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## Safeguarding the Future and Right to Education of Children with Disabilities in Nigeria

### Abstract

Children, just like every human, are entitled to rights which have been described by some as fundamental and inalienable to human existence. The right to education is one of such rights and is essential in the development of man and his society. Disability stands as a major hindrance in the actualization of the right to education of children in Nigeria. This paper examines the plights of Nigerian children with disabilities as it relates to their right to education. It highlights the physical, social and attitudinal barriers children with disabilities face which negate and hamper their right to education. The discussion in this paper is hinged on the legal regime that affects the right to education of the Nigerian child with disabilities which include: Nigeria's Constitution; Nigeria's Child's Right Act; the Convention on the Rights of the Child; Universal Declaration of Human Rights; and the African Charter on Human and Peoples Right. It posits that attitudinal change and need for the adoption of best practice are the panacea for the protection of the right of education of Nigerian children with disabilities.

Keywords: children with disabilities, right to education, child's right and attitudinal barriers

### Introduction

Children with disabilities (CWDs) are one of the most vulnerable groups in society. A large percentage of children with disabilities in the world live in developing countries. A 2017 World Bank Study revealed that the literacy gap between CWDs and their able-bodied counterparts has been on the increase over the last 3 decades. This is as a result of several factors including marginalisation, segregation and discrimination. The situation in Nigeria is no different. CWDs in Nigeria face several challenges in actualising their right to education. The first challenge being the negative cultural perception that exists about disability as well as several other challenges. Disability is viewed as a curse amongst many cultures in Nigeria. There are other negative cultural perceptions that exist about disability. This is sometimes seen in the language used to refer to persons with disability. Labelling people with disability imposes severe limits on them from a cultural, social and economic perspective; this imposed limitation that isolates them from the culture and the society (Eskay et al., 2012).

Children with disabilities suffer discrimination even within the family unit. They are sometimes excluded and isolated from family interactions and are tucked away from the outside world because of fear of stigmatisation from members of society. Some are even marginalised and denied participation in house chores and other informal education within the home. They are viewed as liability and just useful for begging alms.

The right to education of CWDs is one the least considered rights for such children in the society. They are most of the time allowed to enjoy their right to life simply for moral and perhaps religious reasons and not because they ought to be treated equally as others within the family and the society. It is thought that children with disabilities are not useful nor constitute an important part of society that can contribute to the growth and development of the society. Neither is there hope that like their able-bodied counterparts, they would grow to care for and support aging parents. Rather they are viewed as liabilities that may depend on others throughout their lifetime.

This paper examines the rights to education of Nigerian children with disabilities. It adopts the view that their rights to education is a human right. The laws pertaining to education and children with disabilities both internationally and locally are appraised. It discusses the plight of children with disabilities with respect to education and proposes recommendations to safeguard their right to education.

## **Conceptual clarifications**

### *Child*

Article 2 of The African Charter on the Rights and Welfare of the Child (1990) defines a child as every human being below the age of 18 years. Article 1 of The Convention on the Rights of the Child (1989) also defines a child as ‘...every human being below the age of eighteen years’.

### *Disability*

Cambridge dictionary defines disability as a disorder, impairment, or deficiency that makes it challenging for a person to do the activities others do. Section 57 of the Discrimination Against Persons with Disability (Prohibition) Act (2018) includes ‘long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder full and effective participation in society on equal basis with others’. Disability includes physical impairment (for example visual, speech, hearing and mobility impairment), mental impairment, intellectual impairment and sensorial impairment. Persons with disabilities would therefore be persons having or experiencing a disorder or deficiency that makes it challenging to participate in full all life’s activities (Adiela, 2019). Disabilities may result from man-made causes (such as accidents), and man’s inhumanity to man. Negligence by health care providers, biological factors and poverty are other causes of disability.

### *Human rights*

Human rights, regardless of background, gender, age, national origin, language, religious belief, or indeed any other social position, are rights fundamental to all human beings. They typically comprise the right to life and equality, the right to freedom of thought and speech, the right to education, and much more. These rights are made for free enjoyment of all simply on the basis on their “humanness” and without prejudice. Human rights are principles which acknowledge the value of all human beings and protect them. They regulate the manner in which humans or citizens of a state reside in and with each other, and also the responsibilities of the state to its citizens (UNICEF, 2007).

## *Education*

Education can be defined as a method of information acquisition through research or knowledge transmission through directives, tutorials or other techniques. Aristotle defined Education as the act of coaching people to achieve their goal by implementing all the skills to the greatest potential as a responsible citizen (Kumar & Ahmad, 2008).

Education stretches further than what occurs inside the classroom or any designated place. Children observe their environment and receive education from their encounters, experiences and interactions outside the school premises. Therefore, education can be classified into formal and informal education.

In general, formal education or learning mainly occurs at the school campus, in which a student can acquire primary, academic, or commercial skills, such as a nursery school, primary school, secondary school, university and so on.

Informal education adopts non-use of specific methods of teaching. It does not require the deliberate act and process of a formal education. Learning can take place anytime and anywhere without the need for a formal curriculum or time table. It includes transfer of skills and knowledge through observation, hands-on practice and storytelling.

For a meaningful human life, education is of great significance as it helps an individual to actively engage and work effectively in society by improving the society and themselves.

## *Right to education*

In the implementation of human rights, education is fundamental to the economic, social, civil and political development of a nation. The right to education imposes legal responsibilities on government decisions on education for its citizens.

The Universal Declaration of Human Rights (1948) provides for the right to education, highlighting in Art 26 that elementary education must be compulsory. In Nigeria the government must guide its policy to guarantee the availability of free, fair and equitable education at all levels while seeking to eliminate illiteracy (Section 18(1) (3) Nigerian Constitution, 1999). In 2000, the Nigerian government re-launched the Universal Basic Education (UBE) Programme in favour of these constitutional provisions and it is regulated by the Universal Basic Education Act.

According to the Child's Rights Act (CRA), every child is entitled to free, mandatory and universal basic education provided for by the government. Section 15 of CRA mandates the Nigerian government, parents and guardians to provide at least elementary school education for their children (including CWDs). The purpose of the right to education is that it must be offered without discrimination and to everyone.

## **Theoretical foundation**

### *Right to participate*

All people (adults or children) have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being. Unfortunately, the fundamental strategy was to isolate or exclude CWDs

from the general society due to the assumption that they are inadequate and unlikely to adapt or survive in the normal society. Hence, they are often placed in segregated facilities, special school, and peculiar accommodation. It is opined that the right of CWDs to participate should be protected. This will guarantee that they are given equal right to participate in education and access information that relate to decision-making processes that affect their well-being and lives.

CWDs are vulnerable and usually susceptible to oppression, exploitation and discrimination. Therefore, ensuring they are educated, provides them with the opportunity to be exposed to the information their able-bodied counterparts have, thereby, giving them an opportunity to be able to fend for themselves and perhaps, contribute to national growth and development.

It is argued that where CWDs are included in mainstream education as against special education, it will improve their ability to learn in a normal and structured environment which will result in better understanding for them and also positively affect the able-bodied individuals to appreciate them as humans.

### *Principle of non-discrimination*

Human right is built on the principle of equality and non-discrimination on any basis. Thus, disability should not be a basis for discriminating between children. Excluding CWDs from mainstream schooling will amount to discrimination. Similarly, excluding them from informal education within the family setting amounts to discrimination which the Universal Declaration for Human Rights (1948) stands against.

## **Legal regime**

### *1989 Convention on the Rights of the Child (CRC)*

The Convention wholly addresses the human rights of children and is significant due to the incorporation of an article that expressly addresses the rights of children with disabilities. Article 2 of the CRC, specifically prohibits discrimination on the basis of disability. This theory is guided by the understanding that differentiated or specialized amenities and structures for education and other areas of life, on the grounds of disability will promote exclusion. Thus, children should be educated and treated equally within the same space irrespective of their disability or otherwise.

The right of a child to education is embodied in Articles 28 and 29 of the CRC. The provision for primary education to be mandatory and accessible free to all is a vital effect as well as secondary education to be affordable and equally accessible to any child, with financial support given when appropriate (UNICEF, 2007).

### *African Charter on Human and Peoples' Rights Act 1981*

The principal African regional human rights framework is the African Charter on Human and Peoples' Rights Act (1981). The Charter empowers every person to "enjoy the rights enshrined and guaranteed by this Charter without discrimination of any kind" (Article 2, ACHPR). The Charter contains special provisions specific to the unique "physical or moral needs" of the elderly and disabled to establish a comprehensive approach to equality for people with disabilities. States are also expected to take appropriate measures in ensuring that people with disabilities are

able to enjoy the rights and freedom provided by the Charter. The ACHPR was ratified and domesticated in Nigeria which birthed the domestic law, the African Charter (Ratification) Act (1983).

### *1999 Constitution of the Federal Republic of Nigeria*

The Nigerian Constitution does not contain rights for children with disabilities, however this could be implied in section 42(2) of the Constitution with regard to the prevention of discrimination against people with disabilities, including children. It provides that “no citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth” (Section 42(2)).

### *Nigerian Child’s Right Act 2003*

This Act has provided extensive frameworks for the rights of a child. Section 16(1) of the Act ensures that any child in need of protective measures shall be entitled to a measure of protection adequate to their needs in furtherance of their active involvement in the community. The Act did not explicitly address the rights of children with disabilities but only mentioned children with special needs. However, the words ‘disability’, ‘impairment’ and ‘handicap’ are often synonymously used to describe people with ‘special needs’ (Boezaart, 2012).

The Act further broadened the rights of CWDs by providing that everyone or institution saddled with the responsibility to ensure the care or special protection of a special need child must strive to provide the much-needed support required for his education, job preparation and or rehabilitation in order to ensure his progressive development (Section 16). This provision restricts the enjoyment of the rights of children with disabilities to the availability of resources and at the discretion of their care givers.

## **Plights of Nigerian children with disabilities and education**

There are several challenges facing children with disabilities that militate against the actualization of their right to education. Discrimination is the underlying challenge of children with disabilities. Others include negative perception of society towards disability, non-inclusive nature of the educational environment, finance, and lack of assistive devices.

### *Discrimination*

CWDs are culturally perceived to be inferior to their able-bodied peers. They suffer discrimination, exclusion, relegation and are often treated as outcast. They are sometimes procured to beg for alms for the family. Families exploit the fact that they are sometimes viewed as objects of pity by some members of the society to make money for the family. They are made to beg for alms even sometimes against their wish while other family members enjoy a greater percentage of the bounty to their detriment. Such refusal is usually accompanied with threats to, and sometimes actual verbal and physical assault as well as denial of food. It is a case of either way, they lose from the venture.

CWDs are not given equal opportunity as their able-bodied counterparts in the family. Scarce or limited resources such as food, clothing and education are first

given to the able-bodied children before CWDs. Thus, CWDs are the least people considered to enjoy education. For some families, they struggle to understand why an invalid should be educated. Their thought is that such education amounts to waste of valuable time and scarce resources. This negative perception explains why CWDs are not properly fed, clothed or catered for like their other counterparts in the home and sometimes, hidden away from public view. They are excluded from participating in family time, chores and special activities, and informal teaching such as transmitting family values and handiworks to them. In fact, they are isolated, segregated against and excluded from the other children in the home. Thus, they grow up knowing nothing but discrimination. This affects their psychology to believe that they are second-class and inferior humans.

Even where some CWDs are encouraged to enrol in schools perhaps through the efforts of NGOs, they suffer discrimination from their school mates and teachers. A study carried out by Adiola (2019) revealed that children with albinism are bullied by their school mates, classmates and teachers. Same treatment or experience is faced by CWDs.

#### *Lack of appropriate educational facilities and trained teachers*

Public educational institutions are designed for abled-bodied children without consideration to CWDs. Most school buildings are built in such a way that children with physical disabilities will necessarily be dependent on others, thus subjecting them to ridicule and low self-esteem. School buildings do not have ramps, the toilet facilities are not large enough to accommodate wheel chairs, and sometimes the doors hinder the passage of wheel chairs. The play equipment, where such exist, are hardly suitable for CWDs.

The needs of children with visual impairment are not catered for as public schools do not have Braille machine for such children. Even in “special schools” the Braille machines are insufficient to meet the demand. Thus, mainstreaming children with visual impairment is almost practically impossible.

Children with hearing and speech impairment may look like normal children, thus may suffer verbal and physical abuse and bullying from their teachers and classmates who may initially not understand that they have a disability.

The other issue is lack of trained teachers to work with CWDs. There is a dearth of teachers in special needs education. This leaves CWDs in the hands of teachers who are only trained to cater for able-bodied children. Where such teachers encounter children with any form of disabilities (including learning disorders) they are at a loss on how to handle them.

#### *Poverty*

Poverty is another challenge that children with disabilities are faced with. The resultant effect of poverty on these children is that it makes their families procure them for begging of alms instead of sending them to school. Many CWDs that need devices to aid them are unable to get their required devices because of lack of finance to afford such devices.

## Conclusion and recommendations

The negative perception that exists about disability negatively affects CWDs in Nigeria. CWDs suffer neglect, exclusion and discrimination in several areas including in education. Many families consider it as a waste of time and scarce resources to educate CWDs. They are instead used to beg for alms.

Although there are laws which guarantee the right to education of all children, CWDs still face several challenges in the actualisation of their right to education. These challenges include poverty; lack of appropriate educational facilities, assistive devices and teachers; and discrimination.

The following are some recommendations to safeguarding the right to education of CWDs.

1. Amend the Child's Rights Act by abolishing the discretionary clause in order to make the government obligated to include the special facilities and services necessary for CWDs to enjoy the rights provided in the Act.
2. A structure should be in place to promote teacher training to meet the needs of special needs children in educational institutions.
3. Government and NGOs should take it upon themselves to provide assistive devices to CWDs at no cost to their parents.
4. Government should implement the policy on inclusive education.
5. Government should implement the Discrimination Against Persons With Disabilities (Prohibition) Act (2018).
6. NGOs should intensify disability education of the populace especially within the rural communities. This way, some of the myths and negative perceptions about disability will be burst and changed positively.

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