

**DIGGING DEEP - HARVESTING THE FRUITS OF NIGERIA'S DISCRIMINATION
AGAINST PERSONS WITH DISABILITIES ACT OF 2018 & THE LAGOS STATE
SPECIAL PEOPLE'S LAW OF 2011 (AS AMENDED).**

BY

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DIGGING DEEP - HARVESTING THE FRUITS OF NIGERIA'S DISCRIMINATION AGAINST PERSONS WITH DISABILITIES ACT OF 2018 & THE LAGOS STATE SPECIAL PEOPLE'S LAW OF 2011 (AS AMENDED)

Background:

In Nigeria, The provision for disability rights and issues in any legal and policy framework, and/or the making of any disability law and /or policy dates back to the first National Policy on Education issued in 1978 which provided for the establishment of special schools at primary and secondary levels, the establishment of special education course programmes at tertiary levels and the setting-up of government-owned vocational training institutions at national and state levels.

Since 1978, successive governments at national and state levels merely focused on the implementation of the national education policy with complements of various forms of charity and welfare programmes.

The first broad-based national disability legislation in Nigeria was the Disability Decree of 1993, passed during the General Babangida Military Administration with no documented evidence of implementation.

The return to democratic government in 1999 encouraged a significant upsurge in the formation of very active disabled people's organizations (DPOs) which played active roles in the conduct of several disability rights advocacies; conduct of public awareness and sensitization; and the promotion of partnerships and collaborative efforts with national and state governments, international development partners, mainstream civil society, the media and other critical stakeholders across Nigeria at national and state levels.

Within the 20 years of this current democratic experience, about 24 States of the Federation (Lagos, Ogun, Ekiti, Ondo, Anambra, Enugu, Imo, Akwa-Ibom, Edo, Delta, Kwara, Kogi, Plateau, Nasarawa, Kano, Kaduna, Kebbi, Jigawa, Gombe, Bauchi, Adamawa, the FCT-Abuja, etc) and the Federal Government have either initiated, fully enacted, and/or have commenced partial or full implementation of various forms of disability rights legal and policy frameworks. In addition, some of these states (especially Lagos, Oyo, Ekiti, Ondo, Plateau, etc) and the Federal Government have, during this period, established political and administrative structures to

oversee implementation of their various disability legal and policy framework. While President Muhamodu Buhari has been the first Nigerian leader to appoint a Senior Special Assistant on Disability Matters and the current Speaker of the Federal House of Reps being the first in the history of Nigeria's national Parliament to appoint a PWD among his Legislative staff, , Many states now appoint PWDs as Special Advisers, Executive Assistants, etc to their State Governors on Disability matters.

It is important to also add that some key national MDAs including the INEC, CBN, BOI, NITDA, NCC, NSIO, NHRC, Federal Ministries of education, health, Women and Social Development, Youth and Sports, transport, Works and Housing, etc have each made documented efforts towards mainstreaming disability issues in their work. Similarly, in many States, MDAs on Education, health, transport, women affairs, social rehabilitation, etc have also made visible efforts at mainstreaming disability issues in their policies and programmes.

In all, key sectors which have received more attention in the last 20 years include: education, health, public works and infrastructure, telecommunications and ICT, public transport, social development, sports, finance, the electoral process and justice.

In spite of this reasonably reach background in the making and implementation of disability legislations and policies, especially in the last 20 years, , there are still very huge gaps with regards to the attainment of full inclusion of persons with disabilities in all spheres and sectors of life in Nigeria at national, state, local and community levels. For example, inclusivity and accessibility needs of visually impaired persons (such as access to information; access to, and safe use of public infrastructures like roads; access to, and safe use of public transport system; access to qualitative and functional inclusive education; attainment of fully independent living; inclusion into political and socio-economic activities; etc) are still very far from being met.

Accordingly, the focus of this short presentation is to highlight the key features and provisions of the Lagos state and national disability laws respectively; underscore good practices with regards to the implementation of these laws; identify some of the shortcomings with implementation of the Lagos state law which must be avoided at the national level; and indicate strategies for harvesting their gains.

Comparative Highlights of the Lagos State and National Disability Laws:

Since the objective of this presentation is to sensitize and raise awareness of the audience, time and space may not permit a detailed comparative study. However, we shall dwell on some areas of divergence and convergence of key provisions in the two laws with regards to establishment and functions of implementing institution, Prohibition of discrimination, access to key services including education and health, access to public utilities including public infrastructure and transport, access to assistive technologies and mobility aids, access to information, inclusion in economic empowerment and employment programmes, as well as establishment of judicial proceedings against a breach of the laws by individuals, organizations and government.

1. ESTABLISHMENT AND FUNCTIONS OF IMPLEMENTING INSTITUTION:

There is need to clarify that while the Lagos State Special People's law was enacted in June, 2011, and the implementation institution (Lagos State Office for Disability Affairs LASODA) set-up in July, 2012, the Discrimination Against Persons with Disabilities Prohibition Act of 2018 is yet to be implemented since its assent by the President in January 23rd 2019.

Although both laws provide for the establishment of an institution to oversee implementation of the law, the divergence here is that while the national law complies with international standards of providing for the establishment of an independent Agency (such as a Commission) as prescribed by the UN Convention on Rights of Persons with Disabilities, the Lagos state law fails in this regards because its implementing institution is a largely dependent office situated within the State Ministry of Youth and Social Development. This has made it difficult for the implementing institution in Lagos state to freely and effectively carry out its operations. We shall discuss this further in sections on "Shortcomings" and "Harvesting Gains"

In terms of functions, both laws prescribes very similar functions for their implementing institutions. However, while the Lagos State Office for Disability Affairs (LASODA) has spent the last seven years of its existence at the take-off level of discharging its functions, the National Disability Commission as provided for in the national law is yet to be established.

PROHIBITION OF DISCRIMINATION:

The national disability Law and Lagos state law clearly prohibits any form of discrimination against PWDs. However, there are no clear and distinct description of what constitute “discrimination” in both laws. Only the National law prescribes penalties for defaulters.

2. ACCESS TO KEY SERVICES INCLUDING EDUCATION, REHABILITATION AND HEALTH:

The two laws makes similar provisions to promote access of PWDs to health and education. The laws lay emphasis on achieving qualitative, functional, inclusive and free education upto secondary level while advocating for access to scholarships. The laws provide for effective support for teacher education and appropriate curriculum content.

It is important to note, at this point that both Lagos state and the Federal Government have developed policy framework on inclusive education. However, neither of the two governments have done much to improve on the delivery of a truly inclusive education system. While we can appreciate Lagos State for having made reasonable attempts by designating over 50 public primary and secondary to offer inclusive programmes, the Federal government is yet to implement its policy which was approved by FEC in 2017.

Similarly, the Lagos State Office for Disability Affairs (LASODA) saddled with the responsibility of issuing guidelines in this regards has done next to nothing to enhance inclusive education.

There is convergence between the two laws on need for accessible health services with appropriate communication and other support. The laws also agree on the need for free health services for PWDs. However, no modalities are given in either laws as to how this is ot be achieved.

ACCESS TO PUBLIC UTILITIES INCLUDING PUBLIC INFRASTRUCTURE AND TRANSPORT:

There are no divergences between the national and Lagos state laws on their provisions on the need for public infrastructures like buildings, roads, side-walks, etc, as well as public transport including road (buses), rail, sea and air ports to meet specified accessibility standards. The laws also provide for reservation of spaces in buses and parking lots

However, both laws fail to provide specific details with regards to the accessibility needs of the different disability types (such as the blind) to the various public infrastructure and transport

systems mentioned. In most cases, emphasis is devoted to those with physical (wheelchair) accessibility needs. Considerations of the needs of the blind for use of roads, side-walks, buildings, toilets, transport systems like buses, etc are not specified.

ACCESS TO ASSISTIVE TECHNOLOGIES AND MOBILITY AIDS:

the national and Lagos state laws empower their implementing institutions (the National Disability Commission and LASODA respectively) to support PWDs with the provision of assistive technologies and mobility aids.

The laws also mandates public service providers and employers of labour to ensure reasonable accommodation including provision of assistive technologies and mobility aids where applicable.

ACCESS TO INFORMATION:

The two laws mandates the Disability Commission and LaSODA respectively as well as public service providers to ensure access of PWDs to relevant public information.

However, neither of the laws specify public information categories and the accessibility formats which must be complied with.

INCLUSION IN ECONOMIC EMPOWERMENT AND EMPLOYMENT PROGRAMMES:

The two laws provide for equal employment opportunities for PWDs. The laws specify percentages of staff population which must be reserved for qualified PWDs.

The laws highlight work-place accessibility conditions which employers must meet including physical access to offices, toilets and other buildings; assistive technologies; housing accommodation; allowances, etc.

Both laws recommends that PWDs should be prioritized in the implementation of social protection and economic empowerment programmes.

ESTABLISHMENT OF JUDICIAL PROCEEDINGS AGAINST A BREACH OF THE LAWS:

Unlike the National disability law, the Lagos state law does not prescribe distinct penalties for the breach of any provisions of the law by individuals and/or organizations. However, both laws provides for the refusal or withdrawal of disability certificate and building licenses in the notice of any lacks in compliance to stipulated guidelines.

Although both the national and lagos state laws empowers the implementing institution (the National Disability Commission and LASODA respectively) to institute legal actions against defaulters, with indications of the possibilities of PWDs receiving legal representation where the need arise, the two laws fail to make specific guidelines for the establishment of judicial proceedings against defaulters

Shortcomings with Implementation of the Lagos State Special People's Law:

Some specific shortcomings are identified with the implementation of the Lagos State Special People's Law since its enactment in 2011—

Lack of independence of the implementing institution;

Overbearing political and administrative controls of implementing institution despite the existence of a Governing Board;

Low consideration of merit and professionalism in the recruitment of management and middle-level staff of implementing institution;

Very low technical, human and institutional capacities in the implementing institution;

Poor implementation score-card since seven years. For example, no guidelines has been issued thus far on any sector by the implementing institution;

Poor inter-Agency partnership and collaboration between implementing institution and other MDAs;

Low level of compliance by government and other stakeholders;

Insufficient deployment of ICT across functions and programmes;

Inadequate stakeholder engagement, public awareness raising, low media coverage and poor corporate branding;

Poor resource mobilization capacity;

GOOD PRACTICES IN THE IMPLEMENTATION OF THE LAGOS STATE SPECIAL PEOPLE'S LAW:

Notwithstanding the shortcomings identified in the implementation of the Lagos State Special People's Law, some good practices have been observed from the over 6 years of its implementation—

Leadership of Board and management by PWDs;

Composition of Board, management, and staff by PWDs and non-disabled persons;

Regular consultations between implementing institutions and DPOs and other stakeholders;

Development of disability data-base;

Design and issuance of disability certificates and other statutory documents;

Conduct of disability talent exhibitions;

Provision of assistive technologies and mobility aids;

Implementation of disability empowerment fund;

Promotion of disability communication skills such as the sign language;

Facilitation of employment of over 300 PWDs into the state civil service;

Provision of minimum physical access to all government buildings within the state secretariat and reasonable compliance with accessibility provisions in newly constructed government buildings;

Training of front-desk officers and porters with 8 in the state secretariat and the LASTMA officials on basic disability support skills;

Strategies for harvesting the Gains in the Lagos State and National Disability Laws:

Disability issues should be engaged using the twin-track approach; both as stand-alone and as cross-cutting or multi-sectoral issues which can not be effectively addressed within the limited confines of “social development”. This requires an implementing institution with a more diverse orientation with the supervision and support of an overall Chief Executive (President or Governor or their deputies) with oversight over all aspects of national or state affairs. This enables the country or state to perceive and address disability issues from a much broader perspective than social development.

There is need to avoid the temptation to confine disability issues to mere charity and medical models and perspective. Rather, disability must be engaged from the human rights and inclusive development models. This increases the seriousness and attention given to disability issues.

There is Need to deploy effective use of ICT across all functions of the implementing institution especially with regard to the development of a robust disability data-base, provision of services, stakeholder engagement and public awareness raising.

There is Need to develop and operate a strategic plan with clear goals, objectives, targets and success indicators, as well as clearly identified resource avenues

There is Need to strengthen collaboration and partnership with strategic MDAs, the private sector, development partners, the media, civil society and other critical stakeholders.

Institutional, human and technical capacities of the implementing institution must be strengthened so that they can respond to disability issues across sectors.

It is necessary for implementing institutions to develop and sustain a robust research department for the purpose of addressing issues from a knowledge-driven evidence-based programmatic approach.

There is need for proper redefinition and operationalization of key concepts and terms including “discrimination”, “access”, “inclusion”, etc in accordance to how they relate with the different impairments or disabilities.

CONCLUSION

Although the Lagos State Special People's Law has existed for nearly a decade with the implementing institution fully established, not much has been achieved with regards to gains thereof. While this may be attributed to the various shortcomings identified, there are opportunities for improvement if the outlined strategies are considered.

There are obvious areas of amendments which the Lagos state law can adopt from the Discrimination Against Persons with Disabilities Prohibition Act. These areas may include the reconfiguration of the implementing institution in Lagos state from a mere "Office" to a fully independent Commission; the reconstitution of the membership of the implementing institution in Lagos state to accommodate other relevant MDAs; and the prescription of appropriate penalties to defaulters of the law.

Nonetheless, it is envisaged that the implementing institutions of the National disability law (when fully established), and the Lagos state law (if properly reformed) could effectively correct identified shortcomings with the strategic use of innovative policy guidelines, strategic collaboration with stakeholders and comprehensive public awareness and engagement.

THANK YOU ALL FOR YOUR ATTENTION!!!