



POLICY BRIEF TO SUPPORT THE ADVOCACY FOR ENACTMENT OF BENUE STATE DISABILITY LAW.

The World Health Organization (WHO) estimated persons with disabilities to be 1.3 billion or 16 percent of global population¹ with 80% of that population living in developing countries including Nigeria. This figure is likely to increase in the nearest future as a result of natural disasters, armed conflict, diseases and an aging population. Disability has been described as a multifaceted collection of situations, many of which are shaped by the social environment rather than a quality of the individual. As a result, the concept of disability goes beyond seeing persons with disabilities (PWDs) as objects of charity, medical treatment and social protection but rather seeing them as a person with rights and who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society. The discrimination against persons with disabilities is a global phenomenon, many of which are shaped by the social environment rather than a quality of the individual.

There are three major barriers preventing persons with disabilities from participating in the society on equal basis with others; attitudinal, environmental and institutional. Prejudice, discrimination and stigma has been what PWDs live with for years as a result of attitude from non-disable people by seeing PWDs as incapable, of low intelligent, persons in need of support hence they respond to the need of PWDs with pity, repulsion or a sense of superiority. These assumptions and emotions are reinforced by the media with negative or misuse of language.

The environment is designed in a not easily accessible to PWDs which include hospital, schools, housing, public transport, offices, markets places of worship, public information system, media and communication. The negative effect of environmental design affects PWDs differently; some could be physical, some sensory while some communication. One of the most obvious methods of assessing performance of a state in regards to enabling access for its citizenry is to examine infrastructure – buildings and other public spaces that are established to provide public services.

The institutional barriers exclude PWDs through policies, laws, belief system, cultural and religion. A policy on education that is not inclusive for PWDs or segregate pupils with disabilities is discriminatory or a cultural belief that a child with disability cannot do well or a punishment to the parent for a sin committed. This institutional belief system affects PWDs in securing employment with others on equal basis even when such PWD has mental capacity to the job better than non-disable person.

¹ <https://www.who.int/news-room/fact-sheets/detail/disability-and-health#:~>

Generally, in Nigeria, data and statistics are not usually readily available and this has also contributed to a dearth of information on the actual status of disability in Nigeria², though, as at 2020, the population of PWDs in Nigeria is estimated to be 27 million³ while the population of PWDs in Benue State is estimated to be 921,195.

Globally, there have been spirited efforts as far back as 1970s by persons with disabilities to establish their legal rights as members of society; moving from medical and charity approach to human rights approach. In advocating for their rights, persons with disabilities have strived to establish they be considered on the basis of individual merit and not on stereotyped assumption about disability. The society must make certain changes to enable them participate more meaningfully in secular activities and on equal basis with others.

The United Nations Charter affirms that “Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction” is essential. This principle of universality is reinforced by the values of equality and non-discrimination, which are assimilated in The Universal Declaration of Human Rights (UDHR).⁴ Accordingly, its principles are central to the existence of most constitutions of the world, and the rights and freedoms contained therein have been articulated in many other international instruments.

The global world was determined in promoting and protecting the rights of persons with disabilities hence, The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) after years of debates and deliberations was signed by State Parties to the Convention on 30th March, 2007. The Convention came into force with the deposit of the 13th instrument of ratification on 3 May 2008.

Articles 1-4 provides the General Principles and Obligations of the Convention while the specific rights of Persons with Disabilities (‘PWDs’) are contained in Articles 5-30. Articles 31-33 deal with specific obligations of States Parties. The other Articles of the Convention are on administrative matters and Article 34 of the Convention establishes the Committee charged with the responsibility for monitoring the rights of PWDs and State Parties. Nigeria ratified this Convention on the 24th day of September 2010 with its Optional Protocol.⁵

After many years of struggle by civil society organisations championed by Organisations of Persons with Disabilities (OPD), Discrimination against Persons with Disabilities (prohibition) Bill 2018 was signed into an Act by the former President Muhammadu Buhari on January 17, 2019 and Nigeria now have Disability Act 2018.

The Act has the features of UNCRPD, though, not a very perfect legislation but provides Legal frame work for the protection and inclusion for persons with disabilities in Nigeria.

² Research report on access to public infrastructures by Persons with Disabilities in Nigeria, CCD (2015).

³ <https://www.google.com/search?q=what+is+the+population+of+persons+with+disabilities+in+nigeria>.

⁴ Adopted by the General Assembly of the UN on December 10 1948.

⁵ The optional Protocol means the Protocol to the Convention to establish a machinery for the resolution of issues emanating from the provisions of the Convention between PWDs and the respective States.

1. Salient features of Disability Act 2018

The salient features of this Act are –

- Criminalization of any form of discrimination against PWDs;
- Making provision for accessibility to public buildings and related facilities;
- Five-year moratorium period within which all public buildings and structures are to be adaptable for use by PWDs;
- Accessibility to transportation including road, sea ports, railways and air and related facilities;
- Protecting the liberty of PWDs and criminalizing their use in alms begging;
- Making provision for all aspects of the educational and health care needs of PWDs to provide necessary assistive devices;
- Provision for all employer of labour in public organization to employ at least 5% of PWDs in their employment;
- Provision of adequate standard of living and social protection in terms of accommodation for PWDs;
Encouragement of PWDs in politics and public life;
- Establishment of a National Commission for PWDs with headquarters at the FCT, Abuja, with a governing Council to run the affairs of the Commission. The staff of the Commission may also be directly appointed by the Council or may be on transfer or secondment from any public service of the Federation.

2. Implementation of the Act

It is instructive to note that there have been positive developments since the Act was signed in 2019 by the former President, Muhammadu Buhari. The Commission as proposed in the Act has been established and running with minimal cost on staff and other administrative expenses through secondment of staff from other MDAs to beef up staff strength of the Commission. The Governing Council has been inaugurated and staff have been employed in ensuring the full implementation of the Act. The Commission has been getting support from the federal government and international development partners.

States across the six geo-political zones of Nigeria have domesticated National Disability Act 2018, though a few had disability law before the Act came into existence. Interestingly, but worrisome, only Benue state in the whole of north central is yet to domesticate the Act. Hence, Hope Alive for Possibilities Initiative (HAPI (an NGO led by a woman with disability is working towards ensuring the immediate enactment of a disability law for persons with disabilities in Benue State. HAPI has reviewed a Draft disability Bill by a sister NGO to be forwarded to His Excellency, the governor of Benue State for consideration and presentation to the State House of Assembly for legislative debate and passage.

3. Policy Recommendations Towards the Enactment of a Disability Law in Benue State

The Discrimination against Persons with Disabilities (Prohibition) Act 2018 is a federal law and the Commission is a federal establishment, it's not revenue generation Commission hence, the spread and its effect cannot be felt across the 36 states, more importantly to address the needs of 27 million people. This is what propelled most states to domesticate the Act to suite their administrative and governance structure.

The need for a Disability Law in Benue State to promote and protect the rights of persons with disabilities cannot be over emphasized. Hence, HAPI, with support from the Disability Rights Advocacy Fund (DRAF) recently reviewed a Draft Bill by Disability rights Advocacy Centre (DRAC), also supported by DRAF. The draft is to be submitted to His Excellency, the governor of Benue State as an Executive Bill.

In view of operational challenges that may be experienced as contained in the Bill, the government, in the interest of the PWDs, must look for ways and means to work within the institutional framework contained in the Bill to address the likely challenges. The following are some activities and policy considerations that may assist in the enactment of Disability Law:

a. Coordinating role of the Benue State Disability Rights Agency for Persons with Disabilities

The bill aims to establish an Agency tasked with responsibilities typically carried out by Ministries, Departments, and Agencies (MDAs), particularly the Ministry of Women Affairs, which currently coordinates the affairs of Persons with Disabilities (PWDs) in social welfare sectors. This may present a funding challenge for the government, given the crucial importance of ensuring the education, health, and employment of PWDs. Until the government can provide adequate financial support to the Agency, the MDAs responsible for PWDs' functions should continue these duties and receive increased budgetary allocations. Once the Bill is passed with the Governor's assent, the Agency established by the proposed legislation should coordinate the activities of all relevant MDAs.

b. The governing Council

The bill also envisions the establishment of a governing Council for the Agency, which will function as a board and decision-making body. It is recommended, as a matter of policy, that members from the Ministries, Departments, and Agencies specified in the Bill form the interim governing Council. This Council must also include representatives from the PWDs community. These ex-officio members already receive salaries and other emoluments from the Government. Furthermore, the government should encounter no difficulties in covering the costs and allowances of the other Council members (including the Chairman), who will all be appointed on a part-time basis.

c. Staffing of the Agency

Closely linked to the establishment of the Agency and its governing Council is the imperative to swiftly onboard an adequate number of personnel to commence operations upon the bill's

assent. The Council, empowered by the bill, is authorized to employ the necessary staff deemed essential for the effective execution of the Agency's functions.

The bill already outlines provisions for the transfer and secondment of staff from the public service of the state. Consequently, the Agency may not need to undertake significant recruitment efforts from outside the public service at its inception. With this provision, the Agency can commence its coordinating activities from the outset without incurring expenses on recruitment and staffing. The agency should be headed by an Executive Secretary to be appointed at the same time as the Governing Council and must be a person with disability.

d. Moratorium

The proposed Bill includes a five-year moratorium period during which all public buildings, structures, and vehicles must become accessible and usable by persons with disabilities. While this timeframe may seem ambitious, the government can still develop a comprehensive plan to assess what is achievable within the stipulated five-year period. Available resources can then be allocated towards implementing aspects of the plan that can feasibly be accomplished within this timeframe. Additionally, the government can seek an extension through an amendment to this provision in the Bill, if necessary. This approach allows for proactive steps towards accessibility while acknowledging the potential need for adjustments based on practical considerations and evolving circumstances.

e. Over-sight responsibility of the activities of the Agency

In its revised form, the bill addresses previous challenges of inadequate supervision by the Ministry of Women Affairs, the ministry responsible for Persons with Disabilities (PWDs). Oversight responsibility for PWDs now falls under the Office of the Governor. This strategic decision reflects a well-considered move by the bill's proponents, given that the Special Assistant/Adviser to the Governor who is also a PWD could give day-to-day account of progress made or needs beyond the Agency to the attention of His Excellency.

The commitment of the Office of the Governor through the Agency would not only attract support from international development partners but will also ensure proper oversight of any donor agency funds received as a result of the Law. This oversight will guarantee accountability and proper channelling of funds toward the intended activities of the Agency, aligning with the objectives of this proposed legislation.

f. Funding of the Agency

Upon the passage of this Bill, and with the experience with states that have Disability Law already and the National Commission, it is anticipated that donor agencies may be inclined to support certain aspects of the Agency's operations. However, the government should also explore domestic funding sources. One potential avenue is to allocate a percentage of the funds from increased in monthly allocation as a result of subsidy remover to finance the Agency's operations pending when the Agency will be incorporated into yearly budgetary allocation of the state government.

In addition to this, the government should consider making budgetary provisions within the annual or supplementary budgets of the relevant Ministries, Departments, and Agencies (MDAs) to support the Agency's activities. It is imperative that all concerned MDAs are directed by the government to include necessary budget allocations in their annual budgets to fund the Agency's activities in line with the objectives of the Law. This multi-faceted approach ensures a sustainable financial framework for the Agency, combining both external and internal funding sources to effectively realize its objectives.

g. Accommodation and office space for the Agency

Considering the crucial role of the Agency in coordinating the affairs of Persons with Disabilities (PWDs) and the urgency to swiftly actualize its benefits upon the passage of this Bill into law, the Benue State Government might explore repurposing unoccupied structures within Makurdi or those recovered by Anti-Corruption agencies due to stolen funds from the state, to serve as office accommodations for the Agency and its staff.

h. Utilization and adaptation of existing institutions, structures and facilities for PWDs In the education sector, many of the requirements outlined in the Bill are already being fulfilled, as primary education is generally offered free of charge to Persons with Disabilities (PWDs) in most Nigerian states, though, the full implementation of this policy is in doubt. Therefore, enforcing these provisions should not pose a significant burden to the Government. Furthermore, numerous donor agencies, international development partners, and organizations are willing to fund the educational needs of PWDs. Additionally, State Universal Basic Education Commission (UBEC) are already in place to provide support for funding the special requirements of PWDs in this sector.

However, Inclusive education recognizes that each student has unique learning needs. It emphasizes the provision of individualized support and accommodations to ensure that students with disabilities can fully engage in learning alongside their peers. This may involve assistive technologies, specialized instruction, or modifications to curriculum and assessments. Effective implementation of inclusive education requires teachers and educational staff to have the knowledge, skills, and resources to support diverse learners. Inclusive education system may look too difficult to achieve, there are couple of international development partners that may wish to support when they see the commitment of state actor to this initiative.

Regarding transportation, the government's obligations in these areas can be manageable with proper planning and budgeting, facilitated by public-private partnership initiatives. With appropriate governmental support and provision of incentives, these initiatives can significantly improve accessibility for PWDs within transportation system.

In the health sector, there is room for increased governmental intervention through the Federal Ministry of Health to prioritize the mental and physical health needs of PWDs at minimal cost. By allocating resources strategically, the government can ensure that healthcare services cater adequately to this demographic.

i. Regulations

Several obligations outlined in the Bill, especially those concerning necessary modifications to public buildings and facilities accessible to the public, can be fulfilled by the responsible Commissioners for MDAs by systematically including this in their yearly budget and through the enactment of appropriate regulations within the scope of their enabling laws. This approach, particularly relevant in the realms of state environmental Agency can facilitate compliance with the Bill's requirement.

Moreover, statistical data indicate that the costs associated with implementing modifications to buildings by the State Government may not be prohibitively significant. This underscores the feasibility of meeting these obligations without imposing undue financial strain.

4. Conclusion

Benue State has unfortunately fallen behind in the process of domesticating legislation within its jurisdiction. It is imperative to recommend to the Governor to elevate this Bill to the status of an Executive Bill and present it to the State Assembly for thorough debate. This action holds significant importance at this juncture.

The concerted efforts of His Excellency and the State Assembly to enact legislation for Persons with Disabilities (PWDs) in the state will demonstrate the state's dedication to addressing the challenges faced by PWDs in Benue State. Furthermore, such proactive measures will align Benue State with other states in the North Central region that have already implemented legislation to safeguard and promote the rights of PWDs. This step will undoubtedly bolster the state's commitment to inclusivity and social justice for all its citizens.

Enacting a Disability Law in Benue State is not only a moral imperative but also a legal and developmental necessity. By addressing the systemic barriers and injustices faced by persons with disabilities, the state can foster a more inclusive, accessible, and equitable society for all its citizens. It is imperative for policymakers, legislators, and stakeholders to prioritize the enactment and implementation of comprehensive disability legislation to ensure the fulfillment of the rights and aspirations of persons with disabilities in Benue State.