

GLOBAL BEST PRACTICES ON DISABILITY RIGHTS: WHAT LESSONS FOR NIGERIA?*

Abstract

Prominent among the concerns agitating curious minds of civil societies and Human Rights Organisations in Nigeria is how to safeguard, by proper implementation, the rights of disabled persons in Nigeria. This worrisome issue, which is barely attracting attention in Nigeria, has been the cynosure of human rights concerns in various countries of the world owing to the increased level of recurrent violations to which these vulnerable persons are being exposed. Unfortunately, Nigeria is one of the State-Parties to the Convention on the Rights of Persons with Disabilities (“CRPD”) and its Optional Protocol, which was adopted by the United Nations on 13th December, 2006 and to which Nigeria subscribed on 24th September, 2010. This paper, therefore, examines the state of disability rights in Nigeria vis-à-vis its comparative standing in other countries. The authors have posited that while there are progressive actions in other jurisdictions to mainstream disability concerns into development agenda, the Nigerian situation, however, remains otherwise. Accordingly, this paper has recommended, *inter alia*, that to catch up with lagging development concerns in Nigeria, proactive legislative, executive and collaborative actions with foreign partners are most germane and same should be pursued vigorously.

1. Introduction

Our basic premise is that the way the law should be approached and used is dictated by good practice. Law is not freestanding and separate, and, indeed, like good practice and research findings, it is not always clear. If, therefore, the law and good practice appear to conflict, then one’s interpretation of the law should generally be guided by good practice. The law is an active and adaptable tool. Although principles and procedures may be written down in law books, the law itself is alive and is something that happens in daily life. It is what regulates actions and guides decision-making.¹

Historically, persons with disabilities have been largely overlooked in social, economic and political development processes the world over. The international community has, only recently,

*A.A. Tijani, LL.M and P.E. Oamen, LL.M are Lecturers in the Faculty of Law, Ambrose Alli University, Ekpoma.
Contact details: 09054352983 & 070395523425, hakeemesq@gmail.com & philipoamen1@gmail.com

¹ Read, L., Clements L. & Ruebain, D., *Disabled Children and the Law: Research and Good Practice*, 2nd ed., (Jessica Kingsley Publishers, London & Philadelphia, 2006) 26.

started recognising the wide gap in its campaign for an effective global human right protection regime, without the inclusion of the vulnerable, which include women, children, disabled and aged persons. This awareness has, accordingly, provoked a new perspective of human rights activism, which tends to accommodate the rights of the vulnerable into the whole corpus of international human rights law.

This paper, therefore, discusses, albeit briefly, the legislative moves by the international community towards setting global standards for human rights protection, with specific concern on the rights of persons with disabilities and its further effort at mainstreaming the rights of persons with disabilities through social development strategy. The paper will also investigate and interrogate the best practices of states, through legislation and policies, towards the treatment, inclusion and mainstreaming of persons with disabilities in social development processes and the lessons Nigeria can draw from same.

2. International Initiatives

One of the core reasons for the establishment, in 1945, of the United Nations (the “UN”) is that the UN is to serve as a vehicle for promoting and encouraging respect for human rights and fundamental freedoms of all persons without distinction of any sort, particularly, as a parenthesis to fostering the its objective of maintaining global peace and security.²

In furtherance of this humane objective, the UN developed and adopted, at various times, multilateral treaties³ to initiate global acceptable standards for promoting, respecting, protecting and guaranteeing the rights and freedoms of all persons. This development commenced with the

² See Article 1 (3) of the UN Charter.

³ That is international agreements involving three or more parties and may be referred to by various other names, such as charter, convention, covenant, protocol, act, etc. See Cassese, A., *International Law*, 2nd ed., (Oxford University Press, Oxford, 2005) 170.

adoption of the UN Charter,⁴ which, in national legal system or jurisprudence, may be loosely described as the constitution or grundnorm of the UN. By the UN Charter, all sovereign States reaffirmed their faith in the respect of fundamental human rights, dignity and worth of the human person and the equal rights of all human beings.⁵

To further advance this commitment of States, the Universal Declaration of Human Rights (the “UDHR”) was adopted on 10th December, 1948. The whole essence of the UDHR was to reiterate the stance taken by states under the Charter in more elaborate terms.⁶ To this extent, it declared the equality and freedom of all humans in all spheres of life, social, economic, cultural, political, legal, education, religious etc., and that no person should be discriminated against on any ground.⁷

In transforming the UDHR into seemingly legally binding obligations, the UN adopted two separate international covenants, to wit: the International Covenant on Civil and Political Rights (the “ICCPR”)⁸ and the International Covenant on Social, Economic and Cultural Rights (the “ICESCR”)⁹. These covenants, taken together, constitute the bedrock of the international normative regime for human rights.¹⁰ In the course of developing the international normative

⁴ The UN Charter was signed in San Francisco on 26th June, 1945 and came into force on 22nd October, 1945.

⁵ See the Preamble to the UN Charter.

⁶ Although, the UDHR does not have a binding legal effect, it is regarded as an International Bill of Rights.

⁷ See Article 2 of the UDHR.

⁸ It was adopted and opened for signature, ratification and accession by the General Assembly (the “GA”)’s resolution 2200A (XXI) of 16th December, 1966 and finally entered into force on 23rd March, 1976 in accordance with Article 49.

⁹ It was adopted and opened for signature, ratification and accession by the GA resolution 2200A (XXI) of 16th December, 1966 and finally entered into force on 3rd January, 1976 in accordance with Article 27.

¹⁰ Alston, P. and Goodman, R., *International Human Rights, The Successor To International Human Rights in Context: Law, Politics and Morals*, (Oxford University Press, Oxford, 2013)157-161 & 277-281.

framework for human rights, disagreement arose among member states¹¹ as to whether it does not amount to over stretching the limits of the concept *describing conditions of existence of persons as fundamental human rights*, which is the import of the ICSECR. Hence, the adoption of these separate covenants became necessary to afford states the option of adopting what they were in terms with as fundamental human rights.¹²

Aside the above, the international community, through the UN, took further *legislative* steps to advance its purpose of promoting a working and workable human right protection regime globally by developing other international legal instruments on human rights generally. These include the International Convention on the Suppression and Punishment of the Crimes of Apartheid,¹³ the Convention Relating to the Status of Refugees¹⁴ and the Protocol Relating thereto,¹⁵ the Convention on the Rights of the Child,¹⁶ the Convention Against Torture,¹⁷ the

¹¹ Whilst the United States of America, Egypt, several Latin American Countries (particularly Chile) and the Communist countries of Eastern Europe supported the inclusion of social, economic and cultural rights as fundamental human rights, the United Kingdom and South Africa were some of those opposed to its inclusion.

¹² However, the debate serves no real practical relevance today as almost all states opposed to inclusion of social, economic and cultural rights as fundamental human rights have now ratified the ICSECR.

¹³ It is otherwise known as the Apartheid Convention. It was adopted by the GA on 30th November, 1973 by 91 votes in favour and 4 votes against (Portugal, South Africa, USA and UK) and 26 abstentions. It came into force on 18th July, 1976. For further details on the Convention, see <http://legal.un.org/avl/ha/cspca/cspca.html>. (accessed on 30 June, 2016).

¹⁴ The Convention was adopted by the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons held at Geneva from 2-25 July, 1951. The Conference convened pursuant to GA's resolution 429(V) of 14th December, 1950. The Convention came into force on 22nd April, 1954. For further details on the Convention, see https://treaties.un.org/Pages/ViewDetailsII.aspx?&src=UNTSOONLINE&mtdsg_no=V~2&chapter=5&Temp=mtdsg2&lang=en#Participants. (accessed on 30 June, 2016).

¹⁵ On the recommendation of the Executive Committee of the Programme of the UN High Commissioner for Refugees, the High Commissioner submitted the draft of the Protocol to the GA of the UN, through the Economic and Social Council, in the addendum to his report concerning measures to extend the personal scope of the Convention relating to the Status of Refugees. The Economic and Social Council, in resolution 1186 (XLI) of 18 November 1966, took note with approval of the draft Protocol and transmitted the said addendum to the GA. The GA, in resolution 2198 (XXI) of 16 December 1966, took note of the Protocol and requested the Secretary-General "to transmit the text of the Protocol to the States mentioned in Article V thereof, with a view to enabling them accede to the Protocol. It came into force on 4th October, 1967. For further details on the Protocol to the Refugees' Convention, see https://treaties.un.org/Pages/ViewDetails.aspx?src=UNTSOONLINE&tabid=2&mtdsg_no=V-5&chapter=5&lang=en#Participants (accessed on 30 June, 2016).

Convention on the Elimination of All Forms of Racial Discrimination,¹⁸ the International Convention on the Protection of the Rights of All Migrant Worker and Members of Their Families,¹⁹ the Convention on the Prevention and Punishment of the Crimes of Genocide,²⁰ the International Convention for the Protection of All Persons From Enforced Disappearance²¹ and the Indigenous and Tribal Peoples' Convention.²²

At another level, the regional community also simulated these global legislative efforts at their various regional levels to *keep the flag of global commitment for effective protection of human*

¹⁶ This Convention was adopted and opened for signature, ratification and accession by GA's resolution 44/25 of 20th November, 1989 and entered into force on 2nd September, 1990 in accordance with Article 49. For further details on the Convention, see <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed on 30 June, 2016).

¹⁷ This Convention was adopted and opened for signature, ratification and accession by GA's resolution 39/46 of 10th December, 1984 and entered into force on 26th June 1987, in accordance with article 27 (1). For further details on the Convention, see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (accessed on 30 June, 2016).

¹⁸ The Convention was adopted and opened for signature and ratification by GA's resolution 2106 (XX) of 21st December, 1965 and entered into force on 4th January, 1969, in accordance with Article 19. For further details on the Convention, see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (accessed on 30 June, 2016).

¹⁹ The Convention was adopted by Resolution 45/158 of 18 December 1990 at the forty-fifth session of the GA of the UN. The Convention opened for signature by all States in accordance with its article 86 (1). It entered into force on 1 July 2003, in accordance with article 87(1). For further details on the Convention, see https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en and <http://www2.ohchr.org/english/bodies/cmw/cmw.htm> (accessed on 30 June, 2016).

²⁰ This Convention was adopted by GA's resolution 260 (III) in Paris on 9th December, 1948 and came into force on 12th January, 1951 in accordance with article XIII. For further details on the Convention, see https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en (accessed on 30 June, 2016).

²¹ The Convention was adopted on 20th December 2006 during the sixty-first session of the GA by resolution A/RES/61/177. In accordance with its article 38, the Convention opened for signature by all Member States of the United Nations on 6th February 2007 in Paris, France, and thereafter at UN Headquarters in New York. It came into force on 23rd December 2010, in accordance with article 39(1). For further details on the Convention, see https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&lang=en and <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx> (accessed on 30 June, 2016).

²² The Convention was adopted in Geneva at the 76th ILC Session of 27th June, 1989 and it came into force on 5th September, 1991. For further details on the Convention, see www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 (accessed on 30 June, 2016).

rights flying. In Africa, for instance, the African Charter on Human and Peoples' Rights, The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Declaration of Principle on Freedom of Expression in Africa, the Principles and Guidelines on the Rights to a Fair Trial and Legal Assistance in Africa, the Africa Charter on the Rights and Welfare of the Child, the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the African Charter and the Protection of Refugee through Communications Before the African Commission and the African Union Convention on Preventing and Combating Corruption, have been developed.

In Europe, the European Union has developed regional legislative framework for the protection of human rights such as the Charter of Fundamental Rights of the European Union of 2007, the Convention on Action Against Trafficking in Human Beings of 2005, European Charter for Regional or Minority Languages of 1992, the European Convention on Human Rights of 1953, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987, the European Social Charter of 1961, the Revised European Social Charter of 1996 and the Framework Convention for the Protection of National Minorities of 1998.

Similarly replicated efforts apply to the American Continent, where the Organisation of the American States has also developed several legal instruments for human rights protection. These include the American Convention on Human Rights of 1969, the Inter-American Convention to Prevent and Punish Torture of 1987, the Inter-American Convention on Forced Disappearance of Persons of 1994, the Inter-American Convention on the Prevention and the Inter-American

Convention on the Elimination of All Forms of Discrimination Against Persons with Disability of 1999.²³

In setting internationally acceptable standards for human rights protection, the UN had traditionally treated the concerns of persons with disabilities alongside the general rights applicable to all persons and/or with little particularity.²⁴ In the 1970s and 1980s, however, there was growing awareness among states, expressed at the level of the General Assembly (the “GA”) of the UN, which indicated that countries had shared views on the common challenges to addressing the gaps in international human rights policies and practices, particularly with respect to the rights and concerns of vulnerable persons. International Community, thus, resolved on promoting inclusive economic development, social progress and environmental sustainability that would respond to the needs of all people, particularly the vulnerable.²⁵

Arguably, the first attempt to internationally recognise the rights of persons with disabilities, as binding legal obligation of states, was the adoption of the UN Convention on the Rights of Persons with Disabilities (the “UNCRPD”) on 13th December, 2006.²⁶ This move found impetus

²³ Similar efforts have been made by other regional bodies such as the Arab League, the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Co-operation (SAARC).

²⁴ Given that almost all international human rights instruments have non-discrimination provisions, it is arguable that discrimination against persons with disabilities may find expression in those provisions. Meanwhile, the provisions applicable to able persons also apply to persons with disabilities.

²⁵ This movement started with responding to the rights of women and children by specific Conventions in 1979 and 1989 respectively.

²⁶ By its resolution 61/106 of 13 December 2006, the GA adopted the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, It was opened for signature on 30th March, 2007 and came into force on 3rd May, 2008. For further details on the Convention, see <http://www.un.org/disabilities/default.asp?navid=15&pid=150>. This is In spite of the GA’s adoption of the World Programme of Action Concerning Disabled Persons in December, 1982 and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in December, 1993, both of which represented a significant move away from the traditional approach that focused solely on rehabilitation in response to the needs of persons with disabilities and were also the first international attempt at articulating both a developmental and a rights-based approach to disability. See United Nations, Implementation of the World Programme of Action Concerning Disabled Persons: The Millennium Development Goals and Synergies with other United Nations Disability Instruments, Being a Report of the Secretary General (the “SG”) submitted to

in States' conviction that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will not only make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries, but also, it is indispensable to maintaining international peace and security.

The above notwithstanding, various measures had earlier been taken by the UN to encourage, or otherwise set standards for states to promote and respect the rights of persons with disabilities such as the adoption of the Convention on the Elimination of all forms of Discrimination against Women,²⁷ the Declaration on the Rights of Disabled Persons,²⁸ the Declaration on the Rights of Deaf-Blind Persons,²⁹ the UN Principles for the Protection of Persons with Mental Illness And Improvement of Mental Health Care,³⁰ the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities,³¹ International Labour Organisation Convention Concerning Discrimination in Respect of Employment and Occupation,³² The International

the GA pursuant to its resolution 60/131 at the Sixty-Second Session of 27 July, 2007, pgs. 3-4. See also United Nations, The Way Forward: A Disability-Inclusive Development Agenda Towards 2015 and Beyond, Being a Report of the SG submitted to the GA pursuant to its resolution 67/140 at the Sixty-Eight Session of 14 June, 2013.

²⁷ This Convention was adopted on 18th December, 1979 and entered into force in 1981 (1240 UNTS 13, UN Doc. A/34/180/1979). For further details on the Convention, see <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

²⁸ Proclaimed by the GA's resolution 3447 (XXX) of 9 December, 1975. For further details of the Declaration, see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx>.

²⁹ It was adopted by the Helen Keller World Conference on Service to Deaf-Blind Youth and Adult on 16 September, 1977 in New York City, USA. For further details of the Declaration, see <http://www1.umn.edu/humanrts/instree/deaf-blindrights.html>.

³⁰ It was adopted by the GA's resolution 46/119 at the 75th Plenary Meeting of 17th December, 1991. For further details of the Principles, see <http://www.un.org/documents/ga/res/46/a46r119.htm>.

³¹ It was adopted by the GA's resolution 48/96 at the 48th Session of 20th December, 1993. For further details of the Rules, see <http://www.un.org/esa/socdev/enable/dissre00.htm>.

³² It was adopted in Geneva at the 42nd ILC Session of 25th June, 1958 and came into force on 15th June, 1960. For further details on Convention, see http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C111.

Labour Convention No 159 Concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983,³³ International Conference On Population And Development Programme Of Action, 1994,³⁴ World Programme of Action Concerning Disabled Persons, 1982.³⁵

As an international normative framework for disability inclusion, the UNCRPD provides a unique platform for global or universal social, economic, political and cultural development.³⁶ It is intended 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.³⁷

For the purpose of the UNCRPD, “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, and “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 exercise, on an equal basis with others, of all human rights and fundamental

³³ It was adopted in Geneva at the 69th ILC Session of 20th June, 1983 and came into force on 20th June, 1985. For further details on the Convention, see http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:31_2304:NO.

³⁴ It was signed by 179 governments in Cairo, Egypt. For further details on the Programme of Action, see <http://www.unfpa.org/public/icpd>.

³⁵ It was adopted by the GA on 3rd December, 1982 towards ensuring effective follow-up to the international year for the disabled. The Programme restructured disability policy into 3 distinct areas, to wit: Prevention, Rehabilitation and Equalization of Opportunities. For further details on the Programme, see <http://www.un.org/disabilities/default.asp?id=23#objectives>.

³⁶ United Nations, Keeping the Promise: Realizing the Millennium Development Goals for Persons with Disabilities Towards 2015 and Beyond, Being a Report of the SG of the UN on the Implementation of the World Programme of Action Concerning Disabled Persons and Progress and Challenges Concerning the Advancement of Persons with Disabilities in the Context of Development and the Realization of the Millennium Development Goals, submitted to the GA (pursuant to its resolution 63/150 and 63/131) at sixty-fifth session (26 July, 2010), p. 3.

³⁷ See Article 1 of the UNCRPD.

freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.³⁸

While the UNCRPD imposes general obligations on States to take all appropriate and necessary measures, social, economic, cultural, political, developmental, judicial, statistic, public outreach, legislative, administrative or otherwise, to ensure the full realisation of all rights and freedoms of persons with disabilities recognised under the UNCRPD without discrimination of any sort on the basis of disability,³⁹ it reiterates human rights and fundamental freedoms of persons with disabilities⁴⁰ and advocates some basic general principles to be adhered to by States in their quest for social integration of persons with disabilities, to wit: respect for inherent dignity; individual autonomy including the freedom to make one's own choices and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.⁴¹

Finally, each State is obliged, there-under, to submit to the Committee on the Rights of Persons with Disabilities for its further action, through the Secretary-General (the "SG") of the UN, a

³⁸ See Articles 1 and 2 of the UNCRPD.

³⁹ See Articles 4-8 and 31-33 of the UNCRPD for a list of general obligations imposed on States.

⁴⁰ See Articles 9-30 of the UNCRPD for an elaboration of the heads of rights of persons with disabilities provided there under, to wit: accessibility; right to life; situations of risk and humanitarian emergencies; equal recognition before the law; access to justice, liberty and security of the person; freedom from torture or cruel, inhuman or degrading treatment or punishment; freedom from exploitation, violence and abuse; protecting the integrity of the person; liberty of movement and nationality; living independently and being included in the community; personal mobility; freedom of expression and opinion, and access to information; respect for privacy; respect for home and the family; education; health, habilitation and rehabilitation; work and employment; adequate standard of living and social protection; participation in political and public life; and participation in cultural life, recreation, leisure and sport.

⁴¹ See Article 3 of the UNCRPD.

comprehensive report on measures taken to give effect to its obligations under the UNCRPD and on the progress made in that regard, within two years, and subsequently, every four years, of such State signing or ratifying the UNCRPD.⁴²

Since the UNCRPD came into force, the UN has been galvanising support among States towards including disability in their social, economic, cultural and political development, thereby authenticating disability as a cross-cutting development issue.⁴³ Through series of resolutions,⁴⁴ the GA did seek urgent actions of States to ensure the realisation of internationally agreed

⁴² See Article 35 of the UNCRPD.

⁴³ See Resolution A/68/202.

⁴⁴ See for instance, Resolutions 45/153 (on Promoting the Rights of Persons with Disabilities – Adhoc Committee Meeting), 48/96 (on Standard Rules on the Equalization of Opportunities for Persons with Disabilities), 52/82 (on Implementation of the World Programme of Action Concerning Disabled Persons: Towards a Society for All in the Twenty-First Century), 54/121 (on Implementation of the World Programme of Action Concerning Disabled Persons: Towards a Society for All in the Twenty-First Century), 56/168 (on Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities), 56/510 (on Accreditation and Participation of Non-Governmental Organizations in the Ad-hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities), 57/229 (on Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities), 58/132 (on Implementation of the World Programme of Action Concerning Disabled Persons: Towards a Society for All in the Twenty-First Century), 58/246 (on Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities), 59/198 (on Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities), 60/131 (on Implementation of the World Programme of Action Concerning Disabled Persons: Realizing the Millennium Development Goals for Persons with Disabilities), 60/232 (on Ad-hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities), 61/106 (on Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto), 62/127 (on Implementation of the World Programme of Action Concerning Disabled Persons: Realizing the Millennium Development Goals for Persons with Disabilities), 62/170 (on Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto), 63/150, 63/192 (on Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto), 64/131 (on Realizing the Millennium Development Goals for Persons with Disabilities), 64/154 (on Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto), 65/186 (on Realizing the Millennium Development Goals for Persons with Disabilities Towards 2015 and Beyond), 66/124 (High-Level Meeting of the General Assembly on the Realization of the Millennium Development Goals and Other Internationally Agreed Goals for Persons with Disabilities), 66/149 (World Down Syndrome Day), 66/229 (on Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto), 67/82 (Addressing the Socioeconomic Needs of Individuals, Families and Societies Affected By Autism Spectrum Disorders, Development Disorders and Associated Disabilities), 67/140 (on Realizing the Millennium Development Goals for Persons with Disabilities Towards 2015 and Beyond), 67/160 (on Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto) and 68/3.

development goals, particularly the Millennium Development Goals,⁴⁵ for the estimated 1 billion persons globally living with disabilities. With particular reference, the GA, by its resolution of 67/140, expressed its concern about the invisibility of persons with disabilities in the implementation, monitoring and evaluation of the Millennium Development Goals, stressing the need for States to take adequate and more effective actions to mainstream disability in social development agenda towards 2015 and beyond.⁴⁶

Furthermore, the UN, through its entities and agencies, has taken several initiatives to promote mainstreaming of disability into development agenda such as focusing on raising global awareness, promoting policy discourse, supporting regional and national capacity-building and enhancing institutional capability at different levels.⁴⁷ For instance, the Department of Economic and Social Affairs is leading the dialogue on disability inclusive development framework and has organised a number of events and platforms to promote it.⁴⁸ Other UN entities and agencies

⁴⁵ The Millennium Development Goals represent a concerted effort to address global poverty.

⁴⁶ See UN, *Realization of the Millennium Development Goals and other Internationally Agreed Development Goals for Persons with Disabilities: A Disability-Inclusive Development Agenda Towards 2015 and Beyond*, Being a Report of the SG of the United Nations on the progress made in mainstreaming Disability in the Development Agenda submitted to the General Assembly (pursuant to its resolution of 67/140) at the sixty-ninth session (25 July, 2014); United Nations, *Fifth Quinquennial Review and Appraisal of the World Programme of Action Concerning Disabled Persons*, Being a Report of the Secretary General submitted to the General Assembly pursuant to its resolution 62/127 at the Sixty-Third Session held on 28 July, 2008, pp. 4-5.

⁴⁷ See the UN's Report, 25 July, 2014, *ibid*; UN's Report, 26 July, 2010, *ibid*; UN, *Realization of the Millennium Development Goals and other Internationally Agreed Development Goals for Persons with Disabilities*, Being a Report of The SG submitted to the GA pursuant to its resolution 65/186 on 12 July, 2011 (A/66/128), p. 4; see also UN SG's Report of 26 July, 2010, p. 13.

⁴⁸ For instance, together with the UN International Strategy for Disaster Reduction, the Department of Economic and Social Affairs organized an event on disaster resilience and disability. The Department has organized several meetings and discussions along with Governments, international development agencies, civil society and other stakeholders. It participated in the International Forum on the Rights of Persons with Disabilities on the theme 'Utilizing the Convention to Mobilize for Action', held a workshop, in conjunction with the twenty-sixth annual Pacific Rim International Conference, on the topic 'Disability, the Millennium Development Goals and Gender' held in Hawaii in April, 2010 and co-sponsored the meeting of Southern Common Market (MERCOSUR) on the topic 'Inclusion of the Disability Perspective in the Millennium Development Goals and Inclusive Development'. The Department of Economic and Social Affairs, in cooperation with the World Bank, held an Expert Group Meeting, entitled "Innovative and cost-effective approaches for inclusive and accessible development", at World Bank headquarters in Washington, D.C., from 28 to 30 June 2010.

making efforts to implement policies and programmes to advance the rights of persons with disabilities include the Regional Commissions (such as the Economic Commission for Latin America and Caribbean,⁴⁹ the Economic and Social Commission for Asia and the Pacific,⁵⁰ the Economic and Social Commission for Western Asia⁵¹), the World Health Organisation (WHO),⁵² the International Labour Organisation (ILO),⁵³ the United Nations Educational, Scientific and Cultural Organisation (UNESCO)⁵⁴, intergovernmental mechanisms (such as Social, Humanitarian and Cultural Committee of the GA, the Economic and Social Council and the Conference of States Parties to the CRPD) etc. These initiatives have also inspired some periods dedicated to persons with disabilities around the world.⁵⁵

3. National Initiatives on Disabilities Rights

⁴⁹ It supported member states in creating a regional task force on disability measurement that will prepare a regional report on the status of persons with disabilities.

⁵⁰ It supported the first session of the working group on the Asian and Pacific Decade of Persons with Disabilities, 2013-2022

⁵¹ It reported on the recent Conference on the Arab Decade for Persons with Disabilities and beyond enhancing the knowledge and policy infrastructure for the implementation of the UNCRPD in the Arab Region. It has also supported an in-depth study of disability statistics and qualitative information on disability-related laws and institutions in the Arab region.

⁵² It has been collaborating with the World Bank to develop a model disability survey that would provide detailed and nuanced information on the 'lived experiences' of persons with disabilities. In collaboration with UNAIDS and OHCHR, WHO launched a new policy brief on disability and HIV. Again, in conjunction with UNFPA and the Mongolian National Centre on Mental Health, WHO provided psycho-social support to women, young people and family members who are severely affected by a natural disaster called "dzud" that occurs during winter, where livestock and livelihoods are lost.

⁵³ It has been working effortlessly on developing global strategy and action plan to promote employment and the social protection of persons with disabilities.

⁵⁴ It launched a model policy to promote national efforts on information and communications technology usages in education, particularly through its Institute for Information Technologies in Education and have also published Policy Guidelines on Inclusion in Education with the aim of assisting countries in strengthening education in their strategies and plans for education. See UN SG Report of 26 July, 2010, *supra*, p. 15.

⁵⁵ For instance, the year 2003 was declared the European year of people with disabilities, the United Nations Decade of Disabled Persons (1983-1992), Asian and Pacific Decade of Disabled Persons (1993-2002), African Decade of Disabled Persons (1999-2009), Arab Decade of Disabled Persons (2004-2013), Council of Europe Disability Action Plan (2006-2015), Decade of the Americas for the Rights and Dignity of Persons with Disabilities (2006-2016), and finally the International day for the celebration of disabled Persons is 3rd December every year. For further details on this, see also United Nations' Report, 28 July, 2008, *supra*, at pp. 6-7.

Following the adoption and coming into force of the UNCRPD, national planning, at individual State level, has begun for the implementation of programmes and policies in support of its tenets, which include developing policies and legislations to protect the human rights of persons with disabilities, and mainstreaming into official statistics in support of monitoring and evaluation of the goals of the UNCRPD, the World Programme of Action and the Standard Rules.⁵⁶

The approaches adopted by States in their bid to promoting and guaranteeing the inclusion of persons with disability within their territories, vary but are all geared ultimately towards ensuring full realisation of disability rights. For instance, some States had gone as far as incorporating disability elements into their constitutions to engender a more guaranteed human rights and fundamental freedoms regime for persons living with disabilities. Examples of such States are Canada,⁵⁷ the Republic of South Africa,⁵⁸ Switzerland,⁵⁹ Fiji Island,⁶⁰ Gambia,⁶¹ Ghana,⁶² Australia,⁶³ Uganda,⁶⁴ Finland,⁶⁵ Brazil,⁶⁶ Malawi,⁶⁷ among others.

Yet, some others have rather, or in addition, enacted federal and/or state⁶⁸ anti discrimination legislation to ensure the social integration of persons with disabilities. In some States, these laws are elaborate and cover wide subject areas touching on disability concerns, while others are specific on certain limited subjects such as health, transport, employment, education, housing,

⁵⁶ UN SG Report, 2010, *op. cit.*

⁵⁷ See Article 15(1) of the Canadian Charter of Rights and Freedom, 1982.

⁵⁸ See section 9 of the Constitution of the Republic of South Africa.

⁵⁹ See Article 8 of the Constitution of Switzerland.

⁶⁰ See sections 19 and 38 of the Constitution of Fiji Island.

⁶¹ See section 31 of the Constitution of the Republic of Gambia.

⁶² See section 29 of the Ghanaian Constitution.

⁶³ See Article 7 of the Australian Constitution, as amended.

⁶⁴ See section 35 of the Constitution of Republic of Uganda, 1995.

⁶⁵ See sections 6, 16 and 19 of the Constitution of Finland, 1999, as amended.

⁶⁶ See Article 7(XXXI) of the Constitution of the Federative Republic of Brazil, 3rd Edition, 2010.

⁶⁷ See sections 13 (g), 20, 30 and 31(3) of the Constitution of Malawi.

⁶⁸ Such as the Lagos State Special People's Law, 2010.

politics, etc. Countries in this category include the United States,⁶⁹ Australia,⁷⁰ Malta,⁷¹ Zimbabwe,⁷² Sweden,⁷³ Bulgaria,⁷⁴ Canada,⁷⁵ Malawi,⁷⁶ Mauritius,⁷⁷ Ethiopia,⁷⁸ Israel,⁷⁹ India,⁸⁰ Germany,⁸¹ Korea,⁸² China,⁸³ the United Kingdom,⁸⁴ New Zealand,⁸⁵ etc.

Similarly, countries such as Singapore promulgated new policies to improve accessibility to public service and to provide tax subsidies for caregivers of persons with disabilities.⁸⁶ New Zealand, on the other hand, did not only organise an effective protection regime for persons with disabilities by ensuring that its approach to planning and programming is structured around a

⁶⁹ See the Americans with Disabilities Act, 1990 (42 U.S.C. §§ 12101 et seq.), the Telecommunications Act, 1996 (47 U.S.C. §§ 255, 251(a)(2)), Fair Housing Amendment Act, 1988 (42 U.S.C. §§ 3601 et seq.), the Air Carrier Access Act, 1986 (49 U.S.C. § 41705), Voting Accessibility for the Elderly and Handicapped Act, 1984 (42 U.S.C. §§ 1973ee et seq.), the Civil Rights of Institutionalized Persons Act (42 U.S.C. §§ 1997 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400 et seq.), the Rehabilitation Act, 1973 as amended (29 U.S.C. § 791, 793 & 794) the Architectural Barrier Act, 1968 (42 U.S.C. §§ 4151 et seq.); The United States' Supreme Court has issued a number a decision relying on the Americans with Disabilities Act. Such as *Bragdon v. Sidney Abbott* 524 US 624 (1998); *Pennsylvania Dept. of Corrections v. Yeskey* 524 US 206 (1998); *Sutton v. United Airlines Inc.* 563 US 306 (1999); *Murphy v. UPS Inc.* 527 US 516 (1999); *Albertson's Inc. v. Kirkingburg* 527 US 555 (1999); *PGA Tour Inc. v. Martin* 532 US 661 (2001); *Spector v. Norwegian Cruise Line Ltd.* 545 US 119 (2005); *Starson v. Swayze* [2003] 1 S.C.R. 722 or [2003] SCC 32; *United States v. Georgia* 546 US 151 (2006)..

⁷⁰ See the Disability Discrimination Act, of 1992 as amended.

⁷¹ See the Equal Opportunities (Persons with Disability) Act.

⁷² See the Disabled Persons Act.

⁷³ See the Swedish Act Concerning Support and Service of Persons with Certain Functional Impairments, 1993.

⁷⁴ See the Bulgarian Law for Protection, Rehabilitation and Social Integration of Disabled, 1995 as amended.

⁷⁵ See the Canadian Human Rights Act, 1996.

⁷⁶ See the Malawian Handicapped Persons Act, 1971.

⁷⁷ See the Mauritian Training and Employment of Disabled Persons Act, 1996.

⁷⁸ See the Ethiopian Proclamation Concerning the Rights of Disabled Persons to Employment, 1994.

⁷⁹ See the Equal Rights for People with Disabilities Law 5758-1998.

⁸⁰ See the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1996. For an in-depth reading on this Act, see Kothari, J., *The Future of Disability Law in India: A Critical Analysis of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*, (Oxford University Press, India, 2012) 215.

⁸¹ See the Severe Handicapped Persons Act, 1986.

⁸² See the Welfare Law for Persons with Disabilities, 1989, as amended.

⁸³ See the Law of the People's Republic of China on the Protection of Disabled Persons, 1990.

⁸⁴ See the Equality Act, 2010.

⁸⁵ See the New Zealand Building Act, 2004.

⁸⁶ See UN SG Report of 2014, *supra*.

widely accepted disability strategy, it has also established an office for Disability and a Ministerial portfolio.⁸⁷

It has been argued that the mere legislative adaptation, without more, of global best practices on social inclusion of persons with disabilities by States is insufficient, though necessary, to achieving internationally agreed commitment on realising the protection of persons with disabilities.⁸⁸ Such legislative efforts need be accompanied by actual measures to integrate disability into all-round social development processes.⁸⁹ Attaining this, though, would require adequate state capacity to deliver on the social compact and social services and infrastructure like accessible health services, environment, education, transport, housing and recreation, food and sanitation, etc.⁹⁰

4. Lessons for Nigeria

Despite its ratification of the UNCRPD, Nigeria remains one of the few countries worldwide yet to domesticate, or otherwise, give effect to the provisions of UNCRPD at the federal level, say by enacting a law, designing programmes or policies, or even, creating a department of government committed to managing disability issues.⁹¹ The consequences for not taking any

⁸⁷ Atsenuwa, A.V., “Legal And Institutional Mechanisms For Protecting Persons With Disabilities in Nigeria” in Azinge, E., & Ani, C. (eds.), *The Rights of Persons With Disabilities*, (Nigerian Institute of Advanced Legal Studies, Abuja, 2011), 100-136 at 130.

⁸⁸ Arewa, J.A., “*Global Best Practices in Treatment of Disabled Persons: A Critical Appraise*”, in Azinge, E. and Ani, C., *ibid*, 16-39 at 34.

⁸⁹ This appears to be the actual intention of the UNCRPD under Article 5.

⁹⁰ Arewa, *op. cit.*, 37.

⁹¹ This is not, in anyway, intended to undermine the laudable effort Lagos State Government has put into this course. The point being canvassed is that a lead role has to be taken at the federal level to trigger states’ responses. Also, some pieces of national legislation exist where disability element is expressly or impliedly mentioned, but do not really address disability concerns, see for instance section 15-18 & 42 of the Constitution; section 2 of the Compulsory, Free Universal Basic Education Act, 2004; section 1 of the Employees’ Compensation Act, 2010; section 9 (1-2) & 16 of the Armed Forces Pension Act, Cap A23, Laws of the Federation of Nigeria, 2004; section 342 and paragraph 7, Part III, Fifth Schedule of the Companies and Allied Matters Act, Cap C20, Laws of the Federation of Nigeria, 2004; section 6(2) of the Consumer Protection

such measures towards addressing the plights of persons with disabilities adversely reflect on the societal perception and treatment of persons with disabilities in Nigeria.

Though, there is evidence that the Military Government in 1993 purportedly decreed on disabilities rights, *via* a law often referred to as the Nigerians with Disability Decree, 1993, from its purpose to its substantive social, political, economic and welfare provisions for the disabled, the law appears, on its surface, to be a laudable and remarkable piece of legislation.⁹² It further established a National Commission for People with Disabilities and other legal services to ensure protection and realisation of the interests, rights and welfare of the disabled people.⁹³

However, it has been argued that any such Decree does not exist as the law is neither in the compendium of Nigerian Laws nor is it available at the Federal Government Press.⁹⁴ This argument finds more credence in the fact that in the eyes of the Nigerian government, as of today, there is no law defining disabilities rights in Nigeria, hence the ostentatious displays by the National Assembly purporting to consider various bills touching on disability concerns.⁹⁵

Council Act, Cap C25, Laws of the Federation of Nigeria, 2004; section 3(3) of the Freedom of Information Act; section 3(3) of the Freedom of Information Act, section 56 of the Electoral Act, 2011 (as amended).

⁹² See sections 1-13 of the Nigerian with Disabilities Decree, 1993.

⁹³ See section 14 of the Nigerians with Disabilities Decree, 1993.

⁹⁴ See Atsenuwa, A.V., *op. cit.*, 100-136 at 127.

⁹⁵ See for instances various attempts at legislating on disability concern after 1995 by the National Assembly such as A Bill for an Act to Establish the National Social Security Board and Vest it with the Responsibility for the Control and Administration of Benefits and Assistance to Enhance the Welfare of Citizens Especially Disadvantage Persons, Particularly Children, Women, the Handicapped, the Sick the Aged and the Unemployed; A Bill to Ensure Full Integration of Persons with Disabilities in Society and to Establish a National Commission for Persons with Disabilities; 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 a National Commission for the Handicapped Persons; The National Disabilities Trust (Establishment) Bill; Discrimination Against Persons with Disabilities (Prohibition) Bill, 2008; Discrimination and Related Offences (Prohibition and Punishment) Bill, 2008; Nigerians with Disabilities Bill, 2008; A Bill for an Act to Prohibit all Forms of Discrimination Against Persons with Disabilities and Give them Equal Opportunities in all Aspects of Life in Society and Related Matters, 2009; The Mental Health Bill, 2008; and Social Welfare Bill, 2008.

It is not unlikely to argue, contrary to the above, that the fact that some laws are omitted from the compendium of laws in Nigeria does not make them repealed. Moreover, other attempts to legislate on the subject may rather be regarded as duplicity of laws rather than ‘denial of existence’. More so, the peculiar period in time when the Nigerians with Disability Decree was passed was during the military regime. At the time, legislation, sometimes, was in accordance with the whims and caprices of the military Head of State and not by due legislative processes.

Assuming the alternative argument put forward is anything to go by, the Federal Government, therefore, should take necessary steps to implement such Decree, if existing. Otherwise, it is humbly submitted that the robust character of the Decree could serve as a basis or guide, alongside the UNCRPD, for drafting comprehensive legislation on disabilities rights in Nigeria.

Instructively, since ratification of the ICCPR and IESCR in 1993, Nigeria has been bound under international law to substantially comply with the standards set under the treaties. However, the best implementation so far of these treaties in Nigeria was the retention of the terms of ICCPR as enforceable rights and the ICSECR’s as unenforceable rights under Chapters IV and II of the Constitution respectively. This has far reaching effects in whittling away the potency and effectiveness of Nigerian commitment made thereunder, particularly given Nigerian dualist status in enforcing international commitments.⁹⁶

It is easy to argue that Nigeria is a dualist State and that ratification at the international level, without domestication, does not yet attach responsibility at the domestic level. Moreover, the ICSECR, as currently constituted under the Constitution, are non-justiceable rights. The above

⁹⁶ As a dualist state, an international commitment can only become binding under national law in Nigeria, when it is domesticated. This finds expression under section 12(1) of the Constitution.

argument is flawed, at least, on two main grounds. One, by the provision of section 702 of the American Institute Restatement (Third) The Foreign Relations Law of the United States, 1987, a consistent pattern of gross violation of internationally recognised human rights amounts to a breach of Customary International Law ('CIL'). CIL rules, once they crystallise, are applicable to all states, independent of whether they are monists or dualists, unless a persistent objector.

Two, protection of human rights has, overtime, elated and started acquiring the status of peremptory norms of international law (given its prime position in promoting the UN's object of maintaining global peace and security). Being of such fundamental values, no State is permitted to derogate from it, whether by legislative or administrative action.⁹⁷ Therefore, Nigeria may not be justified in maintaining that such rights yet to be domesticated consist only of non-justiceable rights under her Constitution.

Further, the domestication of the ACHPR, without doubt, provides a platform for pushing what otherwise qualifies as non-justiceable rights under chapter two of the Constitution as justiceable and enforceable rights following the decisions of the Supreme Court in *Fawehinmi v. Abacha*⁹⁸

⁹⁷ See Article 53 of the Vienna Convention on the Laws of Treaties, 1969.

⁹⁸ [2000] 6 NWLR (Pt. 660) 228 at 344-355 paras H-H. The observation, per Uwaifo, JSC, is worth noting in this regard thus: "The clear implication of this is that the spirit of a convention or treaty demands that the interpretation and application of its provisions should meet international and civilized legal concepts... In our own case what is enacted under s. 1 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act- now in Cap 10 Laws of the Federation of Nigeria 1990 is that the provision of the Charter shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive and judicial powers in Nigeria... From the principles and the laws already discussed above, the following basic concepts ought to be established namely: (a) The African Charter is a special genus of law in the Nigerian legal and political system; (b) the Charter has some international flavor and in that sense it cannot be amended or watered down or sidetracked by any Nigerian law; (c) the effect of the Charter in Nigeria may be completely obliterated by an express repeal of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act ... There is therefore a presumption that a statute (or an Act of Parliament) will not be interpreted so as to violate rule of international law. In other words, the courts will not construe a statute so as to bring it into conflict with international law."

and the ECOWAS Community Court of Justice in *SERAP v. FRN*⁹⁹. It is, therefore, arguable that in the absence of no dedicated legal framework enabling the disabled, the ACHPR may well serve an alternative means of pushing disability rights to its allowable limits.

It is, therefore, necessary that Nigeria started taking appropriate measures, at the federal level, to addressing environmental barriers hampering the equal treatment, inclusion and opportunities of persons with disabilities in social interaction processes. Without doubt, a starting point would entail mainstreaming disability into social development strategy through effective and well-thought-out legislation and policies.

Invariably, such legislation should touch on core disability concerns such as health, accessible environment, employment, education, politics and public life, religion, social and cultural integration and acceptance, effective complaint mechanism, equality before the law, access to justice, liberty and security of the person, freedom from torture or cruel, inhuman or degrading treatment or punishment, freedom from exploitation, violence and abuse, protecting the integrity of the person, freedom of movement and nationality, living independently and being included in the community, personal mobility, freedom of expression and opinion, access to information and respect for privacy.¹⁰⁰

In terms of effective policies, Nigeria should focus on ensuring that the element of disability forms a perspective in or cuts through all social development agenda. Removing physical, attitudinal and information barriers is critical and results in numerous benefits to individuals,

⁹⁹ ECW/CCJ/APP/12/07; ECW/CCJ/JUD/07/10. Here, the ECOWAS Community Court of Justice held that the right to education is justiceable under the ACHPR contrary to the argument of the Nigerian defence legal team.

¹⁰⁰ UN SG Report, 2010, *supra*, p. 25.

including improved self-esteem, enhanced well-being and a stronger sense of empowerment. This, in turn, brings benefits to society as a whole, including greater social cohesion.

Moreover, Nigeria should see the costs of promoting accessibility and reasonable accommodation as an investment in its future. The supposed “trouble” involved in promoting accessibility should be weighed against the long-term benefits to all members of the society. Access to employment is the most viable economic strategy of reducing poverty among persons with disabilities, their families and communities, and even beyond them. But, the effective contribution of persons with disabilities to national economy and development can only be enabled where social and environmental barriers standing in their way are removed.

Furthermore, in the education sector, efforts should be scaled up to reach out to children living with disabilities, who are currently excluded from schools. Evidence suggests that inclusive education, adapted to meet the broad range of needs of children with disabilities, is generally more cost-effective and produces more meaningful results than educating them in segregated settings.¹⁰¹

Finally, Nigeria should not see the shift to a more inclusive environment as an elephant project. No doubt, it would be capital intensive. However, achieving social inclusion of persons with disabilities does not require a rebuilding of the already built environment, but its modification to the extent necessary for their accommodation, and, more importantly, consciously featuring disability into future architectural designs and structures. It is believed that a genuine political will, coupled with a sincere intention and determination to impact on the Nigerian social structure, would be just sufficient to achieve this purpose. Study has shown that it is more cost-

¹⁰¹ United Nations’ Report, 12 July, 2011, *supra*, at 7; see also United Nations’ Report, 28 July, 2008, *supra*, at 5-6.

effective to design a barrier-free building than to renovate an existing building to make it fully accessible to persons with disabilities.¹⁰²

It may be instructive to close this section with Oliver Michael's frank description of the politicisation of disability issues in social development process, where he stated thus:

“The point is, as I hope I have demonstrated, that walking has a significance beyond merely the functional. If it did not have, why would society punish non-walkers for not walking? After all, we do not punish non-flyers for not flying. In fact, we do exactly the opposite. We spend billions of dollars, yen, deutschmarks and pounds every year providing non-flyers with the most sophisticated mobility aids imaginable. They are called aeroplanes. An aeroplane is a mobility aid for non flyers in exactly the same way as a wheelchair is a mobility aid for non-walkers... Non-walkers are treated in exactly the opposite way. Environments are often designed to exclude us, transport systems that claim to be public continue to deny us access and when we protest, we are told there is no money. We are also told that giving us access to such systems would adversely affect the rights of others; journeys would take longer and would be more expensive for everyone. Perhaps a useful slogan for the next direct action demonstration could be ‘equal treatment for non-walkers and non-flyers....’¹⁰³

5. Recommendations and Conclusion

Whereas, a highlight of efforts taken at the international, regional and national levels, which form the fulcrum of global best practices in this regard, was made, it was, however, stressed that a mere national legislative adaptation of these internationally cherished normative values, without more, is insufficient but same should be accompanied by appropriate measures to translate letters of the law into social development processes.

¹⁰² United Nations' Report, 28 July, 2008, *supra*, at 5.

¹⁰³ Oliver, M., *Understanding Disability: From Theory to Practice*, 1st ed., (Macmillan Press Ltd, London, 1996) 108.

In seeking means to addressing the plights of persons with disabilities, caution should be taken in isolating issues of disability in terms of legal and institutional framework, so as not to dabble into another form of discrimination against the disabled community. The point being made here, in other words, is that, the art of excluding the disabled community as though they are something short of others, thereby requiring some special dispensation, may be argued in its right as discrimination against them.

Accordingly, this article recommends that an encompassing and comprehensive legislation for the disabled community may be a step in the right direction to pursue the realisation of the rights of persons with disabilities, but efforts should be exerted to look beyond that. In displacing any likely argument as that raised above, the legislators may decide, going forward, to always include a disability clause of non-discrimination in every law coming up before them for the first time or amendment, (where necessary), so that it becomes systematically integrated into the nation's corpus of laws.

Where appropriate, disability element should be systematically included into all legislation. A constructive engagement of the disabled community is necessary in order to promote an equitable and inclusive society. Nigeria should treat disability as a cross cutting issue in social development agenda. Critical to the production of disabling environments are the roles of architects and other design professionals. Indeed, they are primarily implicated in the production of the built environments, in developing aesthetic values and propagating specific conceptions of designs. Accordingly, architectural, or such other, designs necessary to build the environment should be regulated to be disability compliant.

Development agenda should be all embracing in terms of locality, the rural and urban areas should be equally accommodated if movement towards realising disability rights is to be achieved. The mass media should breed an all inclusive broadcast practice to encourage, support and promote disability rights in Nigeria. In the interim, in addition to any measure being taken by the Nigerian government to promote disability rights, there is a need for more awareness and peaceful demonstration activities, coupled with active advocacy from civil society groups, academics, human rights activists, the disabled community, etc., as engagement strategies to spur a positive response from the Nigerian government in this regard.