

APPRAISING THE HUMAN RIGHTS OF WOMEN WITH DISABILITIES IN NIGERIA

Obraori Nmabunwa Peters Adiola (Ph.D)*
Mabel Otivbo Izzi**

Abstract

This paper appraises the rights of women with disabilities in Nigeria as provided under National and International statutes. The aim of the paper was to appraise the laws which protect the rights of women with disabilities in Nigeria; to examine the challenges they encounter and proffer solutions. The paper adopted the theoretical research methodology and hinged this discussion on the Social Model Theory and the Rights-Based Theory of disability. Statutes appraised are the Constitution of the Federal Republic of Nigeria 1999, Discrimination Against Persons with Disability (Prohibition) Act 2018 and African Charter on Human and Peoples' Right (1981). The paper found that women with disabilities in Nigeria encounter several challenges including: reproductive, educational, employment, medical or health, political and recreational challenges. The need for the enforcement of already existing legislation so as to protect the rights of women with disabilities was emphasized. The paper recommends that Civil Society Organizations should embark on campaigns to create the awareness of the rights of women with disabilities specifically and persons with disabilities in general. It also recommends that tax discounts be given to employers of women with disabilities so that the private sectors can be encouraged to employ women with disabilities with disabilities.

1.0 Introduction

It is the primary concern of responsible governments the world over, to ensure the protection and safeguard of the human rights of all her citizens. There are several legal instruments that have been put in place for the protection of the rights of humans at the international, regional and national levels. The Constitution of the Federal Republic of Nigeria 1999 (as amended) recognises and guarantees certain rights as fundamental to Nigerian citizens.¹ The rights provided for by the Nigerian Constitution apply to all her citizens notwithstanding gender, religion, tribe, or any other status. Hence, this includes persons with disabilities generally and

* LLB, LLM, PhD (RSU) BL, Senior Lecturer, Department of Business Law, Faculty of Law, Rivers State University, Port Harcourt, Rivers State, Nigeria, adiola.obraori01@ust.edu.ng, +2348036712197.

** PhD (AAU) BL, Reader, Former Head, Department of Public Law and Department of Private & Property Law, Rivers State University, Port Harcourt, Rivers State, Nigeria. Email: izzi.mabel@ust.edu.ng.

¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) Chapters 2 and 4.

women with disabilities specifically. However, in spite of the several legal provisions applicable in Nigeria, it would appear that women with disabilities suffer gender-based discrimination as well as disability-based discrimination, meaning double jeopardy.

Persons with disabilities constitute about 10% of entire world's population, with approximately 75% of that population living in developing countries.² It is estimated that one out of every ten Nigerians has one disability or the other, thus bringing the population of persons with disabilities in Nigeria to about 10% of the total population.³ They constitute some of the poorest, most marginalized and socially excluded groups in any society.⁴ They face discrimination and prejudice because of their disabilities and are subjected to 'neglect, segregation, isolation, deprivation, charity, welfare and even pity'⁵ as well as stigma. They are perceived to be somewhat 'less human' as they may be unable to perform tasks or activities like their able-bodied counterparts. They face several barriers that hinder them from participating fully in the society. These barriers include structural barriers and non-accommodating environments; illiteracy; poverty; unemployment; discrimination; and lack of enforcement of legislation protecting their rights.

There are several laws in Nigeria enacted to safeguard the rights of women with disabilities. These include the Constitution of the Federal Republic of Nigeria 1999 (as amended); the African Charter on Human and Peoples' Right (Ratification and Enforcement) Act;⁶ Nigerians with Disabilities Decree 1993; Discrimination Against Persons with Disabilities (Prohibition) Act 2018; and at the international level, the United Nation Convention on the Elimination of all Forms of Discrimination against Women, United Nation Convention on the Rights of Persons with Disabilities, 2006. In addition, some States in Nigeria have enacted legislation which recognize the rights of persons with disabilities. Three of such are the Plateau State Disability Rights Commission Law, 2005, the Lagos State Special Peoples Law, 2010 and the Rivers State Persons with Disability Welfare (Enhancement) Law, 2012. Notwithstanding the existence of such legislative instruments, women with disabilities suffer several human rights abuses and discrimination in their daily lives.

The paper seeks to examine these already existing laws that pertain to the human rights of women with disabilities. It will also examine the human right abuses and discrimination they encounter in their daily lives, as well as proffer solutions to these challenges.

² T Barron and P Amerena, *Disability and Inclusive Development* (Leonard Cheshire International, London 2007) 185.

³ C C Asiwe and O Omiegbe, 'Legal and Ethical Issues of Persons with Special Needs in Nigeria' *Academic Journal* (2014) 9 (15) 516-522, 517.

⁴ (n 2).

⁵ B Nayak, 'The Status of Women with Disabilities from Personal, Familiar and Social Aspects: A Study in India' (2013) (3) (5) *International Journal of Asian Social Science*, 1245.

⁶ CAP A9, LFN 2004.

1.1 Conceptualization of terms

This section will deal with conceptual analysis of the following key terms: human rights, woman, disability, persons with disability.

a. Human Rights

Several authors and jurists have attempted to give a definition to the term ‘human right’. Ajomo opined that ‘...human rights are inherent in man: they arise from the very nature of man as a social animal. They are those rights which all human beings enjoy by virtue of their humanity, whether black, white, yellow, malay or red’.⁷ This view is in tune with the literal interpretation of the two words used. These rights accrue only to humans because they are ‘humans’ and nothing else. Their humanity simply qualifies them to enjoy these rights. Ogbu shares this viewpoint when he asserts that ‘they are inherent in any human being simply because of his [or her] humanity – the birth right of all mankind’.⁸

Nasir PCA in *Uzochukwu v Ezeonu II*⁹ defined human rights as ‘rights which every civilized society must accept as belonging to each person as a human being... it was envisaged that certain rights belong to all human beings irrespective of citizenship, race, religion and so on.’ Thus, human rights are rights which every human in any part of the universe is entitled to by virtue of their humanity simply speaking. They are unique to humans and are not earned or negotiated for, but imbedded in human existence as it enhances human dignity. Human rights are those rights of the person that are considered necessary for a life with human dignity. They are necessary for the adequate development of human personality and human happiness.¹⁰ They are essential for any human to live a respectable and dignified life devoid of inhumane treatment.

b. Woman

A woman may be defined as an adult female person; or a distinctive feminine nature.¹¹ The term means a person of the female gender and includes a girl,¹² lady, mother, grand-mother, great-grand-mother, sister, daughter, and aunt. She is seen as that human with a womb. Her name is derived from ‘womb’ and ‘man’. A woman is a specie of humans with a womb and capable of procreating. She is the type of human biologically created to bear and nurture life.

⁷ M A Ajomo, *The Development of Individual Rights in Nigeria's Constitutional History in Individual Rights Under the 1989 Constitution* (Nigeria Institute of Advance Legal Studies, 1996) 10.

⁸ O N Ogbu, *Human Rights Law and Practice in Nigeria: An Introduction*, (CIDJAP Publishers 1999) 1-3.

⁹ *Uzochukwu v Ezeonu II* (1991) 6 NWLR (Pt 200) 708.

¹⁰ (n 7) 44.

¹¹ C Soanes and A Stevenson, *Concise Oxford English Dictionary* (11th edn, Oxford University Press 2006) 867.

¹² Protocol to The African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003, Art 1.

This means that she is the specie of humankind with a womb. Thus, an integral aspect of a woman is her capacity and capability to have and nurture life.

c. Disability

This is a physical or mental condition that limits a person in one or more major life activities¹³. It is an abnormal condition, deformity or inability to function as normal. It is defined in section 57 of the Discrimination Against Persons with Disability (Prohibition) Act, 2018 as including ‘long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder full and effective participation in society on equal basis with others’. Disability includes physical impairment such as visual, speech, hearing and mobility impairment; mental impairment, intellectual impairment and sensorial impairment. Disability is both a medical and an individual problem that isolates a person (sufferer) from actively participating in the mainstream of society¹⁴.

According to Ganle,¹⁵ disability may be viewed as the ‘consequence of an impairment that may be physical, cognitive, mental, sensory, emotional, developmental, or some combination of these that result in restrictions on an individual's ability to participate in what is considered ‘normal’ in their everyday society’¹⁶. The resultant effect of disability is marginalization, neglect, discrimination and social exclusion, as well as poverty. Disability may be caused by such factors as communicable diseases, genetic factors, injuries, aging, and poverty.¹⁷

d. Persons with Disabilities

This may be defined as including ‘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’.¹⁸ A major feature of a person with disability apart from having an impairment is that such impairment must be long term and such as to cause hindrance to the full and effective participation in society on an equal basis. The term ‘person with disabilities’ replaced the term ‘disabled person’ which was the old terminology used to refer to people who suffered from one disability, impairment or the other.

The term was defined the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 as:

¹³ Federal Ministry of Women Affairs & Social Development Report of the National Baseline Survey on Persons with Disabilities (PWDs) in Nigeria, 2011.

¹⁴ Bickenbach, and others, ‘Models of Disablement, Universalism and the International Classification of Impairments, Disabilities and Handicaps’ (1999) 48 (1) *Social Sciences and Medicine*, 1173-1187.

¹⁵ J K Ganle and others, ‘Challenges Women with Disability Face in Accessing and Using Maternal Healthcare Services in Ghana: A Qualitative Study’ (2016) *PLOS One* available at <<https://doi.org/10.1371/journal.pone.0158361>> accessed 27 September 2018.

¹⁶ *Ibid*, 1.

¹⁷ A V Atsenuwa, ‘Legal and Institutional Mechanisms for Protecting Persons with Disabilities in Nigeria’ in E Azinge and C Ani (eds), *The Rights of Persons with Disabilities*, (Nigerian Institute of Advanced Legal Studies, 2011) 107.

¹⁸ United Nations Convention on the Rights of Persons with Disabilities, Art 1; and the Protocol of 24th September 2010.

a person who has received preliminary or permanent certificate of disability to have condition which is expected to continue permanently or for a considerable length of time which can reasonably be expected to limit the person's functional ability substantially, but not limited to seeing, hearing, thinking, ambulating, climbing, descending, lifting, grasping, rising, any related function or any limitation due to weakness or significantly decreased endurance so that he cannot perform his everyday routine, living and working without significantly increased hardship and vulnerability to everyday obstacles and hazards.¹⁹

The authors viewed disability as a physical or visible impairment, mental or invisible impairment which incapacitates a person from functioning normally in everyday activities and which attracts stereotypes, whether social or cultural, from others. From the foregoing definitions, it can be said that a person with disability is one who: suffers from an impairment, whether physical or mental, visible or invisible; and is hindered by it from independently and effectively performing normal daily tasks; and also faces cultural and social barriers as a result of social myths, fears and stereotypes about the condition. Where the person with disability is a woman, she is then referred to as a woman with disability.

2.0 Review of the Legal Frameworks on Women with Disability

a. Rights of Women with Disabilities under the Constitution of the Federal Republic of Nigeria, 1999

The Constitution of the Federal Republic of Nigeria, 1999 expressly provides for the rights of every individual in Nigeria. These include the right to life²⁰; right to dignity of the human person²¹; right to personal liberty²²; right to fair hearing²³; right to private and family life²⁴; right to freedom of thought, conscience and religion²⁵; right to peaceful assembly and association²⁶; right to freedom of movement²⁷; right to freedom from discrimination²⁸; and the right to acquire and own immovable property anywhere in Nigeria²⁹.

These rights provided by the Constitution apply to all citizens irrespective of their ethnic group, place of origin, sex, religion or political opinion. Although disability is not specifically mentioned, it is excluded from forming a basis for discrimination by reason of generalization.

¹⁹ Nigerians with Disability Decree 1993, S. 3.

²⁰ CFRN 1999, as amended, s 33.

²¹ *Ibid*, s 34.

²² *Ibid*, s 35.

²³ *Ibid*, s 36.

²⁴ *Ibid*, s 37.

²⁵ *Ibid*, s 38.

²⁶ *Ibid*, s 40.

²⁷ *Ibid*, s 41.

²⁸ *Ibid*, s 42.

²⁹ *Ibid*, s 43.

Although there is no direct provision on it, the rights provided in the Constitution apply to “every person”³⁰ and “every citizen of Nigeria”³¹. Therefore, women with disabilities have same rights as every other individual or citizen of Nigeria.

Section 33 of the Constitution of the Federal Republic of Nigeria, 1999 provides that every person has the right to life and shall not be deprived intentionally of his right except as provided in the Constitution. It should be noted that the deprivation of fundamental materials necessary to sustain life can be equated to deprivation of life. For instance, the deprivation of food, water and shelter can result in death arising from malnutrition, thirst and cold. This kind of deprivation is common among infants who are born with apparent disabilities such as large tumour in conspicuous parts of the body. Many ‘abnormal’ babies are killed in this way in the rural communities. Such deprivations negate the right to life.

Right to dignity of the human person³² is another right which ought to apply to women with disabilities. This right guarantees the protection of all from torture or inhuman or degrading treatment. Torture, according to The Webster’s Dictionary of the English Language,³³ means ‘intense pain or suffering of the body or mind; the infliction of such pain or suffering’. Inhuman and degrading treatment means to inflict physically or mentally or applying the two to cause pain and suffering on another. Women with disabilities are tortured psychologically and emotionally as a result of their disability.

Section 35 provides for the right to personal liberty, while section 41 provides for freedom of movement. The duo sections provide that “every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in ... accordance with a procedure permitted by law³⁴ ... [and] every citizen of Nigeria is entitled to move about freely throughout Nigeria and to reside in any part thereof...”³⁵ As lofty as these provisions are, women with disabilities have their rights to personal liberty as well as freedom of movement infringed upon. Family members tuck them away from mixing with others for fear of the negative stereotype society has about disability. Furthermore, accessibility is a major challenge for those that have the privilege of enjoying some liberty. Many public places are not adapted to accommodate persons with disabilities. For instance, many public buildings do not have ramps for persons on wheel chairs. Thus, women with such disabilities are restricted from going to some public places, except they are ready to be hauled upstairs by others.

Another right as provided by Section 36 is right to fair hearing. It provides that with respect to the determination of civil rights and obligations, whether by or against any government or

³⁰ *Ibid*, ss 33, 34, 35, 36, 38, 39 & 40.

³¹ *Ibid*, ss 37, 41 & 42.

³² CFRN 1999, s. 34.

³³ International Edition 1995, 1042.

³⁴ CFRN 1999 s.35 (1).

³⁵ *Ibid*, s 41 (1).

authority, women with disabilities are entitled to fair hearing within reasonable time by a court or tribunal set up by law and composed in such a way as to ensure its independence and partiality³⁶. This right implies that women with disabilities are entitled to be heard in any civil or criminal proceeding. However, women with hearing and speech impairments find it nearly impossible to communicate and defend themselves as the courts do not understand sign language neither are there trained personnel in sign language to interpret during court proceedings. This also implies that their rights to access justice is affected as a result of the physical and social barriers associated with disability. This entails lack of access to police stations, courthouses, other public buildings; lack of communication aids for women with hearing impairment and Braille for women with vision impairment. Persons with disabilities are not believed as credible witnesses when they have cases to report.³⁷

Right to freedom from discrimination is also a fundamental right expressly stated in Section 42 of the Nigerian Constitution. It provides that “no Nigerian shall be subjected to any disability or deprivation merely by reason of circumstances of his birth”³⁸, or “be subjected... to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions are not made subject”³⁹. Similar provisions are contained in Section 15 thus: “accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.”⁴⁰ The Constitution pledges the promotion of national integration while at the same time prohibiting discrimination on whatever basis. Although disability is not specifically mentioned, it is inferred by virtue of generalization that those provisions intend to protect all citizens of Nigeria. However, persons with disabilities are rarely considered as subjects of national integration. Rather they are victims of discrimination by the society in virtually every sphere – education, politics, social interaction, recreation, religion, assessment of public building, *et cetera*.

b. Rights of women with Disabilities under the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018

The Act was assented to by the President in January, 2019 several years after it was initiated by the National Assembly. It has 58 sections and 8 parts. Section 1 prohibits discrimination on the grounds of disability⁴¹ and imposes penalty for contravention. A fine of ₦100,000.00 (one hundred Naira) only or six months imprisonment or both is imposed on individual contraveners upon conviction⁴². While for a corporate body, the fine of ₦1,000,000.00 (One million Naira)

³⁶ CFRN 1999, s 36 (1).

³⁷ O S Adelakun-Odewale and O O Ogwezy, ‘Access to Justice of Persons with Disabilities in Africa: The Nigerian Experience’ National Open University of Nigeria, *NOUN Journal of Jurisprudence and International Law (NOJJIL)* (2016) 1 (1), 72.

³⁸ CFRN 1999, s 42 (2).

³⁹ *Ibid*, s 42 (1)(a).

⁴⁰ *Ibid*, s 15(2).

⁴¹ Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, s 1(1)

⁴² *Ibid*, s 1(2)(a).

only is imposed upon conviction⁴³. A civil action can be instituted against anyone who contravenes this section irrespective of the outcome of the criminal proceeding.⁴⁴

The rights of persons with disabilities recognised by the Act include:

- i) right to non-discrimination on the basis of disability;⁴⁵
- ii) right to access of physical environment and buildings on an equal basis with others.⁴⁶ This includes public buildings;⁴⁷ “road side-walks, pedestrian crossings and all other special facilities...made for public use...”⁴⁸
- iii) right to access transportation facilities without discrimination;⁴⁹
- iv) freedom from being used or employed to beg or solicit for alms;⁵⁰
- v) right to education;⁵¹ right to free education to secondary level; right to inclusive education up to secondary school level in all public schools;⁵²
- vi) right to the access of health care without discrimination on the basis of disability;
- vii) right to safety and protection during “situations of risk, violence, emergencies and occurrence of natural disasters”;⁵³
- viii) right to first consideration in queues⁵⁴ and in allocation of accommodation;⁵⁵
- ix) ‘right to work on an equal basis with others’ and employment;⁵⁶ and
- x) right to participate in politics and in public life.⁵⁷

It may be pointed out that special provisions or mention was not made to women with disabilities. However, it may be implied that women with disabilities are included in the term ‘persons with disabilities’.

c. Rights of Women with Disabilities under African Charter on Human and Peoples Rights 1981

The African Charter on Human and Peoples’ Right⁵⁸ is a regional Convention of the African Union⁵⁹ which is aimed at promoting and protecting human and peoples’ rights. The Charter emphasizes freedom, equality, justice and dignity of all. Article 2 provides that every individual is entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the Charter without discrimination of any kind such as race, sex, birth or other status. This provision covers

⁴³*Ibid*, s 1(2)(b).

⁴⁴*Ibid*, s 1(3).

⁴⁵*Ibid*, s 1

⁴⁶*Ibid*, s 3

⁴⁷*Ibid*, s 4

⁴⁸*Ibid*, s 5

⁴⁹*Ibid*, ss 9, 10, 11, 12, 13, 14.

⁵⁰*Ibid*, s 16.

⁵¹*Ibid*, s 17 (1); s. 17(2);

⁵²*Ibid*, s 18.

⁵³*Ibid*, s 25.

⁵⁴*Ibid*, s 26.

⁵⁵*Ibid*, s 27.

⁵⁶*Ibid*, ss 28 and 29.

⁵⁷*Ibid*, s 30

⁵⁸ (ACHPR) was adopted in Nairobi June 27, 1981 and entered into force in October 21, 1986.

⁵⁹ Formerly Organisation of African Unity.

all including women with disabilities. Thus, women with disabilities are entitled to equality, right to liberty, right to fair hearing, freedom of conscience and religion and other rights provided for by the Charter.

Article 9 provides for the right to 'receive information'. This right is one that is not contained in our Constitution of the Federal Republic of Nigeria, 1999. By reason of this right, women with disabilities of all sorts are entitled to information. The media and the society as a whole ought to evolve ways of passing across information to them. This is particularly important as often times, important information such as health or medical information are not made available to women with hearing disabilities. Such information are particularly valuable to women with hearing disabilities when they attend ante-natal and post-natal clinics.

Again, Article 13 provides that every citizen shall have a right of equal access to the public property and service of his country. This right applies to women with disabilities. This means that women with mobility challenge have a right to access all public properties and public service in this country. Similarly, Article 17 provides for the right to education for all, which includes women with disabilities. This right to education extends to having accessible educational facilities. In the same vein, Article 18 provides that the aged and the disabled have the right to special measures of protection in keeping with their physical or moral needs. Article 19 provides that all peoples, including women with disabilities shall have equal and enjoy the same respect.

3.0 Challenges of Women with Disabilities in Nigeria

An attempt will be made to emphasize challenges that affect women with disabilities specifically. The challenges that will be discussed hereunder are: reproductive, educational, employment, health or medical as well as political and civil challenges.

(a) Reproductive Challenges

A survey conducted in 2015 revealed that disabilities in women pose a major challenge in their aspiration and dream of getting married.⁶⁰ It is easier for a man with disability to exercise his right to marry and found a family⁶¹ than for his female counterpart. Obviously, when compared with able bodied women, women with disabilities are less likely to ever get married.⁶² Women with disabilities are reluctant to leave an abusive relationship because of fear of not getting into another relationship and because of their limited social and many times financial status⁶³.

⁶⁰Inclusive Friends, *What Violence Means To Us: Women with Disabilities Speak* (National Stability and Reconciliation Programme, 2015) <www.nsrp-nigeria.org/wp-content/uploads/2015/09/What-Violence-Means-to-us-Women-with-Disabilities-Speak.pdf> last accessed 20th April 2018.

⁶¹ ACHPR and CRPD Art. 23.

⁶² Asch and Fine, "Introduction: Beyond Pedestals" in M. Fine and Asch (Eds) *Women with Disabilities: Essays in Psychology, Culture and Politics* (Temple University Press, 1988).

⁶³ *Ibid*

There appears to exist a societal stereotype which believes that women with disabilities are unlikely to reproduce as they are thought to be asexual⁶⁴. There is also the belief that they may be infertile even if they are sexual. The society considers their disability to extend to every facet of their lives including their reproductive organ. Society does not imagine that the woman's disability is limited only to the part of her body with the challenge⁶⁵. This is a typical belief held especially for women with mobility challenge and intellectual disabilities such as Down syndrome. Ganle pointed out that there are fears that women with disabilities are believed to be unlikely to bear children, and where they do, they are incapable of, or cannot adequately care for children because of their disability⁶⁶. Again, there is the fear of her bearing children with her kind of disability⁶⁷. This fear is premised on the misconception that every disability is genetically inherited.

Etieyibo and Omiegbe acknowledged that women with disabilities face sexual abuse and sexual violence⁶⁸. They are raped by caregivers, persons within their vicinity (neighbours) and sometimes by males with disabilities. They found it more worrisome that women with mental disorders and illnesses are victims of rape and sexual abuse⁶⁹. These women are very often homeless, this homeless situation exposes them to sexual abuse. They are subjected to unprotected sexual violation by able-bodied men in the belief that such sexual relationship will work an advantage to the assailant. Such advantage includes, fame, wealth, health or prolong life⁷⁰. However, the only proven 'advantage' of such relationship is an increase in the number of babies born by these women with mental illness who end up roaming the streets and becoming destitute themselves.⁷¹ It is safe to say that among women with disabilities, women with mental retardation suffer the worst form of discrimination in terms of infringements on their reproductive rights. These women are violated under the cover of darkness.

Where women with disabilities explore their sexuality and require sexual education, maternal healthcare services and the likes, they often do not find professional healthcare providers trained to attend to them. They are usually not exposed to sexual and reproductive health education unlike their able-bodied counterparts⁷². Sexual education and reproductive health campaigns are mainly carried out with the target audience being solely able-bodied women. Many health workers do not appreciate the need to provide such sexual education and

⁶⁴ F Mosope, "Disability and Reproductive Health in Nigeria", *The Rights of Persons with Disabilities*, (Nigerian Institute of Advanced Legal Studies, 2011) Eds E Azinge and C Ani, 2; R Traustadottir, "Obstacles to Equality: The Double Discrimination of Women with Disabilities" in *Women with Disabilities: Issues, Resources, Connections Revised* (The Centre of Human Policy, 1997) 10-11.

⁶⁵ MC Hobbs, *The Future of Children Categories and the Consequences* (San Francisco: Jossey Bass, 1973) 68

⁶⁶ Ganle and others (n 15)

⁶⁷ Ibid.

⁶⁸ E Etieyibo and O Omiegbe, 'Religion, Culture and Discrimination against Persons with Disabilities in Nigeria' (2016) 5(1) *African Journal of Disabilities*, 192

⁶⁹ Ibid

⁷⁰ Ibid

⁷¹ Ibid.

⁷² R A Elman, "Confronting the Sexual Abuse of Women with Disabilities" *National Online Resource Center on Violence Against Women* (Applied Research Forum, 2005), available at <www.vawnet.org>.

awareness to women with disabilities because of the pre-conception that they are asexual. However, there are many women with disabilities who need maternal healthcare education and services. Besides, since it is obvious that women with disabilities are not less humans, their sexuality is present and not non-existent as imagined. It also means that they could suffer from sexually transmitted diseases where necessary precautions are not taken.

It has been observed that many medical practitioners believed that the mode of delivery for women with physical disabilities is a Cesarean Section⁷³. Thus, in most cases, they are not allowed to deliver their babies even if they wanted. Again, many health facilities do not have adaptive environment which accommodate women with disabilities. Hospitals do not have health workers who use sign language nor sign interpreters. This is a major handicap to women with hearing impairment as they will miss out of very vital information during consultation, counselling and other health talks.

(b) Educational Challenges

The general perception of many care givers and parents of children with disabilities is to isolate children with disabilities. Many of such children are not ordinarily exposed to normal home chores or basic home skills or lessons. They are prevented from learning life skills such as sweeping, cleaning the home or compound, running errands, climbing, swimming, and so on. They grow up longing to be like the other children. They are often times prevented from going to school so as to avoid stigma on the child and the family. Other reasons could be financial reasons as well as the need to “protect” the child from the rigours and stress of education. Where the person with disability is a girl child, the reasons are as stated above and may include the fact that many persons believe that it is not economical and financially prudent to spend scarce resources training a ‘disabled’ girl child.

Another challenge facing women with disabilities as regards acquiring education is the issue of scarce or lack of finance. There are only few schools built to offer inclusive education to all learners. Many of such schools are privately owned and managed, so are expensive or unaffordable to parents with female children with disabilities. Scarce resources are usually first deployed to educate able body children and perhaps male children with disabilities. In cases where the education is free, female children with disabilities may be given an opportunity. This is typical in government owned primary and secondary schools, as privately owned primary and secondary schools may be expensive and unaffordable to their parents. So, most times, they are allowed to attend primary education and perhaps secondary school. However, they are made to drop out immediately the financial burden becomes tough for the family or if she gets a marriage proposal despite her disability.

⁷³ K Ganle and others (n 15).

Furthermore, educational institutions are designed and built for only able bodied learners in mind without the thought of accommodating persons with disabilities. This lack of access is heightened in secondary schools as many government owned secondary school buildings in Nigeria are storey buildings. The situation is no different in tertiary institutions as access is a major barrier to the enrollment, education and graduation of women with disabilities.

In time past, there existed educational institutions for specific disabilities. The aim was to seclude persons with disabilities for educational purposes and meet their specific learning demands based on their peculiar disabilities. Within the primary and secondary levels, there were a few educational institutions for persons with disabilities. Such schools catered for persons with visual impairment, the hearing impairment and so on. While this is possible at the lower level of education, it is non-existent in the tertiary level. Women with disabilities face untold hardships, inconvenience and adjustments to get a tertiary degree in Nigeria. There is more to access to education than admitting women with disabilities. It includes providing facilities to accommodate women with disabilities as they are equal members of the society and deserve it as a right. They deserve to be given access to registration, lectures, books, assignments and examination like other students. These are only achievable when tertiary institutions deploy adaptive technologies and machines in the design, construction and installation of equipment. Such adaptive machines include braille's, screen readers, tapes, sign interpreters, ramps, and so on. Also, the walkways within the school campuses should be accessible to persons with disabilities in general and women with disabilities in particular.

(c) Employment Challenge

Employment creates the opportunity for persons with disabilities to maintain a decent standard of living for themselves and their families, and participate fully in the development of the society⁷⁴. The unemployment challenges faced by persons with disabilities generally are hinged on lack of ease of accessibility of the work place, societal negative perception about disability and lack of legislative policies to safe guard their rights.⁷⁵ Institutional discrimination is a major problem faced by PWDs generally. Discrimination on the grounds of disability is different from other types of distinctions made because of a person's race or religion or because the person's functional abilities are in question. Disability raises issues to do with the functional capacities of the person, which, can be easily addressed by adapting or altering the workplace, shop, cinema or telephone system. It also concerns a status which a person can acquire or lose during a lifetime, thereby expanding the potential numbers affected.⁷⁶

⁷⁴ Fourth Session of the Conference of State parties to the Convention on the Rights of Persons with Disabilities, Background Paper for Informal Session on Work and Employment, Note by the Secretariat based on the contributions of the ILO and the International Disability Alliance (2011).

⁷⁵ U Ngwaba, 'The Rights of the Disabled Worker in Nigeria', *The Rights of Persons with Disabilities* (Nigerian Institute of Advanced Legal Studies, 2011) eds Epiphany Azinge & Chinyere Ani, 466-494,467.

⁷⁶*Ibid*, 470-471.

(d) Medical or Health Challenges

Women with disabilities, just like every other human, face health challenges at some point. When they have need for medical attention, they face several challenges. These challenges range from accessibility, attitude of health care providers and lack of information.

Accessing medical facilities would usually involve long and stressful journeys for women with disabilities given existence of their disabilities. Some public health facilities have ramps at their entrances for the purpose of accommodating hospital wheel stretcher and wheel chair in cases of emergency, but there are steps inside the buildings, without the provisions of ramps. The doors are narrow to allow women with mobility challenge or those on wheel chair to roll in on their wheel chairs. Most of these facilities are designed to attend to able bodied persons. The absence of trained health care providers in communicating with women with disabilities explains that it is a mere coincidence that ramps exist in hospitals. They are subjected to the entire process and rigour of getting medical attention which involves moving from one place to another to pay for and collect cards and folders, consult the doctor, as well as pay for and collect drugs. The entire process is very challenging and demanding even on able bodied patients. This is worse for women with disabilities who definitely will need help to get medical attention. A visit to the University of Port Harcourt Teaching Hospital revealed the stress women with disabilities face in getting medical attention.

It has been noticed that medical personnel lack adequate knowledge on how to care for, manage and handle women with disabilities. According to Patricia Gyang, “when going to see the doctor, the doctor does not understand but just prescribes drugs.”⁷⁷ This is the experience of many women with disabilities. Medical personnel have little or no knowledge and experience of how to manage and care for women with disabilities.

Many doctors are used to handling able bodied patients so are more patient listening and noting their complaints or symptoms. But not so for women with disabilities or persons with disabilities. This situation is heightened where the woman with disabilities has hearing and speech impairments. Communication is slow and marred because of her disabilities. Many doctors will rather subject her to a plethora of tests to reveal possible health challenges. Unfortunately, there are some health challenges that can be revealed only by verbal description. (An example is migraine. It can only be described and cannot be detected by tests). Apart from prescribing all the necessary and unnecessary tests, doctors are quick to prescribe drugs with little or no explanation to women with disabilities on how to take the medications, what to expect and possible side effects. Although this may not be intentional especially to women with

⁷⁷ Patricia Gyang is the Chair of the Plateau Deaf Women's Association. Words are contained in *Inclusive Friends, What Violence Means To Us: Women with Disabilities Speak* (National Stability and Reconciliation, 2015) <www.nsrp-nigeria.org/wp-content/uploads/2015/09/What-Violence-Means-to-us-Women-with-Disabilities-Speak.pdf> last accessed 20th April 2018.

hearing impairments, but one borne as a result of lack of knowledge of effective means of communication with the patient.

There is also the issue of non-inclusion of women with disabilities in health campaigns and awareness. When health campaigns and awareness talks are held, there is usually no provision for women with hearing impairments to benefit from such talks, as there are no sign language interpreters. For instance, the several health awareness talks and antenatal lectures held in several places by medical personnel did not include sign interpreters for women with hearing impairments. Is it imagined that there are no persons with hearing impairments? Or is it that the enlightenment will not be useful to persons with hearing impairments? Or do persons with hearing impairment not deserve such enlightenment?

Healthcare facilities are not free for women with disabilities nor persons with disabilities in general. Given that many women with disabilities are poor and not economically disadvantaged, accessing healthcare facilities places a huge burden on them. Also, when they consider all the several challenges they will encounter to get medical attention, they rather ignore their health conditions or resort to self-medication till they either get well or deteriorate in health. Thus, many women with disabilities only go to the hospitals when they consider it their last resort. They rarely visit the hospital for routine medical checkups, because of some reasons, which include lack of finance. If public health care facilities were free for women with disabilities, it would alleviate the plight of women with disabilities in accessing health care facilities as it relates to finance. The Discrimination of Persons with Disability (Prohibition) Act, 2018 provides for subsidization of the health care of person with disabilities. However, when the implementation of the Act will commence is not known.

(e) Political and Civil Challenges

The United Nations Convention on the Elimination of All forms of Discrimination against Women (CEDAW), State parties are mandated to eliminate every form of discrimination against women whether in public or political life. This is aimed at encouraging women to participate either by vying or voting during elections. The Committee allows State Parties to include quotas so as to show affirmative action. It also allows states to adopt appropriate measures to change the social and cultural conduct of women and men to eliminate prejudices, negative stereotypes that portray inferiority or superiority of either sex.

Granted that the tenets of CEDAW all to a large extent being implemented by the Nigerian government, regrettably, there is need to point out that the implementation of the CEDAW did not include women with disabilities. Women with disabilities are marginalized and oppressed in regards to the participation in political affairs. With regards to vying for political positions and office, that is practically almost impossible. Women with disabilities are not financially

self-reliant, thus do not have economic competence to present themselves for any political positions.

Section 56 of the Electoral Act, 2010 allows persons with disabilities be assisted by another person at the polling place. Although, the Act recognizes that women with disabilities and persons with disabilities in general have a civil responsibility to perform during elections, the provision made to cater for persons with disabilities violates the right to secret ballot voting. In reality women with disabilities defile all odds to get to polling units. They are made to wait long hours in long queues with their able-bodied counterparts irrespective of the weather and possible scuffles in the polling units. They are required to go in with an assistant who will either wheel or lead them in. Their assistant, is to where necessary, help them thumb print on the ballot papers and cast their votes. This negates the principle of secret balloting. There are no special polling units or booths to attend to women with disabilities during elections. This leaves them frustrated while attempting to carry out their civic duties. Provisions are not made to cater specifically for women with disabilities. Ballot papers on braille are not provided for women with visual impairments, neither are sign language interpreters provided at such polling units designated for persons with disabilities. There are usually no ramps provided in polling units to make them accessible for women with physical disabilities (and their male counterparts) who are on wheel chairs to accommodate them. The onus of making these adjustments should be on the electoral commission and not on the women with disabilities or persons with disabilities in general

(f) Recreational Challenges

Women with disabilities appear to be ignored by the entertainment industry. There are very few entertainment centres with accessible facilities for the relaxation, recreation and enjoyment of persons with disabilities. A visit to many parks and relaxation centres reveal that they do not have accessible and accommodating environment for the relaxing pleasure of persons with mobility challenge and other disabilities. It would appear that hearing-impaired persons are completely left out. This is because, at present, only few television centres and television programmes attempt to interpret information to hearing-impaired persons or display written versions. Religious grounds are no exceptions. Many religious bodies are designed and organized to only attend to non-disabled parishioners and congregants. Markets and supermarkets are no different; they rarely cater for persons with disabilities. Market environments are not built to accommodate them. Public toilets are also not built having persons with disabilities in mind. This is further compounded and complicated when the person with disability is a woman.

4.0 Recommendations for the Protection and Safeguard of the Human Rights of Women with Disabilities

This paper proffers the following recommendations for the protection and safeguard of the human rights of women with disabilities in Nigeria. These include: enforcement of legislative provisions, judicial activism, campaigns by civil society organizations, provision of free or subsidized health care services, retraining of medical personnel on special care, provision of special polling centers and tax discount to private employers who employ women with disabilities.

i. Enforcement of Legislative Provisions

There is need for the enforcement and implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 so as to bring succour to women with disabilities in particular and persons with disabilities in general. The Act provides for the establishment of a National Commission for Persons with Disabilities⁷⁸ that will be responsible for promoting and safeguarding the rights of persons with disabilities. There is the need for the immediate constitution of the Governing Council of the National Commission for Persons with Disabilities, so it can manage the affairs of the Commission.

ii. Judicial Activism in the Protection of the Rights of Women with Disabilities

The judiciary is constitutionally saddled with the responsibility of adjudicating on matters concerning the infringement or likely infringement of the rights of citizens. The judiciary has a role to play in the protection of the rights of women with disabilities and indeed every other citizen of Nigeria. Judicial activism is a tool that the courts could employ in the protection of the rights of women with disabilities. Granted that the Constitution of the Federal Republic of Nigeria 1999 does not expressly include disability as a ground for discrimination under section 42, the court could however, make pronouncements extending ‘other status’ to include disability. The Court should expound the horizon of law focusing on the reality of the issues before it and not allow too much technicality to affect its mind.⁷⁹ The Court should not hesitate to create awareness and foster respect for the rights and dignity of persons with disabilities, thereby combating stereotypes, prejudices and harmful practices relating to persons with disabilities generally and women with disabilities in particular.

iii. Campaigns by Civil Society Organizations

Civil Society Organizations should remain in the fore front of conducting studies, researches and gathering statistics about women with the several disabilities in particular, and persons with disabilities in general. Considering the indigenous and accessible nature of NGOs and CSOs to the relevant communities and peoples, it is also suggested that NGOs and CSOs should

⁷⁸ DAPWPPA, 2018, s 31

⁷⁹ Per Pats-Acholonu in *Broad Bank of Nig Ltd v Olayiwola & Sons Ltd* (2005) SC 1.

take up the challenge to creating continuous awareness of disability rights. Furthermore, NGOs should include in their awareness programmes, steps to seek redress where the rights of women with disabilities are violated.

The media should be incorporated to create and raise awareness through campaigns on the positive contributions of women with disabilities particularly and persons with disabilities in general. The media should be at the fore front in championing the course of the rights recognition of these vulnerable persons. The Nigerian media should also engage in investigative journalism to bring to limelight the plight of women with disability.

iv. Provision of Free or Subsidized Health Care Services

The paper recommends that free health care services be provided for women with disabilities. It is established that there is a nexus between disability and poverty. Disability hinders its victims from benefiting from opportunities including education because of the barriers it creates against the victim. These barriers leave persons with disabilities at a disadvantaged, vulnerable and dependent position. This position, in turn leaves them poor and unable to afford decent environment or healthy food and lifestyle. This further impoverishes their health and creates more disabilities borne out of ill health. Hence, the suggestion for the provision of free or subsidised health care services for women with disabilities.

v. Retraining of Medical Personnel on Special Care

There is the need for medical personnel to be trained and re-trained on ways of caring for women with disabilities. There is the need for them to be more patient and empathetic towards them as well as understand means of communicating with them. All medical personnel should be trained to be polite and respectful to women with disabilities irrespective of their disabilities, ill-health or other medical conditions. There is also the need for hospitals, both public and private who have patients with hearing disabilities to make provisions for a sign language interpreter. This sign language interpreter should be provided by and be the responsibility of the medical facility.

Again, women with disabilities should be included during health talks, campaigns and awareness, because they are a part of the society. Medical personnel should make provision to reach out to these women to educate them on all issues just like they would do to able-bodied persons. During antenatal lectures which hold very regularly for pregnant women, there should be sign language interpreters for women with hearing impairments. Again, women with disabilities should be given reproductive health education because they are sexually active just like their able-bodied counterparts.

vi. Provision of Special Polling Centers

Special polling centers should be created and designated specifically for the participation of persons with disabilities in the exercise of their civic duties. Granted that the Electoral Act, 2010 as amended provides for the participation of persons with disabilities generally, the creation of special polling centers will guarantee that they participate during the elections. The availability of such centers will ensure that these women participate in electing their future leaders.

vii. Tax Discount to Private Employers who Employ Women with Disabilities

To encourage the private sector to employ persons with disabilities in general and women with disabilities in particular, it is suggested that a tax discount be given to such employers. The discount will encourage the private sector to employ persons with disabilities, thereby creating employment opportunities for them.

5.0 Conclusion

A significant population of the world suffer from disability of various kinds. Disability may be defined as a physical or mental impairment which limits a person in one or more major life activities. Disability creates barriers and hinders opportunities. Women with disabilities face multiple discrimination by reason of their gender and disability. They face discrimination daily in their families, in education, labour market, marriage, participation in groups, and in several other circumstances. They encounter barriers in movement and accessing of public buildings, communication as well as in the enjoyment of recreational facilities. There is the need for the enforcement of the laws as it relates to the protection of the rights of these vulnerable women.