

# CHAPTER 5

## THE PLACE OF SIGN LANGUAGE IN THE INCLUSIVE EDUCATION OF DEAF LEARNERS IN ZIMBABWE AMID CRPD (MIS)INTERPRETATION

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### Summary

*This paper sets to explore how Zimbabwean law and policy relate to the CRPD in informing educational practice for learners who are deaf. The paper is an analytical discussion of the educational policy and practice issues related to the recent recognition of Zimbabwean Sign Language (ZSL) in a multicultural context where mother-tongue-based teaching is a right for meeting the inclusive education needs of all learners, including those who are deaf. It argues that one-size-fits-all, deficit interpretations of Zimbabwean inclusive education policies and law are in violation of the 'sensory exception' enshrined in the Salamanca Statement (UNESCO, 1994). These interpretations occur in the midst of major misinterpretations of the CRPD evident in General Comment 4. Misinterpretations of the CRPD affirm instances of local policy contradictions, inconsistencies and co-articulation as some policies are imbued with perceptions of deafness as a disability at the same time also having aspects that recognise deaf people as a linguistic minority. The deficit interpretations and inconsistencies in local policies occur despite constitutional provisions that recognise deaf learners' right to a preferred sign language. Based on this case example of deaf learners, a general re-interpretation of the CRPD and a re-conceptualisation of inclusive education are recommended.*

### 1 Introduction

Persons with disabilities were historically viewed as welfare recipients. They are now generally recognised as having the right to education without discrimination and on the basis of equal opportunities. Various

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disability protocols such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD) all reflect awareness of the right of persons with disabilities to education.<sup>1</sup> It is, however, paradoxical that the growing awareness of this right appears to result in interpretations through policies and practices that discriminate against learners who are deaf and hard of hearing (hereafter 'deaf learners'). Historically deaf learners were viewed as disabled, welfare recipients who were taught in separate special schools. Natural law interpretations of the right of persons with disabilities to education have perceived separate education as inherently discriminatory and have therefore advocated education in mainstream, ordinary schools alongside hearing peers. Education in mainstream, ordinary schools has been called 'inclusive'. This article, however, argues that being deaf is morally a cultural difference requiring separate, special school provision in order to ensure access to a critical mass of sign language users and therefore to inclusive education. The article therefore proposes a separation thesis in which having a legal right to send learners who are deaf to a mainstream, ordinary school does not entail a moral right to do so.<sup>2</sup> To advance this thesis, the article establishes the extent to which the CRPD, which is touted as the implementation vehicle for various disability protocols, can be interpreted to enable local legislation and policies for the inclusive education of deaf learners.<sup>3</sup> This is done by analysing whether Zimbabwe's legal and policy interpretations embrace the moral responsibility to ensure access to sign language and therefore to inclusive education by referencing the CRPD at a broader level. To provide context to this analysis, the article initially explores the condition of being deaf and the evolution of the education of deaf learners. It then discusses the development of these learners' rights to communication in education in light of the CRPD before reviewing how legislation and policy documents regulating education and disability in Zimbabwe relate to the flawed interpretation in General Comment 4 (hereafter GC 4).

## **2 Being deaf or hard of hearing: From a medical to a social, rights-based perspective**

The condition of not hearing spoken language has traditionally been referred to as deafness. This condition is measured as hearing loss greater than 25 decibels.<sup>4</sup> Every year more than 10 000 infants are born with such hearing loss in the United States.<sup>5</sup> According to the Zimbabwean Ministry of Health, the prevalence of disabilities such as deafness is on the increase

1 See CRPD Committee General Comment 4: Article 24: Right to inclusive education (2016) UN Doc CRPD/C/GC/4 dated 2 September 2016 (hereafter GC 4).

2 HLA Hart 'Positivism and the separation of law and morals' (1958) 71 *Harvard Law Review* 593.

3 WFD Global Survey Report for Southern and Eastern Africa (2010).

4 FN Martin & JG Clark *Hearing care for children* (2009).

5 NK Mellon et al 'Should all deaf children learn sign language?' (2015) 136 *Pediatrics* 170.

globally because of the rise in chronic health conditions.<sup>6</sup> Incidence of disabilities such as deafness is reported to be higher in lower income than higher income countries, for example 90 per cent of children born with deafness are said to be from lower income countries.<sup>7</sup> Zimbabwe is a low income country.<sup>8</sup> In Zimbabwe, the government carried out a national disability survey which identified 22 500 people as having deafness and of these 7 500 were children of a school-going age.<sup>9</sup> The prevalence of hearing loss in Zimbabwe is significant at 2,4 per cent of the population.<sup>10</sup> There are no accurate figures on the prevalence of children who are deaf in Zimbabwe. The most recent Zimbabwe Persons with Disabilities Survey<sup>11</sup> does not provide figures specific to deafness and organisations of people who are deaf provide widely varying estimates ranging from 80 000 to 1.5 million people with deafness in Zimbabwe.<sup>12</sup> In light of the Ministry of Health's reported global increase in the prevalence of disabilities, there is no reason to assume that the incidence of deafness is declining in Zimbabwe.

The descriptions in the preceding paragraphs are normative in that they are quite clear that hearing is the norm and deafness is a disability. This normative, pathological discourse is part of the medical perspective in which deafness is viewed as a condition that, like an illness, needs treatment either medically or through remedial education. In the medical perspective the characteristics of hearing groups are considered as mainstream and are given high-status. Remedial education therefore usually focuses on listening skills and articulation training in a curriculum that is delivered through a spoken language. This is done to deliberately assimilate deaf learners into a hearing norm as far as possible. In this discourse deaf learners do not receive an education that includes their own culture and history because their condition is devalued as a disability.

A growing body of literature in the social perspective counter-argues that being deaf is a condition that has for long been erroneously viewed as a deficiency or disability. The perspective argues that it is hearing society which disables those who are deaf by insisting on the superiority of sound-based, spoken languages at the expense of visual-gestural, signed languages. Belief in the supremacy of spoken languages results in discrimination which is referred to as 'audism'. Proponents of the social perspective argue that it is progressive and more productive to view people

6 Zimbabwe Ministry of Health 'Living conditions among persons with disabilities survey report' (2013).

7 C Storbeck 'Childhood hearing loss in the developing world' (2012) 1 *International Journal of Child Health and Nutrition* 59.

8 WFD (n 3 above).

9 Zimbabwe Ministry of Labour and Manpower Planning 'National Disability Survey' (1981).

10 BD Westerberg et al 'Prevalence of hearing loss in primary schoolchildren in Zimbabwe' (2005) 69 *International Journal of Pediatric Otorhinolaryngology* 517.

11 Zimbabwe Ministry of Health (n 6 above).

12 WFD (n 3 above).

who are deaf in terms of what they can do rather than what they cannot do. Deaf people can use sign languages for communication and therefore have a right to this language in education. They are only different from hearing people in that they use sign languages whereas hearing people use spoken languages. In that light, the perspective argues that the appropriate comparison group for people who are deaf are other linguistic minority groups rather than groups of people with disabilities. In Zimbabwe, the sign language of the deaf community is called Zimbabwean Sign Language (ZSL) and it is a language that is recognised in the 2013 Constitution as one of the 16 languages that should be used in education.

### **3 Evolution of the education of deaf learners**

Three boarding institutions were established specifically for deaf children before independence in Zimbabwe. These are Emerald Hill School which was established in 1927, Henry Murray School which was established in 1947 and Jairos Jiri Naran School which was established in 1969. In these institutions, children underwent elementary education after which most of them were then taught practical skills such as basketry, woodwork, leatherwork, sewing and cookery.<sup>13</sup> Historically in Zimbabwe, teaching such children was considered more of a charitable and religious obligation than a legal right, as churches and humanitarian organisations educated deaf children without national coordination and direction.<sup>14</sup>

After the attainment of independence in 1980, the government began to exert greater control over the education of deaf children and insisted on following the mainstream curriculum<sup>15</sup> often in mainstream schools.<sup>16</sup> Special units for deaf learners were opened at various mainstream schools. Despite government coordination and direction, deaf learners in Zimbabwe still typically do not go beyond primary school education. Their primary school education is usually longer than hearing peers and this longer stay in school is attributed to various factors. One of the prime factors is that in addition to learning the mainstream curriculum also followed by hearing pupils, the deaf pupils have other areas of need dictated by their deafness.<sup>17</sup> These areas are specialist and technical-vocational skills aimed at preparing deaf pupils to earn a living and fit into

13 M Chitiyo & J Wheeler 'The development of special education services in Zimbabwe' (2004) 19 *International Journal of Special Education* 46.

14 M Peresuh & L Barcham 'Special education provision in Zimbabwe' (1998) 25 *British Journal of Special Education* 75.

15 M Musengi & C Storbeck 'Teaching in residential schools for the deaf in Zimbabwe: Professional and vocational perspectives' (2015) 16 *Journal of the International Association of Special Education* 14.

16 R Chimedza 'Disability and inclusive education in Zimbabwe' in L Barton & F Armstrong (eds) *Policy, experience and change: Cross cultural reflections on inclusive education* (2008).

17 M Musengi 'The experience of teaching in residential schools for the deaf in Zimbabwe' unpublished PhD thesis, University of the Witwatersrand, 2014 369.

society. The specialist areas in the curriculum have traditionally included articulation or speech training, lip or speech-reading and auditory training. This focus on deficiencies is not surprising since the development of communication rights which recognises the social perspective's focus on ZSL is a relatively recent development.

The reality for deaf learners is that decisions regarding their education rest with specialists in the medical and educational fields. The focus is on specialists identifying individual weaknesses and trying to treat them and 'normalise' the deficient learner to facilitate entry into an ordinary school or classroom. This medical focus on remediating the individual initially resulted in the creation of separate special schools for the deaf. Globally, these special schools fell out of favour with some because their results were not good. It was suggested that since such separate education in special schools resulted in inferior education, it would be better to integrate the learners. The practice of integration of deaf learners became popular in the 1980s because it was argued that since the learners now had greater access to hearing models in mainstream schools, they could be remediated in special classes and integrated in mainstream classes for part of the day as appropriate. However, integrated education did not appear to be producing the desired result. There was therefore a paradigm shift from a medical perspective focus on trying to remediate individual learners within mainstream schools to a more social focus on dealing with barriers that all learners face in mainstream schools in order to improve educational outcomes. The social perspective birthed inclusive education as focus was now on making the environment accessible for all. From this social perspective, it was easy to make the jump to a rights-based model in which deaf learners were viewed as having rights to access the environment. It is therefore on the basis of social and rights models that inclusive education is properly grounded.

#### **4 Development of rights to communication systems in education of deaf learners**

Sign language was added to the traditional curriculum through a government directive that it should be one of the languages to be taught in schools.<sup>18</sup> Government followed this up with another directive *Special examination arrangements for learners with disabilities* which allowed the signed interpretations of examinations.<sup>19</sup> In addition, to give legal force to the status of sign language, the current Constitution of Zimbabwe lists ZSL as one of the official languages in the country. Section 4 of Chapter 6 of the Constitution states that: 'The State must promote and advance the use of

18 Secretary for Education *Secretary's Circular 3 of 2002: Curriculum policy in primary and secondary schools* (2002).

19 Secretary for Education *Special examination arrangements for learners with disabilities and other special needs* (2007).

all languages used in Zimbabwe, including Sign Language, and must create conditions for the development of those languages.’

These legal and policy instruments serve to recognise a language that emerged from bringing together deaf children in boarding special schools in the pre-independence era as the need for communicative interaction resulted in this visual-gestural language.<sup>20</sup> It is a natural, manual language using hand-shapes, facial expressions and movement to convey messages as it is visually accessible to people who are deaf. It, however, has no orthography. In pre-independence times the language was not recognised as real and was therefore prohibited from use in schools as it was generally perceived as interfering with the acquisition of spoken languages which can be written. Internationally, deaf children are renowned for having displayed resilience over the years by using sign language underground, away from hearing teachers who prohibited it.<sup>21</sup> It is this situation that the Zimbabwean government, informed by its egalitarian values of equal opportunity, sought to rectify by developing appropriate legal and policy instruments after independence in 1980.<sup>22</sup> These legal and policy instruments were developed in the broader context of the CRPD.

#### **4.1 The CRPD and the communication rights of deaf learners**

The normative content of article 24 of the CRPD states that state parties must ensure the right of persons with disabilities to education through an inclusive-education system without discrimination and on equal terms with others at all levels. GC 4 appropriately explains this as meaning that inclusion is a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education. In tandem with rights-based theory and practice of inclusive education, GC 4 aptly explains that these systemic reforms are meant to overcome barriers in order to provide all students of the relevant age range an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Surprisingly, GC 4 abandons this social, rights-based focus on systemic reform and learner preferences in subsequent definitions and explanations of inclusive education.

Contrary to inclusion theory and practice which focuses on the learner’s experience,<sup>23</sup> GC 4 misdirects itself by focusing on placement in

20 M Kadenge & M Musengi ‘Zimbabwean Sign Language’ in T Kamusella & F Ndlovu (eds) *A handbook of the social and political history of the languages of Southern Africa* (2016).

21 HG Morgans ‘Where did South African sign language originate?’ (1999) 30 *Language Matters: Studies in the Languages of Africa* 53.

22 E Mpofu et al ‘Inclusive education in Zimbabwe’ in P Engelbrecht & L Green (eds) *Responding to challenges of inclusive education in southern Africa* (2007).

23 M Jones ‘Inclusion, social inclusion and participation’ in *Critical perspectives on human rights and disability law* edited by MH Rioux et al 57-82 (2011).

mainstream schools as the default setting for inclusive education. The GC 4's misdirected focus on placement is evident in their definition of segregation. It says segregation occurs when the education of students with disabilities is provided in separate environments designed or used to respond to a particular or various impairments, in isolation from students without disabilities (paragraph 11). Segregation is a concept that does not appear in the CRPD itself and is introduced by GC 4 to mean discrimination.<sup>24</sup> This one-size-fits-all explanation is problematic as it assumes that whenever deaf learners are educated separately from hearing learners, they are being discriminated against. The explanation negates the normative content of article 24 of the CRPD which focuses on school culture, policy and practice to accommodate the differing requirements and identities of individual students. The requirements and identities of individual deaf learners may very well be accommodated in separate rather than mainstream schools. An earlier protocol, the Salamanca Declaration, had been wary of such negation when it made this 'sensory exception' owing to the particular communication needs of learners who are deaf: their needs may best be accommodated in special schools for the deaf.<sup>25</sup> This is because deaf learners would then be at schools where sign language is already a part of the implicit curriculum as there is a critical mass of users of the language.<sup>26</sup> It is these other users of sign language who are appropriate peers for many deaf learners.

The GC 4 emphasises placement in mainstream schools because it misdirected itself through a medical perspective understanding of appropriate 'peers' for deaf learners as typically developing, non-deaf and non-sign language using. The GC 4's implied definition of peers in paragraph 3 is clear that hearing students are the norm or privileged centre thereby 'othering' deaf learners. Deaf learners are therefore expected to aspire to join the privileged centre. This normative discourse is based on the medical model which informed the practice of 'integration' in an earlier era. It is a discourse which is contrary to the latter-day social and human-rights models on which inclusive education is grounded.

GC 4 views of mainstreaming as the default position to enable inclusive education of all learners results in a one-size-fits-all position which is the antithesis of inclusion. Using placement to define inclusion contradicts the GC 4's initial use of participatory learning experience as the essence of inclusion. If communication rights and participatory learning experiences are paramount, then inclusion cannot be about places where education occurs, but is about reasonable accommodations for learners to

24 JJ Murray et al 'Intersectional inclusion for deaf learners: Moving beyond General Comment no. 4 on Article 24 of the United Nations Convention on the Rights of Persons with Disabilities' (2018) *Journal of Inclusive Education* 1.

25 UNESCO 'The Salamanca declaration and framework for action' (1994).

26 See C Reilly & N Reilly *The rising of the lotus flower: Self-education by deaf children in Thai boarding schools* (2005).

equitably and successfully participate in learning. Places where these accommodations occur are not the issue, reasonable accommodations are the issue.

The first implication here is that places where learners are taught cannot be a defining characteristic of inclusive education as the key issue is about the learners' rights and ability to access knowledge in whatever setting. The second related implication is that inclusive education for many deaf learners is only possible when they have access to a preferred language such as a sign language that they can visualise. Therefore, assimilation into hearing culture and its spoken languages should never be allowed to override the communication rights of deaf learners. In light of the GC 4's perceived misinterpretation discussed here, Zimbabwean inclusive education policies are analysed to see how they fare in interpreting the CRPD and placing ZSL in the school curriculum.

## **4.2 Zimbabwean inclusive-education policies in the context of the CRPD**

Zimbabwean policy documents reviewed in this case example are national laws and lower level interpretations of the laws through policy guidelines on special education in general or where available, the education of deaf learners in particular. Document review was vertical, that is starting with national laws and moving to lower level policies. Documents were sourced by searching relevant government agency websites and consulting policy experts in the Ministry of Education. Analysis revealed four themes: prohibition of discrimination, safeguarding the right to access, expected role of ZSL in the curriculum and comparison of ZSL with other languages in the curriculum.

### **4.2.1 Prohibition of discrimination**

Two pieces of Zimbabwean legislation assert the right of people with disabilities to access public services such as education and training. The Zimbabwean Education Act of 1996 asserts the right of every child in Zimbabwe to attend school. Section 4, subsection 2 states:

No child in Zimbabwe shall be refused admission to any school on the grounds of race, tribe, colour, religion, creed, place of origin, political opinion or the social status of his parents.<sup>27</sup>

One view contests whether this facilitates the right of children with disabilities since they are not specifically identified here.<sup>28</sup> It can, however, be argued that children with disabilities are first and foremost children so

27 Zimbabwe Education Act 1996.

28 As above.

their right to school education is also entrenched in the Act. Therefore even though the Act does not specify disability, let alone deafness, it implies prohibition of discrimination in education on any grounds.<sup>29</sup> It argues that such an interpretation is in accordance with the CRPD. Article 24(1) of the CRPD stipulates that the 'State Parties recognise the right of persons with disabilities to education ... without discrimination and on the basis of equal opportunity, States shall ensure an inclusive education system at all levels.'<sup>30</sup>

Denying deaf children education would be contrary to the education-for-all spirit and moral on which the law is grounded. This spirit is more explicitly captured in another piece of Zimbabwean legislation.<sup>31</sup> The Disabled Persons Act expressly outlawed the denial of people with disabilities access to public premises, services and amenities in clear accordance with the CRPD. Section 8 of the Act states: 'No disabled person shall on the ground of his disability alone be denied the provision of any service or amenity ordinarily provided to members of the public... ' If it is agreed that education is a service, then this section of the Act would appear to be complementing the Education Act in ensuring that children with disabilities have a right to school education. The Disabled Persons Act states in section 7:

Where premises, services or amenities (are considered) inaccessible to disabled persons by reason of any structural, physical, administrative or other impediment to such access the provider of the service may be required to undertake such action as may be specified in order to secure reasonable access by disabled persons ...

#### 4.2.2 *Safeguarding the right to access*

What the foregoing prohibition of discrimination implies is that this law safeguards the right of people with disabilities to access public buildings, services and amenities and where these are considered inaccessible, service providers must rectify this. For example people with physical disabilities who cannot access public buildings which only have stairs, can take the owners of such buildings to court using this Act in order to get the buildings altered so that they can access them. Reference to 'other impediments to access' appears to be an open, catch-all phrase which can also be used to the advantage of people who are deaf. This phrase appears to allow wide interpretation which recognises not only physical and structural impediments to physical access, but also various other impediments to accessing services. Access in education can be

29 See FN Muchemwa 'Presidential Advisor's report on national disability issues: Visits to special schools' (2009).

30 GA Res A/61//06, adopted on 13 December 2006, entered into force on 3 May 2008.

31 See Zimbabwe Disabled Persons Act 1996

conceptualised as formal, physical or epistemological.<sup>32</sup> The legislation is not restricted to ensuring the right to formal, physical access, but can also be interpreted as facilitating epistemological access as suggested by the phrase 'other impediments to access' in section 7 of the Act.<sup>33</sup> Interpretation that focuses on epistemological access would be consistent with the CRPD's focus on learner experiences while focus on physical access would be consistent with the GC 4 focus on specific places.

This moral interpretation of the law which embraces epistemological access is supported by the Zimbabwean policy document *Guidelines on equal access to education for learners with disabilities*.<sup>34</sup> The policy stipulates that children with disabilities be provided with disability-friendly facilities so that they are able to access instruction. It is implied that once they have physical access to schools, learners with disabilities need only to indicate how they are impeded from accessing knowledge in the schools in order to get redress from the law. For example deaf learners could employ this provision of the Act to observe that no one will be helped by any one-size-fits-all approach to deaf education.<sup>35</sup> The legislation could be used to argue that employing a one-size-fits-all approach to teach deaf learners impedes epistemological access. It could be argued that access would only be possible if schools made reasonable accommodations by using ZSL in education. Adjustments could also involve streaming the deaf learners so that those who understand ZSL better could be taught using ZSL in a bilingual approach, while those who would benefit from spoken language could be taught verbally. Inappropriate teaching approaches could therefore be cited under the Act as 'other impediments' to epistemological access while appropriate adjustments could be cited as disability-friendly under the policy. The Disabled Persons Act and the Education Act complement each other in safeguarding the right of formal and physical access to such services as education and also epistemological access through linguistic access to the curriculum.<sup>36</sup> The latter is a reasonable interpretation in light of the Constitution of Zimbabwe's official recognition of ZSL as one of the 16 languages in Zimbabwe. Legislation has therefore attempted to improve formal, physical access and could facilitate epistemological access through appropriate use of language.

The focus on prohibiting discrimination and safeguarding access through use of appropriate language of teaching is in tandem with the

32 See H Lotz-Sisitka 'Epistemological access as an open question in education' 46 *Journal of Education* 58; WE Morrow *Learning to teach in South Africa* (2007).

33 See Disabled Persons Act.

34 See Director *Guidelines on providing equal access to education for learners with disabilities: Ministry of Education, Sports and Culture policy* (2006).

35 See M Marschark 'What we know and what we need to know: Where do we go from here?' Paper presented at the *1st International Conference on Teaching Deaf Learners* (2014).

36 See R Johnson 'Unlocking the curriculum: Principles for achieving access in deaf education' (1989).

CRPD's conception of 'reasonable accommodation'. The CRPD defines reasonable accommodation as:

[N]ecessary and appropriate modification and adjustment not imposing a disproportionate or undue burden where needed in a particular case to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Even though the CRPD and Zimbabwean legislation mandate it, epistemological access through ZSL in schools still requires a properly aligned lower level policy framework. The following section discusses the alignment of Zimbabwe's education policy framework to the ideals of its legislation and the CRPD.

#### 4.2.3 Comparison of ZSL to other languages on the curriculum

The policy document *Curriculum to be followed in Special Education Institutions* advocates bilingual or multilingual mainstream education in which English is taught alongside Shona, Ndebele or other local languages. If Shona, Ndebele or another local language is the dominant home language in an area, the language becomes the language of instruction for the first three years of primary school while English is taught as a second language. From the fourth year onwards, English becomes the language of instruction, and the other language is only taught as a subject. This kind of bilingual-education policy is based on a developmental maintenance model as it aims at developing a student's local, home language skills to full proficiency, and full bi-literacy in English.<sup>37</sup> For hearing students the choice of local language to use in mainstream education is usually a straightforward matter because this is the language used in the home. On the other hand, deciding which language is the first, home or local language for deaf learners is complicated by the diversity of deaf learners, and the need to make decisions within the optimal period of language acquisition yet their predisposition to language is not yet certain. Deaf learners' individual needs, strengths and experiences are so varied that deaf learners could become bilingual in various ways.<sup>38</sup> Some learn to sign first, and then learn an oral form of a hearing language, while others learn to speak from hearing parents followed by learning to sign. The deaf child should be the guide regarding his or her disposition toward a more oral or more visual (sign) language.<sup>39</sup> Decisions about degree of exposure to signed and spoken language to be used as the deaf child's first language have to be made very early, at a time when there is rarely enough information to

37 See C Baker *Foundations of bilingual education and bilingualism* (2008).

38 As above.

39 SN Mahshie 'A first language: Whose choice is it? Sharing ideas' (1997).

determine the child's predisposition. Many deaf children in Zimbabwe are identified rather late<sup>40</sup> and arrive at school without any language at all, spoken or signed.<sup>41</sup> This situation further complicates decisions about predisposition towards a first language. All three schools for the deaf interpret the bilingual policy to mean the teaching of English and Shona or Ndebele, in the same way that mainstream schools teach hearing learners. ZSL is not taught as a subject in any of the schools despite the policy *Curriculum policy: Primary and secondary schools* which says that it is a subject for the hearing impaired. The teaching of Shona or Ndebele, rather than ZSL indicates that the schools have decided that Shona or Ndebele is the first language of deaf learners.<sup>42</sup> This audist position is indicative of the medical model in which deaf learners are expected to join the privileged centre in tandem with GC 4 misinterpretation. There are several reasons why schools do not comply with the policy on teaching ZSL, but one reason appears to be inherent in the policy document and relates to the expected role of the language. This is discussed in the next section.

#### **4.2.4 Expected role of ZSL in education**

One reason for non-compliance with the policy on teaching ZSL emanates from an internal inconsistency of the policy. In its explanation of how bilingual or multilingual education is to include previously marginalised languages in Zimbabwe, the policy provides a clear time-frame for the gradual and systematic introduction of all locally spoken minority languages starting from 2002 up to 2005. The introduction of the spoken minority languages in phases, such as up to grade four in 2002 and then up to grade five in 2003 and so on, indicates that human and material resources were incrementally availed to ensure success at the various levels. An inconsistency in this otherwise well planned introduction of previously marginalised languages, is that there is nothing written about when and how ZSL is to be introduced. This silence might suggest that the policy-makers assumed that human and material resources were already in place in the schools for the deaf and so the language would be introduced with effect from the date of the policy document in 2002. This suggests that ZSL was 'othered' as focus was on the special schools rather than availability of adjustments within them. Adjustment would have included teacher education in sign language to appropriate levels. Whatever the actual reason, the net effect is that the language has not been adopted as a subject in any of the three special schools for the deaf.

40 Director *Guidelines on over-aged learners in special education: Ministry of Education, Sports and Culture policy* (2006).

41 M Musengi et al 'Rethinking education of deaf children in Zimbabwe: Challenges and opportunities for teacher education' (2013) 18 *Journal of Deaf Studies and Deaf Education* 62.

42 M Musengi 'Teachers' sign language beliefs and their influence on Zimbabwean curriculum-in-practice for deaf learners' (2016) 1 *Dzimbabwe Journal of Multidisciplinary Research* 51.

The policy might also be incomplete as it lists ZSL as a subject to be taught, but does not show who is to teach it or what skills, fluency and qualifications they should have. The manner that the learning of ZSL is supposed to be organised has not been made clear by policy, and therefore the formal teaching and learning of the language as a subject had not even begun, nearly 20 years after the policy was issued. This is despite the *Curriculum policy: Primary and secondary schools* indicating that all languages have equal time allocations of four and half hours per week. ZSL is referred to as a subject 'for the hearing impaired' and this indicates that it is to be offered on condition that there are deaf and hard of hearing learners who need it in the school. ZSL is considered as among 'other local languages' which include previously marginalised languages spoken in Zimbabwe other than English, Shona and Ndebele. In addition, policy stipulates that all learners will sit the public examinations,<sup>43</sup> but this gives rise to uncertainty on the role that ZSL should play in these examinations.

Government policies mandate various accommodations to enable deaf candidates to access examinations through the provision of extra time, sign interpretations of examinations, speech-reading and finger-spelling in examinations as well as modification of syntax and vocabulary among others.<sup>44</sup> In order to enable access to examination questions, the policy stipulates:

Modifications can be made to general vocabulary and syntax by approved teachers of the deaf well in advance of the examination date. Such modifications may not be done to vocabulary specific to the subject.

The policy also allows the principal to ask for the signing of questions to candidates who were normally taught through signing if access to questions was not possible through other means. The deaf candidates are not allowed to sign their responses to the examination items which perpetuates misperception of sign languages as inadequate access tools instead of natural languages, quite in tandem with GC 4 misinterpretation in paragraph 34(d). This reflects a deviation from the social, linguistic model in the text of the CRPD. Modifications mandated by the same policy circular for signed examinations were that the principal should provide for sign language interpreters to sign examination instructions or questions to deaf learners in each paper. These interpreters are specialist teachers with experience in teaching deaf learners and they become special invigilators who carry out signed examinations and also become markers for the candidates' scripts. These modifications are in the spirit of removing linguistic impediments to accessing public examinations in line with the CRPD.

43 *Secretary's Circular P36: Special education placement procedures* Zimbabwe Ministry of Education, Sport and Culture (1990).

44 *Secretary for Education Special examination arrangements for learners with disabilities and other special needs* Zimbabwe Ministry of Education Permanent Secretary (2007b).

The policy specifies that the signing of examinations is meant for candidates who are normally taught through signing. This policy ideal might not be matched by the reality on the ground. The reality is that there is restricted input of sign language in formal learning situations where children are taught by teachers who are not fluent signers.<sup>45</sup> In schools where spoken language is mostly used, the teachers are unlikely to have the fluent signing skills that come with regular use. Interpretation requires native-like competency.<sup>46</sup> Therefore there appears to be a mismatch between the policy's idealistic notion of signing for the deaf candidates and reality. The reality is that there are no learners who are formally taught through fluent sign language. A related reality emanating from the lack of regular, consistent use of signing is that the schools might not have teachers with sufficient competence to interpret examinations into sign language. It can, however, be argued that as the policy advocated the signing of general words and phrases while maintaining the key words of the written language, this is compatible with what some of the teachers do, and so they can be expected to have the competence. The efficacy of signing general words and phrases while retaining key words of the written language has, however, been strongly contested.<sup>47</sup>

The policy position advocating the signing of general words and phrases while maintaining the key words of the written language also appeared to contradict in principle another provision in the same policy which allowed the modification of syntax. Modification of syntax shows acceptance of the principle that the examination is being interpreted into another language: A sign language. This principle was contradicted by the policy's stipulation that subject-specific vocabulary from the written language must be maintained and not modified. As changes in general and subject-specific vocabulary are a necessary part of any real interpretation from one language to another, the policy's outlawing of modifications to subject-specific vocabulary is inconsistent with the basic principles of interpretation. The policy therefore has internal inconsistency as it is based on two incompatible philosophies. On one hand, it allowed signing and changes to syntax, both of which are concessions based on a philosophy of the acceptance of human diversity hence interpretation into a more accessible language. On the other hand, the policy outlawed changes to subject-specific vocabulary and candidates' signed responses to examination questions, which are stipulations that could be viewed as

45 B Schick 'The development of American sign language and manually coded English systems' in M Marschark & P Spencer (eds) *The Oxford handbook of deaf studies, language and education* (2011).

46 J Napier et al *Sign language interpreting* (2010).

47 See R Johnson et al (n 36 above); D Power et al 'Learning English from signed English: An impossible task?' (2008) 153 *American Annals of the Deaf* 37.

based on an audist philosophy that places a higher value on sound-based, written languages over signed ones.<sup>48</sup> This may be based on fears of diluting the essence of the subject under examination because policy-makers may not believe that sign language is a real language capable of being used to examine academic subjects. It could also be based on the observation that ZSL is not sufficiently developed for academic purposes. In any case, the prohibition of changes to subject-specific vocabulary results in internal contradictions to the policy. This might defeat the purpose of enabling access to the examination. It is understandable that the policy does not want the examination content to be changed. What the policy-makers may be unaware of is the possibility that teachers who are able to interpret correctly can still maintain the subject-specific content intact even if the language and the form presenting the material changes. The policy's choice of the word 'modifications' instead of 'interpretation' or 'translation' in reference to the written language is a telling example of the hidden bias towards sound-based language. In an explicit show of audism the policy went on to state:

For aural tests, special amplification may be used or tests may be read to enable candidates to lip-read. In addition to speech-reading the content of the tape in an aural test, the presenter may finger-spell the initial letter of words which are easily confused.

In this excerpt the earlier preference for sound-based languages over sign language becomes quite clear.

## 5 Conclusions and recommendations

In light of the above results, it can be concluded that the role that ZSL is expected to play in teaching and learning in special schools is ambiguous. The study found contradictions where, on one hand, legal and some policy positions took a diversity perspective viewing ZSL as a real language for inclusive education while on the other hand there were policy positions which took a deficit perspective viewing ZSL as a crutch to augment broken communication. Lower level policies tended to downplay the role of ZSL for teaching and examination and this contrasts government's legal position to utilise this language for these purposes. Such contradictions lead to uncertainty about whether it is a real language that can be used as a language of teaching and learning. Even though the constitution and some policy documents refer to ZSL as a language, it does not get the same equitable treatment that other previously marginalised spoken languages are getting in policy and practice. ZSL was not understood to be an independent visual-gestural language of equal standing to any spoken

48 HDL Baumann, HDL & JJ Murray 'Deaf studies in the 21st Century: Deaf gain and the future of human diversity' in M Marschark & P Spencer (eds) *The Oxford handbook of deaf studies, language and education* (2010).

language. These contradictions can be traced back to one-size-fits-all, deficit interpretations of Zimbabwean inclusive education policies and the CRPD. There were also instances of inconsistencies which resulted from policy co-articulation as some policies were imbued with perceptions of deafness as a disability at the same time also having aspects that recognised deaf people as a linguistic minority. The deficit interpretations and inconsistencies are despite provisions that recognise deaf learners' right to a preferred language of instruction such as sign language. The demeaning of ZSL could reflect a hangover of patronising, colonial attitudes towards this language which was marginalised in colonial times. This paper argues that the contradictions follow Hart's Separation Thesis in which those taking the diversity perspective opined the law as it ought to be while those who took a deficit perspective championed the law as it is.

It is therefore recommended that in order for ZSL to take its proper place in schools, policy-makers should leverage progressive legislation and align policies to a diversity perspective that recognises ZSL as a real language. This would allow the language to have comparable status to other languages that are being used in the school system. ZSL could then be taken as the first language of pupils who prefer it so that it can be used for inclusive education in a multilingual curriculum in mainstream and special schools.

More generally, it is recommended that interpretations of international disability protocols such as the CRPD should be open-minded to avoid unwittingly reverting to one-size-fits-all scenarios that inclusive education is intended to remedy. If the case example of deaf learners is taken into account it may be prudent to avoid defining inclusive education in terms of places where education takes place, in other words mainstream versus special schools. The overriding defining characteristic of inclusive education would appear to be access to knowledge rather than specific geographical settings. On this basis, a more appropriate reconceptualisation and redefinition of inclusive education in the GC 4 is recommended.