



## APPRAISAL OF THE RIVERS STATE PERSONS WITH DISABILITY WELFARE (ENHANCEMENT) LAW, 2012

By

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### **Abstract**

*This paper appraised the Rivers State Persons with Disability Welfare (Enhancement) Law, 2012. This theoretical paper conceptualised disability and persons with disabilities and identified the models of disability as they relate to the Rivers State law on disability. It distinguished the Rivers State Persons with Disabilities Welfare (Enhancement) Law 2012 from the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. It pointed out the major difference in the model of disability which guided the framing of both laws. The paper took a cursory look at the Lagos State Special People's Law 2011 and drew some lessons from it. The paper recommended that the Rivers State disability law be repealed and another law enacted in its stead. The new law should be hinged on the right-based model of disability. It should seek to protect the rights of persons with disabilities by establishing an Office for Disability Affairs which amongst other responsibilities should investigate, prosecute and sanction complaints of rights violations by persons with disabilities.*

**Keywords:** *Disability, persons with disability, human rights, disability laws, discrimination, State disability laws.*

### **1.0 Introduction**

People are born without choosing or having the power to choose their gender, place of birth, circumstances surrounding their birth, and composition of their genes. Some are born with congenital defects which develop into impairments. Others experience medical emergencies or childhood illnesses which cause permanent impairments. Some others, while in the course of life's journey encounter accidents, illnesses, man's inhumanity to man, medical negligence, or old age, which cause impairments and give rise to disability. Disability is a condition life has thrown on many persons in the world. Only very few persons in the world consciously choose to experience permanent disability.

Globally, statistics have it that persons with disabilities constitute 15% of the world's population.<sup>1</sup> Persons with disabilities make up a significant percentage of the population in Nigeria. In the same vein, persons with disabilities make up a significant population in the different States of the Federation, Rivers State inclusive. The need to cater for their needs and protect their rights can not be overemphasised. This need propelled the conversations which culminated into the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on the 13<sup>th</sup> of December 2006. The Convention was opened for signature on the 30<sup>th</sup> of March, 2007 and had 82 countries sign it on its opening day, as well as 44 signatories to its Optional Protocol.

The preamble to the CRPD believed that there was a need for a comprehensive and integral international convention with the purpose of promoting and protecting the rights and dignity of persons with

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<sup>1</sup> World Health Organisation and World Bank, *World Report on Disability* (Geneva: World Health Organization 2011) 1.

disabilities. This need is borne out of the fact that everyone has inalienable rights as members of the human family and are entitled to all the rights and freedoms contained in the Universal Declaration of Human Rights, without distinction of any kind, not even impairment.<sup>2</sup> It sees disability as a concept that results or arises from the interaction between persons with impairments and attitudinal and environmental barriers which constitute a hindrance to their full and effective participation in society on an equal basis with others. Thus, there is a need to mainstream disability issues in every facet of society so as achieve sustainable development. Such piece of legislation was capable of making significant contribution to addressing the social disadvantage of persons with impairments and enhancing their participation in the civil, political, economic, social and cultural spheres of society on an equal basis with others.<sup>3</sup>

Thus, State Parties, by signing the Convention undertook to observe and promote the principles behind the enunciation of the Convention, including collecting appropriate information, as well as statistical and research data, to enable them formulate and implement policies to give effect to the Convention.<sup>4</sup> Although Nigeria has been a signatory to the Convention since the first day of signing, it only passed Discrimination Against Persons with Disabilities (Prohibition) Act 2018, a law aimed at promoting and protecting the rights of persons with disabilities in January 2019. However, Rivers and Lagos States, although not State Parties to the CRPD, enacted laws aimed at catering for and protecting persons with disabilities in both States since 2012 and 2011 respectively. The Rivers State Persons with Disability Welfare (Enhancement) Law<sup>5</sup> was enacted 5 years after Nigeria signed the CRPD, while the Lagos State Special People's Law of 2011 was enacted 4 years after the signing. This paper will appraise the Rivers State Persons with Disability Welfare (Enhancement) Law and compare it with the recent Nigerian Disability Prohibition Act and draw lessons from the Lagos State Special People's Law of 2011. The discussions in this paper will be further based on the the rational behind the Convention on the Rights of Persons with Disabilities 2006.

## 2.0 Conceptual framework

Cardinal concepts must be given their proper definitions as used in this paper. This will make for proper appreciation and understanding of these concepts and the contexts in which they are used. Words deserving of our conceptualization are disability, persons with disabilities and human rights.

### 2.1 Disability

The word disability is many times thought to be synonymous with impairment. However, disability is the 'consequence of an impairment that may be physical, cognitive, mental, sensory, emotional, developmental, or some combination of these that results in restrictions on an individual's ability to participate in what is considered normal in their everyday society'.<sup>6</sup> It has been described as the product of a situation where a group of persons 'create barriers by designing a world only for their way of living'

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<sup>2</sup> See United Nations Convention on the Rights of Persons with Disabilities 2006, Preamble (a) and (b).

<sup>3</sup> *Ibid.* (y).

<sup>4</sup> *Ibid* Art. 31.

<sup>5</sup> Rivers State Person with Disability Welfare (Enhancement) Law, No. 11 of 2012.

<sup>6</sup> J K Ganle and others, 'Challenges Women with Disabilities Face in Accessing and Using Maternal Healthcare Services in Ghana: A Quantitative Study'(201) PLOS One available at <<https://doi.org/10.1371/journal.pone.0158361>>



without taking into consideration the impairments of others.<sup>7</sup> This means that disability occurs in a situation where people suffer stereotypes from others as a result of the impairments they possess. Ozoji defines disability as loss of ability or loss of function.<sup>8</sup> He tried to distinguish between disability and impairment by noting that disability is a disturbance at the activity level while impairment is a disturbance at the organ level<sup>9</sup>. This means that while disability is a lack of ability to function within the normal range, impairment is the damaged organ. Thus, impairment precedes disability; impairment is the cause of disability. For example, severe visual loss is an impairment which results in inability to see or blindness (disability).

Adiela views disability is a combination of a long term physical, mental, intellectual or sensory impairment which incapacitates an individual from functioning independently, effectively and normally in everyday activities and which attracts stereotypes from others.<sup>10</sup> It is the opinion of the author that disability is a product of long term impairment which may be of physical, mental, intellectual or sensory nature which incapacitates and deters one from effective and independent functioning and which attracts stereotypes from others. Thus, disability is a combination of three things: impairment; which results in inability to function effectively, independently and normally; and that attracts stereotypes.

The United Nations CRPD 2006 provides that disability is an evolving concept which ‘results from the interactions between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others’.<sup>11</sup> This is the foundation on which it goes on to categorically provide a definition for persons with disabilities. The Discrimination Against Persons with Disabilities (Prohibition) Act 2018 defines disability to include “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”<sup>12</sup>. This definition is a representation of the intent of CRPD when it provided a definition for persons with disabilities. The Lagos State Special People’s Law, 2011 defines disability as ‘a state of substantial impairment of the physical, visual, vocal, auditory, sensory or mental capacities of a person at birth or by injury, sickness or its effect or congenital deficiencies’. This definition seems to view disability from the perspective of damage to the body part responsible for several functions. This does seem that it is used as damage at the organ realm which ought to mean impairment.

## 2.2 Persons with Disabilities

The CRPD defines persons with disabilities as including ‘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’.<sup>13</sup> This implies that a ‘person with

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<sup>7</sup> A V Atsenuwa, ‘Legal and Institutional Mechanism for Protecting Persons with Disabilities in Nigeria’ in E Azinge and C Ani (eds), *The Rights of Persons with Disabilities*, (Nigerian Institute of Advanced Legal Studies, 2011) 100.

<sup>8</sup> Emeka Desmond Ozoji, *Special Needs Education & Rehabilitation for Beginner Professionals* (Jos: Deka Publications 2005) 2.

<sup>9</sup> Ibid 3.

<sup>10</sup> O N P Adiela, ‘Understanding Disability and Disability Rights in Nigeria’, (2023) 11(1) *Global Journal of Politics and Law Research*, 42.

<sup>11</sup> (N. 2) Preamble (e)

<sup>12</sup> DAPPA, 2018, S. 57.

<sup>13</sup> (N. 2) Art. 1.

disability is simply an individual experiencing a disability.<sup>14</sup> Such a person is one who suffers from long term impairment which may be of physical, mental, intellectual or sensory nature; and thereby hindered or prevented from independently, effectively and normally performing everyday life's activities; and who suffers stereotypes from others. Examples of persons with disabilities include persons with mobility or physical impairments; persons with sensory impairments such as visual impairment, hearing impairment, *et cetera*.<sup>15</sup> It is important to note that the impairment must be of a long-term nature to qualify as disability.

### 2.3 Human Rights

There have been several attempts by authors and jurists to provide a definition to the term 'human rights'. The fact is that the term has been severally defined and is not capable of a single universally acceptable definition.<sup>16</sup> Ajomo opined that '...human rights are inherent in man: they arise from the very nature of man as a social animal. They are those rights which all human beings enjoy by virtue of their humanity, whether black, white, yellow, Malay or red'.<sup>17</sup> This view is in tune with the literal interpretation of the two words used. These rights accrue only to humans because they are 'humans'. Their humanity simply qualifies them to enjoy these rights. Ogbu shares this viewpoint when he asserts that:

[H]uman rights are...rights which all persons everywhere and at all times equally have by virtue of being moral and rational creatures. They are inherent in any human being simply because of his [or her] humanity – the birth right of all mankind.<sup>18</sup>

According to Afunaduula, human rights are rights which belongs to all the people, or rights which all persons are competent to exercise.<sup>19</sup> He distinguished it from 'special rights' which only belongs to some people. It is the position of the author that the concept of human rights is both a national and an international concept which affects all humans, and is governed by the need to respect the human dignity of all irrespective of colour, race, sex, religion or disability.

### 3.0 Theoretical framework

The arguments canvassed in this paper are hinged on three theories of disability which this paper prefers to refer to as models of disability. These are charitable or welfare model of disability; social model and rights-based model of disability.

**3.1 Charitable or welfare model of disability** - In the past, disability was construed as a medical issue, thus eliciting pity and charity. Persons with disability were considered as 'objects of charity' deserving the pity and goodwill of others. This is even more likely because persons with disabilities are usually

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<sup>14</sup> (N. 10) p. 43.

<sup>15</sup> Ibid

<sup>16</sup> N Singh, 'Human Rights: Various Meanings' in Tapan Biswal, *Human Rights Gender and Environment* (Viva Books 2015) 43.

<sup>17</sup> M A Ajomo, *The Development of Individual Rights in Nigeria's Constitutional History in Individual Rights Under the 1989 Constitution* (Nigeria Institute of Advance Legal Studies, 1996) 10.

<sup>18</sup> O N Ogbu, *Human Rights Law and Practice in Nigeria: An Introduction*, (CIDJAP Publishers 1999) 1-3.

<sup>19</sup> I Afunaduula, 'Defining Human Rights - The need for a Holistic Definition' (2005).



poor and in need of help and assistance. Thus, the desire to always deal with them with pity and gift them with things that may be considered as necessities.

**3.2 Social Model of Disability** - The social theory of disability was propounded by Mike Oliver in the year 1983 when he coined the phrase as an ideology. The political activism in the United States provided the basis for the movement of independent life which was the bedrock of the social movement. In the United Kingdom, from a sociological perspective, they created some theoretical basis which at the time was known as the social barrier model and later become known as the social model of disability. This theory sees disability as arising from the “interaction of a person’s functional status with the physical, cultural and policy environments”. Here, disability is the outcome of the interaction of a person with the environment, therefore, it is neither person nor environment-specific. It focuses on the restrictions which society places in the way of persons with disabilities. This theory opines that the experience of being a person with disability consists of the challenges or encounters with the barriers erected by the society.

The criticism of this model is that it separates impairment from disability and asserts that people with impairments are disabled not by the impairment but by the society. It advocates that where barriers placed by the society are removed that persons with disabilities will be able to function better in the society.

**3.3 Rights-based model of disability** - This model of disability was developed after the United Nations Convention on the Rights of Persons with Disabilities of 2006. The rights-based model of disability is a political strategy which has become a way of construing disability by grouping people with disabilities into an identity which is based upon membership of a minority group. Entitlement into this group is based on the ability to come under the definition of a person with a disability. This model argues that persons with disabilities are humans and deserving of rights accruable to other humans; and frowns against the ill-treatment, discrimination, stigmatization and segregation of persons as a result of their disability status. This theory necessitated the clamour for and passing of the Discrimination Against Persons with Disability (Prohibition) Act, 2018 in Nigeria, which articulates the rights of persons with disabilities while prohibiting discriminatory practices against them.

Adiela advocates that women with disabilities in particular and persons with disabilities in general are entitled to rights first by virtue of their being humans and then as one having a disability<sup>20</sup>. She opined that persons with disabilities in general

are humans – thus part of the human family. Therefore, they qualify and are entitled to the enjoyment of equal and inalienable rights which are contained in international instruments which uphold human rights principles such as the Universal Declaration of Human Rights 1948, as well as regional instruments like the African Charter on Human and Peoples’ Rights 1981, and the Constitution of the Federal Republic of Nigeria 1999. They are therefore entitled to all the rights that apply to their able-bodied female counterparts as well as to

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<sup>20</sup> O N P Adiela, *Status of Women with Disabilities in Nigeria*, 2019 Ph.D Thesis submitted the Faculty of Law, Rivers State University.

men. They are to be treated equally as every citizen. Article 19 of the African Charter provides that ‘all peoples shall be equal; they shall enjoy the same respect and shall have the same rights....’<sup>21</sup>

The above theory explains that persons with disabilities should not be treated as outcast in an environment where they belong to, rather they should be treated with respect and given the rights and privileges as other members of the society and be allowed to partake in all activities that able-bodied persons are involved in without any form of stigmatization, discrimination and marginalization of their rights.

#### **4.0 Appraisal of the Rivers State Persons with Disabilities Welfare (Enhancement) Law, No.11 of 2012**

The Law consists of twenty-one (21) sections and has its general purpose to establish a Welfare Council and Fund for the enhancement of the welfare of persons with disabilities in Rivers State. The law guarantees the welfare of the persons with disabilities in Rivers State.<sup>22</sup> It identified persons with disabilities as persons who are blind, deaf and dumb, physically impaired, mentally retarded, persons with spinal cord injuries, those who are cripple and those suffering from leprosy. While it is commendable that the framers thought it wise to list persons who fall under the description of ‘persons with disabilities’, this list is rather restrictive. This list excludes groups that should ordinarily fall within the definition of persons with disabilities. For example, this list excludes persons with psychological disabilities, learning disabilities, dwarfism and invisible impairments. Again, by listing and the choice of words used in the list, the Law appears to be labelling and addressing persons with disabilities by some terms that may be considered derogatory and offensive.

It is the view of the author that the Law may be categorised into five major parts. The first two sections relate to the first part which can be described as purpose and objectives of the Law. The objectives of the Law as stipulated in section 2 of the Law are as follows:

- (i) Serve as a mechanism for the eradication of all forms of discrimination against persons with disabilities in the State.
- (ii) Ensure that persons with disabilities are not excluded from participating and contributing to the growth and development of the State;
- (iii) Give persons with disabilities a sense of belonging so they can actualize their potentials;
- (iv) Serve as vanguard for mass mobilization, self-reliance, economic development and public enlightenment for persons with disabilities;
- (v) Promote and protect the interest of persons with disabilities in all areas of human endeavour.

Sections 3 to 14 pertain to the establishment, composition and functions of the Rivers State Persons with Disabilities Welfare Enhancement Council and its members. The Council, as it is referred to, is a corporate body with perpetual succession, common seal and capable of suing and being sued in its name and is to be supervised by the Ministry of Social Welfare and Rehabilitation<sup>23</sup>. The Council is to consist

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<sup>21</sup> Ibid, p 255-256.

<sup>22</sup> Rivers State Persons with Disabilities Welfare (Enhancement) Law (2012), s. 1

<sup>23</sup> S. 3

of a Chairman who must be a seasoned social worker; a representative of five (5) Ministries: Ministry of Youth Development, Sports, Health, Justice and Employment, Empowerment and Economic Generation; and one nominee from each of the recognised association of persons with disabilities in the State<sup>24</sup>. The Chairman and all members of the Council are to be appointed by the Governor subject to confirmation of the House of Assembly<sup>25</sup>.

Section 7 provides for the six (6) functions of the Council, which are:

- (i) Draw up policies and programmes to enhance the integration of persons with disabilities;
- (ii) Make recommendations to the governor in respect of policies and programmes that could enhance the integration of persons with disabilities;
- (iii) Make provision for the placement of persons with disabilities in suitable employment or vocation;
- (iv) Establish rehabilitation and vocational centres for persons with disabilities in each of the Local Government Areas of the State;
- (v) Establish a Welfare committee for the integration of person with disabilities in each LGA of the State
- (vi) Assist financially or otherwise persons with disabilities who apply for such assistance
- (vii) Establish special centres for inclusive education counselling for persons with disabilities.

The Law established the Rivers State Persons with Disabilities Welfare Fund for the purpose of raising money through public and private contributions so as to finance the educational, socio-political, health and economic standard of persons with disabilities in the State<sup>26</sup>. It does appear that the fund raised in the Welfare Fund is to be given as ‘handouts’ to persons with disabilities who are in need of educational or any other form of financial assistance.

The third part of the Law relates to the installation of facilities and devices for use by persons with disabilities. Section 15 mandates all government institutions, companies, banks and public utilities to install facilities and structural devices in their buildings to enhance the mobility of persons with disabilities<sup>27</sup>. All existing public and private buildings used for public purposes, institutions, establishments, companies, banks, streets, roads and highways, have two years from the commencement of the Law to comply with being accessible for persons with disabilities. The Ministries of Works, Housing and Urban Development, and Justice are to ensure that all building designs of public institutions and companies address the issues of accessibility before such new building plans or road constructions are approved<sup>28</sup>. It expressly prohibits the construction of a building housing public institution, establishment, company, bank or any utility without relevant facilities and devices to enhance the mobility of persons with disabilities after the commencement of the Law<sup>29</sup>. It stipulates a fine of Five Hundred Thousand Naira (₦500,000.00) or six months imprisonment or both for

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<sup>24</sup> S. 4

<sup>25</sup> S.5

<sup>26</sup> S. 10

<sup>27</sup> S. 15

<sup>28</sup> S. 15(4).

<sup>29</sup> S. 16

contravention for an individual<sup>30</sup>. Where the contravention is done by a corporate body, the director, manager, secretary or other officer who purported to act in that capacity will be liable to Two Million Naira (₦2,000,000.00) or one month imprisonment or both<sup>31</sup>.

The fourth part may be tagged 'other provisions'. The Law provides that as much as practicable, the State government, through its establishment and companies operating in Rivers State will provide educational scholarships and employment opportunities to qualified persons with disabilities<sup>32</sup>. It also provides that where practicable, the State government should encourage the use of interpreters in all television stations operating in the State and government functions<sup>33</sup>.

The last part is enforcement and interpretation sections. The Law is to be enforced by the Ministries of Social Welfare; Justice; Works; and Education<sup>34</sup>. While section 20 contains the interpretation of some words used in the Law.

#### **5.0 Distinguishing Discrimination Against Persons with Disabilities (Prohibition) Act 2018 from Rivers State Persons with Disabilities Welfare (Enhancement) Law 2012**

The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 (DAPDPA) is an off shoot of CPRD, which from its title, can be described as an anti-discrimination legislation which provides for the full integration of persons with disabilities and the establishment of a National Commission for Persons with Disabilities. The Act specifically prohibits the discrimination of persons with disability on the basis of disability. DAPDPA clearly is an anti-discrimination Act which frowns at the discrimination of persons with disabilities and provides measures to ensure their full integration and participation in society. The Act places responsibility on the Federal Ministry of Information to champion the promotion of awareness programmes concerning the rights, dignity, capabilities, achievements and contributions of persons with disabilities.<sup>35</sup>

DAPDPA, 2018 clearly prohibits and criminalizes the discrimination of persons with disabilities on the ground of disability. It stipulates a fine of ₦1,000,000.00 (One Million Naira) only for a corporate body and ₦100,000.00 (One Hundred Thousand Naira) only or 6 months imprisonment or both for an individual who discriminates against a person with disabilities on the ground of disability<sup>36</sup>. It also criminalizes the act of employing or procuring a person with disabilities for the purpose of begging or soliciting for alms, and attaches a fine of ₦100,000.00 (One Hundred Thousand Naira) only or 6 months imprisonment or both for any one convicted for the offence<sup>37</sup>. The Act also makes rights-based provisions which portend several benefits for persons with disabilities. These include:

(i) Right of a person with disability to access the physical environment and buildings on an equal basis with others.<sup>38</sup> To achieve this, the Act stipulates that public buildings must be constructed with

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<sup>30</sup> S. 17(1)

<sup>31</sup> S. 17(2)

<sup>32</sup> S. 17(3)

<sup>33</sup> S. 19

<sup>34</sup> S. 18

<sup>35</sup> Discrimination of Persons with Disabilities (Prohibition) Act 2018, s 2.

<sup>36</sup> Ibid, s. 1.

<sup>37</sup> S. 16

<sup>38</sup> S. 3





necessary accessibility aids to make such buildings accessible and usable for persons with disabilities. Similarly, road side-walks, pedestrian crossings and the likes must be made accessible for all including persons using wheelchairs or visually impaired.<sup>39</sup>

(ii) Persons engaged in the the provision of goods and services are prohibited from discriminating against persons with disabilities<sup>40</sup>.

(iii) All road transport services are mandated to make parks and their vehicles accessible for all persons with disabilities irrespective of their disability. Thus, relevant accessibility equipments should be installed in both the vehicle and the parks.<sup>41</sup>

(iv) Right to clearly marked reserved car parks for persons with disabilities.

(v) All seaport facilities, railway stations and airlines are mandated to ensure the accessibility of their vessels, trains and aircraft for all persons with disabilities including those using wheelchairs.<sup>42</sup>

(vi) Right to education without discrimination and free education to secondary school level.<sup>43</sup>

(vii) It places responsibility on government to ensure inclusive education in the appropriate format for all persons with disabilities.<sup>44</sup>

(viii) Right to unfettered access to health care without discrimination on an equal basis. It also provides right to free medical and health services to persons with mental disability.<sup>45</sup>

(ix) Right to safety and protection of all persons with disabilities by the government in all cases of risk, violence, emergencies and occurrences of natural disaster.<sup>46</sup>

(x) Right to first consideration in queues and fine or imprisonment liability to anyone who contravenes this.<sup>47</sup>

(xi) Right to first consideration concerning accommodation.<sup>48</sup>

(xii) Right to work on an equal basis with others<sup>49</sup>. Stipulation that all employers of labour in public organisations shall have persons with disabilities constituting at least 5% of their work force.<sup>50</sup>

(xiii) Right to participate in politics and public life without discrimination<sup>51</sup>.

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<sup>39</sup> S. 5

<sup>40</sup> S. 9

<sup>41</sup> Ss. 10 - 11.

<sup>42</sup> Ss. 13 -15.

<sup>43</sup> S. 17.

<sup>44</sup> S. 20

<sup>45</sup> S. 21

<sup>46</sup> S. 25

<sup>47</sup> S. 26

<sup>48</sup> S. 27

<sup>49</sup> S. 28(1)

<sup>50</sup> S. 29

<sup>51</sup> S. 30



It imposes a responsibility on all developers of public buildings to have them scrutinised to conform with the building code which must contain accessible facilities and imposes punishment for failure of non-compliance to this provision.<sup>52</sup>

It should however be pointed out that the Act provides a 5 (five) year transitory period within which all public buildings and structures including auto-mobile should be modified to become accessible for persons with disabilities. This transitory (grace) period only applies to modifying buildings and structures including transportation facilities, which have been inaccessible for persons with disabilities.

The major difference between the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and the Rivers State Persons with Disability Welfare (Enhancement) Law 2012 is that while the Act can be described as a rights-based instrument, the State Law is a welfare or charity law. Their difference lies in the models of disability that they focus on. Thus, while the national law focuses on disability from a rights perspective, the State law looks at it from a charity perspective which is why it provides for persons with disabilities to be beneficiaries of handouts from governments, and where practicable, employment and scholarship opportunities. It should also be pointed out that the major focus of integration for the State law appears to be only accessibility of the physical environment and public buildings. However, the national law is broad and covers a wide range of area where persons with disabilities may be subjected to discrimination. Furthermore, the State law provided a 'grace period' or compliance period of two years after the commencement of the Law<sup>53</sup>, which should have been 2014. The national law on its part, fixed a transition period of five (5) years from the date of commencement of the Act.<sup>54</sup>

### **6.0 Lessons from Lagos State Special People's Law 2011**

The Lagos State Special People's Law, 2011 was enacted to establish the Office for Disability Affairs, and safeguard people living with disabilities against all forms of discrimination and equalise their opportunities in all aspects of living in the society. The Law, just like the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, is a rights-based law. It provides for the protection of the rights of persons with disabilities. To appreciate the rights enunciated by this law, the present author will pin-point some unique functions of the Office for Disability Affairs and highlight some rights-based provisions contained in the Law.

The function of the Office for Disability as provided in section 3 include:

- (i) Issuance of guidelines for the education, social development and welfare of persons living with disabilities;
- (ii) Issuing design and building codes to corporate bodies and parastatals to make buildings accessible to and usable to persons with disability;
- (iii) Receive complaints from persons with disabilities for violations of their rights;
- (iv) Investigate, prosecute and sanction cases of violations;

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<sup>52</sup> Ss. 7-8.

<sup>53</sup> Rivers State Persons with Disability Welfare (Enhancement) Law (2012), s. 15

<sup>54</sup> Discrimination Against Persons with Disabilities (Prohibition) Act (2018) s. 6



- (v) Re-orientation and education of the public on the right attitude towards persons with disabilities;
- (vi) Actualize the enjoyment of all rights in the Law by persons with disabilities; establishment and promotion of schools, vocational and rehabilitation centres for the development of persons with disabilities; liaising with other Ministries and government agencies to ensure that the interests of persons with disabilities are taken into consideration in every government policy, programme and activity;
- (vii) Keeping and updating the register and update of persons with disabilities;
- (viii) Designing insignias to be used at parking lots;
- (ix) Advocacy and enlightenment campaign drives for members of the public on ways to empathize with persons with disabilities.

The Law further provides that every business with the responsibility of attending to the general public, shall within a 5 years transitory period, have within its employment a staff competent and knowledgeable to attend to its clients who are persons with disabilities.<sup>55</sup> Organizers of public functions are mandated to provide competent attendants who will attend to persons with disabilities in attendance at the function.<sup>56</sup> the Law clearly mandates transport service providers to provide and clearly mark one out of every ten seats in a public bus for persons with disabilities<sup>57</sup>. Special seats are to be assigned to persons with disabilities in such transport buses, trains, vessels or aircrafts which will take into considerations their ease of access, exit and non-disturbance by other passengers<sup>58</sup>. At parking lots, one out of every twenty slots are mandated by the Law to be reserved for persons with disabilities and clearly marked with the necessary insignia. It further provides for free medical and health services in all public institutions for persons with disabilities; and mandates any hospital where a person with communicative disabilities attend to make arrangements and provide special communication equipment.<sup>59</sup> It guarantees the right to education of persons with disabilities and provides that they are entitled to free tuition at all public educational institutions.<sup>60</sup>

## 7.0 Recommendation

There is a need to have a disability law in Rivers State that is rights-based so it can actually safeguard the rights of persons with disabilities in all spheres of life. Where the disability model behind the disability law is the right-based model, it will see to it that the law contains provisions that enhance the rights of persons with disabilities in several facets of life and society. It is therefore recommended that:

- (i) The Rivers State Persons with Disabilities Welfare (Enhancement) Law be repealed and a new disability law, which is rights-based be enacted.
- (ii) The law should provide a more robust and less restrictive definition to the term ‘persons with disabilities’. This definition should include all that are categorised as such in the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and the Lagos State Special People’s Law 2011.

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<sup>55</sup> S. 18

<sup>56</sup> S. 19

<sup>57</sup> S. 23(2)

<sup>58</sup> S. 24.

<sup>59</sup> S. 32.

<sup>60</sup> S. 33



- (iii) The new Law should adopt free tuition in all public institutions as is being practised in Lagos State so as to guarantee the education of persons with disabilities in Rivers State.
- (iv) The law should adopt free medical care and services in all public health institutions for all persons with disabilities.
- (v) The new law should fix five years as transition period within which relevant stakeholders should adjust their buildings and business premises to be accessible for all including persons with disabilities. Steps towards the implementation of accessibility of the physical environment should be put in place so that necessary modifications would be made before the expiration of the five years transition period.
- (vi) The Council in the present Law be replaced with the Office for Disability Affairs and its functions should focus more on protecting the rights of persons with disabilities.
- (vii) One of the functions of the Office of the Disability Affairs should be to entertain complaints from persons with disabilities with respect to violations of their rights. The Office should also be responsible for investigating and prosecuting violators of the rights of persons with disabilities.
- (viii) There is need for the education and sensitization of the public on disability issues and the need to treat persons with disabilities as valuable members of the society.

## **8.0 Conclusion**

The Rivers State Persons with Disability Welfare (Enhancement) Law, 2012 was enacted about six years after the United Nations Convention on the Rights of Persons with Disabilities, however it did not follow the pure rights-based model of disability enunciated by the CRPD. Granted that there is a new national law on disability which is rights-based, there is need for the State to domesticate the Act so as to guarantee and protect the rights of persons it disabilities in the State.