishing focal points within each of the respective line Ministries, (such as Education, Transport etc), who will take primary responsibility for ensuring that all existing domestic legislation is updated and amended so that it is in alignment with the obligations that the Namibian Government has as a signatory to the UN Convention. Each line Ministry is expected to ensure that the sufficient human and natural resources are made available to ensure that these obligations and commitments are upheld, through the development and implementation of Disability Action Plans, which must include a timeline and budget. At the time of

writing, 11 focal points have been identified and 17 Disability Action Plans have been drafted.

At the time when the Disability Unit in the Prime Minister's Office was established, it was originally envisaged that it would work in close collaboration with the National Federation of People with Disabilities in Namibia (NFPDN), as well as providing a coordination role between itself and the other line ministries. However, key informant interviews with the leaders of the disability movement in Namibia suggest that the collaboration between the Disability Unit and the National Federation is not working at all well. This is somewhat surprising, because it was the National Federation that spearheaded the initiative to establish the Disability Unit and made recommendations regarding its personnel. The Disability Unit itself duly acknowledges that it is under-resourced, and lacks sufficient capacity to carry out its designated functions.

It also was admitted by officials at the Ministry of Education that the Disability Unit in the Office of the Prime Minister was inefficient in undertaking its coordinating activities between the different line ministries across government, in relation to disability issues. It was also stated that the Ministry of Education does not have any robust statistical data regarding the number of children with disabilities within Namibia. Therefore, any planning for implementing a genuinely inclusive education policy will be problematical.

2.5.3 National Disability Policy in Namibia (1997)

Underlying Principles and Philosophy

In 1997, the Ministry of Lands, Resettlement and Rehabilitation produced a National Policy on Disability which was subsequently adopted by the National Assembly in July of that year. This document endorses the principles of the social model of disability as a basis for the formulation and implementation of disability policy and practice. The underpinning principles upon which this National Policy is premised are the equalization of opportunities, inclusion and integration. Moreover, it states that disability issues are inherently linked to the advancement of human rights and inextricably linked to human development. Therefore, the National Policy on Disability, in contrasting the adoption of a medical and social approach to disability states:-

"In contrast, a human rights and development approach to disability would face a better chance of creating equal opportunities. This is the process through which the various systems of society and the environment are made available and accessible to all citizens. As part of the process of equal opportunities, provision should be made to assist them to assume a more complete responsibility as members of society. ... The principle of equal rights implies that the needs of each and every individual are of equal importance, and that those needs must be made the basis when planning and making policies. ... Moreover people with disabilities are a natural and integral part of society and in the interest of society as a whole, should have equal opportunities to

contribute their experience, talents and capabilities to national and international development".

In order to achieve these objectives, the National Policy delineates the following priorities:-

- *"To prevent or reduce the occurrence of physical, intellectual, psychical, or sensory impairments and permanent functional limitation or disability*
- *To assist and support persons with disabilities to reach and maintain their optimal human potential; and*
- *To make the various systems of society and the environment, such as services, activities, information and documentation available and accessible to all citizens in formats that they can understand. For example, Braille for blind people and sign language for deaf people who use this form of communication.*

The National Policy on Disability identifies 14 priority areas that the Government will need to address in order to facilitate the effective social inclusion of disabled people throughout Namibian society. At this juncture: it is not necessary to describe these in detail, but rather highlight those areas that are the most important.

Education

It is duly recognized that education and employment are key issues that need to be addressed. Consequently, with a reference to education, the National Policy recognizes the need for all children to attend mainstream primary schools, thereby endorsing the principles of inclusive education, while at the same time acknowledging that there is a legitimate role for providing specialist assessment and educational services. Consequently, the National Policy states that:-

"The provision of education shall be based on the fundamental principles of inclusive education which demand that all children shall be taught together, whenever possible, regardless of individual differences or difficulties they may have. The process of inclusion entails developing the capacity of the regular school system to enable it to meet the diverse educational needs of all children".

Despite these laudable statements, during the fieldwork undertaken for this research, it became abundantly clear that in the vast majority of cases, children with disabilities, especially in rural areas, invariably do not attend schools. This is supported by the evidence presented at in the SINTEF Disability Living Conditions Survey presented above. What is clear is that the Government has yet to establish an effective administrative infrastructure, in connection with appropriate training for teachers working in mainstream schools, for the principles of inclusive education to become an effective reality within Namibia. These observations were confirmed during key informant interviews conducted with senior officials within the Ministry of Education, the substance of which is presented below.

The Ministry of Education has commissioned the drafting of a National Inclusive Education policy. This is being written by a consultant from Finland, who has only spent a very limited time within Namibia. This policy has now been published since the fieldwork for this research was conducted, which is reviewed in Section 3.4 below.

Employment, Vocational Rehabilitation and Social Protection

The National Policy also acknowledges the need to ensure that disabled people have access to employment opportunities, and recognizes the need for anti-discrimination legislation with particular reference to the workplace. In its pursuit of this objective, the Namibian Government passed the Affirmative Action (Employment) Act 1998 which stipulates that all companies with over 25 employees must make a concerted effort to employ "vulnerable groups", which includes disabled people. However, once again and in common with many other low-income countries, there is an inadequate regulatory system to ensure that this policy is effectively implemented. Within the National Policy, there is a recognition for the need for vocational rehabilitation and training, thereby providing and equipping disabled people to effectively compete within the labour market. To that end, the National Vocational Training Act (1994) has been amended so that all vocational training programmes are fully accessible to disabled people. Within the National Policy, there is provision for sheltered employment, which again recognizes the additional challenges that some disabled people encounter in acquiring the requisite skills for securing long-term, sustainable employment.

Namibia is one of the few African countries that provide any form of social protection for disabled. For those who are unable to work the Namibian Government provides a disability grant, administered by the Ministry of Labour, of \$N380 (approximately £24 sterling) per month. However, in view of the ever rising inflation rate, (particularly in relation to fuel), this amount is grossly inadequate to provide for even the basic needs of disabled people living in the country. This is especially the case for those living in rural areas, which is due to geographical sparsity, who find it incredibly difficult to access services. Moreover, the criteria for eligibility to this grant is highly medically-based, with an assessment being undertaken by a medical practitioner.

Information, Statistics and Research

The Namibian Government, within the National Policy on Disability recognizes the need for relevant information and robust statistics in order to effectively plan, implement and evaluate any services and other government sponsored initiatives in the field of disability. In the 2001 Census, specific questions were asked regarding disability. However, at this juncture it is not possible to ascertain to what extent the data was useful or indeed, robust. They also recognize the need to carry out a more in-depth statistical analysis and research throughout the disability sector. However, with the exception of the SINTEF Disability Living Conditions Survey, that has already been reviewed within this paper, no other studies regarding disability in Namibia have been found.

Other Issues Covered

The National Policy addresses other issues that cannot be reviewed in detail within the confines of this paper. These include awareness raising; prevention, intervention and health education; treatment, therapeutic aids and orthopaedic technical services; environmental accessibility; access to information; adult education; social integration and the environment; culture, religion, recreation and sports; social welfare and housing; social, economic and legal protection; the training of personnel; and family and personal integrity. The National Policy recognizes the absolute necessity to consult with civil society institutions, particularly disabled people's organisations, in the design, implementation and evaluation of disability policy and practice. However, as will be demonstrated below, for a multiplicity of reasons, this consultation process has proved to be problematical, and it is fair to say that at the present time this is not functioning well.

Strategies for Implementation

Finally, the National Policy sets out an implementation strategy for the effective and sustainable social inclusion throughout contemporary Namibian society. It observes that, in 1997, the "financial and human resources allocated to the provision of essential services to Namibians are fragmented and scattered under several ministries". Therefore, previous efforts to promote disability rights and provide appropriate services have been dissipated. It is therefore recommended that all Government Ministries should make a concerted effort to incorporate disability issues within their core, mainstream activities. Consequently, within the National Policy, the Government recognized the necessity for a more joined-up approach to disability policy and service planning. It also recognized the necessity to collaborate with other civil society institutions in promoting disability rights. The National Policy therefore states:-

"The Government shall strengthen the coordination, co-operation and communication amongst all governmental and non-governmental bodies dealing with health, education, vocational training, employment, social services and other relevant areas in society; the aim is to ensure a general development towards the equalisation of opportunity for people with disabilities in Namibia. Links and coordinating procedures have been established between various bodies, departments, regional and local authorities, families and voluntary organisations. The Government acknowledges the advisory role of representatives of and for people with disabilities as invaluable in the planning and implementation and evaluation of services; and in the programmes and strategies relevant to the needs and lives of disabled people".

Despite these laudable yet rhetorical statements, there seems little manifestation of any of these coordinating procedures and policies being established, notwithstanding the fact that the National Policy has now been in existence for over a decade.

With regard to the provisions of the rehabilitation services, the National Policy states that Community-Based Rehabilitation (CBR) is the most appropriate strategy to be adopted. However it also believes that there is a legitimate role for institutional-based rehabilitation, where more complex rehabilitation services are required.

However, from the fieldwork undertaken for this research, there is little evidence which suggests that CBR has been effectively implemented within the country. Once again, the geographical terrain will inevitably militate against and hamper such provision, given that much of the country is disparate and the sparsity of the population.

The National Policy acknowledged the primary importance of the need to enact anti-discrimination legislation. This was duly enacted by the National Disability Council Act (2004), the provisions of which are covered below.

2.5.4 The National Council Disability Act (2004)

The National Disability Council Act (2004) makes provision for the establishment of an advisory body to provide strategic and expert advice on disability issues to the Government of Namibia. Under the provisions of the Act, the membership of the Council will comprise a total of 13 members. Seven members are to be representatives from disabled people's organisations, which include a broad range of different impairments; one representative from an employer working in the private sector; three representatives from organisations working in the field of rehabilitation, integration or education; one representative from the trade unions; and one member "who has special knowledge of, or interest in disability or any issues relating to disability". The majority of the Council must comprise of disabled people. The tenure of office will be for a period of three years, which can be subsequently renewed. Council meetings should be held at least twice per year.

The functions of the Council include:-

- Monitor the implementation of the National Policy on Disability;
- Identify provisions of any existing legislation that may hinder the implementation of the National Policy;
- Comment on proposed legislation that may affect persons with disabilities in any manner;
- Consult with disabled people's organisations and other disability service providers regarding the implementation of the National Policy;
- Initiate amendments to the National Policy on Disability in order to ensure that it takes account of changing circumstances; and
- Take all necessary steps in order to improve the situations of persons with disability in Namibia.

The Council has the mandate to make recommendations on any of the above to the Cabinet. Furthermore, within six weeks, the Cabinet is required to inform the Council whether it accepts any of these recommendations.

In addition, the Council has the legal authority to summon any individual or organisation to appear before it, in order to provide additional information. It also has a duty to collect information on disability issues, which includes statistics on the nature and severity of impairment of disabled people; what services are being provided by non-governmental organisations working in the disability sector, and how these organisations are funded. It is also required, under the provisions of the

Act, to present an annual report to the Minister. Furthermore, the Council has the authority to "run programmes and conduct campaigns to inform the public and to raise the awareness of the public with the regard to disability issues".

As can be seen, the 2004 National Disability Council Act, ostensibly has the potential to be a really effective watchdog to ensure that disability rights are indeed upheld and hold the Government accountable for the effective delivery of disability services. Also it has the potential to be very inclusive in terms of its own membership, encompassing representatives from disabled people's organisations, service providers, the private sector and quasi-governmental agencies. However, despite the fact that this legislation was passed by the National Assembly in 2004, the National Disability Council has never been constituted, and has never held its first meeting. At the present time, the Disability Unit within the Prime Minister's Office is trying to provide some impetus and momentum to establish the Council. However, the disability movement in Namibia is somewhat circumspect regarding how effective any established Council will be, particularly given the lack of political will to take a rights-based approach to disability issues seriously.

2.5.5 National Policy for Mental Health (2005)

In March, 2005 the Ministry of Health and Social Services published its National Policy for Mental Health. Despite the fact that there is no robust statistical data regarding the magnitude of mental illness and learning difficulties within Namibia, it is nevertheless widely acknowledged that this is an increasing problem, and that mental health services lag behind other medical services within the country. Studies undertaken in other low-income countries suggest that mental illness affects approximately 2-3% of the population at any one time, and that this group constitutes between 10-20% of those attending primary health care clinics. In many developing countries, poverty in connection with rapid social, cultural, political and economic change, which in turn combined with overcrowding, unemployment and rural-urban migration exasperates rapid deterioration in mental health status. Furthermore, the National policy on Mental Health cites international research undertaken by Murray and Lopez in 1996 which suggests that five of the leading 10 causes of disability globally (major depression, schizophrenia, bipolar disorders, alcohol abuse, obsessive compulsive disorders) are linked to mental ill-health. Moreover, it is estimated that by 2020, depression will be the second leading cause of health disability. These global trends have significant consequences for people with mental health problems and learning disabilities.

Data produced by the Health Information System Report (2001), published by the Ministry of Health and Social Services has provided a conservative estimate of the scale of mental health problems within the country. The following statistics do not take into account the detrimental impact of HIV/AIDs. In 2003 it was estimated that 57,000 children lost one or both of their parents who had died from this illness. The conservative estimate of the scale of mental health was as follows:-

- 2-3% of the adult population have a serious mental disorder;
 - 10% of the population have a common mental disorder;
 - 0.5-1% of children aged under 15 years have serious mental health problems;
- and

- 1% of children aged under 15 years have "learning or behavioural problems"

At the time of writing the National Policy for Mental Health, a plethora of structural and institutional problems were identified that militated against the effective provision of local health services. These included a lack of skilled health professionals; the inability to accurately diagnose mental disorders; inaccessibility to available services; ill-informed belief systems regarding the causes and treatment of mental health problems and learning disabilities; the lack of rehabilitation programmes and facilities; the lack of knowledge regarding mental health issues among key decision-makers; and the lack of regional level management systems and representation for mental health issues. It was also recognized that the 1973 Mental Health Act had to be radically updated and revised.

In order to tackle the deficiencies outlined above, the National Policy for Mental Health recommended the development of a community-based mental health service that was decentralised and integrated within the general health service. Furthermore, such services should be premised upon the underlying principles of equity, accessibility and affordability. It was further considered essential to ensure that the full range of stakeholders and service providers were involved, that encompassed health, education, justice, the police, housing associations, NGOs and religious organisation. In contrast with former policies, it was duly acknowledged that mental health, in common with learning disabilities, was fundamentally an issue of human rights, with those experiencing mental health problems and learning difficulties invariably encountering discrimination and stigmatisation. It was therefore considered important to establish advocacy and support groups within this field. Key priorities for taking forward the mental health policy included the appropriate training of health professionals and the need to "develop a comprehensive, decentralised, community-based mental health service for the population of Namibia, integrated into the existing health-care system.

It is too soon to provide an informed and nuanced assessment as to how effective the 2004 Mental Health Policy will be, and what legislative changes are necessary to ensure its alignment with the principles of the UN Convention.

2.5.6 Policy on Orthopaedic Technical Services (2001)

The Ministry of Health and Social Services published its Policy on Orthopaedic Technical Services in April, 2001. It was produced in recognition that the provision of prosthetics and orthotics for disabled people was at that time grossly inadequate. Since independence was declared in 1990, such services were provided by the private sector by one consultant in Windhoek. Consequently, the vast majority of disabled people who live in rural areas, (estimated to be 80,000 in 1998), received no such services whatsoever. In developing its Policy, the Ministry drew upon existing international standards within this field - notably the United Nations Standard Rules for the Equalisation of Opportunities for Persons with Disabilities and the World Health Organisation's International Classification for Impairments. Moreover, the guiding principles that underpin the new Policy are equity, availability and accessibility, affordability, community involvement, sustainability, inter sectorial collaboration and quality of care.

In 2004, it was estimated that approximately 85,000 disabled people needed orthotic and prosthetic appliances within Namibia. The Ministry of Health and Social Services, in developing the Policy, identified those factors which militate against effective service delivery, which included:-

- A general lack of awareness on the situation of disabled people in need of rehabilitation services;
- The shortage of trained orthopaedic technical staff;
- The shortage of physiotherapists, occupational therapists and psychologists within the country;
- The reluctance of health professionals working at a regional level to refer clients for more specialist services in Windhoek when required;
- Insufficient access to orthopaedic technical services by disabled people, particularly in the rural areas; and
- The reluctance for many agencies to work in a multi-sectorial manner within this field.

In developing its new Policy, the Ministry developed four key objectives for the provision of orthopaedic technical services, which are:-

- *"To contribute to the improvement of standard life of persons with disabilities by providing sustainable support and orthopaedic technical services.*
- *To assist persons with physical disability to reach full potential and achieve independence.*
- *To ensure the provision of assistive devices and equipment according to the needs of persons with disabilities, as an important measure to achieve the equalisation of opportunities.*
- *To support the development, production, distribution and servicing of assistive devices and equipment and the dissemination of knowledge about them"*

In order to achieve these objectives, the Ministry of Health and Social Services has restructured the management of its orthopaedic technical services. In order to increase its ability to provide services in rural areas, the Ministry has established two mobile prosthetics and orthotics workshops by 2003. It also made a commitment to recruit and train 30 orthopaedic technicians by 2003 and 10 orthopaedic technologists by 2004. Two new orthopaedic workshops will be built at Rundu and Oshakati, thereby extending the geographical coverage of the service. The Policy also makes a commitment to promoting a more multi-sectorial approach to working with other government ministries and other non-governmental organisations working in the field. The Ministry will also continue to support private sector provision of orthopaedic services.

Once again, it is not possible at this juncture to provide an informed judgement regarding how effective this policy will be in practice. As has been previously stated, one of the key challenges in any attempt to provide services for disabled people within Namibia is the extremely inhospitable geographical terrain and the sparsity of the population.

2.5.7 National Policy on Special Needs and Inclusive Education (2008)

In June 2008, the final report on the National Policy on Inclusive Education, commissioned by the Ministry of Education was published. This was undertaken by Dr Sai Vayrynan, a consultant from Finland. This policy should be seen within the context of an emerging development towards inclusive education in Namibia. Despite the fact that this Policy seeks to address the needs of all marginalised groups, it is of particular relevance to disabled children. In 2004, a Situation Analysis on the Provision of Special Needs Education was undertaken. This recommended that a conceptual framework for special needs education be developed, with specific reference to teacher training, curriculum development and the logistics of developing a decentralised special needs education system. The Policy makes explicit reference to Article 24 of the Convention which urges signatory states to adopt the principles of inclusive education.

With regard to current educational provision for disabled people, Namibia has some special classes within mainstream schools for students up to 13 years of age. In addition, there are nine special schools within Namibia, seven of which are based in Windhoek. They principally cater for the needs of those with hearing and visual impairments as well as those with learning disabilities. Some limited education provision is provided for those with cerebral palsy and autism.

Building up on the 2004 situational analysis, the National Policy identifies a number of key challenges and barriers that hamper the development of a genuinely inclusive educational system. These include:-

- The nine special schools that exist in Namibia, seven of which are based in Windhoek, are grossly inadequate to meet the needs of all marginalised groups including disabled children.
- Having special classes within mainstream schools does not necessarily result in genuine sustainable inclusion.
- Namibia has a substantial number of children who are educationally marginalised because their parents are affected by HIV/AIDs, with many having no parents whatsoever.
- There is a general lack of capacity for building the requisite professional expertise of teachers to cater for the needs of marginalised groups, including disabled children.
- Inadequate or inappropriate training providers for teachers.
- Teachers' lack of understanding and skills in adapting the curriculum to support the needs of those with educational and learning challenges.

In order to address the inadequacies in an educational system, the national policy on inclusive education outlines an eight-fold policy, to be implemented over the next five to eight years, which is summarised below.

Firstly, it is important not to perceive inclusive education as a separate policy, but rather as one which attempts to provide wider access to education by improving the overall quality and diversity of educational practice. Therefore, the principles that underpin the philosophy of inclusive education must be owned throughout the whole of the education sector. Second, a concerted effort should be made to raise the

level of awareness of the benefits accruing from implementing a genuinely inclusive educational policy. This will involve working with local community members as well as the families of marginalised and socially excluded groups. Thirdly, it is recommended that all schools in Namibia should strive to become genuinely inclusive, in which they provide for the educational needs of all children, irrespective of the challenges that they face. In pursuing this objective, existing special classes and special schools will be assisted in developing their expertise, in order to provide a resource to the mainstream schools. Fourthly, it is recommended that a robust monitoring and evaluation system is established so as to ensure that statistical data is available to assess to what extent schools are genuinely inclusive. Certainly, it is recognized that the current system of special needs education should be decentralised to Educational Regions. Consequently, support services for teachers and families will be provided at the regional level. Fifthly, it is recommended that teachers throughout Namibia receive training in the principles and philosophy of inclusive education. In the ideal situation, one teacher from every school should undergo such training. Furthermore, a small number of teachers need to develop a high level of expertise in educational challenges to provide advice and support, professionally for the teachers. Sixthly, education managers and administrators also need to be trained in the principles of inclusive education. Finally, it shall be necessary to revise the education curriculum that is administered by the Basic Education Board. This revision will meet to consider who will make examinations more sensitive to the needs of marginalised and socially excluded groups, including disabled children.

Given the fact that this Policy has just been published, once again it is not possible to provide an informed assessment regarding how effective its implementation shall be, and what eventual policy impact it will have on the educational status of the excluded and marginalised groups, not least disabled children. What is clear at this point in time is that the Ministry of Education, if it is at all committed to promoting inclusive education policies, will inevitably have to provide more human and financial resources to make this policy a reality.

2.6 Disabled People's Organisations

The National Federation of People with Disabilities in Namibia (NFPDN) is the national umbrella disabled people's organisation in the country. Founded in 1990, the Federation has been funded by the European Commission and the Finnish Embassy. It has six national affiliate members: the Namibian Federation for the Visually Impaired; the Namibia National Association for the Deaf, the Namibian Association of People with Physical Disability, the National Association of Differently Able Women; the Disabled Youth Council of Namibia; and the Namibian Association for Children with Disabilities. The Federation has good working relationships with service providers working in the disability sector, including Leonard Cheshire, the Association for Children with Language, Speech and Hearing Impairment in Namibia and the Onyose Trust.

The overall mission of the Federation is "to support, empower, advocate and lobby on behalf of all people with disabilities in Namibia to promote social justice, economic well-being and sustainable development of organisations with disabilities in Namibia". Consequently, the Federation sees its role as fighting poverty by

developing employment opportunities for disabled people. It also runs media awareness campaigns to raise the public and political profile of disability issues throughout the country. As previously stated above, the Federation was instrumental in influencing the Government in establishing the Disability Unit within the Prime Minister's Office, with this resulting in a sustained and ongoing dialogue between the National Federation and the Government. However, for a multiplicity of reasons, this has not materialised. Indeed, during key informant interviews with senior officials from the Federation, it became clear that there has been a breakdown in communication between themselves and the Disability Unit.

2.7 Non-Governmental Organisations in the Disability Sector

There are a few national and international non-governmental organisations working within the disability sector in Namibia. For example, Leonard Cheshire manages two residential facilities in Annamulenge and Katima Mulilo. Historically, these have provided long-term residential care, but more recently have begun to provide day care provision, so as to enable disabled people to live in the local community. The Leonard Cheshire in Namibia aims to offer children with disabilities medical, educational and social rehabilitation; to facilitate the integration of children with physical disabilities to attend school and be socially integrated within society; and to assist relatives and the local community to cope with children with disabilities at home. More recently, Leonard Cheshire in Namibia is in the process of establishing a website to enable young people with disabilities to discuss their needs and aspirations for the future, as well as discussing the implications and importance of the UN Convention.

2.8 Conclusion

The foregoing analysis has demonstrated that the Government of Namibia has made some progress in attempting to apply the tenets and underlying principles that underpin the UN Convention on the Rights of Persons with Disabilities. Despite the fact that Namibia ratified the Convention in December 2007, it is clear from the analysis presented above that the domestic legislation is still in need of substantial revision and overhaul, before it can be said that all domestic legislation is in alignment with the UN Convention. It is indeed encouraging to see that the Government has made some substantial initiatives to develop forward-looking and progressive policies in the field of disability, evidenced by the publication of the 2004 Policy on Orthopaedic Technical Services and the 2008 National Policy on Special Needs and Inclusive Education. However, what is also clearly apparent is that there is a lack of coordination amongst the different Government Ministries who have responsibility for the design, implementation and evaluation of disability services. Finally, what is also clear is that if the Government of Namibia is serious in its commitment to take forward a rights-based approach to disability, then more human and financial resources need to be committed to this field.

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3.1 Introduction

This chapter presents the findings and inferences gathered for the fieldwork undertaken for the Disability Policy Audit in Swaziland. It provides an analysis of the current impact of existing policy and legislation on the lives of people with disabilities and the potential for new action. Since the United Nations Convention on the Rights of Persons with disabilities, which constitutes the basis and framework for action at the national level regarding policies and programmes over the long term, it is necessary to review the extent to which disability issues are already included in national policy and legislation and where they are not included, and to ascertain the reasons for this. The research will also be required to consider the variance between “good” policy formulation and its actual implementation.

This fieldwork was conducted between the 9th – 15th June, 2008. Key informant interviews were held with senior government officials who have a specific mandate and responsibility for implementing disability policy and service provision within the country. Specifically, interviews were conducted with the Director for Social Welfare who has a mandate for Disability in government. Due to a meeting called by the King, telephonic discussions were held with the head of the Disability Desk in the Ministry of Health, the Director of Education responsible for Inclusive Education and the head of the Disability Unit in the Office of the Deputy Prime Minister.

The office of the Save the Children Fund was highly instrumental in assisting with securing appointments with the leaders of the disability movement within Swaziland. These meetings were very successful as the leaders of the majority of DPOs were cooperative. A focus group meeting was convened to enable discussions to be conducted with the leadership.

A meeting was also held with the Private Secretary to His Majesty King Mswati III. This was a rare occurrence and a very strategic interview to begin to understand the “thinking and planning” that guides the main and chief leader of the Swazi nation.

3.2 Political, Social, Economic and Historical Context

The Kingdom of Swaziland is a former British protectorate. It gained independence in 1968. In the initial five years of independence, Swaziland adopted a Westminster type Constitution which clearly spelt out the separation of powers between the three arms of government - judiciary, executive and legislature. Since 1973 the system of government in Swaziland has been adapted to bring together the parliamentary and the traditional systems. A constitutional review process is ongoing. Chiefs act as overseers or guardians of families within the communities. They are an integral part of society and traditionally report directly to the King. Local custom mandates that chieftaincy is hereditary.

Swaziland is a traditional monarchy with executive and some legislative powers vested in King Mswati III. The constitution, which went into effect in February 2006 and replaced the 1973 Decree, confirms most of the King's powers, but provides for an independent judiciary. The King rules in conjunction with a Prime Minister, a partially elected parliament, and an accompanying structure of published laws and implementing agencies. The most recent parliamentary elections were held in 2003. The King appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The new constitution provides that eight of the King's nominees and five of the House of Assembly's nominees be women. The constitution also states that candidates for public office must compete on their individual merit, thereby blocking competition based on political party affiliation.

Economically, Swaziland is heavily dependent on agriculture; predominantly in sugar cane which is regarded as the "gold" product of Swaziland. Gold accounts for approximately 60% of Gross Domestic Product, with the rest being derived from the production of beef, which is predominantly sold on to the EU market. In the past the country had significant deposits of coal and to a lesser extent diamonds and iron ore. Unfortunately over 70% of the population is dependent on subsistence agriculture for its livelihood. This therefore puts the country in the category of "least developed nations".

Poverty is compounded by the fact that with the advent of HIV/AIDS, Swaziland was recently classified as having the world's highest prevalence rate of the pandemic. In reality this has disseminated huge numbers of professional and highly skilled individuals. The high incident of HIV/AIDS infected populations has also resulted in the largely disaffected and demoralised populations who feel that the battle has been lost, and have no enthusiasm to continue the fight and struggle to emancipate the general population, let alone the huge masses of people with disabilities.

Women generally have full legal rights to participate in the political process; however, in accordance with societal norms and practice, widows in mourning (for periods that can vary from one to three years) are prevented from appearing in certain public places and in close proximity to the king. As a result, widows are effectively excluded from voting or running for office. Seven women were in the 65-member House of Assembly, 12 women in the 30-member Senate, and three female ministers in the cabinet, including the deputy prime minister. Four women served as principal secretaries, the most senior civil service rank in the ministries.

Swaziland is classified as a country with a medium level of human development and ranked 137 out of 177 countries on UNDP's Human Development Index (HDI) in 2004. Swaziland practices the "Tinkhundla" system of governance, which allows communities (under an Indvuna – Chief) to elect representatives to Parliament. This system was instituted by the late King Sobhuza II following the repeal of the Westminster Constitution and the banning of political parties.

Although Swaziland is classified as a lower middle-income country with an annual per capita income of US\$1,360 in 1999, the socioeconomic indicators show pervasive poverty and wide disparities in the distribution of wealth, reflecting huge inequities in access to basic services and opportunities vital to human life. A few industries and individuals control the bulk of the wealth of the country. It is estimated that 10% of the population control about 40% of the national income, and that 66% of the population live below the poverty line (Swaziland Human Development Report, 2000). Furthermore,

rural-urban disparities are prominent. For example, whilst 91% of the urban population have access to safe water, only 37% of the rural population have access to this resource. Per capita expenditure on health for the urban population is three times that of the rural population.

In response to the social and economic challenges faced by the country in the 1990s, the Government of Swaziland initiated a number of reforms, namely:-

- a. The National Development Strategy: This was launched in 1997 and lays out the long-term framework (25 years) for development in the country and identifies improvement of living standards of the Swazi population as one of the main thrusts for the country's policy;
- b. The Economic and Social Reform Agenda I and II (ESRA): Offers the government the opportunity to review policies and ways of stimulating economic growth in the short and medium term. To date, ESRA focuses government efforts on the revitalization of the main sectors of the economy with a view to reversing the existing trend towards a more favourable growth pattern;
- c. The Public Sector Management Programme (PSMP): Presents measures aimed at improving the efficiency of the public sector and management of public resources; and
- d. The Poverty Reduction Strategy and Action Plan 2001: Recently developed under the coordination of the Ministry of Economic Planning and Development. It presents strategies for addressing identified inequities and reducing the level of poverty (currently estimated at 66%) by half by the year 2015 and completely eliminating it by 2022.

Table 3.1 below provides a statistical summary of the developmental challenges that face contemporary Swaziland.

Table 3.1: Statistical Summary of Developmental Challenges in Swaziland
Total Population: 1.14 million
Life expectancy at birth: 35.7 years
Male: 36.9 years
Female: 33.4years
GDP per capita: US\$ 4,800
Infant mortality rate per 1,000 live births: 112
Child malnutrition (% of children under 5): 24%
Unemployment Rate (2005 est.): 40%
HIV prevalence rate 33.4%

3.3 Background Literature Review

3.3.1 The Right of Association

The Constitution and law provide for the right to form associations, including trade unions, and workers exercised this right in practice with some exceptions. Workers in essential services, such as security forces, may not form unions. Unions must represent at least 50% of employees in a work place to be automatically recognized, otherwise recognition is left to the discretion of employers. Approximately 80 percent of the formal private sector was unionized.

Regardless of constitutional imperatives that bar discrimination on the basis of several factors, the Kingdom of Swaziland continuously harasses people who may be deemed to be “different” or who openly oppose the governance of the Kingdom. This is somewhat of a contradiction in a society that claims to have a full respect of the rights of all citizens of the Kingdom because in practice the violations in various forms occur at a horrific rate in the Kingdom at all the levels and forms of society, including government actions and practices as well as societal actions and practices.

On 7th and 8th December 2000, a national workshop, which was sponsored by the Organization for Social Science Research in Eastern and Southern Africa (OSSREA) and organized by the Swaziland National Chapter, was held at Mountain Inn, Mbabane, Swaziland. The workshop analysed the effect of poverty and various forms of circumstances in Swaziland. Sifiso Ivalinda Sithole presented a paper on *Poverty and Raising a Child with Mental Retardation (sic: disabled): Experiences of a Family*. The paper presented the difficulties of a poor family looking after a child with learning difficulties. One of the major needs of mentally disabled children is medical services and care. These services are normally beyond the reach of poor families. These children also need education which they deserve to receive.¹

3.3.2 The National Development Strategy (1997)²

This is the National Development Strategy (NDS) from the Ministry of Economic Planning and Development, Government of Swaziland. The purpose of the NDS is to formulate a Vision and Mission Statement with appropriate strategies for socio-economic development for the next 25 years, and provide a guide for the formulation of development plans and for the equitable allocation of resources. It is designed to strengthen the Government’s development planning and management capacities and anchor it firmly to a national consensus on the direction of future developments in the country.

The National Development Strategy includes a section on people with disabilities. The strategy “recommends” measures to improve the situation of people with disabilities: the enactment of legislation to ensure equal opportunities for people with disabilities and to protect them from discrimination; ensuring the built environment and public transport are accessible; the integration of programmes for people with disabilities into mainstream education; the creation of institutional mechanisms to rehabilitate and integrate people with disabilities into society; ensuring adequate and accessible sanitation facilities; the introduction of social security payments to disadvantaged groups; the promotion of cooperatives for women, youth and people with disabilities. The strategy calls for “special attention to members of society with disabilities” in human resources development.

The National Development Strategy made the following recommendations with regard to persons with disabilities:-

¹ <http://www.ossrea.net/nw/swaziland/Swaziland-dec00-01.htm>

² http://www.ecs.co.sz/nds/nds_chapter4.htm#46

a) Integration and Awareness: Integrate persons with disabilities into economic and social activities: Ensure the integration of programmes for persons with disabilities into mainstream education: Provide infrastructure for rehabilitation for those who can not be integrated. Institutions catering for disabled people (e.g. schools for the visually and hearing impaired, and vocational training) must be expanded to cater for the existing and expected demand: Create institutional and policy mechanisms through which persons with disabilities can be rehabilitated and integrated effectively with the rest of society: Raise awareness on how to prevent various forms of disabilities.

b) Equity: Enact legislation to protect the disadvantaged groups from abuse and discrimination: Ensure that all infrastructural designs are inclusive of the needs of persons with disabilities: Introduce measures that will support the operations of NGOs to help specific groups: Enact legislation to ensure equal opportunities for persons with disabilities.

3.3.3 Special Education and Accessibility (National Development Strategy 1997)

This strategy promotes the integration of persons with disabilities into the mainstream of the education system; Enable persons with visual impairments to have access to colleges and universities by providing the necessary equipment for their training; Ensure equal access to education and training for women and girls at all levels and in all sections of formal, non-formal and life skills development; Promote education as a basic human right and ensure that males and females receive equal treatment and benefits at all levels and in all areas of the education system; Seek and enforce equitable access to Tibiyo bursaries and scholarships.

There are no secondary schools or special educational alternatives for children with hearing impairments. In July, 2006 the Federation of Disabled Persons in Swaziland complained that there were no schools for approximately 900 visually impaired children of school age. In August 2006, the Minister for Enterprise and Employment told the Swaziland Association of Visually Impaired People that he was shocked to learn that of the 10,600 visually impaired persons in the country, only three were employed. Consequently, in November 2006 the Ministry of Health and Social Welfare released a report which found that 49 percent of interviewed persons with disabilities had not completed primary school, 19 percent went beyond primary school, and 25 percent were employed, mostly in the private sector. The hospital for persons with mental disabilities in Manzini was overcrowded and understaffed.

3.3.4 Social Security and Welfare³ (National Development Strategy, 1997)

The following strategies are recommended:

- a) Rehabilitation: Increase rehabilitation centres for those that have had problems with the law and also ensure the provision of psychological counseling services; Establish rehabilitation centres for people who abuse alcohol and drugs.
- b) Direct Welfare Assistance; Establish temporary shelters for abandoned and abused children and adults. This will entail an acknowledgement that the extended family system is deteriorating and provision of safety nets to those who are in need, particularly the homeless and street children ; Strengthen and promote adoption mechanisms and foster care homes for children ;
- c) Education and Information: Educate and sensitize the public on the issue of human rights, such as abuse of children and women as well as sexual harassment, the uses of limiting and inappropriate language and actions towards women, the elderly, youth and persons with disabilities: Improve structures and mechanisms to facilitate proper and effective information dissemination on social welfare matters
- d) Policy and Legislation; ensure equal opportunities for persons with disabilities to enable them to become more independent.

3.3.5 National Education Policy (1999)

The National Education Policy is the official policy of the Ministry of Education and is based on the overall objective of “the provision of opportunities for all pupils of school-going age and adults to develop themselves in order to improve the quality of their own lives and the standard of living of their communities”.

Section 5 of the National Education Policy specifically addresses special needs education. The policy aims at including children with disabilities in the mainstream school system. Section 5.3 of the policy states that:-

“The Ministry of Education shall facilitate access to education for all learners with disabilities by improving the infrastructure to make it user-friendly from basic through tertiary level [and] shall support the integration and inclusion of children with special learning needs in the Education System.”

The policy also contains a section on Vocational Education and Training (VET). The policy lists four goals of the VET system: “Development of a functional gender sensitive, affordable and efficient VET-System of sufficient capacity according to the needs of the economy, the society and the individual; Enhancement of VET as an attractive and integrated component of a permeable Comprehensive System of Education: Promotion

³ http://www.ecs.co.sz/nds/nds_chapter4.htm#47

of entrepreneurial skills and values as an integral element of VET at all stages, sectors and areas: Contribution to a foresighted and coordinated National Skills Development Planning and to Business and Employment Promotion Programs.”

The policy aims at reducing unemployment, by (1) ensuring that “vocational training becomes an important element in efforts aimed at eradicating inequity and inequality among the people of Swaziland and includes groups thus far neglected, such as women and disabled [persons]”; and (2) change the focus of the VET system from formal economy wage employment to self-employment, thereby balancing skills demand and supply. Another objective is to provide training to the “widest possible range of citizens, irrespective of their level of formal education”.

3.3.6 Swaziland National Strategic Plan for HIV/AIDS (2000-2005)

Swaziland has adopted a comprehensive multi-sectoral HIV/AIDS strategy. All government sectors have obligations under this policy. One of the strategies falling under the responsibility of the Ministry of Health is to “ensure that disabled people and their families have access to appropriate HIV/AIDS information and support”. For its part, the Ministry of Home Affairs has, as its objective, “to prevent and control the spread of HIV/AIDS among staff members, students, sports people, out of school youth, disabled persons, clients, refugees and their families”, and in this respect should “develop policies to protect vulnerable groups from sexual exploitation”.

The mainstreaming of disability into the HIV/AIDS policy is very important, as people with disabilities are probably more likely to contract HIV than non-disabled persons because they often do not have access to information on HIV/AIDS and are often targeted for sexual abuse.

3.4 Principal Findings and Inferences from Fieldwork

3.4.1 The Constitutional Status of Disabled People in Swaziland

The Constitution of 2006 provides protection for persons with disabilities and requires Parliament to enact relevant implementing legislation. However, Parliament had not passed laws to prohibit discrimination against persons with disabilities in employment, or to provide access to health care or other state services by the end of the year. Persons with disabilities have complained of government neglect. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including accessibility ramps. With explicit reference to disability, Section 31 of the Constitution states:-

Rights of persons with disability

31. (1) Persons with disabilities have a right to respect and human dignity and the Government and society shall take appropriate measures to ensure that those persons realise their full mental and physical potential.

(2) Parliament shall enact laws for the protection of persons with disabilities so as to enable those persons to enjoy productive and fulfilling lives.

Also, Section 20(1) provides that all persons are equal before and under the law in all spheres. It further lists in subsection (2) prohibited grounds of discrimination, amongst

which is disability. This will go a long way in ensuring that the rights of persons living with disabilities are protected and guaranteed. Section 30(1) further provides that persons with disabilities have a right to respect and human dignity and that the government and society shall take appropriate measures to ensure that these persons realise their full potential.

The Government of Swaziland signed the UN Convention on the Rights of Persons with Disabilities (including the Optional Protocol) on the 25th September 2007. However, it has yet to ratify the Convention. The Government is also a signatory on the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1959 Declaration of the Rights of the Child, the 1971 Declaration on the Rights of Mentally Retarded Persons, and the 1969 Declaration on Social Progress and Development. All of these international human rights instruments have a direct bearing and application to securing and protecting the rights of disabled people. It has also ratified the 1992 Continental Plan of Action for the African Decade for People with Disabilities.

3.4.2 Disability Prevalence Rates

Prevalence rates and living conditions of People with Disabilities in Swaziland has to date not been quantified. This therefore makes it very difficult for a scientific analysis to be made on this matter.

According to the 1997 census, there are 27,698 disabled persons in Swaziland, or 3% of the population. 86% of them live in rural areas. This is lower than the WHO estimates for Government of Swaziland, Central Statistics Office.

Disability prevalence of 7 to 10% of the population, which is equivalent to an estimated population of disabled persons at between 65,000 and 95,000. People with disabilities are “marginalized, discriminated against and socially excluded from mainstream activities [with] limited access to opportunities available to non-disabled persons such as education, health, employment, public facilities and transport” (University of Swaziland – Department of Social Sciences: 2002.) Nearly half of disabled persons aged 10 years or older have received no formal education and only 15% have post-primary education. Only 768 have received vocational education/training. Three quarters of people with disabilities aged 12 or older are not economically active, while only 17% are employed in waged employment. And those who work generally get “menial and poorly remunerated jobs”. This can be explained by the widespread belief that people with disabilities are unemployable.

In the 2001 National Statistics Survey, Swaziland did not make a concerted effort to include a meaningful and scientific study of disabilities in its efforts to conduct National Statistics Surveys. Therefore, the country does not have good, robust data regarding disability statistics, let alone data that is disaggregated by category of impairment, gender and so forth. A lot of work that is done by the disability sector and its allies is reliant on “intuition” or on small-scale pilot studies.

3.4.3 Attitudes towards Disability Issues

Living with a disability in Swaziland presents significant challenges. There is a general belief that those who have a disability are bewitched or inflicted by bad spirits. Many believe that being around people with disabilities can bring bad luck. As a result, many people with disabilities are hidden in their homesteads and are not given an opportunity to participate and contribute to society¹.

During the late 1970s several philanthropists undertook to establish organisations that would work on addressing issues of people with disabilities. An example was the Swaziland National Society for the Handicapped. At the beginning the organisation was run by the spouses of members of the British government on a charity basis. The organisation served to raise funds to support people with disabilities in many different aspects of their lives. This ranged from proving school fees (to enable them to get an education) to purchasing wheelchairs to enable them to gain a decent mobility level.

The beginning of the disability movement during the 1980s, founded on the principles in the Southern African region was rather an appropriate time to enable people with disabilities in the region to begin to question the role of service providers, charity workers, therapists, rehabilitation workers and the Government, on their role as liberators of people with disabilities as an “oppressed” section of the population. Over the years people with disabilities have emerged as leaders, managers and directors of their own cause. This was a great revelation to a nation that, over many years, had believed that people with disabilities were not capable of doing anything for themselves and had to be looked after and provided for by their respective families and the Government. As a predominantly traditional nation; the Swazi nation has very strong family relations even up to the clan level. This therefore provided for a very “protective and supportive” environment for people with disabilities and also created a highly depended group of nationals.

Women and girls with disabilities face dual discrimination and are often worse off than men. They are particularly vulnerable to sexual violence and there have been reported cases of forced sterilization.

3.5 Results and Findings from Fieldwork

3.5.1 Government Commitment to Disability Issues and Engagement with Disabled People’s Organisations

The Government of Swaziland has consulted the disability sector in the processes to develop disability policies and/or disability inclusive policies. However for many years this consultation has been on an ad hoc basis and has been done in a very haphazard manner. Subsequently until recently these policies have been of no substance nor of significant effect on the lives of persons with disabilities in the Kingdom. Swaziland has not had many policies that have been developed that are disability inclusive. It has only been in the last two years that government has made an effort to attend to the integration and mainstreaming of people with disabilities in the Kingdom.

In a process to review the National Constitution [2004] of the Kingdom, disabled persons were given an opportunity as well to make submissions in specific designated areas throughout the country. However, there is a general lack of political will to implement a rights-based agenda to disability issues, evidenced by no designated budgetary allocation for disability services, and the fact that the Ministry of Health and Social Welfare make rhetorical statements regarding disability issues, without developing effective implementation policies. Furthermore, a disability grant of 250 Rand is available to disabled people, but this is woefully inadequate to cover the financial need of disabled people.

With the advent of the UN Convention, there has been some change in Swaziland. This has been strengthened by a very strong and effective disability movement with a clearly focussed leadership, which is providing valuable and meaningful information and support to the government in the process to develop disability policy delineated below.

3.5.2 Institutional Framework for Disability Issues

The Ministry of Health and Social Services has the overall responsibility for disability issues. It has a National Disability Unit that serves as the government focal point for disability issues. The mission of the Unit is “to champion significant improvements in the quality of life for persons with disabilities”. Its objectives include: the empowerment of people with disabilities “through the identification of income generating projects and fundraising”; awareness raising; the review of government policies and programmes that affect people with disabilities; and collaboration with DPOs on advising the government on disability issues, including with the view to enact legislation. The Unit is in the process of drafting a national disability policy, although it is not clear when that will be ready. It is also conducting advocacy programmes and “is expected to facilitate the review of legislation that discriminates against persons with disabilities and make recommendations to the relevant authorities. (National Health and Social Welfare Policy, 2001. The Government of Swaziland).

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The specific responsibilities for disability other Government Ministries are described below.

Ministry of Home Affairs

The Ministry of Home Affairs provides vocational rehabilitation services for people with disabilities and notably operates three vocational rehabilitation centres for people with disabilities: Nhlanguano Vocational Rehabilitation Centre; Mbabane Vocational Rehabilitation Centre; and Malkerns Rehabilitation Centre. The first two give training in sewing, carpentry and leather craft while the latter gives training in farming. Most courses last between 18 and 24 months and are free of charge (as of 2003). Disabled persons must first take an evaluation and those identified as “non-trainable” are not admitted.

Ministry of Enterprise and Employment

The Ministry of Enterprise and Employment, through the Department of Labour, provides vocational training to disabled people in conjunction with the Ministry of Home Affairs. The Industrial and Vocational Training Board was established by the Industrial and Vocational Training Act, 1982. The Board’s function is to advise the Minister responsible for labour (currently the Minister for Enterprise and Employment) on all matters relating to vocational training.

The Board's decisions are implemented through the Directorate of Industrial and Vocational Training that acts as the administrative arm of the Industrial and Vocational Training Board. The Directorate of Industrial and Vocational Training was established in 1987 and is located within the Department of Labour. The Director, who heads the Directorate, is also the Secretary of the Board. The Board’s activities are mostly confined to Trades testing and to the administration of the Apprenticeship scheme.

In Swaziland, the responsibility for vocational training lies with various departments and, as a result, the VET system is “uncoordinated and fragmented”. According to the Ministry of Enterprise and Employment, the current structure is “unworkable” and the VET system needs to be restructured and put under the responsibility of a single ministry or department. As regards segregated vocational training centres for people with disabilities, there are few and the quality of training they offer is reported to be “below standard”, not preparing disabled students to the labour market.

3.5.3 Role of Non-Governmental Organizations (NGOs) working in the Disability Sector

Save the Children Fund

Save the Children Fund (SCF) has for many years been highly committed to the capacity building processes of the disability movement in Swaziland. Without their support the movement would not be at the stage of effectiveness that it is today. This is very clear evidence of the importance and significance of collaboration of the disability movement with mainstream NGOs. The SCF raised substantial funds over the years to undertake these capacity building programs. The SCF has an effective and sustainable management system, particularly at financial management level. The SCF used this valuable resource to enable disabled persons to access donor funds which they would

otherwise not have been able to access due to their own state of managing their affairs in the past.

Save the Children Swaziland has in the past implemented a very successful Disability Programme aimed at strengthening and empowering DPOs. It notably provided training to DPOs. Save the Children is also promoting inclusive education and has helped some children by covering school fees. It also conducted an educational workshop on HIV/AIDS for visually impaired people.

Establishment of a King's Development Trust for the Disabled

The leaders of the disability movement have submitted a proposal to the King's Office on the establishment of a King's Development Trust for the Disabled. This trust is designed to enable people with disabilities to have access to a trust that will hold resources purely for the economic development of people with disabilities in Swaziland. It is modelled on a similar and very successful trust in South Africa: the Disability Economic Concerns (DEC), which has served to empower organisations of people with disabilities in South Africa in an appreciable manner.

Cheshire Homes

Cheshire Homes of Swaziland runs a boarding rehabilitation centre for people with physical disabilities in Matsapha. The services it provides include: vocational training in tailoring, leather work and knitting; a physiotherapy department; employment placements for those who have received vocational training; and orthopaedic appliances advice. There is only one Cheshire home in Swaziland, focusing on community based support and outreach to nearby rural areas. It also offers counselling, rehabilitation and provision of mobility aids. This facility is the only one of its kind in the country that provides for the rehabilitation of people who have had injuries primarily resulting in spinal cord injuries. But it also provides for other conditions such as strokes. The facility experiences severe financial constraints.

3.5.4 HIV/AIDS and Disability

Although there has been research focused on the disabling consequences of HIV/AIDS in Swaziland, there has been very little documented information about HIV/AIDS for individuals with disabilities prior to infection. There is evidence to suggest that people with disabilities face inequalities in accessing health information and services.

The interviews revealed that in 2004 a study was conducted in Swaziland (Yousafzai, A. et al 2004), which revealed that information and awareness about HIV/AIDS was good in both rural and urban areas among non-disabled participants, who obtained their information from a wide range of sources. In contrast, participants with disabilities, who obtained information about HIV/AIDS from a limited range of sources, lacked knowledge about HIV/AIDS and were misinformed about modes of transmission. Women with disabilities described experiences of sexual exploitation and abuse, which was perceived to be higher among disabled women than their non-disabled peers; they felt this was because disabled women were perceived to be 'free' from the HIV virus by non-disabled men.

3.6 Evidence Gathered during Key Informant Interviews

3.6.1 Senior Officials Working in Relevant Government Ministries

Senior Government officials were very open to discussing the situation of disability policy in Swaziland. However it was clearly evident that they faced major challenges in moving forward the agenda of disability policy as the speed with which changes were happening was very slow. The Swaziland Government had already started a process to draft policies on issues of vulnerable children. Furthermore, the national 25 year development strategy of the country had stipulated disability as a matter to be put at the forefront of the national agenda in order to begin to address some of the barriers hindering development in Swaziland, and as a key strategy for poverty eradication.

Ministry of Education

The Ministry's mission is "to provide relevant and affordable education and training opportunities for the entire populace of the Kingdom of Swaziland in order to develop all positive aspects of life for self-reliance, social and economic development and global competitiveness". As previously stated, Section 5 of the National Education Policy specifically addressed special education. The Ministry of Education has established policies, procedures and guidelines based on four guiding principles:-

- Educational programmes shall be designed and offered to children with special needs such as physical disabilities, visual and auditory impairments, and mental disabilities, social and behavioral problems as well as gifted children.
- The Ministry of Education shall facilitate access to education for all learners with disabilities by improving the infrastructure to make it user-friendly from basic through to tertiary level.
- The Ministry of Education shall support integration and inclusion of children with special learning needs in the Education System; and
- Special facilities for gifted children shall be made available in learning institutions.

The Special Education and Early Intervention Services office in the Ministry was established in April 1998. Its mission is "to ensure that quality education programmes are provided for all children and youth with exceptionalities in the Kingdom of Swaziland", This initiative came as a result of the emphasis placed by the National Policy Statement for Swaziland on the need to pay more attention to previously neglected areas. Special education covers a wide range of students with various learning styles from the exceptionally gifted and talented to those students challenged by physical and medical exceptionalities. Special education services are designed to address each area of need so that learners receive the best possible educational opportunities. (A Classification of Students with Special Educational Needs document is available in the Special Education office in the Ministry of Education).

The Ministry of Education also includes a Special Education Unit that "seeks to provide special education and early intervention services to children with learning disabilities".

The Unit operates three special schools: Ekwetsembeni School for Children with Learning Exceptionalities; Siteki School for the Deaf; and St. Joseph School (for children with learning disabilities). The Ministry's stated objective is to promote inclusive education. The Government has realised (due to extensive lobbying from DPOs) that disabled people continue to be marginalised due to lack of access from education. There are a very limited number of special schools and these are unable to register the majority of disabled children in need of education. With the exposure to international forums on the importance of inclusive education (following the SALAMANCA AGREEMENT, which Swaziland was party to) the Government took the decision to promote inclusive education for disabled children wherever possible. However this process is still very much at an infancy stage.

Representative from the Kings' Office

The representative of the King's office expressed his concern on the situation of people with disabilities in the nation, compared with other countries he had travelled to. He acknowledged having met with the disability leadership and discussing their proposal of an empowerment tool for people with disabilities.

He had also heard expressions of the motivation for the nomination of a representative of the disability movement to be elected into the Parliament, as the nation would soon be going into election. This was a major positive shift towards the further emancipation of people with disabilities in the country. However, there was still the issue of the myth that persons with disabilities can't be in the presence of the King. Therefore this remains a contradiction to the efforts of some sectors of the Kingdom to recognise the rights and the roles that PWDs can play in the development of the country.

At present, Swaziland does not have legislation that prohibits discrimination on the grounds of disability (except for two clauses regarding the dismissal of employees), although it will if and when the draft Constitution is adopted, as the latter does contain an anti-discrimination provision. The National Development Strategy (NDS) calls for the enactment of legislation "to protect disadvantaged groups from abuse and discrimination", but this has not been done so far. The lack of legislation on disability issues "means that access to services and rights of the disabled people depend on the goodwill of government officials and individuals".

3.6.2 Leaders of the national disability movement: Organizations of/for People with Disabilities and Disabled People's Organizations (DPOs)

The Federation Organization of People with Disabilities in Swaziland (FODSWA) is the national umbrella disabled people's organisation in Swaziland. It has four affiliate members: the Swaziland National Association of the Physically Disabled People; the Swaziland Association of the Visually Impaired Persons; the Swaziland National Association of the Deaf; and the Parents of Children with Disabilities in Swaziland. FODSWA is a gender sensitive organization; it therefore promotes gender sensitivity amongst its members. The Federation Organizations of the Disabled in Swaziland was established in 1993, but has little influence on the direction and development of disability policy. Major constraints have been the lack of organisational capacity of the organisation, the lack of core funding and the lack of a full-time Secretariat. FODSWA is a member of the Southern Africa Federation of the Disabled (SAFOD).

FODSWA have developed a five year plan, whose strategic objectives include:-

1. To ensure and improve access to rehabilitation, education, training, employment, sports, cultural and physical environment;
2. To raise awareness on all forms of discrimination faced by disabled people and also on disability issues within the country;
3. To promote the participation of persons with disabilities in the process of Economic and Social Development;
4. Improve co-ordination and communication between FODSWA and the Government;
5. To formulate and implement national policies, programmes and legislations to promote the full and equal participation of persons with disabilities;
6. To improve social and health service provision for people with disabilities[and
7. To support the development of and strengthen Disabled Persons' Organisations in Swaziland,
8. To promote self-representation of people with disabilities in all public decision making structures,
9. To facilitate research exercises to enhance information on disability in the country,
10. To mobilise resources to enable the proper implementation of the above objectives,
11. To monitor and evaluate our activities.

The analysis from the interviews with the leadership produced the following perspectives.

The most painful story was that of the myth that some men still maintain that by "sleeping" with a disabled woman; particularly a disabled child they will be cured of the positive HIV status. This was the most distressing story to hear from the interviews. The Swazi people are very reluctant to talk about this matter. However, it remains out there and some community members do raise it. The continued rise in the prevalence of HIV infections amongst disabled people is also attributed to the belief that women with disabilities are ASEXUAL. Therefore there is a belief that if a man who is HIV positive sleeps with a disabled person then they will be cured of their HIV positive status.

Disabled people are still perceived to be unable to take responsibility for their own lives. This was expressively so within the social and family environment. This is evident in marriages where very few disabled people are in marital relationships. The reason being that in a Swazi marriage the woman marries into the family. What is more important is the extended family structure and therefore not just a nucleus family. Therefore a disabled woman is considered to be unmarriageable as she will not be able to look after the family. The 'looking after' refers to fetching water from the river (with Swaziland having the majority of the population residing in rural areas); it includes being able to fetch firewood and preparing fire to cook, cleaning the yard, etc. A woman with a physical disability would not be able to do many of these practices, therefore many people are not keen to marry them. However, there is evidence of this slowly changing as government departments now make an effort to invite disabled people to consult on disability issues particularly on the development of disability related or inclusive policies.

When members of the disability movement put forward a request to meet with the King as citizens of the nation; their request was declined. The reason given was that the King does not meet with disabled people.

3.6.3 Representatives from Bilateral and Multilateral Donor Agencies

Attempts were made to conduct key informant interviews with the head of the UNDP in Swaziland as he has direct responsibility for influencing disability policies, but this did not prove successful. From past understanding of bilateral and multilateral donor agencies, it is evident that they are in a position where they do not wish to alienate themselves from the political leadership of the country. The development agencies in Swaziland are very keen to provide an enabling environment to allow the nation to develop and meet the standard of humanitarianism and human rights as determined by the various organs of the UN agencies.

Therefore, to a large extent development agencies endeavor to establish a relationship with the nation and its leadership to ensure a peaceful transition to a democratic society that respects human rights. However they CANNOT enforce their beliefs and this therefore presents a CATCH 22 situation to the leadership of the country. These agencies have maintained a very supportive role to the disability movement and are committed to continue to do so. However there needs to be buy in from the political leadership in order for this commitment to become a reality.

3.7 Summary of Discussions and Interviews

3.7.1 Summary of Focus Group Discussions

On an individual basis, the members of the focus group (who were the leadership of the disability movement of Swaziland (DPOs)) were able to provide very informative and positive feedback on the responsibility that the Government had acknowledged needing to effect. Regardless of very challenging circumstances, the leadership felt that they had a committed and true partnership with the Government.

All in all the leadership of the disability movement felt that the Government of Swaziland was now ready to take on the challenge to provide true and meaningful support and leadership for the emancipation of people with disabilities in this era of the UN Convention on the Rights of Person with Disabilities.

3.7.2 Summary of Key Informant Interviews

All respondents from civil society expressed that one of their major challenges to failing to meet their objectives was due to lack of sufficient financial resources. The general feeling was that with the availability of some appreciable amount of resources they would be able to implement. They felt that in order to effectively lobby government and to be able to engage government more effectively they had to have resources available to them and therefore be able to implement their plans. The Government has made concerted efforts to consult with DPOs and other civil society organisations working in the disability sector. However, DPO representatives invariably could not attend due to lack of funds to cover transport costs. Civil society institutions felt that they had a good relationship with government in relation to consultation processes. However when it came to spending of resources then government was unable to support them.

Government officials on the other hand felt that they were hamstrung in terms of

implementing the plans that government had for the development and implementation of disability policies. They felt that to a large extent the departments that were responsible for addressing disability issues in government were not given any priority in terms of budgetary allocation. An example was that the Ministry of Health and Social Welfare had a smaller budget for the disability program as opposed to the health program. Swaziland is said to have the highest incidence of HIV/AIDS cases in a population of less than 1million. Hence this pandemic poses major challenges for government to try and arrest it. As a result some of the other urgent programs such as that of disability and persons with disability inevitably gets compromised in the process.

International development agencies were also guided by the Country's national development plans and therefore had to provide support to where government directed them. In the case of Swaziland the urgency is on HIV/AIDS issues.

3.8 Conclusion

From the literature review and the analysis of the research conducted in Swaziland it is evident that the Government of Swaziland has done very little to address the issue of disability as a human rights and development principle. The presence of very effective missionaries and philanthropists has enabled the disabled children to have access education in the special schools and facilities, albeit in a limited manner. As a result of the support provided by missionaries and philanthropists the government did not take its role of mainstreaming disability in a serious manner. The advent of the UN Convention is seen as a saving grace particularly by disabled people as the Government will have to now have to aggressively and definitively address disability within the paradigm of human rights. However, it is unclear as to when the Government will ratify the Convention

It is however evident that on the ground disabled people are very much aware of their rights now and the role that government has to play to support those rights. It is on that premise that there is hope that there will be effective lobbying from DPOs to move government along to address the matter of mainstreaming disability into the policies of the government. It is only through this process that disabled people will be able to realise their rights and enjoy life in the Kingdom as full citizens and not as second class citizens as is currently happening.

The Government also has to make a greater effort to create capacity within its Ministries and Departments to enable the civil servants to be able to deliver on the expectations of government. Currently there is a very big gap in respects of understanding the paradigm and therefore being able to work on developing policies that will be aligned to the UN Convention. This is a very crucial and urgent matter. Even if at some point government has an appreciable commitment to mainstream disability and to meet the tenets of the UN Convention, the current staffing structures will be a major barrier to delivery on government expectation. Therefore a greater need is to train and also identify and appoint staff with the appropriate skills to be able to engage this matter.

The situation in Swaziland is of both one of despair and hope. Despair because there is so much that needs to be done as the nation is still very much behind in

beginning to understand the role that disabled people can play in the socio economic development of the country. This will begin through the removal of some of the denigrating myths and superstitions that the nation holds about disabled people (and this holds at very high levels of the government structure and the Royal family itself). The other aspect of despair is the availability of resources. Swaziland is classified as a developing country and therefore there is an appreciable access to development resources that the country has. The government must prioritise disability at a very high level in order for adequate resources to be allocated to the process.

The hope is evident in the talks with both civil servants and disabled people who feel that Government is beginning to understand the issues that they are raising regarding mainstreaming disability. Civil servants struggle with not being properly supported by government in their respective work. Disabled people feel that they have a good relationship with government in that they are able to access and discuss with government at many fora and at all levels within the development framework. This indication gives rise to hope that with time and especially with the advent of the UN Convention; they will be able to lobby more effectively.

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4.1 Introduction

This chapter presents the findings and inferences derived from the fieldwork undertaken for the disability policy audit in Malawi. The fieldwork was conducted between the 9th – 13th June, 2008. It was not possible to convene a focus group discussion with DPOs in Malawi, this being attributed to an apparent lack of cooperation from the disability movement itself, and the fact that the majority of DPOs are based outside of Lilongwe. Given that only five days were allocated for the completion of the fieldwork, it was not logistically possible to travel outside of the capital. Key informant interviews were held with senior officials in the Ministry of Education and the Ministry of Justice. Consequently, the analysis of disability policy and practice in this chapter is to a very large extent derived from desk-based research.

4.2 Historical, Economic and Political Context

Malawi lies in south-eastern Africa, bordered to the west by Zambia, north and east by Tanzania, and east and south by Mozambique. The country covers a total area of 118,480 sq. km, 24,400 sq. km (20%) of which are water. During the 1950s, pressure grew for the country's independence from British colonial rule, fuelled by the joining of Nyasaland with Southern Rhodesia in 1953. Independence was eventually granted on the 6th July, 1964. Dr Hastings Kamuzu Banda who was Prime Minister at the time was elected President for life in 1971. He went on to institute an authoritarian one-party rule until he lost control in 1994 to Mr Bakili Muluzi in the first multi-party elections.

In 1994 Malawi became a multi-party democracy. Under the 1995 Constitution, the country is ruled by a President, who is both head of state as well as being the head of the government, and who is elected under universal suffrage every five years. Members of the presidentially-elected cabinet can be drawn from either those inside or outside of the legislature. Malawi's National Assembly has a total of 193 seats, which is again directly elected every five years. Under a bicameral system of government, Malawi also has a Senate comprising of 80 seats, which is made up of traditional leaders, as well as special interest groups, including women, youth and disabled people. In addition Malawi is an independent judiciary which operates under British common law. The judiciary includes a Supreme Court of Appeal and a Constitutional Court.

The economy is heavily reliant on exporting agricultural commodities, which has the major disadvantage of making it extremely vulnerable to global external shocks. Agriculture accounts for 34.7% of GDP, representing 80% of total exports. It is also estimated that 90% of the rural population is engaged in subsistence farming. A further problem is that the vast majority of financial wealth is held by a very small elite. During the 1980s, stimulated by pressure from the World Bank and the IMF, Malawi undertook significant economic structural adjustment, which has resulted in the privatisation of many state-owned companies, the liberalisation trade and foreign exchange, as well as civil service reform. Malawi was granted Heavily Indebted Poor Country status, since

April 2006. Commenting on the positive effect that this has had, the US State Department Background Note on Malawi, published May 2008 states:-

"Over \$2 billion in debt has since been cancelled, enabling the government to increase the expenditures for development. Real GDP increased by an estimated 7% in 2007, a modest decline from 7.9% in 2006. Inflation has been largely under control since 2003, averaging 10% in that year and 7% in 2007. Discount and commercial lending rates have also declined from 40%-50% in 2003 to 22.5% currently. The government has moved away from controlling the exchange rate, allowing the Kwacha to drift down since March 2005" (US State Department, 2008).

In common with many sub-Sahara African countries, Malawi faces huge developmental challenges. The country is one of the very poorest in the whole of Africa, with an estimated per capital income of \$160 for 2006. The Malawi Welfare Monitoring Survey 2005/06 estimated that 45% of the country's 12 million population lived below the poverty line. As was the case in Namibia, in Malawi there is a significant income inequality, with the Gini Coefficient being 0.52 in urban areas and 0.37 in rural areas. The Integrated Household Survey 1998, shows that the richest 20% of the population consumed 46% of total goods produced, compared with 6.3% for the poorest 20%.

Malawi also has a poor track record in instituting good governance structures. For many years, it has been widely recognized that poor people will inevitably suffer when access to justice and the ability to actively engage and be involved in political life is stifled. DFID is trying to improve this situation by funding civil society institutions to actively engage with the Government and to proactively secure their political and civil rights. It is also providing funding to enable the Government to implement pro-poor development policies.

It is widely acknowledged that Malawi will have significant difficulty in meeting the Millennium Development Goals. In commenting on these perceived challenges, the Government of Malawi has stated:-

"Malawi faces an uphill task as she undertakes the obligation on meeting the MDG to halve poverty by 2015. In order to achieve this MDG, the poverty incidence should decline by 2% per annum. On the basis of different income distribution patterns, this target could only be achieved with economic growth of about this 3.8 to 6.0% per annum. ... The economy of Malawi has been extremely vulnerable to internal and external shocks. Therefore, this requires the provision of greater incentives for economic development to broaden income and employment opportunities for both men and women in urban and rural communities. However, higher and sustained growth demands a favourable environment for economic growth, particularly in areas involving traditional agriculture, small production unit and both urban and rural micro-enterprises. Malawi Poverty Reduction Strategy recognizes that population and reproductive health programmes are critical in order to meet the Millennium Development Goals by halving poverty and hunger by 2015, reducing maternal and child deaths, curbing HIV/AIDs, advancing gender equality, and promoting environmentally sustainable development" (Government of Malawi, 2003: 6)

Table 4.1 below provides a statistical summary of the developmental challenges that face contemporary Malawi.

Table 4.1: Statistical Summary of Developmental Challenges in Malawi

<p>Total Population: 13.57 million Life expectancy at birth: 48 years Income per capita: US\$ 160 Infant mortality rate per 1,000 live births: 120 Child malnutrition (% of children under 5): 24% HIV/AIDs prevalence rate (adults aged 15-49 years): 14%</p>

4.3 Background Literature Review

4.3.1 SINTEF Disability Living Condition Survey, 2004

As was the case in Namibia, in 2003 SINTEF, (a Norwegian-based research institute), conducted a Disability Living Conditions Survey in Malawi, which was published in August 2004 (Eide, A. et al 2004). The aims and objectives of the survey, as well as the methodology that was important was the same as those for the Namibian survey, which will not be repeated at this juncture (see chapter on Namibia). This survey was a collaborative initiative between the Southern Africa Federation of the Disabled, the Ministry Responsible for People with Disabilities, the Centre for Social Research at the University of Malawi, and the Federation of Disability Organisations in Malawi.

Therefore, a national representative sample of households with disabled family members and also households without members with a disability was undertaken. A total of 3,058 households were sampled of all regions of Malawi. In total, 1,521 of the households had a member with a disability, and 1,537 did not. A total of 1,373 disabled people were identified (equivalent to 10.6% of the total sample), the vast majority of which were interviewed in more depth, following the initial sample survey. Thus, as in Namibia, this study enabled a comparative analysis to be undertaken with regard to the differences and commonalities that exist between the two different categories of households, as well as a more in-depth analysis of the barriers that disabled people within Malawi encounter that militate against their social inclusion within contemporary society.

Demographics

Within this survey, it was found that significant statistical differences exist between those households with a disabled family member and those households without, with the regard to their demographic profile. It was found that the mean age of households was greater for households with disabled family members (33.8 compared with 19.9 years). This was indeed the case irrespective of the geographical region in which households lived. Further analysis showed that there were systematically significant differences with regard to household composition, with households with disabled family members being larger than those households without. This can be partially explained by the fact that households with disabled family members will require a greater level of assistance in carrying out everyday activities. Overall, it was found that there were no significant differences with regard to gender differences between two different households.

However, households with disabled family members were, on average, older than their nondisabled counterparts.

With regard to marital status, it was found that disabled people were less likely to be married than their non-disabled counterparts (26.9% compared with 31.6%). Also, it was found that 15.5% of disabled people were widows compared with 5% of non-disabled people.

Table 4.2 below presents the profile of the different categories of impairment found within the survey, which is also disaggregated by gender.

Category of Impairment	Male		Female		Total	
	N	%	N	%	N	%
Seeing	154	21.9	168	24.2	322	23.0
Hearing	96	13.7	124	17.8	220	15.7
Communication	24	3.4	21	3.0	54	3.2
Physical	323	46.0	279	40.1	602	43.1
Intellectual/Emotional	87	12.4	74	10.6	161	11.5
Old Age	3	0.4	6	0.9	9	0.6
Other	15	2.1	23	3.3	39	2.7
Total	702	100.0	695	100.0	1.397	100.0

The most significant findings and inferences from the survey are presented below.

Education

In common with the other disability living conditions surveys in Zimbabwe and Namibia, this study found that disabled children had lower rates of school attendance compared with their able-bodied counterparts. Hence, for those children who were aged five years or older, 35% never attended school, compared with only 18% of those without disabilities. Thus, disabled children were almost twice as likely not to receive any primary education whatsoever. This problem is further compounded when the gender differentials are taken into account, whereby 41% of disabled girls never attend school compared with 29% of disabled boys. This was indeed the case for all categories of impairment. However, in contrast with the studies conducted in Zimbabwe and Namibia, it was found that when disabled children did in fact attend school, their performance was no different to that of non-disabled children.

Employment

As has been previously noted, and in common with many countries in sub-Saharan Africa, Malawi has a very challenging economic climate with high levels of unemployment. However, the study found that disabled people were more likely to be unemployed than their able-bodied counterparts. Hence, 58% of disabled people stated that they were "not currently working", in comparison with 53% of those who did not have a disability. Once again, there are significant gender disparities, with 47% of disabled women being

unemployed compared with 41% of disabled men. This situation was further compounded by the fact that, for those disabled people aged between 15 and 65, 41% had acquired some employment skills, compared with 39% without disabilities. Although these figures are roughly the same, it nevertheless indicates that disabled people do in fact encounter discrimination in the workplace. It also underlines the importance of ensuring that disabled people receive appropriate skills training and vocational rehabilitation.

As a direct consequence of finding it harder to secure sustainable, long-term employment, households with disabled family members inevitably have a lower standard of living than those households who do not. Those households with disabled family members were more likely to have someone who was in employment, than those who did not.

Access to Services

Within Malawi, the survey found that the vast majority of disabled people have access to services: 60% of respondents with disabilities who were in need of services actually did receive them. However, this is not a uniform picture. There were significant shortcomings in the provision of vocational training, welfare services and counselling services. It was reported that only 5% of disabled people in need of vocational training and welfare services actually did in fact receive them. The survey also highlighted the need for many respondents with disabilities to receive emotional support, over and above any other form of assistance. With regard to physical accessibility, it was found that places of worship, health care centres, hospitals, shops and public transport could be effectively accessed by approximately two-thirds of disabled people. On the other hand, only 20% of schools and 26% of workplaces were regarded as being accessible.

It was also found that only 17% of disabled people surveyed actually used assistive devices. For those who were actively using such devices, 64% state that they were working well. However, 40% claimed that their device was either not maintained to a sufficient standard or that they could not afford the costs of repair. The vast majority of assistive devices were provided by the private sector.

4.4 Principal Findings and Inferences from Fieldwork

4.4.1 Prevalence of Disability in Malawi

Currently there is a paucity of robust and reliable statistical data regarding the number of PWDs that live in Malawi. A national survey was conducted in 1983, where it was estimated that there were 190,000 people with disabilities in the country, this being equivalent to 2.9% of the total population at the time. It was further estimated that 54% of disabled people were male and that 46% were female. Furthermore, it was also estimated that 45% of disabled people were aged between 15 and 45, and that 24% were aged over 50.

The SINTEF 2003 Disability Living Conditions Survey, which has been reviewed above, estimated that there were approximately 480,000 disabled people living within the country, this being equivalent to 4.18% of the total population. Given that there are no reliable statistics with respect to disability, it is difficult to see how the Government can

effectively implement and evaluate disability services. This is a common problem within many low-income countries, particularly in sub-Saharan Africa.

4.4.2 Constitutional Position of Disabled People

The 1994 Constitution of Malawi explicitly and implicitly recognises the rights of disabled people **with the** country. Listed below are some of the most salient sections of the Constitution with regard to disability issues:-

Chapter 111 13 g Fundamental Principles

“The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals –

g) The Disabled

To support the disabled through –

- i. greater access to public places;*
- ii. fair opportunities in employment; and*
- iii. the fullest possible participation in all spheres of Malawian society.*

Chapter IV 20 Human Rights

“Discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status”.

Furthermore, within Chapter IV, Article 25 (education), Article 29 (right to engage in economic activity) and Article 30 (right to economic, social, cultural and political development) implicitly apply to disabled people.

Malawi has ratified very important international treaties, which have a significant bearing upon the upholding of disability rights. These include the 1948 Universal Declaration of Human Rights; the 1966 International Convention on Civil and Political Rights; the 1979 Convention of Elimination of all forms of Discrimination against Women; the 1979 Convention on the Rights of the Child; the 1981 African Charter on Human Peoples Rights; the 1982 World Programme of Action concerning Disabled Persons; and the 1993 UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities. Malawi has also signed UN Convention of the Rights of People with Disabilities on the 27th September 2007, but has yet to ratify it.

In 2004, the Government of Malawi initiated a review of its 1994 Constitution by establishing the Constitution of Malawi Review Commission. As part of its review, the Commission widely consulted with civil society institutions with the object of ascertaining their opinions on how the Constitution should be revised. Consequently, the Federation of Disability Organisations in Malawi made a presentation on how any new constitution could become fully inclusive. In its submission, the Federation categorically stated that "disabled people and their organisations should be consulted and included in the decision-making process in areas of policy and future legislation at both national and local government level in such areas as representation, accessibility, communication

etc". It further recommended that disabled people be elected to Parliament and at local government level.

In its submission to the Commission, the Federation provided a detailed critique of the 1994 Constitution, specifically Section 51 dealing with nominations to the National Assembly; Section 52 regarding the criteria for nominations to the National Assembly, and also Section 42 concerned with communications. Furthermore, it made a very strong recommendation that in any new Constitution, there should be a specific, designated section that explicitly addresses disability rights. These include the right to education; the right to health services and public amenities; the right to socio-cultural and economic rights; the right to basic needs; the right to auxiliary services; and the right to recognition.

4.4.3 Government Responsibility for Disability Issues

The key government department for disability issues in Malawi is the Ministry for Social Development and People with Disabilities, which was established through presidential directive in December, 1988. Originally this Ministry was located in the Office of the President and Cabinet, but in July 2004 it was transferred to the Ministry of Gender, Youth and Community Services. The Ministry has three core objectives:-

- Prevention of disability;
- Rehabilitation of persons with disabilities; and
- Equalisation of opportunity for all persons with disabilities.

Until relatively recently, the Government of Malawi dealt with disability issues in a rather ad hoc and uncoordinated manner. This inevitably led to the systematic exclusion and marginalisation of disabled people throughout the country. The rationale for the creation of a new Ministry was to inculcate a more cohesive and joined-up approach to the eventual development of a national disability policy. It recognized that all stakeholders working in the disability sector, including disabled people's organisations and NGOs providing disability services needed to work together in collaboration with the Government. Therefore, the objectives of the Ministry are as follows:-

- *“To support the efforts of Government Ministries and Departments in the formulation of policies and programmes that effectively address issues and concerns of persons with disabilities;*
- *To assist Government Ministries and Departments as well as the civil society organisations in establishing and strengthening institutions aimed at implementing policies and programmes for the equalisation of opportunities for persons with disabilities;*
- *To enhance the involvement of persons with disabilities in all planning and decision-making processes;*
- *To initiate programmes to support people with disabilities aimed at promoting their own socio- economic development and for the development of their communities;*
- *To recognize and support initiatives by persons with disabilities;*
- *To promote greater awareness at all levels of the Malawian society of the importance of inclusion and full participation of persons with disabilities; and*

- *To coordinate, consult and co-operate with Government Ministries and Departments and other stakeholders on all matters pertaining to persons with disabilities".*

Since its establishment, the Ministry for Social Development and Persons with Disabilities has achieved a number of considerable achievements. These include the drafting of a National Policy on Equalisation of Opportunities for Persons with Disabilities, which is described in the next section of the chapter. In addition, it has also drafted anti-discrimination disability legislation which has been submitted to the Cabinet for approval. The Ministry has also been involved in revising the Handicapped Persons Act 1971. Finally, with support from Norwegian Church Aid and the Association of Christian Educators in Malawi, it has initiated the development of Malawian Sign Language.

4.4.4 The National Policy on Equalisation of Opportunities for Persons with Disabilities 2006

The purpose of the National Policy on Equalisation of Opportunities for Persons with Disabilities is to promote the rights of people with disabilities to enable them to play a full and participatory role in society. It was drafted by the Ministry of Social Development and People with Disabilities, and was ratified by the Cabinet in November 2005. An attempt has been made to ensure that the policy is linked to other Governmental initiatives, such as Malawi's second Poverty Reduction Strategy Paper and the Malawi Economic Growth Strategy Paper.

The National Policy on Equalisation of Opportunities for Persons with Disabilities is linked to a number of other national policies, legislation and instruments such as the Constitution of Malawi, which prohibits discrimination on the grounds of disability and promotes the inclusion of people with disabilities; the Vision 2020 and the Malawi Poverty Reduction Strategy Paper (MPRSP) as well as the Malawi Economic Growth Strategy (MEGS) which recognise the need to develop the capabilities and potential of persons with disabilities to increase their productive capacity; remove barriers which limit their participation in society; and improve social, economic and environmental conditions that limit their access to decision-making processes.

It is also linked to the Education Policy which contains provisions for all learners with special needs; the Handicapped Persons Act, 1971 which established the Malawi Council for the Handicapped with the responsibility to promote the welfare of disabled persons and to administer vocational and special training centres, as well as rehabilitation and welfare services for people with disabilities. It is also related to the Employment Act that prohibits any discrimination on any grounds, including disability in such areas as training, recruitment, pay and advancement of people with disabilities. The policy is related to Health, which provides for the establishment of medical rehabilitation services in government hospitals, and to provision of health services including mobility aids and appliances to people with disabilities. It is also linked to Gender and Youth policies, among others.

The policy explicitly acknowledges that disability policy and practice must be implemented within the broad framework of human rights. It also acknowledges that in order to achieve this, a "twin-track" approach to service provision, (i.e. the provision of services that are expressly targeted at disabled people as well as a concerted effort to

include disabled people in mainstream services) is adopted. Furthermore, the policy acknowledges the need to actively engage with disabled peoples organisations in the development, implementation and evaluation of services. Community-based rehabilitation is the preferred strategy for service delivery. Consequently, the policy has delineated the following seven policy objectives:-

- *"Formulate strategies towards disability prevention, rehabilitation and equalisation of opportunities for people with disabilities;*
- *Support community-based service delivery, in collaboration with local and international development agencies and organisations;*
- *Promote efforts that encourage positive attitudes towards children, youth, women and adults with disabilities;*
- *Develop programmes that alleviate poverty amongst disabled people and their families;*
- *Put in place programmes that create greater awareness and conscientiousness of community and government relating to disability;*
- *Strengthen the National Advisory and Coordination Committee on Disability Issues by, among other things, ensuring the effective representation of disabled persons and the stakeholder organisations; and*
- *Mainstream disability on the social, economic and political agenda of development programmes" (Ministry of Social Development and Persons with Disabilities, 2006; xviii - xix).*

Detailed objectives are set for each of these strategic objectives, which are not set out here. At the time of writing, it is too early to make an informed assessment as to how effective the National Policy on the Equalisation of Opportunities for Persons with Disabilities will be. However, there is a commitment to develop an effective social protection system, as well as a strong commitment to engage with the disability movement vis-à-vis disability policy development and service delivery.

All Government Ministries, Departments and statutory bodies are responsible for the implementation, monitoring and evaluation of the National Policy on Equalisation of Opportunities for Persons with Disabilities within their sectors. They have a responsibility to ensure that persons with disabilities have the same access, rights and responsibilities as any other Malawian. This would enable persons with disabilities to play a full and participatory role in national development. The successful integration of persons with disabilities in the mainstream of society, therefore, requires a multi-disciplinary approach in Government.

4.4.5 Special Needs Education Policy

During the past decade, the education system in Malawi has been the subject of radical reform, spearheaded by the introduction of free primary education in 1994. As a consequence of this policy, during the mid 1990s there was a substantial increase in the number of children enrolling in primary schools, with some estimates suggesting that enrolment rates have doubled. However, it is somewhat of a double-edged sword, since this trend has inevitably resulted in overcrowding, and a lack of teaching materials, combined with a shortage in the requisite number of trained teachers.

In its *Policy Investment Framework 2001*, the Ministry of Education, Sports and Culture made a political commitment to special needs education, in an attempt to implement some of the policies delineated in the National Policy on the Equalisation of Opportunities for People with Disabilities described above. Consequently, a National Special Needs Education Policy has been developed to provide a mechanism for the effective implementation of these strategies. The policy therefore provides appropriate guidelines for the standardised implementation of SNE (Special Needs Education) in the country.

The policy focuses on eight major components of SNE which include: early identification assessment and intervention; advocacy, care and support; management planning and financing; access, quality, equity and relevance. Each of these components has policy statements and strategies to ensure their effective implementation.

The Malawi Education For All document of 2002 states that of the school-going-age children between 0-15 years old with special educational needs, 66.2% have learning difficulties, 20.5% have visual impairments and 13.3% hearing impairments. According to statistics from EMIS (2007) there are 69,943 learners with impairments enrolled in school. These include low vision 18,328, complete blindness 366, partial deafness 176,344, complete deafness 1,636, physical impairment 7,194, and learning difficulties 18,328. These statistics, however do not capture all learners enrolled in mainstream classes with impairments or learning difficulties such as intellectual disability, emotional and behavioural difficulty, specific learning disability, health impairment, language and communication difficulty (SNE Policy Summary Document).

The objectives of National Policy on Special Needs Education (SEN) are to:-

- provide appropriate quality education and/or vocational training to all learners with SEN;
- Ensure equitable access to all learners with SEN at all educational levels;
- Provide education facilities with necessary provisions to support the education of learners with SEN;
- Ensure that all education institutions create and provide supportive learning environments;
- Increase provision of SEN services by all education stakeholders;
- Improve co-ordination and networking among SNE stakeholders; and
- Provide standards and ethical practices to be adhered to in the provision of SNE services.

The implementation of this policy is likely to face a number of challenges. These include financially inadequate funds to implement SEN programmes and activities nationwide e.g. procurement of teaching, learning and assessment resources, assistive devices, construction, rehabilitation of resource centres, capacity building, and maintenance of plant and specialized equipment. Also, there are environmental barriers manifested by inaccessible infrastructure such as classrooms, long distances to schools, sports and recreation facilities, roads and public utilities are barriers for learners. Moreover, attitudinal barriers, negative attitudes are a major barrier to the development of SEN in Malawi. Children and youths with SEN face discrimination, lack of parental responsibility, neglect, rejection, abuse, and overprotection by parents. This could also be aggravated by lack of information, misinformation, cultural practices,

beliefs and values. Also there is a limited capacity to train specialist personnel with the requisite skills in teaching children with a wide range of impairments.

If the **SEN** ?SNE summary document quoted above is anything to go by, there are serious challenges in terms of implementation of various policy provisions in the country. What is evident is that government ministries are not easily accessible as most of them are occupying buildings without lifts. That quietly keeps disabled people from the ministries. This is silent discrimination and is a violation of the constitution of the land. This situation is always met by apologies for the inaccessibility of buildings and 4 years after the adoption of the constitution, the Ministry of Public Works has not embarked on a programme known to the disability movement meant to address the anomaly. The infrastructural inaccessibility even affects the Ministry responsible for persons with disability and the elderly.

Development programmes in the country continue to be implemented without taking into account the provisions of the National Policy on the Equalisation of Opportunities for Persons with Disabilities. There is no way a Ministry can supervise another Ministry. A recommendation can be made but it will remain at that. Even if the draft act on equalisation of opportunities for persons with disabilities comes into force, it may be difficult to implement its provisions. Disability needs to be placed at a higher office to enable the enforcement of constitutional and policy provisions that are in favour of persons with disabilities.

4.4.6 Community-Based Rehabilitation and Inclusive Education in Malawi

The Government of Malawi, under the auspices of the Malawi Council for the Handicapped, established a community-based rehabilitation (CBR) programme during the 1980s, with financial and technical support being supplied by the ILO and UNDP. It adopted a strategy of enabling local communities to address the needs of disabled people and their family members within the context of the local community. In 2006, Annika Salmonsson, in her base-line study of inclusive education in three of Malawi's administrative districts (Blantyre, Balaka and Machingo) observes that CBR programmes have been established in 11 out of Malawi's 27 Districts, thereby potentially covering half of the country's population. Since 2004, the Norwegian Association of the Disabled, working in close collaboration with the Ministry of Social Development and People with Disabilities, have funded CBR programmes in the three districts mentioned above. Annika Salmonsson, from the Institute of Public Management in Stockholm, was commissioned in 2006 to undertake an evaluation of the CBR programmes that are being funded by the Norwegian Association of the Disabled, and to make specific recommendations regarding how CBR and inclusive education initiatives can be integrated (Salmonsson, A. 2006).

Salmonson observed that while there was a great deal of rhetoric regarding adopting a genuinely inclusive, rights-based approach to education and rehabilitation, in reality a far more pragmatic approach was adopted. This was compounded by the fact that there were no robust and reliable statistics and outcome indicators by which to assess programme outputs. Within Machingo and Balaka Districts, it was shown that the vast majority of disabled people attending mainstream schools were in fact those with visual impairments, almost to the total exclusion of other impairment groups.

More positively, it was observed that some schools within the three designated Districts were in fact making their schools more accessible and that some teachers were receiving sign language training. In addition, a very interesting strategy was adopted to encourage non-disabled trainees to work alongside their disabled counterparts in vocational rehabilitation training centres, in order to gain employment skills.

In her report, Salmonsson concluded that within each of the three Districts, there had been positive changes to the extent to which disabled people had been included into their local communities. However, in order to make further progress, she made a number of recommendations, which included:-

- *"There was a continued need to undertake awareness raising campaigns, to raise the general level of awareness regarding disability issues within local communities;*
- *The need to build and sustain the capacity of CBR staff at all levels;*
- *The need to create a sustainable statistical database in all districts;*
- *Continued improvements to ensure that its schools are accessible to disabled people;*
- *The need to train teachers and school leaders in disability awareness;*
- *Support for Malawi sign language to be documented and taught;*
- *The need to promote a project on inclusive classes for deaf students in mainstream schools;*
- *The need to promote inclusive classes with special needs education teachers for pupils with severe impairments (for example, those with multiple disabilities and cerebral palsy); and*
- *The necessity to ensure that disabled people and their representative organisations are included in the management of programmes". (Salmonson, 2006: 22-25).*

4.5 Disabled People's Organisations in Malawi

The Federation of Disability Organisations in Malawi (FEDOMA) is the national umbrella disabled people's organisation that was established in 1999. It has six affiliated members: the Malawi Union of the Blind; the Malawi National Association of the Deaf; Disabled Women in Development; the Malawi Disability Sports Association; the Albino Association of Malawi; the Association of the Physically Disabled in Malawi; and Parents of Disabled Children Association in Malawi. Over the past decade, the Federation has played a leading role with regard to policy development within the disability sector. It has chaired the National Task Force that was established in order to gather the broad views of those working in civil society institutions, especially those working in the disability sector regarding what policy direction should be implemented. The Federation has also established networks with other national and international organisations. The aims and objectives of the Federation are as follows:-

- *"To support and encourage the formation of persons with disabilities organisations in Malawi and to strengthen existing ones;*
- *To promote and encourage development efforts and self-help projects among persons with disabilities and their organisations;*

- *Coordinate the work for equal rights and equalisation of opportunity for persons with disabilities in Malawi Society;*
- *Promote training for leaders on the organisations and the administrative personnel;*
- *To promote, support and complement government policies and programmes directed at persons with disabilities;*
- *Facilitate the exchange of information in the field of disability through research, civic education programmes and seminars; and*
- *Affiliate and co-operate with other national, regional and international organisations that work in disability". (FEDOMA website accessed 22nd July 2008)*

According to Annika Salmonsson's report on inclusive education in Malawi, published in 2006, FEODMA's position on special needs education is that they favour disabled children being educated within mainstream schools, which work in collaboration with special needs education teachers and with local resource centres.

FEDOMA has in the past received international funding from DFID, USAID, Canadian CIDA, Danish DSI and a number of other northern-based philanthropic charities.

4.6 Conclusion

It is duly acknowledged that the fieldwork undertaken in Malawi, for several reasons, was far from satisfactory with key lessons having been learnt for similar policy-focused studies in the future. Notwithstanding these limitations, it is nevertheless possible to provide some pertinent observations with regard to disability policy and practice within the country. As with the other three countries, the Constitution of Malawi explicitly recognizes the rights of disabled people, and has made some progress in developing a rights-based agenda for disability issues. This is evidenced by the establishment of the Ministry of Social Development and People with Disabilities, in combination with the development of the National Policy on Equalisations of Opportunities for Persons with Disabilities in 2006.

It is also apparent that the Federation of Disability Organisations in Malawi, which is a national umbrella DPO, has been very instrumental and successful in working with the Government of Malawi in developing rights-based disability policies. From the preliminary analysis within this report, at a prima-facie level, it would appear that the Federation has been the most successful DPO in each of the four countries in its ability to negotiate and influence government policy. Despite these positive developments, it is nevertheless true to say, in common with the vast majority of sub-Saharan countries, that disabled people encounter high levels of social exclusion, marginalisation and discrimination. For example, even though the Ministry of Education published its Special Needs Education Policy in 2007, the SINTEF Disability Living Conditions Survey would suggest that the majority of disabled children do not receive a primary education. This is indicative of the broader conclusion that the existence of human rights-based policies and legislation regarding disability do not by themselves necessarily, by default, result in the genuine and effective social inclusion of disabled people within contemporary society. What is needed, in addition, is a strong commitment by politicians to implement disability policy and practice based upon the fundamental principles of human rights,

combined with the development of effective administrative infrastructures for such policies.

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5.1 Introduction

This chapter presents the findings and inferences derived from the fieldwork undertaken for the disability policy audit in Mozambique. The fieldwork was conducted between the 18th - 25th June, 2008. In common with the other disability policy audits conducted in Namibia, Swaziland and Malawi, a concerted effort was made to engage with the disability movement within the country, in order to ascertain to what extent they have been able to engage with the Mozambique Government in promoting a rights-based agenda to disability issues. Key informant interviews were held with senior officials within the relevant Government Ministries that have specific responsibility for the disability. Furthermore, focus group discussions were held with the leaders of the disability movement within the country. A particular challenge in conducting this research was that the large majority of policy papers and other relevant documents were written in Portuguese.

5.2 Historical, Economic and Political Context

Historically, Mozambique has had a long relationship with Portugal, when explorers came during the early 16th century in search of gold and slaves. In the aftermath of the Second World War, with many European countries granting independence to many African nations, Portugal maintained its stronghold on the country. During the colonial era, the educational opportunities that were available to black Mozambicans were extremely limited, in which it was estimated at least 92% of the indigenous population was illiterate.

Consequently, in September 1964 the Front for the Liberation of Mozambique (FRELIMO) initiated a protracted civil war, which after a decade of intense guerrilla warfare, resulted in independence being granted in June 1975. The first national Government was headed by President Somora Machel, who had strongly supported other anti-apartheid movements in South Africa and Zimbabwe. This Government received a great deal of support from Soviet bloc countries. It has been estimated that one million Mozambicans were killed during the civil war. Moreover, by 1995 more than 1.7 million Mozambicans had sought refuge in the neighbouring states of Malawi, Zimbabwe, Swaziland, Zambia, South Africa and Tanzania. The first decade following independence was characterised by further civil unrest and sabotage.

Mozambique established a multi-party democracy under its 1990 Constitution. The first democratic elections were held in 1994 when Joaquim Chassano was elected President with 53% of the total vote. The Constitution also established a 250 seat National Assembly where there is universal adult suffrage from the age of 18. The Executive Branch of the Government comprises of the President, the Prime Minister together with the Council of Ministers. The 1990s also witnessed the emergence and development of more democratic institutions, with an overhaul for the electoral process taking place in September 1999. This was largely funded by the international donor community. This was further amended in May 2004, with the objective of ensuring that elections were conducted in a far more transparent and accountable manner.

By 1992, Mozambique was considered to be one of the poorest countries in the world. Despite indications that there had been significant progress in terms of economic recovery during the last decade, many socio-economic indicators would suggest that endemic levels of poverty pervades the country. Even today, Mozambique ranks 168 out of 177 on the United Nations Human Development Index and is also very low on the Gender Development Index. For example, it is estimated that per capita GDP for 2008 is \$320. However, the resettlement of refugees, in concert with ongoing political stability and economic reforms have resulted in the average annual growth rate of GDP being 8% for the period covering 1994 to 2006. These favorable conditions have been considerably assisted by a tight fiscal policy which had reduced the annual rate of inflation from 70% in 1994 to 5% for the period 1998-1990. It is true to say that there has been significant economic reforms in recent years. For example, more than 1,200 companies, including those within the telecommunications and transport industries have now been privatised.

The draft DFID Country Assistance Plan for 2008-2012 poignantly describes some of these systemic development challenges that must be addressed. What follows is primarily based upon the analysis undertaken by DFID. Commenting upon the future economic prospects of the country, this forward-looking plan states:-

"Broad-based economic growth will be the key determinant of whether the economy can continue to grow at a sustainable pace and whether the poorest will be able to contribute and benefit from this growth. Mozambique's projected growth rate is less than recent trends because many of the early gains were from increasing land use as people returned to the land in the late 1990s and that many of the 'first-generation' reforms associated with market liberalisation have already been implemented. Together with meteorological risks and the impact of HIV, these factors account for the reduced estimated long-term rate of 5% compared with current growth performance of about 8%. With a vigorous programme to support agricultural transformation and productivity, including tackling HIV, a continuation of higher growth rates may be achievable. The country now needs substantial institutional improvement and massive investment in infrastructure, including access to finance, to make growth sustainable and further reduce poverty" (DFID, 2008:9-10)

Notwithstanding the significant political and economic progress that Mozambique has achieved since the cessation of the civil war in 1992, the country still faces huge developmental challenges, particularly in its quest to reduce poverty. The second Poverty Reduction Strategy Paper (PRSP) was agreed in May 2006, which sets out a strategy for achieving the Millennium Development Goals. However significant improvements in public services will need to occur if these targets are going to be met.

The PRSP is premised upon addressing three core principles in tackling poverty: governance, human capital and economic development. Furthermore, it sets out very ambitious targets to be achieved by 2009, particularly in giving serious consideration to abolishing health user fees, and achieving the target of achieving universal primary education by 2015. The strategy also emphasises the need to develop 'participatory democracy' within the governance structures, by creating consultative councils at district level.

Many within the international donor community, including DFID, have some major reservations regarding the feasibility of achieving the objectives as delineated within the PRSP. There is particular concern regarding whether the Government really does have the capacity and political will to undertake public sector reform and effectively deal with the endemic corruption within the sector. There is also scepticism whether the Government will indeed institute a 'separation of powers' between the legislature, executive and judicial branches of the state. Furthermore, there is scepticism regarding whether Mozambique will in the short to medium-term develop an adequate and efficient administrative infrastructure for the effective delivery of public services. The draft DFID Country Assistance Plan states:-

"Although it has improved, and there are very good examples of leadership in some sectors, public sector capacity for service delivery remains weak. Health and education suffer from a critical shortage of 'front-line' personnel. Institutional weaknesses - in financial and human resource management, communications, planning and provision - cause a whole series of bottlenecks that prevent additional financial resources translating smoothly into better service delivery outputs. District capacity is very weak and inadequate to deal with the burden if increased, even if moderate, responsibilities for service delivery through decentralization" (DFID, 2008: 13).

Analysis for the 2005 Mozambique Labour Force Survey has shown that poverty, (based on household assets), has fallen from 69.4% in 1997 to an estimate of 50% for 2005. A complementary survey undertaken by UNICEF found that 63% of children from rural areas were living in absolute poverty, in comparison with 20% for those living in urban areas. Nevertheless, poverty reduction must still remain a major priority, within a country where levels of malnutrition have seen little improvement in recent years. In common with many sub-Saharan African countries, HIV/AIDs is another serious threat to the progressive development of the country.

The prevalence rate for HIV among pregnant women, aged between 15-49 years increased from 11% in 2000 to 16% in 2004. More worryingly, it is estimated that the prevalence rate amongst young people aged 15-24 account for 60% of new HIV infections. Furthermore, it has been estimated that by 2010, that 50% of the one million maternal orphans will be in such a position because of the deaths of their parents. This is further compounded by the fact that Mozambique has one of the highest rates of maternal and infant mortality throughout sub-Saharan Africa. DFID's draft Country Assistance Plan states:-

"There is a growing number of children enrolling in school but this is in the context of declining quality with only a third of children completing primary school in 2005 and very low levels with secondary and tertiary education, especially among girls and women. Access to health services is limited, only 36% of the population have access to a health centre within 30 minutes of their home and only 42% have access to an improved water supply" (DFID 2008: 9).

Mozambique's democratic credentials and track record in engaging with civil society institutions in upholding human rights have certainly been questioned by the international community. This can partially be attributed to the protracted civil war that took place prior to Mozambique gaining independence in 1975. However, it remains the

case that there is a weak political infrastructure in place to hold the government to account. Notwithstanding a commitment to improving accountability mechanisms through a process of decentralisation, currently Parliament does not have the wherewithal to effectively hold the Executive to account.

Moreover, civil society institutions are a relatively new phenomenon within contemporary Mozambique society, with little experience of really engaging with Government in pursuing a rights-based agenda with the regard to public service provision and the promotion of human rights. A further compounding factor is that historically, the Government has been liable to accusations of corruption and nepotism. What is necessary is that, if a rights-based agenda to development is going to be effective, then it is essential that a system of checks and balances are instituted within the political architecture of the country. In the light of the analysis presented above, it is very difficult to envisage that a rights-based approach to disability issues, founded on the principles enshrined in the UN Convention, will be instituted within Mozambique, at least in the short to medium-term.

Notwithstanding the fact that Mozambique has enacted anti-discrimination disability legislation, there are several contributory and self-reinforcing factors that militate against such a trajectory of positive change. These include the lack of political will on the part of the Government to adopt and promote a rights-based agenda to disability issues; the lack of an efficient administrative infrastructure to enforce disability rights and provide genuinely inclusive public services; and the lack of experience of civil society institutions, including DPOs, in engaging with Government in the promotion of human rights.

Table 5.1 below provides a statistical summary of the developmental challenges that face contemporary Mozambique.

Table 5.1: Statistical Summary of Developmental Challenges in Mozambique
Total Population: 21.0 million
Life expectancy at birth: 42.5 years
Income per capita: US\$ 7,448
Infant mortality rate per 1,000 live births: 73
Child malnutrition (% of children under 5): 24%
Estimated number of orphans and vulnerable children: 1.5 million
HIV/AIDs prevalence rate (adults aged 15-49 years): 10.3%

5.3 Principal Findings and Inferences from Fieldwork

5.3.1 Estimates of Number of Disabled People

The African Decade for Persons with Disabilities estimates that there are approximately 1.6 million disabled people in Mozambique, equivalent to 9.9% of the total population. To date, there has been no systematic collection of data regarding the number of disabled people living in the country. However, due to the civil war, many disabled people have acquired their impairments by war injuries. The 2007 Landmine Monitor Report estimated that there are at least 30,000 survivors from Landmines.

Data from the 2007 Census has yet to be released. However, the 1997 Census estimated that approximately 2% of the total population were disabled. It also found that

77% of disabled people had a mobility impairment, and that 16 % attributed their impairment to "mental health problems". This is to be expected, given that many people will have been traumatised during the long period of civil strife within the country. The 1997 Census also found that 80% of disabled people lived in rural areas, where there was virtually no access to appropriate medical care. Furthermore, the Census showed that 54% of disabled people are men and that 48% are women. Again, this gender disparity can be partially explained by the fact that men are more likely to be involved in war and therefore disproportionately more likely to become impairment through landmines.

Notwithstanding the fact that these statistics are 10 years old, there is no reason to believe that the overall scenario described above has fundamentally changed during the interim period.

Commenting upon the scale and causes of impairments in Mozambique, Disability and Development Partners, in their 2008 study of disability and HIV/AIDS state:-

"Many disabilities in Mozambique could be prevented by better healthcare conditions including greater access to primary health care. A simple example of this is that a number of people needlessly become disabled in Mozambique through snake bites which can be readily pleaded if the victim can reach a health post and be given a antidote quickly enough. The right to 'assistance' for disabled people is provided in article 95 of Mozambique's Constitution and article 8 provides specific rights for people disabled as a result of the National Liberation War, and for those who became disabled during the Civil War that led to the 1992 Peace Accord, including their dependants. In rural areas, however, disabled people are not aware of the limited rights that do exist" (Disability and Development Partners, 2008: 6).

5.3.2 Constitutional Position of Disabled People in Mozambique

Disability issues are both directly and indirectly addressed within the 1990 Mozambique Constitution. Therefore, within Mozambique, disabled people have the following constitutional rights:

Article 13 (War Disability) ensures special protection to those who were disabled during the armed conflict that ended with the signing of the General Peace Agreement in 1992, as well as the orphans and other direct dependants. In addition the State has the legal duty to protect those who have been disabled in the performance of public service or an humanitarian act.

Article 35 (Principle of Universality) ensures that all citizens are equal before the law, and they shall enjoy the same rights and be subject to the same duties, regardless of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, the marital status of their parents, their profession or their political preference.

Article 37 (Disability) explicitly addresses disability issues. Therefore, the Constitution explicitly states that disabled citizens shall enjoy fully the rights enshrined in the Constitution and shall be subject to the same duties, except those where their disability prevents them from exercising or fulfilling such duties. Article 35 also states that:-

- The State shall encourage the establishment of associations of disabled people;
- Disabled people shall have the right to special protection by the family, the society and the state.
- The State shall promote the creation of conditions for learning and developing sign language,
- The State shall promote the creation of conditions necessary for the economic and social integration of the disabled.
- The State shall promote, in co-operation with associations of the disabled and with private entities, a policy that will guarantee:
 - a) the rehabilitation and integration of the disabled;
 - b) the creation of appropriate conditions to prevent them from becoming socially isolated and marginalised;
 - c) priority treatment of disabled citizens by public and private services.

Article 95 (Right to Assistance of the Disabled and the Aged) stated that all citizens shall have the right to assistance in the case of disability or old age. In addition the State shall promote and encourage the creation of conditions of realising this right.

Anti-discrimination disability legislation was passed in Mozambique was passed in 1990 (Act number 20), which established a policy for people with disabilities. This is premised on the foundation of non-discrimination and endorses a commitment to the following list of rights:-

- The right to an independent life;
- The right to integration into the family and the community;
- The right to rehabilitation and access to compensation;
- The right to general, special and vocational rehabilitation;
- The right to access to the workplace;
- The right to benefit from measures of social protection;
- The right to access to social services;
- The right to private and public transport as well as reserved places;
- The right to influence, individually or through representative organisations, in decision-making of subject matters affecting people with disabilities;
- The right to be informed and to inform; and
- The right to recreation.

In addition to these disability-specific constitutional and legislative rights, the Government of Mozambique is signatory to a number of international human rights treaties, which by implication include disabled people. These international treaties include the 1976 International Covenant on Civil and Political Rights, the 1990 Convention on the Rights of the Child (including its optional protocol on children, child trafficking and prostitution); the 1979 Convention for the Elimination of all Forms of Discrimination against Women; and the 1997 Mine Ban Treaty. The Mozambique Government has also signed the UN Convention on the Rights of Persons with Disabilities on the 30th March, 2007.

Notwithstanding these extensive constitutional and political rights that exist, it is far from clear to what extent they are effective in promoting and upholding disability rights. Once again, from the analysis presented above, it is unlikely that such legal provisions will have any sustainable effect, primarily because there is no judicial and administrative

architecture to ensure their enforcement, endemic political corruption, and the relatively new engagement that civil society institutions have with government in advocating for and promotion of human rights, not least within the disability sector.

5.3.3 National Policy on Disability 1999

The Government of Mozambique produced its first National Policy on Disability in 1999, which was developed in close collaboration with key stakeholders working within the disability sector, including disabled people's organisations. However, despite the fact that this Policy has been approved by policy-makers in 2002, it has yet to be enacted by Parliament. The Policy explicitly deals with the underlying principles and strategies to ensure that disabled people are able to effectively participate in every aspect of contemporary society, particularly in relation to economic development. Notwithstanding the publication of the Policy, a great deal of its provisions have never been implemented, ostensibly because the Government does not have sufficient financial resources to do so. As a result, disabled people do not have adequate access to public services, buildings and public transportation systems remain inaccessible, and the vast majority of disabled children do not benefit from receiving a basic primary education. This scenario is further compounded by negative social attitudes held by the public at large, including politicians and senior civil servants.

In concluding its analysis of the social, economic and political situation of disabled people in Mozambique, Disability and Development Partners state:-

"As a very general rule, the quality of life enjoyed by disabled people varies in direct proportion to the prosperity and overall level of human development of the country in which they live. However, it is an order to qualify this statement by emphasising the reality that, because poverty tends to impact most upon those least able to protect themselves, both relative and absolute measures of life find that inequalities in fact magnified in the poorest countries. Mozambique exemplifies this dynamic, exhibiting in addition to abiding poverty among its disabled population characteristics of stigma and discrimination, some founded on unenlightened belief systems, which serve to compound that poverty and render escaping it even more difficult. Mozambique, however, is better placed and more enlightened than many other sub-Saharan countries in that it has many instruments that exist to protect and promote disabled people's rights: and so often is the case in developing countries, and agglomeration of poverty related factors such as insufficient resource allocation, a weak disability movement and DPOs, and limitations on infrastructure create and perpetuate the gulf between principle and practice, even when the argument for the disability rights has been won" (Disability and Disability Partners, 2008: 10).

5.3.4 HIV/AIDS and Disability

HIV/AIDS is becoming a major issue for disabled people throughout sub-Saharan Africa, not least in Mozambique. The latest estimate of HIV/AIDS prevalence rates in the country, is that in 2004, 16.2% of those aged between 15 and 49 were HIV/AIDS positive this being equivalent to approximately 2 million people. Disability and Development Partners (DPP), who are based in the UK have recently conducted research regarding HIV/AIDS and disability in Mozambique. The results and influences emanating from this research are really sobering. In collaboration with ADEMO, a disabled people's

organisation, DPP interviewed 220 disabled people in Maputo and Sofala provinces regarding their views and knowledge of this very sensitive issue. From the 220 disabled people who were interviewed, it was shown that:-

- 57% considered that they were at risk of contracting HIV/AIDS;
- 84% did not know what HIV/AIDS was;
- 70% did not know how HIV/AIDS was transmitted; and
- 61% did not know whether disabled people were more at risk of becoming infected by HIV/AIDS than their able-bodied counterparts.

What this study does show is that there is indeed a great deal of lack of knowledge regarding the catastrophic consequences of contracting HIV/AIDS. DPP is of the opinion that disabled people are as just as likely to be HIV/AIDS infected as their able-bodied counterparts, if not more so. One other confounding factor is that disabled women are often considered not eligible to become married, and therefore are more likely to have a series of short-term serial relationships throughout the course of their life.

5.3.5 Provision of Disability Services

What follows is derived from key informant interviews conducted during the fieldwork. Firstly, this section must be premised by stating that Mozambican society in general continues to consider people with disability as useless and incapable; subjects them to constant marginalisation and discrimination; and gives them no space to participate in the massive effort of recovery and development of the country.

It is fair to say that education, transport, health and employment services do not exist or are very scarce and do not satisfy the needs of disabled people. The mass media do not give attention to the specific needs of people with disability. A plausible contributory factor to the poor health status of disabled people may be the high levels of illiteracy among the general population. Particularly in rural areas, the vast majority of the population has limited and often misguided information regarding basic health care. For example, it was estimated that 64.2% of newly born children did not have their mothers vaccinated against tetanus during pregnancy. This precarious situation was exasperated by the fact that only 2.1% of children were born with appropriate, medical care being provided.

In the aftermath of Mozambique's protracted 30 year civil war, the healthcare infrastructure is in a total state of disrepair, which cannot meet the medical needs of its population. Primary health care centres in local areas invariably are only able to provide first aid and by necessity have preferred a more complex cases to provincial and national centres. Health services are provided by the private sector, international non-governmental organisations and religious organisations. However, the Landmine Monitor Report for 2006 states that there is an acute shortage of trained surgeons, medical equipment and that drugs are in very short supply.

5.3.6 Provision of Health and Rehabilitation Services

The Ministry of Health has primary responsibility for providing rehabilitation centres. The Ministry of Women and Social Action is responsible for coordinating psychosocial and economic reintegration activities, which includes community-based rehabilitation. Both Ministries share responsibilities for providing physiotherapy and orthopedic services.

Within Mozambique, there are 10 rehabilitation centres, which are located in the provincial capitals, nine of which are Government-funded. Physiotherapy is provided in hospitals where there are also surgical units. In 2006 the Ministry of Health reported that approximately 250 nursing staff were employed to supply prosthetics, orthotics and physiotherapy. In addition, the International Committee of Red Cross provided raw materials to rehabilitation centres as well as undertaking a needs assessment physiotherapy services throughout the country. It has also provided training for 23 orthopaedic technicians.

However, the effective provision of rehabilitation services is seriously hampered by a lack of coordination between the relevant Government Ministries and the lack of trained physiotherapists, raw materials and modern equipment. This unsatisfactory situation is further compounded by the fact that disabled people are not aware that such services are available. Moreover, the high cost of transport and accommodation means that the vast majority of disabled people cannot access such services in any event.

5.3.7 Disability and Employment Policy

With regard to employment opportunities, disabled people face enormous barriers, due to, on the one hand, their low level of education, lack of vocational and or professional training, and on the other hand, the negative attitudes of employers who continue to discriminate against this social group.

However, in 1999 the Council of Ministries approved a new policy for people with disability, which says that the employment system in Mozambique must assure the following:-

- promote and develop specific professional training for people with disability, in appropriate technical, human and pedagogical conditions;
- to create conditions which allow the professional maintenance, integration or insertion of people with disability in labour market, through the measures of professional rehabilitation;
- the need to create progressively, through percentage mechanisms and targets, the guarantee of access by people with disability in public and private sectors; and
- the need to create alternative ways of employment for people with disability and to ensure the implementation of the adopted measures.

Although this policy was approved by Council of Ministers in June 1999, which intends to promote professional training and to create all conditions leading to inclusion of people with disability in labour market, there is an enormous reality gap between policy pronouncements and what actual happens in practice.

According to Mozambican law, the Ministry of Labour is responsible to promote the

development of specific professional training for people with disability in appropriate conditions. Therefore, the Ministry of Labour should work to assure the professional training of all people with disability as soon they finish medical treatment, action which must be coordinated with the Ministry of Education. There is scant evidence to suggest that such a coordinated 'joined-up' approach is in operation.

5.3.8 Landmine Survivor Assistance

Since 2004 the Mozambican Government has been attempting to develop a strategy for supporting landmine survivors and others with injuries that have been caused by civil strife. At a conference held in Nairobi in 2004, Mozambique was identified along with other 23 African states as having "the greatest responsibility to act, but also the greatest needs and expectations for assistance", for providing vocational and medical rehabilitation for survivors. However, according to the Landmine Monitor Report 2007, "no objectives for data collection and medical care have been developed; the other objectives have no timeframe and are not specific". In 2004 the Mozambique Government identified the following objectives for its Victim Assistance Plan which were:-

- **Physical Rehabilitation:** services provided in all provinces, the establishment of a staff training centre, an improved referral system, and the development of an inclusive transportation system;
- **Psychosocial Support and Social Reintegration:** improve the provision of psychosocial counselling; the strengthening of disabled people's organisations, and increased mobility for children with physical disabilities;
- **Economic Reintegration:** identify opportunities for the effective employment of disabled people; and
- **Laws and Public Policies:** creation of a national coordination body for disability.

At the time of writing, there has been no progress with regard to any of the objectives outlined above. Once again, this is indicative of the lack of political will to really take forward a rights-based agenda to disability issues in Mozambique.

5.4 Evidence gathered during Focus Group Discussions

The focus group discussion was made possible by the efforts of the Forum for Mozambican Association of Disabled People (FAMOD) that helped prepare the invitations in the local language Portuguese. Ten members from the Forum were represented. A major setback for the focus group discussion was that the translator got ill a day before the meeting and it was difficult to get another.

It was the feeling of the group that the Government has only come up with a wish list in the form of policies. There is no effective legislation at the moment that covers disability issues to ensure that constitutional issues are addressed.

A great deal of time was spent discussing education where it was felt that inclusive education is being implemented but not well as it does not cover children's needs. Inclusive education policy is being implemented in Beira and Maputo only making it difficult for children with disabilities to access. There is only one institute for the blind in the whole country, which is woefully inadequate to cover the demands. There are two

pilot project schools that have started **enrolled blind students have been put together with their sighted colleagues.??** Teachers for students with disabilities attend short-term courses during school holidays and cannot cope with different disabilities. Classes for students with special educational needs are big. A class can have up to 80 students and this means teachers are already over whelmed by the numbers let alone the specific needs of the different disabilities. There is however a first group of special education teachers currently in training. It was also mentioned in the meeting that the government does not allow the production of its documents in Braille.

The group considered that Senior Civil Servants and politician increasing recognize the disability issues have to be addressed. This is reflected by the inclusion of disability rights in the Constitution. Recently the Mozambican Government signed the UN Convention on the Rights of Persons with Disabilities. There is a need, as in Malawi to develop an implementation and monitoring systems that will ensure that Government Developments are made accountable for including disabled people into mainstream public services. Targets and goals need to be set and Ministries need to be given time periods by which to have fully complied with these constitutional provisions. Just as in Malawi there is silent discrimination of disabled people through failure to comply with constitutional provisions.

5.5 Conclusion

Mozambique is a nation that has been ravished by war and civil strife over a protracted period, which has inevitably had a very significant detrimental impact on the quality of life of disabled people. Many of disabled people have had their impairments directly caused as a result of landmines and participating in conflict.

Notwithstanding the fact that Mozambique has enshrined disability rights within its 1990 Constitution and has become a signatory to the UN Convention on the Rights of Persons with Disability, it is fair to conclude that disability rights remains a low priority of the Mozambican Government, in comparison with other competing development priorities. This is evidenced by the fact that the Government has made scant efforts to implement the 1999 National Policy of Disability.

Consequently, disabled people in Mozambique are subject to high levels of discrimination, social exclusion and marginalisation. Moreover, this unsatisfactory and precarious situation is compounded by the fact that disabled people invariably do not have access to affordable and appropriate medical care, where the majority of disabled children do not complete their primary education, and where disabled people find it almost impossible to obtain long-term, sustainable employment. Given the political, economic and social context in which the majority of disabled people live in Mozambique, it is extremely unlikely that the Mozambican Government will be in a position to ratify the UN Convention on the Rights of Persons with Disabilities in the foreseeable future, not least because domestic legislation will have to undergo a radical overhaul, as well as making a firm, non-tokenistic commitment to implementing a rights-based approach to disability policy and practice. Furthermore, if Mozambique is committed to such a trajectory of development, it will be essential to design an efficient and effective administrative infrastructure to ensure that disability rights are upheld at local and regional levels.

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6.1 Introduction

The objective of this chapter is to provide an overall analysis and synthesis of the findings and inferences derived from the research conducted in each of the four countries: Namibia, Swaziland, Malawi and Mozambique. This will explore the commonalities and difference that exist with respect to disability policy and practice and provide some analysis of the underlying factors that explain these. This comparative analysis will provide a basis for making recommendations for further research that may be undertaken in this field. In addition, it will present and analyse the "stepping stool to inclusion", as originally developed by the Department for International Development and which has already been used in analogous policy-focused studies in Zimbabwe and Nigeria. Finally, this chapter will conclude by making a series of recommendations for SAFOD as to how the research process can be developed and refined for future studies, thereby ensuring that future work will be able to provide an even greater penetrating analysis of the issues.

6.2 General Observations

6.2.1 Political Commitment to a Rights-Based Approach to Disability Policy Development

This section attempts to provide some overall and pertinent observations regarding the substantial issues that are addressed within this research and that are applicable to all the countries here. Firstly, it should be noted that all the countries involved in this study had signed the UN Convention on the Rights of Persons with Disabilities, with Namibia and Swaziland signing the Optional Protocol. To date, only Namibia has actually ratified the UN Convention, on the 4th December, 2007. It should also be noted that all countries involved are signatories to other international human rights treaties, such as the 1948 Universal Declaration of Human Rights, the 1976 International Covenant on Civil and Political Rights, the 1990 Convention on the Rights of the Child and the 1997 Mine Ban Treaty. Furthermore, within the written Constitutions of all countries there is explicit reference to disabled people and the necessity of upholding and enforcing the inherent human rights of all citizens, including disabled people. Moreover, Mozambique has already passed anti-discrimination disability legislation and all countries have already, or are in the process of, developing national strategies within regard to disability issues.

Therefore it is reasonable to conclude that, ostensibly, all the Governments are committed to a rights-based agenda for disability policy and practice. However, from the evidence gathered during the course of this research, it has become abundantly clear that many politicians and senior civil servants do not have a clear and nuanced comprehension of the implications on implementing a rights-based agenda to disability. For example, Namibia has ratified the UN Convention, but it is clear that existing domestic legislation is not in alignment with the fundamental tenets that underpinned the Convention, and are therefore in need of substantial overhaul and revision. It should

also be noted that even when there is a rhetorical commitment to implementing a rights-based approach to disability, the fact of the matter remains that many Governments do not really have the political will to take this forward, with several of the Governments still having what essentially a medical understanding of disability. Consequently, for at least for those countries included within this study, Government officials did not demonstrate an in-depth understanding of the importance and ramifications of basing their policies and services on the principles of the social model of disability. It is strongly suspected that this will be the case in other countries.

A further possible explanatory factor in understanding this lack of political will and reticence in developing genuinely inclusive disability policy, in that all Governments are facing huge developmental challenges, of which disability is but one. These include dealing with chronic poverty which characterises the majority of the populations; the detrimental effects of the HIV/AIDS pandemic; gross inequalities in income distribution; political corruption; and the incapacity to provide effective public services. This is not to provide an excuse not to advocate for the development and implementation of a rights-based agenda to disability; merely it is an attempt to understand why it is so hard to perceive sustained progress within this field.

6.2.2 Disability Statistics

This research has shown that in every country studied there is no robust statistical data regarding disability. During the last 20 years, Namibia, Swaziland, Malawi and Mozambique have all included questions on disability within their National Census. However, it is highly questionable about how robust these are, and to what extent such statistics provide an accurate analysis of the social, political and economic situation of disabled people. Internationally there has been a great deal of debate regarding the validity and use of statistical data on disability issues. However, it is highly likely that any of statistical data on disability issues in any sub-Saharan African countries will underestimate the number of disabled people. This is due to a number of complex and interrelated factors, which include, stigma and negative social attitudes regarding disabled people, particularly in rural areas. There are also issues regarding the way such census questions are phrased, and this may well need to different statistics being generated. The Washington Group on Disability Statistics, which was established following the United Nations Seminar on Measurement of Disability held in June, 2001 has undertaken a great deal of work regarding these complex a methodological and ethical issues⁴.

Notwithstanding the complexities and difficulties outlined above, it is nevertheless argued within this research that it is imperative to produce robust and useful statistical data on disability. This is not least because once countries have ratified the UN Convention it will be essential for them to demonstrate the extent to which their countries have implemented specific Articles, especially in the fields of education, employment and rehabilitation. Furthermore, if governments are to provide genuinely inclusive public services, then it is essential that statistical data regarding disability is available at regional and local government level. In the absence of such statistics, it is difficult to foresee how governments are able to effectively design, implement and monitor the efficacy of disability services, and to what extent disability has been effectively included in mainstream public services. A further reason for the generation of

⁴ <http://www.cdc.gov/nchs/citygroup.htm>

disability statistics, it is that as "disability" moves up the development agenda, bilateral and multilateral donor agencies still need to be convinced of the economic case for including disability within their core activities. It is often said that there is a mutually self-reinforcing negative cycle of disability and poverty, and that disabled people are one of the most socially excluded, marginalised and discriminated groups within any society (Yeo, R. 2006). However, to date, a great deal of the evidence regarding disability and poverty is of an anecdotal nature, which does not hold much credence with economists working in development agencies.

6.3.3 Lack of Administrative Infrastructure

One of the most striking findings emanating from this research is that in none of the countries was there an effective and efficient administrative infrastructure for the provision of disability services. This is not just exclusively the case of the field of disability, but affects every area of public service provision. Public sector reform is high on the agenda of many developing countries in Africa, some of which have a history of political patronage, nepotism and corruption. It is entirely feasible for countries to have the most advanced and forward-looking disability legislation and requisite policy, and to have ratified the UN Convention; but without an infective administrative infrastructure to implement such policies, they are all but worthless. However, it must be recognized that in many cases, and given the particular history of some countries, public sector reforms will inevitably be a long-term process. Therefore it is incumbent upon those working within the disability sector to work with Governments to ensure that, in the long term, an effective administrative infrastructure is built. This last point is closely related to the debate regarding the need for robust disability statistics outlined above

In the absence of an effective administrative infrastructure, disabled people will continue to face social exclusion and marginalisation, categorised by disabled people unable to benefit from receiving appropriate education, unable to secure long-term sustainable employment, and remain in a state of poverty.

6.3.4 Effectiveness of Disabled People's Organisations in Lobbying Government

Through conducting this research, it was also abundantly evident that the effectiveness of disabled people's organisations to lobby their respective Governments was mixed. This can be partly ascribed to the fact that DPOs do not seem to have a nuanced understanding of the policy-making process, and the inevitable constraints faced by their respective Governments. Conversely, it will also found that, in some notable cases, politicians and senior civil servants did not understand disability from a human rights perspective, notwithstanding making rhetorical statements to the contrary. What is needed is more constructive dialogue between policy-makers on the one hand, and DPOs together with other civil society institutions on the other, in order that they understand each other's "worldview".

6.4 Stepping Stool to Inclusion

Table 6.1 below presents an analysis of the four countries studied, using the "stepping stool to inclusion", originally developed and used by the UK's Department for

International Development to assess those factors which either promote or militate against the effective social inclusion of disabled people in any given society

This analytical tool is premised upon the assumption that there are important inter-relationships that are necessary to support the inclusion of disabled people to realise their equality of rights and opportunities. It can also identify areas where interventions are likely to have the most effective, strategic impact in promoting equality, disability rights and social inclusion. Within this framework there are three essential components necessary for effective inclusion: the state; disability services; and disabled people's organisations. The stepping stool to inclusion approach maintains that each of these three distinct components must be in equilibrium and interact with each other in mutually supportive and reinforcing ways.

Many of the issues raised in Table 6.1 above have already been discussed in the analysis presented within this report. However, it is important at this juncture to highlight a number of key points. Firstly, despite signing the UN Convention on the Rights of Persons with Disabilities, and having ostensibly progressive human rights-based approaches to disability issues, it is fair to say that in all countries, the Governments' approach to implementation of such policies has been rather ad hoc and piecemeal. Furthermore, there is a lack of coordination of disability policy and service provision.

Secondly it is important to note that disabled people's organisations have made some progress in advocating for the implementation of a rights-based agenda for disability policy and practice. It is important to reiterate the fact that disabled people's organisations and other civil society institutions working within the disability sector need to work more closely together in order to understand each other's viewpoint, to identify commonalities and synergies, and where profitable avenues of collaboration could be pursued and explored.

Table 6.1: Stepping Stool to Inclusion			
Country	The State	Services	DPOs
	<ul style="list-style-type: none"> National Policy on Special Needs and Inclusive Education <p>Challenges</p> <ul style="list-style-type: none"> Lack of political will to implement a rights-based approach to disability; A lack of understanding by Parliamentarians and Senior Civil Servants regarding the ratification of the CRPD; A lack of coordination by the Disability Unit in the Prime Minister's Office; No administrative infrastructure to implement disability policy at regional and local level; No disability statistics for planning, implementing and evaluating disability services. 	<p>of the few African countries to operate a social protection programme, with disabled people entitled to a disability grant of \$N 380 (£24) per month.</p> <p>Challenges</p> <ul style="list-style-type: none"> Very few NGOs provide disability services, apart from Leonard Cheshire Disability and VSO; Namibia is very sparsely populated, which results in the provision of disability services being very expensive. 	
SWAZILAND	<p>Constitutional Position</p> <ul style="list-style-type: none"> Section 31 of the 1990 Constitution of Swaziland explicitly recognises the rights of disabled people; Sections 20 (equality) and 30 (human dignity) are also of particular significance; To date no anti-discrimination legislation has been enacted; Swaziland signed the CRPD and the Optional Protocol on the 25th September 2007, but has yet to ratify. <p>Government Responsibilities</p> <ul style="list-style-type: none"> The Ministry of Health and Social 	<p>Health</p> <ul style="list-style-type: none"> Administered by the Ministry of Health and Social Services; Responsible for the provision of prosthetics, orthotics and physiotherapy. <p>Vocational Rehabilitation</p> <ul style="list-style-type: none"> Joint responsibility of the Ministry of Labour, the Ministry of Enterprise and Employment, the Ministry of Home Affairs and the Ministry of Education; Consequently, there is confusion and lack of coordination with regard to vocational rehabilitation and training; 	<p>The Federation Organisation of People with Disabilities in Swaziland (FODSWA)</p> <ul style="list-style-type: none"> Established in 1993 with four affiliate members; Has recently developed a five year strategic plan promoting disability rights; Has now really been effective in lobbying the Government to adopt a rights-based approach to disability policy and practice; However, FODSWA considers, with the advent of the UN Convention, that the Government is now willing to move in a positive direction. Highly motivated; Has established good working relationships with Government and service providers including international
SWAZILAND			

Table 6.1: Stepping Stool to Inclusion

Country	The State	Services	DPOs
	<p>Services (Disability Unit) is one of the government departments responsible for disability issues. It collaborates with DPOs regarding disability policy;</p> <ul style="list-style-type: none"> • Poor coordination amongst the various “disability units” causes confusion and poor service delivery; • Ministry for Education is responsible for special and inclusive education. <p>Key Policies</p> <ul style="list-style-type: none"> • The National Development Policy 1997 explicitly addresses disability. This is specifically in the areas of inclusion, equity, education and social welfare; • Industrial and Vocational Training Act 1982; • The National Education Policy 1999; • Swaziland National Strategic Plan for HIV/AIDS 2000-2005. <p>Challenges</p> <ul style="list-style-type: none"> • Lack of political will to implement a rights-based approach to disability; • Negative myths and stereotypes continue to hinder the development of a rights-based agenda; • No administrative infrastructure to implement disability policy at regional and local level; • No robust disability statistics for planning, implementing and evaluating disability services; • The huge impact of HIV/AIDS; 	<ul style="list-style-type: none"> • Most training is provided free of charge; • The Ministry of Home Affairs administers the Industrial and Vocational Training institutions. <p>Education</p> <ul style="list-style-type: none"> • Section 5 of the National Education Policy 1999 specifically addressed the educational needs of disabled children; • The Ministry of Education has a Special Education Unit, operating three special schools; • Advocates the adoption of the principles of education. <p>Services provided by NGOs</p> <ul style="list-style-type: none"> • Leonard Cheshire Disability runs a rehabilitation centre providing vocational training, physiotherapy and the provision of orthopaedic appliances; • VSO has run inclusive education programmes and has provided organisational development for DPOs within the country. • Save the Children Fund (SCF) have run extensive projects to develop capacity of DPOs. • Over the years SCF has provided valuable tangible support to DPOs • SCF also provides an enabling environment for the education of disabled children 	<p>development agencies.</p>

Table 6.1: Stepping Stool to Inclusion			
Country	The State	Services	DPOs
	<ul style="list-style-type: none"> Negative social attitudes and lack of understanding of disability issues by politicians, civil servants and the general public. 		
MALAWI	<p><u>Constitutional Position</u></p> <ul style="list-style-type: none"> The 1994 Constitution explicitly recognises the rights of disabled people in Chapter III 13 g; Chapter IV 20 (human rights) expressly outlaws discrimination against disabled people, along with other minorities; Chapter IV 25 (education), 29 (right to engage in economic activity) and 30 (right to economic, social, cultural and political development) are also of particular relevance to disabled people; In 2004, the Malawi Constitution was formally reviewed, with the Federation of Disability Organisations in Malawi making a submission of how any new Constitution could be genuinely inclusive; Malawi has signed the CRPD on the 27th September, but has yet to ratify. <p><u>Government Responsibilities</u></p> <ul style="list-style-type: none"> The Ministry of Social Development and People with Disabilities is the lead Ministry for disability issues. It has three core objectives: 	<p><u>Community-Based Rehabilitation</u></p> <ul style="list-style-type: none"> First established in Malawi during the 1980s, with technical support provided by UNDP and the ILO; In 2006, 11 out of Malawi's 27 Districts had CBR programmes; The Norwegian Association is currently funding CBR programmes in three Districts – Blantyre, Balaka and Machingo; Attempts have been made to integrate CBR with inclusive education, but with little success. <p><u>Education</u></p> <ul style="list-style-type: none"> The Ministry of Education is responsible for inclusive education and special needs education (SNE); SNE is implemented in three ways: <ol style="list-style-type: none"> To have SNE teachers in designated special schools; To support integrated Resource Centre units in mainstream schools, staffed with SNE-teachers and to have itinerant SNE teachers assisting in mainstream schools. One such teacher normally serves up to fifteen schools. 	<p><u>The Federation of Disability Organisations in Malawi (FEMODA)</u></p> <ul style="list-style-type: none"> Established in 1999 with four affiliate members; Is the national umbrella DPO in Malawi; Has been instrumental in establishing the National Task Force on Disability; Played a leading role in developing disability policy and works in close collaboration with the Government; It has also established national, regional and international networks between key stakeholders working in the disability sector.
MALAWI			

Table 6.1: Stepping Stool to Inclusion			
Country	The State	Services	DPOs
	<p>prevention, rehabilitation and equalisation of opportunities;</p> <ul style="list-style-type: none"> • The Ministry has drafted anti-discrimination legislation, which has been sent to Cabinet for approval. • It is revising the Handicapped Persons Act 1971. <p>Key Policies</p> <ul style="list-style-type: none"> • National Policy on Equalisation of Opportunities for Persons with Disabilities 2006; • Special Needs Education. 		
MOZAMBIQUE	<p>Constitutional Position</p> <ul style="list-style-type: none"> • The 1990 Mozambique Constitution explicitly and implicitly recognizes the rights of disabled people; • Articles 13 (war disability), 35 (principle of universality), and 37 (disability) are of particular relevance; • Anti-discrimination legislation was past in 1990 (Act 20), which encompasses a broad spectrum of disability rights; • Mozambique signed the CRPD on the 30th March, but has yet to ratify. 	<p>Health</p> <ul style="list-style-type: none"> • The Ministry of Health is responsible for the rehabilitation centres and the provision of aids and appliances; • There are 10 Government-funded rehabilitation centres. However, only two are fully functional and they are inaccessible to Mozambique's largely rural population. 	<p>Forum for Mozambican Association of Disabled People</p> <ul style="list-style-type: none"> • The organisation was established in 1998 and registered the Government in 2000; • Originally had 14 affiliate members, but now only has 10; • Has been lobbying the Government, in collaboration with other civil society institutions to adopt a rights-based approach to disability; • Has developed good working relationships with Power International and Handicap International.
MOZAMBIQUE	<p>Government Responsibilities</p> <ul style="list-style-type: none"> • The Ministry of Women and Social Action plays a coordinating role in disability issues. It is responsible for implementing the National Plan of Action for Disabled People, 2005-2009; 	<p>Education</p> <ul style="list-style-type: none"> • The Ministry of Education has primary responsibility for special education; • The Ministry is attempting to implement an inclusive education approach. 	<p>AMEDO</p> <ul style="list-style-type: none"> • First national DPO to be established in Mozambique in 1989; • Has a membership of 80,000 members; • Has spawned a numbers of other DPOs, catering for the specialist needs of war veterans, university students, women and so forth.

Table 6.1: Stepping Stool to Inclusion

Country	The State	Services	DPOs
<p>MOZAMBIQUE</p>	<ul style="list-style-type: none"> • The Ministry of Health (rehabilitation) • The Ministry of Education (inclusive and special education). <p>Key Policies</p> <ul style="list-style-type: none"> • Disability and Employment Policy 1999; • Landmine Survivor Assistance; • National Plan of Action for Disabled People 2005-09. <p>Challenges</p> <ul style="list-style-type: none"> • Mozambique has experienced over 30 years of civil war and unrest, resulting in many people acquiring impairments as a result of landmines and civil strife. The Landmine Monitor Report estimates that there are at least 300,000 such injuries; • HIV/AIDS is rampant, and affects many disabled people; • Politicians and senior civil servants have little comprehension of the widespread implications of implementing a rights-based approach to disability policy and practice. 	<p>Employment</p> <ul style="list-style-type: none"> • The Ministry of Labour, through the Institute for Employment and Professional Training is responsible for disability employment policy; • It has run training courses on a range of employment skills; • The Disability and Employment policy provides a quota system for the employment of disabled people, but there is no evidence to suggest it is effective. <p>Landmine Survivor Assistance</p> <ul style="list-style-type: none"> • Since 2004, the Mozambican Government has been attempting to set up a landmine assistance programme; • However, to date despite international pressure, no progress has been made on this initiative. <p>Services provided by NGOs</p> <ul style="list-style-type: none"> • Power International has been very active in Mozambique; • It has developed radio listening clubs, run employment initiatives, and run awareness campaigns regarding HIV/AIDS; • Also, in collaboration with FAMOD, it has been lobbying the Government for the implementation of the National 	

Table 6.1: Stepping Stool to Inclusion			
Country	The State	Services	DPOs
		Plan of Action for Disabled People 2005-09; <ul style="list-style-type: none"> • Handicap International has a large operational presence, working in the fields of health, social welfare, education and mine clearance. 	

6.5 The Research Process

At this point it is important to make some observations regarding the process of undertaking this disability policy audit in four countries in Southern Africa. Firstly, as has already been stated, a concerted effort was made to employ researchers who had both personal experience of living and working with a disability, as well as considerable experience of working within the field of disability and international development. To that end, this research process has been a success. Nevertheless, in spite of this, the research team encountered a number of challenges that should be noted and that should be taken into account when designing further research studies. The challenges were as follows:-

- Experience has shown that only five days allocated for fieldwork was insufficient to gather in-depth information. For example, due to the very short time frame, fieldwork by necessity had largely to be confined to capital cities. Consequently it was not always possible to visit disabled people's organisations that were based outside of the capital, nor undertake visits to NGOs providing disability services in rural areas.
- In Namibia and Malawi, it was not possible to conduct focus group discussions with disabled people's organisations. This can be partly attributed to the fact that many DPOs were not located in Windhoek or the Lilongwe, and did not have sufficient financial resources to attend meetings. Furthermore in some instances, DPOs did not seem to be willing to co-operate or be involved in this research. It is not clear why this was so at this stage.

6.6 Recommendations for Further Research

Finally, this section provides some strategic recommendations to SAFOD with the objective of improving the quality of any further disability policy research that may be commissioned at a future date. The recommendations are as follows:-

1. That fewer countries are researched, but in far greater depth. Policy analysis is complex in any field, not least when applied to disability and international development. The implementation of the UN Convention on the Rights of Persons with Disabilities is not, and will never be, a panacea for eradicating the systematic social exclusion and discrimination that disabled people encounter. It is too early to assess how effective the UN Convention will be promoting and enforcing disability rights. It is also too early to determine what will be the most appropriate strategies for implementing the principles of the UN Convention. Therefore it may well be more beneficial to study fewer countries, but in more depth, over a period of time to examine their trajectory in implementing the Convention and other domestic policies, including those dealing with gender issues;
2. That more time is allocated at the start of the project for setting up meetings for key informant interviews and focus group discussions. Experience gained from undertaking this pilot study has shown that it is very difficult to get into the diaries of politicians and senior civil servant with specific responsibility for disability issues at very short notice.

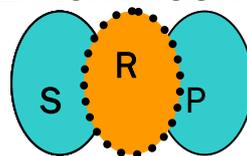
3. That at least two weeks is allocated for fieldwork in each country, thereby allowing time to make field visit outside of capital cities, especially to rural areas.
4. That travel and subsistence costs are made available for DPOs to attend focus groups discussions; and
5. That SAFOD actively develop partnerships with universities in its member countries to engage them in research in disability and development issues. This will potentially ensure the long-term development, sustainability and academic rigour of disability research. It will also increase the potential of engagement with other mainstream academic disciplines, such as development studies, political science and economics. In countries where no universities have such an interest, SAFOD should encourage relevant departments to consider developing a research programme, which could also include facilitating disabled student to study in that university.

REFERENCES

Yeo, R. (2006), *Disability, poverty and the new development agenda*, in Albert, B. Ed. *In or Out of the Mainstream? Lesson from Research on Disability and Development Cooperation*, The Disability Press, Leeds.

Terms of Reference for the Research

SOUTHERN AFRICAN FEDERATION OF THE DISABLED RESEARCH PROGRAMME



POLICY AUDIT Terms of Reference

1. Background

Southern African Federation of the Disabled (SAFOD) is a regional network of disabled people's organisations (DPOs). Its main objective is to represent the collective voice and aspirations of disabled people in Southern Africa. Changing lives of disabled people is what SAFOD is about. Recognising the importance of evidence base to support its advocacy activities SAFOD has embarked on a new programme involving research. Committed to participatory action research, SAFOD is pioneering a model of research that ensures the active participation of disabled people every aspect of the research process. In collaboration with the Department of International Development (DFID), UK, it is developing the five-year SAFOD Research Programme (SRP) focussing on poverty, disability and policy. Apart from the cross-cutting issue of policy and legislation, priority themes selected for the research programme are tackling HIV/AIDS and Reproductive Health and promoting education and training.

The SRP is about strengthening capacity of DPOs and disabled people on how to relate with and work with researchers. More so, it is also about fostering understanding, cooperation and mutual trust between researchers and disabled people. Recognising the value of community-based research as well as academic research SAFOD is committed to promoting the spirit of partnership between disabled people, academic institutions and other communities of interest. The final intention of the SRP is the use of knowledge generated to influence policy and practice that affect the lives of disabled people in SAFOD member countries.

SAFOD recognises that there are various terminologies in use which include disabled people, persons with disabilities and people with disabilities amongst others. SAFOD recognises all of these and accepts that choice of terminology should be appropriate to context.

2. Objective

The objective of the consultancy is to undertake a policy audit of disability in each country (Malawi, Mozambique, Namibia and Swaziland). This will

include (i) progress towards ratification and implementation of the UN Convention and issues arising from this process; (ii) audit of domestic disability legislation; and (iii) audit of poverty focussed policies (including PRSPs, national development strategies, health, HIV/AIDS, education, rural development sector etc) and inclusion of disability issues.

3. Criteria for selecting countries

Criteria for selecting countries included:

- Presence /absence of DPO office
- Language (Lusophone/Anglophone)
- Presence/absence of disability office at highest government level

4. Scope and activities

The policy audit will play a vital role in identifying the extent to which disability issues are included in national policy and legislation, and if not included why not. It seeks to assess the impact of policy as well as monitoring and enforcement of legislation on the lives of persons with disabilities or activity limitations/social participation restrictions. In 2000, United Nations member states adopted the Millennium Development Goals (MDGs) that focus on halving poverty between 1990 and 2015. Since then, the MDGs have become a universal framework for development and a means of for developing countries and their development partners to work together in pursuit of a shared future for all.

The Poverty Reduction Strategy Paper (PRSP) approach was initiated with the aim of providing the crucial link between national public actions, donor support and development comes needed to meet the MDGs. In this regard, questions are concerned with the extent to which disability issues are covered by PRSPs where they exist. In addition, an assessment of the effectiveness of DPO engagement with the process of policy formulation, including identification of ways and means by which such engagement has occurred and lessons for the future will be of interest. Identification of governments' and donors' spending allocation for disability issues compared to other sectors at a national and regional level, and to ascertain where is the money allocated and the rationale for this disbursement would also be of interest.

Motivated by a critical mass of discontent from disabled people that have been denied their basic human rights to be part of the society in which they live, work and play, these rights were recognised in 2006 by the United Nations through the adoption of an international Convention on the Rights of Persons with Disabilities. Traditionally, service providers focussed on changing the individual so that they could 'fit' into the community, now we seek to change whole communities, that all may be included and participate to the fullness of their individual abilities. As SAFOD member countries are at different stages with the Convention process, an assessment of the progress towards ratification of the Convention within the region will be important. The process will provide baseline data to SAFOD for advocacy purposes.

The research will also be required to consider the relationship between “good” policy formulation and actual implementation. Furthermore, findings from the policy audit will provide the basis of subsequent research activities. The consultant will report to the SAFOD Research Programme Advisory Panel. The consultant may sub-contract the work or part of it but the consultant is solely responsible for ensuring the quality and timely submission of deliverables. Ten percent of the budget should be allocated to activities related to dissemination of the key findings. Means of dissemination have to be agreed to by SAFOD according to the SRP communication strategy. The consultant will be expected to work with SAFOD to develop a communications brief with a summation of key findings, implications for policy and practice, and key policy stakeholders identified. This should include specific attention to the research of the African Decade done in Mozambique and opportunities for policy collaboration. The website www.asksource.info is an information support centre providing free access to health and disability information. See Annex 1 for criteria which we expect all projects to operate.

Activities of the review will include the following:

- a. Establishing and developing collaboration with local DPOs, national and regional authorities and international organisations to ensure relevance and wide participation of key stakeholders
- b. Developing a work plan
- c. Identifying data collecting methods
- d. Developing data analysis plan
- e. Preparation of monthly updates and submitting these to SAFOD
- f. Preparation of a mid-project review and submitting this to SAFOD
- g. Preparation of preliminary report then, final report
- h. Working with SAFOD to develop a communications brief with a summation of key findings, implications for policy and practice, and key policy stakeholders identified. This should include specific attention to the research of the African Decade and opportunities for policy collaboration.

5. Time frame:

The consultancy will start on 1 March 2008 and end on 31 May 2008

- a. The preliminary report will be written and delivered to SAFOD not later than 30 April 2008
- b. The final report written and delivered to SAFOD by 31 May 2008.

6. Deliverables:

Deliverables include:

- a. Report containing country by country analysis and in addition, a synthesis based on the comparative analysis of the four countries
- b. File of relevant documentation collected from the four countries
- c. Electronic copies for all documents available
- d. List of contact information, websites, resource centres in the four countries
- e. Detailed description of methods of data collection
- f. Details of suggestions for data collection methods for future policy audits
- g. Communication brief for distribution to key stakeholders

7. Budget

The budget will cover the following areas:

- a. Human resources and consultancy fees
 - b. Communication
 - c. Stationery
 - d. Data collection and analysis
 - e. Travel
 - f. Report production
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