

**A CRITICAL ANALYSIS OF LAW PROTECTING PEOPLE WITH
DISABILITIES; CASE NIGERIA AND UGANDA**

BY


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**A RESEARCH SUBMITTED TO THE SCHOOL OF LAW AT
KAMPALA INTERNATIONAL UNIVERSITY IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF
BACHELOR DEGREE OF LAWS**

SEPTEMBER, 2018

DECLARATION

I Azaye Julius, an undergraduate of Kampala International University, and a law student at Kampala International University, declare this research report is original and a result of my own efforts and to the best of my knowledge, it has never been presented to any institution of higher learning for any award, I also take full responsibility of the errors, if any found in this publication.

Signature..........

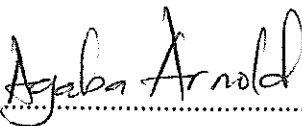
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APPROVAL

This is to certify that this research about a critical analysis of law protecting people disabilities: case study: Nigeria and Uganda has been submitted for examination with my approval as a University supervisor.

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Date.....

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DEDICATION

I dedicate this research report to my parents Mr. Jonah Ikowe Azaye and Mrs. Martha Mngunyi Ikowe Azaye, my beloved elder brothers; Sylvester I. Azaye and Alexander I. Azaye, also their lovely wivies; Margaret M. Azaye and Dorathy S. Azaye, my sisters, cousins, nephews and nieces, my roommates Mr. Demian D. Utennan and Mr. Wanga Solomon Shiebee and to all my lecturers, friends and my fellow students (course mates) for the care, love, advice and financial ~~and~~ support they rendered for my education since Nursery to University level. I am ever grateful.

ACKNOWLEDGEMENT

Work of this nature can only be accomplished with external guidance and support from different individuals. It is therefore on this note that I extend my sincere gratitude to my lecturers, course mates for their love, care advice, help and support to make this work a success.

Firstly, I thank the Good Lord, the Almighty God for immerse protection and for keeping me alive till this time because most^{of} people some^{of} whom we started with have not made it to this time. More so, I thank God for wisdom, courage and strength to write this report without which I would have managed.

My sincere thanks go to Mr. Agaba Arnold who helped me to shape the study through. He provided a professional role model of an ethical and compassionate person.

I cannot ignore the tremendous sacrifices of my family to make sure that I achieve this level.

I'm also grateful to the Kampala International University School of Law and the lecturers for impacting knowledge on me that has been used to organise this work. Also the Nigeria and Uganda legislations that have served a primary source during my study of this research report.

Thank you very much. May the Almighty God reward you abundantly.

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LIST OF LEGISLATIONS.

The Constitution of the Federal republic of Nigeria, 1999 as amended.

The Constitution of the republic of Uganda, 1995 as amended

The Nigerians with Disability Decree, 1995

The Persons with Disabilities Act, 2006 S(LOU).

Persons with Disabilities Bill 2016

The National Council of Disability Act (LOU).

The Nigerian Labour Act(LOU)

The Employment Act, 2006(LOU)

The Nigerian Trade Unions Act

TheTrafficandRoadSafetyAct,1998 Cap 361(LOU)

The Access to Road ActCap 350(LOU)

The equal opportunity Act (LOU)

The Business,Technical, Vocational & Training Act Cap1(LOU)

Uganda communication Act

African Charter on human and people rights

Universal Declaration of human rights

United nations convention on rights of persons with disabilities.

Other countries legislations

American Disability Act 1990

Discrimination in working life of people with Disabilities Act (Sweden) 1999

DisabilityDiscrimination(UK)Act

LISTS OF ABBREVIATION

PWDs	persons with disabilities
PLWDs	persons living with disabilities
ADA	American Disability Act
FRN.	Federal Republic of Nigeria
UNCRPWDs.	United nations convention on rights of person with disabilities
UDHR.	Universal Declaration on Human Rights

Key words

Disability is an impairment that hinders on to function normally but physically and psychologically.

Disabled this is one or person who suffers any form of impairment.

ABSTRACT

The study was about a critical analysis of law protecting people with disabilities on Nigeria and Uganda's laws.

The study analysed on both Nigerian and Ugandan laws that govern and protect persons with disabilities. The primary source of the study was carried merely on established laws on the topic. The secondary source came from articles, textbooks, experience and observation.

Research topic: A critical analysis on the law protecting people with disabilities; case Nigeria and Uganda.

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CHAPTER ONE.

INTRODUCTION

The law protecting people living with disability is established in various international conventions, regional laws and national legislations. This is because before now, disabled people were being looked at with pity, but not what the law says or their legal rights. The law is far coming but it is surely surfacing. Today, in developing countries, the protection of this law has made significant improvements and changes in this perspectives which have greatly improved the living conditions of these people. Not all, it also places obligations on government institutions to look into the activities being carried by them with a considerable setting of the disabled persons. The non-discrimination and equal protection of law has made the disabled persons lives much better than before. The existing legal frameworks like the Universal Declaration on Human Rightsⁱ; established the basics of the fundamental human rights for human race, the United Nations convention on the Rights of persons with disabilityⁱⁱ; seeks the protection of people with disabilities, African Charter on people and Human Rightsⁱⁱⁱ; deals with human rights protection, the Persons Disabilities Act 2006, Nigerians with Disability Decree 1993, a Bill on persons with disabilities passed of recent by the National House of Assembly of Nigeria, the Equal Opportunities Act and Employment Act in Ugandan case; it is a significant recognition and a stepping stone to everyone in this class.

According to World Health Organisation and World Bank, 2018 report ^{iv}on disabled population, about one billion or 15% of World population experience some form of disability. 2-4%, i.e between 110-190m suffer significant disabilities or experience

ⁱ Article 1 2, 6 and 7, universal Declaration on Human Rights 1948 adopted IddiBasajjabalaba Memorial Library.

ⁱⁱArticle 4, 5, 6, 7 and 8, United Nations convention on the Rights of persons with disability, 13 Dec.2006 was adopted.

<http://www.un.org.convention/disabilities>

ⁱⁱⁱArticle 2, 3(1&2), 4 and 5, African Charter on people and Human Rights: source Iddibasajjabalaba Memorial Library

^{iv}World Health Organisation and World Bank, 2018 report
<http://www.worldbankreport.org/disabilities>

difficulties in functioning. The statistics presented by World Health Organisation and World Bank, the highest population of world disabled people live in developing countries.

Nigeria is reported recently of having 25 million disabled persons around the country. In country with a population of about 194 million, 25million being disabled, this give rise to a need for legislation and policy making to save and protect them from a hostile activities of the society. Uganda counterpart has about 5 million disabled persons. The 2014 National Population census indicates that 5 million Ugandans are disabled. The Population of disabled people estimated around the world: Nigeria and Uganda

In Africa, the population of persons living with disabilities is estimated to be about 60-80m. This was May, 23 2017 Disability news report.

According to world meter sources, Nigeria has a population of about 194m people, out of which 25m are disabled. Recent report on disabled population, Thisday newspaper on 22 April, 2017 reported that 25m 'Nigerians are disabled. And about 3m are in physical deformity.

In case of Uganda, in 2014 National Population Census indicates 16% of Uganda's population live with disability of any form. That is in a population figure of 40million, more than 5million live with disability.^{vi}

1.1 BACKGROUND OF THE STUDY

No individual would wish to find him or herself in a state of being disabled yet disability knows no race, age, gender or status. Disability may be congenital or may occur at any stage in a person's life without volition. Persons with disabilities face a lot of challenges and are sometimes abused both in the developed and

^vRecent report on disabled population, Thisday newspaper on 22 April, 2017.

<http://www.thisdaynewspaper.com/nig>

^{vi} Ugandan 2014 National Population Census. Ugandan national bureau of statistic.

developing countries, which Nigeria and Uganda fall. It was in realization of this anomaly and the need to accord these individuals their full rights as human beings and also some special rights by reason of their circumstance that countries of the world through the instrumentality of the United Nations have developed several Instruments to affirm the rights of persons with disabilities. These rights are hinged on the universality, indivisibility, interdependence, and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination. It is in recognition of the significance of the rights of persons with disabilities, that the texts and articles on the Rights of Persons with Disabilities draw their perspectives. Topics covered include: legal and institutional mechanisms for protecting persons with disabilities in Nigeria and Uganda; need for more legislation for the disabled; treatment of disabled Persons: equality and non-discrimination; criminal justice and the mentally Disabled Offender; challenges of accessing information by persons with physical disabilities in educational environments; comparative analysis of disability rights; Concepts in disability: Nigeria or Uganda's Obligations under the International Convention on the Rights of Persons With Disabilities; Protecting and Promoting the Rights of Disabled Children; The Right to Special treatment for disabled persons; construction approvals for the disabled: The Place of Disabled Persons In Nigeria and Uganda; The Rights of the Disabled Worker in Nigeria and Uganda; Disability and Reproductive Health in Nigeria, Uganda and Global Best Practices in Treatment of Disable Persons. These well researched essays contain very useful recommendations that will guide policy makers in fashioning out laws and policies that will better protect the rights of persons with disabilities. It is assured that lawyers, human rights practitioners, non-governmental organizations, disability groups and the public both within and outside Nigeria and Uganda will find this research an invaluable resource. ^{vii}

There is no single country around the globe that one cannot find a person with disability. Disabilities are of various forms, being it physical or psychological,

^{vii} 2011 The rights of persons with disabilities: Nigerian institute of legal advanced studies.

mental. A physical disability is quickly noticed. Any sort of disability needs law to protect it from the harshness of the society. Both persons with physical and psychological disability suffer severely due to

1.2 HISTORICAL STUDY OF THE LEGISLATION

The enactment of such law to alleviate the plights of PLWDs began with the sponsorship of the Disability Bill 18 years ago, precisely in the year 2000. However, the Disability Decree of 1993 ^{viii} is the first legal framework in Nigeria before the United Nations convention on the rights of the persons with disabilities, 2007. Nigeria ratified this convention on September 24, 2010 with its optional protocol.^{ix}

However, Nigeria counterpart in this research, Uganda has made a significant improvement and it is a step ahead in the legislative areas by enacting the Persons Disabilities Act 2006^x. Uganda ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 25th September 2008 without reservations.^{xi} By so-doing, Uganda committed itself to accord the same rights to persons with disabilities like all other citizens. After two years of implementation, Government of Uganda is supposed to report on the extent to which its laws and practices comply with the human rights and obligations encapsulated in the Convention. Since then the new legal binding treaty has been seen as an instrument of social transformation among the community particularly PWDs.

Note that events leading to ratification and thereafter were seen as providing momentum to the realization of the rights of PWDs. On the other hand DPOs have been utilizing the document as resource tool for resource mobilization and advocacy. However, the National Council for Disability (NCD) is the Government Institution assigned to spearhead the coordination and monitoring processes geared at domestication and implementation of the Convention. The NCD therefore

^{viii}The Nigerians with Disability Decree of 1993

Nigerian National House of Assembly. Source:

^{ix}Nigeria ratified this convention on September 24, 2010 with its optional protocol.

^xDisabilities Act 2006

^{xi}Uganda ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 25th September 2008 without reservations

spearheaded process and worked with KOIS Development Consultants Ltd to compile this report.

The legislation in the case of Nigeria has been on slow space surfacing. Nigerian National House Assembly passed Discrimination against Persons with Disabilities (Prohibition) Bill, 2016^{xii}. It is yet to achieve the presidential assent. The Bill seeks to provide social protection to persons with disabilities and provide safeguards against any discrimination that the disabled may suffer from. It also establishes a National Commission that will ensure that their right to education, healthcare and other social and economic rights contained in the 1999 Constitution (as amended) are attained.

Both Nigeria and Uganda, the constitution of the Federal Republic of Nigeria, 1999 together with the constitution of the republic of Uganda, 1995 provides for right and equality before the law and non-discrimination of any sort^{xiii}.

1.3 STATEMENT OF THE PROBLEM

This research titled a critical analysis on the law protecting people with disabilities is aimed at determining the law in question made for the protection of disabled persons; in Nigeria and Uganda cases. The problem includes:

- i. What is law that governs disabled persons in these countries?
- ii. The awareness of the law
- iii. The implementation and the enforcement of disability laws by the government, institutions or organisations of these nations.
- iv. What are the challenges faced by the government, institutions and the organisations vice visa disabled persons?

^{xii}Discrimination against Persons with Disabilities (Prohibition) Bill, 2016
<http://www.nlii.org> or <http://wikipedia/law/disabilities/nig>

^{xiii} The 1999 constitution of Federal Republic of Nigeria as amended 2011.
Section 42, and the 1995 constitution of the republic of Uganda. Article 21(2).
<http://ulii.org/content>

- v. What reasons for the disabled law?
- vi. Equality before the law in the area of disabled persons.

1.4 OBJECTIVE OF THE STUDY

This research focus is to examine critically on the law which entitles disabled people's rights, duties or obligations. The law being an instrument that is employed in the protection of disabled persons both in Nigeria and Uganda. For the purpose of this study, these objectives below will be expected to be attained in this research:

- i. To determine what the law is.
- ii. To ascertain the effect of this law on disabled persons in the society
- iii. To determine what has been done and what needs to be done in place of the law.
- iv. To determine the needfulness of the law in this area
- v. To close the unequal gap between the abled persons and disabled persons.
- vi. To work on barrier and create enable environment for them

1.5 RESEARCH QUESTIONS

This research main focus is to achieve the objectives aforementioned or highlighted, the following research questions are framed as follows:

- i. In what ways can the law be made aware?
- ii. In what ways can the law be used effectively in protecting people living with disabilities?
- iii. What has been done and what needs to be done for efficient implementation of the law?
- iv. Why laws for the disabled?
- v. What is the legal obligations of the disabled persons?
- vi. Does the law place disabled person equally?
- vii. Does special needs or privileges make disabled persons law discriminatory?

1.6 RESEARCH HYPOTHESES

This research looks at hypothetical issues to some extent, issues like:

- i. The issue to which the law is inactive and ineffective in protecting the disabled persons in these two societies, Nigeria and Uganda.
- ii. There is not issue to which the law is inactive and ineffective
- iii. There is positive impact of a rapid change in the society because of the law.
- iv. There is no rapid positive change in the society despite the law.
- v. It is impossible to have equal society in the area of disabilities.
- vi. It is possible to have equal society in the area of disabilities
- vii. Law is insufficient factor can be used in solving the disabilities issue
- viii. Law is sufficient instrument that can be used to address the issues of disabilities.

1.7 SIGNIFICANCE OF THE STUDY

This is aimed at bringing on the research table the importance of the law protecting people with disabilities; such as:

- i. The outcome of the study would enhance the students and the public to understand the need for the law protecting disabled persons.
- ii. The impact the law has made so far.
- iii. It will also serve as information desk or source for future research.
- iv. The findings of this research will help government officials, institutions or organisations to achieve desirable solutions or goals in challenges they face.
- v. It will help in creating public awareness
- vi. It will bring a vital understanding that persons living with disabilities are of rights.
- vii. It will wane the traditional belief that is based on charitable perspective and privileges.

- viii. It will be what law “is” not what “ought to be” when looking at disabled persons.
- ix. It will help in the fight against discrimination and stigmatisation.

1.8 THE GEOGRAPHICAL, TIME SCOPE AND LIMITATIONS OF THE STUDY.

The main focus and aim of the research is to be looking at the law protecting disabled persons in Nigeria and Uganda. However, there shall be a compared to other countries where it is necessary. This research has no specific period. It covers significant event in the case of legal establishment.

1.9 POSSIBLE SOLUTIONS TO THE LIMITATIONS

This research provides solutions to the loopholes in the area in focus and the problems highlighted hereafter in the study of the research.

There is no doubt that the law protecting disabled people is just developing, the public are unaware the legal framework for the disabled.

This research finds the loopholes and also provides the suggestive approach in helping to cover the loopholes.

1.10 LAYOUT STUDY OF THIS RESEARCH

This study will have five chapters in the order of chapter 1, chapter 2, chapter 3, chapter 4 and chapter 5. Each chapter will look at different aspects of the study. The composition of these chapters is therefore as follows.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION.

Literature review gives clear guidelines on the legal meaning and legitimate establishment of the disability laws; this covers the law protecting people with disabilities, the source and its enforcement. The sources such as the Universal Declaration on Human Rights^{xiv}, the United Nations convention on rights of persons with disabilities^{xv}, the African Charter on Human and Peoples' Rights^{xvi}; the 1999 Constitution of Federal Republic of Nigeria as amended 2011^{xvii}, the Nigerians with Disability Decree 1993^{xviii} and Persons with Disabilities (Nigeria) Bill 2016^{xix}, the 1995 Constitution of the Republic of Uganda^{xx}, the Disability (Uganda) Act^{xxi}, the National Council of Disability Act^{xxii}, the provision of anti-discrimination of Employment Act (Uganda) 2006^{xxiii}, texts, various articles and other related to the subject matters will be reviewed.

2.2 Meaning and Nature of disability.

^{xiv}1948 Universal Declaration on Human Rights

^{xv}2006 United Nations convention on rights of persons with disabilities

^{xvi}the African Charter on Human and Peoples' Rights

^{xvii}the 1999 Constitution of Federal Republic of Nigeria as amended 2011

^{xviii}the Nigerians with Disability Decree 1993

^{xix}Persons with Disabilities Bill 2016

^{xx}the 1995 Constitution of the Republic of Uganda

^{xxi}the Disability (Uganda) Act 2006

^{xxii}National Council of Disability Act

^{xxiii}Employment (Uganda) Act 2006

Sources of information available at Iddi Basajjabalaba Memorial Library, Law session.
Kampala International University, Kampala, Uganda.

Online sources:

<http://www.un.org/convention/disabilities>

<http://www.nlii.org>

<http://www.ulii.org/ug/acts%20of%20parliament>

The disability is not a simple term to explain in its context. Disability has been defined in many international, regional, national statutes and other various articles that are zealously researched about this topic 'critical analysis on the law protecting people with disabilities'.

According to International Classification of Functioning, Disability and Health (ICF), disability can be defined as a limitation in a functional domain that arises from the interaction between a person's intrinsic capacity, and environmental and personal factors. In ICF terms, this is the level of a person's performance in a domain, taking in the account the impact of his or her environmental and personal factors (Boston et al 2015^{xxiv}). In similar lines, the United Nations convention on the rights of persons with disabilities ^{xxv}defined disability to mean *an evolving concept and disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*. However, the definition of disability varies from western countries.

According to Theresia Degener, legal definition of disability gathered the definition of disability from various European states to arrive at what really means to disabled. UK definition of disability is stipulated in Disability Discrimination Act ^{xxvi}to mean *a person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities. A long term- effect is considered to be a period of twelve months at least. Section 2 (1) provides: The provisions of this Part and Parts II and III apply in relation to a person who has had a disability as they apply in relation to a person who has that disability.*

In the other hand Sweden a disability-specific law against employment discrimination was adopted in 1999. The "Prohibition of Discrimination in Working Life of People with Disability Act (Lag 1999:132). ^{xxvii} of the Act contains a short definition: *Disability means every permanent physical, mental or intellectual limitation of*

^{xxiv}(Boston et al 2015 (ICF)

^{xxv}United Nations convention on the rights of persons with disabilities

^{xxvi}Section 2(1) Disability Discrimination (UK) Act

^{xxvii} Section 2 Discrimination in Working Life of People with Disability (Sweden) Act (Lag 1999).

a person's functional capacity that is a consequence of an injury or illness that existed at birth, arose thereafter or may be expected to arise.

Both Nigerian and Ugandan laws adopt their own definition of disability which is in line with UNCRPWD and CIF definition. Person with Disabilities(Uganda) Act 2006^{xxviii} defined the term "disability" to mean "Disability" a *substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation.*

Nigerians with disabilities decree of 1993 defines^{xxix} the term "disabled person" as a *person who has received preliminary 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, 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.*

The meaning of disability and various terms explained by the court of law.

.In *Sutton v. United Airlines, Inc.*^{xxx} The Court clarifies the definition of "disabled" by using test to determine whether the petitioners were abled or disabled within the meaning disability. *The court held that petitioners were not actually disabled because they could fully correct their visual impairments.* A "disability" exists only where an impairment "substantially limits" a major life activity, not where it "might," "could," or "would" be substantially limiting if corrective measures were not taken. Second, because subsection (A) requires that disabilities be evaluated "with respect to an individual" and be determined based on whether an impairment substantially limits the individual's "major life activities," the question whether a person has a disability is an individualised inquiry.

^{xxviii}Section 2(2) Person with Disabilities(Uganda) Act 2006

^{xxix}Definition of disabled person. Section 3, Nigerians with disabilities decree of 1993

^{xxx}*Sutton v. United Airlines, Inc., (1999), US SC No. 97-1948*

Also in the case of *Murphy v. United Parcel Service, Inc.*^{xxxix} In this case, the Court explains how to determine whether an impairment "substantially limits" a major life activity.

Where the individual suffers an impairment that substantially limits or prevents his or her from running their daily life, this is a disability. In *Toyota Motor Manufacturing, Kentucky Inc. v. Williams*.^{xxxix} The Court holds that a person is substantially limited in a major life activity, within the meaning of the definition of disability if he or she has "an impairment that prevents or significantly restricts the individual from doing activities that are of central importance to most people's daily lives."

However, where an individual claims that he or she is disabled but such disability can be corrective, such claim fails the test of disability. In *Sutton v. United Airlines, Inc.* (supra). Court held that the petitioners' disability could be fully corrected. There was no disability within the meaning of the law.

The fact that the cases cited above are decided from a different jurisdiction, they intend to cover the meaning of disability within the Nigeria and Uganda laws of disabilities.

The constitutions expressly stipulate the constitutional rights of persons with disabilities. Both the Nigerian and Ugandan constitution provide for equality before the law, and non-discrimination on disability^{xxxix}. These provisions give clear the fundamental human right of disabled persons in the law. In the case of the national legislation of both countries, some development has been made. The parliament of both nations has legislated on the law. For example, in the case of Nigeria, the bill has been passed by the Nigerian National House of Assembly since 2012, but this bill has been awaited presidential assent. In the case of Uganda, an advanced development has been made in the area of law as the law has been passed and

^{xxxix}*Murphy v. United Parcel Service, Inc.* (1999), US SC No. 97-1992

^{xxxix}*Toyota Motor Manufacturing, Kentucky Inc. v. Williams*, (2002), US SC. No. 00-1089

^{xxxix}Section 42 of the 1999 Constitution of the Federal Republic of Nigeria, amended 2011; and the 1995 Constitution of the Republic of Uganda amended 2006.

assented since 2006, the Disabilities Act 2006^{xxxiv}. More so, the law has undergone an amendment in the various provisions. The focus will be on the national laws that related to the research topic.

The stigmatisation associates with the disabled and sometimes the HIV and AIDs patients, it is categorised on both the HIV and AIDs infected patients are group of people that need the protection of law for their ordeal. One of the decisions of US Supreme Court in American Disabilities Act, held in *Bragdon v Abbott*^{xxxv}, the court clarifies that HIV infection qualifies as disability.

2.3 HISTORICAL REVIEW OF THE RESEARCH

Discrimination against people with all forms of physical and mental disabilities range from being ridiculed to being condemned to permanent exclusion in asylums, from being allowed to drown or die to being executed. As Barton has noted, throughout antiquity people with disabilities have been subjected to a multiplicity of oppressive social attitudes, which have included 'horror, fear, and anxiety, hostility, distrust, pity, over-protection and patronising behaviour'^{xxxvi}. According to Barnes, the real concern of disability^{xxxvii}, therefore, has to do with these pejorative attitudes combined with particular social contexts, namely, an inhospitable physical environment (e.g. inaccessible buildings and unusable transport systems).

^{xxxiv}Section 2 (2), the Disabilities(Uganda) Act 2006

^{xxxv}*Bragdon v Abbott (1998) US SC. No. 97-156*

Section 504, Americans with Disability Act (ADA)

Sources available at findlaw, Thomson Reuters.

<http://www.findlaw/Thomson Reuters/disability/us>

^{xxxvi}Barton (1993) 'The struggle for citizenship: the case of disabled people',
Disability & Handicap & Society 8(3) 235-248.

^{xxxvii}Barnes C, (1991), 'Disabled people and Discrimination in Britain

The case for anti-discrimination legislation, Hurst & C London.

Source available information: Etieyibo, E. & Omiegbe, O., 2016, 'Religion, Culture and discrimination against persons with disabilities in Nigeria', African Journal Disability

<http://dx.doi.org/10.4102/ajod.v5i1.192>

2.4 BELIEFS AND ATTITUDES TOWARDS PERSONS WITH DISABILITIES

Article I.

The term 'belief' as an aspect of culture. 'Belief' is defined as the affirmative or acceptable fact, or an opinion accepted as real or true. That is, the attitude has to be whenever something is taken to be the case or regard it as true. A number of beliefs in respect of disability have been isolated in the literature on disability in Nigeria. For example, note that beliefs about disability are attributable to different factors such as witchcraft, sex, God, the supernatural and juju. According to them, these beliefs are generally taken to be the various causes of disabilities. Another aspect of disability beliefs is the one identified by Desta: this is the belief that disability is a curse and people with disabilities are hopeless. There has also been recognised another aspect of disability beliefs, that 'some local ancient mythology has it that people with disabilities are social outcasts serving retribution for offences of their forefathers'. Munyi, Omiegbe and Abang have also highlighted similar beliefs about disability in other parts of Nigeria as well as in the African context. According to Abang^{xxxviii}, many people believe that persons with disabilities are not only inferior to those without disabilities but can also be used for social and economic benefits. That is, they lack characteristics that make them full humans and can be used in sacrifices in order to bring wealth or good luck.^{xxxix}

Discriminatory practices against persons with disabilities in the context of religion and culture. The practices include the trafficking and killing of persons with mental illness, people with oculocutaneous albinism and angular kyphosis, raping of women with mental illness and the use of children with disabilities for alms-begging^{xl}.

^{xxxviii}Abang T. B, 1988, 'Disablement, disability and the Nigerian society, Disability Handicap & society

^{xxxix}Source available information: Etieyibo, E. & Omiegbe, O., 2016, 'Religion, Culture and discrimination against persons with disabilities in Nigeria', African Journal Disability <http://dx.doi.org/10.4102/ajod.v5i1.192>

^{xl}Omiegbe O. 1995 'The Handicap & Begging. 'a Paper presented at fifth National Conference at

2.5 LEGAL DEVELOPMENT REVIEW IN NIGERIA AND UGANDA

During the 60s and 70s, vocational rehabilitation centres and sheltered workshops offered PWDs an opportunity to train in vocational skills and access employment opportunities. However, they later faded away largely due to the political instability that ensued prior to the economic stability brought about by the incumbent National Resistance Movement (NRM) Government. The NRM Government has championed for the rights of PWDs and this journey began in 1987, when the National Union of Disabled Persons in Uganda (NUDIPU) was formed as a representative group for PWDs. Disability was represented in the 1994-1995 Constituent Assembly Delegates (CAD), a body that passed the Constitution of the Republic of Uganda in 1995. In the Constitution, the rights of PWDs are enshrined under the constitution. It states that “a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed, or religion, social or economic standing, political opinion or disability. The constitution allows affirmative action for marginalized groups and the rights of minorities are protected under the law. Similarly, the National Objective and Directive Principles of State Policy, require the state to “endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.” Disability specific laws such as the National Council for Disabilities Act 2003 and anti-discrimination provisions in the Employment Act 2006 were enacted in line with the state policies. However, the most significant enactment was the People with Disability Act (Uganda) (Disability Act) which was signed into law on May 24th 2006. ^{xli}

Department of Special Education, University of Ibadan, Ibadan, Nigeria.

^{xli} 2016 article, ‘Access to employment with persons with disabilities’ in Uganda
<http://digitalcommons.ilr.cornell.edu/gladnetcollect/69>.

However, in Nigeria's case, the legal development is not being embraced with a rapid development as her counterpart, Uganda. Nigerian legal system had been distracted by series of political instability like Uganda but the legislative background in the case of Nigeria has taken a snail movement. Presently, with the 1999 Constitution of the Federal Republic of Nigeria (FRN). ^{xlii}There is no law being established to protect disabilities. The disability specific laws in Nigeria so far are the Nigerians with disability decree and the recent bill that is still awaited presidential assent. 'Discrimination against Persons with Disabilities (Prohibition) Bill, 2016'

Despite the fact that Nigeria has not met the requirement of the United Nations Convention on the rights of persons with Disabilities, there have been a lot of organisations that supervise or monitor the disabled affairs in Nigeria. AAD-Abuja Association of the Deaf, AAN-Action Aid Nigeria, ADD-Action on Disability and Development, ASCEND -Association for Comprehensive Empowerment of Nigerians with Disabilities, C4C -Coalition for Change, CAC -Corporate Affairs Commission, CBM-Christian Blind Mission, CBR -Community Based Rehabilitation, CBVR -Community Based Vocational Rehabilitation, CCD -Centre for Citizens with Disabilities, CS -Civil Society, CSOs -Civil Society Organizations, CWD-Children With Disabilities, DFID -British Department for International Development, DPOs -Disabled Peoples' Organizations, DWIN-Deaf Women in Nigeria ESSPIN, - Education Sector Support Programme in Nigeria, FACICP -Family Centred Initiative for Challenged Persons, FBO -Faith Based Organization, FEC -Federal Executive Council, HIV/AIDS -Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome, ICT -Information, Communication Technology IDD -International Day of the Disabled, IDEA -Integration, Dignity & Economic Advancement of people affected by Leprosy, IFES -International Foundation for Election Systems, INEC -Independent National Electoral Commission, INGOs -International Non-Governmental Organizations, JONAPWD-Joint National Association of Persons with

^{xlii}the Constitution of the Federal Republic of Nigeria, 1999 as amended.

<http://www.nlii.org>

<http://www.nigeriaconstitution.org/nig/1999>

Disabilities, KM-Kilometre LCD -Leonard Cheshire Disability, MDGs -Millennium Development Goals, MOU-Memorandum of Understanding, MWD-Men With Disabilities, NAHCAN-National Handicap Carers Association of Nigeria, NASS - National Assembly, NEEDS -National Economic Empowerment Development Strategy, NGOs-Non-Governmental Organizations, NLC -Nigeria Labour Congress, NNAD-Nigerian National Association of the Deaf, NPRC -National Political Reform Conference, PACT -Partnership And Capacity Training, PATHS -Partnerships in Transforming Health Systems, PAVS -Accountability and Voice in States, PEDANET -Persons with Disabilities Action Network, PRO-Public Relations Officer PWDs-Persons with Disabilities, PWL-Persons with Leprosy, SA -Special Adviser, SCIAN - Spinal Cord Injury Association of Nigeria, SEEDS -the State Economic Empowerment Development Strategy, SPARC -State Partnership for Accountability, Responsiveness and Capacity, SP -Strategic Planning, SPD -Strategic Planning Document, SWOT-Strengths, Weaknesses, Opportunities and Threats, TLM-The Leprosy Mission, TLMN-The Leprosy Mission Nigeria, UK-United Kingdom, UN-United Nations, USAID -United States Agency for International Development, WHO-World Health Organization, WWD-Women With Disabilities and YWD-Youth With Disabilities.

2.6 LEGISLATIVE REVIEW OF NIGERIA AND UGANDA DISABILITY LAWS

This research reviews the legislations of disability law of both Nigeria and Uganda. Both Nigeria and Uganda are signatories to various international law, conventions and instruments and the local legislations of both countries.

The Universal Declaration of Human Rights^{xliii}, this established the fundamental human rights of all human beings around the world; '*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood*'; the United Nations

^{xliii}Article 1, 1948, the Universal Declaration of Human Rights

Convention on Rights of Persons with Disabilities^{xliv}. This convention specifically spells the rights of the disabled persons, the principles of the present Convention shall be: Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; Non-discrimination; Full and effective participation and inclusion in society; Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; Equality of opportunity; Accessibility; Equality between men and women; Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Nigerians with Disability Decree and Discrimination against Persons with Disabilities (Prohibition) Bill^{xlv}, 2016 ; Uganda the National Council for Disabilities Act 2003^{xlvi}, anti-discrimination provisions in the Employment Act 2006 ^{xlvii}were enacted in line with the state policies, the People with Disability Act (Uganda) Disability Act ^{xlviii}which was signed into law on May 24th 2006.

The Universal Declaration of Human Rights (UDHR) 1948 states that "everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work. Similarly, the UN Convention on the Rights of Persons with Disabilities (CRPD) provides that state parties must recognise the right of PWDs to work by prohibiting discrimination on grounds of disability. The CRPD requires state parties to establish effective access to general technical and vocational guidance, ensure that reasonable accommodation is provided to PWDs at the workplace, protect the rights of PWDs on an equal basis and promote vocational and professional rehabilitation, job retention and return to

^{xliv} The preamble of the United Nations Convention on Rights of Persons with Disabilities

^{xlv} Disability Decree and Discrimination against Persons with Disabilities (Prohibition) Bill 2016

^{xlvi} Uganda the National Council for Disabilities Act 2003

^{xlvii} Employment Act 2006

^{xlviii} Disabilities (Uganda) Act 2006

Sources available at Iddi Basajjabalaba Memorial Library, Kampala International University

<http://un.org/conventions/disabilities>

<http://www.ulii.org/ug/acts%20of%20parliament>

<http://nigerialii.org>

workplace programmes for PWDs. Rule 7 of the UN Standard Rules on Equal Opportunities (SREO) also recognises the principle that PWDs must be allowed to exercise their human rights, especially in the field of employment. Thus, states are required to implement favourable conditions for PWDs to be able to access employment. A lack of job opportunities for PWDs often leads to poverty. In Uganda, according to the Uganda Chronic Poverty Report (UCPR), 26% of the total population lives in poverty. In addition, the 2006 United Nations Health Survey (UNHS) found that almost 80% of PWDs live below the poverty line. This is alarming given that poverty has been cited to foster an environment of perverse discrimination, poor health and crime. Furthermore, the UNHS found that over 46% of PWDs declared that they were excluded from accessing employment on grounds of disability. However, disability was largely ignored in official national statistics such as Census 2002 and Population & Housing Survey 2006, which makes it difficult to appreciate the challenges faced by PWDs. The need to stimulate social and economic development was a major feature of the Government's Poverty Eradication Action Plan (PEAP) in 1997.⁴ As a result, equality was put as the main agenda of the National Development Plan (NDP) whose theme is 'Growth, Employment and Prosperity for All'. The goal was to remove barriers to accessing health, employment and education for PWDs. This action plan was welcomed by the international community since Uganda is a signatory to the International Covenant on Economic, Social and Cultural Rights (CESCR).⁵ Despite the general lack of statistics, the Department of Disability and Elderly and the Ministry of Gender, Labour and Social Development, which is responsible for disability in Uganda, continues to promote and monitor the rights of PWDs through the National Council for Disability (NCD) and they report back to Parliament.

2.7 THE WEAKNESSES IN THE DISABILITY LAW

Disability law has emerged as a result of the harsh treatment, abuse, beliefs and attitudes shown towards disabilities. Many societies look at people with disabilities as a group people who lack capacity of being a complete human being.

Despite the fact that various laws have been enacted by both governments of Nigeria and Uganda, you will realise that these laws are being enacted on the premises of sympathy and almost a zero sanction to either party. The disability laws are enacted by fear, anxiety, emotional feelings and sometimes presumption. The weak obligations or almost zero obligations being imposed on the disabled, this makes some of disabled persons to abuse the reality of their disabilities since disability is personal injury.

The recent bill passed by the Nigeria National House of Assembly, the clause of the bill gives the right to first refusal to queues and emergencies to PWDs^{xlix}. The provisions in Nigerians with disability Decree of 1993, provide in the area of public health, education and transportation ^lthat disabled people should have free access.^{li} Disability law lacks sense of integration with abled law. In the Ugandan case, disability law looks more realistic and integrated. However, some of these provisions are not worth criticisms because there will be unjust to critically analyse with the point of equality before the law.

^{xlix}Discrimination against Persons with Disabilities (Prohibition) Bill, 2016

^lSection 5 & 9, NWDD, 1993 provide for free public transportation and public education at all level to PWDs.

^{li} section 4(1&2) , Nigerians with decree 1993, gives free access to the public health service and tax exemption on property to PWDs

CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY.

3.1 RESEARCH DESIGN AND METHOD

The main objective of this part of this research work is to indicate how data were collected and analysed. The method of the Research Design used for this research was survey research instrument which includes the use of library, internet, personal experiences, observations and oral interviews.

3.2 SOURCES OF DATA

This research entails to outline the source or instrument used, upon which the justification of the outcome of the study will be based, pattern of response and method of data analysis. The nature and instrument for this study are personal experiences, observations and oral interviews with PWDs.

3.2.1 PERSONAL EXPERIENCES.

Personal experiences, these are direct experiences by which researcher sometimes has experienced in person. The aims and objectives of the study which the personal experiences are required to answer some of the issues faced by the PWDs. It is a useful method used for collection of data.

3.2.2 OBSERVATION

The observation method is used in obtaining the primary data. This involves the observation of the two societies, Nigeria and Uganda. The beliefs and attitudes of the two societies towards PWDs and how effective can disability laws can be used to

change these beliefs and attitudes. This is also an important instrument used for collection of data.

3.2.3 ORAL INTERVIEW

This is another useful instrument for data collection. It involves eliciting information through verbal interaction between the respondent and the researcher. The question has to be properly framed in such a way that the interviewer can easily understand what information is being asked.

3.3 POPULATION OF THE STUDY

The population of the study comprises of Nigerian and Ugandan disabled population.

3.4 VALIDITY OF THE INSTRUMENTS

this includes the instruments used for study as follows, personal experience, interview, internet, established laws on the topic, facts from the text books. Therefore, the validity of aforementioned instruments is discovered when effect has been made by the researcher to ensure that the methods and procedures taken are systematic and understandable. The personal interview and questions are responded positively without bias. The researcher believes wholly that the data are consistent, reliable and accessible.

3.5 SAMPLE OF THE STUDY

The sample of the research is adopted by various articles, text books that have been well researched or written about disabilities and the disability laws of Nigeria and

Uganda. This research adopts the statistical sources of PWDs of both Nigeria and Uganda.

CHAPTER FOUR

4.0.0 PRESENTATION OF LEGAL FRAMEWORK AND DATA ANALYSIS.

This covers the Nigeria and Uganda's legislation, together with relevant laws of other countries. According recent report, there are about 25m Nigerians living with disabilities^{lii}; in the other hand, Uganda has about 5m Ugandans who are living disabilities^{liii}. These people need legal protection. The two nations' superior laws, (the constitution of the Federal Republic of Nigeria, 1999 as amended, and the constitution of the Republic of Uganda, 1995 as amended have made positive legal background and establishment for the inclusion of equality for all citizens and human beings^{livi}.

4.0.1 NATIONAL LEGAL FRAMEWORK OF NIGERIA.

The 1999 Constitution of the Federal Republic of Nigeria, and the 1995 Constitution of the Republic, 1995; the 1999 constitution of the Federal Republic of Nigeria provides for the principles objectives, covering the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers to conform, observe and apply the provisions of this Constitution^{lv}; the security and welfare of the people shall be the primary purpose of government, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited, provide adequate facilities and encourage free mobility of people, goods and services throughout the Federation. Also to control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and

^{lii}Thisday newspaper, 22 April, 2017<http://www.thisdaynewspaper.com/nig>

^{liii}Ugandan 2014 National Census. Ugandan National bureau of statistic

^{liv}The constitution of federal republic of Nigeria, 1999 as amended.

^{lv}Chapter ii fundamental objectives and directive principles of state policy of the constitution of the federal republic of Nigeria, 1999 as amended

equality of status and opportunity; without prejudice to its right to operate or participate in areas of the economy, other than the major sectors of the economy, manage and operate the major sectors of the economy; without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy that is suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care^{lvi} and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.

The State social order is founded on ideals of Freedom, Equality and Justice. In furtherance of the social order^{lvii}; every citizen shall have equality of rights, obligations and opportunities before the law; the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced; governmental actions shall be humane; exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community, shall be prevented; and the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained The State shall direct its policy towards ensuring that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment; conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life; the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused; there are adequate medical and health facilities for all persons: there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;

^{lvi}Section 15, the constitution of the federal republic of Nigeria, 1999 as amended

^{lvii}Section 17(1) of the constitution of the federal republic of Nigeria, 1999 as amended

(2)(a) provides for equal rights, obligations and opportunity to every citizen

(2)(b) provides for recognition and human dignity

(2)(c) provides that governmental actions shall be human

Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels. Promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestations, respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood.

A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: -
be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth. In the case of *Archbishop Anthony Olubunmi Okogie & Others v Attorney-General of Lagos State*^{lviii} it was held that the directive principles of state policy as enshrined in the Constitution have to conform to and run subsidiary to the fundamental rights provisions in Chapter. IV of the Constitution and that the said directive principles are subject to the legislative powers of the State.

Nigerians with disabilities decree of 1993 defines the term "disabled person" as a person who has received preliminary 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, 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.

^{lviii}*Archbishop Anthony Olubunmi Okogie & Others v Attorney-General of Lagos State*

4.0.2. PROTECTION OF DISABILITIES IN LABOUR LAWS IN NIGERIA

Discrimination in the workplace is also forbidden by section 17 of the Constitution. The section states that the state social order is founded on the ideals of freedom, equality and justice. It goes on to provide that every citizen shall have equality of rights, obligations and opportunities before the law^{lix}.

More specifically, the section stipulates that the state shall ensure that “all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment and that there is equal pay for equal work without discrimination on account of sex, or any other ground whatsoever.

Section 12 of the Trade Unions Act, if any person is refused admission into a trade union on the stated discriminatory grounds, the union and all its officials shall be guilty of an offence. Section 12 (2).^{lx}

Discriminatory Contract of Employment

Contracts of employment that cause the dismissal or otherwise prejudice a worker on the grounds of either belonging to or not being a member of a trade union membership or participating in trade union activities is a contravention of section 9(6) of the Labour Act^{lxi}.

Thus, an employer may not determine the employment of a worker or refuse to employ a worker on the ground that the worker shall or shall not join a trade union or shall not relinquish membership of a trade union.

Section 6 of the Act imposes a duty on the government to take measures to promote the employment of the disabled. Accordingly, a disabled person shall not by reason only that he is such a person be subjected to any disability or conditions by any employer. There is however what may be referred to as positive discrimination in

^{lix} Section 17, the constitution of the federal republic of Nigeria, 1999 as amended

^{lx} Section 12(2) of the Trade Unions Act

^{lxi} section 9(6) of the Labour Act law of Nigeria

favour of disabled persons as section 6(2) of the Act requires all employers of labour to reserve for the disabled not less than 10% of the work force^{lxii}.

4.1.0. THE NATIONAL LEGAL FRAMEWORK OF UGANDA

The national law of Uganda established the law protecting people with disabilities, the constitution of the republic of Uganda, and 1995 as amended has covered various provisions that seek to protect the rights of persons with disabilities; the constitution also gives rise to the legislation or the enactment of various laws by the Ugandan Parliament to deal with this research topic.

The constitution of the republic of Uganda, 1995 as amended recognises the dignity and the rights of persons with disabilities, which begins with the aims, principle objectives and the provisions. There are the various areas in the constitution of the republic of Uganda, 1995 as amended for the proper consideration in this research topic. These are^{lxiii}:

- i. Fundamental and other human rights and freedoms. (i) The State shall guarantee and respect institutions which are charged by the State with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively.
- ii. Gender balance and fair representation of marginalised groups. The State shall ensure gender balance and fair representation of marginalised groups on all constitutional and other bodies.
- iii. General social and economic objectives. The State shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that

^{lxii}section 6(1-2) of the Labour Act

^{lxiii}*Objective v* fundamental and other human rights and freedom, the constitution of the republic of Uganda, 1995 as amended

(a) All developmental efforts are directed at ensuring the maximum social and cultural well-being of the people; and

(b) All Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.

iv. Recognition of the dignity of persons with disabilities. Society and the State shall recognise the right of persons with disabilities to respect and human dignity.

v. Cultural objectives. Cultural and customary values which are consistent with fundamental rights and freedoms, human dignity, democracy and with the Constitution may be developed and incorporated in aspects of Ugandan life.

The entire chapter iv of the constitution of the republic of Uganda, 1995 as amended, covers various provisions that enshrine therein the fundamental and other human rights and freedoms; these include the disabled persons.^{lxiv}

Article 20 provides for the fundamental and other human rights and freedoms. ^{lxv}(1)

Fundamental rights and freedoms of the individual are inherent and not granted by the State. (2) The rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons. Article 21 provides for the equality and freedom from discrimination.^{lxvi} Article 21 (1) states all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. This provision of the law gives a clear protection of disabled persons under the laws of Uganda. Clause (2) of the same Article provides, without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability. (3) For the purposes of this article, "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or

^{lxiv}Chapter iv, the constitution of the republic of Uganda, 1995 as amended

^{lxv}Article 20 of the constitution of the republic of Uganda, 1995 as amended provides for the fundamental and other human rights and freedoms

^{lxvi}Article 21 provides for the equality and freedom from discrimination.

economic standing, political opinion or disability. (4) Nothing in this article shall prevent Parliament from enacting laws that are necessary for (a) implementing policies and programmes aimed at redressing social, economic, educational or other imbalance in society; or (b) making such provision as is required or authorised to be made under this Constitution; or (c) providing for any matter acceptable and demonstrably justified in a free and democratic society. (5) Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Constitution.

32. Affirmative action in favour of marginalised groups^{lxvii}.

(1) Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them. (2) Parliament shall make relevant laws, including laws for the establishment of an equal opportunities commission, for the purpose of giving full effect to clause (1) of this article

35. Rights of persons with disabilities. (1) Persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure that they realise their full mental and physical potential. (2) Parliament shall enact laws appropriate for the protection of persons with disabilities^{lxviii}.

4.1.2 OTHER LAWS PROTECTING DISABILITIES BY UGANDA LEGISLATION.

4.1.3 TRANSPORT AND COMMUNICATION

The law under this category covers the protection and the accessibility of the transport and the communication which must be done in the consideration of the disabled persons.

^{lxvii} **Article 32** of the constitution of the republic Uganda, 1995 as amended

^{lxviii} **Article 35** of the constitution of the republic Uganda, 1995 as amended

(a) The Access to road Act Cap 350 Section 1 defines a “road” to mean any way open to the public for the circulation of vehicles, which is maintained by the Government or an administration. Section 2 defines a road reserve on the other hand as an area bounded by imaginary lines parallel to and distant not more than fifty feet from the centre line of any road. This means, each road must have a reserve that allows easy access and movement for pedestrians, including PWDs especially wheelchair users. After the 1995 constitution of the Republic, Section 5 provides that it is against the law for someone to interfere in any way with the proper function of the road that is likely to be dangerous to persons or vehicles using a road^{ix}. Doing this is an offence in the law and a person who fails to obey a notice by the road authority to remove such obstacles from the road and repair the road commits an offence. This provision is of the effect that; whoever digs a trench in a road which makes it difficult or impossible for PWDs to access and use such roads commits an offence, and should be reported to area Local Council authorities to have the obstacles removed. It further applies that it is therefore very important that all road reserves be cleared by the respective district and administrative authorities. For roads without road reserves, they should be created to make the roads easy to use PWDs and all other people. Sections 2 and 6 allow a person who cannot access a public highway to apply to a court/land tribunal to permit him/her to construct another road on any other person’s land to ease access. This provision means that, a person with disability who cannot access a public highway is given protection. This road shall not exceed 20 feet in width.

(b) The Traffic and Road Safety Act, 1998 Cap 361 Section 132 (paragraph O) states that there should be adequate safety for cyclists, pedestrians and PWDs on the road, by particularly constructing a track or ramp for special use by PWDs. This provision of the Act entails that all roads with heavy traffic should have safe crossing points and accessible pathways for PWDs. Section 42 (paragraph 3) and

^{ix}The Access to road Act Cap 350. section 1 defines “road”

Section 2. road reserve

Section 5. provides for someone who interferes with road that is dangerous to persons or vehicles

Section 2 and 6 a person who cannot access public highway to apply to a court/land tribunal for permission.

Section. 24 of the PWDs Act prohibits denying a driving permit to a PWD by reason of his or her disability^{lxx}. This means a person with disability should not be denied a permit to ride/ drive a motor cycle, vehicle and any other locomotive because he/she has a disability. Even if he/she uses a wheelchair, crutches, callipers, among other, should be given a driving permit. It means, it should, however, be noted that while the law does not restrict PWDs from driving, PWDs should individually assess their abilities to ascertain whether or not the degree and severity of their impairment can permit them to drive without putting their lives and the public's at risk. One should also ensure that relevant modifications are done on the car they intend to drive, to suit their capability^{lxxi}.

(c) The Persons with Disability Act, 2006 Section 19 makes it the responsibility of all organs in the public or private institutions to provide suitable entrances and exits for PWDs and universal standards or designs for public toilets. It is of the that all public or private institutions/buildings should have wide doors that can easily be accessed by persons with physical disabilities especially wheelchair users. It also means all toilets/latrines whether public or private should comply to the Accessibility Standards developed by UNAPD in collaboration with other stakeholders. Section 20 puts a duty to every person who constructs a building for public use to ensure that PWDs have access through provision of:^{lxxii}

i.) Accessible and easy to find building entrances, with accessible pathways to indoor or outdoor parking areas, local public transit stops and accessible elevators. This provision is to the application that, the law recognises that entrances and pathways linking to the buildings, parking and elevators/lifts, should all be wide enough and accessible to PWDs using all types of wheelchairs.

^{lxx}Section 42 (para: 3) and Section. 24 of the PWDs Act prohibits denying a driving permit to a PWD by reason of his or her disability

^{lxxi}Section 132, The Traffic and Road Safety Act, 1998 Cap 361, para: states that there should be adequate safety for cyclists, pedestrians and PWDs on the road, by particularly constructing a track or ramp for special use by PWDs.

^{lxxii}The Persons with Disability Act, 2006 Section 19

Section 20. puts a duty to every person who constructs a building for public use to ensure that PWDs have access through provision.

Section 22. accessible transport for PWDs

ii) Safe and accessible urinals and bathrooms this means that Urinals in men's toilets should not be too raised in a way that PWDs especially wheelchair users cannot use them. Bathrooms should also be wide enough with non-slippery floor tiles.

iii) Safe and well-dimensioned stair cases, ramps, adequate rails, and well-dimensioned elevators, which serve all floors normally reached by the public. Platform lifts are also encouraged where installation of a ramp is difficult or was unforeseeable. Section 22 requires availability of accessible transport services to PWDs, who use mobility devices such as crutches and/or callipers, or wheelchairs. The effect of the section: Transport systems like aeroplanes, trains, taxis, buses and motorcycles should be accessible to PWDs. Both Nigeria and Uganda's roads, pedestrian's reserves are poorly planned. For example, these reserves are heavily abused by the machinery users. Disabled persons suffer severely while trying to access highways. For instances, the crossover bridges, bumps, some dual lane separators, must especially on Nigeria cities highways. The Disabled persons suffer sight or visual impairment and physically challenged persons; the decision in *Legal action for Persons with Disabilities v Attorney General (Uganda)*, court is reluctant to answer the questions on buildings that are inaccessible to the disabled. However, court emphasises that institutions should consider while the construction^{lxxiii}.

Uganda Communications Act, 1998, provides for the promotion of research into the development and use of new communications techniques and technologies, including those which promote accessibility of hearing-impaired people to communication services. In the area of communication, there are significant number of Ugandans with hearing impairment, provision of the law is clear. Most Radio Station and TV Stations lack the requirements. Radio station is inaccessible to a hearing-impaired person; also TV stations, many TV stations are without sign language interpreters. Apart from news, most of other programmes ^{lxxiv}on Uganda

^{lxxiii} *Legal action for Persons with Disabilities v Attorney General (Uganda)*

^{lxxiv} Uganda Communications Act, 1998, part x
Section 61 provides for equality of treatment

Broadcasting Corporation (UBC) and Nigeria Television Authority (NTA), and others are operated without sign language.

Country Director, International Center for Prevention of Deafness and Rehabilitation of Hearing Impaired Persons (ICPDRHIP) and graduate of public health from the University of Liverpool, United Kingdom, Dr. Eneche Audu, about 11.39 million Nigerians have hearing impairment.

Audu said: "Working with a German organisation and the National Health Care, using the World Health Organisation (WHO) protocol, the prevalence rate for deafness in Nigeria is about 6.7 per cent of the population in Nigeria. It is quite high, because it shows we have millions with hearing impairment in the country."^{lxxv}

4.1.4 EMPLOYMENT

This means that any employer who makes accessibility modifications can receive a reduction on the cost of materials used in making the changes at his work place. **Section 18:** PWD Act provides that all contracts are bad in law or void if it requires a person to do something prohibited by the PWDs Act (as provided above), excludes any provision of the Act, or prevents any person from filing a complaint against any person (s) who has committed acts prohibited by this Act^{lxxvi}. The effect of this provision: A PWD can take an employer to court, who violates the provisions of the PWD Act on employment. Section 16 puts a duty on the employer to ensure that the physical features of the premises used by an employee do not place an employee with disability at a disadvantage. It means that, work premises should not be limiting employees with disabilities from accessing any parts or facilities at the work place.

^{lxxv} International Center for Prevention of Deafness Rehabilitation of Hearing Impaired Persons
Report by Dr.Audu Eneche

^{lxxvi}Section 18 The Persons with Disabilities Act, 2006 provides all contracts are bad, if it requires person to do something prohibited under the PWD Act

(d) The Employment Act, 2006 Section 6(1) puts a duty on the minister responsible for labour, labour officers, and the Industrial Court to promote equality of opportunities with a view of eliminating any discrimination in employment. This means that PWDs should not be mistreated or disrespected in trade unions, industrial courts and a minister responsible for labour has a duty to promote such equality^{lxxvii}. Section 6(3) declares discrimination` in employment unlawful and it defines it to include; exclusion made on the basis of among others disability, which has the effect of preventing an employee from obtaining any benefit under a contract of service. It means, an employer, who offers a transport benefit to his/her employees using a bus which an employee, for example, using a wheelchair cannot access and therefore he/she is made to meet transport costs, commits discrimination.

(e) Workers Compensation Act Cap 225 The Act generally requires that any person who acquires a disability while at work and in the course of doing the employer's duties, is supposed to be compensated as provided for in the Workers Compensation Act. Meaning: Where such a worker has to retain his job, the employer is required to create an accessible environment on addition to paying him as a compensation for the disability acquired.^{lxxviii}

4.1.5 HEALTH

The Constitution of the Republic of Uganda 1995, as amended Objective XX mandates the State to take all practical measures to ensure the provision of basic medical services to the population. This means: It is the duty of the State to avail basic medical services to PWDs including disability related needs for

^{lxxvii}The Employment Act, 2006Section 6(1) provides for equality and non-discrimination in employment Section 6(3)

^{lxxviii}Workers Compensation Act Cap 225, provides for employer to create accessible environment for disabled workers.

polio survivors, people living with rheumatism, and brain injury, among others.

lxxix

The Persons with Disability Act, 2006 Section 7 provides that PWDs are entitled to equal rights in all health institutions including medical care.^{lxxx} Interpretation 24: Among the equal rights they are entitled to is the right to physically access the different sections of a given medical unit like laboratories, maternity wards, and toilets, among others. Sec 8 further provides that Government shall promote special health services required by PWDs through; (a) Providing access to reproductive health services which are favourable to women with disabilities. (b) Provision of health-care materials easy to use by PWDs. (c) Promotion of community health awareness campaigns in a way favourable to PWDs. This is to the effect that, It is the duty of Government to provide special disability-related health services in hospitals like accessible delivery beds for mothers with physical disabilities, among others.

The UN Convention on the Rights of Persons with Disabilities, 2008 Article 25 requires States Parties to recognise the rights of citizens to enjoyment of the highest attainable standard of health without discrimination on the basis of disability. It means, States Parties shall take all appropriate measures to ensure that PWDs access health services that are gender-sensitive and disability-friendly,^{lxxxi}

Including health related rehabilitation. States are particularly required to: (a) Provide specific health services to PWDs because of their disabilities, including appropriate early identification and interventions, and other services designed to minimise and prevent further disabilities among children and older persons. It means, States should provide health services in accessible health units/

^{lxxix}The Constitution of the Republic of Uganda 1995, as amended Objective XX mandates State to avail medical services to PWDs

^{lxxx}The Persons with Disability Act, 2006 Section 7(a) access to reproductive health services, (b) Provision of health-care materials easy, (c) Promotion of community health awareness campaigns

^{lxxxi}UN Convention on the Rights of Persons with Disabilities, 2008 Article 25 Article 25 (a). (b). (c) & (d), UNCRPWD

structures, which can be easily reached by PWDs to avoid secondary disabilities (b) Provide health services as close as possible to people in their communities, including in rural areas. This is of the effect that, Health services like outreach programmes should be provided in places and distances that are easy-to-reach by PWDs. (d) Prevent discrimination on basis of disability in provision of health services. This means, having a disability should not be a ground upon which someone is denied access to medical care. Article 26: UN CRPD requires States Parties to take effective and appropriate measures, to enable PWDs to attain and maintain their maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all opportunities that life has to offer. This means that, the State has to do all it can to enable PWDs to live independently, through availing them with mobility appliances like wheelchairs, crutches, callipers and an accessible environment where such appliances can be easily used. States Parties are further required to organise, strengthen and extend comprehensive habitation and rehabilitation services, particularly in the areas of health, employment, education and social services. The application of this provision means that, habitation means trying to work on a child who has a disability at a very young age, say by operating him/her and availing suitable assistive devices like wheelchairs. Rehabilitation usually takes place on adult PWDs aiming at availing them with life and career skills. States parties are required to promote the availability of knowledge on use of assistive devices and technologies designed for persons with disabilities, as they relate to habitation and rehabilitation. It means that, the Government should avail assistive devices such as crutches, wheelchairs, among others, to PWDs who need them, and skills on the proper use of such appliances.^{lxxxii}

^{lxxxii}Article 26, UNCRPWD provides for no denial of disabled someone medical access

4.1.6 EDUCATION

The Constitution of the Republic of Uganda 1995, as amended Objective XVIII (ii) ^{lxxxiii}of the Constitution of the Republic of Uganda mandates the State to take appropriate measures to offer every citizen equal opportunity to attain the highest educational standards possible. Article 30 of the Constitution of the Republic of Uganda avails a right of education to all persons in Uganda^{lxxxiv}. It means, all study opportunities given to students/children without disabilities to access education should equally be given to students/children with disabilities without any discrimination. Article 35 (1) of the Constitution of the Republic of Uganda provides that persons with disabilities have a right to respect and dignity and that the State and society shall take appropriate measures to ensure that they realise their full mental and physical potential^{lxxxv}. This means, respect and dignity of PWDs includes a dignified physical access to all structures and access to mobility devices. Realising full potential requires that the State works on all physical accessibility related barriers that limit participation of PWDs in community programmes and activities. Article 32 (1) mandates the State to take affirmative action in favour of persons with disabilities for purposes of redressing imbalances which exist against them. It means that, affirmative action means special treatment given to a person aimed at covering up for a long period that person has been left out of main activities. Physical access to services by PWDs is the key to redressing imbalances^{lxxxvi}. Article 20 (1) clearly provides that such rights are inherent and not granted by the State, and therefore shall be respected, upheld and promoted by all organs and agencies of Government and by all persons. It means that, the PWDs right to an accessible environment is not a favour but a duty of the State and every Ugandan to make roads, buildings and other facilities accessible to PWDs.

^{lxxxiii}The Constitution of the Republic of Uganda 1995, as amended Objective XVIII (ii)

^{lxxxiv} Article 30, right of education to all persons in Uganda

^{lxxxv}Article 35(1)the Constitution of the Republic of Uganda provides that persons with disabilities have a right to respect and dignity

^{lxxxvi}Article 32(2), the constitution of the republic of Uganda, 1995, provides for the affirmative action in favour of persons with disabilities for purposes of redressing imbalances which exist against them.

4.1.7 DISABILITIES LAW

The Persons with Disability Act, 2006 ^{Section 5} mandates Government to promote education of PWDs through encouragement of inclusive education and formulating educational policies that promote special needs and requirements of PWDs. It means that, an inclusive educational system is where able-bodied children study together with children with disabilities. The schools should be accessible with wide door entrances, ramps, accessible latrines/ toilets, and with a relatively flat environment. They should also have special teaching aids and facilities for PWDs and special needs teachers. *Section 19*^{lxxxvii} of the same Act makes it the duty of all organs in both public and private institutions to provide suitable exits for persons with disabilities and universal standards or designs of public toilets. This means that, universal standards or design of public toilets means a toilet which PWDs can use with ease, and independently. *Section 20* makes it an obligation to any person who constructs a public building to ensure access for persons with disabilities through among others; providing safe and accessible urinals and bathrooms, ramps, rails, and elevators^{lxxxviii}. This mean that, a public building is any building for public use regardless of whether it is owned by an individual/private person or the Government. Examples include schools, hospitals, banks, hotels, places of worship, work premises, among others, where the general public is free to enter. *Section 6 (1)* and *Section 6 (2) (c)* considers it to be discrimination where a person with a disability is denied or limited access to any benefit or service provided by an education institution. It means, it is discrimination or an offence for a school, college or university to have facilities like toilets/latrines, libraries, classrooms, among others, that PWDs cannot access or access it with difficulty^{lxxxix}.

The Universities and other Tertiary Institutions Act, 2001 (as amended) *Section 24 (2) (b)* of the Universities and other Tertiary Institutions Act provides that it is the function of the university to disseminate knowledge and give

^{lxxxvii}Section 19 The Persons with Disability Act, 2006, imposes duty on both public and private institutions to provide suitable exits for the disabled.

^{lxxxviii}Section 20, PWDs Act, 2006

^{lxxxix}The Persons with Disabilities Act, 2006, section 6(1) & 6(2)

opportunity of acquiring higher education to all persons including persons with disabilities who wish to do so without discrimination. It is of the effect that, Persons with physical disabilities must be given the same opportunities as any other students, as regards access to all the institution's facilities like lecture rooms, halls of residence, libraries, and recreation facilities. Section 28 (3) provides that the Admissions Committee of a public university shall take into consideration affirmative action in favour of marginalised groups of people among which are persons with disabilities. It means that, Special treatment must be given to PWDs by the Admissions Committees of universities, bearing in mind that PWDs usually face numerous challenges in schools which certainly affect their academic performances and therefore the need for some special consideration.

UN Convention on the Rights of Persons with Disabilities, 2008 Article 24 (5) requires States Parties to ensure that PWDs are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others, and that States Parties shall ensure that reasonable accommodation is provided to PWDs. This is to the effect that; this puts a duty on the State to make education services at all level accessible to all PWDs including children.

Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, 1993 Rule 5 mandates States to recognise the overall impact of accessibility in equalisation of opportunities in whatever it does. This provision means, accessibility has a general and cross-cutting impact on total enjoyment of rights of PWDs and their participation in society. Rule 5(a) (1) requires States to initiate measures to remove from the physical environment obstacles to the participation of PWDs in community activities. It is to the effect that; accessibility Standards/guidelines should be developed and laws should be put in place and enforced, to ensure physical access to houses, buildings, public transport, streets and outdoor environment. Rule 5(a) (2) mandates States to ensure that architects and engineers involved in the construction of the physical

environment, have access to adequate information on disability policy and measures to achieve accessibility. Rule 5(a) (3) requires that accessibility requirements be included in the designs and construction of the entire physical environment. The curricula of architects and construction (civil) engineers should have course units in disability and accessibility needs. ^{xc}Rule 6 provides that the education of PWDs should be an integral part of the education system of a given study centre. This provision means that; Children with disabilities should study in the same schools like able-bodied children. So all education institutions should plan and put in place facilities for all pupils/students in the schools including children with disabilities.

4.1.8 AFRICAN DISABILITIES' RIGHTS

The world health organization report of 2018 has it, 60m-80m Africans suffer some sort of disabilities.

According to African Charter on Human and people rights stipulates various article that promote and protect all human kinds. Article 2 of the Charter, states that, every individual ^{xc}i shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status. Article 3. Every individual shall be equal before the law^{xcii}. Article 2. Every individual shall be entitled to equal protection of the law. The provisions of this Charter have given great background on African status on disabled persons. With these provisions, disabilities are covered and protected under the African Charter on Human and People Rights. Both Nigeria and Uganda are members of the charter.

^{xc}Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, 1993, Rule 5(a)(1), (2) and (3)

^{xc}i Article 2 African Charter on Human and Peoples' Rights, provides for enjoyment of rights and freedoms.

^{xc}ii Article 3 and 2, African Charter on Human and People's Rights, every individual shall be equal before the law and every individual shall be entitled to equal protection of the law

4.1.9LEGAL PROTECTION OF DISABLED PERSONS ON GLOBAL STAGE

The law protecting disabled persons is established by the Universal Declaration of Human Rights, Article 1, and Right to equality: You are born free and equal in rights to every other human being. You have the ability to think and to tell right from wrong. You should treat others with friendship. Article 2, Freedom from discrimination: You have all these human rights no matter what your race, skin colour, sex, language, religion, opinions, family background, social or economic status, birth or nationality. Article 6, Right to recognition as a person before the law: You have a right to be accepted everywhere as a person according to law. Article 7, Right to equality before the law: You have a right to be protected and treated equally by the law without discrimination of any kind. ^{xciii}

The UN Convention on Rights of Persons with Disabilities is established primarily to protect and promote the interest and the rights of the disabled persons.

Article 1 Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include 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.

^{xciv}

The CRPD does not explicitly define disability and recognizes it as an evolving concept. However, the treaty states as its aim to protect and promote the human rights and fundamental freedoms of all persons with disabilities, which include

^{xciii} Universal Declaration of Human Rights, Article 1, 2, 6 and 7

^{xciv} Article 1 The UN Convention on Rights of Persons with Disabilities

“those who have long-term physical, mental, intellectual or sensory impairments which in interaction with other barriers may hinder their full and effective participation in society on an equal basis with others.

The 1995 Constitution of Uganda does not contain a definition of disability. The term is instead interpreted in the 2006 Persons with Disabilities (PWD) Act as a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation^{xcv}. However, Nigerians with Disability Decree of 1993, defines only the term “disabled person” as *a person who has received preliminary 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, 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*^{xcvi}.

By recognizing that disability is the result of a combination between impairment and external barriers, the PWD Act incorporates an understanding of disability as a social phenomenon. Furthermore, of particular value is the recognition that physical, mental and sensory impairments, all can result in a disability.

However, this definition appears in some aspects to fall short of the notion enshrined in the Convention and therefore in limiting access to the protection offered under the national disability framework inasmuch as:

According to the PWD Act, the impairment must result in a substantial

^{xcv}Section 2 of the Persons with Disabilities Act, 2006, defines “disability”

^{xcvi}Section 3 of Nigerians with Disability Decree, 1993

Article 5

Equality and Non-Discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law^{xcvii}.

Article 6 Women with Disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention^{xcviii}.

Article 7 Children with Disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in

^{xcvii} Article 5(1), The UN Convention on Rights of Persons with Disabilities 2008

^{xcviii} Article 6 (1) and (2) The UN Convention on Rights of Persons with Disabilities 2008

Protection of women with disabilities

Article 7(1), (2) & (3); the UN Convention on Rights of Persons with Disabilities 2008, protection of children with disabilities.

accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

4.1. 10 DATA COLLECTED AND ANALYSIS OF LAW PROTECTING DISABILITIES.

According to section 2 of the Persons with Disabilities Act, 2006 defines the "term "disability to mean a substantial functional limitations *limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation.*

Nigerians with disabilities decree of 1993 defines the term "disabled person" as a *person who has received preliminary 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, 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.* In *Sutton v. United Airlines, Inc.* The Court clarifies the definition of "disabled" by using test to determine whether the petitioners were abled or disabled within the meaning disability. *The court held that petitioners were not actually disabled because they could fully correct their visual impairments.* A "disability" exists only where an impairment" substantially limits" a major life activity, not where it "might," "could," or "would" be substantially limiting if corrective measures were not taken. Second, because subsection (A) requires that disabilities be evaluated" with respect to an individual" and be determined based on whether an impairment substantially limits the individual's "major life activities, "the question whether a person has a disability is an individualised inquiry.

Also in the case of *Murphy v. United Parcel Service, Inc* .In this case, the Court explain show to determine whether an impairment "substantially limits" a major life activity.

The laws protecting PWDs are constitutional establishments. Both constitutions of the federal republic of Nigeria, 1999 as amended, and also the constitution of the republic of Uganda have stipulated various provisions protecting people with disability. The principles and the objectives of the constitution of the federal republic of Nigeria, 1999 as amended, provides for equality before the law, protection of human dignity, non-discrimination and the protections of human rights and freedom. The constitution further spells out the protection and non-discrimination of the disabled, except when it is just, and for the person's interest. The constitution of the republic of Uganda, 1995 in the other hand gives various provisions in the constitution that seeks the disabled persons to be protected by the laws or under the laws^{xcix}.

Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited. This provision arises from the constitution of the republic of Nigeria.

Without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy.

a) That suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick

^{xcix}Section 17 the constitution of the federal republic of Nigeria, 1999 as amended.

Article 21 the constitution of the republic of Uganda, 1995 as amended.

Section 17 (a), (b), (c) and (d).

benefits and welfare of the disabled are provided for all citizens. Every citizen shall have equality of rights, obligations and opportunities before the law;

(b) The sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced;

(c) Governmental actions shall be humane;

(d) Exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented.

Section 42 of the constitution of the federal republic of Nigeria, 1999 as amended adopts an inclusive protection of every citizen without unjust discrimination. It forbids discrimination^c.

According the constitution of the republic of Uganda, 1999 as amended under chapter four (IV) the fundamental human rights and freedoms. The major provision which prohibit discrimination against disabilities is Article 21. All legislations enact in Uganda are done with the consideration of Article 21^{ci}.

According to 2017 report carried out by the "Thisday newspaper", reported that about 25m Nigerians live with disabilities. It further reports that 3.5m are physically challenged. The Ugandan National Population Census, 2014 estimated that about 5.6m Ugandans are disabled. That is 14.8/15% of the total population of about 38m are living with disabilities.

Life of disability is not easy, even developed nations disabled facing a hostile issues. Law needs to protect them. However, the challenges faced by the disabled persons in developing nations are immense or huge. Issues faced by the PWDs are social life, poverty, neglect and abuse.

^cSection 42 the constitution of the federal republic of Nigeria, 1999 as amended.

^{ci} Article 21 the constitution of the republic of Uganda, 1995 as amended

Both, 25m or 5.6m disabled Nigerians or Ugandans, both societies view is that, these people have nothing to offer to the society. Disabilities are better viewed sympathy rather being offered equal opportunities. The fabled and disabled society, they both live miles apart. The laws are input in place for the integration of these societies but the beliefs keep them far apart from realisation.^{cii}

In Nigeria's cases, religious and traditional beliefs are the main factors that hinder the implementation of few laws that are in place. However, disabled laws spell the rights of the PWDs but it is difficult for one to come out and claim this right. It is shocked, despite the appropriate laws, especially the constitutional rights of the disabled persons; the report has that 80% of persons living with disability don't get justice in Nigeria. This is as a result of these beliefs, sympathy, pity, already-cursed, exclusion and society neglect of half human, also not worthy of law protection^{ciii}. In Uganda's case, it is almost similar fact. The provision of law that require that every citizen must have access to justice is being looked upon in the case of disabled persons.

In the area of employment, both laws of the two countries forbid discrimination. The question is how many disabled persons are employees? It is difficult. Disabled persons are considered unproductive in the labour market. Many more of these have training in various professions but it is dim to offer the jobs, though they may be competent.

In academic arena, the fact that these laws seek to integrate and promote equal opportunities to everyone, it is not easily coming, most of these institutions are not fully integrated. They automatically ignore the law. From the infrastructures to the

^{cii}Thisday newspaper, April, 22, 2017 reported that 25 million Nigerians live with disabled.

Source: available at Basajjabala Memorial Library, Law Session, Kampala international university main campus.
<http://www.kiu.ug.ac.com>

^{ciii} Abang T.B Disablement, disability and the Nigeria society, Disability Handicap & Society

Source available information: Etieyibo, E. & Omiegbe, O., 2016, Religion, culture and discrimination against persons with disabilities in Nigeria. African Journal Disability
<http://dx.doi.org/10.4102/ajod.v5i1.192>

last considered parts are not inclusive. In an interview conducted on street of Kampala and Kampala international University during this research, many people said, most of these institutions in the country do not mind of what law says about disabilities. The lecture halls or class rooms are built inconsiderately. For instance, all my years on campus at Kampala international University, I wondered how disabled persons on wheelchairs could access class rooms or lectures conducted in the upper floors or access to the library where the session of such students is from the upper floors.

Construction of the public buildings and roads, a good number of both Nigerians and Ugandans are disabled that they are not considered. The construction of highways should be done with the consideration of easy access. In Nigeria, roads and buildings are being neglected to be built in an accessible way that include the disabled.

There have been numerous efforts on the part of the Nigerian government to ameliorate the sufferings of the PWDs. According to the Ministry of Women Affairs and Social Development, Nigeria signed and ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol on May 28, 2007 and October 27, 2008 respectively. The Convention seeks among other things: "To promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity." On July 14, 2010, Nigeria signed the International Labour Organisation Convention on the Vocational Rehabilitation and Employment of (Disabled) No. 159 of 1983. This Convention makes provision for employment of persons with disabilities without discrimination.

December 3, 2017 marks the silver jubilee of the observance of International Day of Persons with Disabilities. The annual observance of the IDPD was proclaimed by the United Nations General Assembly Resolution 47/3 in 1992. It aims to promote the rights and well-being of persons with disabilities in all spheres of society and

development, and to increase awareness on the situation of persons with disabilities in every aspect of political, social, economic and cultural life^{civ}.

^{civ} Jide Ojo " what Nigerians with disabilities want"
Nigerian punch newspaper, December, 20, 2017

CHAPTER FIVE

5.0 FINDINGS, SUMMARY CONCLUSION AND RECOMMENDATIONS

This chapter of the research deals with the data collected analysed from the previous chapter. It gives findings got during the data collected, the summary of this research, conclusion and recommendations where there are loopholes in the laws established and failed to meet in the day to day of the disabled.

5.1 FINDINGS.

This research has been conducted on the aim of finding laws protecting people with disability and the critical analysis. During the research, the researcher emphasised to find various laws in Nigeria and Uganda, established to protect PWDs.

The research has found out during the research that, between Uganda and Nigeria, Uganda has a comprehensive legal framework than its Nigeria counterpart. More so, Uganda is much progressing in the area to ensure that these PWDs are not just protected by religious or traditional beliefs but by a full established and supported laws. In Nigeria, in the other hand, does not show concern. In Nigeria, the protection of disabilities do not worth law. It is religiously and traditionally viewed.

There are scanty provisions in the constitution of the federal republic of Nigeria, 1999 as amended which are envisaged with constitutional rights to protect the disabled. The constitution does not go directly to express on the disabilities matter; it seems to be inclusive by its language. However, this is a tiger paper work, it is far from its reality.

Specific law that protects disabled Nigerians is the Nigerians with Disability Decree, 1993. Since the promulgation of the constitution of the federal republic of Nigeria, 1999 and also democracy emergency, Nigeria is far to achieve greatness in this area. Nigeria has many bills passed but failed to achieve presidential accent. There was a bill in 2002, 2008, 20012 and 2016, Nigeria has not yet achieve fully established

legislation. Nigeria ratified the UN convention on the rights of persons living with disabilities, but little have been done from the convention which imposes various mechanisms on the member state to make sure they are fully adopted. The Nigerians with Disability Decree, 1993, this research has examined it to find out that more sympathetic and ideological standard. In the case, Uganda is a step ahead, the Uganda enacted, National Council for Disabilities Act, 2003, the Persons with Disabilities Act, 2006. Furthermore, the Article 21 of the constitution of the republic of Uganda, 1995 is powerful and effective. This Article helps to integrate Uganda society of the abled and the disabled. Labour or private laws like Employment Act, 2006 Labour Act, e.t.c have done much with provisions that prohibit discrimination against disabilities in workplaces.

Both in Nigeria and Uganda, most especially Nigeria, Nigerians with disabilities suffer assault, humiliation, stigmatisation and discrimination during the elections. Politically, Nigerian with disabilities have not out to 1% of political participation.

Despite, the provisions of both constitutions that envisage every person with right to participate and involved in decision-making. The recent Gubernatorial elections conducted by one of Nigeria federal states, Nigerian with disabilities in the state cried neglect and lack of access. According to International Convention on Civil and Political Rights provides for under Article 26. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, .colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The following legislations an inclusive participation of Ugandans with disabilities. These are: The Constitution of the Republic of Uganda, 1995;

The Electoral Commission Act, CAP 140;

The Political Parties and Organizations Act, 2005, as amended;

The Presidential Elections Act, 2005, as amended;

The Parliamentary Elections Act, 2005, as amended; and

National Council for Disability Act 2003, as amended.

Significantly, with the implementation of aforementioned legislations, disabled are fully represented even in Ugandan parliament. However, more have to be done, to create awareness and sensitize the society. An MP member for the disabled in Uganda, cried assault during the parliamentary elections, that he was not physically and mentally capable of being performed to the call of such national duty, because of his disability. Law protecting people with disabilities in Nigeria and Uganda has emerged recently, its implementations has been challenging. Also there are so many areas that need to be met in the legislation. To point it out Nigeria lacks behind in the legislation of these law

5.2 SUMMARY

term "disability" to mean a substantial functional limitations *limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation. Also, the Nigerians with disabilities Decree, 1993, defines "disabled person" as a person who has received preliminary 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, 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.*

The study focused on establishing and analysing the law protecting people with disabilities. In the the study, the research finds out the total population of disabled Nigerians and Ugandans. It further gathered and analysed laws that seek for the protection the PWDs. The study found out that 25m Nigerians and 5.6m Ugandans suffer some sort of disabilities.

It was established that about 80% of Nigerians with disabilities do not have access to justice. This is as result of lack of a comprehensive legal framework and lack of awareness. Her counterpart Uganda, also has similar challenges. Access to justice by PWDs has been a challenge or hindrance, despite Uganda having a comprehensive legal framework on this topic.

It was also established during the study that, the life of disabled persons in the two societies has no much connectivity with legal perspectives but it is predominantly characterised by customary, traditional and religious beliefs. These factors sometimes attribute the disabled in to a very hostile society or they are being over sympathetic by their disabilities, by also ignoring what laws says. These factors have great influence even in the legislation.

It was established during this research that Nigeria, to be compared with Uganda in the area of legislation. Uganda has gone steps ahead of Uganda. Uganda has a comprehensive legal background on the law protecting PWDs.

5.3 CONCLUSION

The law protecting people with disabilities in Nigeria and Uganda, has been zealously wanted for equal opportunities to be granted equally. Couple with the hostility created towards PWDs there has been a great need to have a comprehensive law to protect the disabled. Lack of legal work cause great harm to the disabled. For instance a struggle by the Nigeria government to come out comprehensive laws on this topic have hindered a lot of progress.

In the study, it addressed the challenges of disability being viewed with rights but beliefs, such as tradition, negative perception and religions.

5.4 RECOMMENDATIONS

This study gathered the find during the research conducted to recommend policymakers, government and private organisations to adopt the recommendations to bring solutions to the key problems faced by the government to have a comprehensive laws.

With the estimated population of disabled Nigerians and Ugandans, it is highly recommended by the study that, the government Nigeria should establish and create a political environmental that PWDs to get involved and participated in the decision making as well as policy making. Nigeria has 25m Nigerians with disabilities, democratically, socially and economically, these people cannot be ignored or neglected.

Awareness, government should adopt police that create awareness and integration of disabled people in the society. It should be noted that, Uganda has a comprehensive legal work on the topic but implementation or enforcement has been a challenge to achieve. All the necessary methods must be employed to achieve.

Government should do much to cut down the high level of dependency from the disabled. Good number of disabled persons are highly dependent; this causes and keeps the poverty level high.

4.1. 10 DATA COLLECTED AND ANALYSIS OF LAW PROTECTING DISABILITIES.

according to section 2 of the Persons with Disabilities Act, 2006 defines the term 'disability to mean a substantial functional limitations