

Domestication of the Convention on the Rights of Persons with Disabilities in Nigeria: In Protection of Disability Rights or in Fulfillment of all Righteousness?

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Abstract

The Convention on the Rights of Persons with Disabilities was adopted by the United Nations in 2006. Due to the importance of the Convention in the protection of disability rights, it was received with enthusiasm across the world. The Convention was seen as a milestone in the global effort to protect the rights of persons living with disabilities and ensure inclusion for them in all aspects of life in their societies. In line with obligations assumed by States Parties under the Convention, many States immediately domesticated the Convention in order to quickly give effect to their convention obligations. Nigeria did not domesticate the Convention until 23 January 2019 when the Discrimination against Persons with Disabilities (Prohibition) Act received Presidential assent having been passed by the National Assembly a year earlier. This paper appraises the provisions of the Act and critically evaluates its implementation so far. It shows that due to lack of political will, implementation has lacked vigour as a result of which significant progress has yet to be made in the protection of persons with disabilities from discrimination, stigma and other abuses in Nigeria. It argues that the delay in fully operationalising the National Disabilities Commission established under the Act as the main implementing authority of the Act has further hampered implementation. The paper makes prescriptions for a more robust implementation of the Act for the benefit of persons living with disabilities in Nigeria.

Key Words: Domestication, Convention, disability rights, Persons with Disabilities, Nigeria

1.0 Introduction

It is estimated that of Nigeria's population of about 226,226,862 people,¹ 19 million are persons living with one form of disability or the other.² Like other developing countries, Persons with Disabilities (PWD) in Nigeria have for a long time been subjects of various forms of human rights violation, especially discrimination on account of their disabilities. PWD are generally treated differently by society which seemingly emphasises their disabilities and ignores their abilities. Though more pronounced in the developing world, the violation of rights of PWD has been a global challenge which

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¹ Macrotrends, 'Nigeria Population Growth Rate 1950 – 2021'

<http://www.macrotrends.net/countries/NGA/nigeria/population-growth-rate:-:text=The%20population%20of%20Nigeria> accessed 10 May 2023.

² Premium Times, '19 Million Nigerians Living with Disability' <<http://www.premiumtimes.com/news/more-news-2889954-19-million-nigerians-living-with-disability>> accessed 13 June 2023.

has consistently preoccupied the United Nations (UN), national governments and Non-Governmental Organisations (NGOs)³.

Right from the adoption of the UN Charter in 1945, the international community of nations recognised the inherent dignity and worth and the equal and inalienable rights of the members of the human family.⁴ It also, in the Universal Declaration of Human Rights⁵ and the International Covenants on Human Rights⁶ proclaimed that all are entitled to the rights and freedoms set forth in those documents, without any form of distinction.⁷ Determined to ensure inclusion for PWD, the UN had prepared the World Programme of Action concerning Disabled Persons,⁸ as well as the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities.⁹ These documents contain principles and policy guidelines aimed at influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels intended to further equalise opportunities for PWD.

After years of hard work in this regard, the UN on 13 December 2006 adopted the Convention on the Rights of Persons with Disabilities (CRPD),¹⁰ together with its Optional Protocol.¹¹ Under article 4 of the Convention, States Parties undertake, inter alia, to put in place all appropriate legislative, administrative and other measures to implement the rights recognised under the Convention. Accepting and agreeing to the policies and objectives of the Convention, Nigeria ratified the Convention and its Optional Protocol on 30 March 2007. Pursuant to its undertakings under the Convention and to give effect to its obligations thereunder, in 2018 Nigeria passed the Discrimination against Persons with Disabilities (Prohibition) Act.¹²

³ UN, OHCHR and IPU, 'From Exclusion to Equality: Realising the Rights of Persons with Disabilities – Handbook for Parliamentarians' (United Nations 2007)iv; MI Eguez, 'NGOs and UN Agencies Assisting Persons with Disabilities' <<http://www.refworld.org/pdfid/48297a4e2.pdf>> accessed 23 December 2023.

⁴ See preamble to the United Nations Charter, 1945.

⁵ The Declaration was accepted by the General Assembly of the United Nations as Resolution 217 during its Third Session on 10 December 1948.

⁶ These are the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights adopted by the General Assembly of the United Nations on 19 December 1966, and the International Covenants on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on 16 December 1966.

⁷ See art. 2 Universal Declaration of Human Rights; Art. 2 International Covenants on Economic, Social and Cultural Rights and art. 2(2) International Covenants on Civil and Political Rights.

⁸ The Programme of Action was adopted by the United Nations General Assembly on 3 December 1982 by its Resolution 37/52.

⁹ The Rules were adopted by the United Nations General Assembly on 20 December 1993 as Resolution 48/96 Annex.

¹⁰ The Convention entered into force on 3 May, 2008 being the thirtieth day after the deposit of the twentieth instrument of ratification in accordance with art. 45 thereof (Hereinafter 'CRPD').

¹¹ The Protocol is a side agreement to the Convention. It was adopted on 13 December 2006 and entered into force on the same date as its parent Convention.

¹² The Act was passed by the National Assembly in November 2016 but was not sent for Presidential assent until December 2018 (hereinafter 'Disabilities Act').

This paper appraises the provisions of the Act and critically evaluates the effort made so far by the Nigerian Government to effectuate its policies and intentions. The paper proceeds from here in five sections. Section Two examines the meaning and nature of disability. In Section Two, the authors provide an overview of disability rights provided under the Disabilities Act. Section Three discusses the powers and functions of the National Commission for Persons with Disabilities established by the Act for the implementation of rights provided under the Act.¹³ Section Four critically examines the challenges confronting effective implementation of the Disabilities Act. Sections Five and Six are the authors' concluding remarks and recommendations, respectively.

2.0 Meaning and Nature of Disability

Disability is a complex phenomenon which does not yet lend itself to a precise and universally acceptable definition. Its interpretation is usually influenced by historical, social, legal and philosophical factors.¹⁴ It has therefore been defined differently by different persons and bodies. Under article 1 of the CRPD, persons living 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.'

Under the Disabilities Act, disability is defined to include physical, mental, intellectual or sensory impairment which hinder PWD from full and effective participation in society on an equal basis with others.¹⁵ The question is usually posed as to what individuals are persons with disabilities. In other words, what category of persons could be said to be living with disability? Colker explained the nature and scope of disability in the following way:

There are hundreds of different disabilities. Some are congenital; most come later in life. Some are progressive, like muscular dystrophy, cystic fibrosis, and some forms of vision and hearing loss. Others, like seizure conditions, are episodic ... Some conditions are static like the loss of a limb. Still, others, like cancer and occasionally paralysis, can even go away. Some disabilities are "hidden" like epilepsy or diabetes. Some conditions like obesity and stuttering ... are not disabling but create prejudice and discrimination. Each disability comes in differing degrees of severity. Hearing aids can amplify sound for most deaf and hard-of-hearing people but do nothing for others. Some people with autism spend their lives in institutions; others graduate from Ivy League schools or reach the top of their professions.¹⁶

¹³Hereinafter 'Disabilities Commission'.

¹⁴Disabled World, 'Definitions of Disability' <<http://www.disabled-world.com/definition/disability-definitions.php>> accessed 5 August 2023.

¹⁵Section 57 Disabilities Act.

¹⁶R Colker, *The Law of Disability Discrimination*, (7th edn, Matthew & Bender 2009) 1.

PWD are faced with a myriad of challenges in daily life. In developing countries where the social and economic environment is by its nature survivalist, the fact of disability is itself a major challenge to anybody. A study carried out by the Grassroots Researchers Association identified numerous challenges with which persons with disabilities grapple in Nigeria. These challenges include stigmatisation, discrimination in housing, education, employment and access to public transportation and public places.¹⁷

3.0 Rights of PWD under the Disabilities Act

A major challenge confronting PWD in Nigeria is that of access to public infrastructure and facilities. Access to and use of public infrastructure such as public buildings, transport terminals and kindred facilities has been secured under the Act for PWD. Conditions for their unhindered use and maintenance have also been clearly provided for. A public building is now required to be constructed with the necessary aids such as lifts, ramps and other facilities that will make them accessible to and usable by PWD.¹⁸ Similarly, pedestrian crossings, road side-walks, and all other facilities made for the use of the public are to be made accessible and usable by PWD.

From the date of the commencement of the Act,¹⁹ a five-year transitory period is given within which all public buildings and structures, immovable, moveable or automobiles which were before the passing of the Act inaccessible to PWD are to be modified and made accessible to and usable by them.²⁰ To ensure that new structures used by the public meet the peculiar needs of PWD, plans of such structures are to be examined by the relevant authority to ensure compliance with the building code. A government agency, body or individual responsible for the approval of building plans is prohibited to give approval to any building plan that fails to make provision for facilities by which it may be accessed and used by PWD. Any officer who gives or directs that approval be given to a building plan that does not conform to the building code commits an offence and on conviction liable to a fine of not less than ₦1,000,000 or two years imprisonment, or both.²¹

Where a particular environment to which a person with disability has a right or duty to access is inaccessible, or where there exists a barrier to his access, he may, aside from his right to seek redress in court, notify the relevant authority in charge of the place of the fact of the place's inaccessibility or of

¹⁷ See, generally, Grassroots Researchers Association, “‘They Called Us Senseless Beggars’ – Challenges of Persons with Disabilities in North-Eastern Nigeria” <<http://www.grassrootsresearchers.org...pdf>> accessed 10 July 2023.

¹⁸ *Ibid.*, section 4.

¹⁹ The Act commenced on 23 January 2019 when it was signed into law by President Muhammadu Buhari.

²⁰ Section 6 Disabilities Act.

²¹ *Ibid.*, section 7(3).

the existence of the barrier.²² The Act requires the authority to take necessary steps timeously to remove the barrier and make the place accessible to the person with disability. In order to ensure that such complaint by the person with disability is taken seriously, the Act makes it an offence for the relevant authority, after receiving notice of the inaccessibility or the barrier, to fail to take immediate measures to remedy the situation.²³

Equally challenging for PWD in Nigeria is access to transport infrastructure. By virtue of section 11 of the Act, all public transport service providers are to provide ramps, lifts, and other accessibility aids that facilitate and enhance accessibility of their vehicles, bus-stops and parks for PWD, including those on wheelchairs. All seaports, railway stations and airports operating in Nigeria are to make provision for facilities and assistive aids that enable PWD to access vessels, trains and aircraft.²⁴ Seaports, railway stations and airports where such access facilities were not available are to be equipped with such facilities within the five-year transitory period. Such facilities are not only to be provided by the transport service providers, but must also be maintained in operational condition. Defective accessibility aids and equipment are required to be promptly repaired or replaced by the relevant authorities. In addition, every public vehicle shall, within five years from the commencement of the Act, be installed with functional audible and visual equipment that announces and displays its destination so that PWD would know the destination of such vehicle.²⁵

A major transport challenge facing PWD in major cities in Nigeria is the difficulty of boarding or alighting from vehicles as commercial vehicles in those cities have a notoriety of always being in motion, hardly stopping to a halt for passengers to board or alight. Passengers have to jump in or off to board or alight from them as they remain in motion. This poses a serious challenge to persons with certain forms of disabilities who, due to such disabilities, are unable to jump in or out from moving vehicles. The Disabilities Act addresses this challenge by providing that, before a person with disability boards or alights from a vehicle the driver must ensure that the vehicle has come to a stop.²⁶ At the point of boarding a vehicle, all other intending passengers are to wait for any person with disability who intends to board the vehicle to board before them.²⁷

At public parking lots, suitable spaces shall be reserved for PWD. Such spaces must also be marked accordingly so that PWD would not have to struggle with persons without disabilities for parking spaces. Persons, organisations and corporate bodies in control of a parking lot are bound under

²²*Ibid.*, section 8(1).

²³*Ibid.*, Section 8.

²⁴*Ibid.*, Section 14.

²⁵*Ibid.*, Section 10(2).

²⁶*Ibid.*, section 11(4).

²⁷*Ibid.*, section 10(5).

the Act to reserve parking spaces for PWD and failure to do so constitutes an offence under section 12(3) of the Act. To ensure exclusivity and ease of use of reserved parking spaces by PWD, the Act makes it an offence for a person without disability to park a vehicle in the reserved space and for any person to intentionally obstruct the reserved space.²⁸

Part V of the Act relates to the liberty of PWD, their right to education and health, and their right of first consideration in queues, accommodations and emergencies. Under that Part, the practice of deploying PWD to beg for alms in public places - which is a common sight in major cities of Nigeria – is prohibited and criminalised.²⁹ No person shall use or involve a person with disability in begging, or parade a PWD in public with the aim of soliciting for alms, or use a condition of disability as a guise under which to beg in public.³⁰

In view of the peculiarity of persons living with disabilities, the Act also contains provisions intended to ensure that preference is given to them in places and circumstances under which they would otherwise have to struggle and physically compete with persons without disabilities. In all situations of risk, emergencies, violence, and occurrences of natural disasters, Government is required to take all steps necessary to ensure the safety and protection of PWD, taking cognisance of their peculiar vulnerability.³¹ In queues, PWD are to be considered first, and should as much as possible, be attended to outside the queue. Similarly, in the provision of accommodation by schools for students, by employers for their employees, service providers for their customers, organisations for their members, governments for the people, and in any other circumstances whatsoever, PWD shall be considered in the first instance.³²

With respect to employment opportunities for PWD, the Act not only prohibits all forms of discrimination against them in employment, it also introduces affirmative action to facilitate their chances of securing employment in public organisations. Under section 29 of the Act, all employers of labour in public organisations are to, as much as possible have PWD constituting at least 5 percent of their employment. Persons suffering from disabilities are also to be encouraged to fully participate in politics and public life with Government having a responsibility to promote an environment in which they can effectively and fully participate in the conduct of public affairs; in non-governmental organisations and other entities whose activities and programmes touch on the public and political life of the country; and in the activities and running of political parties.³³

²⁸ *Ibid.*, section 12(4) and (5).

²⁹ The offence is punishable upon conviction with ₦100,000.00 fine or with six months' imprisonment or both.

³⁰ Section 16(1) Disability Act.

³¹ *Ibid.*, Section 25.

³² *Ibid.*, Section 27.

³³ *Ibid.*, section 30(2).

4.0 The Disabilities Commission

In recognition of the need for a body to carry into effect the policies and objectives of the Disabilities Act, the Act establishes the National Commission for Persons with Disabilities.³⁴ The Commission shall be a body corporate, and in view of the important role it is expected to play, it is to be placed under the Presidency.³⁵ The affairs of the Commission shall be conducted by a Governing Council established under section 32(1) of the Act. The Council shall comprise a Chairman, a representative each from the Federal Ministries of Education, Health, Sports, Women Affairs, Housing, Transport, Environment, Labour and Productivity, Justice and Finance. These are ministries the workings and mandates of which will most significantly, directly or indirectly affect the realisation of the objectives of the Act. Also included in membership of the Council are a representative each of the National Human Rights Commission and the National Planning Commission. Considering the diversity of the Nigerian society, and the need for inclusion for PWD, one person with disability shall represent each of the six geo-political zones of the country in the Council.

The Commission is saddled with the responsibility of facilitating the realisation of the objectives of the Act. Accordingly, it is vested with power, among others, to establish and promote inclusive schools, vocational and rehabilitation centres for the development of PWD.³⁶ It is also to liaise with the private and public sectors and other bodies to ensure that the peculiar interests of persons PWD are taken into consideration in every government policy, programme and activity.³⁷ The Act also empowers the Commission to issue insignia for identification of PWD; receive complaints on the violation of their rights; and support them to seek redress in court where their rights have been infringed.³⁸

The Commission also has responsibility to facilitate research on disability issues in Nigeria; collaborate with the media to make information available in an accessible format for PWD; and to procure assistive devices for all disability types. It is also within the competence of the Commission to, working with relevant government agencies and professional bodies in the building industry, to enforce compliance with public building codes and impose necessary sanctions for default.³⁹ The Commission is therefore to take steps to ensure that property owners, builders, and building approval authorities comply with the provisions of the Act.

³⁴ This national body is established under section 31 of the Act. It shall hereinafter be referred to as 'the Commission'.

³⁵ Section 31(1), Disabilities Act.

³⁶ *Ibid.*, section 37(c).

³⁷ *Ibid.*, section 37(d).

³⁸ *Ibid.*, section 37(h).

³⁹ *Ibid.*, section 37(f).

5.0 The Challenge of Implementation

Government had, prior to the enactment of the Disabilities Act, made laws and formulated national policies for the protection of rights of persons living with disabilities in the country. Examples include the Nigerians with Disabilities Decree, 1993,⁴⁰ the National Policy on albinism in Nigeria, 2012,⁴¹ and the National Policy on Disability in Nigeria, 2017. Aside from these efforts at the national level, some of the federating states also enacted sub-national legislations and made policies aimed at protecting the interests of persons living with disabilities in those states.

Despite these efforts made by governments, PWD continued to undergo various forms of discrimination and dehumanising treatments in their communities. This persistent state of affairs is, therefore, not due to a dearth of legislation and policy, but due to failure of implementation. With the importance attached to the CRPD by the international community, it was thought that no effort would be spared in Nigeria to ensure that the objectives of the Convention would be vigorously pursued through timeous domestication and implementation.⁴² Though Nigeria ratified the CRPD in September 2010, it was after 9 years that the CRPD was domesticated in Nigeria with the enactment of the Disabilities Act. The Convention having been eventually domesticated, the domesticating legislation was meant to give effect to Nigeria's obligations under the CRPD. But to what extent has the underlying policies of the Disabilities Act been implemented 5 years after it was passed by the National Assembly?

As pointed out earlier in this paper, a major challenge faced by PWD in Nigeria before the enactment of the Act was that of ease of access to public buildings and infrastructure. The visually challenged, the lame and the crippled found it difficult to access such public places as churches, mosques, schools, hospitals, airports, malls, recreation and relaxation centres, banks, among others. Such public places were hardly provided with facilities that facilitate access by persons with certain disabilities. The Act prohibits any government or government agency, body or individual responsible for the approval of building plans from giving approval to a building plan that fails to make provision for facilities by which such building may be accessed and used by PWD. Section 7 of the Act has,

⁴⁰The Decree was promulgated by the Federal Military Government on 1 January 1993 to 'provide a clear and comprehensive legal protection and security for Nigerians with disability as well as establish standard for enforcement of the rights and privileges' guaranteed under the Decree and other laws applicable to persons with disabilities in the Federal Republic of Nigeria. See section 1 of the Decree.

⁴¹The Policy was formulated in 2012 by the Federal Ministry of Education and aimed at ensuring that the survival, participation, protection and development of Persons with Albinism are adequately guaranteed in Nigeria. See Federal Ministry of Education, 'National Policy on Albinism in Nigeria – Implementation Guidelines' <<http://www.albinofoundation.org...pdf>> accessed 10 June 2023.

⁴²II mam and MA Abdulraheem-Mustapha, 'Rights of People with Disabilities in Nigeria' (2016)24(2) *African Journal of International and Comparative Law*, 443.

accordingly, made it an offence for an officer to give or direct that approval be given to a building plan that does not conform to the building code.

The criminalisation of acts of officers of government who grant building approvals for building plans that have no means of easy access by PWD would appear to have had significant deterrent effect. New buildings meant for public use are now built with lifts and ramps provided at their entry and exit points and wheelchairs provided for easy access of such places by PWD. Many old buildings visited by members of the public are being altered to provide facilities assistive to easy access and exit by PWD as time runs out on the five-year transitory period allowed under the Disabilities Act for old buildings to be so altered. At airports, airline staffers are now readily available to provide assistance and facility to persons with one form of disability or the other with boarding or disembarking from aircraft. This change has in no little way alleviated the difficulties which confront many PWD in Nigeria in gaining admittance into and exiting public buildings.

Beyond this noticeable strict compliance with the building code requirements sequel to the Disabilities Act, implementation of the Act has left so much to be desired. Provision of road side-walks, pedestrian crossings and all other special facilities required under the Act to be made accessible to and usable by PWD, including those on wheelchairs and the visually impaired have been largely observed in the breach. Five years after the enactment of the Act, it is still a rarity to find side-walks, pedestrian crossings and other facilities needed for unhindered mobility of PWD in many Nigerian cities. Thus, while owners of public places have, in compliance with the Act, provided the facilities needed for access and exit by PWD, government would appear to have overlooked the need to do so in the construction of roads and highways.⁴³

Part IV of the Disabilities Act seeks to address the challenge of PWD in using road transport infrastructure in Nigeria. Transport services providers are required to provide and maintain such facilities as lifts and ramps with which PWD would be able to access vehicles, parks and bus stops. While drivers are to ensure that their vehicles come to a stop before a person with disability boards or alight from them, other intending passengers are to wait for him to board before them. What is in evidence in Nigerian cities, however, is exactly the opposite of these clear provisions of the Act. Neither government nor privately owned motor parks in Nigeria have designated any assistive facilities yet for convenient use by PWD. Motor Parks existing before the enactment of the Disabilities Act have remained as they were built, while new ones have not been built to provide the required facilities.⁴⁴

⁴³ See, generally, SE Aremu and AT Adewunmi, 'Inclusion of Persons with Disabilities in Nigeria: A Pre-Requisite for National Sustainable Development' (2023) 8(11) *Saudi Journal of Humanities and Social Sciences*, 342-350.

⁴⁴ *Ibid.*

In busy, highly populated cities like Lagos, Kano and Port Harcourt, buses still remain in motion while passengers board and alight, contrary to the Act. The right of PWD to board public transport vehicles before other intending passengers has remained legislative aspiration 5 years since the enactment of the Act. Similarly, despite the criminalisation of the common practice of using PWD to beg on Nigerian roads and streets under the Act, the practice has continued unabated as PWD could be seen on roadjunctions and major streets in Nigerian cities being conducted by persons without disabilities begging for alms. As a matter of fact, many Nigerians are unaware of these privileges allowed PWD in public places in Nigeria. This is contrary to the obligation of awareness creation undertaken by Nigeria under the CRPD and that imposed on her under the Disabilities Act. Under the CRPD, States Parties undertake to adopt immediate, effective and appropriate measures to create awareness in society, including at the level of the family, regarding PWD, and to foster respect for their rights and dignities.⁴⁵ They also undertake to promote awareness of the capabilities and contributions of PWD to society.⁴⁶ The Disabilities Act on its part mandates the Federal Ministry of Information to promote awareness regarding the rights, respect and dignity of PWD, their capabilities and contributions to the society.⁴⁷

The Act provides for the right of PWD to be attended to first in queues, accommodation and emergencies. In the absence of effective awareness creation, many Nigerians remain ignorant of these rights of PWD which are, in the absence of enforcement, violated without consequence. In queues in banks, schools, post offices, hospitals, examination bodies, and government agencies, no regard is had to the special needs of PWD. Their challenges are even worse in situations where, as is sometimes the case, there are no queues and physical might has to be resorted to in order to be attended to. The worst of such situations occur where deadlines set for doing an act are around the corner. In such situations, experience has shown that it is usually everyone for himself, with PWD worst affected due to their physical challenges.

Crucial to all persons, including PWD, is the means to a livelihood. There is no gainsaying the fact that the living conditions of PWD would become worse without a means of livelihood. The Disabilities Act therefore, as already stated, prohibits all manner of discrimination against PWD in employment.⁴⁸ Beyond prohibiting such discrimination, the Act requires that not less than 5 per cent of available employment in public organisations should be reserved for PWD by employers. In a country

⁴⁵ Art. 8(1)(a), CRPD.

⁴⁶ *Ibid.*, art. 8(1)(c).

⁴⁷ Section 2 of the Disabilities Act.

⁴⁸ See section 29 of the Disabilities Act.

bedeviled by high unemployment rate,⁴⁹ the reservation of a percentage of available employment opportunities in public institutions, will, if implemented, save a sizeable proportion of PWD from the scramble for the few jobs available in the public sector.⁵⁰

Again, no step has yet been taken by government to bring the intention of the legislature in this respect to fruition. Since the Disabilities Act entered into force, recruitment into public organisations in Nigeria has remained the same. All applicants for employment have continued to be considered without regard to the provisions of the Act. In fact, most of the management positions in organisations specialising in the employment of PWD such as schools for the handicapped and ministries responsible for the disabled are held by persons without disabilities.⁵¹ No system has been developed for collecting data on PWD for job suitability without which the affirmative action introduced under the Act for their benefit will not succeed.⁵²

It is pertinent to observe at this juncture that, with respect to employment for PWD, the Disabilities Act slightly comes short of the provisions of the CRPD. Under the CRPD, States Parties are not only to ‘promote employment opportunities and career advancement for persons with disabilities in the labour market’, but are also to assist them in ‘finding, obtaining, maintaining and returning to employment.’⁵³ Though section 28(1) of the Disabilities Act provides for equal right to employment for PWD and others, and reserves 5 per cent of all employment in the public sector for PWD, it shies away from mandating government to assist in finding and securing jobs for PWD. This lacuna in the Act, it is submitted, unjustifiably relieves government of the responsibility of, beyond reserving a percentage of employment for PWD in the public sector, ensuring that PWD actually secure and retain employment.

In view of the powers vested on it under the Act, the Commission established under section 31(1) of the Disabilities Act is supposed to be the main organ for implementing and ensuring implementation of the provisions of the Act. The effectiveness of the Act therefore depends, to a large extent, on the effectiveness of the Commission. Though the Act was signed into law on 23 January 2019,⁵⁴ it was only in August, 2020 that the Commission was constituted by government, following

⁴⁹ Nigeria’s unemployment rate stands at 33.3 per cent, the second highest in the world. See ROLurounbi, ‘Nigeria Unemployment Rate Rises to 33%, Second Highest on Global List’ <<http://www.bloomberg.com/news/articles/2021-03-15/nigeria-unemployment-rate-rises-to-second-on-global-list>> accessed 16 July 2023.

⁵⁰AA Salihu, ‘Unemployment in Nigeria: Policy Review and Recommendations’ <http://www.exploring-economics.org/en/discover/RETU-SMEPN_> accessed 23 December 2023.

⁵¹Imam and Abdulraheem-Mustapha(n 42) 452.

⁵² RA Martinez and V Vemuru, ‘Social Inclusion of Persons with Disabilities in Nigeria: Challenges and Opportunities’ <<http://www.worldbank.org/nasikiliza/social-inclusion-persons-disabilities-nigeria-challenges-and-opportunities>> accessed 23 December 2023.

⁵³ Art. 27(1)(e) CRPD.

⁵⁴TDaka, ‘President Buhari Signs Disability Bill into Law’ <<http://www.guardian.ng/news/president-buhari-signs-disability-bill-into-law>> accessed 20 August 2023.

calls by concerned Nigerians and Non-Governmental Organisations (NGOs).⁵⁵ The 2020 Appropriation Act had been passed before the Commission was set up, due to which the Commission had no budget for that year. The Federal Government was able, however, to provide a ₦750 million take-off grant for the Commission.⁵⁶ Five years since the Commission was constituted, the Commission does not have its own office, and Nigerians have continued to call for its full take-off so that it can pursue its mandate under the Disabilities Act.⁵⁷

Though it has yet to effectively take off, the Commission has already come under serious allegations of corruption. Two non-profit groups Equal Rights for Persons with Disabilities International and Association of Applicants/Workers with Disabilities in Nigeria have in separate petitions to the President alleged misappropriation of the Commission's take-off grant by the Executive Secretary and other officials of the Commission.⁵⁸ They requested that the Commission be promptly subjected to forensic audit.⁵⁹ This, of course, does not bode well for confidence in a Commission expected to be the engine room for promotion and protection of the rights of PWD in Nigeria.

Under article 35 of the CRPD, States Parties are to submit to the Committee on the Rights of Persons with Disabilities (Committee) established under article 34 thereof a comprehensive report on measures taken to give effect to their obligations under the Convention, and the progress made in this regard within 2 years after the Convention entered into force for a State Party. Thereafter, they are to submit subsequent reports at least every 4 years and as the Committee may further request.⁶⁰ Such reports are to be widely circulated to the public in their countries.⁶¹ Reports may contain challenges affecting the degree of fulfillment of the reporting State's obligations under the Convention.⁶²

The Convention's reporting system is intended to keep the Committee informed on measures taken by States Parties at the national level to ensure that effect is given to the obligations undertaken by them under the Convention to promote and protect the rights of PWD. Accordingly, upon consideration of a report, the Committee shall make recommendations on the report as it may deem appropriate and

⁵⁵See, for example, S Ayado, 'FG Yet to Implement Disabilities Prohibition Act, Year after Assent by Buhari' <<http://www.businessday.ng/business-economy/article/fg-yet-to-implement-disabilities-prohibition-act-year-after-assent-by-buhari/amp>> accessed 13 August 2023.

⁵⁶AA Adeshida, '750 Million Naira Scandal Rocks Nigerian Disabilities Commission' <<http://www.vanguardngr.com/2021/02/750-million-naira-scandal-rock-nigerian-disabilities-commission/?amp=1>> accessed 14 July 2023.

⁵⁷See C Idoko, 'FG Urged to Ensure Take-off of Disabilities Commission in 2021' *Nigerian Tribune*, 2 September 2020, <<http://www.tribuneonlineng.com/fg-urged-to-ensure-take-of-disabilities-commission-in-2021>> accessed 10 July 2023.

⁵⁸Adeshida (n 56).

⁵⁹*Ibid.*

⁶⁰Art. 35(2) CRPD.

⁶¹*Ibid.*, art. 35(4).

⁶²*Ibid.*, art. 35(5).

forward such recommendations to the reporting State Party.⁶³ The Committee's recommendations are supposed to provide guidance towards a more robust implementation of the policies of the Convention relative to the reporting State Party.

Nigeria signed the CRPD and its Optional Protocol on 30 March 2007, and ratified it on 24 September 2010. She therefore became due for submission of a report in 2013. A report was, however, submitted by Nigeria for the first time in 2021.⁶⁴ With the Disabilities Commission yet to be fully operationalised, no meaningful activities directed at giving effect to Nigeria's obligations under the CRPD are being carried out in the country. Has the Commission been fully in operation, implementation activities would have been ongoing and outcomes evaluated on the basis of which reports would have been submitted to the Committee starting from 2013. Without such activities, there has not been much to report. As a result, Nigeria has been denied the opportunity of being availed the expert ideas of the Committee on matters of disability rights protection that would have flown from reports periodically submitted in accordance with the CRPD.

6.0 Concluding Remarks

Conditions of Disability are such that pose serious challenges to persons suffering from one form of disability or the other. These conditions become worse when PWD are, rather than included in society, are alienated from it through discrimination and stigmatisation. The CRPD provides an international mechanism for combating the social challenges that daily confront PWD in their communities all over the world. It seeks to secure and ensure the commitment of States Parties in the global effort to increase inclusion for PWD in all spheres of life.

The rather long delay in the domestication of the CRPD in Nigeria is indicative a lack of political will to implement the policies of the Convention in Nigeria for the benefit of PWD. Though the eventual domestication of the Convention is better late than never, government has continued to foot-drag since after domestication in 2018, an attitude that has accentuated government's lack of political will. As other nations make strides in the promotion of the rights of PWD, Nigeria cannot afford to be left behind. Government must, therefore, put in place measures for the immediate pursuit of the lofty objectives of the Disabilities Act. To do otherwise would render the eventual domestication of the CRPD in Nigeria mere fulfillment of all righteousness.

⁶³ *Ibid.*, art. 36(1).

⁶⁴ The Report is designated CRPD/C/NGA/1.

5.0 Recommendations

For a more robust implementation of the underlying policies of the CRPD in Nigeria, the following recommendations are made:

1. The Federal Government of Nigeria must as a matter of urgency put the Disabilities Commission into full operation and properly fund it. Being at the heart of the implementation mechanisms of the Act, it is difficult, if not impossible, to make progress in giving effect to Nigeria's obligations under the CRPD without a fully operational and properly funded Disabilities Commission. Adequate funding will enable the Commission carry out implementation activities country-wide, creating needed awareness, especially at the grassroots.
2. While proper funding of the Commission is one thing, proper management of resources allocated it is another. There is no gainsaying the fact that endemic corruption is one factor that has crippled service delivery in Nigeria. To ensure that allocations to the Commission are utilised to realise the objectives of the Disabilities Act, steps need to be taken to ensure that such resources are committed to the purposes for which they were allocated by government. To this end, anti-corruption agencies and NGOs must pay closer attention to the activities of the Commission.
3. The 36 states of the Nigerian Federation should immediately domesticate the Disabilities Act by enacting similar state laws. This will enable the states to establish their respective Disabilities Commissions which will coordinate with the Commission at the centre in implementing and realising the objectives of the CRPD in Nigeria. Establishing Disabilities Commissions in every state of the federation will enhance grassroots reach as such Commissions would be closer to the grassroots.
4. Reliable data should be gathered by government on the number and types of disabilities in Nigeria and such data should be periodically updated. A disabilities database does not exist at present in Nigeria, but remains a sine qua non to planning and general policy formulation and implementation.
5. Without awareness among the Nigerian population, PWD will continue to suffer discrimination and stigmatisation in their communities. To increase awareness and enlightenment on the rights of PWD, the Disabilities Commission, the Federal Ministry of Information, the National Orientation Agency, NGOs, Community Based Organisations, religious bodies and traditional institutions must embark on and ensure robust awareness creation.
6. Since the Disabilities Act is intended to achieve inclusion in all spheres of life for PWD in Nigeria, it would only be appropriate for a PWD to occupy the highest decision-making position in the Disabilities Commission. Though under the Act one PWD is to represent each of the six geopolitical zones of Nigeria in the Commission, it is submitted that a person living with disability qualified for

the position should have statutorily headed the Commission. Wearing the shoe, such person would know where it pinches. Section 32 of the Disabilities Act should be amended to provide that the Executive Secretary of the Commission shall be a PWD qualified to hold that position.