

1 An Analysis of the Accessibility of Sanitation and Hygiene Services to People with Disabilities since the Passing of the 2013 Constitution: The Case of the City of Mutare

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Abstract

People with Disabilities (PwDs) in Africa face multiple challenges including restricted access to sanitation and hygiene services. This is the case regardless of concerted national and international efforts to enhance disability-inclusive development. The dearth of disabilityfriendly sanitation and hygiene services causes accidents, and injuries and compromises the dignity of PwDs. This study sought to assess the accessibility of sanitation and hygiene services, in particular public toilets, among PwD and explore the challenges the Mutare City Council (MCC) faces in its endeavour to provide inclusive services. The researchers adopted a human rights-based qualitative approach in which they conducted key informant interviews, in-depth interviews, observation and documentary review for the data collection. The findings of the study exemplify that, regardless of the constitutional provisions that every person has a right not to be treated in an unfairly discriminatory manner, the MCC, nearly a decade after the promulgation of the 2013 Constitution, is failing to provide sanitation and hygiene facilities and services that are accessible to PwDs. Most of the public toilets in the Central Business District (CBD) are inaccessible to PwDs, particularly wheelchair and crutch users. The MCC has four public toilets in the CBD and most of them are raised and have steps making it difficult for wheelchair users to access the facilities. Against this background, the study recommends the MCC prioritise PwDs in service delivery by involving them in planning processes.

Keywords: accessibility; sanitation and hygiene services; people with disability; Mutare

1 Introduction

The need for disability-inclusive development has gained popularity across the globe. Countries around the world are adopting legal and institutional reforms to enhance the inclusion of people with disabilities in development processes.² Globally, the ratification of the Convention on the Rights of Persons with Disability (CRPD), which Zimbabwe ratified, is the first human rights convention to expressly protect persons with disabilities.³ Through this, the world testifies the global recognition of the rights of persons with disabilities. The CRPD provides an opportunity to enhance and strengthen the provision of disability-inclusive sanitation and hygiene services. The ratification of the CRPD makes addressing disability inclusivity a legal obligation. Different countries should now align national legislations and policies with the purpose and intent of the CRPD.⁴ The 2030 Agenda for Sustainable Development and Sustainable Development Goals (SDGs) provides a firm foundation for the enhancement of disabilityinclusive development. The Agenda 2030 prioritises disability as a key issue to be considered in all programming activities towards the realisation of all the SDGs.

¹ The authors are human rights professionals and researchers active in Zimbabwe.

² S. Thompson, 'Accessible sanitation in the workplace – Important considerations for disability-inclusive employment in Nigeria and Bangladesh'. *Working Paper Number 561* (2022).

³ N. C. Richards *et al.* 'Disability, non-communicable disease and health information'. 94(3), *Bulletin of the World Health Organization* (2016), p. 230.

⁴ United Nations Convention on the Rights of Persons with Disabilities (CRPD), A/61/611, 2006. <www.un.org/disabilities/documents/convention/convoptprot-e.pdf> (accessed 3 January 2023).

It is designed to leave no one behind and is thus inclusive of people living with disabilities (PwD). However, notwithstanding noble global efforts to enhance disability-inclusive development, PwDs, especially those with severe disabilities in developing countries are still facing challenges in accessing sanitation and hygiene facilities and services.⁵

In Zimbabwe, there are local legal and policy frameworks that set the tone for disability-inclusive development. For instance, section 56(3) of the Constitution provides that every person has the right to be free of being treated in an unfairly discriminatory manner.⁶ The National Disability Policy of 2021 further makes commitments towards disability-inclusive development.⁷ However, nearly a decade after the promulgation of the 2013 Constitution, sanitation, hygiene facilities, and services remain largely inaccessible to people with disabilities in the Mutare. Most of the public toilets in the Central Business District are inaccessible to PwDs, particularly to wheelchair users. The inaccessibility of public toilets, for instance, creates difficulties for PwDs with mobility challenges as they struggle to locate bathrooms and have to wait in the queue. For many years, sanitation and hygiene needs for PwDs have been denigrated and treated as low-priority needs. The lack of disability-friendly facilities and services means that PwDs are forced to engage in dangerous and unhygienic practices. For instance, wheelchair users end up crawling on the floor and, in the worst case, some end up defecating in open spaces.

Very few systematic studies have been done from a human-rights-based perspective to unpack the challenges faced by local authorities, as duty bearers, in providing disability-friendly sanitation and hygienic services. This study addresses the identified gap and provides new knowledge on the challenges and measures that can be adopted towards the enhancement of disability-inclusive sanitation and hygienic services. If such studies are not conducted in cities and other urban areas, the marginalisation of PwDs in the provision of sanitation and hygienic services will persist to the detriment of their rights as provided for in the 2013 Constitution. PwDs will be exposed to increased health risks because of dangerous and unhygienic practices. Mutare, as a medium-sized, integrated city in Zimbabwe, is an ideal site for this investigative study which serves as initial research that can be replicated in other cities and urban areas. The study is guided by the following questions:

- What are the international, continental and national obligations to PwDs with special reference to public sanitation and other related facilities in Zimbabwe?
- To what extent are the sanitation and hygiene facilities and services in the Mutare accessible to people with disabilities?
- What measures did the MCC take since 2013 to make sanitation and hygiene facilities and services accessible to people with disabilities?

⁵ H. Jones, 'Mainstreaming disability and ageing in water, sanitation and hygiene programmes - A mapping study carried out for WaterAid'. *WaterAid UK*, 2020. <wedcknowledge.lboro.ac.uk/resources/learning/EI_WASH_ageing_disability_report.pdf> (accessed 3 January 2022).

⁶ Government of Zimbabwe. *Constitution of Zimbabwe*. 2013. <www.constituteproject.org/constitution/Zimbabwe_2013.pdf> (accessed 3 January 2023), section 56(3).

⁷ Government of Zimbabwe. *National Disability Policy*. 2021. <[veritaswomen.net/wpcontent/uploads/2021/09/National-Disability-Policy-June-20211 .pdf](http://veritaswomen.net/wpcontent/uploads/2021/09/National-Disability-Policy-June-20211.pdf)> (accessed 3 January 2023).

- What challenges did the MCC face as the duty bearer in providing disability-inclusive sanitation and hygiene services since 2013?
- What can the MCC do to provide disability-inclusive sanitation and hygiene facilities and services?

2 Literature Review

This section reviews literature to understand the current stock on literature around disability, disability inclusive development and its importance

2.1 Understanding Disability

Disability is an evolving and contested concept.⁸ There is no consensus concerning a singular definition in the literature. The World Health Organization's International Classification of Functioning (ICF), a popularly used disability classification framework, defines disability as an "umbrella term for impairments, activity limitations and participation restrictions, referring to the negative aspects of the interaction between an individual (with a health condition) and that individual's contextual factors (environmental and personal factors)".⁹ The ICF definition highlights three factors critical in defining disability, namely, impairment, activity limitations and participation restriction. *Impairment* involves complications in body function or structure (e.g. physical, vision, hearing); *Activity limitations* entail challenges in executing everyday tasks or actions (e.g. walking, eating); and *participation restrictions* encompass problems individuals may face in participating in life activities (e.g. attending school, work, community activities).¹⁰ Similarly, the CRPD defines disability as "the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others".¹¹

Disability is "any condition of the body or mind (impairment) that makes it more difficult for the person with the condition to do certain activities (activity limitation) and interact with the world around them (participation restrictions)".¹² A person with a disability has a long-term physical, mental, intellectual, or sensory impairment which interacts with various barriers to hinder their full and effective participation in society on an equal basis with others.¹³ Although literature uses the phrase *PwD* to refer to a single population, there are many types of disabilities. Some disabilities affect a person's vision, movement, thinking, remembering, learning, communicating, hearing, mental health and social relationships.¹⁴ This study,

⁸ World Health Organization (WHO), 'Disability-inclusive health services toolkit-A resource for health facilities in the Western Pacific Region'. 2020.

<apps.who.int/iris/bitstream/handle/10665/336857/9789290618928eng.pdf?sequence=1&isAllowed=y> (accessed 3 January 2022).

⁹ WHO and World Bank, 'World report on disability'. 2011.

<documents1.worldbank.org/curated/en/665131468331271288/pdf/627830WP0World00PUBLIC00BOX361491B0.pdf> (accessed 3 January 2022).

¹⁰ WHO, *supra* note 7.

¹¹ WHO, 'Emergency medical teams: minimum technical standards and recommendations for rehabilitation – Emergency Medical Teams'. <www.who.int/publications/i/item/emergency-medical-teams> (accessed 3 January 2023).

¹² Centre for Disease Control and Prevention. 'Disability and Health Overview', <[cdc.gov/ncbddd/disabilityandhealth/disability.html#:~:text=A%20disability%20is%20any%20condition,around%20them%20\(participation%20restrictions\)](https://cdc.gov/ncbddd/disabilityandhealth/disability.html#:~:text=A%20disability%20is%20any%20condition,around%20them%20(participation%20restrictions))> (accessed 3 January 2023).

¹³ www.washingtongroup-disability.com/about/definition-of-disability

¹⁴ Centre for Disease Control and Prevention. 'Disability and Health Overview',

however, focused on those with body impairments that affect movement, for example, wheelchair users, crutch users, those with compromised strength and those who crawl. These were selected because they require toilet facilities with special design features.

2.2 Understanding Disability Inclusivity and Its Importance

Similar to the word disability itself, disability inclusivity has been defined widely in the literature. According to Al Ju'beh, disability inclusivity “seeks to ensure the full participation of people with disabilities as empowered self-advocates in development processes and emergency responses and works to address the barriers which hinder their access and participation”.¹⁵ Rimmerman highlights six fundamental dimensions of disability-inclusive development as follows:

1. being accepted and recognised as an individual beyond the disability;
2. having personal relationships with family, friends and acquaintances;
3. being involved in recreation and social activities;
4. having appropriate living accommodation;
5. having employment; and
6. having appropriate formal and informal support.¹⁶

Thus, disability-inclusive development implies that “all stages of development processes are inclusive of and accessible to persons with disabilities”.¹⁷ Disability inclusivity underscores the importance of affording PwDs equal opportunities to access socio-economic development through enhanced healthcare services, education, employment, and social protection, among others.¹⁷ This is against the background of widespread exclusion of PwDs in both developed and developing countries alike.

The existing literature indicates that discrimination and exclusion impoverish PwDs and undermines their involvement and active participation in public discourses and development planning processes.¹⁸ Given the nexus between disability and poverty, the inclusion of PwDs in development processes becomes critical. It contributes towards “the elimination of poverty, achievement of social inclusion and equitable, fair and sustainable development”.¹⁹ Disability inclusivity is, therefore, crucial for the realisation of local, national and international development goals. Across the world, “there is growing recognition that disability-inclusive

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[cdc.gov/ncbddd/disabilityandhealth/disability.html#:~:text=A%20disability%20is%20any%20condition,around%20them%20\(participation%20restrictions\)>](https://www.cdc.gov/ncbddd/disabilityandhealth/disability.html#:~:text=A%20disability%20is%20any%20condition,around%20them%20(participation%20restrictions)>) (accessed 3 January 2023) .

¹⁵ K. Al Ju'beh ‘Disability-inclusive development toolkit’. CBM Christoffel-Blindenmission Christian Blind Mission e.V. <cbm.org/article/downloads/54741/CBM-DID-TOOLKIT-accessible.pdf> (accessed 3 January 2023) p. 49.

¹⁶ A. Rimmerman *Social inclusion of people with disabilities: National and international perspectives*. CUP. (Cambridge University Press, Cambridge, 2013) p. 1.

¹⁷ UN Division for Social Policy Development and Department of Economic and Social Affairs. ‘Toolkit on disability for Africa: Disability-inclusive development’. 2016.

<un.org/esa/socdev/documents/disability/Toolkit/Disability-inclusive-development.pdf> (accessed 3 January 2023). ¹⁷ *Ibid*.

¹⁸ WHO, *supra* note 7; H Kuper, et al. ‘Should disability-inclusive health be a priority in low-income countries? A case study from Zimbabwe’, 15(1) *Global Health Action*, (2022); T. Smythe, et al. ‘A path toward disability-inclusive health in Zimbabwe Part 1: A qualitative study on access to healthcare’, 11(0) *African Journal of Disability* (2022).

¹⁹ UN Division for Social Policy Development and the Department of Economic and Social Affairs. ‘Toolkit on disability for Africa: Disability-inclusive development’. 2016. ²⁰ *Ibid*.

development benefits not only persons with disabilities and their families, but also societies as a whole”²⁰.

3 Methodological Orientation of the Study

The study was anchored on the human rights-based approach (HRBA). It was selected because of its emphasis on the enhancement of human rights in various public policy processes. Its dual objectives, namely, a) “to empower people (rights-holders) to claim and exercise their rights, and b) to strengthen the capacity of the actors (duty-bearers) who have a particular obligation or responsibility to respect, protect and fulfil the rights of the poorest, weakest, most marginalized and vulnerable, and to comply with these obligations and duties”²⁰ made it very useful for this study.

The HRBA enabled an understanding of the perceptions of PwDs (rights-holders) towards the sanitation and hygiene services provided by the MCC (duty-bearer). It also helped in understanding the challenges the MCC is experiencing concerning the provision of disabilityfriendly sanitation and hygiene services.

3.1 Research Design

To develop an in-depth account of the accessibility of sanitation and hygiene services among PwDs in Mutare, a qualitative research design was utilised. The choice of qualitative research was based on the need to understand the experiences of PwDs with sanitation and hygiene services in Mutare’s CBD. Through qualitative research, the researchers also managed to obtain insights into the experiences and perceptions of the MCC officials within the health department regarding the provision of disability-inclusive sanitation and hygiene services. Thus, the interactions between the researchers, PwDs and the MCC officials who are involved in the provision of sanitation and hygiene services enabled the researchers to understand the reality from the participant's point of view. The researchers mainly relied on purposive sampling in selecting PwDs and officials from the MCC. A sample of 14 participants was used. The principle of data saturation was used to determine the study's sample size.

The researchers collected data through a triangulation of obtrusive and unobtrusive methods. Under obtrusive data collection methods, the researchers used key informant interviews and indepth interviews. Key informant interviews were used to unpack the initiatives that the MCC undertook to make sanitation and hygiene services accessible to PwDs and the challenges undermining the provision of those services. The researchers utilised in-depth interviews to gather data on the extent to which sanitation and hygiene facilities and services in the MCC are accessible to PwDs. On the other hand, a documentary review and observation were undertaken, and this involved discrete observation and unobtrusive research.

To guide the observation process, the researchers developed an observation checklist for assessing public toilets in the CBD. The observation checklist was designed based on the following parameters of accessible toilets developed by von Münch:

Proximity: A short distance to the toilet is important. [...]

²⁰ A. Hausen and A. Launiala, ‘Introduction to the Human Rights-Based Approach: A Guide for Finnish Finnish Ngos and Their Partners’. *UNICEF Finland*, 2015, <unicef.studio.crasman.fi/pub/public/pdf/HRBA_manuaali_FINAL_pdf_small2.pdf> (accessed 4 January 2023) p. 8.

Approach path: The ideal path is 120-180 cm wide. Elevations are crossed via ramps, which should have handrails at 70-90 cm height and curbs on both sides. [...]

Path surface: A firm, even, non-slip surface such as concrete benefits everyone [...]. It prevents the surface from becoming muddy and slippery during the rainy season.

Doors: The minimum door width should be 90 cm. The door should fully open and have grab bars out-side and inside instead of knobs to allow easy opening and closing from a wheelchair or by people with reduced strength.

Floors should have smooth and easy to clean surfaces, especially for those people with impairments who have to crawl due to lack of assistive devices.

Room size: Allow for a wheelchair-turning circle of 150 cm, and a space of at least 80 cm beside or in front of the toilet to allow positioning.

Toilet seat: Provide a sitting toilet (pedestal) or bench rather than a squatting pan. The toilet seat should be easily cleanable. It should be well attached, or moveable in case other family members prefer a squatting position.

Interior: Provide adequate handrails or grab bars attached to the walls or to the floor at 70-90 cm height to assist people moving from a wheelchair or people with reduced strength to reach the seat. [...] ²¹

Regarding the documentary review, the researchers reviewed documents such as the Constitution of Zimbabwe, the Urban Councils Act, and the Disability Policy. The data obtained through all these approaches were analysed and organised thematically using thematic analysis. The study was guided by ethical principles in line with the RWI's ethical guidelines including gender inclusivity, informed consent, avoidance of harm, voluntary participation, confidentiality and anonymity.

4 Results

In this section, guided by the research questions of the study, the researchers present the major findings.

4.1 *The International, Continental and National Obligations to PwDs*

This section presents the international, regional and national legal provisions that oblige governments to prioritise PwDs, with special reference to public sanitation and related facilities. The study revealed that “against a historic background of ‘benign neglect’ of disability rights,”²³ the world has witnessed a paradigm shift towards disability-inclusive development. Countries across the world have made concerted legal efforts to reposition PwDs in political and socioeconomic processes. The United Nations, through the CRPD, set the tone for the international shift towards inclusivity in the area of disability rights. The CRPD is widely regarded as a landmark and comprehensive international human rights treaty and development tool that catalyses worldwide transition towards viewing PwDs as full and equal members of society.²² It represents an ideological shift from treating PwDs as “subjects of charity, medical treatment and social protection”.²³ According to the CRPD, all PwDs, as any

²¹ E. von Münch, ‘Making sustainable sanitation inclusive for persons with disabilities’, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (2011), <[susana.org/_resources/documents/default/2-1210giz-2011-sustainable-sanitation-and-disability-barrierefreie-version-final.pdf](https://www.susana.org/_resources/documents/default/2-1210giz-2011-sustainable-sanitation-and-disability-barrierefreie-version-final.pdf)> (accessed 4 January 2023). ²³ T. P. van Reenen, and H. Combrinck, ‘The UN Convention on the Rights of Persons with Disabilities in Africa: Progress after 5 Years’. 8(14) *International Journal on Human Rights* (2011), p. 133.

²² Government of Canada, ‘Promoting rights of persons with disabilities’, <www.international.gc.ca/worldmonde/issues_developpement-enjeux_developpement/human_rights-droits_homme/rights_disabilitiesdroits_handicapees.aspx?lang=eng> (accessed 4 January 2023).; United Nations, *supra* note 3.

²³ Government of Canada, *supra* note 24.

²⁶ United Nations, *supra* note 3.

other member of the society, must be able to enjoy all human rights and fundamental freedoms. It affirms that PwDs must enjoy rights related to all facets of life, for example, equality, accessibility, education, independent living, health, environment and freedom from violence.²⁶

Of particular importance to this study is Article 9 of the CRPD that underscores the centrality of accessibility in advancing inclusivity.²⁴ To realise the above-mentioned benefits, Article 9(2) of the CRPD mandates States to develop mechanisms to ensure that public facilities and services are accessible to PwDs.²⁵

To monitor compliance with the provisions of the CRPD among member states, the UN established a committee, namely, the UN Committee on the Rights of Persons with Disabilities (UNCRPD). The committee reviews the implementation of the convention. States parties are mandated to report to the committee on measures taken to operationalise the provisions of the convention two years after ratifying it.²⁶

Following international developments towards disability inclusion, the African Union, on January 29th, 2018, in Addis Ababa, adopted the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa, also referred to as African Disability Rights Protocol (ADRP). Although there has been reluctance among African countries in ratifying the ADRP²⁷, its adoption was widely celebrated as a milestone achievement towards the protection of PwDs' rights.²⁸ The ADRP seeks to "promote, protect and ensure the full and equal enjoyment of all human and people's rights by all persons with disabilities, and to ensure respect for their inherent dignity".²⁹ This is important given the historical marginalisation of disability issues in Africa. To address the challenges that PwDs face on a daily basis, the protocol obliges member states to:

[...] take appropriate and effective measures, including policy, legislative, administrative, institutional and budgetary step, to ensure, respect, promote, protect and fulfil the rights and dignity of people with disabilities, without discrimination on the basis of disability [...].³⁰

Of particular importance to this study is Article 15 of the ADRP which emphasises the importance of accessibility. It provides that:

Every person with a disability has the right to barrier free access to the physical environment, transportation, information, including communications technologies and systems, and other facilities and services open or provided to the public.³¹

²⁴ United Nations, *supra* note 3, Article 9 (1).

²⁵ *Ibid.*, Article 9 (2).

²⁶ United Nations, *supra* note 3.

²⁷ CIPESA, 'CIPESA Submission to the ACHPR on Ratification of the African Protocol on Disability Rights', <cipesa.org/2022/05/cipesa-submission-to-the-71st-ordinary-session-of-the-achpr-calls-upon-states-to-ratify-the-protocol-to-the-african-charter-on-human-and-peoples-rights-on-the-rights-of-persons-with-disabilit/> (accessed 4 January 2023).

²⁸ United Nations, 'African states affirm the rights of persons with disabilities in a new landmark Protocol Africans with disabilities', 2018, <ohchr.org/en/press-releases/2018/02/african-states-affirm-rights-persons-disabilities-new-landmark-protocol> (accessed 4 January 2023).

²⁹ African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa*, 2018, <au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-persons-disabilities-africa> (accessed 4 January 2023), Article 2.

³⁰ *Ibid.*, Article 4.

³¹ African Union, *supra* note 32, Article 15 (1).

³⁵ *Ibid.*, Article 15 (2e).

Against this background, the Protocol provides that state parties ought to take appropriate and pro-active steps to enable the full enjoyment of rights by PwDs through the modification of all inaccessible infrastructure and the implementation of universal designs of all new infrastructure.³⁵

Zimbabwe, after ratifying the CRPD, also took some legal steps towards the protection and promotion of the rights of PwDs. The Constitution of Zimbabwe of 2013, as the supreme law, mandates state entities to take measures to ensure the equal enjoyment of human rights by all persons with disabilities. For instance, section 56(3) of the Constitution provides that “every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, [...] disability or economic or social status”.³² Furthermore, section 83 of the Constitution of Zimbabwe also provides for the rights of PwDs. Section 83 provides that:

The State must take appropriate measures, within the limits of the resources available to it, to ensure that persons with disabilities realise their full mental and physical potential, including measures—

- a) to enable them to become self reliant;
- b) to enable them to live with their families and participate in social, creative or recreational activities;
- c) to protect them from all forms of exploitation and abuse;
- d) to give them access to medical, psychological and functional treatment;
- e) to provide special facilities for their education; and
- f) to provide State-funded education and training where they need it.³³

In addition, section 73(1a) of the Constitution provides that “every person has the right to an environment that is not harmful to their health or well-being”³⁴. As provided in sections 44 and 45 of the Constitution, the MCC, as part of the State, “must respect, protect, promote and fulfil the rights and freedoms” provided in chapter 4 of the Constitution.³⁵ More so, Zimbabwe enacted the Disabled Persons Act (Chapter 17:01), which provides for the welfare and rehabilitation of PwDs. Section 8 of the Disabled Persons Act (Chapter 17:01) prohibits denying PwDs access to public premises, services and amenities.³⁶ This section, therefore, mandates state institutions, the MCC included, to make provisions to enhance the accessibility of public facilities such as public toilets. The National Disability Policy of 2021 further makes commitments towards disability-inclusive development.

4.2 The Accessibility of Public Toilets in Mutare’s Central Business District

In theory, the MCC officials acknowledged and appreciated the importance of disability-inclusive sanitation and hygiene services, particularly of public toilets. Disability-friendly public toilet facilities are a central part of many PwDs' public outing experiences. In essence, inaccessible public toilets alienate PwDs from attending public gatherings. Mr Maynard Mutamuko, the Hitbay Sanitation Services' Chief Executive Officer, succinctly captured the criticality of toilets in his World Toilet Day commemoration message in Mutare, explaining that:

³² Government of Zimbabwe. *supra* note 5, Section 56(3).

³³ *Ibid.*, Section 83.

³⁴ *Ibid.*, Section 73 (1a).

³⁵ *Ibid.*, Section 44.

³⁶ Government of Zimbabwe, Disabled Persons Act, Act 5/1992, 6/2001. Chapter 17:01. ⁴¹ The Manica Post, ‘Mutare commemorates World Toilet Day’ 2019, <manicapost.co.zw/mutarecommemorates-world-toilet-day/> (accessed 4 January 2023).

[...] a toilet is not just a toilet. It's a lifesaver, dignity-protector and opportunity-maker. We must expand access to safe toilets and leave no one behind. Because whoever you are, wherever you are, sanitation is your human right.⁴¹

In reality, however, disability-inclusive public toilets were limited, if not lacking, in Mutare's CBD. The analysed data from observations and in-depth interviews suggest that there are only four public toilets in Mutare's CBD. The toilets are located at the Mudzviti Bus Terminus, in Meikles Park, at the Manica Post Market, and the Old-rank Cross Border Rank. It is important to note that, of the four public toilets, only one, the Mudzviti toilet, is not prepaid. The rest are prepaid.

There was a consensus among the interviewed PwDs in the study that Mutare lacks adequate public toilets that accommodate them. Respondent 2 expressed concern about the nature of public toilets in the Mutare, explaining that “there are no adequate toilets for PwDs in the city”. This view was supported by Respondent 3 who averred that “I don't have a toilet in town. I use hotel toilets and bush toilets instead”. Respondent 3, a wheelchair user, highlighted that the four available toilet facilities are not user-friendly and hence opts to use toilets at local hotels with the nearest being around one kilometre from his place of work.

Respondents further complained that public toilets in the CBD are not only inadequate but also concentrated in the upper part of the town. According to Respondent 1 “the toilets are too far from where I do my business-like shopping. In downtown there are no public toilets, you have to walk a long distance towards uptown to access a toilet.” The above-mentioned views highlight that PwDs feel discriminated against seeing as sanitation and hygiene services provided in the CBD are not easily accessible and are not disability-friendly. This goes against section 83 of the Constitution of Zimbabwe, which provides for the rights of PwDs. Most importantly, it violates section 56(3) of the Constitution of Zimbabwe which clearly states that:

Every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, *disability* or economic or social status, or whether they were born in or out of wedlock.³⁷ (Emphasis added)

Findings from observations complemented the respondents' review. The researchers, guided by a literature review, developed a disability-inclusive toilet observation toolkit that assessed the disability-inclusiveness of public toilets in the CBD.

4.3 Physical Barriers That Undermine the Accessibility of Public Toilets to PwDs

PwDs were asked whether the public toilets in the CBD have disability-friendly design features. There was consensus among PwDs that the public toilets lack the basic infrastructure that would accommodate their needs. The following section presents some of the disability design gaps that the study identified.

4.3.1 Surface

In-depth interviews with PwDs, particularly with wheelchair and crutch users, showed that public toilets in the CBD are not properly designed to accommodate PwDs. The following are some of the views the respondents expressed when asked about the path surface. R1 explained that “the surface is not easy to walk, the pavements are always filled with vendors. We,

³⁷ Constitution of Zimbabwe section 56(3), emphasis added.

wheelchair users, have challenges navigating to toilets.” In support of the preceding view, R2 also indicated that the surfaces have potholes and raised pavements that make it difficult for wheelchair users to move smoothly. Some respondents complained that the surfaces are sometimes slippery and muddy, especially during rainy seasons. This is particularly the case with the Mudzviti public toilets which are mostly wet due to loose water taps and overflowing urinary wastes. Given that the Mudzviti toilets are the only ones that are not prepaid, they are usually congested and have very poor hygiene standards. The public toilets at Meikles Park are prepaid and, as a result, people frequently prefer the Mudzviti toilets. A respondent quoted in the Manica Post described the state of the Mudzviti toilets as follows, “they are so dirty that most people have to wait until day end so they can use their toilets back home”.³⁸ Respondents with walking impairments without assistive devices complained that they crawl, and it becomes difficult for them to use wet and slippery toilets. Slippery surfaces not only compromise PwD’s mobility but also expose them to accident risks, thus endangering their hygiene and health.

4.3.2 Entrance Space

In addition, PwDs were asked whether the entrance space of public toilets in Mutare's CBD accommodates wheelchair or crutch users. The responses indicated that most public toilets are not easily accessible. As R7 explained, "the entrances got stairs which are a big challenge to wheelchair users. My wheelchair can't pass through in all of the toilets because of the stairs and the size of the entrance". Similarly, R10 indicated that "I face difficulties with steps and the absence of rails when accessing the facility. The steps are narrow limiting space to accommodate us as users of crutches". Evidence from observations also substantiated the lack of disability accommodative entrances to all the public toilets in the CBD. Through observations, the researchers discovered that the entrances are either raised or have steps without ramps and rails to assist the physically impaired.

During observations, a member of the research team, a crutch user, could not enter one of the Meikles Park toilets due to steep steps and narrow entrance space. The presence of steps without an alternative entry point with ramps and rails excludes many PwDs from accessing sanitation and hygiene facilities in the CBD. As a result, PwDs often have to be lifted to access toilet facilities, a situation which significantly undermines their dignity and privacy. Even if there might be other people willing to assist, the narrow entrances and passages present mobility challenges. This exposes PwDs to risks of injuries. However, the newly built toilet at the Old Rank shows some improvements regarding disability inclusivity. The entrance space is wide enough to accommodate a wheelchair user. There is also a gentle ramp that enables PwDs, particularly wheelchair users, to independently enter the toilet. The only shortcoming, however, is that the authorities fitted bars to secure the toilets at night. The bars on the women's toilets wing require someone to lift a wheelchair for one to enter the toilet. Despite the highlighted limitations, the Old Rank toilet serves as a good starting point towards disability-inclusive public toilets.

4.3.3 Cubicle Size and Availability of Doors

The study further analysed the quality of doors and the size of cubicles at the public toilets in the CBD. Through observation, the researchers discovered that most public toilets do not have doors. The site visit at Mudzviti toilets exemplified an intolerable situation that fails to fulfil any acceptable standards of privacy and dignity. The researchers saw some people squatting

³⁸ The Manica Post, *supra* note 41.

where everyone can see. PwDs interviewed in the study flagged the absence of doors as a major cause for concern. To them, toilet facilities without privacy undermine their dignity and because of that, they force them to shun public toilets. However, respondents had divergent views regarding the size of the cubicles. Some respondents, particularly wheelchair users, expressed concern over the narrow cubicle spaces in most of the public toilets. The respondents indicated that most of the cubicles were too small to allow wheelchair turning. R8 explained that “the rooms at Mudzviti do not accommodate wheelchairs. The space there is not enough for my wheelchair to turn freely. I do the positioning with great challenges”. In concurrence, R10 indicated that “I cannot turn when I am in the toilet area. I have challenges in positioning myself when the facility has a small cubicle area and no seats”. On the other hand, crutch users were comfortable with the cubicle spaces. For instance, R9, a crutch user, revealed that “I have no challenges of turning on my crutches. The area allows me to appropriately position myself to use the toilet facility well”. The above view highlight that most of the public toilets in Mutare's CBD are not accommodative to a wheelchair users. They fall short of international best practices and standards.

Observations, however, showed that some of the toilet cubicles at the Old Rank toilets are wide enough to accommodate a wheelchair user. The Old Rank toilets are designed in such a way that for both male and female toilets, there is one wide toilets cubicle to accommodate PwDs and other people with compromised strength who might need support in using toilet facilities. The MCC should, therefore, use the Old Rank toilets as a model in developing other public toilets.

4.3.4 Availability of Handrails or Grab Bars Attached to the Walls or the Floor

Generally, most of the toilets in the CBD do not provide adequate handrails and grab bars attached to the wall or floor to assist wheelchairs and people with compromised strength to reach the toilet seat. Observation results showed that, of the four public toilets in the CBD, only one toilet, the Meikles toilet 1, has handrails on the stepped passage. However, although Meikles toilet 1 has handrails attached to the passage wall, the toilet interior does not have any. This presents mobility challenges in and out of the toilet cubicles. International standards emphasise the importance of handrails in the cubicles to allow wheelchair users and other PwDs with compromised strength to easily navigate toilet spaces.

4.3.5 Availability of a Sitting Toilet (Pedal) or Bench and Flushing System

A disability-inclusive toilet provides a sitting toilet (pedestal) or bench rather than a squatting pan. Observations revealed that only one toilet, the Mudzviti toilet, was still using squatting pans while all the other toilets had toilet seats. Nevertheless, the flushing systems of the toilets were not properly functional. Some toilets used the bucket flushing system which presents challenges for PwDs, particularly those with mobility challenges and reduced strength.

4.3.6 The Measure the MCC Adopted to Provide Disability-Inclusive Services

Interviews with the MCC key officials revealed that, although the discourse of disability inclusivity is relatively new in Zimbabwe, the Council is making efforts to address the disability gap in council operations. R11 (MCC) explained that the city has the plan to revamp sanitation facilities in the CBD and accommodation for PwDs to make them disability friendly. The respondent highlighted that the problem of disability-exclusive sanitation and hygiene services prevails not only in the CBD but also in council offices and council houses that accommodate

PwDs, for instance, houses in Sakubva. R11 (MCC) indicated that even council offices are not accessible to PwDs. She expressed concern over a PwD, who is a member of one of the council committees, who is always lifted to access council offices. The involvement of PwDs in council committees, however, provided a policy window for disability issues to be on the council's agenda (R12, MCC). The council is now taking disability matters seriously because of the increased involvement of PwDs in local government structures.

Another important development the study revealed was the inclusion of PwDs in budgetary processes. R11 (MCC) highlighted that, in the past, the disability dimension was not adequately represented in council operations. This perpetuated the marginalisation of the disability dimension in socio-economic development. To address this gap, R11 (MCC) pointed out that the council has created structures to enhance the inclusion of PwDs in the budget consultation processes. He referred to the budgetary consultations that were ongoing during the time of data collection. The PwDs are represented in the consultation processes which allows them to raise their grievances. However, PwDs interviewed in the study expressed concern regarding the lethargic pace at which the MCC is moving towards the provision of disability-inclusive public toilets. R3 (PwD) highlighted that they have been participating in the consultative process for decades, but nothing has changed. In support of this view, R9 (PwD) explained that:

I don't see the reason for me to participate in the budget processes because even if you participate the council will not do anything to address the issues that we raise. I don't think the council takes us seriously.

The preceding views show that although the MCC official made efforts to include PwDs in socio-economic development, the efforts have not yet changed the fortunes of PwDs. The people affected are disgruntled and feel side-lined in local development processes.

4.4 Factors Undermining Disability-Inclusive Sanitation and Hygiene Services in Mutare

The study revealed two main factors undermining the provision of disability-inclusive public toilets. Firstly, inquiries on the disability-inclusive sanitation and hygiene services gap revealed that, in the past, there was limited recognition of disability-inclusive development in the council. A key informant from the MCC explained that:

In the past, there was not much recognition of the PwDs getting into town. People thought that persons with disabilities would stay at home. This was the idea and it explains why the infrastructure was built in a way that does not accommodate persons with disabilities. Now that they have been integrated into society wholly, they are participating in socio-economic activities like the other community members. That is why they now need access to all facilities.

It can be inferred from the preceding excerpt that the concept and practice of disability inclusivity is a relatively new development in the MCC. Regardless of the promulgation of the 2013 Constitution, which emphasises non-discrimination on any grounds, disability included, the MCC failed to recognise and prioritise disability-inclusive public toilets. The views of the PwDs interviewed in the study support the lack of recognition and prioritisation of disability matters. There was a general agreement among PwDs that the council is not prioritising disability matters. Instead of prioritising disability-inclusive development, some key informants from the MCC viewed disability investments as costly, non-performing social investments.

Secondly, there was consensus among the key informants from the MCC that funding is the major obstacle in the council's pursuit of disability-inclusive development. A senior official

from the MCC highlighted that while the council was committed to disability-inclusive development, securing adequate funding to revamp the council's infrastructure and make it disability compliant has remained a challenging task (R12, MCC). R11 (MCC) highlighted that, since the central government's 2013 debt cancellation directive, revenue generation in local governments has dwindled to levels that cannot sustain service delivery. The economic challenges that befell the country since the passing of the 2013 Constitution further exacerbated the crisis. As R13 (MCC) explained:

Addressing the current disability inclusivity in all council operations requires capital. Before we talk of public toilets in town, just look around and consider this building (council head office). Wheelchairs cannot navigate this place. As a council, we know about this problem and we have plans to address the problem but we don't have the means. We don't have funding.

Another council official from the department of finance (R14, MCC) blamed the inflationary environment and central government monetary controls for the council's failure to renovate public toilets to make them disability-inclusive. The respondent observed that the council collects revenue in Zimbabwe dollars (ZWL) whilst infrastructural development requires the American dollar (USD). The respondent further explained that ratepayers frequently fail to uphold their duties and do not pay their rates, a situation that further paralyses the council's operations. It can be inferred from the foregoing discussion that financial constraints and economic challenges Zimbabwe experienced have compromised the capacity of the MCC to modernise public toilets to make them disability friendly and accommodate everyone.

However, PwDs had different views. The perceived problem, from the PwDs' perspective, was the matter of prioritisation. The PwDs interviewed in the study argued that the MCC was not prioritising disability issues. This line of argument is exemplified through the answers of some key informants from the CoM who classified public toilets investments as non-performing social investments that do not generate any income for the council (R14, MCC).

4.5 Discussion of Findings

Generally, the study sought to assess the extent to which the sanitation and hygiene facilities and services in Mutare's CBD are accessible to people with disabilities. As highlighted above, the public toilets in Mutare's CBD are widely inaccessible to PwDs. The toilets' surfaces have potholes and elevated pavements, and some are slippery. This affects the mobility of wheelchair and crutch users and also those who crawl. The study further revealed that the entrance space of public toilets in Mutare's CBD do not accommodate wheelchair or crutch users. Most of the entrances are raised and some have steps with ramps and rails to cater for wheelchair and crutch users and other people with reduced strength. This exposes PwDs to accident risks. Most of the toilets had narrow entrances, cubicles and passages that could not accommodate wheelchairs. In addition, the toilets lacked basic design requirements such as doors to enhance privacy and protect people's dignity. Although the other two public toilets had toilet seats, the Mudzviti toilets, which are the only free public toilets in the CBD, had squatting pans. Squatting pans are not disability friendly. The state of public toilets revealed serious insufficiencies, inequalities, and discrimination for PwDs that warrant the council's attention to make sure that citizens from all walks of life are accommodated in social and economic development. The public toilet situation in the CBD violates section 56(3) of the Constitution, which provides that every person has the right not to be treated in an unfairly discriminatory manner, and section 73(1)(a), which provides that every person has the right to an environment that is not harmful to their health or well-being. As provided in section 44 and

45 of the Constitution, the MCC, as part of the State, must respect, protect, promote and fulfil the rights and freedoms set out in Chapter 4 of the Constitution.

These problems are, however, not specific to Mutare. Other local authorities in Zimbabwe and across the world are grappling with the problem of making public toilets disability friendly. A study by the Poverty Reduction Forum that focused on access to health services for PwDs in Zimbabwe focusing on Mutasa, Mutare urban and Mutare Rural District also highlighted similar disability management gaps in municipal healthcare provision.³⁹ The study highlighted that PwDs are generally left behind in the provision of disability-friendly health services. The survey results from the Zimbabwe Coalition on Debt and Development (ZIMCODD) indicated that 95 per cent of public toilets in Zimbabwe were not user-friendly to people with disabilities.⁴⁰

The findings of the study are also consistent with Kuper *et al.*, who found that PwDs are lagging behind in the core pillars of Universal Health Coverage (UHC).⁴¹ PwDs also face difficulties in accessing basic health services.⁴² This gap requires serious attention so that local government services accommodate citizens with different needs. Consistent with the findings of this study, Kuper *et al.* argue that Zimbabwe's failure to provide disability-inclusive healthcare services might hamper the country's efforts to achieve the SDGs.⁴³

Studies outside Zimbabwe also revealed a similar concerning picture in terms of disability-inclusive provisions of public toilets. Lakwo's study on disability inclusion in water, sanitation and hygiene services in Uganda found limited local planning and budgeting for PwDs at subcounty levels.⁴⁴ The study also highlights that local governments have limited capacity to address disability needs and provide disability-inclusive sanitation and hygiene facilities.

5 Recommendations

The duty bearer, in this case the MCC, should prioritise the provision of disability-inclusive public toilets considering that the report found a glaring gap in the provision of public toilets that accommodate PwDs. The lack of disability-inclusive public toilets significantly undermines the mobility of PwDs and, as a result, excludes these important constituents from socio-economic activities. The ZIMCODD emphasised that equal rights as provided by the Constitution can only be achieved if "significant investments in adaptive infrastructure like public toilets and transport should be prioritized".⁵⁰

The MCC should actively involve PwDs in addressing disability exclusion in the provision of public toilets and other local government services. The MCC should ensure more participation

³⁹ Poverty Reduction Forum Access to health services for people with disabilities in Zimbabwe – a case of Mutasa, Mutare Urban and Mutare Rural Districts in Manicaland Province', 2021, <evidenceforinclusion.org/wp-content/uploads/2021/09/Zimbabwe-ECID-Research-Report.pdf> (accessed 4 January 2023).

⁴⁰ Zimbabwe Coalition on Debt and Development (ZIMCODD), 'Public Resources Management: Situational Report', 2021, <zimcodd.org/wp-content/uploads/2022/06/Public-Resources-Management-SituationalReport_April-2022-1.pdf> (accessed 4 January 2023).

⁴¹ Kuper *et al.*, *supra* note 18.

⁴² Smythe *et al.*, *supra* note 18.

⁴³ Kuper, *et al.*, *supra* note 18.

⁴⁴ L. D. Lakwo, 'An assessment of disability inclusion in water, sanitation and hygiene services. A case study of Gulu District, Northern Uganda', 2020. ⁵⁰ ZIMCODD, *supra* note 45, p.24.

and involvement of PwDs in the council's decision-making and planning structures and processes. PwDs should be actively involved in local government budget processes so that disabilities are prioritised in local economic development processes. In line with Article 4 of the CRPD, PwDs, directly or through their representative organisations, should be fully consulted and actively involved in all stages of formulating policies, laws and services that relate to them. The MCC should, therefore, involve or partner with local and national organisations that represent and work for the rights of PwDs. As highlighted by the WHO, these organisations can “play a representative role, undertake advocacy, provide services and peer support”.⁴⁵ Through cooperation and collaboration, the MCC can actively involve PwDs, identify barriers to disability inclusivity and co-create strategies to enhance access to sanitation and hygiene services for PwDs. Collaborative governance is critical given the financial challenges that the MCC is confronted with. The MCC leadership can also initiate collaborative initiatives to mobilise community members, the business community, non-governmental organisations and other interested stakeholders in raising resources for the construction of disability-inclusive sanitation and hygiene services.

The MCC should develop a comprehensive local disability-inclusivity reforms. Firstly, the MCC should conduct an inventory analysis of all council sanitation and hygiene facilities, other council facilities (offices, health facilities, among others) and by-laws to determine if they are disability inclusive. Based on the results of the inventory analysis, the council should act on the findings to facilitate accessibility to local services. The MCC should holistically address disability exclusion through the adoption and implementation of comprehensive disability reforms. The council should focus on the cultural, physical, attitudinal and policy barriers to disability-inclusive sanitation and hygiene services. It is important to note that enhancing disability-inclusive sanitation and hygiene services is not a matter of simply installing ramps and some rails. Instead, it involves paying particular attention to the various factors undermining accessibility such as toilet style, design, dignity concerns and hygiene needs.

The residents' associations and other interested stakeholders should raise awareness among council leaders and staff on disability-inclusive sanitation and hygiene services and their implications on the participation and involvement of PwDs in socio-economic development activities. This can be achieved through the training of council staff. The council leadership and employees should be trained on the needs and rights of PwDs. In addition to disability-inclusivity awareness raising, organisations representing PwDs should collaborate with resident associations in lobbying for the rights of PwDs.

In the interim period, the MCC could utilise mobile public toilets to specifically cater for PwDs who cannot access the existing public toilets. This is critical given the urgent need for disability-inclusive public toilets.

Some of the factors undermining the accessibility of public toilets, highlighted above point to maintenance gaps in the MCC. For instance, the study found that some toilets do not have doors, properly functioning flushing systems, seats and have potholes, are paved and often have slippery surfaces. The MCC should, therefore, have an ongoing monitoring plan of the toilet facilities to identify and rectify damages. The MCC should also conclude the pending construction stages at the Old Rank toilets. Although the toilets are already in use, they are not

⁴⁵ WHO, *supra* note 7.

yet connected to electricity supply lines. This presents challenges in using the facility at night and during extreme weather conditions.

6 Conclusion

Although the MCC recognised the importance of disability-inclusive development, the state of public toilets in the CBD shows a glaring implementation gap. Most of the public toilets in the CBD are far from meeting the basic requirements for a disability-friendly toilet. As highlighted above, the nature of toilet surfaces, entrance space, cubicle size and the absence of handrails or grab bars and toilet seats undermine the accessibility of public toilets in Mutare's CBD. This paper argues that the provision of disability-inclusive public sanitation and hygiene services would strengthen the MCC's inclusive development endeavour as well as help the council, as the duty-bearer, to enhance the realisation of fundamental human rights to achieve local, national and global development goals. Achieving national development goals and the global SDGs will be difficult if PwDs continue to be left behind. Based on this, the paper urges the MCC to prioritise disability inclusivity in the provision of sanitation and hygiene services and local services in general. This can be achieved through the development and enforcement of a disability policy, disability-inclusive development awareness programmes, inclusion and integration of PwDs in sanitation and hygiene service provision, and possibly collaborative crowdfunding initiatives for disability-inclusive sanitation and hygiene services.