

TRADE UNIONISM AND COLLECTIVE BARGAINING AS TOOLS FOR REALIZING FULL EMPLOYMENT OPPORTUNITIES FOR PERSONS WITH DISABILITIES*

Abstract

Disability rights, which are synonymous to basic human rights, have become a central issue in all human right circles around the globe. This work focuses on the role of trade union actions in advancing the working rights and general human rights of persons with disabilities (PWDs) through strategic collective bargaining and a disability inclusive collective agreement. This work posits that disability centred trade unions actions and a disability inclusive collective bargaining is the key to securing full inclusion and participation of PWD) in the labour and employment sector. This work finds that existing trade unions as well as collective agreements in Nigeria are not disability inclusive like their international counterparts and recommends amongst other things for Nigerian trade unions, the collective bargaining process and the resultant collective agreement to become disability inclusive so that PWDs in Nigeria can enjoy decent work, full inclusion and equal participation in the world of work. This will in the end, impact positively on the nations GDP and the general human rights record of Nigeria.

Keywords: Trade Unions, Collective Bargaining, Disability rights, Decent work, inclusion.

1. Introduction

According to the International Labour Organization (ILO) report, one out of every seven people in the world has a disability and the vast majority of them are of working age; approximately 470-785 million are of working age.¹ The ILO recognises that most PWDs do not enjoy the right to work and that the exclusion of PWDs from the labour market can cost national economies up to 3 - 7 per cent of GDP.² There is significant evidence pointing to the labour market disadvantage experienced by PWDs.³ PWDs are more often than not discriminated against in all aspects of employment. Both employer and co-workers alike trample upon their rights with impunity. PWDs are more unlikely to get a job than their non-disabled counterparts are.⁴ This is because of the many barriers that either separate them from jobs or make it impossible to retain one. These barriers are primarily cultural and attitudinal barriers that cause unnecessary segregation and exclusion of PWDs from employment.⁵ Other barriers include environmental/physical barriers like inaccessible transportation, hallways, access doors, staircases, etc.; institutional barriers that are manifest in a dearth of legal and administrative machineries for the promotion, protection and realization of working rights for PWDs; economic barriers that have impoverished PWDs thereby making it impossible to scout for suitable jobs or even afford assistive devices. They are also technological barriers that inhibit PWDs in the use of technology to either find a job or perform one. This situation has caused PWDs to be majorly unemployed or over-represented in low-skilled and low-status jobs. They are paid less than their counterparts without disabilities are and employers often fail to make inexpensive adjustments to keep WWDs in work. They are mostly the first category of workers to be laid off from work.⁶ Most of these injustices against WWDs are because of a lack of a trade union to champion

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¹ 'Facts on Disability and Decent Work' (2009), International Labour Organization, p 1. See also 'Disability Facts', (2015), Gender, Equality and Diversity Branch: International Labour Organization, p 1. See also 'World Report on Disability', (2011), World Health Organization and World Bank <www.who.int/disabilities/world_report/2011/en> accessed on 14 December 2017.

² 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), International Labour Office, Bureau for Workers' Activities (ACTRAV). - Geneva, p 11. See also Sebastian Buckup, 'The Price of Exclusion: The Economic Consequences of Excluding People with Disabilities from the World of Work', (2009) Working Paper No. 43, International Labour Office, Employment Sector, Skills and Employability Department. - Geneva, p v, 1-85

³ N Bacon & K Hoque, 'The Influence of Trade Union Disability Champions on Employer Disability Policy and Practice', (2015), 25(2), Human Resource Management Journal, p 2 <<http://dx.doi.org/10.1111/1748-8583.12060>> accessed on 11 March 2018.

⁴ 'Facts on Disability and Decent Work, International Labour Organization', (2009), *ibid*.

⁵ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, pp 11, 20.

⁶ *ibid*.

disability rights in employment and to draw up disability inclusive collective agreements.⁷

According to the ILO, across the globe, trade unions, governments, employers⁸ and civil society organizations are answering the call for action to encourage the positive contributions PWDs can make to the world of work and society. Trade unions are indispensable stakeholders in social democracy⁹ and will take actions on disability to enable WWDs access their rights and directly contribute to achieving decent work through promoting employment; improving workplace conditions; assuring protections for workers with injuries and disabilities; ensuring the representation of workers; and ensuring implementation of legislation and standards related to employment of PWDs.¹⁰

2. Decent Work for Persons with Disabilities

Since the ILO was founded in 1919, achieving decent work and social justice for all persons has been a major objective of the organization. In accordance with the mandate of the ILO, decent work for PWDs involves creating more and better employment opportunities, respecting and legally protecting their working rights, building and expanding social security systems¹¹ for WWDs and promoting the social dialogue between employers¹² and trade unions. The ILO has developed and monitored the implementation of various international standards for the promotion of the fundamental rights of all PWDs to decent work.¹³ According to the ILO, trade unions around the world have recently demonstrated greater willingness to support WWDs within the workplace and achieve decent work for them.¹⁴ In the view of the ILO, trade unions should take a wide range of steps to achieve decent work and social justice for PWDs.¹⁵ The ILO advocates that disability can be fully integrated into the core activities of trade unions, from their formation to social dialogue to improving workplaces and working conditions through promoting employment; assuring protections for workers with injuries and disabilities; ensuring the representation of workers; and ensuring implementation of legislation and standards related to employment of PWDs. Decent work transcends merely providing work for PWDs. It involves ensuring that PWDs as a matter of right, work under just and reasonable conditions, for adequate remuneration, and at reasonable times.¹⁶ Employment is not just about getting a job, but also about decent work and providing the same opportunities for career development.¹⁷ Workers' organizations or trade unions have an important role in achieving decent work for PWDs. The important role trade unions can play to achieve disability inclusion and decent work for persons with disabilities is immense. Trade unions have an important role to achieving the rights of WWDs.¹⁸ According to the ILO, trade union actions for decent work for PWDs is truly

⁷ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 23.

⁸ 'Disability in the Workplace: Employers' Organizations and Business Networks / International Labour Office, Geneva', (2011), pp 1-67. See also 'What Companies Should do to Support the Rights of People with Disabilities' United Nations Global Impact, International Labour Organization, pp 1-16

⁹ Werner Sengenberger, 'The International Labour Organization: Goals, Functions and Political Impact', p 4.

¹⁰ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), International Labour Office, Bureau for Workers' Activities (ACTRAV), International Labour Organization, p 8. See also 'Achieving equal employment opportunities for people with disabilities through legislation', (2014), Guidelines: International Labour Office, Geneva, p 59.

¹¹ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 22.

¹² *Ibid*, pp 20-21.

¹³ The developments on the international stage are more recent than the creation of many labour standards therefore; International labour standards are relevant to persons with disabilities whether disability is mentioned explicitly or not. See Werner Sengenberger, *ibid*, pp 9-11, 23.

¹⁴ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, pp 23 – 25. See also Werner Sengenberger, *ibid*, p 23. In the United Kingdom, unions are actively engaged in representing PWDs, have identified, initiated several claims under the DDA, represented workers with mental health problems, help them tackle disability discrimination in sickness absence procedures, and campaigned to protect the Public Sector Equality Duty. See also N Bacon & K Hoque, *op cit*, p 2.

¹⁵ Trade Unions and Decent Work for People with Disabilities; Information Sheet <>

¹⁶ UDHR, 1948 art 23.

¹⁷ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 19.

¹⁸ *Ibid*, pp 11-12.

an exercise of social engineering in today's world where inequalities increase under austerity policies, where growth does not create the expected decent jobs and where so many individuals with disabilities are left to their own fate.¹⁹

3. Trade Union Actions for Workers with Disabilities

PWDs are an untapped talent pool that has suffered neglect, marginalization and discrimination in the labour market despite the wealth of economic benefits such large labour force could create. PWDs have a right to work and to protection against unemployment²⁰ but unfortunately, PWDs are often perceived to be useless, handicapped and thus lacking the ability to participate in work or any other productive activity. This crude cultural perceptions and attitudes towards PWDs around the world, especially in developing countries has seen to the relegation of this minority group to the bottom of the economic ladder. The lack of inclusive education, vocational training²¹ to prepare PWDs for the workforce has further deepened the economic crises, exclusion and poverty that characterises this minority group. Most PWDs are able and willing to work with or without reasonable adjustments made, depending on the type of disability in question. PWDs could be just as productive as their non-disabled counterparts in the workplace could. The continued marginalization and discrimination against PWDs in employment has prompted the need for trade unions to rise and fight against unfair labour practices and workplace discrimination in its many facets. Trade unions also advocate for better terms and conditions of employment,²² reasonable accommodations and adjustments,²³ fair wages, income security, employment benefits and emoluments and a general inclusion and participation of PWDs in the labour industry. What a single worker with disability cannot get singlehandedly; he can get in collaboration with his co-workers. Trade unions, through a comprehensive and well strategized action, and in collaboration with civil society organizations and disability focused NGOs can organize and collectively bargain for a disability inclusive employment for WWDs.²⁴ Trade unions can contribute to the employment of PWDs by negotiating provisions in collective bargaining agreements that facilitate their employment and retention while at the same time promoting an inclusive workplace environment.²⁵ Inclusion of PWDs in work will improve their socio-economic status and general welfare in the labour system. Full inclusion and participation for PWDs in employment can be achieved through intense dialogue with the government on issues of decent work, equal opportunities in employment, job creation, job quotas, social protection²⁶ income security, vocational training, reasonable accommodation,²⁷ job retention and affirmative action in employment. Such goal-oriented dialogue would reduce or totally annihilate discrimination in the recruitment process and even in the promotion and later stages of employment. Through comprehensive and persistent disability centred trade union actions, there will be greater consciousness towards disability rights and caution in infringing same. Thus, PWDs will achieve equitable representation in both public and private employment. In addition, work environments will be made more inclusive through the removal of all barriers and the interests of WWDs and PWDs generally will be improved.

In Nigeria, disability issues have been of low priority to trade unions, the Government and society. More so, Trade union activities in Nigeria are very restricted by law. Although the ILO Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948 and the Right to Organize and Collective Bargaining Convention (No.98), 1949 have both been ratified and domesticated in Nigeria via the Trade Unions Act,²⁸ there is the

¹⁹ *ibid*, p 26.

²⁰ *ibid*

²¹ Inclusion of People with Disabilities in Vocational Training: A Practical Guide, 2013, International Labour Office: Gender, Equality and Diversity, pp 1-59.

²² 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 27.

²³ Promoting Diversity and Inclusion through Workplace Adjustments: A Practical Guide, (2016), International Labour Office, Geneva, pp 1-78.

²⁴ 'Making Apprenticeships and Workplace Learning Inclusive of Persons with Disabilities: Policy Brief', (2018), International Labour Organization, p 9.

²⁵ 'Labour Market Inclusion of People with Disabilities' International Labour Organization: Organization for Economic Co-operation and Development (OECD), Paper presented at the 1st Meeting of the G20 Employment Working Group 20 - 22 February 2018, Buenos Aires, Argentina P 8.

²⁶ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 22. See also 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 27.

²⁷ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 21.

²⁸ Cap T14 LFN 2004 as amended in 2005.

manifestation of lack of political will on the part of government²⁹ and trade unions alike in realizing the provisions for WWDs. Trade unions in Nigeria are not disability inclusive and have been majorly unsuccessful in addressing issues of discrimination, employment security, unfair work conditions, unequal wages, and lack of reasonable accommodation for WWDs. There do not have a disability policy and hardly mainstream disability in union activities. More so, trade union representatives have no training in disability rights empowerment and management. The implication is that WWDs in Nigeria suffer great employment inequities and those who are yet to be employed have very limited chances compared to their counterparts without disabilities.

4. Legal and Policy Framework Supporting Trade Unions and Collective Bargaining in Nigeria

The Laws of Nigeria support the disability rights protection and advancement as well as the right to form or join trade unions to collectively bargain for better quality work and equal opportunities in employment.

Constitution of the Federal Republic of Nigeria 1999 (As Amended)

The right to form or belong to a trade union is guaranteed by the Nigerian Constitution. Section 40 of the constitution states that ‘every person (including PWDs) shall be entitled to assemble freely and associate with other persons and in particular, he may form or belong to any trade union.’³⁰

Trade Unions Act, Cap T14, LFN, 2004, Trade Unions (Amendment) Act 2005

The Trade Unions Act prohibits restriction of membership of trade unions on discriminatory grounds.³¹ A person who is eligible for membership of a particular trade union shall not be refused admission because of the fact that he is disabled;³² otherwise, such discrimination will constitute an offence punishable by law.³³

National Employment Policy of Nigeria 2017

The National Employment Policy of Nigeria, 2017³⁴ was formulated by the Nigerian government to keep pace with the changing nature of employment around the globe and to tackle the multiple issues of increased unemployment and discrimination among PWDs, and the undermined nature of social protection. The Policy aims to foster an inclusive and respectful workforce culture that promotes the hiring, retention and professional development of PWDs by private and public employers of labour on business and non-discriminatory principles.³⁵ The Policy acknowledges the high rate of unemployment, inequalities and exclusion of PWDs in the labour sector and mandates the government to enforce the right of Nigerian workers to form and join unions.³⁶ The Policy states that the Federal Ministry of Labour and Employment shall sensitize and collaborate with employers³⁷ and trade unions to develop self-inspection audit and minimize work place conflict.³⁸ The Policy acknowledges the importance of the need for WWDs to organize and collectively bargain for equal treatment and equal opportunities in employment. According to the Policy, Nigerian workers shall be enabled to defend their interests and articulate their concerns and priorities through social dialogue.³⁹ It further states that collective bargaining for Nigerian WWDs shall be part of the production process aimed at protecting the interest of workers, improving productivity of the workers and optimizing output.⁴⁰ Tripartite

²⁹ OB Yemi & AA Segun, ‘The Workers’ Rights in Nigeria: Myth or Reality?’, (2013) 2, International Journal of Business and Management Invention, p 103.

³⁰ See also *Osawe v. Registrar of Trade Unions* (1985) 1 NWLR [Pt. 44] 755.

³¹ Like disability. See s 12 of the Trade Unions Act, Cap T14 LFN, 2004, as amended in 2005.

³² Emphasis mine. See TUA *ibid* s 12. Although disability was not one of the discriminatory grounds mentioned, in line with Nigeria’s international obligations as well as national law on disability, this provision in the event of judicial interpretation, in our view, will be read to include disability.

³³ TUA *ibid* 12 (2)

³⁴ NEP 2017, compiled by for the Federal Republic of Nigeria by Senator (Dr) Chris Nwabueze Ngige, Honourable Minister Federal Ministry of Labour and Employment. <www.ilo.org/addisabbaba/countries-covered/nigeria/lang--en/index.htm> accessed on 8 February 2018.

³⁵ CJ Evoh & UO Agu, ‘National Employment Policy Objectives, Measures, Strategies and Institutional Framework to Meet the Challenges of Rising Unemployment and Underemployment’, (2017), 15-16, <[Http://www.Labour.Gov.Ng/Doc/National_Employment_Policy.Pdf](http://www.Labour.Gov.Ng/Doc/National_Employment_Policy.Pdf)> accessed on 17 February 2018.

³⁶ NEP, 2017 P 52

³⁷ ‘Disability in the Workplace: Employers’ Organizations and Business Networks’, (2011), International Labour Office, Geneva, pp 1-67.

³⁸ *ibid* p 61

³⁹ NEP 2017, pp 53-54

⁴⁰ NEP 2017 *op cit*

social dialogues shall be based on the principles of fair representation, accountability and autonomy and the government would be able to participate both as an independent and unbiased judge, and as an employer of labour in some cases. The Policy encourages tripartite and broader forms of social dialogue involving the Nigerian governments, enterprises, workers and civil society agencies stating that such dialogues ‘shall be encouraged to promote decent work through their impact on macro-economic and other key social and economic policies.’ According to the Policy, the Federal Ministry of Labour and Employment shall ensure that WWDs recruited are not denied right to freedom of association and right to collective bargaining.⁴¹ The Policy encourages the active participation of the Nigerian Labour Congress, the Trade Union Congress and other workers’ organizations in the country to commit to social dialogue to ensure industrial peace and a decent work environment for WWDs for a continuous production and employment.⁴² The Policy further encourages these workers groups to promote strategies for increase in labour productivity amongst WWDs and to educate WWDs on their rights and obligations as stipulated in national and international labour standards.⁴³

Discrimination against Persons with Disabilities (Prohibition) Act 2018

In line with Nigeria’s obligations under International Law, this Act was very recently enacted to ensure full integration of PWDs into the Nigerian society through the protection and promotion of their rights. The Act expressly prohibits discrimination against PWDs and criminalizes all forms of discrimination against PWDs by individuals and institutions.⁴⁴ Part six of the Act provides for the right of all PWDs to work on an equal basis with others in a freely chosen and conducive employment.⁴⁵ The Act criminalizes discrimination against PWDs in employment.⁴⁶ The Act further secures jobs for PWDs by creating a 5% job quota in all public organizations in the country to be reserved for PWDs.⁴⁷ Unlike article 27 (1) (c) of the UNCRPD, the Act made no mention of measures to ensure that PWDs are able to exercise their labour and trade union rights on an equal basis with others. This shortcoming calls for union intervention.

Labour Act, LFN 2004

The Nigerian Labour Act⁴⁸ is the chief legislation governing industrial relations in Nigeria. The Labour Act generally protects all workers in Nigeria including WWDs. Looking at the provisions of Part II of the Labour Act which governs ‘recruiting’ that is, recruiters or employers of labour and the general process of recruiting or employing workers, no mention was made of the procedure for recruiting WWDs.⁴⁹ Surely, this would be an issue upon which trade unions can seek to change. More so, Part III of the Act, which listed special classes of workers, cannot be said to have contemplated WWDs.⁵⁰ This Part of the Labour Act calls for union intervention.

5. How Can Trade Unions In Nigeria Be Disability Inclusive?

Disability Inclusive Collective Bargaining⁵¹

Trade unions in Nigeria can engage in extensive disability inclusive collective bargaining on behalf of all WWDs in the labour system as well as PWDs who seek to enter into one form of employment or the other.⁵² Collective bargaining and the succeeding collective agreements is a powerful tool union representatives can use to ensure workplace rights and fair treatment for PWDs. Through disability inclusive collective bargaining, reasonable accommodation or workplace adjustments can be afforded WWDs in such a way as it would benefit the WWD and

⁴¹ *ibid* 57

⁴² *ibid* p 67

⁴³ *ibid* p 67

⁴⁴ Part I, s 1 (1)(2)(3)

⁴⁵ S 28 (1) (2)

⁴⁶ S 28 (2) & (3)

⁴⁷ S 29

⁴⁸ LA Cap 198 Laws of the Federation of Nigeria 1990 now Labour Act Cap L1 Laws of The Federation of Nigeria 2004.

⁴⁹ S Leigh, ‘The Right to Work and the Physically Challenged: Searching for Appropriate Legal Regime in Nigeria’, (2008), NJLIR, 2(4), p 47.

⁵⁰ S Leigh, *loc cit*.

⁵¹ ‘Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview’, (2017), *ibid*, p 12

⁵² ‘Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities’, (2017), *op cit*, p 23.

not at the same time impose unjust or undue hardship on the employer. In addition, equal treatment, equal opportunities and better terms and conditions of work for PWDs can be bargained for. Amendment, review, or even repeal of existing national laws that are not disability inclusive can be advanced in the bargaining process. Collective agreements can make specific declaration on issues bothering on affirmative action for PWDs in employment, employment quota for PWDs, education⁵³, vocational training⁵⁴, vocational rehabilitation and return-to-work services provisions for workers who acquire disability in the course of employment⁵⁵ as well as disability insurance to be paid to workers injured on the job. Through disability inclusive collective bargaining, contracts entered into by PWDs would be guaranteed to be reasonable and fair in its provisions and in line with international labour best practices. All contracts of employment would also be drawn to include anti-harassment and anti-discrimination provisions. Collective agreements can also require employers, through professional staff, to provide training courses for PWDs. Article 27 of the UNCRPD⁵⁶ can be realized for PWDs in Nigeria in its entirety through collective bargaining

Unionizing and Representation of Workers with Disabilities

Trade unions can play a pivotal role in actively organizing and representing WWDs for inclusion.⁵⁷ Through awareness, mobilization, engagement and action, there must be positive change in the status quo.⁵⁸ Union actions will force change in societal attitudes and elimination of barriers.⁵⁹ This in turn will reduce discrimination and attendant underrepresentation of PWDs in labour and employment. Unionizing WWDs will enable them to be directly involved in tackling issues directly affecting them and be more involved in policy making. Existing trade unions in Nigeria can expand their reach to WWDs. This will also increase the representation of WWDs in decision-making levels of trade unions and further strengthen trade unions.

Information Dissemination and Awareness Raising

Trade unions in Nigeria in collaboration with governments, workers' and employers' organizations and relevant stakeholders can disseminate information and create awareness⁶⁰ of disability rights issues in employment through seminars, trainings and workshops.⁶¹ There will be increased awareness on disability discrimination, exclusion and non-participation of PWDs in development. Also, information on the current Discrimination against Persons with Disabilities (Prohibition) Act will be disseminated in accessible formats. This information can be made available to all stakeholders in newsletters and websites just like the US Equal Employment Opportunity Commission (EEOC) website. In addition, through disability rights campaigns, trade unions in Nigeria can strongly advocate for disabled workers rights, equality and equal opportunity in employment.

Training Union Officials in Disability Rights Empowerment⁶²

Trade unions can specially train union representatives to understand disability and disability rights. This will enable union personnel identify workplace discriminatory practices as well as discrimination the labour system itself and effectively advocate for PWDs working rights. Trade union representatives should have knowledge about the workplace and legislative changes in disability circles. They should have expertise in advocating for workers' rights. This expertise would help them in raising awareness about disability and combating inequality and discrimination in the world of work. Trade union representatives should be trained to understand the special needs that their disabled co-workers might have, such as the need for workplace accommodations⁶³, and knowledge of the obligations that

⁵³ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *op cit*, pp 11, 20

⁵⁴ *ibid*

⁵⁵ *ibid*

⁵⁶ UNCRPD, 2008. Article twenty-seven is on work and employment for PWDs.

⁵⁷ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *op cit*, p 12

⁵⁸ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 26

⁵⁹ Moving towards disability inclusion, 2011: International Labour Office, Geneva, 2011, p 37

⁶⁰ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *op cit*, p 13

⁶¹ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *op cit*, pp 14, 16-18.

⁶² 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *op cit*, p 12

⁶³ 'Promoting Diversity and Inclusion through Workplace Adjustments: A Practical Guide', (2016), *op cit*.

employers might have under national legislation that protect the rights of PWDs. Trade union representatives should be empowered to develop their own solutions to inclusive approaches in the workplace and within their communities.⁶⁴ Through interaction with WWDs, they can become aware of discrimination, harassments and other challenges facing WWDs. These specially trained union representatives would be aware of what to demand for in a collective bargaining process and there would ensure that the collective agreement is disability inclusive.⁶⁵ They can also negotiate on issues of employment quotas, better terms and conditions of employment, equal promotion benefit, job retention, recruitment, advising other union officials, etc. Trade unions executives can serve as watchdogs to monitor the level of government, workers and employers' organizations compliance with provisions of disability related international conventions and labour best practices and give their views on progress made in implementation and compliance.⁶⁶ In the UK, over 1,000 'equality representatives' of trade unions have received training from the Trades Union Congress. They provide a local contact point for individual workers seeking advice and representation on matters relating to equality, and can use their specialist training to work with employers on enhancing equality policy and practice in the company.⁶⁷

Disability Inclusive Union Meetings⁶⁸

Trade unions should ensure that WWDs are able to participate in union meetings and that all unions written and promotional materials will be made available to them in accessible formats.⁶⁹ This will enable WWDs directly contribute to union's objectives and decision-making and further strengthen union policies on disability inclusion and participation. Disability inclusive meetings organized in accessible venues will help trade unions engage WWDs in dialogue while in turn making union meetings deeply inclusive.⁷⁰

Employment Services and Vocational Training⁷¹

Trade unions provide recruitment, career development and job retention services. In furtherance of this, trade unions can provide vocational training and employment services for their members with disabilities. More so, PWDs can be assisted in finding jobs in order to improve their socio-economic status. Trade unions identify and assist PWDs in finding suitable training to move beyond their current job and increase their chances of finding employment in the competitive open job-market.⁷² PWDs can be trained with contemporary social and work adjustment skills to maintain their jobs and to live independently. PWDs can also be trained on how to prepare for and pass an interview, whether or not to disclose disability, and how to adjust to a workplace, handle discrimination at the workplace and how to relate with co-workers without disability. Trade unions can even secure internship positions for PWDs in companies. Through counselling and guidance, PWDs who are plagued with self-pity and lack of motivation as a result of perceiving oneself as been unable to do any job because of disability can be counselled out of such damaging perception and assisted to develop the needed will and attitude needed to find and do productive work and earn a living.⁷³

Employer Training on Disability Management⁷⁴

Trade unions in Nigeria can through trainings, workshops, symposiums, etc. and in collaboration with disability rights organizations, educate and train public and private employers on disability management and on relevant disability laws, barriers to employment of PWDs, reasonable accommodation/workplace adjustments⁷⁵ and the need to adopt human resource practices that ensure workplace diversity and full inclusion and participation of WWDs in

⁶⁴ 'Moving towards disability inclusion', (2011), *ibid*, p 38.

⁶⁵ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 23

⁶⁶ *Ibid*, p 21; See also 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 29. Trade unions in Albania, Bulgaria, Canada, Czech Republic, Guyana, Kenya, Iraq, Oman, Palestine, Peru, and Uruguay all report inputting to design or implementation on national legislation around disability. Trade unions in Columbia. Finland, Japan and Pakistan are using the UNCRPD as a way to report on the situation of WWDs and the effectiveness of government programmes and policies.

⁶⁷ 'Promoting Diversity and Inclusion through Workplace Adjustments: A Practical Guide', (2016), *ibid*, p 59

⁶⁸ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 12

⁶⁹ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 13

⁷⁰ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, pp 8; 21

⁷¹ *Ibid*, pp 12, 25, 26

⁷² 'World of Work, A double-Dip in Employment?', The Magazine of the ILO, No. 73, 2011, p 25

⁷³ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *op cit*, 12

⁷⁴ *ibid*

⁷⁵ 'Promoting Diversity and Inclusion through Workplace Adjustments: A Practical Guide', (2016), *op cit*, pp 1 78

the workplace. Trade unions can monitor whether employers are meeting their quota requirements. Trade unions can partner with employers to provide return-to-work services that would ensure that workers who are injured on the job have a right to vocational rehabilitation and assurance of wages and job protection.

Formulation of Disability Policy⁷⁶

Trade unions in collaboration with relevant NGOs and CSOs can develop a disability policy containing a statement on prevalence of disability in Nigeria as well as attitudes towards disability, discriminatory practices and how the union would work to address these problems. A disability policy can serve as the basis for developing disability action plans or strategies. Trade unions plan of action must be developed around its constituency's challenges and needs. Trade union policies should address basic working rights for WWDs and strategy for responding to injuries of workers in the workplace or throughout their working lives as well as a means of reaching out to family members of WWSs.⁷⁷ Disability policy should cover implementing a reasonable accommodation policy⁷⁸ and involve having a record of members with disabilities and regularly conducting follow-ups on these persons. Trade union disability policies should also involve interacting with WWDs to find out their needs and also forming partnerships and alliances with other disability rights organizations and both international and local trade unions. Partnerships are important because isolated actions usually have little impact on the system, which maintains the exclusion of people with disabilities outside the world of work. Trade union policies should outline comprehensive and sustainable strategy to include PWDs effectively, socially and economically.⁷⁹ This strategy should be based on the fundamental principles of freedom of association and freedom of organization and social dialogue stipulated in the International Labour Conventions No. 87 and 98.⁸⁰

6. International Law and International Labour Best Practices

Trade unions are working all over the world on disability issues.⁸¹ Canada has established legislation and services on disability, including programmes to support PWDs to enter or stay in the workforce. Canadian trade unions support and interact with these structures in their work on disability. There is extensive engagement from trade unions in disability issues in Canada. Trade unions support return-to-work programmes, accessibility, accommodations⁸² and adaptations in the workplace. The trade unions ensure that disability issues are included in collective bargaining agreements and that PWDs have full representation and in their union structures and work.⁸³ In Canada, unions have negotiated contract language and initiatives that reduce the impact of disability in the workplace and promote and protect the employability of PWDs. Unions also ensure that collective agreements are disability inclusive and contain clauses on discrimination,⁸⁴ workplace harassment, employment equity and workplace diversity, long term disability benefits, healthcare benefits, employer paid sick leave, confidentiality of personal health information, etc.⁸⁵ Unions use political means to affect changes to legislation and public policy affecting PWDs.⁸⁶ In Ireland and the United Kingdom, the Trades Union Congress includes a separate conference for WWDs. Just like Canada, the trade unions ensure that disability issues are included in collective bargaining agreements and that PWDs have full representation and in their union structures and work.⁸⁷ In Norway, there is an agreement on inclusive working life, signed jointly with social partners. This covers issues related to sickness and health, increasing the retirement age and to make more jobs available for disabled employees.⁸⁸ In France, a disability compact, approved by the Ministry of Employment, was signed with the trade unions for hiring PWDs. Sodexo currently employs 600 people with disabilities in France, including 50 with severe disabilities. The company also trains more than 200 youth with disabilities in the kitchens

⁷⁶ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *op cit*.

⁷⁷ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 26. See also 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 22

⁷⁸ 'Promoting Diversity and Inclusion through Workplace Adjustments: A Practical Guide', (2016), *ibid*, p 58

⁷⁹ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*.

⁸⁰ Discussed below

⁸¹ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 8

⁸² The Canadian Union of Postal Workers (CUPW) collective agreement with the Canada Post Corporation contains clauses reasonable on accommodation for Deaf and hard-of-hearing employees.

⁸³ *ibid*, pp 17-19

⁸⁴ The Canadian Union of Postal Workers (CUPW) collective agreement with the Canada Post Corporation contains an anti-discrimination clause prohibiting workplace discrimination on disabilities grounds.

⁸⁵ Shelley Jodoin & Henry Harder, 'Strategies to Enhance Labour-Management Cooperation in the Development of Disability Management Programs', (2004), *International Journal of Disability, Community and Rehabilitation*, 3(4), <www.ijdcrc.ca/VOL03_04_CAN/articles/jodoin.shtml> accessed 7 March 2018.

⁸⁶ *Ibid*.

⁸⁷ *op cit*

⁸⁸ *op cit*

of specialized institutions that are clients of Sodexo. The training allows youth with disabilities to enter Sodexo or other companies in the food service industry.⁸⁹ In France, there is a fund for the occupational integration of PWDs called Agefiph. Employers' representatives, workers' representatives, and the five national confederations of trade unions govern the fund.⁹⁰ In Poland, there are two union structures representing PWDs: National Section of the Disabled and National Section of the Blind. In Poland, Norway, France and Germany, the trade unions ensure that disability issues are included in collective bargaining agreements and that PWDs have full representation.⁹¹ In Thailand, the ILO-Irish Aid Partnership Programme's PEPDEL project is working with the trade union movement to promote equal rights and equal opportunities for disabled workers. Trade unions in Thailand are already taking leading roles at workplaces and within their communities to influence attitudes and opinions about the rights and capacity of disabled persons.⁹² The push for greater recognition in the workplace of the rights of PWDs has received a boost from four trade unions representing approximately 450,000 workers in different sectors, which are working with the ILO-Irish Aid's PEPDEL project⁹³. Since 2010, the Labour Congress of Thailand (LCT), National Congress Private Industrial of Employees (NCPE), State Enterprises Workers' Relations Confederation (SERC) and Thai Trade Union Congress (TTUC) have worked with the PEPDEL project to promote the inclusion of PWDs in their programmes to provide decent work for all.⁹⁴ As part of its awareness-raising efforts, the PEPDEL project provided Disability Equality Training, or DET, to 15 trade union members from LCT, NCPE, SERC and TTUC. DET explores the concept of people being disabled by society's barriers and attitudes. It highlights the role of the organization or group in removing those barriers and in helping to change attitudes.⁹⁵ In Vietnam, the Vietnam General Confederation of Labour (VGCL) has provided policy input on disability, but also provides vocational training for PWDs.⁹⁶ In Iraq; trade unions are collaborating with employers and training centres to promote employment of PWDs. They are attempting to work towards achieving the quota of 2% employment of PWDs. Palestinian trade unions are also working towards inclusion of disabled people.⁹⁷

The international community, through the United Nations (UN) and the International Labour Organization (ILO), have demonstrated support for trade union actions and collective bargaining for WWDs. International labour standards are relevant to PWDs whether disability is mentioned explicitly or not.⁹⁸ Disability centred trade unions can create awareness and strengthen the application of the following international instruments:⁹⁹

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

This Convention recognises the principle of freedom of association to be a means of improving conditions of labour and of establishing peace. The Convention affirms the rights of workers, without distinction whatsoever, to establish or to join organisations of their own choosing without hindrance.¹⁰⁰ Public authorities are to refrain from any interference that would restrict this right or impede the lawful exercise thereof.¹⁰¹ The Convention further protects the right to freedom of workers to organise.¹⁰²

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

This Convention further strengthens the rights of all workers to organize and engage in collective bargaining. According to the Convention, workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment;¹⁰³ such as acts calculated to make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; or cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.¹⁰⁴ The Convention further states that trade unions

⁸⁹ 'Disability in the Workplace : Company Practices', (2010), International Labour Office, Geneva, p 59

⁹⁰ *op cit*

⁹¹ *op cit*

⁹² 'Moving towards disability inclusion', (2011), *ibid*, p 35

⁹³ 'Inclusion of People with Disabilities in National Employment Policies', :International Labour Office, p 4

⁹⁴ 'Moving towards disability inclusion', (2011), *ibid*, pp 35-37

⁹⁵ *ibid*, p 38

⁹⁶ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *op cit*, p 17-19

⁹⁷ *ibid*

⁹⁸ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 13

⁹⁹ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 23

¹⁰⁰ Art 2

¹⁰¹ Art 3

¹⁰² Art 11

¹⁰³ Art 1(1)

¹⁰⁴ Art 1 Para (2) (a) (b)

shall enjoy adequate protection against any acts of interference.¹⁰⁵ Measures shall be put in place for ensuring respect for the right to organise.¹⁰⁶ Also, measures shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.¹⁰⁷

ILO Convention No. 159 on Vocational Rehabilitation and Employment (Disabled Persons), 1983¹⁰⁸

The Convention is based on the principle of equal opportunity between WWDs and workers generally. The Convention seeks to ensure the consultation of representative organizations of employers, workers, and PWDs themselves. It guarantees the role of organizations representing WWDs in the design and implementation of policies that affect employment of PWDs.¹⁰⁹

Recommendation 168, on Vocational Rehabilitation and Employment (Disabled Persons), 1983

The Recommendation was adopted to reinforce the provisions of the Vocational Rehabilitation and Employment (Disabled Persons), 1983 Convention. By this Recommendation, government in consultation with employers' and workers' organizations and representative organizations of and for PWDs, should provide measures to ensure that PWDs enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment.¹¹⁰ It recommends that measures geared towards creating job opportunities including amongst others, helping work organisation to facilitate such training and employment should be taken.¹¹¹

Discrimination (Employment and Occupation) Convention, No. 111, 1958¹¹²

The ILO adopted this Convention to tackle discrimination in the field of employment and occupation. Member States¹¹³ are to adopt methods in line with national conditions and practice to seek the co-operation of employers and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the Convention. The Convention is aimed at promoting equality of opportunity and treatment in respect of employment and occupation, through adopting methods appropriate to national conditions and practice, with a view to eliminating any discrimination in respect thereof.¹¹⁴

Discrimination (Employment and Occupation) Recommendation, No. 111, 1958

The General Conference of the International Labour Organisation proposed this Recommendation to supplement the Discrimination (Employment and Occupation) Convention, 1958. The Recommendation admonishes member States to formulate national policies for the prevention of discrimination in employment and occupation.¹¹⁵ The policy should be applied by means of legislative measures, collective agreements between representative employers and workers' organisations or in any other manner consistent with national conditions and practice.

Equal remuneration Convention, No.100, 1951

The Equal Remuneration Convention, 1951, was adopted to give effect to the principle of equal remuneration for men and women workers for work of equal value. Member States, in co-operation with the employers and workers' organisations concerned,¹¹⁶ are to ensure through national laws; legally established or recognised machinery for wage

¹⁰⁵ Acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations. See Article 2, (1) (2)

¹⁰⁶ Art 3

¹⁰⁷ Art 4

¹⁰⁸ <www.ilo.org/employment/disability> Accessed 12 December 2017 at 4:45pm. See also the ILO Vocational Rehabilitation (Disabled) Recommendation, No. 99 of 1955. On Vocational Rehabilitation And Employment (Disabled Persons), 1983

¹⁰⁹ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', 2017, *ibid*, p 37.

¹¹⁰ Arts 7 & 8.

¹¹¹ Arts 10 & 11.

¹¹² Nigeria ratified this in 2nd October 2002.

¹¹³ Art 3.

¹¹⁴ Art 2.

¹¹⁵ Art 1 (2) & (3).

¹¹⁶ Art 4.

determination; or collective agreements between employers and workers, the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.¹¹⁷

Equal Remuneration Recommendation, No. 90, 1951¹¹⁸

This Recommendation, which supplements the Convention, reinforces the principles laid down in the Convention concerning equal remuneration for men and women workers for work of equal value. The Recommendation recommends that state parties shall after consultation with the workers' organisations concerned or, where such organisations do not exist, with the workers concerned, take actions to ensure or encourage the application of the principle of equal remuneration for men and women workers for work of equal value in all occupations of State, provincial or local Government departments or agencies, where State parties have jurisdiction over rates of remuneration.

ILO Code of Practice for Managing Disability in the Workplace, 2001¹¹⁹

This Code acknowledges that employers' and workers' organizations and organizations of PWD contribute daily to facilitating the employment, job retention and return-to-work opportunities for PWDs. The Code states that the measures adopted by these organizations include policy statements and provision of advisory and supportive services.¹²⁰ This code was drawn up to guide employers of various kinds of enterprises in developing or highly industrialized countries to adopt a positive strategy in managing disability-related issues in the workplace. On the general duties of workers' representatives in relation to WWDs, the Code states as follows:¹²¹ In promoting policies of equality of employment opportunity for workers both at the level of the individual employer and in the national consultation and negotiation processes, workers' organizations should actively advocate employment and training opportunities for persons with disabilities, including job retention and return-to-work measures. Workers' organizations should actively encourage workers with disabilities to join their organizations as members and to assume leadership roles. Workers' organizations should actively represent the interests of workers with disabilities to management and in any works council, safety committee or other workplace committee, and should promote positive action aiming to foster their inclusion in the workplace, including awareness raising among managers and staff, and any required adjustments or adaptations. Workers' organizations should sensitize and train their members concerning disability through awareness-raising events and union publications featuring disability equality issues. According to the Code, to promote a healthy and safe workplace, workers' organizations should: strongly advocate adherence to existing occupational safety and health standards and the introduction of early intervention and referral procedures in accordance with this code; cooperate with and participate in disability information and prevention programmes offered by the employer and/or organizations of persons with disabilities for the benefit of the workers. To promote the introduction of disability management strategies in the workplace, workers' organizations should introduce and implement such a strategy for their own employees. Workers' organizations should raise employers' awareness of specific labour laws, Conventions and technological support that will facilitate the access of disabled persons to employment. Workers' organizations should encourage members to cooperate with return-to-work programmes developed by the employer, in accordance with this code, for early return to work.

United Nations Charter and the International Bill of Rights

The United Nations Charter is the most fundamental document in present international relations.¹²² The Charter forms the nucleus for the protection of rights for PWDs.¹²³ Disability centered trade unions can rely on the Charter as a basis for their advocacy for equal rights, full inclusion and participation for WWDs. The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) in 1948.¹²⁴ The UDHR forms the fundamental normative basis on which international norms and standards concerning PWDs have evolved.¹²⁵ The

¹¹⁷ Art 2 (1) & (2).

¹¹⁸ Nigeria ratified it on 8th May, 1984.

¹¹⁹ 'Code of Practice on Managing Disability in the Workplace, Tripartite Meeting of Experts on the Management of Disability at the Workplace', (2001), ILO, Geneva. See also 'ILO Managing disability in the workplace: ILO Code of Practice', (2002), International Labour Office, Geneva.

¹²⁰ *ibid* p iv

¹²¹ *ibid* p 10

¹²² UO Umzurike, 'Introduction to International Law', (Ibadan: Spectrum books limited, 3rd Ed., 2005) p 142.

¹²³ 'International Norms and Standards Relating to Disability', (2003), 1, United Nations Enable, <<http://www.un.org/esa/socdev/enable/comp00.htmsearch>> accessed 14 December 2017.

¹²⁴ UDHR, adopted and proclaimed by the UN General Assembly in resolution 217 A (III) of 10 December 1948 at Paris, art 1.

¹²⁵ 'International Norms and Standards Relating to Disability', (2003) United Nations p 2.

UDHR in article 23 states that everyone has the right to form and join trade unions for the protection of his interests. The UDHR also states, 'Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.'¹²⁶ The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 23 March 1976. The ICCPR does not deal specifically with employment, but it does contain an important provision stating that all persons are equal before the law and are entitled to the equal protection of the law, and prohibiting discrimination on any ground.¹²⁷ It also provides for the right to form and join trade unions.¹²⁸ While disability is not explicitly mentioned in either the ICCPR or the ICESCR as a prohibited ground of discrimination, it is understood to be encompassed by the term 'or other status'.¹²⁹ The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 3 January 1976.¹³⁰ It guarantees among other rights the right to non-discrimination,¹³¹ the right of everyone to work and other labour rights, the right to education¹³², and the right to an adequate standard of living.¹³³ The ICESCR recognizes the opportunity of everyone to gain their living by freely chosen or accepted work.¹³⁴ Steps to be taken to achieve the full realization of that right include vocational guidance, training and productive employment.¹³⁵ The work referred to in Article 6 must be decent work¹³⁶ performed in a 'just and favorable' working condition.¹³⁷ These rights incorporate the right to fair wages sufficient to afford a decent life for the worker and his or her family; with equal pay for equal work; safe working conditions and equal opportunity in the workplace.¹³⁸ The ICESCR recognizes the right of workers to form or join trade unions and protects the right to strike¹³⁹ as well as the right of everyone to social security¹⁴⁰, including social insurance.¹⁴¹ State parties are to put in place a social insurance scheme to protect people against the risks of sickness, disability, employment injury, unemployment, amongst other things. Benefits from such a scheme must be adequate, accessible to all, and provided without discrimination.¹⁴² The UDHR, the ICCPR including its first and second Optional Protocols. Along with the ICESCR make up the International Bill of Human Rights and provide a basis for the universal human rights for PWDs.¹⁴³

¹²⁶ UDHR, art 23

¹²⁷ ICCPR, 1966, Art. 26, a clause also contained in the ICESCR (Art. 2). See also 'Decent Work for Persons with Disabilities: Promoting Rights in the Global Development Agenda, International Labour Office: Gender, Equality and Diversity Branch, Conditions of Work and Equality Department. - Geneva: ILO, 2015, p 5.

¹²⁸ ICCPR, art 22

¹²⁹ (UN CESCR 1994, General Comment No. 5). Decent work for persons with disabilities: promoting rights in the global development agenda / International Labour Office, Gender, Equality and Diversity Branch, Conditions of Work and Equality Department. - Geneva: ILO, 2015, p 5.

¹³⁰ 'International Covenant on Economic, Social and Cultural Rights', <www.refworld.org> accessed 14 December 2017.

¹³¹ ICESCR art 2(2).

¹³² *ibid*, art 13

¹³³ *ibid*, art 11

¹³⁴ *ibid*, art 6(1)

¹³⁵ 'Decent Work for Persons with Disabilities: Promoting Rights in the Global Development Agenda' (2015), International Labour Office: Gender, Equality and Diversity Branch, p 5.

¹³⁶ ICESCR General Comment 18, para 7.

¹³⁷ ICESCR art 7.

¹³⁸ Equal opportunity connotes the right for everyone to be promoted in employment to an appropriate higher level, subject to no considerations other than those of seniority and competence (Art. 7). See Decent work for persons with disabilities: promoting rights in the global development agenda / International Labour Office, Gender, Equality and Diversity Branch, Conditions of Work and Equality Department. - Geneva: ILO, 2015, *ibid*.

¹³⁹ *ibid*, art 8.

¹⁴⁰ 'World of Work, A double-Dip in Employment?', *ibid*, pp 2-56

¹⁴¹ *ibid*, art 9.

¹⁴² 'CESCR Draft General Comment 19: The right to social security', (2008), UN Economic and Social Council. Paras. 1 – 4. <http://www.unhcr.org/refworld/publisher,cescr.html> accessed 14 December 2017.

¹⁴³ 'Realization of the Sustainable Development Goals by, for and with Persons with Disabilities: UN Flagship Report on Disability and Development', (2018), United Nations Department of Economic and Social Affairs, Advanced unedited version, p 46. See also 'Fact Sheet No.2 (Rev.1) The International Bill of Human Rights', (1996), UN OHCHR. Archived

United Nations Convention on the Protection of the Rights of Persons with Disability, (UNCRPD) 2008 and its Optional.

The UNCRPD, 2008 was created to directly protect, promote and guarantee the human rights of PWDs.¹⁴⁴ The UNCRPD hopes to promote recognition of the skills, merits and abilities of PWDs, and of their contributions to the workplace and the labour market.¹⁴⁵ The UNCRPD guarantees the right to work and employment for PWDs on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to PWDs¹⁴⁶ and to ensure that PWDs are able to exercise their labour and trade union rights on an equal basis with others.¹⁴⁷ On 13th December, 2006, the United Nations General Assembly unanimously adopted the Optional Protocol¹⁴⁸ to the UNCRPD. It entered into force on May 3, 2008. The Optional protocol provides for the communications procedure and inquiry procedure whereby the Committee on the Rights of Persons with Disabilities will receive and consider communications from a State party concerning individuals or groups of individuals subject to the jurisdiction of the State who claim to be victims of a violation by that State Party of the provisions of the Convention.¹⁴⁹

United Nations Standard Rules on the Equalization of Opportunities for PWDs, 1993

The United Nations Standard Rules on the Equalization of Opportunities for PWDs was issued after the 1982 World Programme of Action Concerning Disabled Persons, a global strategy to enhance disability prevention, rehabilitation and equalization of opportunities for PWDs. The World Programme of Action emphasized the need to approach disability from a human rights perspective. The Rules are revolutionary in that cover all aspects of the social and economic lives of PWDs and establish participation by PWDs as an internationally recognized human right.¹⁵⁰ To realize this right, governments are expected to provide opportunities for PWDs to participate in employment as their human rights and that PWDs, both in rural and urban areas must have equal opportunities for productive and gainful employment in the labour market.¹⁵¹ It further states that laws and regulations in the employment field must be non-discriminatory against PWDs and that States, workers organization and employers¹⁵² must devise active measures and develop action programmes to support and ensure the integration of PWDs in employment.¹⁵³

from the original on 13 March 2008. <
<https://web.archive.org/web/20080313093428/http://www.unhcr.ch/html/menu6.htm>> accessed 14 December 2017.

¹⁴⁴ UNCRPD (2008) <www.un.org/disabilities> accessed 12 December 2017. See also ‘Realizing the Rights of Persons with Disabilities, Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol’, No. 14, 2007, United Nations Department of Economic and Social Affairs, Office of the United Nations High Commissioner for Human Rights & the Inter-Parliamentary Union, From Exclusion to Equality, p 4.

¹⁴⁵ UNCPD art 8 (3)

¹⁴⁶ *ibid*, art 27. Under art. 27, employees with disabilities must also be reasonably accommodated and have access to training and union benefits.

¹⁴⁷ *Ibid* art 27 (1) (c)

¹⁴⁸ Optional Protocols sometimes accompany treaties. They are stand-alone agreements that can be signed and ratified by countries that are not party to the main treaty.

¹⁴⁹ *ibid* art 1.

¹⁵⁰ Standard Rules on the Equalization of Opportunities for Persons with Disabilities, Adopted by the United Nations General Assembly, forty-eighth session, resolution 48/96, annex, of 20 December 1993, Rule 18. The Standard Rules were adopted at the end of the “Decade of Disabled Persons” (1982-1993) by General Assembly Resolution 48/96. As a policy guidance instrument, the Rules reiterate the goals of prevention, rehabilitation and equalization of opportunities established by the Vienna Declaration, World Programme of Action.

¹⁵¹ Standard Rules on the Equalization of Opportunities for Persons with Disabilities ,Rule 7, ‘Standard Rules on the Equalization of Opportunities for Persons with Disabilities-A/RES/48/96’, (2006), United Nations Enable: Depart of Economic and Social Affairs Division for Social Policy and Development, <www.un.org/esa/socdev/enable/dissre04.htm> accessed 12 January 2018.

¹⁵² ‘Disability in the Workplace: Employers' Organizations and Business Networks’, (2011), International Labour Office, Geneva, pp 1-67.

¹⁵³ *ibid*, Rule 7 & 20. See also ‘International Norms and Standards Relating to Disability’, (2003) *ibid* p 6. Although the Standard Rules on the Equalization of Opportunities for Persons with Disabilities are not legally binding and do not have the full force of law, they have been adopted by a large number of States and imply a strong moral and political commitment on behalf of States to take action for the equalization of opportunities for disabled persons. The Standard Rules is, in fact,

7. Conclusion and Recommendations

The role of trade unions and the need for WWDs to organize and collectively bargain for the realization of their working rights cannot be overemphasized. The full inclusion and participation of WWDs in all aspects of labour and employment should be the paramount objective of any employer as well as employer and workers organizations alike. Trade unions strengthen partnerships as well as a more responsive social dialogue to diversity.¹⁵⁴ Their actions ensure progress for the respect of Rights at work and guarantee non-discrimination, accessible and inclusive work environments and making the workplace better for all workers.¹⁵⁵ In addition, there would be increased vocational training opportunities, employment and enterprises creation for PWDs as well as a strengthened social protection to meet the needs of PWDs with specialized services.¹⁵⁶ Disability centred trade unions need to emerge in Nigeria in the interests of WWDs already in employment. Existing trade unions can develop a disability policy and begin to mainstream disability in all negotiation and bargaining process. Through these disability-centred trade unions and disability inclusive collective agreements,¹⁵⁷ issues militating against the full inclusion and participation of workers with disabilities in the Nigerian labour and employment sector will be addressed and resolved. More so, through these union actions in Nigeria, international law and international labour best practices regarding PWDs and work can be incorporated into Nigeria's labour and employment system and a comprehensive disability mainstreaming can be achieved in both public and private employment and in all institutional policies of government and including the trade unions policies and programs. Trade unions can also take advantage of the complaints procedure of the UNCRPD to monitor, report and ensure compliance by the Nigerian government with the provisions of the UNCRPD.¹⁵⁸ Trade unions in Nigeria need to understand disability issues, how they apply to work, and the role of the trade unions. Disability needs to be seen as a priority issue within the union structure¹⁵⁹ They should partner with the Global Union Federations such as the International Confederation Free Trade Unions (ICFTU) and then of the International Trade Union Confederation (ITUC) as well as civil societies¹⁶⁰ to achieve full inclusion and participation in work for WWDs.¹⁶¹ Trade unions must adopt the 'nothing about us without us' principle to increase the success and effectiveness of Unions' initiatives for PWDs.¹⁶²

the first universal instrument to refer specifically to disabled persons, as well as to contain an extremely broad statement of the rights to equal opportunities.

¹⁵⁴ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 25; Trade Union Action on Decent Work for Persons with Disabilities. A Global Overview /International Labour Office, Bureau for Workers' Activities (ACTRAV). - Geneva: ILO, 2017, p 12

¹⁵⁵ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *op cit*. See also 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 12

¹⁵⁶ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 25; 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *op cit*.

¹⁵⁷ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 23

¹⁵⁸ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 5.

¹⁵⁹ 'Trade Union Action on Decent Work for Persons with Disabilities: A Global Overview', (2017), *ibid*, p 32

¹⁶⁰ In Ireland, trade unions have collaborated with civil societies to advocate for the rights of WWDs. See Promoting diversity and inclusion through workplace adjustments: a practical guide / International Labour Office. - Geneva: ILO, 2016, p 59. See also Proceedings of Unlocking Potential: A Multinational Corporation Roundtable on Disability and Employment Bangkok, International Labour Office, 2005, p 44.

¹⁶¹ 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, pp 14, 16-18.

¹⁶² 'Expert Meeting on Trade Union Actions to Promote Decent Work for Persons with Disabilities', (2017), *ibid*, p 26