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**PROTECTION OF THE RIGHTS OF OLDER PERSONS IN ZAMBIA: A
COMPARATIVE ANALYSIS OF THE LEGAL AND POLICY FRAMEWORKS TO SOUTH
AFRICA.**

BY:

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**AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN
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2025

DECLARATION

I, **WESTERN MWIMBE**, do solemnly declare that this dissertation titled “**PROTECTION OF THE RIGHTS OF OLDER PERSONS IN ZAMBIA: A COMPARATIVE ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK TO SOUTH AFRICA**” which is hereby submitted to the School of Law at the University of Lusaka as part of the requirements for the award of the Bachelor of Laws (LLB) degree, is my original work and has not previously been submitted for the award of a degree at this or any other tertiary institution. The sources that have been used or quoted have been indicated and duly acknowledged as complete reference.

I fully comprehend the meaning of plagiarism and I am aware of the institution’s policy in respect of this research. Therefore, I have duly made mention and acknowledged the work of others as references.

WESTERN DANIEL MWIIMBE

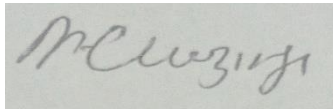


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SUPERVISOR'S RECOMMENDATION

I, **MWAKA CHIZINGA**, do recommend that this dissertation titled "" authored by Western Mwimbe and done under my supervision, be admitted by the University. I have checked it carefully and I am satisfied that it meets the necessary requirements pertaining to the format laid down by the University regulations.



.....
Ms. Mwaka Chizinga

(Supervisor)

Date

DEDICATION

This dissertation is dedicated to my beloved wife Theodora Bunda, my children Ivyn, Daniel, Kyan and Keith for all the support and sacrifices that they made to see me get here. I further dedicate it to my mother, Ms. Vera Namwiya Mwimbe who continues to support my dreams and lastly, this work is dedicated to my late father, Mr. Edward Western Mwimbe, to whom I owe all the hard work I have put into this beautiful work. In his words he always said to me, “under the heavens, all things are possible as long as God exists in your life, you can be whatever you dream to be”. I love you even in death dad as I dedicate this work to you.

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The Constitution of Zambia (Amendment) Act No. 2 of 2016, Cap 1 of the Laws of Zambia.

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KEY TERMS AND ACRONYMS

UN	United Nations
UNZA	University of Zambia
GRZ	Government of the Republic of Zambia
ILO	International Labour Organization
WHO	World Health Organization
AU	African Union
NAPSA	National Pension Scheme Authority
ART	Anti-Retroviral Therapy
NGO	Non-Governmental Organization
CSO	Civil Society Organization
ILO	International Labour Organization
NAP	National Ageing Policy
Stats SA	Statistics South Africa

Key Terms and Definitions

Term	Definition
Ageing	The natural process of growing older, often accompanied by physical, social, and economic changes that may affect a person's well-being.
Ageism	Prejudice or discrimination against individuals based on their age, often leading to marginalization of older persons.
Best Interests Principle	A standard used in law and policy to ensure that all actions or decisions made about a person promote their welfare and dignity.
Community-Based Care	A system of support that allows older persons to remain within their homes or communities while receiving assistance and care.
Dignity	The right of every person to be valued, respected, and treated ethically regardless of age or circumstance.
Elder Abuse	Any act or failure to act that causes harm or distress to an older person, including physical, emotional, or financial abuse.
Human Rights	Basic rights and freedoms that belong to every person, including older persons, such as dignity, equality, and protection from abuse.
In Need of Care and Protection	A legal term referring to an older person who requires help or intervention due to neglect, abuse, or incapacity.

Legal Framework	A collection of laws, acts, and regulations that govern a particular area, here referring to laws protecting the rights of older persons.
Older Persons	Individuals, usually aged 60 years and above, who are considered senior citizens or elders in society.
Policy	A guiding principle or course of action adopted by a government or institution to address particular issues — in this context, ageing and elder protection.
Social Inclusion	The process of ensuring all individuals, including older persons, have opportunities to participate fully in society.
Social Protection	Public measures designed to provide income security and access to essential services for vulnerable groups, including the elderly.

ABSTRACT

This dissertation undertook a critical analysis of the legal and policy frameworks for the protection of older persons' rights in Zambia, conducting a comparative study with South Africa's robust legislative model. The central problem identified was the significant legislative lacuna in Zambia, which, despite the existence of a National Ageing Policy (2015), leaves older persons vulnerable to abuse, neglect, and socio-economic marginalization due to the policy's non-binding and unenforceable nature. In contrast, South Africa's Older Persons Act No. 13 of 2006 provides a comprehensive, rights-based, and legally enforceable framework that effectively safeguards the dignity, autonomy, and well-being of its elderly citizens.

Through a qualitative and comparative research methodology, this study evaluated the strengths and weaknesses of Zambia's policy-based approach, highlighting its implementation challenges, resource constraints, and lack of judicial recourse. It then systematically examined the South African Act, distilling key best practices such as its mandatory abuse-reporting mechanisms, community-based care model, regulated residential facilities, and explicit prohibition of age-based discrimination.

The research concluded that Zambia's reliance on policy alone is insufficient to meet its constitutional and international human rights obligations towards older persons. The findings revealed tangible negative impacts of this legislative gap, including limited access to healthcare, financial exclusion, economic disempowerment, and heightened vulnerability to violence and witchcraft accusations. Consequently, the study strongly recommends the urgent enactment of a dedicated Older Persons Act in Zambia. This proposed legislation should translate the principles of the National Ageing Policy into justiciable rights, establish clear institutional duties, and incorporate the protective and empowering provisions exemplified by the South African model to ensure the dignity, security, and inclusion of older persons in Zambian society.

CHAPTER ONE

1.0 Introduction

In Zambia, the welfare and general well-being of older persons has increasingly become a matter of concern due to the growing challenges this demographic faces. This situation mirrors a much broader global trend, as many countries, particularly in developing regions are experiencing a demographic shift toward aging populations. In contrast, numerous developed nations, such as the United Kingdom, the United States, and Germany have long recognized the importance of safeguarding the rights and dignity of older persons and have consequently established more structured policies to support them.

As life expectancy continues to increase, now averaging around **69.07** years, Zambia is experiencing a growing demand for services and protection for its vulnerable elderly population. This shift shows the urgent need for legislation that addresses the unique challenges faced by older persons, ensuring that their rights and needs are properly safeguarded.

The protection of older persons goes beyond a mere social obligation as it is also a fundamental human rights responsibility. The Zambian Constitution enshrines the protection of all citizens rights, including the elderly, and this commitment is further reinforced by Zambia's ratification of international and regional agreements, such as the **African Charter on Human and Peoples' Rights** and the **Protocol on the Rights of Older Persons in Africa**. These instruments establish a clear framework for the protection of older persons' rights, obligating Zambia to create policies and laws that uphold these standards.

Notwithstanding this, Zambia's legal framework remains largely silent on the specific rights and protections afforded to older persons. While other vulnerable groups like women, children, and the differently abled have legislation enacted for reinforcement, the older

persons have unfortunately been left behind, relying heavily on policy instruments like the **National Ageing Policy of 2015**, which lacks binding enforceability.¹

Conversely, South Africa has established a more robust and codified approach through the **Older Persons Act**, providing a valuable model for the legal protection of this vulnerable demographic.²

While Zambia has ratified international instruments aimed at protecting older persons, the country lacks specific domestic legislation addressing their rights. The **National Ageing Policy** was approved in 2013 and launched in 2015. However, as of 2025, it has yet to be fully implemented, limiting its effectiveness in addressing the needs of older persons. This policy, although established, has faced criticism for its limited implementation and enforceability. On April 3rd, 2024, Zambia's Daily Nation published an article highlighting concerns regarding the lack of implementation of the National Ageing Policy in Zambia and emphasizing the critical need for its enforcement.²

This study therefore seeks to expose the gaps within Zambia's legislative structure in comparison to South Africa's legislative approach, for the purpose of identifying legal reforms that could enhance the protection of older persons in Zambia.

1.1 BACKGROUND OF THE STUDY

Like many other nations, Zambia is experiencing a demographic transition marked by a growing elderly population. Advancements in healthcare over the years have contributed to increased life expectancy and longer lifespans. However, this positive development has also revealed gaps most notably, the absence of dedicated laws to safeguard the rights of older persons. As the elderly population continues to expand, the systems intended to support and protect them remain insufficient, leaving them vulnerable to neglect, exploitation, and marginalization.

¹ <https://www.dailynationzambia.com/2024/04/zambias-aging-population-a-closer-look-of-the-nationalaging-policy/>

² Act No. 13 of 2006

² Ibid ²

Older persons in Zambia have faced a range of challenges, including poverty, abuse, neglect, and poor access to critical services such as healthcare and social security from time immemorial. The **National Ageing Policy**, implemented in 2015, made a step toward addressing these issues. However, because this policy lacks enforceable mechanisms, it makes the majority of the violations against the elderly non justiciable and therefore not enough to adequately protect older persons from the various forms of abuse they endure. As a result, Zambia's elderly population continues to be marginalized.

Isaac Kabelenga said, one particularly disturbing form of abuse that older Zambians face is political abuse. As highlighted, the absence of a clear and enforceable policy on aging and elder rights has allowed for the mistreatment and exploitation of older persons, particularly in political contexts.³ Kabelenga's research showed the urgent need for legal interventions that address elder abuse, including political abuse and discrimination. This is particularly relevant in Zambia's post-independence political landscape, where political leaders, including former President **Kenneth Kaunda**, have been victims of a lack of protective measures for the elderly.

Dr. Kaunda, Zambia's first president, is said to have suffered from neglect and political manipulation in his later years. For instance, **Kamwengo** reports that between 1994 and 1997, Dr. Kaunda was stripped of his Zambian nationality by the high court which made him stateless. This was politically instigated. However, the Supreme Court reversed the decision. Between 1994 and 1996, some politicians in the Movement for Multi-Party Democracy (MMD) and the United National Independence Party (UNIP) called on former President Kaunda to retire from politics, arguing that he was too old to continue participating in politics.⁴

Kaunda's experience serves as a poignant example of the systemic failures in Zambia's handling of elderly care and rights even in the past. The lack of a specific older Persons Act or similar legislation means that older individuals, regardless of their political stature or

³ Kabelenga I, *Elder Abuse in Zambia: A Call for Legal Intervention* (2020)

⁴ Ibid⁴

public service, are left without the robust legal framework needed to protect them from abuse.

The International Institute on Ageing has noted that older persons, particularly in developing nations like Zambia, suffer from systemic neglect due to the absence of specific legislation. Studies on elder abuse in Zambia highlight the urgent need for legal reforms that go beyond addressing physical and emotional harm to also include political abuse. This serves as a clear example of the consequences that arise when the rights of older persons are neither clearly defined nor legally protected. As a result, elderly individuals are left exposed to various forms of mistreatment whether within their households, healthcare institutions, or the broader political landscape.

1.2 STATEMENT OF THE PROBLEM

Like many other countries, Zambia faces the challenge of an aging population which brings an inevitable need for their protection, being among the recognized vulnerable groups in the country. As aforesaid, Zambia has ratified international instruments like the *African Charter on Human and Peoples' Rights* and the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa*, therefore giving a responsibility to cater for this group in the enactment of laws regarding their protection. Other vulnerable groups like children and women have clear and specific legislation on their protection, such as the **Children's Code Act No. 12 of 2022** as well the **Gender Equity and Equality Act No. 22 of 2025** and the **Anti-Gender-Based Violence of 2010** for the protection of women. Older persons require an appropriate level of protection to safeguard the rights and freedoms to which they are entitled at their stage in life.

Unfortunately, Zambia has not taken the initiative yet to enact specific legislation to protect the rights of the older persons. This group is therefore particularly vulnerable to discrimination, abuse, neglect, and a lack of an active right to access essential services such as healthcare, social security, and adequate housing. While Zambia has put in place the **National Ageing Policy of 2015**, the effectiveness of this policy with regards to protection of rights of older persons remains questionable. This is so because this policy

only gives guidelines but does not guarantee enforceability in terms of non-compliance, rendering it essentially ineffective.

South Africa on the other hand, has enacted the **Older Persons Act No. 13 of 2006** which sets out clear legal provisions on the protection of older persons' rights, compliance requirements as well as penalties for non-compliance. It is therefore true that Zambia's inadequacy in its legal framework to protect older persons' rights makes it difficult to fully protect this vulnerable group as they solely depend on policy guidelines which may change from time to time. This study herein, will be a comparative study, drawing lessons from South Africa's **Older Persons Act** to identify potential areas for reforms in Zambia and make appropriate recommendations based on the findings.

1.3 OBJECTIVES OF THE STUDY

1.4 General Objective

The general objective is to analyze the legal and policy frameworks for the protection of older persons' rights in Zambia, evaluate the efficacy of Zambia's policy-based approach, and formulate recommendations for strengthening the protection of older persons' rights in Zambia through the development of targeted legislation.

1.5 Specific Objectives

- a) To evaluate the existing policy framework in Zambia concerning the protection of the rights of older persons, with a particular focus on the **National Ageing Policy of 2015**.
- b) To conduct a comparative analysis of the **Older Person's Act** of South Africa and its implementation, highlighting best practices and lessons applicable to Zambia.
- c) To evaluate the impact of the absence of specific legislation on the lived experiences of older persons in Zambia, including their access to healthcare, social services, and legal protection.

1.6 Research Questions

- a) To what extent has the National Ageing Policy of 2015 effectively addressed the rights and needs of older persons in Zambia?
- b) What key features of South Africa's Older Persons Act of 2006 can be adapted to strengthen the legal protection of older persons in Zambia?
- c) How has the lack of specific legislation affected older persons' access to essential services and protection in Zambia?

1.7 Significance of the Study

This study is significant because it exposes the urgent need for a comprehensive legal framework to protect the rights and welfare of older persons in Zambia. Despite there being a growing elderly population and ratification of international and regional human rights instruments, Zambia still remains with a legislative gap. As aforesaid, this gap has left older persons vulnerable to abuse, neglect, and limited access to essential services such as healthcare, social protection, and legal redress.

By analyzing other pieces of legislation such as the South African Older Persons Act, a model of targeted and enforceable elder rights legislation, this study identifies practical and tested approaches that can inform Zambia's own legal and policy reform. The comparative analysis serves not only to draw attention to best practices but also to highlight the feasibility of adopting similar protective mechanisms in Zambia's legal system. Furthermore, the study contributes to the academic and policy discourse on ageing and human rights in Africa. It offers a foundation for further scholarly research, advocacy, and policy development aimed at ensuring that older persons are fully integrated, respected, and protected within society.

Ultimately, the findings and insights from this research will be valuable to policymakers, legal reformers, civil society organizations, and other stakeholders working to promote the dignity, safety, and well-being of Zambia's elderly population.

1.8 Scope of the Study

This study focuses on the legislative structure and policy on the protection of the rights of older persons in Zambia, specifically evaluating the National Ageing Policy of 2015. The primary focus will be on understanding the effectiveness of this policy in addressing the needs of the elderly and its implementation challenges. The study will examine the existing gaps in Zambia's legal provisions for older persons, exploring the direct consequences of these gaps on their well-being, access to services, and protection against abuse.

A comparative analysis with South Africa's Older Persons Act of 2006 will be conducted to identify best practices and lessons that can be applied to improve the legal protections for older persons in Zambia. The study will not only compare the legislative provisions but will also assess the practical implementation of these laws and the impact they have on the lived experiences of older persons in both countries.

The geographical scope of the study will be limited to Zambia and South Africa. Data will be collected from relevant legal documents, and secondary sources, including academic articles, reports from international organizations, and governmental publications. This study will also consider the social and cultural context of both countries to understand how these factors influence the protection of older persons.

1.9 Literature Review

Bernadette Deka in her article, emphasizes the relevance of caring for elderly members of society, pointing out that although they represent a minority, those aged 65 and over comprise over 3% of Zambia's total population.⁵ Their needs and rights deserve urgent attention just like every other vulnerable group. Deka highlights the progression of Zambia's National Ageing Policy, which was initially drafted in 2008, approved by Cabinet in 2013, and finally launched in 2015. However, despite its formal adoption, the policy remains largely unenacted to date.

⁵ <https://www.lusakatimes.com/2007/09/20/government-discards-the-elderly/>

Although not in Zambia, the urgency of implementation of laws for the elderly is illustrated by **Nyanguru (1991) [22]**, who reports a tragic case in Zimbabwe where an elderly man in a care home was dying but could not be transported to a hospital 50 kilometers away because the only rural bus had broken down two days earlier. The absence of on-site medical facilities compounded the crisis. Without deliberate policy intervention, similar preventable tragedies may continue to occur. Once operationalized, the law could serve as a means for integrating aging-related concerns into national development agendas and would potentially lay the groundwork for much-needed legal reforms. Such reforms could address existing gaps in the legal system that leave older citizens vulnerable to abuse, neglect, and marginalization.

Enactment of legislation for the elderly would reflect the government's genuine commitment to the well-being of older persons, especially in terms of budgetary allocation and targeted programming. To safeguard the dignity and well-being of older persons, the government could adopt and enforce legislative measures, such as subsidized transport schemes that exempt the elderly from bus fares. In Zambia, public and private transport services remain largely unresponsive to the mobility needs of older persons, especially those residing in care facilities. Providing all such facilities with dedicated transport would significantly improve access to health care, community services, and other essential destinations.

Moreover, the Ageing policy outlines the importance of tailoring Zambia's social environment to better accommodate the ageing population. This includes providing access to age-friendly healthcare, social protection, and inclusive infrastructure. On the global stage, Zambia's policy also acknowledges the significance of international advocacy efforts, such as the ongoing discussions surrounding the **United Nations Convention on the Rights of Older Persons**. This instrument, if ratified, would aim to enshrine the principle of equal human rights regardless of age and help countries, including Zambia, adopt a rights-based approach to ageing.⁶

Similarly, while Zambia has taken the important first step of signing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa,

⁶ United Nations Convention on the Rights of Older Persons

an instrument that could serve as a solid foundation for legal protections for older persons, it has not yet ratified the Protocol. This regrettably means that the Protocol's provisions remain unenforceable within Zambia. The document articulates critical rights, including protection from discrimination in employment, the right to make autonomous decisions, and enhanced social protection for older people, among other provisions.

For developing countries like Zambia, ratifying such international instruments is essential even though these instruments are designed with broad, regional standards in mind and may not directly address the country's unique cultural, economic, and infrastructure-specific realities. Once ratified, national legislation can and should adapt the general principles to local contexts by including locally appropriate definitions.

In addition, the Zambia Association for the Aged (ZAPA) has been at the forefront of championing the translation of the National Policy on Ageing (2015) into binding legislation, arguing that without a clear legal framework, the rights and dignity of older persons remain vulnerable. **ZAPA** contends that such a law must go beyond mere protection to actively promote empowerment programmes, provide reliable income support, and affirm the invaluable wisdom and life experience that the elderly contribute to national development.⁷

Often residing in the poorest households, older persons are particularly susceptible to harmful societal beliefs, including witchcraft accusations, which can lead to social isolation, abuse, or violence. In the absence of a codified legal framework specifically dedicated to the rights of older persons, these issues remain largely unaddressed and are very difficult to enforce because. Dekka further notes that there are currently no HIV/AIDS programs or statistics specifically targeting individuals aged 65 and above, a gap that reinforces the broader invisibility of older people in Zambia's health and social policy.⁸

Kabelenga (2020) highlights some legislative gaps in the protection of older persons in Zambia, particularly regarding political abuse as a form of elder abuse that remains largely unaddressed. Despite constitutional guarantees of political rights, political abuse of the

⁷ <https://www.facebook.com/SUNFM88.5/posts/translate-the-national-ageing-policy-of-may-2015-into-law-lawmakers-urged-the-zam/2533768726688512/>

⁸ <https://www.dailynationzambia.com/2024/04/zambias-aging-population-a-closer-look-of-the-nationalaging-policy/>

elderly, especially during electoral processes, is widespread but not explicitly recognized or criminalized in Zambian law (**Kabelenga, 2020, pp. 18–19, 32–33**). His study identifies weaknesses within the **Zambia Electoral Act of 2006**, where the assistance provided to older voters by presiding officers or family members often results in manipulation and exploitation, owing to the absence of effective safeguards and monitoring mechanisms. Moreover, while older persons are formally entitled to vote, practical barriers such as illiteracy, poor eyesight, and poverty severely undermine their ability to exercise this right independently, revealing a dissonance between legal provisions and their enforcement.⁹

Kabelenga advocates for a broader legal recognition of political abuse alongside the internationally recognised categories of elder abuse physical, sexual, verbal, material, and neglect to ensure comprehensive protection under Zambian law. Consequently, the author calls for urgent legal and policy reforms, including amendments to the Electoral Act to curb the oversight of voting assistance, prohibit family members from influencing the vote, and consider exemptions for highly vulnerable older persons to prevent exploitation.

These observations underscore the pressing need to address the legislative lacuna that leaves older persons in Zambia vulnerable to political abuse and other forms of neglect. Since ballot papers are printed in English, a language many older individuals may not fully understand, they may be misled by electoral officers who manipulate the voting process. For instance, an older person might express their intention to vote for a candidate based on a photograph or symbol, but due to poor vision or misunderstanding, they may be guided intentionally or otherwise to vote for a different candidate, often one favored by the assisting officer.¹⁰

Changala (2016) says this gap results in a lack of regulatory frameworks and guidelines for the operation of old people's homes, leading to inconsistent care standards and

⁹ Isaac Kalenga, 'Political abuse of older people in rural and urban Zambia: A focus on perpetrators and suggested solution' (2020) 5(1) *International Journal on Ageing in Developing Countries* 18–35.

¹⁰ Ibid 10

inadequate protection for the elderly. The absence of such a policy reflects a broader legislative void concerning the rights and welfare of older persons in the country.¹¹

The absence of a national policy on ageing in Zambia exacerbates the challenges faced by older persons, leaving them vulnerable to neglect and abuse. Changala et al. (2016) assert that without a comprehensive policy, there are no standardized guidelines for the operation of old people's homes, leading to inconsistent care and protection for the elderly. This legislative gap reflects the urgent need for a dedicated legal framework to safeguard the rights and well-being of older persons in Zambia.

Supporting this, **Maphosa and Tshabalala (2015)** highlight that without clear policy frameworks, older persons in many African countries face systemic marginalization and inadequate access to social services, which undermines their well-being and dignity.¹²

Finally, according to **M.S. Strum**, elder family financial exploitation is globally recognized as one of the fastest growing and most prevalent forms of elder abuse. It often involves the unauthorized or improper use of an older person's funds, property, or assets by family members or trusted individuals, leaving them financially vulnerable and emotionally distressed. These realities highlight the urgent need for legislative and institutional reforms to safeguard older persons from such violations of their rights.¹³

A sense of entitlement to an elder's resources has been identified as a motivator for exploitation but remains relatively unexplored, and for as long as the gap remains, elders will forever be exploited with no provision for recourse against the perpetrators.¹⁴

¹¹ Moses Changala, Esther Mubiana-Mbewe and Leonard Kapata, 'Challenges faced by caregivers in old people's homes in Zambia' (2016) 2 studies in social sciences and humanities 23

¹² Ibid

¹³ M.S. Strum¹, R. Kilderia^{1,3}, M. Peterson², 1. Family Social Science, University of Minnesota, St. Paul, Minnesota, 2. Minnesota Elder Justice Center, St. Paul, Minnesota, 3. School of Social Work, St. Paul, Minnesota

¹³ ¹⁴ **ibid**⁶

1.9.0 Methodology

1.9.1 Research Approach

This study will be carried out using qualitative methods and will take in-depth data collection from both primary and secondary sources. It will cover an analysis of Acts of Parliament, Agreements, journals, documents, and literal work.

1.9.2 Research Design

The pattern of the research will be analytical and evaluative, seeing as the gap in the law regarding older people shall be assessed. The study seeks to draw lessons from the jurisdiction of South Africa. The research is to be based on the qualitative method of writing; the study shall to a large extent depend on journals, books, internet sources, case law, newspapers, academic papers, and articles. This study will also include information collected from selected individuals above the age of 60 living in Zambia.

1.9.3 Research Type

This will be a qualitative comparative study.

1.9.4 Study Population

The study will primarily be a comparative study between Zambia and South Africa.

1.9.5 Study Size

This study will have a sample size of 10 elderly persons above the age of 60 and will include information collected from the Ministry of Community Development

1.9.6 Sample Technique

The research will use a purposive technique which will carefully consider the best persons and institutions to respond to the questions that are needed for this research. It is anticipated that this technique may lead to a snowball sampling technique where the interviewee may lead the research to another person who may likely provide the much-needed information.

1.9.7 Data Collection

The collection of data during this study will consist mostly of secondary data that will be obtained by reviewing documents which will include Acts of Parliament, International Agreements, Books, reports, journals, and various dissertations. Where need be, primary data will be collected from consultation with relevant officials who may be interviewed via telephone or physically.

1.9.8 Data Analysis

The intention is to ensure that all the information that will be collected is codified for the purpose of making available an elevated hypothesis from the data collected. On the premise that the study being conducted is qualitative, the research would deploy direct content analysis.

1.9.9 Ethical Considerations

In adherence to ethical research standards, formal approval to undertake this study has been obtained from the University of Lusaka. Plagiarism will not be tolerated, and due recognition will be given to all original authors and sources to maintain academic integrity.

CHAPTER TWO

EVALUATING ZAMBIA'S POLICY FRAMEWORK FOR THE PROTECTION OF OLDER PERSONS

2.0 INTRODUCTION

The protection of older persons has become an increasingly urgent concern across the world, particularly in developing countries such as Zambia where social and economic challenges compound the vulnerabilities faced by the elderly.¹⁵ Policies and laws aimed at safeguarding their rights serve as critical tools to ensure access to healthcare, social security, housing, and protection from abuse or neglect¹⁶. However, the distinction between policies and laws cannot be overstated. Whereas laws are binding and enforceable through courts of law, policies are typically non-binding guidelines that depend on political will and administrative goodwill for implementation.¹⁷

Zambia's *National Ageing Policy of 2015*¹⁸ was a landmark development in this regard, being the first national instrument to recognize older persons as a distinct vulnerable group.¹⁹ However, unlike children and women who enjoy specific legislative frameworks such as the *Children's Code Act*²⁰ and the *Gender Equity and Equality Act*²¹, older persons in Zambia continue to rely primarily on policy guidance. This raises questions about the adequacy, enforceability, and sustainability of such protections.

¹⁵ Beales, S. (2000). Why we should invest in older women and men: The experience of HelpAge International. *Gender & Development*, 8(2), 9–18. <https://doi.org/10.1080/741923631> Accessed on [1/08/2025]

¹⁶ Vera-Sanso, P., & Sweetman, C. (2009). Editorial. *Gender & Development*, 17(3), 365–376. <https://doi.org/10.1080/13552070903381380> Accessed on [1/08/2025]

¹⁷ Available at: <https://www.pmrzambia.com/wp-content/uploads/2017/08/What-is-Government-Policy.pdf> Accessed on [1/08/2025]

¹⁸ Zambia National Age Policy. Available at: <https://www.mcdss.gov.zm/wp-content/uploads/2021/06/Ageing-Policy.pdf> Accessed on [1/08/2025]

¹⁹ Available at <https://www.dailynationzambia.com/2024/04/zambias-aging-population-a-closer-look-of-the-national-aging-policy/>? Accessed on [1/08/2025]

²⁰ Act No. 12 of 2022

²¹ Act No. 22 of 2015

This chapter evaluates the existing policy framework in Zambia, focusing on the National Ageing Policy of 2015, and critically examines its strengths, weaknesses, and implementation challenges.

2.1 BACKGROUND OF THE ZAMBIA NATIONAL AGEING POLICY OF 2015

In a report by the committee on health, community development and social welfare for the second session of the eleventh national assembly appointed on 27th September 2012, speaking on the social protection for the aged in Zambia, the committee noted that the previous Committee had recommended the need for a shift in political will in order for the Government to view social protection expenditure as an investment and not as consumption. This recommendation had been made owing to the fact that the Government at the time was a pro-poor Government that valued social protection as a tool for uplifting the lives of the poor and disadvantaged in society. It was, therefore, viewed as investing in the lives of the Zambian citizens in order to reduce poverty and break its intergenerational transfer. Thus, the Committee was questioned on what steps it had undertaken to show that social protection was being treated as an investment and not consumption.²²

In the end, the committee requested for a progress report on the development of the multi-sectoral social protection policy and recommended that the draft National Policy on Ageing should be approved and implemented without further delay.²³ The National Ageing Policy was initially produced in 2008 but was officially approved by the Zambian Cabinet in 2013. By 2015, the policy was launched.²⁴

2.2 THE NATIONAL AGEING POLICY OF 2015 OBJECTIVES AND CONTENTS

2.2.1 Rationale

The National Ageing Policy was developed in 2015 to provide guidelines aimed at uplifting the standard of living of Older Persons. The Policy was formulated to help address some of the challenges faced by the Older Persons. This was an effort towards integrating ageing

²² Available at:

https://www.parliament.gov.zm/sites/default/files/documents/committee_reports/HEALTH%20REPORT2013.pdf Accessed on [3/08/2025]

²³ *ibid*

²⁴ Available at: <https://www.parliament.gov.zm/node/1092?> Accessed on [3/08/2025]

issues into the National Development Agenda.²⁵ The National Ageing Policy was aligned with the *Madrid Plan of Action of 2002*²⁶ and the *African Union Policy framework and Plan of Action on Ageing*.²⁷

2.2.2 Guiding Principles

2.2.2.1 Participation: The policy recognizes the human right and duty of older persons to actively participate in the economic, social, cultural and political affairs of the nation as well as in the formulation of policies affecting them. They have the responsibility of sharing knowledge with younger generations and are free to form associations that further their interests.²⁸

2.2.2.2 Dignity, Security and freedom from exploitation: The policy recognizes that all Zambian citizens are born free, equal with dignity and rights. As such, the policy recognizes that older persons are entitled to all the rights and fundamental freedoms enshrined in national and various international instruments and conventions. To that end, the policy thus recognizes the need for older persons to live in conditions of dignity and security and the need for them to be free from all forms of marginalization, discrimination, exploitation and abuse.²⁹

2.2.2.3 Family and Community Care: The policy also recognizes the need for older persons to benefit from the care, support and protection provided by the family and the community.³⁰

2.2.2.4 Partnership: The policy acknowledges that the provision of care and support to older persons is an enormous task that requires the involvement of all stakeholders. To that end, the policy places an obligation on the Government to embrace partnerships and collaborate closely with the private sector, Civil Society Organizations, Cooperating

²⁵ Available at: <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2021/12/Policies-affecting-older-persons-in-zambia.pdf> Accessed on [5/08/2025]

²⁶ Available at: <https://undesadspd.org/Ageing/Resources/MadridInternationalPlanofActiononAgeing.aspx?> Accessed on [5/08/2025]

²⁷ Available at: <https://www.moh.gov.zm/?p=6331> Accessed on [5/08/2025]

²⁸ n3, Clause 5

²⁹ n3, Clause 5

³⁰ n3, Clause 5

Partners, Faith Based Organizations and older persons themselves in addressing the needs of the ageing population.³¹

2.2.2.4 Availability and Accessibility: The policy further recognizes the need for older persons to have access to food, safe and clean water, sanitation, shelter, clothing, health care, employment opportunities, credit facilities, education and training and life in a safe environment.³²

2.2.2.5 Intergenerational solidarity: The policy recognizes and promotes strong links between generations to enhance cultural, social, economic and traditional values. The policy recognizes that there is need to strengthen solidarity among generations and intergenerational partnerships keeping in mind the particular needs of both older and younger citizens, and to encourage mutually responsive relationships between generations.³³

2.2.3 General Objective

The general objective of the policy is to promote and protect the rights of the ageing population to enable them to lead a productive, fulfilled and dignified life.³⁴

2.2.4 Specific Objectives

2.2.4.1 Poverty

This objective aims at integrating ageing issues into national poverty reduction programmes. To actualize this objective, one of the strategies that the policy seeks to employ is strengthen existing interventions and develop new programmes aimed at alleviating and reducing poverty among Older Persons.³⁵

³¹ n3, Clause 5

³² n3, Clause 5

³³ n3, Clause 5

³⁴ n3, Clause 6.1

³⁵ n3, Clause 6.2

2.2.4.2 Employment and Income Security

This objective aims at ensuring older persons continue to contribute to national development and have adequate income security. To archive this, one of the strategies that the policy seeks to employ is to develop and strengthen existing laws on separation packages for employees to prevent destitution and non or late payment of separation packages to deserving employees.³⁶

2.2.4.3 Health, Food and Nutrition

This objective aims at ensuring older persons have access to free appropriate health care at all levels and ensuring that the education and training curricula incorporates the nutrition and health needs of Older Persons. To archive this, one of the strategies that the policy seeks to employ is to enact legislation on the establishment of a national social health insurance scheme.³⁷

2.2.4.4 Housing, Transport and Living Environments

The aim of this objective is to ensure that older persons have access to safe, decent and affordable shelter. And also, to ensure that public and private infrastructure accommodates the needs of Older Persons and ensure that Older Persons have access to subsidized transportation and communication systems that is responsive to their needs. To archive this, among the strategies that the policy seeks to employ is to develop guidelines and minimum standards on the care and protection of Older Persons in institutional homes and by developing and operationalizing a deliberate policy on transport and communication systems that accommodates the needs of older persons.³⁸

2.2.4.5 Gender

The aim of this objective is to ensure that ensure that all national policies and programmes being developed mainstream gender in issues of ageing. To archive this, one of the

³⁶ n3, Clause 6.3

³⁷ n3, Clause 6.4

³⁸ n3, Clause 6.5

strategies that the policy seeks to employ is to review, mainstream and the aim of this objective is to ensure that all national policies and programmes are sensitive to the gender needs of senior citizens.

2.2.4.6 Human Rights

The aim of this objective is to recognize the fundamental rights of Older Persons and abolish all forms of discrimination based on age. To archive this, among the strategies that the policy seeks to employ is to amend and enact legislation which protects Older Persons against abuse, neglect and violence. Also, by incorporating fundamental human rights of Older Persons in the Bill of Rights of the Republican Constitution. And by developing and implementing programmes that create awareness on the rights of Older Persons so as to strengthen their image and dignity.³⁹

2.2.4.7 Research, Information, Education and Training

The aim of this objective is to undertake research on ageing in order to uplift the standard of living of Older Persons and to ensure that Older Persons have access to appropriate educational and training programmes. To archive this, among the strategies that the policy seeks to employ is to undertake regular research and disseminate findings on ageing and Older Persons on various issues, and to review adult education and literacy programmes in order to make them more responsive to the educational needs of Older Persons.⁴⁰

2.2.4.8 Family

This objective seeks to promote and strengthen the role of the family and the community in the care and protection of Older Persons in society. To achieve this, one of the strategies that the policy seeks to employ is to develop and promote programmes that recognize, strengthen and support the diverse roles of the family and community in the care of older persons.⁴¹

³⁹ n3, Clause 6.7

⁴⁰ n3, Clause 6.8

⁴¹ n3, Clause 6.9

2.2.4.9 Social Welfare

This objective seeks to provide social assistance to older persons to ensure they live a dignified life. To achieve this, one of the strategies that the policy seeks to employ is to develop and promote programmes and activities that aim at uplifting the living standards of Older Persons and their dependents.⁴²

2.2.5 IMPLEMENTATION FRAMEWORK

The responsibility to implement the objectives of the policy has been given to the Ministry of Community Development, Mother and Child Health. The Ministry is expected to employ an interdisciplinary and multi-sectoral approach that calls for partnership between government and other stakeholders. In addition, the policy also recognizes that the successful implementation of the policy depends on a sound and effective institutional and legal framework, resource mobilization, and a robust monitoring and evaluation mechanism.⁴³

2.2.6 INSTITUTIONAL ARRANGEMENT AND LEGAL FRAMEWORK

In light of the implementation framework explained in the preceding paragraph, the policy recognizes that the participation and partnership of key stakeholders is vital to the successful implementation of this policy. To that end, the policy emphasizes on the need for all stakeholders both in the private and public sectors to play a role in the realization of the vision for this policy. In an effort to address legal issues, the government through the Ministry of Community Development, Mother and Child Health is expected to review existing legislation and establish a comprehensive legal framework on ageing.⁴⁴

To archive this, the policy had set obligations on a number of stakeholders including the following;

⁴² n3, Clause 6.8

⁴³ n3, Clause 7.0

⁴⁴ n3, Clause 7.1

2.2.6.1 Ministry of Community Development, Mother and Child Health;

For its part, this Ministry is, among others, to set and enforce minimum standards of care for institutions looking after the welfare of Older Persons. The ministry was also tasked with spearheading the review of laws related to Older Persons. The Ministry was also tasked with representing the country at international fora on protocols and conventions on Older Persons with other stakeholders.⁴⁵

2.2.6. 2 Ministry of Justice;

For its part, this Ministry is to facilitate the provision of legal aid services to vulnerable Older Persons. The ministry was also tasked with Represent the country at international fora on protocols and conventions on the fundamental rights of Older Persons in collaboration with the Ministry of Community Development, Mother and Child Health. The Ministry is further mandated to provide technical guidance on the review and amendment of legislation to incorporate emerging issues that affect Older Persons.⁴⁶

2.2.6.3 The Judiciary:

The judiciary's role is to facilitate quick dispensation of justice on cases involving the Older Persons and ensure that all court facilities are user friendly to the needs of Older Persons.⁴⁷

2.2.6.4 Ministry of Home Affairs;

This Ministry is tasked with enforcing relevant laws protecting the rights of Older Persons, provide counselling and protection to Older Persons who have been victimised and abused and collaborate with other stake holders on Older Persons who have been victims of abuse and other crimes.⁴⁸

2.2.6.5 Ministry of Education, Science, Vocational Training and Early Education;

⁴⁵ n3, Clause 7.2

⁴⁶ n3, Clause 7.4

⁴⁷ n3, Clause 7.5

⁴⁸ n3, Clause 7.6

This ministry is tasked with incorporating mainstreaming ageing into the education and vocational curricula and other developmental services. It is also responsible for the provision of educational necessities to vulnerable children from households headed by Older Persons. The Ministry is also tasked with Collaborating with Ministry of Community Development, Mother and Child Health in the design and provision of adult literacy programmes to Older Persons.⁴⁹

2.2.6.6 Ministry of Foreign Affairs;

For its part, this Ministry is to represent the interests of the nation abroad and overseas on matters relating to Older Persons. The Ministry is also tasked with facilitating and safeguarding the interests of Zambian Older Persons living abroad.⁵⁰

2.2.6.7 Ministry of Health;

This Ministry is tasked with facilitating the introduction of Social Health Insurance Schemes which will enable Older Persons to access free health care at all levels and to provide nutritional supplements to Older Persons on Anti-Retroviral Therapy (ART).⁵¹

2.2.6.8 Ministry of Local Government and Housing;

The Ministry is tasked to enacting and enforcing by-laws that protect the welfare of Older Persons and facilitate the provision of concessions on rates, levies and other related services for Older Persons. It is further mandated to facilitate provision of decent affordable shelter and construction of suitable facilities for Older Persons and the establishment of burial schemes for Older Persons.⁵²

⁴⁹ n3, Clause 7.7

⁵⁰ n3, Clause 7.8

⁵¹ n3, Clause 10

⁵² n3, Clause 7.11

2.2.6.9 Ministry of Finance;

The Ministry of Finance and National Planning is tasked with facilitating the mobilisation, planning, budgeting and allocation of resources for programs on ageing and Older Persons, facilitating the formulation of fiscal policy which takes into consideration needs of the ageing population, generate updated social and economic statistics on Older Persons for planning purposes, and advise on financial matters related to ageing programmes. It is further given the responsibility to monitor the utilisation of public resources allocated to programmes for ageing and Older Persons and facilitate the provision of tax concession on services targeting Older Persons.

2.2.6.10 Ministry of Labour and Social Security;

For its part, this Ministry is tasked with supervision and provision of guidelines to institutions administering contributory social security schemes, to establish a non-contributory universal social pension scheme for Older Persons and provide policy direction on social security matters. The Ministry further works on developing and implementing social security public awareness targeting Older Persons as well as to review labour laws to integrate ageing issues.

2.2.6.11 Ministry of Chiefs and Traditional Affairs;

This ministry is tasked with promoting good cultural and traditional values that enhance intergenerational solidarity. One of its functions is to promote the indigenisation of the Zambian society in terms of positive cultural values and ensure that Older Persons are provided with a platform to share their experience and expertise with the young generation. The Ministry is further responsible for protection of Older Persons in communities from being victims of stigma and unsubstantiated accusations of witchcraft and misfortunes in their families and societies.⁵³

⁵³ n3, Clause 7.18

2.2.6.12 Non-Governmental Organizations, Faith Based Organizations and Civil Society;

These stakeholders are tasked with complementing and collaborating with Government on the delivery of services to Older Persons, creating awareness on the rights of Older Persons and monitor the implementation of programmes related to Older Persons; Mobilize resources for the support of Older Persons and conduct research on issues of ageing and Older Persons.⁵⁴

2.2.7 Monitoring and Evaluation

In order to ensure effective implementation of the Policy, the policy has put an obligation on the Government through the Ministry of Community Development, Mother and Child Health to put in place a comprehensive monitoring and evaluation system that will track the various activities for outcomes and impacts. In this regard, Government is required to; i). Develop a National Plan of Action on ageing; (ii). Develop a monitoring and evaluation system to track the implementation of the policy; (iii). Develop a Management Information System to facilitate data management to inform decision making; (iv). Undertake periodic reviews and evaluations to assess performance and improve programming.⁵⁵

2.3 STRENGTHS OF THE NATIONAL AGEING POLICY 2015

2.3.1 Recognition of Older Persons

The policy was passed with the sole purpose of recognizing and acknowledging older persons as a vulnerable group requiring special care by the state. This recognition in itself was a step towards placing a spotlight on the older persons and making them visible in public policy discourse.⁵⁶

⁵⁴ n3, Cluse 7.21

⁵⁵ n3, Clause 7.4

⁵⁶ Available at; <https://www.parliament.gov.zm/node/8001>? [Accessed on 17/08/2025]

2.3.2 Alignment with International Standards

The Government of the Republic of Zambia developed the National Ageing Policy in 2015 in alignment with the Madrid International Plan of Action on Ageing (2002)⁵⁷ and the African Union Policy Framework and Plan of Action on Ageing (2002)⁵⁸, demonstrating Zambia's recognition of its international and regional obligations toward the rights and welfare of older persons.⁵⁹

2.3.3 Multi-Stakeholder Approach

The Policy envisages collaboration between government, civil society, and families in implementing programmes for older persons. This is an important approach towards ensuring sustainable ageing programmes.⁶⁰

2.4.1 WEAKNESSES AND GAPS IN THE NATIONAL AGEING POLICY 2015

Admittedly, the strengths discussed in the preceding paragraph illustrate that, at least in principle, the Policy sets a foundation upon which more concrete measures could be built. However, the shortcomings of the Policy are more significant than its strengths.

2.4.2 Lack of Legal Force

The Policy is non-binding, meaning that it only provides guiding principles for government action without creating legally enforceable rights or duties. Unlike legislation, which is passed by Parliament and can be invoked in courts of law, policies are merely executive

⁵⁷n12

⁵⁸n12

⁵⁹ Available at;

<https://www.mcdss.gov.zm/?s=GOVERNMENT+COMMITTED+TO+REDUCING+POVERTY+AMONG+OLD+PEOPLE> [Accessed on 17/08/2025]

⁶⁰ Available at; <https://www.helpage.org/news/breaking-barriers-helping-older-people-in-zambia-stay-economically-active/> [Accessed on 17/08/2025]

or administrative instruments that depend entirely on political will and budgetary allocation for implementation.⁶¹

2.4.3 Resource Constraints

Implementation of the Policy has been limited by insufficient budgetary allocation. A World Bank sector review noted that Zambia's social protection programmes are underfunded, fragmented, and heavily donor dependent.⁶²

2.4.4 Weak Implementation and Monitoring Framework

Although the Policy outlines commendable objectives, its implementation has been undermined by a weak operational structure and inadequate monitoring mechanisms. The Policy is overseen by the Ministry of Community Development and Social Services, but there is no dedicated statutory body to coordinate or monitor its implementation.⁶³ This has the ability to result in fragmented and inconsistent service delivery.⁶⁴

2.4.5 Reliance on Informal Care

The Policy heavily emphasizes family and community-based care without providing adequate state support. Studies show that such reliance often leads to neglect or abandonment, particularly more in urban settings where family ties are weakening.⁶⁵

⁶¹ n3

⁶² World Bank Group, "The Zambia Social Protection and Jobs Public Expenditure Review", Available at; <https://www.worldbank.org/en/country/zambia/publication/the-zambia-social-protection-and-jobs-public-expenditure-review> [Accessed on 17/08/2025]

⁶³ n3, Clause 7.4

⁶⁴ Available at; <https://www.helpage.org/news/breaking-barriers-helping-older-people-in-zambia-stay-economically-active/> [Accessed on 17/08/2025]

⁶⁵ Kabelenga, I. "Previous lifestyles and neglect in old age: Perceptions and conceptions of community leaders in Zambia. Postmodernism Problems", 6(2), 100-124. Available at; <https://pmpjournal.org/index.php/pmp/article/view/63> [Accessed on 18/08/2025]

2.4.6 Lack of long-term care plan

The Zambia National policy on ageing does not specifically define long term and palliative care but holistically places emphasis on accessibility to free appropriate health care at all levels. Long term care has been left to the family, but this could only work when extended family ties existed. In reality, not much information is available for this type of long-term care.⁶⁶ Older people have the right to choose where and with whom they live. To be able to make this choice, care and support services should be available to them in different settings. These settings include in their own home, in the home of other family members, in community care settings (such as day centers) or in residential care and support facilities.⁶⁷

2.5 CONCLUSION

This Chapter has shown that Zambia's National Ageing Policy of 2015 is an important recognition of the needs of older persons, but it is fundamentally inadequate as a protection mechanism. Its aspirational nature, lack of enforceability, weak institutional backing, and resource constraints limit its effectiveness and implementation.

⁶⁶Available at; https://social.un.org/ageing-workinggroup/documents/ninth/Inputs%20NGOs/SeniorCitizensAssociation_Zambia%20.pdf
[Accessed on 17/08/2025]

⁶⁷ ibid

CHAPTER THREE

A COMPARATIVE ANALYSIS OF THE OLDER PERSON'S ACT OF SOUTH AFRICA AND ITS IMPLEMENTATION, HIGHLIGHTING BEST PRACTICES AND LESSONS APPLICABLE TO ZAMBIA.

3.0 INTRODUCTION

South Africa has been undergoing major demographic changes with a proportion of the population aged 60 years and over. This chapter provides an in-depth examination of population ageing in South Africa, with a specific focus on the pace, and the legislative responses to the magnitude of the elderly in the country. While more South Africans are living longer, this does not mean that they are living in good health due to health issues and functional limitations that accompany ageing. The ageing population exhibits differences in relation to age, gender, and other characteristics, including living arrangements, marital status, and use of healthcare resources. As population ageing is increasingly highlighted as a concern, projections and forecasting will allow for effective implementation of initiatives at varying levels.⁶⁸

In addition, South Africa, a country historically shaped by its young population, has been quietly undergoing a demographic transition that is reshaping its future. While it still has a relatively young population compared to many developed nations, declining birth rates and increasing life expectancy are steadily pushing the median age upward. As the working-age population shrinks in proportion, South Africa now faces the pressing challenge of preparing adequately for an aging society to avoid being caught unprepared.

A new report from Statistics South Africa (StatsSA) highlights an upward trend in the country's median age across all population groups, although the shift is not uniform. The report reveals that while the median age for the white population increased from 33 years in 1996 to 45 years in 2022, the rise among black Africans has been less consistent. By 2022, whites (45) and Indians/Asians (37) recorded the highest median ages, while the black African population remained significantly younger at a median age of just 27 years.

⁶⁸ https://link.springer.com/chapter/10.1007/978-981-97-9088-3_2

According to the data, all population groups except for the black African community are now considered to be aging.⁶⁹

Before the Older Persons Act of South Africa was enacted, the Reconstruction and Development Programme (RDP) of 1994 and the Growth and the Employment and Redistribution (GEAR) strategy of 1996 were South Africa's first post-apartheid socio-economic policies aimed at tackling poverty and inequality. While they were not age-specific, the effects of these policies still affected the environment in which older persons lived.

The RDP equalized access to the state old-age pension, which became a primary source of income for many poor households headed by the elderly.⁷⁰ However, even though the RDP might have had broad developmental focus, its implementation was weak. This meant that older persons remained vulnerable. Similarly, GEAR's emphasis on fiscal discipline and market-led growth preserved pensions but constrained welfare expansion, leaving older persons without proper health, housing, or protective services.⁷¹ In both cases, older persons benefited indirectly, but there was no dedicated, rights-based framework to safeguard these rights or address their unique vulnerabilities.

At the same time, South Africa's population was ageing rapidly. The proportion of persons aged 60 years and above rose from 7% in 1996 to 9.8% in 2022, mirroring worldwide patterns associated with lower fertility rates and rising Life expectancy.⁷² This demographic change exposed the inadequacy of general development policies like RDP and GEAR in addressing the specific needs of older persons, who continued to face poverty, marginalization, and exploitation despite access to pensions. In recognition of this gap, South Africa enacted the **Older Persons Act No. 13 of 2006**, establishing a legal framework for the protection and promotion of the rights of older persons.

⁶⁹ *South African Age-Sex Structure, 1996-2022: Is the Population Ageing?*

⁷⁰ African National Congress (ANC). (1994). *The Reconstruction and Development Programme: A Policy Framework*. Johannesburg: Umanyano.

⁷¹ Department of Finance. (1996). *Growth, Employment and Redistribution (GEAR): A Macroeconomic Strategy*. Pretoria: Government Printer.

The Act moved beyond welfare to a rights-based approach, ensuring that older persons were not only recipients of grants but also protected against abuse, empowered to participate in society, and guaranteed dignity in their later years.⁷³

The Act explicitly safeguards the status, rights, wellbeing, and security of individuals aged 60 and older. It recognizes older persons as rights-holders rather than passive recipients of care, and it seeks to preserve their dignity, independence, and participation in society. Importantly, the Act also defines what constitutes abuse, neglect, and exploitation of older persons and prescribes clear duties for reporting and responding to such violations. Furthermore, it establishes structures for the provision of community-based services, residential facilities, and social support programs, thereby ensuring that older persons have access not only to protection from abuse but also to opportunities for active ageing, social inclusion, and access to justice when their rights are infringed.

3.1 OVERVIEW OF THE SOUTH AFRICAN OLDER PERSONS ACT (ACT NO. 13 OF 2006)

South Africa's Older Persons Act is a detailed legal framework designed to address the multifaceted needs of older persons. Its primary objective is to promote and protect the rights, well-being, and dignity of older individuals. One of its major features is the emphasis on community-based care, which involves the registration and regulation of home-based and community care services. This approach ensures that older persons can receive support within their communities, reducing reliance on institutional care.

The Act also includes provisions for the licensing and monitoring of residential facilities, with a focus on safeguarding the rights of residents. The Act empowers older persons by recognizing their right to participate in community life, engage in income-generating activities, and benefit from intergenerational programs. Additionally, it establishes oversight mechanisms to monitor service delivery and ensure compliance with the law.

⁷³ Ibid ²

In light of the foregoing, the following are some of the salient features of the South African Older Persons Act, most of which are applicable to Zambia seeing as the two countries face similar struggles. The Act expressly affirms the rights to which older persons are entitled. **Section 7** embodies the **rights-based approach** of the South African Older Persons Act, outlining the specific rights afforded to older persons and providing that:

“Older persons enjoy the rights contemplated in **section 9** of the Constitution of the Republic of South Africa and in particular may not be unfairly denied the right to **(a)** participate in community life in any position appropriate to his or her interests and capabilities; **(b)** participate in inter-generational programmes; **(c)** establish and participate in structures and associations for older persons; **(d)** participate in activities that enhance his or her income-generating capacity; **(e)** live in an environment catering for his or her changing capacities; and of, access opportunities that promote his or her optimal level of social, physical, mental and emotional well-being”⁷⁴

Section 9 of the Constitution of the Republic of South Africa, 1996, guarantees equality and protection against unfair discrimination, including on the basis of age.⁷⁵ The Act builds on this by translating constitutional equality into substantive rights tailored to the needs of the elderly. For example, older persons may not be unfairly denied opportunities to participate fully in community life in positions suited to their skills and interests. This provision affirms their role as active members of society rather than passive dependents, with the allowance to work.

Further, the provision also secures their right to take part in inter-generational programmes, recognizing the value of older persons as custodians of knowledge and experience who can contribute to social cohesion through mentorship and cultural preservation. Furthermore, the Act protects the right of older persons to establish and participate in associations, enabling them to organize collectively to advance their interests, influence policy, and advocate for their welfare.

⁷⁴ Act No. 13 of 2006

⁷⁵ Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

Finally, the Act acknowledges the economic role of older persons by protecting their right to engage in activities that enhance their income-generating capacity, rejecting stereotypes that they are wholly dependent and incapable of productive contribution. Equally important is the right to live in an environment that adapts to their changing capacities, which obliges the state and society to provide housing, health care, and social services that are age-sensitive and inclusive. Older persons are entitled to opportunities that promote their optimal social, physical, mental, and emotional well-being, affirming that their rights extend beyond basic survival to include dignity and quality of life. The above section is so important because it translates constitutional equality into practical protections for older persons. It promotes dignity, independence, and participation in society rather than reducing older persons to passive dependents.

In addition, the Older Person Act in **Section 25** provides for of in Need of Care and Protection of the elderly. This section says:

“Any person who is involved with an older person in a professional capacity and who on personal observation concludes that the older person is in need of care and protection must report such conclusion to the Director-General. Other people, like neighbours or family, may also report concerns to a social worker”

The above Section places a duty on certain individuals to report when an older person requires assistance. The section uses the phrase “in need of care & protection” which typically refers to situations where an older person is at risk of harm, abuse, neglect, or exploitation. This may include physical, emotional, social, or medical needs, not necessarily linked to abuse or imminent danger. In other words, an older person may be “in need of help” if they are, socially isolated, struggling with daily tasks, or require support with accessing services even if they are not actively at risk of harm.

The term professional capacity, in the context of the Act refers to people acting in their official roles or duties. For example, doctors, nurses, social workers, police officers, or any other professionals whose work brings them into contact with older persons are considered to be acting in a professional capacity. The law requires these individuals to report concerns because they are trusted to have the expertise and authority to identify when an

older person is struggling and to trigger formal support mechanisms. the section also allows other concerned persons, such as neighbors or family members, to report to social workers if they notice an older person in need of care. Essentially, Section 25 is designed to provide multiple channels for identifying and responding to older persons' needs, emphasizing both professional responsibility and community vigilance.

Once reported, the Director-General or social worker must investigate, and if it's true, they can facilitate the removal the older person to a hospital or shelter if not already there, call the police or take such other steps to provide for the person's basic needs, or help the older person lay a complaint if they are a victim of crime.

Subsequently, **Section 26** of the Act provides against Abuse of Older Persons. This provision states that:

Any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General or a police official of his or her suspicion. (3) A person who fails to comply with subsection (1) is guilty of an offence, on receipt of a notification in terms of subsection (1)- (a) the Director-General must investigate the matter and if the suspicion is substantiated by the investigation, **section 25(4)** applies; and (b) the police official must inform the Director-General of the alleged abuse or, if he or she is satisfied that it will be in the best interests of the older person if the alleged offender is removed from the home or place where the older person resides, act in terms of **section 27. (4)(a)** applies with the necessary changes if the Director-General receives information contemplated in subsection **(4)(b)**.⁷⁶

The term “**best interests**” is not explicitly defined in the Older Persons Act, 2006 (Act No. 13 of 2006). However, the Act incorporates this principle as a guiding framework for all matters concerning older persons. Specifically, **Section 5 of the Act** outlines general principles for the provision of services to older persons, emphasizing that;

*“All proceedings, actions or decisions in a matter concerning an older person must-
(a) respect, protect, promote and fulfil the older person's rights, the best interests of*

⁷⁶ Ibid

the older person and the rights and principles set out in this Act, subject to any lawful limitation”⁷⁷

Best interest is considered to be to respect, protect, promote and fulfil the older person’s rights and principles set out in this Act, subject to any lawful limitation.

This provision establishes a legal duty of care by requiring action whenever abuse of an older person is suspected. The Act further provides that any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General or a police official.⁷⁸ The Act protects individuals who report abuse in good faith from liability, thereby encouraging vigilance and removing fear of reprisal. Importantly, failure to comply with this duty constitutes a criminal offence, underscoring the seriousness with which older persons’ abuse is treated.

Once a report is made, the Director-General is obligated to investigate. Where abuse is substantiated, the state must apply the protective measures outlined in **Section 25** such as removal to a place of safety, provision of basic needs, or referral for police intervention. In addition, police officers are empowered to act immediately, particularly where the removal of an alleged offender is necessary to secure the older person’s safety.

Sections 2 and 7 of the Older Persons Act place strong emphasis on the dignity, equality, and participation of older persons within society. They recognize older persons not as passive recipients of care, but as individuals with rights to be respected and upheld. Importantly, **Section 4** of the Act makes it clear that the rights contained in this Act are intended to supplement the Bill of Rights in the South African Constitution, thereby reinforcing constitutional guarantees of equality and non-discrimination. Within this framework, **Section 7(f)** is particularly important as it ensures that older persons are entitled to access opportunities that promote their optimal level of social, physical, mental, and emotional well-being.⁷⁹ Together, these provisions affirm that ageing does not diminish

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Ibid

one's status as a rights-holder and that the state has a duty to create conditions that enable older persons to live dignified, secure, and fulfilling lives.

Section 2(c) prioritizes community-based care over institutionalization.

“Shift the emphasis from institutional care to community-based care in order to ensure that an older person remains in his or her home within the community 10 for as long as possible”

Sections 10 - 15 set out community-based care services, focusing on the rights of older persons, the registration of such services, and mechanisms for monitoring their operation. These provisions emphasize both safeguarding the dignity of older persons and ensuring accountability of service providers.

In particular, the Act provides that:

“An older person receiving community-based care and support services has, in addition to the rights contemplated in section 7, the right to (a) reside at home for as long as possible; (b) pursue opportunities for the full development of his or her potential; and (c) benefit from family and community care and protection in accordance with society's system of cultural values.”

This highlights that the law does not merely regulate service providers but also entrenches the personal rights of older persons to independence, personal growth, and cultural belonging within community care.

Sections 16 - 23 of the Older Persons Act deals with the regulation of residential facilities, ensuring that older persons living in such environments are adequately protected and their rights upheld. The provisions require the mandatory registration of facilities under Section 18, which creates a formal system of accountability and prevents unregulated institutions from operating. To encourage participation, Section 20 provides for the establishment of residents' committees, giving older persons a voice in the management of their living environment. Section 21 sets clear admission protocols and prohibits discrimination, guaranteeing that entry into facilities is fair and rights based.

Oversight is further reinforced through Section 22, which mandates regular monitoring by social workers, helping to detect abuse, neglect, or substandard care. Finally, Section 23 requires annual reporting to the Minister, ensuring government oversight and policy responsiveness. Collectively, these sections create a comprehensive regulatory framework that balances institutional accountability, resident participation, and state supervision, thereby safeguarding the dignity and well-being of older persons in residential care.

Section 11 of the Act highlights the importance of community-based programmes as a way of supporting and empowering older persons outside of institutional care. These programmes include economic empowerment initiatives, which enable older persons to sustain themselves financially and maintain independence. They also cover recreational and cultural activities, ensuring opportunities for social interaction, creativity, and the preservation of cultural identity. In addition, the Act promotes educational programmes on ageing, dementia, and HIV/AIDS, which help both older persons and the broader community to better understand and respond to the challenges of ageing and age-related conditions. Finally, intergenerational programmes are encouraged to create connections between younger and older generations, fostering mutual respect, solidarity, and shared learning. Together, these measures affirm that ageing should be supported within the community through holistic, inclusive, and empowering approaches.

Finally, **Section 33** of the Act sets out the penalties for failing to comply with the Act's requirements. This section ensures accountability, specifying the consequences for individuals or institutions that disregard the rules or fail to take necessary action in preventing or addressing abuse.

Section 34 grants the Minister regulatory powers, giving them authority to make regulations, issue guidelines, and oversee the proper implementation of the Act. This ensures that the law can be effectively enforced and adapted as needed to address emerging issues or gaps in protection.⁸⁰ He further assigns responsibilities to national, provincial and local authorities and provides for monitoring and evaluation of services.

⁸⁰ Ibid

3.2 BEST PRACTICES ZAMBIA CAN ADOPT FROM THE OLDER PERSONS ACT OF SOUTH AFRICA

Zambia remains one of the world's youngest countries, with a remarkably low median age of about 17.9 years. This signifies that Zambia is still in an earlier stage of the demographic transition, characterized by a high birth rate and a large proportion of its population under 15 years old (around 41% in 2025). The population aged 60+ is a small percentage, meaning that the immediate demographic pressure is on child dependency and providing for a rapidly growing, young population (e.g., education, youth employment). However, despite its current youthfulness, Zambia is projected to eventually follow South Africa's path, especially as fertility rates decline (Total Fertility Rate in Zambia is around 4.0, but declining). Africa's older population growth is projected to outstrip every other region, meaning both countries will face increasing numbers of older citizens. This is also evidently true as both countries have seen improvements in life expectancy, leading to a rising number of older people. While Zambia's increase starts from a lower base, it's a shared trend that will inevitably contribute to aging.

However, Zambia's current state regarding the gap in legislation creates a loophole that is adequately covered in other jurisdictions, particularly regarding service registration, abuse-reporting duties, and a statutory inspection and monitoring framework. This absence reflects a weakness not only in the enactment of laws for older persons but also in the enforcement of their rights. The protection of older persons remains fragmented and heavily dependent on policy rather than enforceable law.

What is missing are statutory service registration norms and standards that would apply to all community-based and residential care services, tied directly to inspections and enforceable sanctions for non-compliance. Equally absent are mandatory abuse-reporting mechanisms that provide clear procedures and timelines, supported by provincial and national registers, as well as an accessible helpline protocol. These omissions have weakened accountability and leave older persons vulnerable to neglect and abuse.

It is therefore of great importance that Zambia enacts a dedicated Older Persons or Act. Such legislation should define the rights of older persons while also setting out the statutory

duties of ministries and local authorities. It should require the registration and licensing of all older-person services, backed by enforceable norms and standards. Furthermore, it should establish mandatory abuse reporting with safeguards for privacy, supported by national and provincial registers. A statutory inspectorate and monitoring and evaluation system must also be introduced, incorporating routine inspections, compliance notices, and public reporting. Finally, establish a toll-free elder abuse hotline and require facilities to display older persons' rights along with procedures for lodging complaints.

3.3 CONCLUSION

Legal frameworks are essential for protecting the rights and welfare of older persons. They serve as instruments for safeguarding human dignity, preventing abuse, and promoting inclusion. Elder abuse whether physical, psychological, or economic is a pervasive issue that often goes unreported. Legal provisions that mandate reporting and provide mechanisms for investigation and prosecution are critical in combating this form of violence. Furthermore, laws that recognize the rights of older persons to autonomy, participation, and protection from discrimination help foster a more inclusive society. These protections align with international commitments such as the Madrid International Plan of Action on Ageing (2002), the African Union Protocol on the Rights of Older Persons (2016), and the UN Decade of Healthy Ageing (2021–2030), all of which emphasize the importance of safeguarding the rights and well-being of older populations.

Zambia can draw valuable lessons from South Africa's experience in implementing the Older Persons Act. One of the most impactful practices is the community-based care model, which Zambia could adopt to enhance the quality and accessibility of support services for older persons. Establishing a system for registering and monitoring care providers would ensure accountability and improve service standards. The mandatory reporting of abuse, as mandated in South Africa's legislation, could be integrated into Zambia's social welfare and justice systems to better protect vulnerable individuals. A rights-based approach, which explicitly recognizes the autonomy and dignity of older persons, should be central to Zambia's ageing policy. South Africa's multi-sectoral strategy coordinating efforts across health, social development, and housing sectors offers a

blueprint for Zambia to improve policy coherence and service delivery. Strengthening legal enforcement mechanisms, including penalties for abuse and neglect, would further enhance protection.

The demographic changes in Southern Africa present both challenges and opportunities. As the number of older persons continues to grow, it is imperative that legal frameworks evolve to meet their needs and uphold their rights. South Africa's Older Persons Act provides a model for protecting older individuals and promoting their inclusion in society. By adopting best practices and lessons from South Africa, Zambia can strengthen its own legal and policy landscape, ensuring that older persons are treated with dignity, protected from harm, and empowered to lead fulfilling lives.

CHAPTER FOUR

THE IMPACT OF LEGISLATIVE GAPS ON OLDER PERSONS' ACCESS TO ESSENTIAL SERVICES AND PROTECTION IN ZAMBIA

4.0 INTRODUCTION

As established in the preceding chapters, Zambia's National Ageing Policy of 2015 constitutes the principal framework governing the rights and welfare of older persons. However, as a mere policy instrument, it lacks the force of law and therefore fails to confer justiciable rights or impose binding obligations on state institutions. This gap has far-reaching implications because it perpetuates age-based discrimination contrary to the constitutional guarantee of equality and dignity under **Articles 11 and 23** of the Constitution of Zambia.⁸¹ The gap further restricts access to essential services such as healthcare, social security, and financial inclusion, thereby frustrating the realization of socio-economic rights; and it limits older persons' economic participation due to the lack of enabling and supportive statutory measures.

The cumulative effect of these deficiencies renders older persons increasingly vulnerable to poverty and social exclusion, particularly in the context of the breakdown of traditional communal support systems. This vulnerability is further compounded by the socio-economic impact of the **HIV/AIDS** pandemic, which has heightened dependency on the elderly for care and support. The legislative lacuna therefore not only weakens domestic protections but also places Zambia at variance with its international commitments to uphold the dignity, autonomy, and well-being of older persons.⁸² Accordingly, the following detrimental effects have ensued:

4.1 LIMITED ACCESS TO FINANCIAL SERVICES AND ECONOMIC PARTICIPATION

Older persons in Zambia encounter so much discrimination in accessing financial services, particularly credit and other forms of financing. Financial institutions frequently impose age-

⁸¹ Act No. 2 of 2016

⁸² [HIV/AIDS pandemic](#)

related restrictions on loan eligibility, effectively excluding older applicants irrespective of their repayment capacity.⁸³ This exclusion is compounded by weak national policies that do not adequately support the continued participation of older persons in the labour market beyond the formal retirement age.⁸⁴ As a result, older persons are deprived of access to resources such as credit, financial inclusion schemes and skills training. The absence of these opportunities diminishes their economic productivity and hinders their ability to adapt to evolving labour market demands.

Furthermore, while the National Ageing Policy of 2015 acknowledges the socio-economic vulnerabilities of older persons, it is a policy document without binding effect, and therefore fails to impose enforceable obligations on financial institutions or employers to accommodate older workers. The United Nations Madrid International Plan of Action on Ageing calls for the promotion of full participation of older persons in economic and social life, including access to credit, employment, and lifelong learning.⁸⁵ Similarly, the African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa obliges States Parties to eliminate discrimination in employment and to promote access to resources necessary for the well-being of older persons.⁸⁶ By failing to enact legislation that operationalizes these commitments, Zambia perpetuates the economic marginalization of its elderly population.

It is therefore imperative that Zambia adopt and/or enact legislation to create an enforceable right against age-based discrimination in financial and labour markets. The statute should not only prohibit exclusionary lending and employment practices but also establish practical measures for support, such as, mandatory age-friendly financial products, vocational training programmes tailored to older persons, and the identification of labour opportunities compatible with the physical capacities and skills of the elderly, particularly in advisory, mentorship, community-based, and flexible employment roles. In this way, the law would move beyond abstract protection to providing concrete mechanisms for the economic empowerment of older persons, consistent with Zambia's

⁸³ International Labour Organization (ILO), *Older Persons in the World of Work* (Geneva: ILO, 2018).

⁸⁴ *Ibid*

⁸⁵ United Nations, *Madrid International Plan of Action on Ageing* (2002).

⁸⁶ African Union, *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa* (2016).

constitutional and international obligations. Age-based discrimination prevents older people from accessing essential services, including adequate healthcare and legal protection. In the absence of these initiatives, older persons are excluded from the workforce and economic activities, limiting their ability to achieve self-reliance and maintain financial stability

4.3 VULNERABILITY DUE TO WEAKENED SOCIAL PROTECTION

The traditional system where older people were cared for by the extended family and community has disintegrated over the years and many older persons are expected to fend for themselves. The rise in orphans due to the HIV/AIDS pandemic has further burdened the elderly, who often have no steady income to support themselves and their dependent grandchildren, contributing to high poverty levels among older persons.⁸⁷ Furthermore, in Zambia, the abuse of elderly persons accused of witchcraft has been documented through several harrowing incidents. Media reports and human rights organizations note that elderly men and women are often scapegoated when communities experience misfortune such as illness or death.

For example, the Anadolu Agency reported that in just three months, at least twenty-five elderly persons were killed in Zambia following witchcraft allegations, including an 80-year-old woman on the Copperbelt who was allegedly beaten and set on fire by her grandson after being accused of causing a child's death through witchcraft.⁸⁸ Similarly, the Global Press Journal recounted the case of Christina Tembo, an elderly Lusaka woman who was accused by her own son of bewitching his children and was subsequently abandoned, forcing her to seek refuge in a home for the aged. These examples illustrate a broader pattern in which older persons face physical violence, property destruction, abandonment, and social exclusion simply because of their age and cultural stereotypes that link ageing with witchcraft.⁸⁹

⁸⁷ https://www.helpage.org/news/breaking-barriers-helping-older-people-in-zambia-stay-economically-active/?utm_source

⁸⁸ https://www.aa.com.tr/en/africa/zambia-murders-of-elderly-accused-of-witchcraft-rise/738203?utm_source

⁸⁹ Prudence Phiri, 'Zambian Elderly Abandoned, Forced to Flee When Faced with Allegations of Witchcraft' Global Press Journal (18 April 2016)

From a legal perspective, such acts constitute serious violations of the constitutional rights to life contrary to **Article 12 of the Constitution** which now, is non derogable, the right to dignity, and security of the person as guaranteed. These studies have revealed a failure of the State's duty to protect this vulnerable group, as investigations and prosecutions are often weak or absent in rural areas where these attacks occur.⁹⁰

In addition, victims must rely on general criminal laws such as those against assault, arson, or homicide. This legal gap makes it difficult to address the unique vulnerabilities of elderly victims, particularly when the abuse stems from entrenched cultural stigma and family conflict. Witchcraft-related accusations thus not only result in loss of life and property but also perpetuate discrimination and undermine the equal enjoyment of rights by older persons. Without targeted legislation, older people will remain exposed to violence and abandonment under the guise of cultural beliefs.

4.4 INADEQUATE FOCUS ON OLDER PERSON'S NEEDS

4.4.1 Decreased quality of Life

The cumulative effect of these legislative gaps has led to a lower quality of life with older persons facing social isolation, economic hardship, and a loss of dignity. The evidence suggests that older persons in Zambia are disproportionately exposed to poverty due to limited pension coverage. As one study notes, households with old people are among the poorest in the country. The elderly are out of pension and the government has no scheme to support the old people in the country.⁹¹ The absence of a scheme for the aged people makes them vulnerable to poverty and diseases after retirement.

Unlike countries that have legislated universal social pensions, Zambia's reliance on policy frameworks has proven inadequate in addressing the needs of its elderly population. While Zambia has introduced various policy measures aimed at supporting older persons, these efforts remain fragmented and insufficient.

⁹⁰ Ibid 1

⁹¹ https://www.helpage.org/news/breaking-barriers-helping-older-people-in-zambia-stay-economically-active/?utm_source

Individuals without access to a pension are compelled to endure economic hardship throughout their old age, as no reliable mechanism exists to provide for their basic needs. Current reforms are largely limited to those who have previously participated in the formal employment sector, thereby excluding older persons without such employment histories from receiving adequate social protection. This exclusion diminishes their quality of life, leaving many elderly persons unable to afford basic necessities such as food, healthcare, and shelter, and increasing their vulnerability to poverty, social isolation, and dependency on family or community support.

In contrast, the Katete Universal Pension Scheme, a pilot initiative, has demonstrated the positive impact of providing unconditional cash transfers to older persons, enhancing their economic security and social inclusion. If social protection measures for older persons were codified into law, rather than remaining as non-binding policy frameworks, they would carry a binding legal effect, providing a durable and enforceable solution to the economic vulnerabilities faced by the elderly. Legislation would ensure that all older persons regardless of prior employment in the formal sector have access to social pensions and other support mechanisms, thereby reducing poverty, improving quality of life, and promoting social inclusion.

Consequently, older persons in Zambia often find themselves excluded from development programs and policies. Protections for the elderly are scattered across general welfare and employment legislation, lacking the coherence and specificity needed to address their unique challenges. This disjointed approach results in a significant gap between Zambia's international obligations to protect the rights of older persons and its domestic legal framework, leaving many elderly individuals vulnerable and unsupported.

4.4.2 Healthcare Access

Although Zambia introduced a policy granting persons aged free consultations in public health facilities, this falls short of guaranteeing full healthcare access. Even though in terms of medical care, government has introduced a free medical scheme for the people aged 65 and above, this only covers consultations and other medical requirements such as x-rays, treatments, drugs among others have to be borne by the old people themselves. The law

under **Section 13** of the **National Health Insurance** read together with Regulation 15 of Statutory Instrument No. 63 of 2019, all citizens and established residents between the ages of 18 and 65 must register as members. Consequently, access to proper medical care, is not fully accessed in Zambia particularly among those who are poor and have no support from the immediate relatives.⁹²

The Ageing policy itself provides that;

“Having a policy on ageing will also assist in enhancing the mainstreaming of ageing issues in national development. The policy will further pave way for legal reforms that could enhance the realization of rights of Older Persons and create an enabling environment that takes into consideration the needs of the ageing population. Additionally, the policy will facilitate the domestication of International Conventions relating to Older Persons.”⁹³

The foregoing demonstrates that although a policy framework is in place, its legislative and budgetary limitations still undermine its effectiveness. In the absence of statutory guarantees that extend beyond consultative commitments, essential health treatments remain financially inaccessible to many older persons, thereby perpetuating inequities in health outcomes. In this regard, the result is that older citizens, being dependent on the goodwill of institutions and ad hoc policy directives rather than on guaranteed entitlements. Nevertheless, one commendable practice within Zambia’s healthcare system is the recognition of older persons, often referred to as senior citizens, who are granted priority in accessing medical attention at public health facilities. While this gesture reflects a measure of respect and administrative support, it remains insufficient as a standalone intervention without a legislative framework that ensures consistency.

4.4.3 Nursing homes & Human Rights

Although Africa has made notable progress in advancing human rights, the rights of older persons remain largely invisible within Zambia’s policy discourse on gender equality,

⁹² Act No. 2 of 2018

⁹³ Ageing Policy 2015

human rights protection, and non-discrimination. Unlike countries such as South Africa, Egypt, and Kenya, where governments have invested in institutional care facilities such as nursing homes and community-based programmes for the elderly, Zambia lacks State-run institutions of this nature. The few available facilities are largely private or charitable initiatives. For example, Cheshire Homes in Lusaka operates as a charitable organization providing care to the homeless persons and orphans, people with disabilities, while facilities such as Prestige Nursing Home exist under private practice.⁹⁴

The cost associated with such private care however, render them inaccessible to the majority of older persons living in poverty. What the country needs are State-supported institutional care reflects not only the invisibility of ageing within Zambia's social protection framework but also the overreliance on weakened traditional family structures to provide care. To address this gap, the State could embed the establishment and regulation of public nursing homes within legislation such as through an Older Persons Act to guarantee institutional support for elderly persons who have no family or means to fend for themselves.⁹⁵

Although human rights are meant to be universal over one's lifetime, they often erode or become neglected as people grow older, even as global and regional development agendas assert commitments to equality, non-discrimination, and the principle of "leave no one behind." central to the UN's 2030 Agenda for Sustainable Development, demands that the furthest behind be reached first and that all persons regardless of age enjoy dignity and prosperity.

This principle also extends to ensuring the inclusion of older persons in matters concerning their sexual and reproductive health and rights. It shows the reality that older adults are often excluded from policy dialogues on sexual and reproductive health, despite the growing call for age-inclusive human rights standards. While minimal policy and

⁹⁴ <https://www.cheshirehomessocietyzambia.org/>

⁹⁵ <https://www.seniorservice.co.za/>

programmatic interventions exist including limited financing from both government and development partners these remain insufficient to fully realize the commitments made.⁹⁶

Ageism is widely tolerated resulting in negative perception and attitudes towards old age and older people and is rarely challenged. Ageism results in discrimination, neglect, abuse and violence against older people as well their exclusion from policies and programmes. The majority of older people live in poverty or extreme poverty and denied the right to make decisions about their personal finances, property and medical care many older people have no access to, or choice and control over, the care and support services they may need to live independent lives.

Older people particularly women continue to shoulder the burden of family care while they face specific threats to their rights in relation to age discrimination in property and inheritance especially land; access to information and education; access humanitarian services, and financial services. Older people are often denied their rights to housing, privacy and a private life. According to Ageing in Twenty first Century report older people consulted in Kenya and Ethiopia, reported difficulties to accessing formal labour market a situation reinforced by the national, age discriminatory legislation.⁹⁷

4.5 CONCLUSION

Older people in Zambia have the right to work and earn a living, just like everyone else. And while the Zambian government has taken steps to support lifelong learning and improve older people's wellbeing, many older Zambians still face poverty and barriers to employment. As per the most recent 2022 poverty assessment carried out by the Zambia Statistics Agency, households headed by people 65 years or older tend to have the highest poverty incidence at 64.8 per cent.

⁹⁶ Aduragbemi Banke-Thomas, Comfort Z Olorunsaiye and Sanni Yaya, "'Leaving no one behind" also includes taking the elderly along concerning their sexual and reproductive health and rights: a new focus for *Reproductive Health*' (2020) 17 *Reproductive Health* 101 <https://link.springer.com/article/10.1186/s12978-020-00944-5> accessed 29 September 2025.

bv⁹⁷ (UNFPA/HelpAge, 2012)

To address these issues, HelpAge International and the Zambian Centre for Poverty Reduction and Research conducted a study examining the barriers preventing older persons from participating in both the formal and informal labour sectors. The study highlights gaps such as incomplete social security coverage, limited pension access, and implementation challenges.⁹⁸ While the National Pension Scheme Authority (NAPSA) and the National Pension Scheme Act, Cap 365 of the Laws of Zambia, provide a statutory framework for pensions, coverage remains narrow, primarily favouring formal-sector employees. Recent legislative amendments have not fully addressed the gaps affecting informal workers, women with interrupted contribution histories, or vulnerable elders in rural areas. Furthermore, administrative inefficiencies and difficulties in contribution collection continue to undermine effective income security for older persons

Policy documents, including the National Social Protection and Health Policy, provide for exemptions or special measures for older persons for example, user-fee exemptions for those aged 65 and above. However, practical barriers such as frequent stockouts of medicines, limited transport options, informal fees, and the absence of age-sensitive primary healthcare services significantly limit the realization of these benefits for many older persons. Legal clarity and enforceable mechanisms remain weak, leaving protections inconsistent and largely ineffective.

Similarly, while Zambia has enacted laws addressing gender-based violence and providing for protection orders, these instruments are not specifically tailored to elder abuse, which can include neglect, financial exploitation, and institutional mistreatment. Police, social services, and victim-support mechanisms often lack the training, guidelines, and procedures necessary to adequately respond to the unique vulnerabilities and needs of older victims, further exposing them to continued risk and marginalization.

Even where policies exempt older persons from user fees, inconsistent implementation, informal payments and geographic barriers mean many older people delay care or forgo treatment. Chronic disease management (hypertension, diabetes) requires continuity of

⁹⁸ HelpAge International and Zambian Centre for Poverty Reduction and Research, *Economic Challenges of Older Persons in Zambia* (2022).

care that is undermined by these gaps.⁹⁹ Constitutional guarantees exist but translating them into enforceable, accessible remedies is uneven. Poorly harmonized laws and weak data systems including limited routines for collecting age-disaggregated data make it hard to design, target and monitor elderly-focused interventions.

⁹⁹ *ibid*

CHAPTER FIVE

CONCLUSIONS AND RECCOMENDATIONS

5.0 INTRODUCTION

Older persons are regarded as repositories of wisdom and experience, having acquired a wealth of knowledge through a lifetime of contribution to society. On this basis, the law bears a duty to ensure their protection and welfare, thereby enabling them to continue imparting their insight and expertise to younger generations and to the nation as a whole. This chapter draws together the major findings and insights from the preceding chapters, offering recommendations for legal and policy reform, as well as a general conclusion based on the study's objectives. The research examined the adequacy of the legal framework governing the protection and welfare of older persons in Zambia, with particular attention to the proposed Older Persons Act and its alignment with constitutional principles and international human rights standards.

The chapter provides a summary of the issues identified in the analysis, including the legislative gaps, enforcement challenges, and areas where existing or proposed provisions fall short of constitutional guarantees such as equality, human dignity, and non-discrimination. Finally, the chapter concludes by reflecting on the overall significance of the study and highlighting the need for a comprehensive, rights-based approach to ageing and elder care within Zambia's legal and policy framework.

Specific findings and conclusions

This chapter shall encompass the conclusions drawn with regards each chapter will be outlined as per.

5.1 CHAPTER ONE

Chapter One laid the groundwork for this study by contextualizing the protection of older persons within Zambia's evolving demographic and legal landscape. It opened with an overview of the growing concern surrounding the welfare and rights of older persons in Zambia, situating the issue within a broader global context of ageing populations. The chapter noted that while developed countries such as the United Kingdom and Germany have implemented policies and legislation to address the needs of their elderly populations, Zambia continues to lag behind in developing a comprehensive and enforceable legal framework. Although life expectancy has risen to approximately 69 years, reflecting improvements in healthcare and social conditions, the corresponding legal and institutional structures have not evolved to meet the unique challenges posed by an ageing population.

The chapter established that the protection of older persons is not merely a social or moral duty but a constitutional and human rights obligation, as affirmed by Zambia's Constitution and its commitments under international and regional instruments, including the African Charter on Human and Peoples' Rights and the Protocol on the Rights of Older Persons in Africa. Despite these commitments, the study observed that Zambia's legal framework remains largely silent on the specific protection of older persons, unlike the legal frameworks for women, children, and persons with disabilities. The National Ageing Policy of 2015, though important as a policy milestone, lacks the binding enforceability required to guarantee the rights of older persons.

The chapter illustrated these legislative gaps through examples of neglect and abuse faced by the elderly, including forms of political exploitation highlighted in the works of **Isaac Kabelenga and others**. The experience of Zambia's founding president, Dr. Kenneth Kaunda, was used to demonstrate how even prominent figures have suffered from inadequate legal protection in their old age, thereby underscoring the vulnerability of ordinary older citizens. The study also cited findings from the International Institute on Ageing and local researchers showing systemic neglect, marginalization, and exploitation of the elderly in the absence of enforceable legislation.

The chapter concluded by formulating the research problem that while Zambia has ratified international instruments affirming the rights of older persons, it has not domesticated these obligations into national law. The absence of specific legislation leaves older persons exposed to poverty, discrimination, and abuse. To address this gap, the study proposed a comparative analysis between Zambia's policy framework and South Africa's **Older Persons Act No. 13 of 2006**, which provides a structured, enforceable, and human-rights-based approach to elder protection.

5.6 CHAPTER TWO

This chapter examined Zambia's National Ageing Policy of 2015, which serves as the principal policy instrument guiding the protection and welfare of older persons in the absence of specific legislation. The chapter began by explaining the distinction between laws and policies, noting that while laws are binding and enforceable, policies are merely aspirational frameworks that rely on government goodwill and resource availability for implementation. Within this context, the chapter evaluated the formulation, objectives, guiding principles, and institutional mechanisms of the National Ageing Policy, identifying both its strengths and its weaknesses.

The background to the policy was traced to parliamentary deliberations in 2012, where the Committee on Health and Social Welfare emphasized the need to treat social protection as an investment rather than consumption. The policy, initially drafted in 2008 and approved in 2013, was officially launched in 2015, marking the first formal acknowledgment of older persons as a vulnerable group deserving state protection. The chapter then outlined the policy's guiding principles, including participation, dignity, partnership, accessibility, and intergenerational solidarity all of which were designed to integrate older persons into the economic, social, and political life of the nation.

Further, the chapter examined the objectives of the policy, which include poverty alleviation, income security, healthcare, housing, gender equality, human rights awareness, and social welfare. It recognized the policy's alignment with international standards such as the **Madrid International Plan of Action on Ageing (2002)** and the **African Union Policy Framework and Plan of Action on Ageing (2002)**. The institutional

framework assigns implementation responsibilities to various ministries and stakeholders, including the Ministry of Community Development, Ministry of Justice, Ministry of Health, and the Judiciary, among others.

It also highlighted resource constraints, noting that social protection programmes in Zambia are underfunded and heavily donor-dependent. The absence of a dedicated statutory authority to coordinate and monitor implementation further weakens the framework. Additionally, the policy's heavy reliance on family and community-based care was critiqued as unrealistic in the context of urbanization, economic hardship, and the erosion of traditional support systems. The lack of a long-term care strategy was identified as another major gap, leaving elderly individuals without institutional support or access to specialized facilities.

In conclusion, **Chapter Two** acknowledged the symbolic and policy value of the **National Ageing Policy of 2015** but emphasized that its aspirational nature severely undermines its effectiveness. Without legislative backing, adequate funding, and enforcement mechanisms, the policy remains incapable of providing meaningful protection for older persons. The chapter therefore established the need for an **Older Persons Act** that can translate policy aspirations into actionable and enforceable rights, similar to the model adopted by South Africa.

5.7 CHAPTER THREE

Chapter Three presented a comparative analysis of **South Africa's Older Persons Act No. 13 of 2006**, highlighting its rights-based approach to the protection of older persons and identifying lessons Zambia can adopt. The chapter began by situating South Africa's experience within the context of an ageing population and the inadequacy of earlier socio-economic policies such as the Reconstruction and Development Programme (RDP) and GEAR, which, although beneficial in broad terms, failed to address the specific vulnerabilities of older persons. This shortfall led to the enactment of the Older Persons Act, which established a legally enforceable framework for the protection, participation, and welfare of the elderly.

As aforesaid, the Act's hallmark is its rights-based orientation, which transforms older persons from passive beneficiaries of state aid into active rights-holders entitled to dignity, equality, and social participation. The South African Constitution guarantees older persons' right to participate in community life, engage in intergenerational and income-generating activities, form associations, and live in environments suitable to their evolving capacities. The Act thereby operationalizes constitutional protections against age-based discrimination and reinforces the state's duty to promote inclusion and autonomy.

Further, the chapter analyzed the Act's protective provisions, which impose a legal duty on professionals and the public to report cases where an older person is in need of care or has been abused. Failure to report constitutes a criminal offence, reflecting the seriousness of elder protection in South African law. The chapter also discussed the Act's best interests of the older person principle which ensures that all decisions and interventions prioritize the welfare, rights, and dignity of the elderly.

The Act emphasizes community-based care as a preferred model, encouraging older persons to remain within their homes and communities for as long as possible, establishing regulatory and monitoring mechanisms for community-based care providers. It also creates a provision for the licensing, oversight, and accountability of residential facilities, residents' committees, regular inspections, and annual reporting to the Minister. These measures ensure both service quality and state supervision.

The chapter further explored how the Act promotes social, cultural, and economic empowerment through community programmes, intergenerational engagement, and education on ageing-related issues. It also highlighted the inclusion of penalties and ministerial oversight as mechanisms to guarantee compliance and adaptability.

5.8 CHAPTER FOUR

This Chapter reveals that Zambia's reliance on non-binding policy frameworks, particularly the National Ageing Policy of 2015, has created legislative gaps that leave older persons vulnerable to socio-economic marginalization, discrimination, and inadequate protection.

The gaps in the Act manifest in limited access to financial services and credit, exclusion from employment opportunities, and weak mechanisms to support continued economic participation, which collectively undermine older persons' financial independence and ability to adapt to changing labour markets. Social protection remains fragmented and insufficient, with narrow pension coverage primarily favoring formal-sector employees, leaving the majority of elderly persons, especially women, rural dwellers, and informal workers, exposed to poverty and economic insecurity.

The breakdown of traditional family and community support systems, compounded by the HIV/AIDS pandemic, has further heightened the caregiving responsibilities of older persons and increased their vulnerability. Additionally, older persons face social stigmatization, abuse, and violence, including witchcraft-related accusations, which result in physical harm, property loss, abandonment, and social exclusion. Legal protections against such abuse are weak, and enforcement of general criminal laws is often inadequate, particularly in rural areas. Healthcare access, while partially supported through free consultations for those over 65, remains financially and logistically constrained, with essential diagnostics, treatments, and medications largely unaffordable for those without family support.

Institutional eldercare is largely private or charitable, making it inaccessible to most older persons, and the state has yet to establish publicly funded facilities. Ageism, entrenched cultural stereotypes, and systemic neglect exacerbate the exclusion of older persons from development programs, policy dialogues, and decision-making processes, leaving them without meaningful participation or control over their lives, finances, and care. Overall, the chapter demonstrates that without targeted legislation to operationalize constitutional rights and international commitments, older persons in Zambia remain at risk of poverty, social isolation, abuse, and marginalization. Comprehensive legal reforms are therefore imperative to prohibit age-based discrimination, ensure enforceable social protection and healthcare entitlements, provide institutional support, and strengthen safeguards against abuse, thereby enhancing the dignity, well-being, and inclusion of older persons in Zambian society.

The chapter concluded that South Africa's Older Persons Act demonstrates the value of a strong legislative foundation that integrates dignity, autonomy, and protection within a unified framework. For Zambia, adopting a similar rights-based approach would bridge the current legislative gap and ensure that older persons are not merely recipients of welfare, but recognized as active and protected participants in society.

5.6 RECOMMENDATIONS

This thesis has demonstrated that there is no law whatsoever that protects statutory registration, inspection, and reporting systems for elder-care facilities. The following are some of the recommendations that Zambia can introduce to empower older persons and adequately provide for their rights:

The enactment of an Older Persons Act in Zambia to support the preexisting National Ageing Policy of 2015. Zambia should adopt a dedicated Older Persons Act or similar legislation that converts the principles of the National Ageing Policy into enforceable law. This legislation should explicitly prohibit age-based discrimination in employment, access to financial services, healthcare, property rights, and social protection. It should establish clear obligations for government institutions, private sector actors, and communities to uphold the rights of older persons, thereby bridging the gap between policy and legal enforceability.

Adopting a community-based care model supported by intergenerational and empowerment programmes and introducing mandatory abuse-reporting obligations with penalties for non-compliance.

Financial institutions should offer age-friendly credit products and services, while employers should implement measures to retain or hire older workers in flexible, advisory, or mentorship roles. Vocational training and lifelong learning programs should be developed to enhance older persons' skills, enabling them to remain economically productive and financially independent.

Zambia should consider expanding Social Protection and Pension Coverage in order to implement universal or nationally legislated social pensions that include older persons in both formal and informal sectors. This should be accompanied by measures ensuring equitable access regardless of prior employment history, gender, or location. Building on successful pilot initiatives, such as the Katete Universal Pension Scheme, these programs should provide regular, unconditional support to reduce poverty, improve quality of life, and promote social inclusion.

Zambia must improve on the healthcare access for Older Persons. Healthcare policies should move beyond free consultations to cover diagnostics, treatment, medications, and ongoing care for chronic conditions. Age-sensitive healthcare services, mobile clinics, and targeted subsidies should be expanded to reach older persons, especially those in rural areas or with limited financial means. Legislative guarantees should ensure consistency in healthcare entitlements and protect older persons from financial barriers to essential services. Zambia should further establish State supported institutional care facilities to complement family and community care. The government can take the step to invest in publicly funded nursing homes, day-care centers, and community-based support programs for older persons. This would provide safe environments for those without family support and reduce dependence on costly private facilities, while ensuring the dignity, security, and social inclusion of elderly citizens.

Subsequently, Zambia should actively seek to protect Older Persons from Abuse and Violence. Clear laws should explicitly address elder abuse, neglect, financial exploitation, and culturally motivated violence, including witchcraft-related accusations. Police, social services, and the judiciary should receive specialized training to recognize and respond to the unique vulnerabilities of older persons. Strengthened legal and institutional frameworks would ensure prompt investigations, protection orders, and access to justice for victims.

The Promotion of awareness and challenge Ageism is a means by which Zambia will curb the oppression of elder persons' rights. Public education campaigns should be designed to change societal attitudes towards ageing and older persons, combating stereotypes, discrimination, and neglect. Age-sensitive programming should be incorporated into

national development plans, policy dialogues, and decision-making processes to ensure older persons are meaningfully included in social, economic, and political life.

Finally, Zambia's enactment of such as Act will align Domestic Law with International Standards. Currently, Zambia remains in dire need for Zambia should harmonize its national legislation with international and regional instruments, including the UN Madrid International Plan of Action on Ageing and the African Union Protocol on the Rights of Older Persons. This alignment would strengthen legal frameworks, ensure compliance with constitutional guarantees, and reinforce Zambia's commitment to protecting the rights, dignity, and well-being of older persons. This inclusion will also be encouraging participation in mentorship, volunteerism, and advisory roles not only leverages their expertise and experience but also reinforces social cohesion, reduces isolation, and affirms their continuing value in society.

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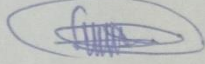
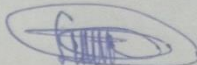
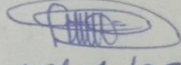
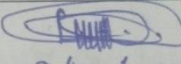
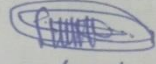
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