RIGHTS OF PEOPLE WITH DISABILITY IN NIGERIA: ATTITUDE AND COMMITMENT

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I. INTRODUCTION

The international and regional human rights systems remain one of the greatest achievements in the internationalisation of human rights and today the systems are important venues for the protection and promotion of human rights and in particular people with disability.1 Globally, there have been spirited efforts by people with disability to establish their legal rights as bona fide members of society. Before the 1970s, most legislation dealing with the challenges faced by such persons were more concerned with the provision of some form of social security or public assistance benefits. There was a change in the 1970s and 1980s centered on the rights of disabled people to the same protection under the law as enjoyed by the rest of the population.2 In advocating for their rights, people with disability have strived to establish that they be considered on the basis of individual merit, not on some stereotyped assumption about disability. They also advocated that society must make certain changes to enable them to participate more meaningfully in secular activities.

However, in the mid-1990s, the World Health Organisation (WHO) began a process of examining the International Classification of Impairments, Disabilities and Handicaps (ICIDH) and one Rachel Hurst represented Disabled People’s

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International (DPI) in this review.\(^3\) At the end of the exercise, they produced a final document, the International Classification of Functioning (ICF), which takes a very strong approach to the social model of disability as against the medical model previously used.\(^4\)

Instructively, law which formed the fundamental paradigm from which equality of opportunity can be established has not been so favourable to people with disability in Nigeria. Significantly the term human rights that pertain to rights individuals enjoy by virtue of being human irrespective of their status cannot be overemphasised. The rights are innate and are not acquired through achievement or qualification.\(^5\) Therefore, since human rights are a natural and integral part of all human beings by virtue of their humanity alone, they tend to be inalienable and universal in nature even against the disabled person. From this distinguishing characteristic it follows that we cannot discriminate between different able individuals with those with disabilities in respect of their human rights and neither functional impairment nor talent entitles any individual to any more or any fewer human rights than anyone else.\(^6\) This article examines the attitude of Nigeria to people with disability from the perspective of legislation, employment opportunities, housing rights, equal educational opportunities, equity in transportation, healthcare services and political rights. The article explores experiences from other jurisdictions on the protection of the rights of people with disability.

II. CONSTITUTIONAL PROTECTION FOR THE RIGHTS OF PWD AND EXPERIENCE FROM OTHER JURISDICTIONS

As rightly observed law formed the essential framework for the protection, enforcement and promotion of equality of opportunity for the citizens inclusive of disabled people in any society. However, there appears to be little positive effort in the spectrum of legislation toward the protection of the rights of persons with disability (PWD) in Nigeria. A very important starting point when discussing fundamental rights is the Constitution, particularly the Nigerian Constitution, but a cursory exposition of the Bill of Rights in Chapter IV under the Constitution would reveal that there is no specific provision dedicated to the protection of the rights of PWD.\(^7\) In contrast, the chapter only guarantees the rights of citizens generally and without discrimination. This position is common in jurisdictions with written constitutions where a chapter is usually dedicated to

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\(^6\) *Ibid.*

the fundamental rights of citizens in general, both able and disabled, without discrimination. South Africa\textsuperscript{8} has a most comprehensive disability legislation and policy implementation, just like that of the UK.\textsuperscript{9} A germane example in the South Africa Constitution\textsuperscript{10} is the aspect which forbids unfair discrimination directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.\textsuperscript{11}

It is the contention of the authors that there are constraints against the expected commitment of the Nigerian government to adopt the spirit and letters of the fundamental rights provisions in the constitutions for the enforcement of PWD rights. The constraint is manifest mostly in the sphere of governmental political and economic will to pursue with vigour policies for the achievement of the set objectives behind the laws. This failure constitutes a hindrance to the realisation of protection against neglect and enforceability by the PWD within the fundamental rights provision on the basis of their disability. This weakness still remains unchanged even since the inception of democracy in Nigeria in 1999 thus leaving the PWD to perpetual discriminatory treatment not only by government but also by the family and the community at large.\textsuperscript{12}

The role and influence of international human rights has been more pronounce and influenced some countries to move a step ahead through the insertion of specific provisions in their constitutions directed at protecting the rights of PWD. This dynamism can be found in the Constitution of Ghana which, for instance, guarantees PWD the right to live with their families or foster parents and to participate in social, creative or recreational activities.\textsuperscript{13} It further forbids the subjection of disabled people to differential treatment in respect of residence other than that required by his or her condition or by the improvement which he or she may derive from the treatment. The law also forbids all forms of exploitation, either in the form of regulations or treatment which appears to be discriminatory, abusive or degrading in nature.\textsuperscript{14} Another country worth referencing is the Republic of Uganda which by its Constitution directs the legislature to take affirmative action to combat disability discrimination. It provides:

> Persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure

\begin{itemize}
  \item The disability legislation includes the Employment Equity Act 1998 and the Disability Act 2008 (South Africa).
  \item Disability Discrimination Act 1995 (as amended), Special Educational Needs and Disability Order 2005 (UK).
  \item Sections 9(3), (4) and (5), Constitution 1996 (South Africa).
  \item Ibid. See, generally, United Nations, supra, note 1.
  \item Articles 29(2)–(8), Constitution 1992 (Ghana)
\end{itemize}
that they realise their full mental and physical potential; and Parliament shall enact laws appropriate for the protection of persons with disabilities.15

The Rwanda Constitution 2003, in its Article 11, provides that all Rwandans are born and remain free and equal in rights and duties. Discrimination on the basis of physical or mental disability or any other form of discrimination is prohibited and punishable by law. The constitutions of these countries demonstrate positive efforts by governments to provide equal opportunities to people with disability to enjoy rights similar to able persons. This type of synergy that focuses on the protection of PWD does not exist in Nigeria. Despite the fact that Nigeria is a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the National Assembly has not deemed it fit to domesticate the convention. It may thus be argued that while policy and legislation are needed to ensure that international human rights standards are met for people with disabilities, government can firstly take initial action toward improving their lives and well-being.

Notwithstanding, the concern for prevalent effects of stigmatisation on disabled people in society has, however, instilled the feeling for a change of attitude by a past military regime in Nigeria, consequent upon which the Nigerians with Disability Decree of 199316 was enacted. Apart from this military government’s effort, the coming of civilian government in 1999 heralded several inconclusive attempts towards the promotion and protection of the rights of people with disabilities. This can be understood from several bills placed before the National Assembly for passage into law but are still pending today. This contradicts whatever the government commitment is to international human rights instruments. Some of the bills which are still pending before the National Assembly are:

- the Discrimination against Persons with Disability (Prohibition Bill) (2008);
- a Bill for an Act to prohibit all forms of discrimination against persons with disability, giving them equal opportunities in all aspects of life in society and related matters (2009);
- a Bill for an Act to provide special facilities for the use of handicapped persons in public buildings;
- a Bill for an Act to establish the National Social Security Board and vest with it the responsibility for the control and administration of benefits and assistance to enhance the welfare of citizens,

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15 See Article 35, Constitution 1995 (Republic of Uganda).
16 Available at http://www.digitalcommons.ifr.cornell.edu or http://www.nigerianlawguru.com/fandp/general (accessed 22 July 2013). Though scholars have made references to provisions of the Nigerians with Disability Decree of 1993, purportedly promulgated under the military dispensation, however, the origin, existence or validity of this decree is quite controversial. It is not contained in the 2004 edition of the Laws of the Federation of Nigeria and the present status of the Decree is not clear thus I cannot vouch for its authenticity.
especially disadvantaged persons, particularly children, women, the handicapped, the sick, the aged and the unemployed (2000);

• the Mental Health Bill (2008); and

This is of concern because the human rights approach which implies legal reasoning and the task of finding authoritative principles that impose obligations on the state and some of its agencies toward fulfilling the PWD’s demand for protection has not been taken advantage of in Nigeria. For instance, one constitutional authoritative principle states that human right to life is of equal value; each person is of infinite worth. Thus, to regard the life of a person with disability as being less equal or of less value than that of a someone without disability is a violation of this constitutional principle. In other words, the human rights approach demonstrates, among other things, the creation of legislation bestowing persons with disability and their organisations the mechanism to ensure that there is effective advocacy for their rights.

This postulation supports the argument that domestication of the CRPD and/or the passage of legislation on PWD’s rights in Nigeria are the necessary mechanism needed to address the discrimination against people with disability and guarantee the protection of their rights. Moreover, structural transformation, involving redistribution of economic and political power is imperative for the application of the human rights strategy for PWD. Thus just as in the struggle against racism and discrimination based on sex or ethnicity, synergy should be exhibited by advocates and policy-makers to combat discrimination tendencies and policies against PWD by reference to human rights.

III. INTERNATIONAL/REGIONAL CONVENTION ON HUMAN RIGHTS

The global phenomenon of stigmatisation and discrimination against PWD is not a new trend. It has existed for decades due to neglect and the absence of serious commitment by governments to address the problem. One adverse effect of such an attitude is that the plight of PWD is given little or no attention and their rights are not adequately protected, thus serving as a catalyst for the perpetuation of stigmatisation and discrimination. Happily, the influence of international law has percolated into regional legal instruments aimed at the protection and enforcement of PWD’s rights. All these instruments tend to encourage and adopt certain basic standards towards protecting the rights of PWD. In recent decades, the government of Nigeria has begun to create dedicated human rights bodies tasked with a focus on promoting and protecting human rights at the national level even in the absence of existing legislation to support the initiative.

The African Charter adopted in 1981 by the Organisation of African Unity (OAU) (now the African Union (AU)), introduced the third regional human rights system in the world, after the creation of the European and inter-American systems. It was adopted due to external pressure on African governments to develop a

human rights regime on the continent and a response to the massive human rights violations committed by African leaders.\textsuperscript{18} Among other rights, the African Charter gives express recognition of the right to property, the right to work, the right to enjoy the best attainable state of physical and mental health, the right to education and the right to family protection, including special measures for the protection of the aged and disabled. Even under the African Charter on Human and Peoples’ Rights people with disabilities are accorded without distinction rights equal to other citizens. This position can be seen under the charter which provides that:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.\textsuperscript{19}

All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.\textsuperscript{20}

All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.\textsuperscript{21}

The European Convention on Human Rights lends credence to the regional commitment on the rights of PWD when it provides, in general term, freedom for every citizen without discrimination thus:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.\textsuperscript{22}

The underlying towering status of these human rights in the international and regional conventions as well as the Bill of Rights enshrined in the constitutions of some countries apply to everyone regardless of sex, national or ethnic origin,

\textsuperscript{18} Examples of such leaders are Idi Amin of Uganda, Dr Banda of Malawi, Emperor Bokassa of Central African Republic and Mengistu of Ethiopia.

\textsuperscript{19} Article 2, African Charter on Human and People’s Rights (ACHPR). The words ‘individual’ and ‘people’ used in the Article are referring without exception to the people with disability in the enjoyment of the rights guaranteed and protected under the ACHPR. The Charter was adopted in June 1981.


\textsuperscript{21} Article 20(2), ACHPR.

\textsuperscript{22} Article 14 of the European Commission on Human Rights (ECHR) and also see section 42(2), Constitution 1999 (Nigeria).
colour, religion, language or any other status such as disability. However, this does not give any special protection to PWD beyond that enjoyed by other citizens. The argument thus is that people with disability all over the world have come to realise that their rights are not adequately protected by the United Nations Universal Declaration of Human Rights, the African Charter on Human and Peoples’ Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other documents aimed at protecting the human rights of all people. However, the coming of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) heralds a new leaf in the protection of the rights of the disabled globally. While the Convention does not grant people with disability any new human rights, is nevertheless a document to ensure that people with disability enjoy the same human rights as everyone else.

A close excursion into the Convention adopted in 2006 gives clear evidence that the covenant aims to prohibit all forms of discrimination, torture and ill-treatment by providing further authoritative guidance. For instance, Article 3 of the Convention proclaims the principle of respect for the individual autonomy of persons with disability and the freedom to make their own choices. Further, Article 12 recognises their equal right to enjoy legal capacity in all areas of life, such as deciding where to live and whether to accept medical treatment. In addition, Article 25 recognises that medical care of persons with disabilities must be based on their free and informed consent. Incidentally, this covenant complements other human rights instruments. These include the absolute prohibition of torture as contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 7 of the International Covenant on Civil and Political Rights, while Article 37 of the Convention on the Rights of the Child was reaffirmed in the Convention on the Rights of Persons with Disabilities.

Accordingly, Article 15 of that Convention, posits that PWD have the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment or, in particular, to scientific or medical experimentation.

23 http://www.unicef.org/crc/.
Article 15, paragraph 2, contains the obligation for states parties to take all effective legislative, administrative, judicial or other measures to protect persons with disabilities from torture or ill-treatment on an equal basis with others. Article 16 prohibits violence, abuse and exploitation of persons with disability and Article 17 recognises the right of every person with disability to respect for his or her physical and mental integrity.

Considering the significance of the convention, the attitude of the Nigerian government towards domestication of the convention is directly hindering adequate protection for people with disability. This has in turn threatened the rights of PWD against general neglect, physical and mental assault as well as inhuman and degrading treatment for some time. The neglect extends to the inadequacy of special facilities at the disposal of people with disability, while discrimination in the areas of employment, housing, education, transportation, communication, recreation, health services, institutionalisation and voting cannot be overemphasised. Discrimination against people with disability is worsened due to a lack of legal recourse to redress such discrimination.28

There is not an iota of doubt in linking the truisms of the facts listed above—and particularly the want of an appreciable means of gaining a livelihood—as accounting for disabled persons in Nigeria resorting to begging in parks, on busy roads and highways, outside offices, petrol stations and places of worship, and creating unimaginable nuisance and embarrassment to their immediate environment and society at large. Rather than providing suitable accommodation for disabled persons they are made to live in the outskirts where they are usually dumped like rags.29 One noticeable practice is that PWS are most often segregated, even in institutions such as prisons, social care centres, orphanages and mental health institutions or rehabilitation centres, thus deprived of their liberty which may amount to a lifelong experience, against their will or without their free and informed consent. Inside these institutions, PWDs are frequently subjected to unspeakable indignities, neglect, severe forms of restraint and seclusion, as well as physical, mental and sexual violence.30 Lack of reasonable accommodation in detention facilities may increase the risk of exposure to neglect, violence, abuse, torture and ill-treatment. In the private sphere, persons with disability are especially vulnerable to violence and abuse, including neglect or sexual abuse, inside the home and at the hands of family members, caregivers, health professionals and members of the community.31

Be that as it may, disability remains a term which significantly differs from one culture to another and any attempt to universalise the category ‘disabled’ runs into

29 This appears to be the policy of many developing countries including Nigeria: disabled persons are segregated and kept in rehabilitation camps established in remote arrears like Kubwa in Abuja, Lagos, and somewhere around Ondo State with little or no infrastructure for their upkeep.
conceptual problems of the most fundamental sort. Disabled people require more than just the recognition of their obvious presence in the real world but in fact, in most cases, it means national economies woefully fail to take care of them. On this premise, it is important to examine the level of the government’s commitment to the protection of disabled persons in Nigeria.

IV. RIGHTS OF PEOPLE WITH DISABILITY

A truly democratic nation is one in which positive efforts are geared toward promoting and protecting all citizens with diverse backgrounds to work together towards the nation’s goals. However, the Nigerian government has made and continues to make concerted efforts aimed at achieving the purpose set down in the same standard as the Convention on People with Disabilities (CPWD) through its attempts to establish policy and laws prohibiting discrimination based on race, ethnicity, national origin, gender, marital status, sexual orientation, age, colour and disability. However, these efforts are yet to be transformed into practical reality. The reason behind this shortcoming is not unconnected with lack of positive and significant commitment to achieve inclusivity and affirmative action plans towards protecting people with disability by the government. Today, Nigeria has a population of over 150 million people out of which 22 million are living with various forms of disability, be it physical or non-physical in appearance.

Nevertheless, stigma and discrimination remain widespread phenomena affecting all facets of PWD’s lives in Nigeria. These phenomena manifest themselves in the personal home and family life, work, and even at the society level, extending to challenges of meeting the basic standard of living. People with disability often describe the stigma and discrimination as worse than their main condition. Family members of people with disability are also subject to limited understanding and the implications of these prejudiced attitudes and discriminatory behaviour. Apparently, stigmatisation may lead to self-stigma, especially where PWD and their family members internalise society’s negative attitudes towards them. They may even actually start to believe what others say and think about them, which often leads to self-blame and a decrease in self-esteem. Anticipation of rejection due to stigma may result in many people with disability reducing their social networks and not taking advantage of life’s opportunities. This, in turn, may lead to isolation, unemployment and lowered income. Experienced or anticipated discrimination is the main reason why many

33 The military government promulgated the Nigeria Disability Decree of 1993; the fact of the existence of this decree still remains elusive.
34 Sections 17, Chapter IV and particularly section 42 of the Constitution 1999 (Nigeria).
35 This was declared by Mr Danlami Umaru Basharu, President of the National Association of People with Disabilities, on 19 December 2011. Source: http://www.fmi.govt.ng/22-million.nigeria (accessed 18 July 2013).
people hide their disabilities and do not seek help. Thus, evidence abounds in many countries, particularly in developing countries, that PWD routinely experience human rights violations.

These violations extend to medical institutions providing inadequate, degrading and harmful care and treatment and unhygienic and inhuman living conditions. It also includes lack of adequate shelter and discrimination in education and employment opportunities. Beyond all these violations, every person, including PWD, is entitled to the protection of his or her fundamental human rights. This explains the relevance of all international human rights conventions and their applicability to people with disability based on the principles of equality and non-discrimination, e.g. the Universal Declaration of Human Rights. In addition, there are also more specific conventions that are applicable to people with mental health problems, e.g. the Convention on the Rights of Persons with Disabilities. These provide clear evidence of the fact that the rights of disabled people in society must not be unfortunately plagued with problems that go beyond a single aspect of abuse. This makes it worthwhile to explore some of the basic issues relating to the rights of persons with disability in Nigeria with a view to identifying the level of government commitment to their plight.

V. RIGHTS OF PWD TO EQUITY IN EDUCATION

After more than a century of state-sponsored education in Nigeria, PWD, children and young people are still not legally entitled to the same type of schooling as their non-disabled counterparts. The reasons behind this include poverty, neglect by family or community, lack of proper enlightenment, etc. The overwhelming majority of Nigerian schools, colleges and universities remain unprepared to accommodate willing PWD in a mainstream setting. As a result, students with disability are forced to accept segregated ‘special’ facilities which do not have the tools and resources to provide them with the necessary skills to either get a job or live independently as adults. The segregation of disabled people is not due to overcrowding in ordinary schools nor is it because of lack of resources but is due to an unwillingness and capacity to address the problems. There are attempts as earlier noted concerning the provision of services to individuals with

37 Ibid.
disability as can be inferred from the Nigerian National Policy on Education\textsuperscript{41} which provides that ‘every Nigerian child shall have a right to equal educational opportunities irrespective of any real or imagined disability, each according to his or her ability’\textsuperscript{42}. This provision is further complemented thus: ‘equal access to educational opportunities for all citizens of the country at primary, secondary and tertiary levels both inside and outside the formal school system’.\textsuperscript{43} However, due to lack of mandatory legislation, the manifestation of such services has not been forthcoming.\textsuperscript{44} It has been rightly observed that there has been severe criticism of Nigerian education, among which is its failure to take account of learners living with disability. The need to consider individual differences, especially those of disabled persons, is not unconnected with the fact that children do not all develop the same way.

In Nigeria a major problem in the disability issue is the lack of access to equal education opportunities for persons with disabilities. Though the right to equal education forms part of the directive principles and state policy it is not within the fundamental rights provision. Thus the non-justiciability of equal educational opportunity makes it difficult to be unenforced against government by people with disability. This is contrary to the fundamental right to education for all found in the Universal Declaration of Human Rights and protected through various international conventions. This is a very serious phenomenon. In view of this there is a difference in the educational opportunities provided for disabled persons and non-disabled persons in Nigeria. It will simply not be possible to realise the goal of Education for All if the Nigerian government does not achieve a complete change in circumstances.\textsuperscript{45} The current challenges faced by persons with disability in realising their right to education remain profound, even with the increasingly clear set of areas of action for the Nigerian government which has not been adequately explored. There is evidence from the lack of policy responses that can help reduce the common barriers faced by disabled persons in gaining a quality education, from the family, local communities and national government.

The 2006 UN Convention on the Rights of Persons with Disabilities (CRPD) was a milestone in this regard. The CRPD established inclusive education as the key mechanism to deliver the right to education for disabled persons. Inclusive

\textsuperscript{41} Recently a special school for the \textit{almajiris} (beggars) has been established in the northern part of the country; there have been other efforts before, like the Nomadic Education and Adult Literacy programme.

\textsuperscript{42} Section 1(4)(c), National Policy on Education 2004 (Nigeria).

\textsuperscript{43} \textit{Ibid.}, subsection 5(c) of section 1.

\textsuperscript{44} M. M. Akanbi, \textit{Advocating Mandatory Laws for the Protection of Rights of Persons with Disabilities}, paper presented at the inauguration seminar of the Nigerian Universities Deaf Students Association, Unilorin Chapter, held at the University of Ilorin (2007), p. 3.

\textsuperscript{45} Instructively, the Dakar Framework for Action adopted a World Declaration on Education for All (EFA) in 2000, establishing the goal of providing every girl and boy with primary school education by 2015. It also clearly identified Inclusive Education (IE) as a key strategy for the development of EFA. Notwithstanding this the Salamanca Statement and Framework for Action was endorsed by 92 governments (including Nigeria) and 25 international organisations at the World Conference on Special Needs Education, June 1994. See Bengt Lindqvist, the United Nations Special Rapporteur on Human Rights and Disability.
education systems in this spectrum can be defined as all persons learning together in mainstream classrooms in their locality or community, irrespective of the different range of ability and disability, with teaching methods, materials and school environments that address the needs of all girls and boys. Inclusive education systems are grounded in a rights-based analysis, which can empower learners, celebrate diversity, combat discrimination and promote more inclusive societies. This can be a powerful tool in addressing inequalities. It can also tackle discrimination by challenging widely held attitudes and behaviours helping us to celebrate and embrace the diversity in our societies.

Incidentally, there are some differences in disability; for example, there are people with physical disability, as well as problems with intelligence, emotional maturity and social development. These differences account for the variations in their total development which special education is meant to take care of. Osakwe has observed that the school systems now face increasing pressure to raise standards, develop social and personal skills, broaden curricula, pay greater attention to equal educational opportunities and prepare young people for a rapidly changing world. Interestingly, the modern trend all over the world is shifting towards addressing the educational plight of students with one form of disability or the other so as to better their lives. The rationale behind this is contingent upon the fact that people with disability too have invaluable roles to play in national development. In order for them to be able to do this effectively and meaningfully, their educational needs must be given proper attention.

The Federal Government of Nigeria in its quest to address inequality in education for people with disability established the National Council for Special Education in 1976, with the aim of looking into the issues of the disabled and providing advice to the government from time to time. A special Unit was also created at the Federal Ministry of Education while a Special Education Section was also created in all the State Ministries of Education in response to a directive from the Federal Government. Furthermore, an institution and centre for education for the disabled were established. This effort is yet to record any positive achievement in alleviating the plight of disabled people in Nigeria because

48 Ibid., p. 36
50 The institutions include Cheshire Homes, the Ibadan School for the Deaf and the Wesley School for the Deaf as well as the Pacelli School for the Blind, among others established by the NGO for the education of people with disabilities. The Federal Government of Nigeria also recognises the importance and relevance of the disabled when in the Third National Development Plan, it was decreed that ‘Educational services for the disabled shall be the joint efforts of all tiers of government.’ To this end, training centres for the disabled as a matter of priority were established, i.e. the Federal Government established a College of Education called Federal Government Advanced Teacher Training (Special) Education, Oyo in 1977 (now the Federal College of Education (Special)). See, generally, Oladejo and Oladejo, supra, note 46.
of inadequate and inappropriate institutional arrangements, limited conceptual understanding and a general lack of capacity.

There is evidence that academically, the learning experience for disabled children in separate school environments compares badly with that of non-disabled children in ordinary classes. Much of the further education provided for disabled students concentrates on ‘social training’ and ‘general life skills’. However, government effort in this perspective has also faced some setbacks, hindering people with disability against personal, vocational and social adjustment. These setbacks extend to the inadequacy of educational funding and the lack of special educational materials, facilities and equipment which could enable people with disabilities access educational opportunities without discrimination. At the same time there is the high cost of educational materials and equipment such as Braille machines and papers, typewriting machines and typing sheets, carbon papers, thermoforming papers, tape recorders and cassettes, and ear-mould hearing devices for use by these students, which, of course, many of them cannot afford to buy. The architectural designs of most Nigerian institutions of learning do not take into consideration the requirements of people with disability. These setbacks are further reinforced by the challenge of poor and ineffective implementation of the policies formulated towards the betterment of the education of students with disability.

It is posited that when a disabled person gets the opportunity to receive an equal and quality education it will enable them to secure other rights throughout their lifetime, fostering better access to jobs, health and other services. For education to play this role as ‘an enabling right’, it must be of high quality, available equitably, built to tackle discrimination and allow each child to flourish according to their own talents and interests.

VI. RIGHTS OF PWD TO EQUITY IN EMPLOYMENT OPPORTUNITY

Disability is both a cause and a consequence of poverty. There is a strong relationship between disability and poverty and a cyclical tendency in which poverty makes people more vulnerable to disability and disability reinforces and deepens poverty. Access to employment for people with disability is inadequate, with the attendant economic and social implications if the status quo is maintained. Instructively, the vicious cycle of disability and poverty has been recognised, which led the United Nations to promulgate rules for equal

51 See the Nigerian National Policy on Education 2004, particularly section 8 thereof, which provides that the employment policy of the Federal Government should at least provide for 2 per cent of the available positions to be reserved for people with disabilities, that the special students’ bursary/scholarship policy be formulated to enhance easy access for students with disabilities to financial support, and that the architectural design of lecture rooms where the education of students with disabilities occurs be put in place so as to ease the process of teaching/learning for special learners. See P. O. Mba, Fundamentals of Special Education and Vocational Rehabilitation (Codat Publication, 1995), p. 56

opportunities for people with disability, with rehabilitation as one of the tenets for achieving an optimal level of independence.53 However, despite many disability initiatives, accessibility to employment opportunity is far from being achieved for people with disability in Nigeria. The poor perception of disability and people living with it has fuelled the lacklustré attitude of governments in terms of policy direction and action on the provision of equal employment for PWD. This is unfortunate because the extent to which a society provides the means of sustenance is probably not a good measure of how much interest it has in and importance it attaches to the well-being of its PWD.

Employment is crucial for every individual’s economic and social well-being yet Nigerian attitudes and practices still demonstrate elements of discrimination against PWD in the realm of employment which are well entrenched in the labour market. Some of these elements are conspicuous in:

- the policies of employers against disabled workers;
- employment agencies, both public and private, when they direct disabled workers into low-status occupations;
- the provision of employment quotas for the disabled in society;
- the accessibility and compatibility of workplace facilities for the disabled.

In most of the management positions in organisations specialising in the employment of disabled people in Nigeria such as schools for the handicapped and even ministries responsible for the disabled are held by non-disabled people. This level of inequality accelerates the discriminatory spiral into which the majority of disabled people find themselves. This is in contradistinction with South Africa which has the most comprehensive disability legislation and policy that address integration and employment opportunity for the PWD.54

VII. RIGHTS OF PWD TO EQUITY IN TRANSPORTATION TO THE WORKPLACE

In a similar vein, the attitude and commitment of Nigeria to transportation still demonstrates clear discrimination against people with disability. Essential transportation and mobility play key roles in the struggle to meet employment requirements and equal opportunities in the workplace and environment discriminate against people with disability in Nigeria. It must be noted that affordable and reliable transportation allows people—and especially those with disability—access to important opportunities in education, employment, healthcare, housing and community life. Because of Nigerian’s lackadaisical attitude to the rights of people with disability in this realm, transportation infrastructures have remained disproportionately inaccessible to people with disability who often lack viable transportation options. Importantly, people with

54 See, generally, the Employment Equity Act 1998 (South Africa).
disability particularly need accessible, affordable transportation options that bring employment, healthcare, education, housing and community life within reach. However, transportation choices for people with disability are still limited and account for the persistent gaps in compliance that continue to create significant barriers for people with disability.

In Nigeria there is no evidence of a commitment from the government through policy formulation in this area to provide adaptable and accessible transportation as an essential means of mobility to the workplace. When people with disabilities cannot access a station or bus stop, they may be forced to go out of their way to find one that is accessible, which in some cases may make travel prohibitive.

Adequate and adaptable transport services are crucial for those individuals with disability who rely on it to get around. Therefore the failure of the Nigerian government to show commitment in providing accessible transport services not only causes frustration but can also cause missed health appointments and employment problems for those with disability. It is argued that there is need for a programme of and support for new public transportation services and alternatives to assist individuals with disability with their transportation needs to the workplace. There ought to be mobility management programmes utilising a comprehensive and holistic approach to assist people with disability to use all types of transportation to meet their transportation needs.

VIII. POLITICAL RIGHTS OF PWD

There is no provision under the Nigerian Constitution which emphatically accords PWD any special rights to participation in government in the form of equal representation, nor is there any in terms of exercising the rights of franchise. Although it may be argued that membership of political party of one’s choice and participation in elections are guaranteed to PWD by virtue of the Nigerian Constitution the reality of this argument is that no such opportunity exists for PWD in term of representation, a special voting environment or contesting for elective position.

Unlike Nigeria, some countries have gone a step further in the protecting the political rights of PWD by inserting specific clauses that recognise PWD representation in government. A good point of reference is the Constitution of Malawi that provides for the representation of various interest groups including

55 There is no record of a single individual with disability currently in the Nigerian government: from the Presidency to the Members of the National Assembly, from Governors, Deputies and Ministers (even the minister of the ministry responsible for PWD), to Commissioners, from the Chairmen of the Local Governments in Nigeria to Councillors and even special advisers – there is not a single disabled person. This can be addressed only where the constitution provides for the employment of a certain percentage of the PWD in all government institutions/ministries and election into political offices.

disabled persons in the Senate\(^57\) while the Constitution of Uganda requires that Parliament shall consist of a certain number of representatives of persons with disability.\(^58\) It provides: ‘such numbers of representatives of the army, youth, workers, persons with disability and other groups as Parliament may determine’. Similarly, the Kenyan Constitution provides that Kenyan citizens shall be protected from discrimination on the grounds of race, colour, disabilities, etc. and no law shall be made in any provision that is discriminatory either of itself or in its effect.\(^59\)

So also, no person shall be treated in a discriminatory manner by a person acting by virtue of any written law or in the performance of the functions of a public office or a public authority.\(^60\) In this section, the expression ‘discriminatory’ means affording different treatment to different persons, attributable wholly or mainly to their respective descriptions by race, tribe, place of origin or residence or other local connotation, political opinions, colour, creed or sex. Thus persons of one of such description are subjected to disability or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.\(^61\)

The results which can be inferred from the constitutions of these jurisdictions reveal a clear positive attempt at creating equal opportunities for citizens’ self-actualisation, including able and disabled people. Though in some countries such rights exist as mere directive principles of state policy which are not ordinarily justiciable,\(^62\) they remain the instrument with which to measure the performance of any government activity in the area of protection for disabled persons. Incidentally, while constitutional anti-discriminatory provision may appear to be a way forward because of the supremacy of the constitution, it is claimed in most countries with a written constitution that these constitutions give no justiciable rights to citizens in areas relating to the state’s social policy.\(^63\)

The implication is that, disabled persons may not be able to invoke anti-discrimination provisions to seek redress against any violation in court. From this perspective the application of constitutional rights appear to be limited to public rights only, therefore while constitutional provisions protect disabled persons against discrimination by state entities, it does not offer protection against discrimination, for instance by private employers or private providers of goods and services. Even with the justiciable provisions in the constitution relating to discrimination such as the right to freedom against discrimination under Chapter IV of the Nigerian Constitution,\(^64\) it does not confer any special rights to people

\(^{57}\) Section 68(2)(i), Constitution (Malawi).
\(^{58}\) In the Kwara State judiciary, out of all the judges serving in the state, there is only one judge (magistrate) with disability. This shows the level of recognition and job opportunity given to the PWD.
\(^{59}\) Article 82(2)–(9), Constitution 2008 (Kenya).
\(^{60}\) Ibid.
\(^{61}\) Michael, supra, note 12.
\(^{63}\) See Chapter II, Constitution 1999 (Nigeria).
\(^{64}\) Ibid., Section 42.
with disability as one of the prohibited grounds. Be that as it may, by general inference from the wording of the section, a person with disability should not suffer any form of discrimination as a result of his or her disability. However, he or she cannot invoke the section to assert their right against any violation based on disability.

IX. RIGHTS OF PWD TO HEALTH AND MEDICAL CARE

Having access to basic healthcare services is a precondition to equal opportunities, as outlined in the United Nations (UN) Standard Rules for Equalisation Opportunities, and an essential component of being a valued and productive member of society. But in Nigeria, people with disability often experience inequality in securing sufficient healthcare services as a result of barriers to accessing health facilities and the discriminatory attitude of health practitioners. This is because there is no special educational training or interpreter package for healthcare staff to handle the medical care of people with disability, particularly with hearing impairments or sight disability. Lack of an equitable health service for the disabled in Nigeria is spread across the spectrum from health promotion and disease prevention services to lack of health insurance or coverage for necessary services such as specialty care, long-term care, care coordination, prescriptions, durable medical equipment and assistive technology. The challenges extend to poverty, poor communication, discriminatory attitudes, lack of understanding and education in connection to this vulnerable group. It is contended that, without adequate education on how to handle the specific medical care of PWD, the attitudes of the Nigerian healthcare providers will remain similar to those held by the general public to people with disability. It is thus posited that medical practitioners in all settings should be educated in providing medical care for patients with any form of disability. Thus there is a need for department/ministry of health commitment to providing a fair and equitable health service that is responsive to disabled patients’ needs. These and related challenges will definitely affect the quality of life, productivity and well-being of the disabled person in Nigeria.

Some countries have tried to develop strategies to address disability in the process of overall development strategies. For instance, South Africa’s key policy areas included, notably, prevention, healthcare, rehabilitation and research. Policy objectives, strategies and mechanisms for each area were developed. The strategy identified the need for legislative scrutiny which may lead to new legislation or the amendment of existing law.

Notwithstanding the doubt over the authenticity of the 1993 Decree on Nigerians with Disability, it is pertinent to note it has a section which directs all public health institutions to provide free medical and health services including general medical needs to the vulnerable. This type of provision, if implemented, would achieve the promotion and protection of the affected class of people in this paradigm.\textsuperscript{69} Similarly, where disability is suspected in the course of medical treatment, health institutions are duty-bound to provide free health service and submit a comprehensive report to the National Commission for People with Disability\textsuperscript{70} which, upon acknowledgment, shall be entitled to compensation for all health services rendered to the disabled. Likewise, upon the recommendation of a treating physician, a disabled person shall be entitled to a permanent Disability Certificate which shall make him or her qualified as a disabled person entitled to all the rights and privileges for free health service, while the purchase, importation, transfer or gift of health materials to a disabled person shall not be subject to any tax, duties, surcharges or levies whatsoever.\textsuperscript{71} Given the challenges PWD are still experiencing in the health sector, it is especially important to understand the complex and interrelated factors that contribute to health and healthcare inequalities and to identify practical solutions. It must be the foremost duty of the Nigerian government to protect people with disability and this can be achieved with particular reliance on the strength of human rights laws. Thus, where government commitment and the policy environment are favourable, the majority of people with disability may experience significant changes in the quality of life and access to equal rights.

X. RIGHTS OF ACCESSIBILITY TO PUBLIC FACILITIES

Another important area which inappropriately exposes people with disability to discrimination and neglect is in the realm of accessibility to public facilities. The existing structural design of buildings in Nigeria, in both the public and private sectors and communities, do not take into account of making them accessible for people with disability. In order to secure the rights of people with disability (the lame, crippled and blind), the government should ensure through the town planning departments in all the states of the federation and the Federal Capital Territory, Abuja, that new buildings are constructed in accordance with codes and guidelines for accessibility while old buildings should be remodelled to meet the codes. Similar efforts are require in the area of road construction and transportation that are adaptable to the particular circumstances of the disabled person in society.

\textsuperscript{69} Section 4, People with Disabilities Decree 1993 (Nigeria).
\textsuperscript{70} Ibid.
XI. RIGHTS OF ACCESS TO SPORTING ACTIVITIES

In its quest to promote and protect the rights of persons with disability, the Nigerian government’s efforts in this area are commendable. The government has allowed persons with disability to be actively involved in its sporting programmes at the national and international level. To this end Nigerian people with disability have participated in almost every arena of big sporting events like the Olympics with tremendous achievements. This government attitude supports the intention of the 1993 Decree on Nigerians with Disability which provides that public and private sports facilities shall be accessible to the disabled and accordingly have directed all the appropriate authorities and organs to ensure that the disabled are not discriminated against in any sporting or rehabilitation facilities.

The Nigerian government has even established Rehabilitation Commissions in most of the states of the Federation with a coordinating body known as the National Council for Rehabilitation of the disabled, functioning at the Federal level under the aegis of the Ministry of Social Development, Youth, Sports and Culture. However, while these efforts do undoubtedly represent an accomplishment, gaps still exist in certain areas of legislation, financing, architectural barriers, transportation, personnel, attitudes and leisure education for this almost forgotten group of individuals. These efforts demonstrate one of the principal and overriding aims of the system set up by the European Convention on Persons with Disability to bring about a situation in which each and every individual in a country without discrimination is effectively protected.

XII. CHALLENGES

- There is limited conceptual understanding and a poor awareness programme for the populace at large.
- There is no specific legal provision(s) mandating the representatives of persons with disability to participate in policy-making and work with governmental institutions in Nigeria. Persons with disability participate to a limited extent in government, the executive, the legislative and the judicial institutions, but to a great extent in political parties and NGOs.

72 Nigerian People with Disability have been part of country’s plan and participated in several internationally organised sporting programmes. Nigeria made its debut in international sporting events in Barcelona 1992 and since then it has also participated in Paralympic events. To date Nigeria has won a total of 22 gold, 11 silver and 12 bronze. See http://www.paralympicorg/nigeria or http://www.primetimes.ng.com/.../99569.

73 Section 11, Nigerians with Disabilities Decree 1993 (Nigeria).


There is no programme for the training of planners, architects and construction engineers or those providing health services for proper observance of and compliance with the building environment that takes care of the rights of people with disability etc.

There is no government measures for encouraging media and others forms of public information to make services available to people with disability.

General lack of capacity and political will to pursue and implement policies

XIII. RECOMMENDATIONS

The people with disability bills before the National Assembly should be passed into law.

There is provision in the Act for a certain percentage of PWD representation/participation in every level of governance, i.e. national, states, local assemblies, ministers, etc.

Adequate resources should be provided that would enable people with disability (blind, crippled) access to facilities such as hospitals, roads, vehicles, educational institutions, etc.

A National Action Plan should be established for the rehabilitation and integration of persons with disabilities within the framework of socio-economic development. This should be pursued with vigour by the government.

The government must put mechanisms in place for monitoring and enforcing regulations in the building environment to ensure compliance with accessibility codes.

While the creation of rehabilitation centres in some cities in Nigeria is a welcome idea, the government should show positive commitment by seeing that these people are properly rehabilitated.

XIV. CONCLUSION

A Human Rights Act for persons with disability is imperative, and could be established if the Nigerian government approached the issue with total conviction and commitment. It is the authors’ view that the symbolic significance of the drafting, signing, ratifying and domesticating instruments on the rights of people with disability and the creation of an international, cross-cultural moral standard for the treatment of people with disability is capable of being brought about, as follows:

the provision of clear guidance for policy-makers on the treatment of disabled people;
• demonstration of the government’s commitment to ensure that human rights are enjoyed by all people as well as all disabled people;
• support for persons with disability claiming a violation of their human rights;
• a change in people’s perceptions and attitudes regarding stigmatising and discriminating against people with disability;
• support for the rehabilitation of and training of individuals with disability for self-reliance; and
• instilling a sense of recognition, pride and ownership by disabled people of their national and international ‘human rights’.

Productive and decent work would provide the disabled with the opportunity to realise their aspirations and potential, to improve their living conditions and to participate more actively in society. It is argued that the adoption of rehabilitation camps in recent time by some states in Nigeria should not only aim at achieving the cleansing of our cities from the menace of destitute beggars but provide the opportunity for PWD to be useful members of society. This could be achieved if PWD were given training that could make them self-dependent. Therefore, ensuring a disability perspective in all spheres of Nigerian policy and legislation, the effective implementation and enforcement of existing international and regional disability laws and policies, and providing for equal employment opportunities and training – all are factors that can contribute to the reduction of poverty and to the social and economic inclusion of people with disability in Nigeria.