

IMPACT OF INACCESSIBLE ENVIRONMENT ON THE ENJOYMENT OF FUNDAMENTAL RIGHT TO FREEDOM OF MOVEMENT BY KANO STATE'S STUDENTS WITH MOBILITY IMPAIRMENTS

ABBA, A

Dept. of Law, Aminu Kano College of Islamic and Legal Studies, , Kano. Nigeria

(EMAIL: aminaabba20@gmail.com GSM NO.: 0803 6234 358 & 0805 5445 335)

ABSTRACT

A Person's environment has a serious impact on the extent of his or her ability to safely and freely move around, thus, it defines the extent of person's integration in the society. Meanwhile, inaccessible environments create barriers that hinder and/or obstruct the full and effective participation and inclusion of persons with mobility disabilities/impairments enjoy their fundamental mobility disabilities on equal basis with others. This paper assessed the extent to which students in Kano State Tertiary Institutions enjoy right to freedom of movement. Meanwhile, it adopted socio-legal methodology, which on one hand, unveiled the plights of Nigerians with mobility disabilities in accessing their environments, including places of necessities, like schools/educational institutions, where they have unfettered to access. On the other hand, to uncloak their condition after passing into law, DPDPA and Kano State Persons with Disabilities Law in 2018, focus group discussions were conducted with eighteen students with varying degree and severity of mobility impairments from Kano State's owned tertiary institutions. The findings however revealed that, structures and facilities in Kano State's tertiary institutions are non-disabled friendly, and hence, students with mobility disabilities do not, on equal basis with others, fully and effectively enjoy their fundamental right to freedom of movement. Further, it recommends governments' immediate intervention to renovate all existing structures to conform with international standard of disability-friendly. And that, while allocating classes/rooms, school authorities should always consider the special/peculiar needs of students with mobility impairments, to ensure their optimal integration and equal enjoyment of all educational opportunities.

Keywords: Mobility disabilities/impairments, Fundamental right to freedom of movement, Accessibility Kano State ,Students

1.0

INTRODUCTION

Accessibility is fundamental to the full and effective enjoyment of almost all human rights and fundamental freedoms for persons with mobility impairments/disabilities. Thus, while movement is inherent in almost every human activity, ability to freely and safely move within one's

environment is essential and a pre-condition for realizing other important human rights and needs like, water, food, health care services, and education, among others.¹ hence, accessibility is essential for the effective enjoyment of all human rights and optimal integration of persons with mobility disabilities in all spheres of life; without which, freedom of movement avails nothing to them.

Moreover, right to freedom of movement predates all modern human rights due to its interconnectedness with the fundamental and most jealously guarded human rights to life, dignity, liberty.² Hence, in *Rights International V. Nigeria*,³ the African Commission on Human and Peoples' Rights found the interconnectedness of right to freedom of movement with other human rights and needs. It is therefore indispensable to effectively protect and respect all human rights and fundamental freedoms of all persons; especially persons with disabilities, due to their special/peculiar needs and/or different conditions to enable them, on equal basis with others, fully and effectively enjoy all human rights and fundamental freedoms⁴ and ensure their optimal integration and participation in all spheres of life. Meanwhile, inaccessible environments create barriers that hinder and/or obstruct the full and effective participation and inclusion of persons with mobility disabilities/impairments enjoy their fundamental mobility disabilities on equal basis with others. This paper assessed the extent to which students in Kano State Tertiary Institutions enjoy right to freedom of movement and covered persons with mobility disabilities/impairments which

¹ See Odinkalu, C., (2003), "The Protection of Human Rights In Africa", *Journal of African Law*, Vol. 47, No. 1, Pg. 29 and Emeka, C., (2020), "The Right to Freedom of Movement in Nigeria", available at <https://www.researchgate.net/publication/344025616> accessed - 08/10/2022

² See Olomjobi, Y., (2018), *Human Rights And Civil Liberties In Nigeria*, (Revised Edition), Princeton and Associates Publishing Company Ltd. Ikeja – Lagos, Pg. 277 and Mowoe, K.M., (2008), *Constitutional Law In Nigeria*, Malt House Press Ltd., Pg. 487

³ Communication 215/98 (Decided at the 25th Ordinary Session, Nov. 1999, 13th Annual Report)

⁴ See Abba, A., (2019), "An Analysis of Obstacles to the Enjoyment of Right to Education and Development by Nigerians Living with Disabilities", *Ahmadu Bello University Journal of Public and International Law, (ABUJLIL)*, Vol. 9, Pg. 308

generally resulted from the brain injury,⁵ spinal code injury,⁶ road-traffic accidents,⁷ industrial/occupational accidents,⁸ birth defects and other medical conditions,⁹ poverty¹⁰ and

⁵ See “Congenital Brain Injury / Causes – Disorders”, available at <https://www.braininjury-explanation.com> accessed 15/04/2022 and Anna, G., (2018), “Congenital Brain Defects / Definitions and Patient Education”, – Health Line, available at <https://www.healthline.com>health> accessed – 15/04/2022, “Physical Effects of Brain Injury”, available at <https://www.brainline.org/article/physical-effects-brain-injury> accessed - 04/04/2022 and generally Sembulingam, K. and Sembulingam, P., (2012), *Essentials of Medical Physiology*, (Sixth Edition), Jaypee Brothers Medical Publishers Ltd. and Chaurasia, B.D., (2013), *Human Anatomy Regional and Applied Dissection and Clinical*, (Sixth Edition), Volume 3, Head and Neck, CBS Publishers and Distributors PVT Ltd. See also Cherney, K. and Seladi-Schulman, J., (2021), “Disability Accidents: Conditions and Statistics”, (Revised, 2022-04-05), available at <https://www.disabled-world.com/disability/accidents> accessed – 09/04/2022

⁶ See “Spinal Cord Injury”, available at <https://www.mayoclinic.org> accessed – 08/04/2022 and “Spinal Code Injury, Overview”, available at <https://www.institutchiaribcn.com> accessed – 07/04/2022

⁷ See Leijdesdorff, H.A., et al., (2014), “Injury Pattern, Hospital Triage and Mortality of 1250 Patients with Severe Traumatic Brain Injury Caused by Road Traffic Accidents”, *Journal of Neuro-trauma*, PMD 24093437, Aldridge, L., (2020), “Traumatic Brain Injury in Road Traffic Accidents”, available at <https://www.lesteraldridge.com>blog> accessed – 16/04/2022, Beck, B., et al., (2017), “Road Safety: Serious Injuries Remain a Major Unsolved Problem”, *Medical Journal of Australia*, available at <https://www.doi.org/10.5694/mja17.00015> accessed 10/04/2022, Emstberger, A., et al., (2015), “Decrease of Morbidity in Road Traffic Accidents in a High Income Countries – An Analysis of 24,405 Accidents in 21 Year Period”, available at [https://www.doi.org/10.1016/S0020-1383\(15\)30033](https://www.doi.org/10.1016/S0020-1383(15)30033) accessed – 10/04/2022, Thompson, J.Y., et al., (2016), “The Burden of Road Traffic Crashes, Injuries and Deaths in Africa: A Systematic Review and Meta – Analysis, Bulletin of the World Health Organization, 94,510-521”, available at <https://www.doi.org/10.2471/BLT.15.163121> accessed – 10/04/2022 and Yolaine, G., et al., (2018), “Disability and Related Factors among Road Traffic Accident Victims in Benin: Study From Five Public and Faith-Based Hospitals in Urban and Suburban Areas”, *Open Journal of Epidemiology*, Vol. 8, No. 4

⁸ Diugwu, I.A., et al., (2012), “Effective Regulations and Level of Awareness: An Expose of the Nigeria’s Construction Industry”, *Open Journal of Safety Science and Technology*, Vol. 2. Pp. 140-146, Umeakafor, N.I., et al., (2014), “Compliance with Occupational Safety and Health Regulations in Nigeria: An Exploration”, available at <https://www.researchgate.net> accessed – 12/04/2022 and Isaac, D., et al., (2014), “The Pattern of Occupational Accidents, Injuries, Accident Casual Factors and Intervention in Nigerian Factories”, *Developing Country Studies*, Vol. 4, No. 15, available at <https://www.researchgate.net> accessed – 12/04/2022, Ojoye, T., (2016), “Industrial Accidents: Failing Legal System Worsens Victims’ Woes”, available at www.punching.com accessed – 12/04/2022 and Chukuma, A., (2021), “Industrial Safety in Nigeria: Factories Act in Perspective”, *Rivers State University of Science and Technology Publications*, available at <https://www.researchgate.net/publication/354178632> accessed – 24/04/2022, “Disabilities Caused by Accidents”, (2021), available at <https://www.disabilitycanhappen.org> accessed – 10/04/2022

⁹ See “Birth Defects: Causes, Definition and Types”, – Clever Land Clinic (2021), available at <https://my.cleverlandclinic.org> accessed – 15/04/2022, Gregg, E.W., (2018), “Diabetes and Disability”, available at <https://www.ncbi.nlm.nih.gov>books> accessed – 16/04/2022 and Wong, E., (2013), “Diabetes and Risk of Physical Disability in Adults: A Systematic Review and Meta-Analysis”, *The Lancet Diabetes and Endocrinology*, Vol. 1, Issue 2, Pp. 106-14, Sule, D.A. and Suleman, M.J., (2022), “Non – Invasive Brain Stimulation in Management of Failed Back Syndrome: A Case Report”, *RGUHS Journal of Physiotherapy*, 2(1), Pg. 24, Morgan, G., “Leading Causes of Disability”, available at <https://www.webmd.com> accessed 10/04/2022

¹⁰ See Kankia, R.I., (2020), “Environmental Management: Strategy for Poverty Alleviation in Nigeria”, *BADALA Journal of Arts and Social Sciences*, Vol. 15, No. 1, Pg. 228, Abba, A., (2019), “Poverty Alleviation: Threshold to the Enjoyment of Right to Adequate Standard of Living”, *Crescent University Law Journal*, Vol. 4, Pg. 104, Bako, H., (2020), “The Roles of Emirs of Kano in the Alleviation of Extreme Poverty in Kano Metropolis: 2000 – 2017”, *BADALA Journal of Arts and Social Sciences*, Vol. 15, No. 1, Pg. 153, Ahmad, A.A. and Abba, A., (2020), “The Impact of Education on Poverty Reduction: A Review”, *BADALA Journal of Arts and Social Sciences*, Vol. 15, No. 1, Pg. 180. See also Sancho, A., (2006), “Policies and Programmes for Social and Human Development”, Produced for the UN World Summit for Social Development, San Francisco: International Center for Economic Growth

malnutrition;¹¹all of which lead to different degree/severity of mobility disability resulting in the poor or non - enjoyment of fundamental right to freedom of movement.

2.0 LITERATURE REVIEW

2.1 Conceptual Review

2.1.1 Concept of Disability

Disability is defined under the Convention on the Rights of Persons with Disabilities (CRPD)¹² as a “long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder full and effective participation in society on equal basis with others.” Thus, disability results from the interaction between persons with disabilities or impairments and attitudinal and/or environmental/structural barriers that hinder their full and effective participation in a society on equal basis with others.¹³ More aptly, under Nigerian Discrimination against Persons with Disabilities (Prohibition) Act (DPDPA)¹⁴ ‘disability’ is defined to “includes long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder full and effective participation in society on equal basis with others.”¹⁵ Further, Kano State Persons with Disabilities Law¹⁶ defines disability as “state of substantial impairment of the physical, visual, vocal, auditory, sensory or mental capabilities of a person at birth or by injury, sickness or its effect or congenital deficiency.”

¹¹ Morley, J.E., (2021), “Under-nutrition - Disorders of Nutrition” – MSD Manuals, available at <https://www.msmanuals.com> accessed – 11/04/2022. However, it has been estimated that, between 2021 –2023 about 735 million people were undernourished across the globe. See “Number of Undernourished/Hungry People Worldwide”, 2022, available at <https://www.statista.com>statisyics> accessed – 07/10/2023

¹² Adopted with its Optional Protocol by the United Nations General Assembly Resolution A/RES/61/106 on 13th December, 2006 at the UN Head Quarters in New York and was opened for signature on 30th March, 2007, and entered into force on 3rd May, 2008

¹³ See Preamble to the CRPD

¹⁴ 2018

¹⁵ See Section 57 of the DPDPA

¹⁶ 2018

Hence, disability is a complex, dynamic, multidimensional and uncontested human condition which ultimately negates the enjoyment of human rights and fundamental freedoms;¹⁷ this is because, while disability remains a human condition either congenital or acquired due to accidents, poor health care provisions or services, substance and/or drug abuse, poverty, hunger and/or malnutrition, insurgency and/or war, degenerative changes and other illnesses or diseases which renders persons affected, either temporarily or permanently incapable to function within the range considered normal for humans;¹⁸ human rights on the other hand refer to inherent and inalienable rights accorded to all persons without distinction or discrimination on any ground whatsoever.¹⁹ Further, disability differs due to cause and/or condition, among others.

2.2 Empirical Review

2.2.1 Impact of Inaccessible Environments/Structures and/or Facilities on Nigerians with Mobility Disabilities/Impairments

Though persons with disabilities are one of the most vulnerable and largest minority groups,²⁰ they only secure protection for the enjoyment of their human rights under general provisions of most human rights instruments.²¹ Mr. Kofi Annan said; “Persons with Disabilities make up the world

¹⁷ It has also been defined as a physical, psychological or neurological deviation in an individual make – up. See World Report on Disability, WHO Library Cataloguing – in – Publication Data. It has also been conceived as a blessing from deity or deities, a punishment for a sin, or a medical condition. See Apgar, D., (2021), “Social Work and Criminal Justice”, Disability (2021) Research Gate, available at <https://www.researchgate.net> accessed – 07/03/2022. Also Abubakar, defined disability as “inalienable part of human condition since prehistoric times and no one is immune from becoming temporarily or permanently disabled at any point in their lives.” See Abubakar, S., (2016), “Promoting the Quality of Life of PWDs : Research, Policy and Implementation Landscape in Nigeria”, A Paper Presented at Disability Conference on Promotion of Quality of Life of People Living With Disability (PLWD) : Research, Policy and Implementation, on 23rd – 25th August, 2016, held at Bayero University, Kano

¹⁸ See Abba, A., (2024), “Appraisal on the Enjoyment of Right to Freedom from Discrimination by Nigerians Living with Disabilities”, *Nigeria Police Academy Law Journal (NPALJ)*, Vol. 2, No. 1, Pg. 78

¹⁹ See Abba, A., (2018), “A Critique on the Protection and Implementation of Disability Rights in Nigeria”, *Obafemi Awolowo University Law Journal*, Vol. 2, No. 1, Pg. 123

²⁰ They constitute more than 1.3 billion or 16 percent of the world’s total population World Health Organization Report, available at <https://www.who.int>health-topics> accessed – 04/07/2023

²¹ See for instance, the United Nations Charter where it states; the inherent dignity, worth and equal and inalienable rights of all members of human family is considered as the foundation of freedom, justice and peace in the world, the Universal Declaration of Human Rights also articulated the rights to be accorded to all people without distinction of

largest minority group ... All too often, they do not enjoy the full spectrum of civil, political, social, cultural and economic rights...²² Consequently, disability continue to be a barrier to the full and effective enjoyment of their human rights; for instance, where on a ground of disability, a person is deprive from enjoying his or her rights or subjected to abuse or discrimination of any kind. For example, where on ground of disability, a person did not equally and effectively enjoy his/her right to education in the institution of his/her choice. For instance, Dr. Stanley Nwachukwu,²³ while lamenting on the discrimination he encountered due to his disability in medical college, stated that, one of his lecturers, despite knowing that, he cannot stand long with his crutch, refused him to use his special stool he normally sit-on during lectures, and insisted that he should stand like others; as a result of which he left the college.²⁴

Likewise, Bilqisu Isyaku Ibrahim²⁵ bemoans on the difficulties they usually face in accessing environments and/or structures/facilities, particularly in educational institutions.²⁶ Similarly, Ochiedo, while bewailing their distress stated that, inaccessible environments/structures compelled

any kind, such as race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status. Also the International Covenant on Civil and Political Rights and International Covenant on Economic Social and Cultural Rights extend their scope of application to all persons, where they provide; the rights contained thereunder should be accorded to all persons without distinction of any kind. Further, International Convention on the Elimination of all Forms of Racial Discrimination requests its states parties to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone without discrimination or distinction of any kind and to the enjoyment of all human rights. Also Declaration on Social Progress and Development provides that; “All peoples and all human beings without distinction as to race, colour, sex, language, religion, nationality, ethnic origin, family or social status or political or other conviction, shall have the right to live in dignity and freedom and to enjoy the fruits of and should on their part contribute to it.” Also Declaration on Right to Development states thus; the right to development entitles every human person and all people to participate in, contribute to and enjoy development, in which all human rights can be fully realized. Fundamentally, the preamble to the 1999 Nigerian Constitution states that; “the purpose of the Constitution is to promote the government and welfare of all persons on the principles of freedom, equality and justice and consolidating the unity of all Nigerians.”

²² See former UN Secretary General’s message on the International Day of Disabled Persons (3rd Dec. 2005)

²³ A polio-survivor and a Chairman, Joint Association of Persons with Disabilities Imo State

²⁴ See “Lecturer Frustrated Me out of Medical School Due to my Paralyzed Legs”, available at <https://www.punching.com> accessed – 28/02/2022

²⁵ Person with special need and a graduate of English Language from Bayero University, Kano

²⁶ Available at www.voahausa.com cited in Abba, (2019), op cit. Pg. 309

her to construct/built her own ramps to access lecture halls.²⁷ In the same vein, Ncheku Nwokeke laments her experience while she was a law student at University of Ibadan, where she said; due to lack of accommodation for wheelchair users, she had to depend on colleagues and friends to commute around and access various services. She described the situation as frustrating and dehumanizing, as it prevented her from accessing library at and when desired.²⁸

Meanwhile, in Nigeria, schools and/or educational institutions at all levels are not inclusive of, and accessible to persons with mobility impairments/disabilities.²⁹ Thence, the Joint National Association of Persons with Disabilities said, the reason why children with disabilities are not in school is that, “the school environments are not inclusive and accessible” to them. However, special schools have been found to be socially dysfunctional and irrelevant to the general wellbeing of persons with disabilities. They are organized and managed to reinforce negative social practices such as, discrimination, segregation, low self-esteem and denial of the fundamental rights of children with disabilities.³⁰

However, according to Saleh,³¹ Nigerian disabled do not, on equal basis with others, have access to public buildings, open spaces and automobiles, because they are not disabled-friendly.³² Thus,

²⁷ See “Canvassing for Ease of Movement for the Physically Challenged”, available at <https://www.thisdaylive.com> accessed – 08/10/2022

²⁸ See Adelaja, A., “Providing Equal Opportunities for Persons with Disabilities”, in Edwin, E., (2021), “Rights of Persons with Disabilities in Nigeria”, *Africa Focus*, 33 (1)

²⁹ See Maduagwu, et al., (2016), “Wheelchair Accessibility to Public Buildings in Maiduguri North Eastern Nigeria”, Paper Presented at Disability Conference on Promotion of Quality of Life of People Living with Disability (PLWD): Research, Policy and Implementation, held by Physiotherapy Department, Bayero University, Kano from 23rd – 25th August, 2016. See also Anyaele, D.O., (2016), “Enhancing Access to Public Infrastructures in Nigeria”, Paper Presented at Disability Conference, *ibid*.

³⁰ See Edwin, E., (2021), “Rights of Persons with Disabilities In Nigeria”, *Africa Focus*, 33 (1)

³¹ See Saleh, M.M. et al., (2019), “Discrimination, Violence, Unsafe Mobility And Public Spaces: Critical Disability Issues In Nigeria”, *UNIMAID Journal of Public Law*, Vol. 6, Issue 1, Pg. 57

³² See Eide, A.H. and Mmatli, T., (2016), *Living Conditions among People with Disabilities in Mozambique, A National Representative Study*, Oslo: SINTEF Health Research

Muhammad Afegbua³³ laments that; “Many of the designs of public places preclude disabled persons from accessing social services in the society. People moving wheelchairs find it difficult to access banking halls due to the security doors placed at the entrance.” He further states; “The environment is not friendly to us in many aspects, valuable road walks are not properly maintained and many of the disabled have at many times fallen into ditches.”³⁴ Similarly, Ochiedo³⁵ bemoans on the difficulties they are facing in accessing public structures using wheelchair due to inaccessible environments. She decries that, over 20 million physically challenged Nigerians are, on daily basis, hampered by so many limitations, including the non-friendly public places, structures and/or facilities.³⁶

Likewise, THIS DAY’s report after visiting some banks concludes that, there is generally non-conformity with the universal standard of building codes of being disabled-friendly. Thus, while some of the banks scantily have ramps in few of their branches, some do not have. Further, for those with ramps at their entrances, the mantrap door system poses another serious challenge, as it is not wheelchair friendly, and hence, denies the physically challenged persons (using wheelchair) access to the banking halls.³⁷ Similarly, according to Ebenso and Eleweke, despite the non-availability of ramps to access banking halls, mantrap security doors cannot accommodate wheelchair users. He further stated thus, even structures or places of necessities like health care, education, transport, recreation and justice system are structured in such a way as to prevent persons with mobility disabilities from accessing them. Meanwhile, inaccessibility and/or structural barriers continue to

³³ Person living with disability

³⁴ See Adoga-Ikong, J.A. and Ibekwe, A.F., (2020), “The Right to Freedom from Discrimination: The Case of the Disabled in the Context of International Human Rights and Practice in Nigeria”, PINISI Discretion Review, Vol. 3, Issue 2, Pg. 339

³⁵ Person living with disability

³⁶ See “Canvassing for Ease of Movement for the Physically Challenged”, available at <https://www.thisdaylive.com> accessed – 08/10/2022

³⁷ See *ibid*

pose fundamental challenge to the overall lives of persons with mobility impairments/disabilities, as most public buildings are not designed or built for their easy access.³⁸

Auspiciously, the CPRD makes provision on promoting the full integration of persons with disabilities in societies. Thus, it provides that; one of the general principles of the convention is “full and effective participation and inclusion of persons with disabilities in societies.”³⁹ Further, it provides thus;

“To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communication technologies and system, and to other facilities and services open or provided to the public, both in urban and rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia: (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and work places; (b) Information, communications and other services, including electronic services and emergency services.”⁴⁰

³⁸ See Ebenso, J. and Eleweke, J.C., (2016), “Barriers to Accessing Services by People with Disabilities in Nigeria: Insights from a Qualitative Study”, *Journal of Educational and Social Research*, 6(2), (MCSEER Publishing, Rome – Italy). See also Agu, O.B., Road and Building Approvals, available at <http://www.nials.nigeria.org/editedbook/THE%20RIGHT%20PERSONS%20WITH%20DISABILITIES.pdf> accessed 20/03/2022. See also Maduagwu, et al, op cit. See also Ahmad, R.Y., et al, (2016), “Wheelchair Accessibility of Tertiary Health Care Institute in Kano Metropolis”, Paper Presented at Disability Conference on Promotion of Quality of Life of People Living with Disability (PLWD): Research, Policy and Implementation, held by Physiotherapy Department, Bayero University, Kano from 23rd – 25th August, 2016

³⁹ See Article 3 (c) of the CRPD

⁴⁰ See Article 9 of the CRPD. See also Article 18 (1) (a, b, c and d) of the CRPD

Likewise, the African Charter on the Rights and Welfare of Child (ACRWC)⁴¹ provides;

“States Parties are under obligation to use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person to movement and access to public highways, buildings and other places to which the disabled may legitimately want to have access to.”⁴²

Meanwhile, disability inclusion means understanding the relationship between the ways people function and how they participate in the society, and making sure that everybody has the same opportunities to participate in every aspect of life to the best of their abilities and desires.⁴³ Thus, the Global Disability Summit acknowledged;

“The need for increased effort to strengthen community inclusion, including providing disability-inclusive social protection system, promoting community based services that ensure the wellbeing of persons with disabilities and guaranteeing the availability and affordability of appropriate assistive technology.”⁴⁴

However, the objective of the Summit is to galvanize recognition that disability inclusion is fundamental to the success of achieving health and wellbeing for all. And that the participant reaffirmed their commitment to practices to make all humanitarian action fully inclusive and

⁴¹ Adopted by the Organization of African Union OAU/OCG/LEG/24.9149 (1999)

⁴² See Article 13 (3) of the ACRWC

⁴³ See Disability Inclusion, available at <https://www.cde.gov/ncbddd> accessed – 07/05/2022

⁴⁴ See Global Disability Summit – Promoting Equality, 2022, available at <https://www.who.int.healthtopics> accessed – 27/03/2022

accessible to persons with disabilities.⁴⁵ Similarly, the CRPD further states; “In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.”⁴⁶

2.2.2 Protection of Fundamental Right to Freedom of Movement for Nigerians with Mobility Disabilities/impairments

The Constitution makes general provisions for rights to be enjoyed by all Nigerians⁴⁷ including that which is meant to protect every Nigerian’s fundamental right to freedom of movement. Thus, it reads; “Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof ...”⁴⁸ Furthermore, to secure full and effective enjoyment of right to freedom of movement for Nigerians disabled, the Nigerian Discrimination against Persons with Disabilities (Prohibition) Act makes comprehensive provisions on accessibility to enable the Nigerian disabled, on equal basis with others, move freely and safely in their communities. Thus, it provides; “A person with disability has the right to access the physical environment and building on an equal basis with others.”⁴⁹

Meanwhile, it provides, thus; “A public building shall be constructed with the necessary accessibility aids such as lifts (where necessary), ramps and any other facility that shall make them accessible to and usable by persons with disabilities.”⁵⁰ And that; “Road side-walks, pedestrian crossings and all other special facilities as set-out in the First Schedule made for public use shall

⁴⁵ See *ibid*

⁴⁶ See Article 5 (3) of the CRPD

⁴⁷ See the Preamble and Chapter II and IV of the Federal Republic of Nigerian Constitution 1999 (as amended)

⁴⁸ See Section 41 (1) of the 1999 Nigerian Constitution (as amended), see also Article 13 (1 and 2) of the UDHR, Article 12 (1, 2, 3 and 4) of the ICCPR and Article 12 (1, 2 and 3) of the ACHPR

⁴⁹ See Section 3 of the DPDPA

⁵⁰ See Section 4 of the DPDPA

be made accessible to and usable by persons with disabilities including those on wheelchairs and the visually impaired.”⁵¹

Moreover, it provides that; “Government transport service providers shall make provision for lifts, ramps and other accessibility aids to enhance the accessibility of their vehicles, parks, and bus stop to persons with disabilities including those on wheelchair.”⁵² Additionally, it provides; “At public parking lots, suitable spaces shall be properly marked and reserved for persons with disabilities.”⁵³

And that; “Seaports facilities and vessels shall be made accessible to persons with disabilities. Railway stations, trains and facilities in the trains shall be made accessible to persons with disabilities.”⁵⁴

It further provides thus;

“All airlines operating in Nigeria shall – (a) ensure the accessibility of their aircraft to persons with disabilities; (b) make available presentable and functional wheelchairs for the conveyance of persons with disabilities who need them to and from the aircraft; (c) ensure that persons with disabilities are assisted to get on and off board in safely and reasonable comfort; and

⁵¹ See Section 5 of the DPDPA

⁵² See Section 10 (1) of the DPDPA

⁵³ See Section 12 (1) of the DPDPA. Further, “for a person with disability to be entitled to use the reserve space in subsection (1), his car shall have been properly identified with the necessary insignia.” And that; “A person, organization or corporate body in control of a public parking lot who fails to provide for the reserved spaces in subsection (1), commits an offence and is liable on conviction to a fine of N1000 for each day of default.” Further, “A person without disability who parks a vehicle in the reserved space in subsection (1), commits an offence and is liable on conviction to a fine of N5000.” And “A person who intentionally obstructs the reserved space in subsection (1), commits an offence and is liable on conviction to a fine of N5000.” See Sections 12(2), 13, 14 and 15 of the DAPDP Act

⁵⁴ See Section 13 (1 and 2). And that subsection (3) further stated thus; “Transitory provision contained in Section 6 shall apply to the provision of this Section.”

(d) ensure that persons with disabilities are accorded priority while boarding and disembarking from the aircraft.”⁵⁵

More aptly, in an attempt to ensure their optimal integration in all spheres of life and enable them fully and effectively enjoy their right to freely and safely move and access all public structures and facilities on equal basis with others, the DAPDP Act provides thus;

“From the commencement of this Act, there shall be a transitory period of five years within which all public buildings and structures, whether immovable, movable or automobile, which were inaccessible to persons with disabilities shall be modified to be accessible to and usable by persons with disabilities including those on wheelchair.”⁵⁶

Importantly, it mandates that; “Before erecting any public structure, its plan shall be scrutinized by the relevant authority to ensure that the plan conform with the building code.”⁵⁷ And, “A government or government agency, body or individual responsible for the approval of building plans shall not approve the plan of a building if the plan does not make provision for accessibility facilities in line with the building code.”⁵⁸ Fundamentally, it provides thus;

“Subject to Section 7, in the event of the existence of a state of inaccessibility or barrier to access of a person with disability to an environment that he has a right or duty to access, he may, without prejudice to his right to seek redress in court, notify the relevant authority in charge of the environment of the existence of the state of inaccessibility or barrier

⁵⁵ See Section 14 (1) (a, b, c & d) of the DAPDP Act

⁵⁶ See Section 6 of the DAPDP Act

⁵⁷ See Section 7 (1) of the DAPDP Act

⁵⁸ See Section 7 (2) of the DAPDP Act

to accessibility of the environment, and the relevant authority in charge shall take immediate and necessary steps to remove the barrier and make the environment accessible to the person with disabilities.”⁵⁹

Furthermore, in an attempt to ameliorate the condition of persons with disabilities in the State, Kano State government passed into law, the Kano State Persons with Disabilities Law,⁶⁰ and it provides that; “Persons with disabilities shall have the right and necessary facilities to access public buildings and public places. No public building or place shall be constructed without provision of all necessary accessibility aids to ease access and use for persons with disabilities.”⁶¹ It further stipulates that; “The government shall make a provision for persons with disabilities when roads, side-walks, pedestrian crossing and all other facilities made for public use are constructed.”⁶² It also mandates the relevant authorities to; “ensure that the plan for all public buildings conforms to the building code provided by the relevant government agency before approval is granted.”⁶³

Nevertheless, persons with disabilities continue to face many barriers in their participation and inclusion in the society. Thus, the preamble to the Optional Protocol to CRPD concerned that; “Despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world.”⁶⁴ For instance, Zaliha Ahmed’s⁶⁵ dream to become a doctor was crushed

⁵⁹ See Section 8 (1) of the DAPDP Act. Importantly, Sub-section 2 went further and stipulates that, failure of the relevant authority to comply with the provision of Section 8(1) attracts N10, 000 damages if it is a corporate body for each day of default payable to the affected person; and N5,000 in case of individual for each day of default or six months imprisonment or both.

⁶⁰ 2018

⁶¹ See Section 3 (1 and 2) of the Kano State Persons with Disabilities Law 2018

⁶² See Section 3 (3) of the *ibid.*

⁶³ See Section 3 (4) of the *ibid.*

⁶⁴ See Optional Protocol to the Convention on the Rights of Persons with Disabilities (A/RES/61/106), adopted 13th December, 2006, opened for signature on 30th March, 2007, and entered into force on 3rd May, 2008

⁶⁵ Polio-survivor

due to inaccessible environments and her parents' inability to afford PWD's tricycle.⁶⁶ Hence, the necessity to further investigate, with the view to assess the impact of disability laws on the living condition of Nigerians with mobility disabilities

3.0 METHODOLOGY.

3.1 The Conduct of the Focus Group Discussions (FGDs)

A total number of 18 students with varying degree and severity of mobility impairments from three different tertiary institutions in Kano State freely and willingly attended and participated in the FGDs with six students from each institution. The total number of female respondents was 9 (50%) and total number of male respondents was 9 (50%).

4.0 FINDINGS AND DISCUSSION

More than half of the respondents with age range of 18-23years , 10 or (55.5%) faced difficulties to freely and safely move around and access buildings/structures and other facilities in their respective institutions.

This finding is however in line with Abba's on difficulties in accessing structures and facilities in educational institutions, where she reported Bilqisu Isyaku Ibrahim⁶⁷ bemoaning lack of reasonable accommodation as one of the fundamental barriers to their enjoyment of right to education.⁶⁸ It also conformed with Ochiedo's predicament during her school days, where due to inaccessible environments and/or structures, had to construct her own ramps to access lecture halls.⁶⁹ And also, Adeleja's where he reported that, inaccessible environments prevented Ncheku Nwokeke from

⁶⁶ See Stephen, E., (2024), "Mobility at Standstill: The Struggle for Kano's Disabled, Amid Rising Tricycle Costs", available at <https://solacebase.com> accessed – 31/12/2024

⁶⁷ In an interview with Voice of America

⁶⁸ See Abba, (2019), op cit.

⁶⁹ See "Canvassing for Ease of Movement for the Physically Challenged", available at <https://www.thisdaylive.com> accessed – 08/10/2022

accessing library and other services at and when desired.⁷⁰ Likewise, Stephen reported that, inaccessible environments and structures crushed Zaliha Ahmed's dream, a polio-survivor, whose dream is to become a doctor.⁷¹

Similarly, it conformed to Bikersteth findings, as he identified among others, structural impediments and special facilities to cater for special needs and different conditions of Nigerian disabled as fundamental challenges to access equal educational opportunities.⁷² Further, it is in line with the findings of Monday and Mogom's where they identified inaccessible environments/structures and/or special facilities as part of the challenges for Nigerian disabled that further exacerbated their hardships, and resulted in unequal educational opportunities that impede their talents and potentials.⁷³

Likewise, it concurred with the findings of Maruff and Sofiyat, where they said; the designs of most educational institutions do not take into account, the special needs of Nigerians with disabilities, resulting in the deprivation of the full and effective enjoyment of their fundamental right to freedom of movement, and in particular, their right to education.⁷⁴ It also concurred with the conclusion of the Joint National Association of Persons with Disabilities on inaccessible environments/structures in schools, thus; the reason why children with disabilities are not in school is that, "the school environments are not inclusive and accessible to them."⁷⁵

⁷⁰ See Adelaja, op cit.

⁷¹ See Stephen, op cit.

⁷² See Bikersteth, T., "Nature and Needs of Exceptional People", In Lynca, E.W. and Lewis, R.B., (Eds.), (1996), *Exceptional Children and Adults*, Gyenvia Scoff: Foreman and Co.

⁷³ See Monday, A.A. and Mogom, I.A., "The Challenges of Schooling with Disabilities in the University of Jos, Nigeria", available at <https://www.academia.edu> accessed – 27/05/2023

⁷⁴ See Maruff, O.A. and Sofiyat, O.A., (2011), "Educating Students with Disabilities in Nigeria: Some Challenges and Policy Implications", *European Journal of Humanities and Social Sciences*, Vol. 3, No. 1, Pg. 135

⁷⁵ See Abba, (2019), op cit. See also Anyaele, D.O., (2016), "Enhancing Access to Public Infrastructures in Nigeria", Paper Presented at Disability Conference on Promotion of Quality of Life of People Living with Disability (PLWD):

4.2 Findings

In spite of numerous legislative efforts at all levels to ensure optimal integration of persons with disabilities, the findings to this study revealed that, Kano State tertiary institutions' students with mobility disabilities continue to experience and struggle with various difficulties and hardships to freely and safely move around and access buildings/structures and other facilities in their respective institutions. Meanwhile, they do not on equal basis with others, fully and effectively enjoy their fundamental right to freedom of movement.

5.1 Conclusion

Inaccessible environments reinforces disability by creating barriers and obstructions to participation and inclusion; including, limited physical access (such as, lack of ramps, narrow doorsteps, lack of accessible toilets and inaccessible transport, among others),⁷⁶ resulting in the poor enjoyment of fundamental right to freedom of movement by Nigerians with mobility disabilities. Hence, Ahmed opined that, inaccessible environments and structures continue to restrict persons with mobility impairments to optimally participate, on equal basis with others, in their communities.⁷⁷

Research, Policy and Implementation, organized by Physiotherapy Department, Bayero University, Kano from 23rd – 25th August, 2016

⁷⁶ See Thompson, S., (2020), "Nigerian Situational Analysis – Inclusion Works", available at <https://opendocs.ids.ac.uk> accessed – 20/10/2022. See also "Disability Inclusion: Emerging Lessons and Future Directions", (2021), available at <https://www.links-nigeria.com> accessed – 20/10/2022

⁷⁷ See Ahmed, A., (2017), "Overcoming Barriers to Inclusive Mobility: Experience of Disabled People in Tertiary Institutions of Kano, Nigeria", available at www.researchgate.com accessed – 14/01/2023

5.2 Recommendations

1. Government should take immediate measures, including, immediate renovations of inaccessible buildings and structures and provision of wheelchairs or PWDs tricycles for those with mobility impairments to ease their hardships and ensure their full and effective enjoyment of the fundamental right to freedom of movement.
2. To ensure proper and optimal utilizations and equal access to all buildings and structures by students with mobility disabilities/impairments, managements and/or school authorities should make provisions for classes, section of the library, and necessary facilities, like offices, laboratories, resource rooms and recreational centers that are accessible to, and usable for students with mobility impairments.