

ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES IN NIGERIA

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ABSTRACT

Access to justice is one of the seventeen sustainable development goals of the United Nations. It is hoped that by 2030, all nations whether developed or developing like Nigeria, would have reduced inequalities in every facet of society and ensure the realization of the development goals. Persons with disabilities in Nigeria make up an appreciable percentage of the population. However, their access to justice appears to be constrained as a result of the interaction of the environment and negative societal perception about disability on the one hand and their disabilities on the other hand. To say that persons with disabilities are entitled to access to justice is to state the obvious as provided for by several international and national legislation. The Universal Declaration of Human Rights 1948, United Nation Convention on the Rights of Persons with Disabilities 2006, the African Charter on Human and Peoples' Rights 1981, Constitution of the Federal Republic of Nigeria 1999, and the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 all guarantee the access of justices of all, and particularly persons with disabilities. This paper adopted a descriptive approach to appraise the access to justice for persons with disabilities in Nigeria. It identified some barriers to access to justice for persons with disabilities and made recommendations on the need for the implementation of the Disability Act in Nigeria.

Keywords: Justice, Disabilities, Human Rights, SDGs.

1. INTRODUCTION

In 2015, the United Nations Member States adopted the 2030 Agenda for Sustainable Development. It provides a shared plan for peace and prosperity for all humans and the planet for now and the future. It contains 17 sustainable development goals which beckons on all countries of the world, whether developed or developing, to partner together to end poverty, improve health care and education, reduce inequality and encourage economic growth as well as preserving our flora and fauna.

The 16th goal aims at promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive

institutions at all levels.¹ Providing access to justice and building inclusive societies and institutions are at the heart of the 16th goal.

Persons with disabilities are a part of every society, developed and developing. About 1.3 billion persons are thought to live with one form of disability or the other globally, while an estimated number of 19 million Nigerians live with disabilities.² This number is increasing due in part to population ageing and an increase in the prevalence of non-communicable diseases as well as increase in man's inhumanity to man. Disability is part of being human. Almost everyone at some point in their life, will temporarily or permanently experience disability, especially where one lives to old age. Persons with disabilities are humans so ought to have access to justice like persons without disabilities.

This paper undertook an appraisal of the need for the access to justice by persons with disabilities in Nigeria. It will examine the barriers to justice for persons with disabilities which includes negative cultural perception about disability, inaccessible public buildings, illiteracy, non-implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. It will recommend the implementation of the Disability Act as one way of ensuring access to justice for persons with disabilities in Nigeria.

2. CONCEPTUAL FRAMEWORK

There are some terms that are imperative to be conceptualized to provide meaning and structure, to help shape the conversation in this paper. To achieve this, the views of learned authors, jurists and relevant provisions in the laws will be examined. These words are disability, persons with disabilities and access to justice.

2.1 Disability

The term disability is generally used to describe a physical or mental impairment that affects a person's ability to perform everyday tasks and activities. Disability covers impairments, activity limitation and participation restriction; and may be present from birth or acquired later in life. It is part of being human and could occur during one's lifetime if one lives long.³ Ozoji defines disability as a loss of ability or loss of function.⁴ He views disability as distinct from impairment because impairment connotes 'disturbance at the organ level', while disability connotes 'disturbance at the activity level'.⁵ Thus, impairment revolves around or is the damaged body part, for example a bad eye, or damaged spine, etc. While disability bothers on the lack of ability to function within the normal range because of the presence of the impairment. Therefore, impairment precedes disability.⁶ This explains why the medical theory of disability is concerned with treating the impairment so the disability would have been handled. However, scientists and medical practitioners have not gotten cures to many impairment-induced disabilities.

¹ United Nations Department of Economic and Social Affairs, Sustainable Development 2015, No. 16 Goal.

² World Health Organization, Disability, https://www.who.int/health-topics/disability#tab=tab_1 last accessed 9th February, 2023.

³ ONP Adiola, 'Understanding Disability and Disability Rights in Nigeria' (2023) 11(1) *Global Journal of Politics and Law Research*, 40 - 51.

⁴ ED Ozoji, *Special Needs Education and Rehabilitation for Beginner Professionals* (Jos: Dekka Publications 2005) 2.

⁵ *Ibid*, 3.

⁶ (n 3)

Under Nigerian law, disability is said to include ‘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.’⁷ This definition was deduced from the definition of persons with disabilities as provided by the United Nations Convention on the Rights of Persons with Disabilities, 2006. The author contends that disability is a long term physical, mental, intellectual or sensory impairment which incapacitates the individual from functioning independently, effectively and normally in everyday activities and which attracts stereotypes from others.⁸

2.2 Persons with Disabilities

The term ‘persons with disabilities’ simply put means persons having, experiencing or living with disabilities. The Convention on the Rights of Persons with Disabilities define persons with disabilities 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.”⁹ This definition suggests that it is broad to accommodate anyone who suffers from impairments whether visible to the eyes or not, and who, very importantly is hindered from full and effective participation on an equal basis with others as a result of various barriers which may be personal, environmental or societal. The Nigerian law on disability provides two definitions to the term persons with disabilities. Firstly, it defines him as:

A person who has received Temporary 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, and includes 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.¹⁰

Emphasis here is on possession of a Temporary or Permanent Certificate of Disability by persons who have a condition that is expected to continue for a long period of time or permanently, and which can limit their functional ability substantially. It goes ahead to list the areas of limited functional ability as including “seeing, hearing, thinking, ambulating, climbing, descending, lifting, grasping, rising” or limitation due to weakness or significant decrease in strength so as not to be able to perform everyday routine or living without significant hardship and vulnerability to everyday obstacles and hazards.

The second definition sees a person with disabilities as one having “long term physical, mental, intellectual, or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on equal basis with others”.¹¹ This definition is on all fours with the definition provided by the Convention on the Rights of Persons with Disabilities 2006.

⁷ Disacrimination Against Persons with Disabilities (Prohibition) Act 2018, s 57.

⁸ (n 3).

⁹ United Nations Convention on the Rights of Persons with Disabilities 2006, Art. 1.

¹⁰ Discrimination Against Persons with Disabilities (Prohibition) Act 2018, S. 57.

¹¹ Ibid.

It is important to note that persons with disabilities are persons, which means that they are humans merely having disabilities. The presence of the disability does not deny them the status of being human. Thus, they should be accorded same rights and respects given to other humans. It is thought that should one live long till old age, one would most likely acquire the status of person with disability. Again, that status is one that could be acquired in the course of living due to accident, ill-health or by man's inhumanity to man. Therefore, it behooves on all to seek the respect and protection of the rights of persons with disabilities as one could become part of the statistics during one's lifetime without necessarily wishing for it.

2.3 Access to Justice

Justice ought to be accessible by all irrespective of gender, religion, tribe, State of origin, socioeconomic or political background, or disability status. As in the words of Justice Hewart, justice "is not merely of some importance, but of fundamental importance that justice should not only be done, but should be manifestly and undoubtedly seen to be done".¹²

The term access to justice can be viewed from more than one perspective, thus capable of more than one meaning. From a narrow perspective, access to justice can be viewed as access to the law courts,¹³ which includes access to legal advice and services, and other dispute resolution mechanisms (like alternative dispute resolutions, mediation, etc) and the independence and impartiality of such judicial institutions or bodies.¹⁴ Aligning with this view, Ladan sees access to justice as implying that people in need of justice are able to get solutions from the justice systems which are accessible, affordable, comprehensible to ordinary people; and justice is dispensed fairly, speedily and without discrimination, fear or favour; and makes a large provision for alternative dispute resolution.¹⁵

On the other hand, the wider perspective views access to justice as including access to the political order as well as the benefits which accrue from the social and economic developments in the State.¹⁶ It is seen as the right of every citizen, to demand from the State, the provision of a means of dispute resolution that is both accessible and upright.¹⁷ These perspectives are not necessarily exclusive and disconnected, so discussion on one would most likely and often spill into the other. However, for purposes of this paper, the focus will be on access to the physical environment of judicial institutions by persons with disabilities in search of legal advice, legal services and justice.

3. THE LEGAL FRAMEWORK

There is need to explore the laws in Nigeria to ascertain the availability of laws which provide for access to justice for persons with disabilities. It is important that such search will comprise of, and begin within Nigerian laws, laws within the African region and international laws.

¹² *R v Sussex Justices, Ex parte McCarthy* (1924) 1 KB 256, (1923) All ER Rep 233.

¹³ NS Okogbule, "Access to Justice and Human Rights Protection in Nigeria: Problem and Prospects" 2005 3(2) *Sur International Journal on Human Rights*, 94 - 113.

¹⁴ CO Adekunle, "Access to Justice in Nigeria: An Extrapolative Appraisal of Its Socio - Legal Barriers" 2015, 20 *The Jurist, Essays in Honour of Mr. Layi Babatunde SAN* (Law Students' Society Faculty of Law, University of Ilorin) 287 - 307.

¹⁵ MT Ladan "Justice Sector Reform: Imperatives for a Democracy" (Paper presented at a National Seminar on Justice Sector Reform and the Future of Democracy in Nigeria, Abuja, 2012).

¹⁶ (n 13, 96).

¹⁷ (n 14, 3)

3.1 Constitution of the Federal Republic of Nigeria 1999

Section 17 (2) (a) of the Constitution of the Federal Republic of Nigeria 1999 provides that “every citizen shall have equality of rights, obligations and opportunities before the law”. The operative word here is “every” which literally means all. It implies that every citizen, including persons with disabilities are entitled to equality of rights, obligations and opportunities before the law. This is particularly important as section 42 (1) (a) of the Constitution of the Federal Republic of Nigeria 1999 when read together frowns at the discrimination of a person, such that he is subjected expressly, or in the practical application, to restrictions which others are not subjected to. This means persons with disabilities, just like other citizens, are entitled to access to justice same way able-bodied individuals are entitled to access to justice. There ought not to be any restriction to their access to justice as that will be tantamount to discrimination.

3.2 Discrimination Against Persons with Disabilities (Prohibition) Act 2018

The Discrimination Against Persons with Disabilities (Prohibition) Act 2018 was actually signed in January 2019, and is more or less the domestication of the United Nation Convention on Rights of Persons with Disabilities 2006. The Act has 8 sections and provides for the full integration of persons with disabilities into the society by prohibiting discrimination on the basis of disability and prescribing punishment and penalties for offenders. Section 1 of the Act clearly prohibits persons and institutions from discriminating against a person on the grounds of disability. Section 3 of the Act provides that persons with disabilities have the right to access the physical environment and buildings on an equal basis with others. It also provides that public buildings must be constructed with necessary accessibility aids such as lifts, ramps and other facilities that can make them accessible to and usable by persons with disabilities.¹⁸ Courts are public institutions, therefore ought to be accessible to persons with disabilities. The Act graciously provided a transitory period of five years from the date of commencement of the Act for all public buildings and structures to be modified to be accessible by all persons with disabilities.¹⁹

3.3 African Charter on Human and Peoples’ Right 1981

The African Charter on Human and Peoples’ Rights, 1981 also known as the Banjul Charter provides for the rights, duties and freedoms of people within the territories of African member States. It provides that every individual shall be equal before the law and be entitled to equal protection of the law.²⁰ In addition, it guarantees the right of every individual to be heard or tried within reasonable time by an impartial court or tribunal; and gives him a right to appeal to a competent organ of government against violations of his fundamental right; and in case of a criminal proceeding, to be presumed innocent until proven guilty; and be entitled to be defended by a legal practitioner of his choice.²¹ By these provisions, persons with disabilities have a right to equal protection, right to be heard, right to be tried within reasonable time by an impartial court or tribunal, right of appeal, right to be presumed innocent until proven guilty and right to be defended by a counsel of his choice. This is so because the Charter provides that every individual is entitled to enjoy all the rights and freedoms contained in the Charter without distinction or discrimination of any kind whether as to race, ethnic group, colour, sex, language, religion, political or any other opinion,

¹⁸ Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s 4.

¹⁹ *Ibid*, s 6.

²⁰ African Charter on Human and Peoples’ Rights 1981, Art 3.

²¹ *Ibid*, Art 7.

national or social origin, fortune, birth or any status²². Although the word disability is not expressly included, it can be implied to fall under 'any status'.

3.4 United Nations Convention on the Rights of Persons with Disabilities 2006

The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on the 13th of December, 2006 and opened for signature on the 30th of March 2007. On its opening day, it had eighty-two (82) signatories of the Convention and forty-four (44) signatories of the Optional Protocol. The purpose of the Convention is to promote the respect for the dignity of persons with disabilities and to promote, protect and ensure the full and equal enjoyment of all human rights and freedoms by them²³.

The Convention reaffirms that persons with disabilities have the right to be recognized as persons before the law, and enjoy legal capacity on equal basis with others.²⁴ It imposes responsibility on State Parties to ensure effective access to justice for persons with disabilities on an equal basis with others.²⁵ State Parties are thrust with the responsibility of providing procedural and inappropriate accommodations so as to facilitate the role of persons with disabilities as direct and indirect participants, even as witnesses in all legal proceedings, including investigative and other preliminary stages. It further acknowledges the importance of appropriate training of those whose job is the administration of justice including police and prison officials.²⁶

4. THE CHALLENGES TO ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES IN NIGERIA

In as much as the law provides for the access to justice for all, persons with disabilities inclusive, there are some barriers to access to justice by persons with disabilities in Nigeria. These barriers include: inaccessible courts and tribunals; illiteracy on the part of persons with disabilities; negative cultural perception about disability by judicial officers or law enforcement officers; poverty and high cost of litigation; poor transportation services for persons with disabilities; lack of accessibility to information; limited legal aid services; lack of implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. These barriers will be discussed sequentially to appreciate their gravity as they hamper access to justice by persons with disabilities in Nigeria.

4.1 Inaccessible Physical Environment of Courts and Tribunals

It is trite that courts are public buildings and ought to be accessible to all including persons with disabilities (especially to persons with mobility and visual impairments). Unfortunately, at present, a visit to the High Court premises in Rivers State as well as many of the other States reveals that the buildings are inaccessible. Many of them do not have ramps and lifts for easy access of persons with mobility impairment. This means that such persons who could either be counsels, litigants or witnesses are denied easy access into such courts or tribunals. For example, lawyers and litigants with disabilities find it difficult accessing court rooms and other administrative offices located upstairs within the court premises in the Rivers State High Court located in Port Harcourt because of their disabilities. Due to the

²² *Ibid*, Art 2.

²³ United Nations Convention on the Rights of Persons with Disabilities 2006, Art 1.

²⁴ *Ibid*, Art 12.

²⁵ *Ibid*, Art 13.

²⁶ *Ibid*.

inaccessible physical environment of the Courts in Rivers State, a lawyer living with mobility impairment in 2016 instituted an action against the Rivers State government²⁷.

Same inaccessible situation can be seen in several police stations scattered all across the country. Many police stations, especially within the rural areas are located on streets with untarred and inaccessible roads for persons with disabilities. Even where the police stations are located within the urban areas, many of the compounds where they are located are grossly inaccessible for persons with physical disabilities. Imagine the difficulty a complainant using wheelchair will go through trying to roll himself in a bumpy, stony, uneven compound without a ramp at the entrance or lift to complement the stairs where it is a storey building. Such an environment will also be clearly inaccessible to persons with visual impairment.

4.2 Illiteracy on the Part of Persons with Disabilities

Quite an appreciable number of persons with disabilities are not educated because they were or are being deprived of their right to education. Many families with children with disabilities will rather hide such children at home than expose them to education. Some other families will rather use such children with disabilities for begging than send them to school. Thus the high level of illiteracy among many persons with disabilities. Majority of the persons with disabilities who have acquired some education are mainly persons who were sent to special homes like Chessire Home, or Special Home for Children with Disabilities for rehabilitation as children and lived in such homes for a considerable length of time. Some others were persons who acquired their disability later on in life when they had already been educated or were already on the path of education. This lack of literacy among persons with disabilities makes them docile and limits them from seeking justice.

It has been observed that tolerance of people with disabilities tend to reduce the most during periods of economic hardship. These attitudes are mainly reflected in the view that sending children with disabilities to school is a 'waste of time'. Emenike and Ezeonye²⁸ feel differently, explaining that some of the world's topmost scientists, musicologists, philosophers and social scientists were also physically-challenged but got to the peak of their careers because they were given the opportunity.

Despite the high rate of illiteracy among persons with disabilities, there is also the issue of lack of awareness of their rights as persons with disabilities. Many persons with disabilities are unaware of their rights, thus cannot seek for justice. When it pertains to disability rights, a lot of these persons are ignorant. Thus, very recently, a disability rights awareness programme organized by Faecare Foundation in Partnership with Disability Rights Fund, about thirty (30) persons with disabilities were educated²⁹. The education and enlightenment focused on their rights as contained in the United Nations Convention of the Rights of Persons with Disabilities 2006, the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and the Rivers State Persons with Disability Welfare (Enhancement) Law 2012.

²⁷ Unreported case.

²⁸ P E Emenike and N S Ezeonye "Forgotten Tribe, Career Prospects and Psychological Impacts: A Case Study of Hearing-Impaired Adolescent in Eastern Nigeria" 2021 1(1) *Journal of Education and Society* 1099 - 1109.

²⁹ The event which was tagged 'Disability Rights Initiative Project' was held at Sweet Spirit Hotel in Port Harcourt between 1st to 3rd February, 2023.

4.3 Negative Cultural Perception about Disability Among Judicial Officers and Law Enforcement Officers

There are many negative cultural myths and beliefs about disability that influence the perception of people towards disability. Certain cultures believe that a person who acquires disability later in their lifetime, had most probably, offended the gods or committed an ‘unconfessed’ sin to attract the wrath of the gods. Another perception is that those born with one form of disability were thought to be a product of infidelity on the part of either of the parents, or retribution for evil done in the past or from a wicked lineage. However, these are mere misconceptions that arise from poor understanding of disability and are concocted to reflect magical-religious philosophies called superstition.³⁰

Superstition and cultural stereotype are factors that have heightened the discrimination meted out to persons with disability. While it is obvious that their impairments and consequent disabilities may hinder their effective performance in ordinary day to day activities, persons with disabilities may not necessarily have any disability in their reasoning ability, therefore, they can function effectively like any other if given the opportunity.³¹ Persons with disabilities are made to believe that they are inferior and less than others. They are made to accept whatever society throws at them.

These negative cultural perceptions can be deduced in the way persons with disabilities are treated with disdain even among judicial workers and law enforcement agents. Disabilities are sometimes synonymous with pity, charity and negative myths. Therefore, the sight of a person with disability sometimes evokes these emotions depending on the environment where the person with disability is seen. Some police officers allow their prejudices about disability negatively influence how they respond to and handle persons with disabilities. Most times, many police officers are not patient with persons with disabilities whether as complainants, defendants or witnesses, because they imagine them to be reaping the punishment of crimes they or their forebears committed. They sometimes cast aspersion of persons with disabilities irrespective of the fact that they may be victims. This may be worse for persons with hearing impairments as there are usually no sign language interpreters in any police stations or courts or prisons. Where such a person is a participant in the quest for justice, either as complainant or claimant or petitioner, or defendant or respondent, or as witness, they are usually not taken seriously because of the negative prejudice. Again, the burden of providing an interpreter for such a person, lies on the individual, and not on the institution of justice which will obviously hamper on their access to justice as persons with disabilities.

4.4 Poverty and High Cost of Litigation

Persons with disabilities are one of the poorest and most marginalized and socially excluded group in any society,³² and Nigeria is no exception. The high level of poverty and the high cost of living generally in Nigeria is a major barrier to access to justice for persons with disabilities. Considering the high level of poverty among persons with disabilities, it is reasonably foreseeable that they would rather look the other way than defend their right by accessing judicial institutions because of the high cost of such ventures. Cost of litigation is on the increase – lawyers’ fees, filing fees, appearance fees, are some costs persons with

³⁰ O Abosi and T L Koay, “Attaining Development Goals of Children with Disabilities: Implications for Inclusive Education” 2008 23(3) *International Journal of Special Education* 1 - 10.

³¹ O N P Adiola, “Feminism and Disability” 2019 8(1) *Port Harcourt Law Journal* 257 - 266.

³² DFID Report, 2005; ‘Disability and Inclusive Development,’ Barron & Amerena ed., London: Leonard Cheshire International, 2007.

disabilities have to face while accessing justice, hence not affordable. This means that the underprivileged - persons with disabilities, have no access to formal justice. It is same poverty that many times deprives them from education, a situation which further impoverishes them, leaving them more vulnerable.

4.5 Poor Transportation Services for Persons with Disabilities

Another challenge that persons with disabilities encounter is inaccessible transportation services. The transport system as it currently stands, is geared towards catering for the transportation needs of only able-bodied persons. Many road transport service providers are impatient with persons with disabilities especially persons with physical or mobility impairment and visual impairment whose impairments are obvious. Many bus and taxi drivers are usually impatient with these persons with visible impairments while they board or alight from the transport vehicles. In some cities where the commercial bus drivers are known for not halting for passengers to board or alight, one can only imagine the fate of persons with mobility and visual disabilities and their mobility aids.

There is the issue of commercial bus and taxi drivers refusing to carry the mobility devices of persons with mobility impairments. Many drivers get irritated and complain about carrying the wheel chair in their trunks, while others complain about crutches or walking frame inconveniencing other passengers or having to stick out of their windows. Hence, many persons with disabilities find it challenging getting transportation to move them from one location to another. This challenge poses a restriction on the access of justice by persons with disabilities as they will rather sleep on their rights than pass through the huge hassles of moving to and fro their quest for justice.

This reluctance of transport operators to render service to persons with disabilities is not limited to road transportation but extends to air transportation. Airlines in Nigeria are reluctant to carry passengers with mobility impairment especially those using wheel chair. Airplanes are inaccessible to persons using wheelchair who cannot board the plane by climbing the air-stair. Sometimes, airline staff reluctantly volunteered to haul such passengers up and down the plane. In as much as such acts of hauling may be appreciated where such staff volunteer, it still reduces the self-worth of the individual hauled, thus a degrading treatment.

4.6 Lack of Accessibility to Information by Persons with Disabilities

Another major challenge hindering persons with disabilities from accessing justice is their lack of access to information. Information is not easily accessible to persons with disabilities, hence their ignorance and lethargy towards enforcing or protecting their rights. It is plausible as it is only rights that one is aware of, that one can attempt to enforce. Information that is accessible to the average able-bodied Nigerian is not accessible by several persons with disabilities because such information are not passed in the necessary accessible format. For example, during the outbreak of the corona virus in 2020, the awareness campaigns were on radio and television but did not include sign language interpreters to pass on the information to persons with hearing impairments. Neither were the handbills or leaflets in braille for person with visual impairments to read and be informed. Similarly, disability laws or rights, or disability information is hardly disseminated in the format that is easily accessible by persons with disability, hence a barrier in accessing justice. Many persons with disabilities are unaware and oblivious of the availability of alternative dispute resolution options. Such information need to be communicated to them in the language and format they can appreciate and understand.

4.7 Limited Legal Aid Services

A few years ago, Amnesty International revealed that well over 60% of Nigeria's correctional facility (prison) inmates have not been convicted for crime or crimes charged, but are awaiting trial for several years³³. Many of these persons are poor and can not afford the services of legal practitioners to defend them. It is on record that there is a dearth of legal aid lawyers in the country. Considering that there are several inmates waiting to benefit from the services of the limited legal aid counsels, it will be preposterous to have these few lawyers take on more matters emanating from persons with disabilities that are outside the correctional centers.

4.8 Lack of Implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018

The Discrimination Against Persons with Disabilities (Prohibition) Act 2018 was assented to on 23rd January, 2019. It means the Act has been in existence for four years now. However, the question that comes to mind is 'has the implementation of the Act begun?' Granted that the Act provides for a 5 year transitory period for public building and transportation to be modified to be accessible for all, yet there are several other provisions that require immediate implementation. Unfortunately, the lack of implementation of the Act is negatively affecting the access of justice for persons with disabilities. This lack of implementation can be linked to lack of awareness of the existence of the Act by the general public, law enforcement agents and institutions with responsibilities to perform as prescribed in the Act.

5. CONCLUSION

Persons with disabilities have the right of access to justice in Nigeria. Access to justice is one of the goals of any progressive and inclusive society, and lays the foundation for sustainable development. Access to justice for persons with disabilities is possible in an inclusive society. There are several laws in Nigeria which provide for access to justice for all, including persons with disabilities. Despite the existence of those laws there are several barriers to the access of justice by persons with disabilities in Nigeria at present. However, these challenges or barriers are surmountable where the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 is fully implemented.

6. RECOMMENDATIONS

Having identified the barriers to access to justice for persons with disabilities, it is imperative to make recommendations that will address the identified barriers. These recommendations would attempt to address each of the previously identified barriers. It is believed that these will help to improve access to justice for persons with disabilities.

- a) The physical environment of courts and tribunals should be modified and made accessible. Lifts and ramps should be provided in court houses so that the building could become accessible to persons with disabilities. This is highly recommended especially as the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 gives 5 years transitory period for all public buildings to be modified so as to be accessible to all. It is also important that the courtrooms be arranged in such a way that persons with disabilities can easily navigate through without necessarily depending on another individual for movement. In addition, restrooms and

³³ Nigeria: Prisoners' Rights Systematically Flouted AFR 44/001/2008 Amnesty International February 2008, Available at <amnesty international.org> accessed 5/1/17.

conveniences should be accessible to persons with disabilities, especially persons using mobility devices like wheel chairs and frames. Restroom doors should be wide enough to accommodate wheel chairs and the toilets spacious enough to contain a wheel chair in it.

- b) Persons with disabilities have a right to education. There is need for the education of children with disabilities. Government and Non-Governmental Agencies should organize programmes targeted at the education of illiterate persons with disabilities irrespective of their age, gender or disability. This will form the basis for the education of their disability rights and rights generally. Non-Governmental Organizations should also embark on campaigns to enlighten educated persons with disabilities on their rights as provided by law and ways in which such rights can be protected or enforced.
- c) Judicial officers and law enforcement officers need to have a mental shift in their perception about disability. This can be done through re-orientation and enlightenment programmes targeted specially at these officers. Such enlightenment will make them drop some of their negative cultural myths about disability and improve the way they view and handle persons with disabilities. There is need for these officers to inculcate the practice of treating everyone with human dignity and respect. This will positively affect the access to justice by persons with disabilities.
- d) Legal practitioners should be willing to take on *pro bono* cases for persons with disabilities. It should be made a culture that legal practitioners must handle at least one *pro bono* case for a person with disability before being considered for elevation to the prestigious post of Senior Advocate of Nigeria. This will spur more lawyers to render free legal services to persons with disabilities, thereby improving their access to justice.
- e) There is need to organize enlightenment programmes for commercial road transport drivers on the need to accommodate persons with disabilities as integral and valuable members of society. They should be educated on the provisions of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018.
- f) Information should be produced and transmitted to persons with disabilities in a format that is accessible to persons with disabilities. This would include providing sign language interpreters to interpret information to persons with hearing impairment. It would also include preparing written information in braille or audio format so that persons with visual impairment could benefit from such information. Thus, there is need for the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and other Nigerian laws, to be produced in Braille and or audio versions so that they can be easily accessible to persons with visual impairments who may be legal practitioners or litigants.
- g) There is need for the employment of more legal aid counsels so as to meet the demands of legal aid services. Increase in the number of legal aid counsels will afford persons with disabilities greater chances of accessing and being served justice.
- h) The need for the immediate implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 cannot be over emphasized. The

implementation of the Act will go a long way in improving access to justice by persons with disabilities. The implementation of the Act will mean that some of the challenges identified and recommendations proffered will be addressed. This will lead to the development of a more inclusive society for persons with disabilities and the inclusion of Nigeria among the nations that practices inclusion.