

PROTECTING AND PROMOTING THE RIGHTS OF PERSONS WITH DISABILITY IN NIGERIA*

Abstract

Human rights generally represent demands or claims protected by the law which individuals or groups make on the society. In spite of the existence of some powerful frameworks like the Universal Declaration of Human Rights and other international and national laws, human rights violations continue to be witnessed in many forms and are of varying intensity. Majority of person with disability have experienced abuses of their rights like negative experiences with respect to employment, lack of sustainable and dependable empowerment, exclusion from social interaction and participation in decision making on issues that affect their lives, lack of access to public facilities amongst others. This paper examined the rights of persons with disability and the various challenges of living with disability in Nigeria. It focused generally on certain exclusionary and discriminatory practices against persons with disabilities in Nigeria in connection with their legal rights enshrined in both international and national documents and instruments. It pointed to the fact that persons with disability suffer and experience discrimination by the government and members of the society in which they live. The doctrinaire research methodology was adopted as the work examined both national and international framework pertaining to human rights and rights of persons with disability. This article concluded that it's the States' obligation to progressively recognize the rights against any form of discrimination and efforts to protect those rights. Accordingly measures towards the progressive achievement of the rights must at all times be used as guides and complied with. This article recommended that the Nigerian government should, as a matter of urgency, ensure the effective implementation of both international and national law for the protection and promotion of the rights of persons with disability and further enhance proper and adequate funding of persons with disability organizations.

Keywords: Human Rights, Person with Disability, Discrimination, Nigeria, International Law

1. Introduction

In December 1948, the ratification of the Universal Declaration of Human Rights became a reality. In general, this and other international human rights framework reflect a broader consensus and a monumental commitment of the international community to observe and guarantee a minimum package of fundamental human rights that must be enjoyed by everyone on the sole ground of being human.¹The central drive of universal human rights is to protect human dignity and integrity from all manner of actions and practices that are not only dehumanising, but also threatening to the survival and wellbeing of individuals, groups and humanity as a whole². Since its ratification, the universal human rights framework has provided the world with a powerful discourse and framework that legitimise struggles against violations of the fundamental human rights.³ The international and regional human rights system remains one of the greatest achievements in the internationalisation of human rights, and this system are very important for the protection and promotion of human rights and in particular the rights of persons living with disability, to establish their rights as bona fide members of the society.⁴ Persons with disability constitute a significant portion of the population worldwide, yet they remain one of the most marginalized and vulnerable population. It is difficult to obtain accurate data on the number of person living with disability worldwide because approaches to measuring disability vary across countries and according to the purpose and application of the data.⁵However, the world health survey, a face to face household survey conducted in 2002-2004 in 59 countries estimated that about 650 million adult had a disability with about 92 million of those adult experiencing a very significant disabilities.⁶ The survey also demonstrated that the occurrence of disability is higher in low income countries where 18% of the population has a disability, in comparison to the high income countries where about 11.8% of the population has a disability.⁷ Before, 1970 most legislation dealing with challenges faced by people living with disability were more concerned with the provision of some form of social security or public assistance benefit. There was a change in the 1970s and 1980s centred on the rights of disable people to the protection under the law as enjoyed by the rest of the population⁸

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¹JY Asomah, 'Cultural Rights Versus Human Rights: A Critical Analysis of the Trokosi Practice in Ghana and the role of civil society'. *African Human Right Journal* vol 15.2015 .On-line version ISSN 1996-2096 Print version ISSN 1609-073X.<http://www//afr..Human.Right>. Accessed on 17th October 2022.

² *ibid*

³ *ibid*

⁴ United Nations Office Of the United Nations High Commissioner on Human Right and Inter- Parliamentary Union from Exclusion to Equality.; 'Realizing the Right of Persons Living with Disability' 2007. *Handbook For Parliament Professional Training Services NO14 United Nation* 2007 <http://www.ohchr.org> accessed on the 17th of October 2022

⁵ United Nations General Assembly, 'Convention on the Rights of Persons with Disabilities', A/RES/61/106, Art. 1 2006

⁶ World Health Organization, 'World Report on Disability' 2011. http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf. Accessed on 2nd of December 2022.

⁷ *Ibid*

⁸RF Antonak, 'Developmental And Psychometric, Analysis Of The Scale Of Attitude Towards Disable Person' .*Journal Of Applied Rehabilitation Counseling*. 13(2) 1982. See Also I Imman and M.A. Abdulraheem-Mustapha, 'Right of People Living with Disability in Nigeria: attitude and comment', *Journal of international and comparative law* 2016. DOI.10/3366/ajicl.2016.0163

The notion of disability is understood as a medical condition involving physical features of individuals, which takes a person with disability as someone who ‘has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.’⁹ The Convention on the Rights of Persons with Disabilities does not provide a definition of disability, but instead provides a broad description intended to be widely inclusive. The convention established in article 1 that ‘persons with disabilities includes those who have long term physical , intellectual or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’.¹⁰ Disability can also be understood within the context of oppression, where the majority of people with disability have been so psychologically oppressed by society that their oppression has become internalised, leading to them developing, notion of ‘false consciousness’, according to which they now come to believe that they are less capable than others.¹¹

Over the past decade, awareness and understanding of issues related to disability right has grown. In particular, the Convention on the Rights of Persons with Disability (CRPD) adopted in 2006 and entered into force on the 3rd of May 2008, has been integral to the advancing recognition of the right of person with disability. The CRPD set out a wide range of rights that address all aspect of life, such as respect for home and family, education, employment, health, participation in political and public life, participation in cultural life, recreation, leisure and sport, the freedom to life, freedom from torture or cruel, inhuman or degrading treatment or punishment and the right to equal protection and equal benefit of the law. The CRPD seeks to ensure the full and equal enjoyment of all human rights and fundamental freedom by all persons with disability and promote respect for their inherent dignity.¹² Discrimination on the basis of disability means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercises on an equal basis with other human and restricts their fundamental freedoms in the political, economic, social, and cultural civil or any other field.¹³ This description of disability shifts the focus towards the social and environmental barriers that hinder an individual’s participation in society rather than on the individual’s impairment. History has shown that persons living with disability have not always been treated fairly and equally, historical examples of discrimination against people with different forms of physical and mental disabilities range from being ridiculed to being condemned to permanent exclusion in asylums; from being allowed to drown or die to being out rightly executed discrimination and lack of access to health education and employment opportunities¹⁴ The real issue as far as disability is concerned, therefore, has to do with these judgemental and scornful attitudes combined with, particular social contexts, namely, the way people with disabilities are treated and an inhospitable physical environment that is inaccessible buildings and unusable transport systems, etc.¹⁵

2. Conceptual Clarification

Human Rights

The expression human rights is relatively new, having come into everyday parlance only since World War II, the founding of the United Nations in 1945, and the adoption by the UN General Assembly of the Universal Declaration of Human Rights in 1948. It replaced the phrase natural rights, which fell into disfavour in the 19th century in part because the concept of natural law (to which it was intimately linked) had become controversial with the rise of legal positivism. Legal positivism rejected the theory, long espoused by the Roman Catholic Church, that law must be moral to be law. The term human rights also replaced the later phrase the rights of Man, which was not universally understood to include the rights of women.¹⁶ Human rights are standards that recognize and protect the dignity of all human beings. They are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without¹⁷ These rights govern how individual human beings live in society and with each other, as well as their relationship with the State and the obligations that the State have towards them. The law obliges governments to do some things, and prevents them from doing others. Individuals also have responsibilities: in using their human rights, they must respect the rights of others. No government, group or individual person has the right to do anything that violates another’s rights.¹⁸ Human rights have features like:

⁹ The Disability and Discrimination Act United Kingdom, 1995

¹⁰ United Nations General Assembly, ‘Convention on the Rights of Persons with Disabilities’ A/RES/61/106, Art.1 2006. <http://cwww.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities>. accessed on the 2nd of Dec. 2022

¹¹ J Charlton, ‘Nothing About Us Without Us: Disability, Oppression and Empowerment.’ Berkeley, CA: University of California Press. 1998 See also E Etieyibo Rights of Persons with Disabilities in Nigeria *Afrika Focus — Volume 33*, Nr. 1, 2020. P.60. [http://www/afoc-article-p59_5\(1\).pdf](http://www/afoc-article-p59_5(1).pdf) accessed on the 17th of November 2022

¹² United Nations General Assembly, Convention on the Rights of Persons with Disabilities, A/RES/61/106, Art. 12006, *op cit* p.3.

¹³ United Nations Convention on the Rights of Persons with Disability adopted on the 13th of December 2006 by the sixty-first session of the general assembly by resolution A/RES/61/106

¹⁴ E Etieyibo Rights of Persons with Disabilities in Nigeria *Afrika Focus — Volume 33*, Nr. 1, 2020. *Op Cit*.

¹⁵ *ibid*

¹⁶ <http://www/Britannica.com/topic/human-right> accessed on the 23th of march 2023

¹⁷ *Ibid*

¹⁸ Unicef What are human rights? *Human rights belong to each and every one of us equally convention on the right of a child.* <http://www/unicef.org/childright-convention/what-are-human-right> accessed on the 20th of March 2023

Universality and Inalienability

Human rights are universal and inalienable. All people everywhere in the world are entitled to them. No one can voluntarily give them up. Nor can others take them away from him or her.¹⁹

Indivisibility

Human rights are indivisible. Whether civil, political, economic, social or cultural in nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights. There is no such thing as a 'small' right. There is no hierarchy of human rights.²⁰

Inter-Dependence and Inter-Relatedness

The realization of one right often depends, wholly or in part, upon the realization of others. For instance, the realization of the right to health may depend on the realization of the right to education or of the right to information.²¹

Equality and Non-Discrimination

All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.²²

Participation and Inclusion

Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, political, economic, social and cultural development, through which human rights and fundamental freedoms can be realized.

Accountability and Rule of Law

States and other duty-bearers must comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator, in accordance with the rules and procedures provided by law.²³

Disability

The term 'disabilities,' from World Health Organisation, evokes associations to specific health conditions and impairments.²⁴ Disability is generally part of the human condition. Everyone is likely to experience it, either permanently or temporarily, at some point in their life. People with disabilities are diverse and not defined by their disability. Disabilities may be visible or invisible, can be at birth, during childhood, working age years or old age.²⁵ The UN Convention on the Rights of Persons with Disabilities (UNCRPD) recognises that 'disability is an evolving concept'²⁶ 'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'²⁷

The United Nations Office of the High Commissioner for Human Rights describes a human rights-based approach to disabilities as:

A rights-based approach seeks ways to respect, support and celebrate human `diversity by creating the conditions that allow meaningful participation by a wide range of persons, including persons with disabilities. Protecting and promoting their rights is not only about providing disability-related services. It is about adopting measures to change attitudes and behaviours that stigmatize and marginalize persons with disabilities. It is also about putting in place the policies, laws and programmes that remove barriers and guarantee the exercise of civil, cultural, economic, political and social rights by persons with disabilities.²⁸

Disability is therefore an experience of any condition that makes it more difficult for a person to do certain activities or have equitable access within a given society. It may be cognitive, developmental, intellectual, mental, physical, sensory, or a combination of multiple factors. The United Nations Convention on the Rights of Persons with Disabilities also defines disability as long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may

¹⁹*Ibid*

²⁰*Ibid*

²¹*Ibid*

²²*Ibid*

²³*Ibid*

²⁴ World Health Organisation Disability: People with disability vs persons with disabilities 7 December 2020 | Q&A. <http://www.who.int/new-room/question-and-answer/item/people-with-with-disability-vs-person-with-disability> accessed on 25th of March of 2023

²⁵<http://www.topic.guide/disability/inclusive/background-definition-of-disability> accessed on the 25th of march 2023

²⁶United Nation on the Convention of Right of Persons with Disability 2006, p. 1

²⁷United Nation on the Convention of Right of Persons with Disability 2006, p. 4

²⁸ UN Office of the High Commissioner for Human Rights, 'Monitoring the Convention on the Rights of Persons with Disabilities': *Guidance for Human Rights Monitors* 2010. http://www.ohchr.org/Documents/Publications/Disabilities_training_17EN.pdf.

hinder a person's full and effective participation in society on an equal basis with others. Disabilities have been perceived differently throughout history, through a variety of different theoretical lenses. There are two main models that attempt to explain disability in our society: the medical model and the social model. The medical model serves as a theoretical framework that considers disability as an undesirable medical condition that requires specialized treatment. Those who ascribe to the medical model tend to focus on finding the root causes of disabilities, as well as any cures such as assistive technology. The social model canters disability as a societally created limitation on individuals who do not have the same ability as the majority of the population. Although the medical model and social model are the most common frames for disability, there are a multitude of other models that theorize disability. Different models of disability inform how disability is understood and acted upon, and can be categorised as follows:

Charity Model

The charity model of disability focuses on the individual, and tends to view people with disabilities as passive victims objects of pity who need care, and whose impairment is their main identifier.

Medical Model

The medical (or biomedical) model of disability considers ‘disability a problem of the individual that is directly caused by a disease, an injury, or some other health condition and requires medical care in the form of treatment and rehabilitation’). It assumes that addressing the medical ailment will solve the ‘problem’ – that disability needs to be fixed or cured This model is widely criticised on different grounds, including for not considering the important roles of environmental and social barriers Medical and charity models of disability have led to ‘development interventions based largely on impairment needs assessed by ‘expert’ personnel, involving specialist services that are often severely limited in geographical, age, and impairment reach, as well as generally being expensive to run.’

Social Model

The social model of disability developed as a reaction to the individualistic approaches of the charitable and medical models. It is human rights driven and socially constructed. It sees disability as created by the social environment, which excludes people with impairments from full participation in society as a result of attitudinal, environmental and institutional barriers. It places emphasis on society adapting to include people with disabilities by changing attitudes, practice and policies to remove barriers to participation, but also acknowledges the role of medical professionals. The social model has been criticised for ignoring the personal impact of disability and for its emphasis on individual empowerment, which may be contrary to more collective social customs and practices in many developing countries

Human Rights Model

This model of disability is based on the social model and also seeks to transform unjust systems and practices It takes the UNCRPD as its main reference point and sees people with disabilities as the ‘central actors in their own lives as decision makers, citizens and rights holders’ The social and human rights models form the basis of many disability policies and practices As development professionals may identify with the individual models of disability, it is important not to alienate them when introducing them to disability as a human rights issue, but to ‘help [them] to see that barriers are a more helpful and respectful lens with which to view disability.

People with Disability

‘Persons with disabilities’ as defined in the Convention on the Rights of Persons with Disabilities refers exclusively to persons with long-term impairments. World Health Organisation’s mandate, however, includes anyone experiencing disability independent of the duration.²⁹ The term is generally used to apply to all persons with disabilities *including* those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various attitudinal and environmental barriers, hinders their full and effective participation in society on an equal basis with others. However, this minimum list of persons who may claim protection under the Convention does not exhaust the categories of the disabilities which fall within it nor intend to undermine or stand in the way of wider definition of disabilities under national law (such as persons with short-term disabilities). It is also important to note that a person with disabilities may be regarded as a person with a disability in one society or setting, but not in another, depending on the role that the person is assumed to take in his or her community. The perception and reality of disability also depend on the technologies, assistance and services available, as well as on cultural considerations.³⁰ In most parts of the world there are deep and persistent negative stereotypes and prejudices against persons with certain conditions and differences. These attitudes themselves also shape who is considered to be a person with a disability in each society as well as have contributed to a negative image of persons with disabilities. The language used to refer to persons with disabilities has played a significant role in the persistence of negative stereotypes. Clearly, terms such as ‘crippled’ or ‘mentally retarded’ are derogative. Other terms such as ‘wheelchair-bound’ or ‘disabled persons’ emphasize the disability before the person.³¹ Disability resides in the Society not in the Person, this position is so because:

²⁹*ibid*

³⁰United Nations, what is disability. <http://www.un.org/esa/code/enable/htm> accessed on the 25th of march 2023

³¹*ibid*

- a. A person in a wheelchair might have difficulties being gainfully employed not because of her condition but because there are environmental barriers such as inaccessible buses or staircases in the workplace which obstruct his or her access.
- b. A child with an intellectual disability might have difficulties going to school due to the attitudes of teachers, school boards and possibly parents who are unable to adapt to students with different learning capacities.
- c. In a society where corrective lenses are available for someone with extreme myopia (near-sightedness), this person would not be considered to have a disability, however someone with the same condition in a society where corrective lenses were not available would be considered to have a disability, especially if the level of vision prevented the person from performing tasks expected of this person such as shepherding, sewing, or farming.

Generally therefore, an impairment on its own would not lead to disability should there be a completely inclusive and comprehensively accessible environment, which includes addressing attitudinal barriers such as stereotype.

3. International Treaties on Rights of Persons with Disability

The first convention to be considered is the convention on the right of persons with disability 2006 CRPD. The convention on the right of persons with disability and its optional protocol was adopted on 13th of December 2006 at the United Nations Headquarters in New York and entered into force on 3 May 2008. As a key international instrument on the rights of persons with disabilities, it is the first comprehensive human rights treaty of the 21st century.³² It does not create new right for disable person. Instead, it sets out what is required to implement existing human right as they relate to disable person. The major principles of the CRPD are the inherent respect of dignity, individual autonomy including freedom to make ones choice and independence of person. It also provides for no discrimination, full and effective anticipation and inclusion in society right to education³³ The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities under this convention include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.³⁴

Nigeria ratified the United Nations Convention on the Right of People with Disability CRPD in 2007 and its optional protocol in 2010. Since then civil society group and people with disability has called on government to put the wordings of the convention into practices.

Article 5 of the Convention provides as follows;

- a. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
- b. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
- c. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
- d. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.³⁵

The Convention on the Rights of a Child 1989 CRC is the first legally binding international treaty governing children's right, it makes provisions that protect the rights of the child. This document sets the standard for how children should be treated around the world. By extension, it recognises and protects the rights of children with disabilities. It defines the fundamental right of the child and covers all aspect of child protection. The CRC set out a basic standard for healthy, protected decent childhood for every human being. Nigeria also ratified the convention on the right of a child in 1991, The Convention on the Elimination of All Form of Discrimination against Women was adopted by the United Nations general assembly on the 18th day of December 1979. It entered into force as an international treaty on the 3rd of September 1981. It's the most comprehensive international agreement on the right of women. Nigeria also ratified CEDAW in 1985 without reservation; the government signed the option protocol to the Convention and ratified it in 2004. The International Convention on Civil and Political Rights 1966 (ICCPR) was adopted by the UN general assembly in 1966, came into force in 1967 and Nigeria ratified it on the 29th of July 1993 this convention enables people to enjoy a wide range of human right including those relating to freedom from torture and other cruel inhuman and degrading treatment or punishment. It made provisions for right to life, the right to the enjoyment of liberty and security of person, right to liberty of movement, nationality or residence, right to privacy and right to education.³⁶ The International Covenant on Economic, Social and

³² E Etieyibo 'Rights Of Persons With Disabilities In Nigeria' *Afrika Focus* Volume 33, Nr. 1, 2020

³³ Convention On The Right Of Persons With Disability, s.24 adopted On 13th December 2006 by Sixty –First Session of the General Assembly by Resolution/Res/61/106

³⁴ Convention On The Rights Of Persons With Disability, Article 1 adopted On 13th December 2006

³⁵ Convention on the Right of Persons with Disability, Article 5

³⁶ International Convention on Civil and Political Rights 1966 (ICCPR), Articles 10,14,18,22 and 24

Cultural Rights 1966(ICESCR), was also adopted by UN National Assembly on the 16th of January 1966 and entered into forces in 1976 also ratified by Nigeria in 1993 it made provisions for right to life, the right to the enjoyment of liberty.

In general, many of the rights contained in the CRPD are affirmed by the ICCPR and ICESCR insofar as they are rights that broadly deal with aspects of the physical and mental integrity of persons. Many of the civil and political rights in the ICCPR are also affirmed in the CRPD in respect of persons with disabilities, and a number of the economic, social and cultural political rights in the ICESCR are recognised in the CRPD with regard to persons with disabilities. Nigeria is a state party and signatory to all of these legal instruments and by implication is bound to follow through on all of their provisions.

4. Nigeria's Legal Document on Rights of Persons with Disability

Nigeria has some policies and law on persons with disability. Two of the prominent legal instruments in Nigeria are the Constitution of the Federal Republic of Nigeria, and the Nigerian Discrimination against Persons with Disabilities (Prohibition) Act (2018). The Constitution of the Federal Republic of Nigeria, 1999 (as amended), in Section 34 provides generally for the dignity of human persons.³⁷ One of the aims of The Nigeria constitution is to maintain and enhance the human dignity of all persons³⁸. That is, it recognises the human and equal rights of every citizen, and the 'sanctity of the human person'.³⁹ Explicit provisions in respect of the rights of citizens can be found in chapter IV. Section 33(1) where it states that 'every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria'.⁴⁰ It further stipulates that 'every individual is entitled to respect for the dignity of his person'.⁴¹

On January 23rd, 2019, Nigeria's President Muhammad Buhari signed into law the Discriminations against Persons with Disabilities (Prohibition) Act 2018. The law provides for the full integration of Persons with Disabilities (PWD) into society and prohibits discrimination on the basis of disabilities.⁴² The law also established a National Commission for Persons with Disabilities, responsible for ensuring that people with disabilities have access to housing, education, and healthcare. The Act, as the name indicates, prohibits discrimination against persons living with disability and criminalizes violation of its provisions. The Disabilities Act applies to persons with disabilities who are citizens or legal immigrants of Nigeria and seeks to protect and enhance the rights of persons with disabilities in all areas of social, economic, cultural and political life. It forbids actions by any person or institution that discriminate against persons with disabilities on account of their disability.⁴³ In general, the Disabilities Act is meant to provide the framework for the full integration of people with disabilities into Nigerian society and to ensure that their rights (social and economic rights including the rights to education and healthcare) as contained in the Nigerian Constitution are attained and realised.⁴⁴ The law made provision for the following:

- a. The law prohibits discrimination on the basis of disability and imposes sanctions including fines and prison sentence on those who contravenes it.
- b. It also stipulate a five year transactional period for modifying public building, structure and automobile to make them accessible and usable for people with disability
- c. The law establishes a national commission for person with disability responsible with ensuring that people with disability have access to housing, education, and healthcare.
- d. The NCPD is empowered to receive complaints of the right violation and support victims to seek legal redress amongst other duties
- e. All public organization are to reserve at least five percent of employment opportunity for these people
- f. A government or government agency body or individual responsible for the approval of building plans shall not approve the plain of a public building if the plain does not make provision for accessibility in line with the building code with regards persons with disability.⁴⁵

The National Policy on Albinism 2012 came into force in response to violence and discrimination against persons with albinism, the policy objective is to mainstream albinism into diverse sectors of development.⁴⁶ The albino foundation of Nigeria says that the majority of persons with albinism in Nigeria suffer a high level of discrimination in the country.⁴⁷ The Federal Government of Nigeria also inaugurated a 14 man technical committee to review the national policy on albinism.⁴⁸

³⁷ 1999 Constitution of Federal Republic of Nigeria as Amended section 34.

³⁸ *Ibid* Chapter II Section I.

³⁹ *Op cit* Chapter IV Sections 33- 35, 37 & 41-42

⁴⁰ *Ibid*

⁴¹ E Etieyibo, 'Rights Of Persons With Disabilities In Nigeria', *op cit* p.7, 1999 Constitution s. 34 and 35

⁴² A Jamiu *op cit*.

⁴³ The Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act (2018)

⁴⁴ E Etieyibo *op cit* p. 59

⁴⁵ Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act (2018)

⁴⁶ <http://www.iononalbinism.org> African albinism network accessed on the 26th of November 2022

⁴⁷ *Ibid*

⁴⁸ The Punch, Federal Government Review National Policy on Albino 11th April 2019. <http://www.punchng.com> accessed on the 3rd of December 2022.

The review was necessary to facilitate and improve the lives of persons with albinism through services such as education, healthcare and others.⁴⁹ The albino network association (TANA) group, said although there are laws against the discrimination of people with albinism, they are constantly stigmatized, harassed and discriminated daily with no remedy in sight.⁵⁰ There is also Lagos State Special Peoples bill 2010 meant specification for the establishment of an office for persons with disabilities, and to safeguard the rights of such people. The law was made to establish the office for disability affairs, to safeguard people living with disability against all forms of discrimination and equalise their opportunity in all aspect of living in the society and other connect purpose.⁵¹ Its more than 10 years already since the passage of the Lagos state peoples law SPL. The law is a guidance document to ensure the protection of the right of persons with disability in the state and issues with disability, it prohibits discrimination as well as cruel and inhuman treatment, it also provides for right to education, health, work and employment, freedom of communication, communal life and participation in cultural, recreation and leisure sport. Provision for adequate standard of living and social protection, provision for facilities and public buildings in situation of risk and humanitarian emergency, it also made provision for the right of child with disability.⁵² With regard to the success of the bill in health care a communiqué on the state of affair of the persons with disability in Lagos state issued by the joint national association of persons with disability, JONAPWD said that the disability organisation in the state observed that insensitivity of the Lagos state health insurance program to specific disability concerns such that the needs of albinism, persons with various intellectual disability and those with developmental challenges are not properly included.⁵³

Nigerians with Disabilities Decree 1993, which main aim is to provide a clear and comprehensive legal protection and security for Nigerian with disability as well as establish standard for enforcement of the right and privilege guaranteed under the decree and other law applicable to the disable in Nigeria. There are also some Disability laws and policies existing at sub national (state) levels, for example, Plateau, Kwara, Ondo, Ekiti, Nasarawa, Lagos, Enugu, and Bauchi etc.

5. Condition of Persons with Disability in Nigeria

Persons with disability in Nigeria face a number of human right abuses including stigma, discrimination, violence, and lack of access to healthcare, housing, and education.⁵⁴ The World Report on Disability, published in 2011, also said about 25 million Nigerians had at least one disability, However, the Centre for Citizens with Disabilities, a Nigerian NGO, claims the census did not capture the full extent of disability in Nigeria for that year.⁵⁵ With an estimated 25 million disabled persons in Nigeria, about one in every eight Nigerians live with at least one form of disability. Most common of these disabilities are visual impairment, hearing impairment, physical impairment, intellectual impairment, and communication impairment.⁵⁶ As at 2020, there are reportedly over 27 million Nigerians living with some form of disability⁵⁷ Although statistics are scanty about the demographic distribution of disability in Nigeria, available literature suggests that there are significantly more disabled women than men in the country and that due to the insurgency in the North-East, the region hosts the highest number of people with disability in the country.⁵⁸ Discrimination against Person with Disability in Nigeria stems from the negative public perception of people with disabilities in communities across the country. In many communities, Persons with Disabilities are commonly viewed as accursed due to misinformed cultural beliefs. This has led to poor identification, evaluation, screening, and placement of children with disabilities.⁵⁹ Persons with disabilities experience significant barriers and are often excluded from accessing and receiving everyday healthcare services.⁶⁰ Other manifestations of discrimination against Persons with Disability in Nigeria include limited access to employment, use of public spaces, stigmatization, unsolicited and discriminatory sympathy, and limited access to quality education. For instance, Cobhams Asuquo, a visually impaired Nigerian singer, songwriter and music producer reflected that his education could have been truncated due to the huge cost of accessing Braille materials. Cobham's story is similar to Lucy Ejike's, a Nigerian Paralympics champion, who suffered from polio as a child causing her to be a cripple. While narrating the challenges she experienced in the course of her education, that lack of elevators and other facilities that could aid movement in the university made it difficult for her to access lecture halls⁶¹ In some cases, discrimination might be in the form of withdrawal by friends and acquaintances. There is also the case for David Anyaele whose hands were hacked off

⁴⁹ <http://www.iononalbinism.org> African albinism network accessed on the 26th of November 2022

⁵⁰ O Adelagun, *Premium Times*, June 11 2021 <http://www.premiumtimesng.org> accessed on 26th November 2021

⁵¹ Lagos State Special Peoples Bill 2010

⁵² *Ibid*

⁵³ B. Oladunjoye, '10 years after Lagos special people's law, what has changed?', *Wanadata Africa. Code for Africa Wana Data Women Data Science Initiative August 2021*. <http://medium.com> accessed on the 27th of November 2022

⁵⁴ A Ewang, 'Nigeria Passes Disability Right Law' *Human Right Watch* <Http/Www/Nigeria Passes Disability 2019> accessed on 3rd of December 2022

⁵⁵ Nze Emeka. 'NPC Lacks Data on Persons with Disabilities- Chair'. *Centre for Citizens with Disabilities*. Archived from the original on 12 February 2016. Retrieved 2 February 2016.

⁵⁶ O Uduu. 'Over 25 million Nigerian excluded due to disability'. *Dataphyte*. 20th January .2020

⁵⁷ *ibid*

⁵⁸ *ibid*

⁵⁹ *ibid*

⁶⁰ World Health Organization, 'Persons With Disability Tell Their Stories'. Http/Www/ People Living With Disability Accessed On The 4th Of December 2022.

⁶¹ *Ibid*

by warlords while he was transacting business in Sierra Leone. When he returned to the country, many of his friends deserted him and even his fiancée abandoned him.⁶² They also face discrimination resulting to been excluded from political participation. Despite the various anti-discriminatory law in support of Persons with Disabilities in the country, they are noticeably absent in politics and public offices in Nigeria. David Anyaele stated that the Nigerian media still address disability issues as a charity issue rather than a public policy concern. As a result, the political class often use Persons with Disabilities to mop up sympathy votes to win elections and neglect them after.⁶³

In an interview conducted by Grassroots Researchers Associations (GRA) with persons living with disability, disabled persons in the crisis-prone area of North-Eastern States of Nigeria reported that their rights are violated in different ways including opposition by communities against marital relations with non-disabled persons, denial of medical services due to inability to pay bills, denial of access to opportunities (such as participation in pilgrimage trips to holy lands, and denial of access to participation in school competitions. They are also denied the opportunity to rent houses and commercial properties in some cases.⁶⁴ Persons with disability in Nigeria persistently face stigma, discrimination and barriers to accessing basic social services. Mrs Joke a social worker at the services department of UCH University College Hospital Ibadan said:

I experienced a whole lot of discrimination in my growing years, many people look down on me thinking all hope is lost, the society looks down on the physically challenge as being less-human or never do good⁶⁵
I have a personal experience of disability she said, living in Nigeria with such condition is not easy because there are no support, the environment is indeed very hostile⁶⁶

Ujah, who lost his hearing at the age of seven after taking paracetamol syrup following a headache, said there is a need for dialogue to determine the level of educational inclusiveness to be adopted at various stages in Nigerian institutions. Mr Ujah who is now a computer instructor and speaks with the aid of an interpreter had this to say:

When you talk about education for a deaf child, the first things he or she learns is the sign language. At the foundational level, there must be separate classes for the deaf. Proper inclusiveness should start at the university level even at the secondary school level. We still have conflict. The deaf child will find it hard looking at what the interpreter is saying, copying what is written on the board and writing all at once.'In a classroom for example, we may have a mathematics teacher who is skilled in that course. The interpreter might not have such skills. In the process of teaching therefore, there will be conflict in the calculation,⁶⁷

Another Nigerian with sight impairment, Ekwujeruonye Obinna, had this to say about the relationship between physically-challenged Nigerians and those without a challenge: 'they treat us like we don't exist.'⁶⁸ Mr Obinna who is the public relations officer of the Joint Association of Persons Living With disabilities, Abuja chapter, said he became blind in 2004, after he was diagnosed with glaucoma and retinal detachment; he listed some requirements for adequate education of persons with disabilities and their costs, according to the information currently at his disposal.⁶⁹ He lamented the frustrating experience of having to move from place to place in present-day Nigeria and hopes that the government would alleviate their pains by working to implement the law soon. According to him;

In Abuja for example, taxis don't even have parks, making it very difficult for persons with disabilities to move around. There are no pedestrian walkways for people with disabilities. As I was on my way here from Jabi, I met a big hole in front of me. If I did not have my guide cane, God knows what would have happened.⁷⁰

With regards to children, Save the Children International (SCI) noted that at least 95.5 percent of children with disabilities in Nigeria are out of school and have low knowledge of sexual and reproductive health (SRH) issues, including HIV/AIDS due to inaccessible SRH/HIV communication-information tools.⁷¹ The foundation tasked the Nigerian government to create a conducive and inclusive environment for children with disabilities during the pivotal global disability summit which took place within 16th-17th February 2022⁷²Citing statistics from the United Nations Population Fund Formally Known As United Nations Funds For Populations Activities UNFPA (2021) World Population Dashboard as well as the World Health Organisation/World Bank (2011) report on disability, Save the Children International SCI noted that Nigeria is home to an

⁶²*Ibid*

⁶³ *Ibid*

⁶⁴ *Ibid*

⁶⁵A Aboluw 'living with disability in Nigeria is a night mare'. *Nigerian tribune* 15December 2018.<http://www.thetribuneonline.com> accessed on 3rd December 2022

⁶⁶ *Ibid*

⁶⁷E Okakwu, 'Nigerians living with disabilities narrate how discrimination ended dreams '(2)*premium times Nigeria* November 12 2019

⁶⁸*Ibid*

⁶⁹*Ibid*

⁷⁰*Ibid*

⁷¹G Onyedinfu 'Majority of children with disabilities in Nigeria- expert. are not schooled' *Business day Nigeria* 17th February 2022

⁷² *Ibid*

estimated 32 million people with disabilities, most of whom are children. The foundation also noted that these children face different types of discrimination and have limited access to basic social services like health and education facilities.⁷³

Mercy Gichuhi, Country Director, Save the Children International Nigeria, said:

Children, girls and women with disabilities are the most affected and disadvantaged in times of disaster, armed conflict, or humanitarian crisis. They are often neglected part of communities during recovery and response programs. However, community development would be incomplete and the rights of children would be denied if it doesn't include and address the rights and special needs of people with disabilities⁷⁴

Though Nigeria's law provides for equal employment opportunities for all and implores public organisations to have persons with disabilities constitute five per cent of employees, the unemployment rate among Person with Disability is still high. The Act requires all employers of labour in public organisation to as much as possible have person with disabilities constituting at least 5% of their employment. Persons with disabilities are also guaranteed the right to work, on an equal basis with others. This includes the right to opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open. The Act prohibits and criminalises the use of any person with disabilities in soliciting for alms however, sadly this is a common practice in our society. The exploitation of persons with disability for the solicitation of alms by displaying their disabilities to elicit public sympathy is commonly seen and unfortunately the Alms collected are rarely used to improve the standard of living of the person with disability. States are immediately obligated, upon ratifying the CRPD, to ensure non-discrimination. The obligation to guarantee non-discrimination under the CRPD is the same as required under the ICESCR and the CRC, which 'all impose an immediate obligation to guarantee that economic, social and cultural rights are enjoyed without discrimination. Accordingly, measures towards the progressive achievement of rights must at all times be guided and comply with.⁷⁵ The obligation to guarantee non-discrimination must be immediately implemented irrespective of the level of available resources.⁷⁶ The Committee on Economic, Social and Cultural Rights explains that non-discrimination is an immediate obligation for all States, regardless of resources because many measures, such as most strategies and programmes designed to eliminate health-related discrimination, can be pursued with minimum resource through the adoption, modification or abrogation of legislation or the dissemination of information.'⁷⁷

The CRPD requires that States Parties take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.⁷⁸ Persons with disabilities face a range of barriers in accessing health care services, including cost, accessibility, stigma, discrimination and lack of or inadequacy of services and resources.⁷⁹ The CRPD provides in Article 25 that States parties must provide persons with disabilities the same range, quality and standard of free or affordable health care and programmes as provided to other person. According to the 2002-2004 World Health Survey, affordability was the primary reason why persons with disabilities, across gender and age groups, did not receive needed health care in low-income countries.⁸⁰ It also establishes in Article 25 that States parties must provide persons with disabilities the same sexual and reproductive health care and programmes as provided to other persons. Sexual and reproductive rights must be guaranteed for persons with disabilities and yet persons with disabilities often experience gross violations of their rights and cannot access sexual and reproductive services. This quote from a guide on gender mainstreaming in public disability policies explains the content of sexual and reproductive rights respectively as:

Sexual rights, understood to mean liberty to decide freely and responsibly on all questions related to sexuality, imply also the right to exercise one's sexuality safely, free from discrimination, coercion and violence; the right to physical and emotional pleasure; the right to freely-chosen sexual orientation; the right to information on sexuality; and the right to access sexual health services. Reproductive rights, taken to mean the freedom and independence each individual has to decide responsibly if she or he wants to have children or not, how many, when and with whom, encompasses also the right to access information, education and the means to do so; the right to take decisions on reproduction free from discrimination, coercion and violence; the right to access quality primary healthcare, and the right to measures to protect motherhood. All these rights must be fully guaranteed for female adolescents and women with disabilities under conditions of equality, free consent and mutual respect⁸¹

⁷³*Ibid*

⁷⁴*Ibid*

⁷⁵ United Nations Economic and Social Council. 'Report of the United Nations High Commissioner for Human Rights', 2007 E/2007/82, 25 June. http://ap.ohchr.org/documents/alldocs.aspx?doc_id 15584.a. Accessed on 3rd Dec 2022

⁷⁶*Ibid*

⁷⁷ UN Nations. Committee on Economic, Social, and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health, E/C.12/2000/4 Aug. 11, 2000). <http://www2.ohchr.org/english/bodies/cescr/comments.htm>.

⁷⁸ United Nations General Assembly, Convention on the Rights of Persons with Disabilities, A/RES/61/106, Art.25(a) 2006. <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>.

⁷⁹ World Health Organization, World Report on Disability (2011). http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf.

⁸⁰*Ibid*

⁸¹ Guide to gender mainstreaming in public disability policies' Feb 2012 ISBN: 978-84-15305-19-4 <https://www.euroblind.files.media.women.pdf> accessed on the 29th of April 2023

To date this has not been the case, Statistics reveal that adolescents and adults with disabilities are more likely to be excluded from sexual and reproductive health education and face stigma, prejudice, and denial of access to sexual and reproductive health services.⁸² It is commonly and wrongfully assumed that persons with disabilities are not sexually active and therefore do not need sexual and reproductive health information and services. Women with disabilities often have their reproductive rights denied, and some are subjected to forced marriages, forced abortions and forced sterilizations.⁸³ Women with disabilities are particularly vulnerable to forced sterilizations that are performed under the auspices of legitimate medical care or the consent of others in their name.⁸⁴ Forced sterilization of girls and women with disabilities is driven by social factors, including minimizing inconvenience to caregivers, the lack of adequate measures to protect against the sexual abuse and exploitation of women and girls with disabilities, and a lack of adequate and appropriate services to support women with disabilities in their decision to become parents. The International Federation of Gynaecology and Obstetrics (FIGO) issued updated guidelines in 2011, reaffirming the rule of no sterilization without informed consent of the women herself (that of a family member or guardian does not amount to consent,) and requiring both the provision of information in accessible formats and the time and support to make a decision.⁸⁵

6. Conclusion and Recommendations

The signing of the Discrimination against Persons with Disabilities (Prohibition) Act is a remarkable milestone in protection of rights of people living with disability in Nigeria. In the past, very little has been done legislatively or policy-wise to mitigate the challenges faced by people living with disabilities in their everyday lives. The Lagos State Government also set the pace by passing the Lagos State Special People's Law to address people living with disability in Lagos. However, the enactment of the Discrimination against Persons with Disabilities (Prohibition) Act will have a national application and positively affect a higher number of Nigerians living with disability. In Nigeria the unfortunate stigmatizations of persons living with disabilities has not had any positive improvement. Persons with disabilities particularly still have very low participation in the labour market, when employed, are frequently employed in low-paying positions, and this unfortunately make them dependant always on their close family members⁸⁶ It is not surprising that as a result, persons with disabilities are disproportionately poor and socially marginalized. The CRPD provides in Article 27 that persons with disabilities have the right to work on an equal basis with other, including 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 persons with disabilities.'⁸⁷ In Nigeria, regardless of some legislation both nation and international on the right of persons with disability, discrimination against them in different sector is still very common. The following measures are imperative:

There should be full transparent implementation of law of persons with disability; Nigeria should by all means discourage any form of discrimination against people with disability. This will create belief, influence feelings and decision, impact people's daily lives and even influence others social policy. Using respectful, positive terminology shows people with disability that they have a role in a community like everyone else. Qualified profession in different sections should be employed with a view to ensuring that concerns of peoples living with different types of disability receive proper and professional attention. The government foster respect for the rights and dignity of persons with disabilities, this respect could mean freedom to make ones decision, there should be avoidance of showing pity or patronizing and at all time they should be involved in decision making. Combat stereotypes, prejudices and harmful practices, in relating to persons with disabilities, this can be achieved by gaining public support and awareness for anti-prejudice social norm, effective. People living with disability can also be productive and beneficial to themselves and general society, proper awareness should be created in relation of the contributions of persons with disabilities? Persons with disability like every other person have certain peculiar qualities that are distinctive. Most of them are trainable, with proper care and support from the government and members of the civil society, their talents can be fully harnessed to reduce their dependency and promote their economic and social development. There is the need to change the negative attitude and perception of the public towards disabled persons into a positive one through education and enlightenment campaigns. The enactment of the Discrimination against Persons with Disabilities (Prohibition) Act and other law is only a first step in the fulfilment of Nigeria's obligations under the CRPD. Authorities should now put effective measures in place for its full implementation to ensure equal treatment and participation of people with disabilities across Nigeria.

⁸²World Health Organization, 'Disability and health, Fact Sheet'' Nov. 2012. <http://www.who.int/mediacentre/factsheets/fs352/en/index.html>; accessed On 5th November 2022.see also World Health Organization, 'World Report on Disability 2011'.http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf. Accessed on 5th of November 2022

⁸³Open Society Foundations, 'Sterilization of Women and Girls', A Briefing Paper 2011. <http://www.opensocietyfoundations.org/sites/default/files/sterilization-women-disabilities-20111101.pdf>; see also World Health Organization, Promoting sexual and reproductive health for persons with disabilities: WHO/UNFPA Guidance Note (2009). http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf

⁸⁴Center for Reproductive Rights, Reproductive Rights and Women with Disabilities (2002).http://www.handicap-international.fr/bibliographie-Handicap/groupes_particuliers/Femmes_Genre/reproductive_rights.pdf.

⁸⁵International Federation of Gynaecology and Obstetrics, Female Contraceptive Sterilization (June 2011). http://www.wunrn.com/news/2011/06_11/06_27/062711_female.htm.

⁸⁶United Nations Human Rights Council, 'Report of the Office of the United Nations High Commissioner for Human Rights Thematic study on the work and employment of persons with disabilities', A/HRC/22/25 (Dec. 17, 2012). <http://www.ohchr.org/EN/Issues/Disability/Pages/UNStudiesAndReports.aspx>.

⁸⁷United Nations General Assembly, Convention on the Rights of Persons with Disabilities, A/RES/61/106, Art. 27 2006. <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx> accessed on the 7th of Dec. 2022