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Abstract

Despite the ratification of the Convention on the Rights of Persons with Disabilities by Nigeria, little has been done beyond the lofty lettering of the national law on persons living with disabilities. The lettering of the Discrimination Against Persons with Disabilities (Prohibition) Act which gained the force of law in 2019, contains provisions yet to be implemented. The Act equally leaves areas of vital concern unlegislated. These areas have been highlighted by the Convention as concerns of universal design, human rights, disaster risk reduction, health and well-being and security to name a few. These highlighted concerns have domestic implications with regards to gender and age considerations, floods and oil spills, terrorism and internal displacement and polio and post-polio syndrome among others.

This paper recognizes the gap between legislation and implementation as a result of attitudinal barriers and deficiencies in social policy. In exploring this gap and bringing to fore solutions which close said gap, the paper compares the Convention’s requirements, the reality of persons with disabilities in other party states and domestic laws. This juxtaposition arrives at a strengthening of social policy as a mechanism for solving concerns of persons with disabilities, through a compliance with international standards, continuity of policies despite regime changes and a diversification of policies to areas of digital solutions, accessibility and information and communication technology.

Introduction

Historically, the reality of persons with disabilities has been one of exclusion and segregation from processes of social, economic, recreational and political development across all nations of the world. The rewriting of this history and the campaign for a change in this reality, is a rather recent one. The international community and earlier efforts at human rights legislations and conventions in their broad provisions for global human rights, had left a gap that was non-inclusive of the specific needs of persons with disabilities, women, children and
aged persons. The realization of this gap has led to a shift in the consciousness relating to the campaign and advocacy for human rights to both accommodate and legislate with specificity upon the rights of groups such as those of persons with disabilities, into the wholistic body of international human rights law, resulting in an expansion in the domain of internationally recognized human rights.

Historical Developments in the International Rights of Persons with Disabilities

The shift in advocacy around the rights of persons with disabilities has birthed a number of significant changes. These changes range from international to regional policy changes, changes in the perception of issues concerning persons with disabilities and the adoption of new instruments and conventions. Of all these changes and developments, the most significant one forms the subject of this paper; the adoption and widespread ratification of the United Nations Convention on the Rights of Persons with Disabilities. The adoption of The Convention on the Rights of Persons with Disabilities and its Optional Protocol on 13 December 2006 at the United Nations Headquarters in New York, was welcomed with the highest number of signatories in history to a United Nations (UN) Convention on its opening day, with 82 signatories to the Convention and 44 signatories to the Optional Protocol and 1 ratification to the Convention when it opened for signature on 30 March 2007.¹ ²

The significance of the Convention on the Rights of Persons with Disabilities (CRPD) is cumulative, as the Convention follows decades of work and advocacy to inform and change attitudes, perceptions and approaches to persons with disability. The Convention takes to a new height, the advocacy for the rights of persons with disability by enabling a shift from the perception of persons with disabilities as “objects” of charity, medical treatment, sympathetic welfare and social protection towards one that rightly perceives them as “subjects” with rights. As subjects with rights, they are capable of claiming and enforcing those rights, assuming their position as active members of society and making decisions concerning their lives based on their free and informed consent as well as being active

² The Convention was negotiated during eight sessions of an Ad Hoc Committee of the General Assembly from 2002 to 2006, making it the fastest negotiated human rights treaty.
members of society. This shift in perceptive is one from a medical model of considering the rights of persons with disabilities and disabilities itself to a social model of considering same.

The medical model of considering the rights of persons with disabilities and disabilities itself was the position in most nations and consequently, their legislations and policies for most of the 20th century. This model defines disability as the result of a physical condition, which makes such a condition intrinsic and limited to the individual’s own body, which may reduce the individual’s quality of life and cause clear disadvantages to the individual. The medical model functions on the belief that curing or at least managing disability revolves around identifying disability from an in-depth clinical perspective (in the sense of the scientific understanding undertaken by trained healthcare providers), understanding it, and learning to control and/or alter its course. The implication of this belief is that the medical model also believes that a “compassionate” or just society invests resources in health care and related services in an attempt to cure disabilities medically, to expand functionality and/or improve functioning, and to allow disabled persons a more “normal” life. The medical profession’s responsibility and potential in this area or model is seen as central. It is the medical model’s focus on the individual that had led to stereotyping and defining people by a condition or their limitations.3

Moving from this model to what now constitutes the wide-held perspective in regarding the rights of persons with disabilities and disability itself, the words of Leandro Despouy in his former capacity as the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, serves aptly as a bridge:

“As a preliminary warning, it should be pointed out that to deal correctly with this topic it is essential to rid ourselves of any feelings of pity or commiseration. We are not dealing with a strictly humanitarian problem, still less with a situation requiring our charity. Far from that, the treatment given to disabled persons defines the innermost characteristics of a society and highlights the cultural values that sustain it.”4

The decade-long efforts of the UN have achieved a shift from the former to a social model of considering the rights of persons with disabilities. The social model of considering

the rights of persons with disabilities entails the perception of disability through the work of
the World Health Organization (WHO) in declaring disability as an umbrella term constituted
of several components, in 2001. These components are: impairments, activity limitations and
participations restrictions.\(^5\) An impairment is defined as a problem in bodily function or
structure. Activity limitations are difficulties encountered by a person in executing a task or
action, while participation restrictions are problems experienced by a person resulting from
their involvement in life situations. This perception of disability is articulated by the WHO's
International Classification of Functioning, Disability and Health,\(^6\) which emphasizes that
disability is a dynamic interaction between health conditions and environmental and personal
factors.\(^7\) The CRPD in a similar vein, defines disability as long-term physical, mental,
intellectual or sensory impairments which in interaction with various barriers may hinder the
full and effective participation of persons with disabilities in society on an equal basis with
others.\(^8\) Thus, the social model of disability emphasizes the notion that while physical,
sensory, intellectual, or psychological variations may cause individual functional limitation or
impairments, these do not have to lead to disability unless society fails to take account of and
include people regardless of their individual differences.\(^9\)

Thus, disability under this model is recognized as an evolving concept, resulting from
interactions between persons with impairments and the attitudinal and environmental barriers
that hinder their full and effective participation in society on an equal basis with others.\(^10\) The
nature of disability as an evolving concept not only makes persons living with disabilities a
minority, but also makes them members of the world’s largest growing minority. The
growing risk of disability is due in part to the ageing of the populations of many nations, the
prevalence of disability in developing countries given its bidirectional link to poverty,\(^11\) and
the global increase in chronic health conditions varying from cancer to mental health
disorders.\(^12\)

The current model of considering disability rights and persons with disabilities
reflected in the wordings of the Convention is in fulfilment of its intention. The Convention is

\(^{5}\) See [https://www.who.int/health-topics/disability#tab=1](https://www.who.int/health-topics/disability#tab=1) (last accessed on 22 September 2020)

\(^{6}\) International Classification of Functioning, Disability and Health, 2001.

\(^{7}\) International Classification of Functioning, Disability and Health Disablement Model.


\(^{9}\) Ibid.

\(^{10}\) Convention on the Rights of Persons with Disabilities, 2006, Preamble (e).


\(^{12}\) Paul J. Butera ‘People with Disabilities: The World’s Largest Minority’ [complete reference]
intended as a human rights instrument with an explicit, social development dimension. The Convention adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights and areas where their rights have been violated, and where protection of rights must be reinforced.13

The shift effected by the Convention in the advocacy for the rights of persons with disabilities is not one that occurred in a vacuum. As earlier mentioned, the significance of the Convention is cumulative and it draws its strength and goals from the foundations of earlier instruments and conventions of international human rights law. To attempt an exposition of the Convention without acknowledging the contribution of these instruments, conventions and developments would not only be inadequate but also incomplete.

These foundations are apparent, given that the Convention does not create any new rights or entitlements. The Convention fulfils its intention by expressing existing rights with a specificity that addresses the needs and concerns of persons with disabilities. The specificity of the Convention is geared towards: the recognition and enforcement of human rights as the birth right of all human beings14 and by implication, the rights of persons living with disabilities as members of the human family;15 the increase in worldwide awareness of persons living with disabilities with an emphasis on changing maladaptive treatment approaches, stereotypical and discriminatory societal attitudes and practices.16 These emphases are laid in the Convention’s guiding principles of: 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; respect

13 Ibid.
16 An anecdote from the former USSR reveals the opinion that people with disabilities are a disgrace to national reputations: “During the 1980 Olympic Games in Moscow, a Western journalist inquired whether the Soviet Union would participate in the first Paralympic games...The reply from a Soviet representative was swift, firm, and puzzling: ‘There are no invalids in the USSR!’”
for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.\textsuperscript{17} 

The Convention was preceded and influenced to varying degrees by human right conventions and international law instruments. First of these instruments and developments, would be the core purpose of the establishment of the United Nations which is for the UN to serve as a vehicle for promoting and encouraging respect for human rights and fundamental freedoms of all persons without distinction of any sort, in addition to its goal of maintaining global peace and security.\textsuperscript{18} In furthering the promotion of human rights, the UN developed, adopted and put forward for signature, varying multilateral instruments to establish and spur international acceptable standards of respecting, promoting, protecting and guaranteeing the rights and freedoms of all persons. These developments began with the adoption of the United Nations Charter which was signed in San Francisco on 26 June, 1945 and gained force on 22 October, 1945. By virtue of the Charter, all sovereign states reaffirmed their recognition of and faith in fundamental human rights and the inherent dignity and worth of the human person and the equal rights of all human beings.\textsuperscript{19} \textsuperscript{20} 

That recognition gave way to the Universal Declaration of Human Rights (UDHR) which was adopted on 10 December, 1948. The adoption of the UDHR was to reiterate or declare the stance taken by states by virtue of the Charter. Although the UDHR does not have a binding legal effect, it is regarded as an International Bill of Rights in its declaration of the equality and freedom of all humans across social, economic, cultural, political, legal, educational and religious spheres and its reiteration that no person should be discriminated against on any ground.\textsuperscript{21} 

In an attempt to transform the UDHR into seemingly legally binding obligations, the UN adopted two separate international covenants: the International Covenant on Civil and Political Rights (ICCPR)\textsuperscript{22} and the International Covenant on Social, Economic and Cultural Rights (ICSECR).\textsuperscript{23} These covenants, combined, constitute the bedrock of the international

\begin{itemize}
\item \textsuperscript{17} Convention on the Rights of Persons with Disabilities, 2006, Article 1.
\item \textsuperscript{18} Article 1 (3) of the United Nations Charter.
\item \textsuperscript{19} Preamble of the United Nations Charter.
\item \textsuperscript{21} Ibid.
\item \textsuperscript{22} Adopted by the United Nations’ General Assembly on 19 December, 1966 and gained force on March 23, 1976.
\item \textsuperscript{23} Adopted by the United Nations’ General Assembly on 16 December, 1966 through General Assembly Resolution 2200A (XXI), and gained force on 3 January 1976.
\end{itemize}
normative regime for human rights.\textsuperscript{24} The bifurcation of the UDHR is in part the result of disagreements among member states on the import of the ICSECR amounting to a strain on the limits of the concept describing conditions of existence of persons as fundamental human rights. The division into the categories of ICCPR and ICSECR, is a compromise of basic principles of international human rights, understood to be interdependent, indivisible, interrelated and universal. Although the bifurcation afforded states the option of adopting what reflected their respective stand as fundamental human rights and nearly all states earlier opposed to the inclusion or ratification of social, economic and cultural rights as fundamental human rights have now ratified the ICSECR;\textsuperscript{25} the division left the consequence of a running line among these rights which is still apparent in many state parties.

This line is drawn on the basis of justiciability and results in a hierarchy of rights as first and second generation rights. Civil and political rights were viewed as first generation rights for which states must ensure access to justice through courts or tribunals while social and economic rights, referred to as second generation rights, were described as aspirational goals to be realized through social policy and legislation rather than as justiciable rights to be adjudicated by courts.\textsuperscript{26} This hierarchy is evident in Nigeria’s legislations on fundamental human rights, as two categories of human rights are provided for in the Nigerian Constitution as Fundamental Rights\textsuperscript{27} and Fundamental Objectives and Directive Principles of State Policy\textsuperscript{28} concerning civil and political rights and economic, social and cultural rights respectively.

Other international legal instruments on human rights preceding the CRPD include: The International Convention on the Suppression and Punishments of the Crimes of Apartheid,\textsuperscript{29} the Convention Relating to the Status of Refugees\textsuperscript{30} and the Protocol Relating

\textsuperscript{25} Ibid.  
\textsuperscript{26} Bruce Porter, Social Policy and Social Rights in Canada: Historical Reflections, The Philanthropist, Journal Poverty and Human Rights in Canada, June 20, 2016  
\textsuperscript{27} Chapter 4 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).  
\textsuperscript{28} Chapter 2 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).  
\textsuperscript{29} Adopted by the General Assembly on 30 November, 1973 and gained force on 18 July, 1976.  

31 On the recommendation of the Executive Committee of the Programme of the United Nation High Commissioner for Refugees, the High Commissioner submitted the draft of the Protocol to the General Assembly of the United Nations, 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.
34 Adopted and opened for signature and ratification by General Assembly’s resolution 2106 (XX) of 21 December, 1965 and gained force on 4 January, 1969.
39 This Convention was adopted on 18 December, 1979 and gained force in 1981 (1240 UNTS 13, UN Doc. A/34/180/1979).
40 Proclaimed by the General Assembly’s resolution 3447 (XXX) of 9 December, 1975.
41 Adopted by the Helen Keller World Conference on Service to Deaf-Blind Youth and Adult on 16 September, 1977 in New York City, USA.
42 Adopted on 15 March, 1989 by the General Assembly of the United Nations through resolution 44/70.
43 Adopted by the General Assembly’s resolution 46/119 at the 75th Plenary Meeting of 17 December, 1991.
44 Adopted by the General Assembly’s resolution 48/96 at the 48th Session of 20 December, 1993.
Historical Developments in the African and Nigerian Rights of Persons with Disabilities

The signing of the CRPD and its Optional Protocol by several African countries with over forty ratifications to date, is one of the most important actions taken concerning the rights of persons with disabilities. On the frontier of policy and legislation, the signing and ratification of the CRPD has led to the development of National Disability policies across various African countries. The developments of these National policies were not arrived at without the influence of preceding regional instruments and charters. These regional instruments and charters, influenced the development of the Kenyan Persons with Disabilities Act, the Rwandan Rwanda Disability Law and the Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act in similar manners. The development of more progressive and inclusive policies for the recognition and protection of the rights of persons with disabilities takes a unique form in each country, with the role of pressure groups evident in Nigeria and the Rwandan genocide and faith based institutionalized care playing an undeniable role in Rwanda.

Yet, the ratification of the CRPD by most African states was preceded by the influence of a number of regional efforts towards the establishment of a framework for human rights protection and the recognition of the rights of persons with disabilities. These regional legislations include: African Charter on Human and Peoples’ Rights, The Protocol to the African Charter on Human Peoples’ Rights on the Rights of Women in Africa, the

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47 Signed by 179 governments in Cairo, Egypt.
48 Adopted by the General Assembly on 3 December, 1982.
49 In 1976, the General Assembly proclaimed 1981 as the International Year of Disabled Persons.
52 The Rwanda Disability Law No. 01/2007.
55 World Programme of Action Concerning Disabled Persons, para. 34.
Declaration of Principle on Freedom of Expression in Africa, the Principles and Guidelines on the Rights to a Fair Trail and Legal Assistance in Africa, the Africa Charter on the Rights and Welfare of the Child, the Organization of African Unity 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.

Essential among these regional legislations is the African Charter on Human and Peoples' Rights.56 The African Charter on Human and Peoples’ Rights is also referred to as the Banjul Charter and was adopted by the Assembly of Heads of States and Government of the Organization of African Unity (OAU). The Charter guarantees for all African people without discrimination, civil and political rights as well as economic, social and cultural rights. The Charter also establishes an African Commission on Human Rights57 within the OAU with a mandate to promote and protect human and people’s rights and an African court on human and peoples’ rights.58

Similarly, the African Charter on the Rights and Welfare of the Child59 aims to promote and protect the rights and welfare of the African child. The Charter aims to protect without discrimination, the best interest the African child in all matters concerning the child. Towards this aim, the Charter articulates various rights protecting welfare of the African child.60 These rights cover a variety of aspects pertaining to the child with Article 13 of the Charter paying devoted attention to African children with disabilities. The Articles provides that every African child with disabilities shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community and that State Parties shall ensure that needed assistance is given to ensure that the child with disability has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual

57 Article 30 of the African Charter on Human and People’s Rights.
60 Ibid.
development and his/her cultural and moral development.\textsuperscript{61} Other Articles providing for the welfare of the child with disabilities are contained in articles concerning education and healthcare.\textsuperscript{62} The Charter equally establishes an African Committee of Experts on the Rights and Welfare of the Child.\textsuperscript{63}

These regional instruments have contributed domestically to the domestication, ratification and/or enforcement of the Nigerian African Charter on Human and Peoples Rights (Ratification and Enforcement) Act\textsuperscript{64} and the Child Right’s Act.\textsuperscript{65} These national laws are directed towards the amplification of national efforts to promote and protect human rights and the rights of persons with disabilities within the Nigerian jurisdiction. Although the influence of regional laws on the development and enforcement of national laws shows an impressive record of ratification and the reasonable availability of legislations concerning the rights of persons with disabilities, the Nigerian reality shows that the presence of laws providing for and protecting given rights does not immediately translate into the protection or promotion of said rights.

The developments peculiar to the Nigerian ratification of the CRPD and the development of the national policy on persons with disabilities in the form of the Discrimination Against Persons with Disabilities (Prohibition) Act will show gaps in the aspirations of the Convention and the reality that obtains in the Discrimination Against Persons with Disabilities (Prohibition) Act. These gaps remain an issue of legislation while the gaps between the existing laws and realized framework for the protection and promotion of the rights of persons with disabilities is one of implementation or social policy.

\textbf{The Nigerian Policy on Persons with Disabilities: The Gap in Ideals and Implementation}

According to the World Health Organization’s 2011 World Disability Report, about 15 percent of the Nigerian population, or at least 25 million people, have a disability.

\begin{itemize}
  \item \textsuperscript{61} Ibid.
  \item \textsuperscript{62} Article 11 and 14 of the African Charter on the Rights and Welfare of the Child.
  \item \textsuperscript{63} Article 32-42 of the African Charter on the Rights and Welfare of the Child.
  \item \textsuperscript{64} Ratified on 19 January 1981 and domesticated on 17 March 1983.
  \item \textsuperscript{65} This Act was enacted as a model after the African Charter on the Rights and Welfare of the Child, 1990 which Nigeria signed on 13 July, 1999 and ratified on 23 July, 2001.
\end{itemize}
Although the National Human Rights Commission observed: “there is no specific data or census conducted in Nigeria on the statistics of persons with disabilities in general …” This growing number of Nigerians are subject to human right violations, stigma, discrimination, violence, and the lack of access to healthcare, housing, employment and education as a result of the gap left in the legislations concerning their rights. The ratification of the CRPD and the passing into law of the Discrimination Against Persons with Disabilities (Prohibition) Act is the result of age long campaigns and advocacies which have long before now, fallen on deaf ears.

Nigeria on the international scene, prides itself in its impressive ratification record. The ratification of the CRPD places a direct obligation on the Nigerian government in this respect, by virtue of its Article 4, with emphases on:

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
   (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
   (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
   (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
   (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
   (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes

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66 Emphases mine.
concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

Yet, these ratifications until recently, have not translated into a domesticated national policy and where a national policy has been passed into law, the implementation or realization of these rights remains elusive. The journey towards the passing into law of the Discrimination Against Persons with Disabilities (Prohibition) Act began during the military dispensation.67 The Nigerian military government in 1993 passed the Nigerians with Disability Decree of 1993.68 This legislation directly addressed disability and the rights and social welfare of persons with disabilities in Nigeria, but suffered from problems that would prove to be recurring gaps across legislations: abandonment and non-implementation.69

Other laws worthy of note in the protection of the rights of persons with disabilities in Nigeria, is the Lagos State Special People’s Law and the National Employment Policy. On the state level, the Lagos State Special People’s Law was enacted by the Lagos State Government in 2011 to protect the human rights of persons with disabilities while ensuring their full participation and inclusion in the development of Lagos state. The Lagos State Office for Disability Affairs (LASODA) was established by virtue of the law the following year to implement its provisions.70

In a similar vein, the National Employment Policy of Nigeria was formulated by the Nigerian government to keep pace with the changing nature of employment around the globe and to tackle the multiple issues of increased unemployment among the youths, low participation of women and PWDs into the workforce and the undermined nature of social protection.71 The high rate of unemployment, inequalities and exclusion of PWDs in the labour sector amongst other things, including the need to develop effective national social protection systems such as unemployment insurance schemes or welfare protection for Nigerian workers was the rationale behind the National policy.72 The policy is an acknowledgement of the numerous hurdles and discriminations faced by persons with disabilities in the labour market,

67 Ibid.
70 Ibid.
71 Ibid.
including but not limited to: inaccessible work environments, lack of adequate vocational training opportunities, discriminatory attitudes members of the public and employers and co-workers. The National Employment Policy aims to foster an inclusive and respectful workforce culture that promotes the hiring, retention and professional development of PWDs by private and public employers of labour on business and non-discriminatory principles. The employment policy aims to increase the labour-market participation of persons with disabilities on business and non-discriminatory principles. Some of the objectives of the National policy with specific provisions for persons with disabilities are:

8. Improve the quality and availability of disability data and statistics in Nigeria, which is essential for the formulation of disability-sensitive development policies and programs across the country. Such a database will also create easy access for potential employers to ensure easy job placement for persons with disabilities.

9. Tax of employees with disabilities should be retained by the organization as an incentive to help in implementing their disability friendly policies and programmes.

The objectives of the National employment policy are reflected in sections 28 and 29 of the Discrimination Against Persons with Disabilities (Prohibition) Act.

The journey towards the National Disability Act is one that has been 19 years in the making. When the bill was accented to by the President, it had lingered in the National Assembly for 18 years and was transmitted to the President for assent in December 2018 for the 4th time since 1999. On January 23, 2019 this bill was finally signed into law by President Buhari thus bringing the 19 year long journey to the much expected end. The existence of the law and its enforcement or its translation into benefit for those it was intended is however a different matter entirely.

The National Disability Commission has only just had its executive officers appointed by the President and the activities of the Commission would ‘take-off” upon senatorial

73 Ibid.
74 CJ Evoh & UO Agu, ibid, pp.50-52.
76 Ibid.
approval. The executives were appointed on 24 August 2020\(^\text{77}\) which leaves the gap of over a year before the Commission was established after being provided for by the Act. The implication of this gap is that the duties of commission to: the formulation and implementation of policies and guidelines as appropriate for the education and social development of persons with disabilities, preparation of schemes designed to promote social welfare of persons with disabilities, promoting and uplifting the general well-being of persons with disabilities by encouraging the public to change their negative attitude towards persons with disabilities, are left unattended.

The problem of implementation is one that runs through legislations in Nigeria. The legislations themselves leave much to be desired. The provisions of the CRPD in concerns of universal design, human rights, disaster risk reduction, health, well-being and security of persons with disabilities are either not legislated adequately upon with regard to National realities.

The reality of women with disabilities is one that entails multiple forms of discrimination, which places them at higher risk of gender-based violence, sexual abuse, neglect, maltreatment and exploitation. They also experience heightened levels of exclusion from development, and are often among the most marginalized segments within societies, facing significant difficulties in attaining access to adequate housing, health services, education, vocational training and employment. It has been broadly recognized by the international community that the achievement of gender equality is critical to sustainable development. Equality between men and women is a fundamental principle of the CRPD,\(^\text{78}\) which further specifies that State parties are to take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms.\(^\text{79, 80}\)

This reality is not reflected in the available legislations. The same is the case for concerns of disasters which are peculiar to Nigeria as against the blanket term provided for in the Act; such as floods, terrorism and the resulting internal displacement. On the wellbeing of persons with disabilities, the reality of preventable impairments such as polio which is no


\(^{78}\) Article 3 of the Convention on the Rights of Persons with Disabilities.

\(^{79}\) Article 6 of the Convention on the Rights of Persons with Disabilities.

\(^{80}\) United Nations Division for Social Policy Development (DSPD) and Department of Economic and Social Affairs (DESA) Toolkit on Disability for Africa—Disability Inclusive Development. Pg. 6
longer an endemic in the country\(^\text{81}\) but leaves behind a number of persons living with the post-polio syndrome, is not legislated upon.

These gaps in legislations are highlighted in the knowledge of the existing gaps in implementation. Towards filling this gap, an establishment of social policy is recommended, as social policy cannot be said to exist or be practiced in the country. Social policy as a bridge in the gap between ideals and implementation concerning the rights of persons with disabilities are guidelines and interventions for the changing, maintenance or creation of living conditions that are conducive to human welfare. Social policy are education, health, inclusion, housing, employment and food for all people.\(^\text{82}\)

**Conclusion**

The employment of social policy as a medium of enforcing the existing legislations and adapting to international standards and best practices is a sustainable one for the promotion and protection of the rights of persons with disabilities. The solutions achievable through social policy vary from an expansion in the definitions of accessible solutions to include more information and communications technology-oriented tools; the growth of judicial activism to encourage the enforcement and exercise of the human rights of persons with disabilities; the inclusion of persons with disabilities in the decision-making processes relating to them and an inclusive and quality education.

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