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Disabled Persons and Human Rights Violation: The Nigerian Experience

Adekeye, D. S.

&

Salawu, B., Ph.D

ABSTRACT

From the available statistics, over 600 million people or approximately 10 percent of the world's total population have a disability of one form or another. Interestingly, over two thirds of them live in developing countries, which include Nigeria. Generally, these disabled persons wherever they are found are exposed to various forms of discrimination and social exclusion. In other words, they are denied the full range of civil, cultural, economic, political and social rights which other citizens enjoyed. The level of denial and rejection of these disabled persons however vary from one region to the other, with the worst cases of denial and rejection coming from the developing countries of the world in spite of the general efforts made so far by the United Nations to integrate the disabled persons into the society using the Human Rights approach. It is in this general context that this paper examines the situations of the disabled persons in Nigeria by examining among other things how far away the country is from the ideals laid down by the Human Rights perspective in the treatment of disabled people the world over and to offer suggestions on how to improve the conditions of the disabled persons in Nigeria.

Keywords: Human Rights, Disabled Persons, Discrimination, Social Exclusion

Introduction

One of the greatest challenges of human race from the time immemorial is the problem of disability, which manifests in different forms across the globe. That is, in all human societies, there are people who are physically challenged (the cripples); visually challenged (the blinds); hearing impaired (the deaf/dump) and the mentally retarded (MR). Although, the statistical data that compare disability figures internationally are difficult to come by, the fact remains that disabled persons are found everywhere including the developed world despite the high level of technology and advances in sciences. In Europe (a developed society) for example, there are millions of disabled people. In the United Kingdom alone, there are approximately 8.6 million people who are classed as disabled people. In the United States, of all the non institutionalized persons age 15 and over, 17.5% have functional limitation (34.2 million people). The universal nature of the problem of disability is also shown in the fact that 10 to 20% of every country's population is thought to be affected by disability. On the whole, it is estimated that over 600 million people in the world have one form of disability or another. Over two thirds of them are estimated to live in developing countries with high density of their population in Sub-Saharan African and in South and South-East Asia.

With the estimated number of disabled persons and their spread across the globe, they constitute a significant proportion of the total world's population who have rights but do not enjoy them. This is simply because, ordinarily, people with disabilities are entitled to equal access to education and employment, equal rights to parenthood, property, ownership, political rights, and legal

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With the estimated number of disabled persons and their spread across the globe, they constitute a significant proportion of the total world's population who have rights but do not enjoy them. This is simply because, ordinarily, people with disabilities are entitled to equal access to education and employment, equal rights to parenthood, property, ownership, political rights, and legal

representation, but wherever the disabled people exist, they continuously battle exclusion and restriction to their full participation in society. They face varying degrees of discrimination, abuse and above all poverty.

Despite many improvements over the years with more awareness of disabled people's needs, those impaired by disability still have problem getting their needs met. According to Hammarberg (2009), the simple principle that society must adjust to the needs of all people is not respected in reality the world over. However, the situation is found to be worse in the developing countries as people with disabilities in such countries are yet to enjoy a reasonable level of human rights and fundamental freedoms. Hence, the disabled people in such societies are stripped of their basic rights of survival, let alone a life with dignity. The conditions of the disabled people in some of the developing counties are compounded by incessant civil war, extreme poverty, absence of functional democracy and arbitrary reign and high level of corruption. Consequently, persons with disabilities in the developing region often suffer from a relative invisibility and they tend to be viewed as objects of protection, treatment and assistance rather than subjects of rights. It is in this context and general framework that this paper attempts to view the problem of disabled people in Nigeria. The question is are the Nigerian disabled persons adequately protected or treated using the human rights approach? To be precise, the paper examines the extent to which the Nigeria nation complies with the principles of Human Rights in the treatment of the disabled people.

Conceptualizing Disabilities and Human Rights

While there is a worldwide agreement on the need to solve the problems of disabled people across the globe as a social responsibility, there is little agreement on the definition of the term disability. This is mainly because, aside from being a physical fact, disability is also a normative, cultural, and legal construct all of which make a difference in the way the term disability is defined. The implication of the above is that what is referred to as disability varies from one context to the other and indeed from society to society. But no matter how and where we speak of disability, certain characteristics are often mentioned under which context the term disability is understood.

According to the American Heritage Dictionary of the English Language (cited by Triano, 2009), the term disability is defined as 'a disadvantage or deficiency especially a physical or mental impairment that interferes with or prevents normal achievement in a particular area, or something that hinders or incapacitates.' This definition is similar to those definitions used in the civil rights laws that concern the rights of persons with disabilities. For example, there are the definitions of disability contained in the Rehabilitation Act. Both Acts see a disabled person 'as any individual who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having a record of such impairment.' In addition to the above, the definition of disability as contained in the Individuals with Disabilities Education Act sees disability as 'a physical or mental impairment that adversely affects a child's educational performance.' The implication of all the definitions of disability briefly provided above is that the person is limited in what he can do just because of disability. Thus, disability is seen as a limitation and a barrier to overcome. Hence, a disabled person is someone who has a physical or mental impairment, which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities (Disability Discrimination Act, 1995).

Another concept which needs to be defined in this paper is the term human rights. This concept implies the rights and freedom to which every human being is entitled to. The United Nations Universal Declaration of Human Rights (1948) spells out most of the principal rights that must be protected. In the Nigerian context, the fundamental rights are contained in Chapter IV of the Constitution, Sections 30-41. These fundamental human rights cover the following areas: (a) the right to life; (b) the right to human dignity; (c) the right to personal liberty; (d) the right to fair hearing; (e) the right to private and family life; and (f) the right to freedom of thought, conscience and religion. Others are the right to freedom of expression and association; the right to peaceful assembly and association; the right to freedom from discrimination; and the right to acquire and own property and the right to adequate payment or compensation for private property compulsorily taken by government. However, in the context of disability, four core values of human rights law are usually considered to be very important. These core values according to OHCHR (2009) are:

- The dignity of each individual, who is deemed to be of inestimable value because of his / her inherent self-worth, and not because he/she is economically or otherwise useful;
- The concept of autonomy or self-determination, which is based on the presumption of a capacity for self-directed action or behavior, and requires that the person be placed at the centre of all decisions affecting him/her;
- The inherent equality of all regardless of differences; and
- The ethic of solidarity, which requires society to sustain the freedom of person with appropriate social support (OHCHR, 2009).

The point from the foregoing is that people with disabilities just like people without disabilities are entitled, under the law or constitution of any country, to some specified fundamental human rights. However, the emphasis laid on each of the core values and the concrete actions taken with respect to them vary from country to country.

A Review of Examples of Violation of the Rights of Disabled Persons across the Globe

The ideas and concepts of equality and full participation for persons with disabilities have only developed on paper and not in reality. This is because in all countries and indeed in all types of living conditions, the consequences of disability interfere in the lives of disabled persons to an intolerable level. Today, across the globe, many instances and concrete examples of violation of the rights of disabled persons abound. For example, when a person is excluded from employment because he is disabled, he is being discriminated against as a human being. Similarly, if an education system excludes disabled children, their rights are being violated.

In developed and developing countries alike, the human rights of the disabled persons have been violated to the point that many of them live on the margins. This act of violation has been committed against all articles of the United Nation's Declaration of Human Rights. For example, in Romania, till 1990, people had no idea about the existence of disabled persons and the mentally impaired. Even now, the country does not know the real number of disabled people. The disabled persons here have no possibilities for social integration because of the existence of

architectural barriers, lack of working conditions for disabled people and no access to any public means of transportation. There were and are no possibilities for study for people with severe impairments. In Spain, a family kept a disabled woman in a stinking six feet hole for forty years. In Israel, a mother was reported to have kept her disabled daughter in a room as a family servant. Finally, a woman in Austria tortured her adopted disabled daughter for years, beating her, kicking her in the stomach and pulling her hair. She kept her in a coffin-shaped box at night for wanting more food or for taking too much. All these are against the principles of rights to life, freedom and dignity. Other specific examples of violation of human rights of the disabled persons across the globe are as documented below:

- A woman with MS who needed a word board to communicate was not allowed to give evidence in court regarding the rape and assault she suffered when in a residential home (UK). This is a violation of right of access to justice.
- Many people with intellectual impairments are detained and arrested without evidence just because of the impairment (Worldwide). This represents a violation of rights to fair hearing.
- In Kumasi Central Region, a prisoner was carried into court on someone's back and tried lying down on the floor (Ghana). This constitutes a violation of right to freedom of movement and residence.
- In many countries, deaf people who are unable to express themselves in writing are considered legally incapacitated (Africa, Latin America). This is also a violation of right of freedom of movement and residence.
- A British doctor and his family faced deportation because his daughter had cerebral palsy (Australia) – A violation of right to nationality.
- In many countries, adults with intellectual impairments are not allowed to hold passports – violation of right of nationality
- Disabled children were dumped in institutions by families seeking to emigrate to Canada before Chinese take-over (Hong Kong): – violation of right of access to mobility
- Many people in institutions are not allowed to form relationships or marry (Worldwide). – A violation of civil rights.
- A Physician secretly sterilized a young Psychologist with spin bifida during an appendix operation because she could not be a fit mother (EU): – Violation of right of marriage.
- Laws in a number of countries forbid marriage between deaf people (Africa, Latin, America): – This represents a violation of right to marriage.
- Blind people cannot be legal guardians of children (Chile, Uruguay, Honduras): – Violation of right to own property.

- The disadvantages of disabled women begin in childhood (Uganda): – Violation of right to own property.
- Disabled people are not allowed to own business (Venezuela): – Violation of right to own property.
- In case of loss of job, there is no system of personal assistance, or home assistance for disabled who need help (Portugal): – Violation of right to work.
- Law 16329, 1962 institutes a quota of 0.5 per cent to disabled people for public and private employers. Research in 1996 found overall non-compliance (Ghana): – Violation of right to work.
- There are few sources of work for disabled people and the ones that exist are very limited (Panama): – Violation of right to work.
- A group of disabled people was turned out of a hotel because they upset the other guests (Germany): – Violation of right to work.

The various forms of violations listed here are from DAA data-base of the individual and Collective experience of disabled people. From the examples cited above, it is possible to imagine the conditions in which the majority of over 600 million disabled people live in the world today. We have also shown clearly that disability is indeed a visible, human rights issue. The disabled people are human beings and have the right to equality of treatment anywhere they may be, which they hardly get. The examples given above are just a few of the examples of violation of human rights of disabled persons. There is evidence of hundreds and thousands of other cases of similar violations. What this means is that the list of violation of human rights of disabled persons is inexhaustible as it has remained a daily occurrence in many societies including Nigeria.

International and National Efforts to Stem Discrimination against Disabled Persons

As pointed out earlier, disability is a universal phenomenon begging for concerted efforts to address the recognition for concrete action to protect the human rights of the disabled people at global level did not start until 1975 when the United Nations (UN) acknowledged the need to protect the rights of persons with disabilities in the Declaration on the Rights of Disabled Persons (General Assembly Resolution 3447 of December 1975). Consequently, the rights of persons with disabilities to equal opportunities; full participation in economic and social life; and equal access to health, education and rehabilitation services were adopted under The World Programme of Action by the General Assembly of the United Nations in its resolution 37/52 of December, 1982.

Consequent upon the adoption of The World Programme of Action, the UN proclaimed the 1983 – 1992 as the UN Decade of Disabled Persons. During the decade, the world body took a number of steps towards enhancing the quality lives for the disabled people. In particular, in the late eighties a draft Convention on the Elimination of All Forms of Discrimination Against Disabled Persons was proposed for adoption by the General Assembly, which was however rejected. The UN Decade of Disabled Persons also witnessed the emergence of an instrument known as the UN

Standard Rules on the Equalization of Opportunities for Persons with Disabilities. The UN Standard Rules constitute an international legal standard of programmes, laws and policies on disability for the future. Unlike the rejected proposed draft convention, the standard Rules were adopted by the General Assembly in its Resolution 48/96 of 20 December 1993 and which remains the only achievement of the UN Decades of Disabled Persons.

The main purpose of the Standard Rules is to motivate for member states to adopt policies, programmes and measures in order to achieve full participation and equity for persons with disabilities. In order to ensure implementation by the member states, the Standard Rules provide for active monitoring by the United Nations. Hence, the UN should actively monitor the implementation of the contents of the Standard Rules. The result of the monitoring exercise shows that nations differ in the way they implement the various provisions of the Standard Rules. A general conclusion one can draw from the submissions of all the member states is that the International Year of Disabled Persons in 1981 and the World Programme of Action 1983 – 92 provided the real starting point for a new approach in political thinking and action about the disabled people worldwide. It is important to note here that in many nations that are signatories to the UN Standard Rules on the equalization of opportunity for persons with disabilities, a number of steps, including enactment of Decrees and constitutional provisions, have been taken towards eliminating any form of discrimination against the disabled persons.

Since 2000, the Disability Rights Education and Defense Funds (DREDF) has collected country-based laws that protect the rights of individuals with disabilities. Some of the disability right issues touched by the individual nation across the globe under their laws/decrees include: (i) health: access to care by the disabled persons; (ii) special Education; (iii) transportation; (iv) assisted suicide; (v) clearing house on foster youth and transition; (vi) medical ethics and disability and (vii) environmental justice.

In 1990 for example, the US government enacted a law known as the Americans with Disabilities Act of 1990 (ADA). This law prohibits discrimination on the basis of disability by employers, public accommodations, states and local government, public and private transportation and telecommunications. In 1992, Australia enacted the Disability Discrimination Act; Aged or Disabled Persons Homes Act in 1989; Aged or Disabled Persons Care Act in 1954; Disability Services Amendment Improved Quality Assurance Act in 2002; and Disability Discrimination Amendment (Education Standards) Acts in 2005, etc.

A number of provisions are also made in both Bolivian Constitution and Supreme Decree 27477 relating to the treatment of the disabled persons in that country. Under the Supreme Decree, Bolivia 4 is on validation of disability for military service; Bolivia 5 is on financial aid to the indigent blind; Bolivia 6 is on equal opportunity plan for people with disability, while Bolivia 7 is on adoption of the UN convention on the right of persons with disabilities. The Brazilian constitution of 1988 also contains a number of provisions for the treatment of the disabled persons. Bulgaria similarly has a law for the protection, rehabilitation and social integration of disabled persons (including the 2002 amendments). The Canadian Constitution of 1982 contains the Charter of rights and freedoms which specifically include; The Canadian Human Right Acts; Employment Equity Act; law on the protection and promotion of the rights of person with disabilities (2009).

In Cambodia, there is a law on the protection and promotion of the rights of persons with disabilities enacted in 2009. The People's Republic of China has a law on the protection of the disabled persons; regulations on the education of persons with disabilities, enacted in 1994; and regulation on the employment of people with disabilities enacted in 2007. In Costa Rica, there is provision for disabled persons with dependents; Act 7219 adopted the convention on vocational rehabilitation and employment of Disabled person; Decree No 19101-S-MEP-TSS-PLAN provides for the establishment of national policies for the prevention of impairment and disability and comprehensive rehabilitation; while Decree 657-P of the presidency authorizes the president to issue regulations of care facilities for elderly and disabled. Countries such as the Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gambia, Germany, Ghana, Hong Kong, Hungary, India, Indonesia, Ireland, Japan, Jordan, Kenya, Korea to mention but a few also have different provisions for their disabled persons either in their Constitutions or Decrees.

The Nature of Violation of Human Rights of the Disabled Persons in Nigeria and Efforts Made by the Government

Just like other countries in the world, persons with disabilities in Nigeria also suffer so much violation of their human rights. Today, persons with various forms of disabilities which include children, women and adults are relegated to the background and often treated as outcast. According to Chinaedu (2012), the disabled persons in Nigeria are perceived as objects of charity rather than subjects with rights. The disabled persons in Nigeria suffer discrimination in diverse sectors of the society. Indeed their exclusion from main stream of the society is obvious. Any casual observer of the situation of the disabled persons in Nigeria would easily notice that they are exempted from enjoying their invaluable rights and privileges which most other people in the country benefit from. As a result of this pathetic condition of the disabled persons in Nigeria, a sizeable number of them engage in street begging and other frustrating activities. Many of them suffer from various types of diseases especially mental disorder. The right to mobility of the disabled people in Nigeria is also commonly violated as there is no special provision for the disabled persons in terms of transportation. The disabled still struggle with people without disability on the street for movement. There is also no special provision for them in the architectural designs of buildings. The education system in the country excludes many of the disabled persons just as their right to adequate information is constantly violated at public gatherings. Above all, the disabled persons in Nigeria suffer many forms of cultural, social and economic discriminations. However, in the northern part of Nigeria there is cultural tolerance for the disabled persons in the community while the same cannot be said of the disabled persons in the South of Nigeria. Generally, the occupations reserved for the disabled persons are quite limited just as there is no special health provision for the disabled persons in Nigeria.

The discrimination suffered by the disabled persons in Nigeria is due to a number of factors. Some important factors that are often omitted by observers or analysts are the sociological and cultural factors that have a significant effect on the behavior of individuals and the society towards the disabled persons. In Nigeria, the cultural factor remains one of the several reasons for the discrimination suffered by the disabled persons. It is important to note however, that the influence of culture on the behavior of an individual and society towards the disabled person varies from one culture to another. In some cultural settings the disabled people are fully

integrated into the society. For instance, in the Northern part of Nigeria, all forms of disability are seen as the act of God and therefore the people so affected must by this reason not be despised. That is the reason, why people with the worst type of disability such as leprosy are found living under the same shelter with people without disabilities. In some other cultural settings, however, such as the South West, the disabled persons are not so favourably treated. In some cases, these disabled persons live in separate shelters and often abandoned by their family members. The social interactions between disabled persons and not disabled ones are limited in this setting. Worse still is the fact that some disabilities are considered as punishment from God, and therefore such persons must not be associated with.

Another reason for the discrimination against disabled persons is the government's nonchalant attitude towards these groups of people. The Nigerian government seems uncaring for the disabled persons. For this reason, the needs of the disabled persons in Nigeria are often left unattended to by the government. Thus, the government only pays lip-service to the plight of the disabled persons. Therefore, many disabled persons who ought to be taken care of by the government, but are not, often take to alternative means of survival particularly street begging.

All the above facts notwithstanding, the Nigerian government has also acted positively on paper towards alleviating the problems of disabled persons in the country. Indeed, the officially recognized disability policies in Nigeria are expressed in law. There is also a government Ordinance issued in 1993 which is meant to serve the purpose of protecting people with disabilities. The emphasis of such ordinance is on prevention, rehabilitation, accessibility, measures and anti-discrimination law. The 1993 Decree on Nigerians with disability promulgated by the Federal Military Government in line with the UN Resolution on the treatment of disabled persons was another effort made by the Nigerian government to alleviate the problems of the disabled persons in Nigeria. The purpose of the Decree is to provide a clear and comprehensive legal protection and security for Nigerians with disability as well as establish standard for enforcement of the rights and privileges guaranteed under this Decree and other laws applicable to the disabled in the Federal Republic of Nigeria (the 1993 Decree). Under section two of the Decree, which deals with declaration of policy, it is stated that the disabled persons shall be guaranteed treatment as equal to other Nigerians for all purposes in the Federal Republic of Nigeria. Accordingly, the Decree mandates that it shall be the duty and responsibility of organs of government and of all authorities and persons to adopt and promote policies that will ensure full integration of the disabled into the mainstream society. Under this Decree, the government shall ensure within the context of the economy, political and social idea and objectives to Nigerians that: (a) the disabled persons are fully integrated into the national economy; (b) disabled persons shall have equal right, privileges, obligations and opportunity before the law; and (c) disabled persons are provided equal and adequate education. In a nutshell the Decree provides for health services, education, vocational rehabilitation and employment, housing accessibility, transportation, supportive social services, sport and recreation, etc. In spite of these beautiful provisions in the 1993 Decree on the people with disabilities, the goals and objectives are far from being achieved as many disabled Nigerians are still not in school; are without adequate healthcare and suffer from serious neglect in other areas of human endeavor.

Recommendations

This paper therefore concludes that unless the Nigerian government becomes more serious about the formulation and implementation of policies regarding the disabled persons, the suffering and agony currently being experienced by the disabled people will continue to aggravate, thereby creating more street beggars and lunatics that have become the shame of this nation. The paper thus recommends that there should be concerted effort on the part of the government and people in the society to stem the rate of growth in the number of disabled persons through the provision of effective health care system. For the young disabled person in the country, the paper suggest that the educational system in the country should effectively provide for these special people by enacting laws that will make education and vocational training compulsory for the disabled persons. The paper also advocate for establishing a compulsory fund for the general welfare and wellbeing of disabled people. It is also suggested that our roads and architectural designs for homes and public buildings should factor in the needs of these disadvantaged groups. Finally, the paper suggests that the government should start to think about establishing a Ministry that will specifically take charge of the needs of the disabled people in Nigeria as against the current Ministry of Social Welfare, which is meant to take care of both normal and disabled Nigerians.

Conclusions

This paper examined the issue of violation of human rights of the disabled persons in the context of the principles of human rights as stipulated by the United Nations in the UN General Assembly Resolution of 3447 of December 1975. With this Resolution, the rights of persons with disabilities to equal opportunities; full participation in economic and social life; and equal access to health, education and rehabilitation services were adopted under the World Programme of Action. Since that time, different nations have adopted different programmes of actions under the principles of the UN General Assembly Resolution. In particular, Nigeria has formulated some laws and enacted the 1993 Decree, specifically to alleviate the problem facing the disabled persons in the country just as it is done in other nations of the world. In spite of the various major efforts made by the government, the majority of the 24 million disabled people in Nigeria is still suffering from discrimination and neglect due to either policy failure or lack of policy implementation. The paper also observed that because of the attitude of the government and the society in general, the disabled Nigerians are living in poverty with detrimental effect on their health and wellbeing.

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