

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

Disability is a human condition that touches every society, regardless of geography, culture, or economic development. What differs, however, is how societies choose to respond to it. For many years in Nigeria, persons with disabilities were left to navigate life with little or no structured protection. They often relied on goodwill, charity, or general laws that did not speak directly to their realities. The tide began to change only recently, particularly with the passage of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, which for the first time offered a comprehensive statutory framework tailored to their needs. Yet, challenges remain. Some of them include slow implementation, inherent weakness of the institutional structures, and limited public awareness.

By contrast, the United Kingdom has had a longer and more robust history of disability rights protection. Through instruments such as the Disability Discrimination Act of 1995 and later the Equality Act of 2010, the UK has built a culture of inclusion grounded in both constitutional principles and statutory safeguards. Persons that have disabilities in the UK actively benefit not only from legal recognition but also from enforcement mechanisms that make rights tangible in everyday life; be it in employment, education, housing, or access to public services.

A comparative study between Nigeria and the UK is both timely and necessary. Nigeria, as a developing democracy, can draw valuable lessons from the UK's experience, adapting its successes to local realities while avoiding its pitfalls. At the same time, examining Nigeria's context brings to light the unique social, cultural, and economic dimensions that shape the lived experiences of persons with disabilities in Africa.

This research therefore seeks to explore the constitutional and statutory protection of persons with disabilities from a Nigeria-UK comparative perspective. It will examine the adequacy of the Nigerian framework, the effectiveness of the UK model, and what both jurisdictions can learn from one another in the pursuit of a more inclusive society. At its heart, the study is driven by a simple but profound concern: how can the law move beyond theory and paper rights to become a lived reality for those whose voices are most easily ignored?

1.2 Background to the Study

The recognition of the rights of persons with disabilities (PWDs) has shifted from a charitable or welfare approach to a rights-based framework anchored in international human rights law. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) reframes disability as a matter of human dignity, equality and participation, and obliges State Parties to adopt legislative and administrative measures that remove barriers to full inclusion.¹ Nigeria and the United Kingdom are both parties to the CRPD, yet their constitutional and statutory approaches to protecting PWDs differ significantly. Nigeria's constitutional regime is founded on the Constitution of the Federal Republic of Nigeria 1999 (as amended), which guarantees fundamental rights including equality before the law and freedom from discrimination.² However, the Constitution does not contain an explicit disability rights clause.³ Instead, protection is derived from general non-discrimination provisions such as section 42, which prohibits discrimination on grounds of community, ethnic group, place of origin, sex, religion or political opinion. This lacuna necessitated statutory intervention.

¹ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, UN Doc A/RES/61/106 (adopted 13 December 2006, entered into force 3 May 2008).

² Constitution of the Federal Republic of Nigeria 1999 (as amended), s 17(2)(a).

³ *Ibid* s 42.

In 2018, the National Assembly enacted the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 (gazetted in 2019),⁴ a landmark legislation prohibiting discrimination against PWDs in Nigeria. The Act establishes the National Commission for Persons with Disabilities, prescribes accessibility standards in public buildings, provides for education, employment and health entitlements, and criminalises acts of discrimination.⁵ Despite its promise, scholarship and civil society reports point to serious implementation challenges, including inadequate institutional capacity, lack of awareness, poor funding, and attitudinal barriers that continue to marginalise PWDs.⁶ In contrast, the United Kingdom has developed a more mature and consolidated framework. The Equality Act 2010 harmonised earlier discrimination statutes and expressly protects disability as a “protected characteristic.”⁷ Key mechanisms under the Act include the duty to make “reasonable adjustments” to remove substantial disadvantages faced by PWDs⁸ and the Public Sector Equality Duty (PSED), which requires public authorities to proactively advance equality in all their functions.⁹ These duties are judicially enforceable and have been developed by a rich body of case law and administrative guidance.

A comparative study between Nigeria and the UK is therefore instructive. Nigeria illustrates a constitutional framework with general equality provisions complemented by a recent but under-enforced statutory scheme, while the UK demonstrates how proactive duties, strong enforcement institutions and judicial development can enhance disability protection. Such comparison is academically important for deepening constitutional and statutory law

⁴ Discrimination Against Persons with Disabilities (Prohibition) Act 2018, *Official Gazette* No 4, Vol 106 (23 January 2019).

⁵ *Ibid* ss 1, 2,3, 6, 17.

⁶ Olaniwun Ajayi LP, ‘*The Nigerian Disability Act 2018: Addressing Discrimination or Creating More Problems?*’ (2019) *The Jurist* 45;

⁷ Equality Act 2010, s 6.

⁸ *Ibid* s 20.

⁹ *Ibid* s 149.

scholarship, and socially valuable in identifying practical lessons that Nigeria can adapt in strengthening disability rights.

1.3 Statement of the Problem

Despite the enactment of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, PWDs in Nigeria continue to face exclusion, discrimination, and barriers to participation. As earlier mentioned, the weak enforcement of the Act, limited institutional capacity of the National Commission for Persons with Disabilities, and lack of sufficient or widespread public awareness heavily undermine its effectiveness. Additionally, the absence of explicit constitutional recognition of disability rights creates legal uncertainty.

In contrast, the UK's Equality Act embeds proactive duties, backed by judicial interpretation and institutional oversight. This raises questions about the adequacy of Nigeria's current constitutional and statutory framework and whether lessons can be drawn from the UK model to strengthen domestic protections.

1.4 Research Questions

To guide this study on the constitutional and statutory protection of persons with disabilities from a Nigeria-UK comparative perspective, the following questions are posed:

- i. In what ways does the Nigerian Constitution and statutory framework provide protection for the rights of persons with disabilities?
- ii. How does the United Kingdom's statutory regime, particularly under the Equality Act 2010, safeguard the rights of persons with disabilities?
- iii. What are the points of convergence and divergence between the Nigerian and UK legal approaches to disability protection?
- iv. What practical lessons can Nigeria draw from the UK experience to strengthen and enhance its own legal protection framework for persons with disabilities?

1.5 Aim and Objectives of the Study

The aim of this study is to critically examine the constitutional and statutory protection of persons with disabilities in Nigeria, compare it with the legal framework in the United Kingdom, and to identify lessons and recommendations that can strengthen the effectiveness of disability rights protection in Nigeria.

The objectives of this study are:

1. To examine the constitutional and statutory protection of PWDs in Nigeria.
2. To analyse the statutory protection of PWDs in the United Kingdom under the Equality Act 2010.
3. To identify areas of convergence and divergence between the Nigerian and UK frameworks.
4. To make recommendations on how Nigeria can strengthen disability protection through constitutional reform, statutory enforcement, and policy adaptation.

1.6 Scope and Limitations of the Study

This study is confined to an examination of the constitutional and statutory protection of persons with disabilities in Nigeria and the United Kingdom. In Nigeria, the focus is on the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. In the United Kingdom, the emphasis is on the Equality Act 2010 and related statutory provisions. The study also draws on the United Nations Convention on the Rights of Persons with Disabilities (CRPD) only to the extent that it influences domestic law and policy in both jurisdictions. Judicial decisions, scholarly literature, and reports from civil society organisations are examined to enrich the analysis.

The limitations of this study is that the comparative analysis is limited to Nigeria and the United Kingdom; other jurisdictions that may offer additional insights (e.g., South Africa, Canada, or the United States) are excluded. Also, the study adopts a doctrinal legal research method, relying mainly on statutes, constitutional provisions, case law, and secondary sources. It does not include empirical fieldwork such as interviews or surveys with persons with disabilities. Given the recency of the Nigerian Disability Act (2018), there is limited case law and judicial interpretation to analyse. This constrains the depth of jurisprudential comparison with the UK, where the Equality Act has generated a rich body of case law. Additionally, sufficient access to certain government reports, enforcement data, and unpublished policy documents is restricted, and this may affect the comprehensiveness of the analysis.

1.7 Research Methodology

The nature of the study's approach is doctrinal. It examining previous works on the subject, textbooks, statutory provisions, journals, newspapers, articles, and case law, mostly written by lawyers and learned jurists, as well as paper presentations at seminars and conventions on the subject of Protection of Persons with Disabilities, using both primary and secondary sources. Doctrinal research methodology is a traditional, qualitative legal research approach that focuses on the analysis and interpretation of legal texts such as statutes, case law, regulations, treaties, and legal principles. It is often referred to as "black-letter law" research, as it concentrates on the core legal rules and principles governing a particular area of law without engaging extensively with empirical data or external social, political, or economic factors. This type of research focuses on legal propositions and theories. It is an investigation into law and legal principles. Primary sources include principal laws, pertinent statutes, and case laws, whereas secondary sources include textbooks, journal articles, and

relevant websites on the internet. This is done to gain a solid understanding of the study, as well as definitions and conceptual clarifications of key terms utilized in the research.

1.8 Significance of the Study

This study is justified on both academic and social grounds. Academically, it contributes to comparative constitutional and statutory law literature by assessing how different jurisdictions frame and implement disability rights. Socially, the study has practical value in identifying policy lessons that Nigeria can adopt to ensure inclusion, equality and protection of PWDs. The findings can also guide lawmakers, the judiciary, civil society, and disability-rights advocates in advancing reforms.

1.9 Organizational Layout

This research work is divided into five chapters. Chapter one discusses the general introduction to the research. It contains: Introduction, Background of the study, statement of the problem, research questions, aims and objectives of the study, scope and limitations of the study, significance of the study, research methodology, organisational layout and definition of terms.

Chapter two deals with the conceptual framework, theoretical framework and literature review.

Chapter three examines National and International laws on persons with disabilities as well as the decided cases on issues relating to persons with disabilities.

Chapter Four provides an overview of persons with disabilities and a comparative analysis of the legal systems in Nigeria and the United Kingdom.

Chapter five contains the general conclusion of the research work by outlining the summary of findings and recommendations, which, if well implemented, will go a long way to improve the protection of persons with disabilities. The work also contains the conclusion.

1.10 Definition of Terms

Persons with Disabilities

The concept of *persons with disabilities* (PWDs) has undergone a significant transformation over time. Traditionally, disability was defined in medical or charitable terms, viewing persons with disabilities as passive recipients of aid. Contemporary international and comparative law, however, adopts a rights-based approach. The **United Nations Convention on the Rights of Persons with Disabilities (CRPD)** defines persons with disabilities broadly to include those with “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.”¹⁰

In Nigerian law, the *Discrimination Against Persons with Disabilities (Prohibition) Act 2018* does not give a single comprehensive definition but recognises disability across various dimensions, including physical, sensory and mental impairments.¹¹ Similarly, under the UK *Equality Act 2010*, disability is defined as a physical or mental impairment that has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities.¹² These definitions underscore a shift away from mere medical diagnosis towards recognising the disabling effect of social and environmental barriers.

¹⁰ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, UN Doc A/RES/61/106 (adopted 13 December 2006, entered into force 3 May 2008) art 1.

¹¹ *Discrimination Against Persons with Disabilities (Prohibition) Act 2018*, ss 1–3.

¹² *Equality Act 2010* (UK), s 6.

The meaning of the term “persons with disabilities” has been contested both in legal discourse and social policy. Early understandings were framed by the *medical model of disability*, which emphasised impairments as individual pathologies requiring treatment or charity.¹³ Under this model, PWDs were perceived as “patients” or “dependents” rather than as rights-holders.

By contrast, the *social model of disability*, developed in the 1970s through disability-rights movements, shifted the focus from individual impairments to the barriers imposed by society.¹⁴ This model argues that it is discriminatory social attitudes, inaccessible infrastructure, and exclusionary laws that “disable” individuals, rather than their medical conditions per se.

International law has now largely embraced the social model. Article 1 of the **Convention on the Rights of Persons with Disabilities (CRPD)** provides that:

“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.”¹⁵

This expansive definition recognises the dynamic interplay between impairment and environment, emphasising participation, equality and dignity.

In Nigeria, the *Discrimination Against Persons with Disabilities (Prohibition) Act 2018* adopts a broad, functional approach. Section 1 prohibits discrimination on the ground of disability, while section 3 requires public buildings, structures and automobiles to be

¹³ Michael Oliver, *The Politics of Disablement* (Macmillan 1990),33.

¹⁴ Tom Shakespeare, *Disability Rights and Wrongs Revisited* (Routledge 2014),45.

¹⁵ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, UN Doc A/RES/61/106 (2006), art 1.

accessible to persons with disabilities.¹⁶ Although the Act does not set out a single, exhaustive definition, its provisions reflect the CRPD framework.

The United Kingdom provides a statutory definition under the *Equality Act 2010*:

“A person has a disability 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.”¹⁷

This definition has been subject to judicial interpretation in cases such as *Paterson v Commissioner of Police of the Metropolis*,¹⁸ where the Employment Appeal Tribunal emphasised that “long-term” requires an impairment lasting at least 12 months. Similarly, in *Archibald v Fife Council*,¹⁹ the House of Lords stressed that disability must be understood in light of equality principles, not merely medical incapacity.

Thus, across both jurisdictions, the trend is toward a rights-based definition that captures the lived realities of PWDs, rather than limiting protection to narrow medical diagnoses.

Statutory Protection

Statutory protection refers to safeguards conferred by specific legislation enacted by the legislature to secure the rights of persons with disabilities. In Nigeria, the principal statute is the *Discrimination Against Persons with Disabilities (Prohibition) Act 2018*. It prohibits discrimination in employment, education, housing, health, and access to public buildings and transportation.²⁰ The Act also establishes the National Commission for Persons with Disabilities to enforce compliance.

¹⁶ Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s 1.

¹⁷ Equality Act 2010 (UK), s 6.

¹⁸ [2007] IRLR 763 (EAT).

¹⁹ [2004] UKHL 32.

²⁰ *Discrimination Against Persons with Disabilities (Prohibition) Act 2018*, ss 1, 2, 17.

In the UK, statutory protection is provided primarily by the *Equality Act 2010*, which consolidates earlier enactments such as the *Disability Discrimination Act 1995*. The Act prohibits discrimination, harassment, and victimisation on the basis of disability. It further imposes a proactive duty on employers and service providers to make “reasonable adjustments” to accommodate disabled persons.²¹ Thus, statutory protection creates enforceable legal standards aimed at removing barriers and promoting inclusion.

Statutory protection refers to specific legislative instruments enacted to promote and safeguard the rights of persons with disabilities.

In Nigeria, the *Discrimination Against Persons with Disabilities (Prohibition) Act 2018* is the first comprehensive disability statute. It prohibits discrimination in employment, housing, education and public services,²² criminalises denial of access to public places,²³ and requires that all public buildings be accessible within a five-year moratorium period.²⁴ It also establishes the National Commission for Persons with Disabilities, empowered to receive complaints and pursue remedies.²⁵

Despite these provisions, enforcement remains a challenge. Few cases have reached Nigerian courts under the Act, partly due to low awareness and institutional inertia. Civil society organisations like the Joint National Association of Persons with Disabilities (JONAPWD) have called for stronger monitoring and implementation frameworks.

In the United Kingdom, the *Equality Act 2010* consolidated earlier discrimination laws and created a single framework protecting various “protected characteristics” including

²¹ Equality Act, s 20.

²² Discrimination Against Persons with Disabilities (Prohibition) Act 2018, ss 1–2.

²³ Ibid s 3.

²⁴ Ibid s 17.

²⁵ Ibid s 31.

disability.²⁶ Notably, the Act imposes the **duty to make reasonable adjustments**, requiring employers, schools, and service providers to take proactive steps to accommodate PWDs.²⁷

In *Paulley v FirstGroup Plc*,²⁸ the UK Supreme Court held that a bus company had a duty to make reasonable adjustments to enable a wheelchair user to access public transport, reinforcing the practical effect of the statute.

Statutory protection therefore serves as a concrete expression of constitutional and human rights values, translating abstract principles into enforceable legal duties.

Constitutional Protection

Constitutional protection refers to rights expressly entrenched in the supreme law of a country. In Nigeria, the 1999 Constitution (as amended) guarantees fundamental rights such as equality and non-discrimination.²⁹ However, it does not specifically mention disability as a prohibited ground of discrimination. The Constitution prohibits discrimination based on ethnic group, sex, religion or political opinion, but omits disability.³⁰ Consequently, constitutional protection of PWDs in Nigeria is indirect and derivative.

In the UK, there is no single written constitution; rather, constitutional protection is derived from statutes, conventions, and judicial decisions. Disability rights are primarily secured through legislation, notably the *Equality Act 2010*. Nevertheless, constitutional principles such as the rule of law and human rights under the *Human Rights Act 1998* (which incorporates the European Convention on Human Rights) reinforce the statutory protections

²⁶ Equality Act, s 4.

²⁷ Ibid s 20.

²⁸ [2017] 1 WLR 423.

²⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 17(2)(a).

³⁰ Ibid s 42.

available to PWDs.³¹ Constitutional protection denotes rights entrenched in the highest law of the land, often beyond ordinary legislative amendment.

Nigeria: The *Constitution of the Federal Republic of Nigeria 1999 (as amended)* guarantees equality before the law and prohibits discrimination under section 42. However, the grounds enumerated do not expressly include disability. This omission has limited the ability of PWDs to challenge discrimination directly under the Constitution. In *Uzoukwu v Ezeonu II*,³² the Court of Appeal held that section 42 protects individuals from discriminatory treatment by the state or private persons, but the scope was limited to the grounds expressly listed. This restrictive approach highlights the inadequacy of Nigeria's constitutional framework for disability protection.

United Kingdom: The UK lacks a codified constitution, but constitutional principles are safeguarded through statutes, judicial review, and the *Human Rights Act 1998*. The Act incorporates the European Convention on Human Rights (ECHR), which guarantees equality and non-discrimination under Article 14. While disability is not explicitly listed in the ECHR, UK courts have interpreted equality principles to apply broadly. The *Equality Act 2010* therefore serves as the principal vehicle for constitutional-level protection in practice.³³

³¹ Human Rights Act 1998 (UK), sch 1.

³² (1991) 6 NWLR (Pt 200) 708.

³³ Sandra Fredman, *Discrimination Law* (2nd edn, OUP 2011) 67.

CHAPTER TWO

2.1 Conceptual Framework

2.1.1 Persons with Disabilities

The definition of “persons with disabilities” (PWDs) has evolved significantly over time. Traditionally, disability was understood through the **medical model**, which defined disability as an individual’s impairment, disease, or abnormality that needed to be corrected or managed. For example, an individual who could not walk unaided was considered “disabled” because of the impairment itself. Under this model, the law tended to focus on welfare, charity, and rehabilitation rather than enforceable rights.

However, disability advocacy movements in the 1970s and 1980s rejected the medical model as paternalistic and exclusionary. They advanced the **social model of disability**, which shifts the focus away from the impairment and onto society’s failure to remove barriers that exclude people. From this perspective, it is not the wheelchair user who is “disabled” by their impairment, but rather society that disables them by constructing buildings without ramps or transport systems without lifts.

International law has largely embraced this social model. Article 1 of the **United Nations Convention on the Rights of Persons with Disabilities (CRPD)** defines PWDs broadly as including those with “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.” This definition is not closed; it recognises that disability is a dynamic concept shaped by environmental and social conditions.

Nigeria’s **Discrimination Against Persons with Disabilities (Prohibition) Act 2018** adopts a similar perspective. The Act defines a person with disability as “a person who has a long-term physical, mental, intellectual, or sensory impairment which in interaction with

various barriers may hinder his full and effective participation in society on an equal basis with others.”³⁴ By adopting the CRPD’s approach, the Act marks a paradigm shift in Nigerian law from welfare to rights.

Yet, practical challenges remain. Cultural perceptions in Nigeria often still align with the medical or even religious model, where disability is seen as misfortune, curse, or object of pity. These societal attitudes influence law enforcement, political will, and social inclusion, thereby undermining the transformative potential of the statutory definition.

2.1.2 Discrimination

Discrimination is central to disability rights protection. In general terms, discrimination refers to the unjust, unfair, or prejudicial treatment of a person on prohibited grounds. The **1999 Constitution of Nigeria (as amended)** prohibits discrimination on the grounds of “ethnic group, place of origin, sex, religion or political opinion.” Notably, however, disability is absent from this list, creating a constitutional lacuna that the 2018 Act sought to fill.

Disability discrimination manifests in various forms:

- **Direct discrimination** occurs when a person is treated less favourably explicitly because of their disability. For instance, when an employer refuses to hire a qualified candidate solely because they use a wheelchair.
- **Indirect discrimination** arises when seemingly neutral rules or policies disproportionately disadvantage PWDs. An example would be requiring all candidates to pass a written test under timed conditions, without reasonable accommodation for candidates with dyslexia or visual impairments.

³⁴ DAPD s 57

- **Failure to make reasonable accommodation** is increasingly recognised as a form of discrimination. Article 2 of the CRPD defines “reasonable accommodation” as necessary and appropriate modifications not imposing a disproportionate burden, to ensure that PWDs can enjoy rights on an equal basis.

The UK’s **Equality Act 2010** incorporates this by imposing a statutory duty on employers and service providers to make reasonable adjustments. Nigeria’s 2018 Act similarly provides for accessibility obligations and prohibits discrimination in education, employment, housing, and political participation. However, the Act lacks the robust enforcement culture seen in the UK, and Nigerian courts have yet to develop jurisprudence clarifying the scope of “reasonable accommodation.”

2.1.3 Rights-Based Protection

The rights-based approach to disability represents a significant departure from the earlier welfare paradigm. Instead of treating PWDs as passive recipients of charity, the rights-based model recognises them as active rights-holders entitled to equality, dignity, and participation.

This approach is grounded in international human rights law. The **Universal Declaration of Human Rights (1948)** and subsequent treaties such as the **International Covenant on Civil and Political Rights (ICCPR, 1966)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)** guarantee rights without distinction of any kind. The CRPD builds upon this by specifically addressing barriers faced by PWDs.

In Nigeria, this rights-based framework only became statutory with the 2018 Act. The Act criminalises discrimination, sets accessibility standards, and creates the **National Commission for Persons with Disabilities** to oversee enforcement. Nevertheless, the **implementation gap** persists: while the law is rights-oriented on paper, in practice, many

PWDs continue to be excluded from education, healthcare, employment, and political participation.

By contrast, the UK has moved steadily towards embedding disability rights into its equality regime. Beginning with the **Disability Discrimination Act 1995** and culminating in the Equality Act 2010, disability protection is now framed alongside race, gender, and other grounds of discrimination, reflecting a mature rights-based order.

2.2 Theoretical Framework

2.2.1 Human Rights Theory

At the heart of disability rights lies the **human rights framework**, which asserts that every person possesses inherent dignity and equal rights by virtue of being human. Human rights are inalienable; they do not depend on charity, goodwill, or legislative grace. This perspective is particularly significant in the disability context, where persons with disabilities (PWDs) have historically been viewed through a welfare lens objects of assistance rather than subjects of rights.

The foundation of this theory can be traced to the **Universal Declaration of Human Rights (UDHR) 1948**, which proclaims that “all human beings are born free and equal in dignity and rights.” Building on this, the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** further affirm the universality of rights. Yet, neither instrument originally mentioned disability explicitly. It was not until the **Convention on the Rights of Persons with Disabilities (CRPD) 2006** that the international community expressly acknowledged the unique barriers faced by PWDs.

In the Nigerian context, human rights theory has two major implications. First, it provides a normative justification for recognising disability as a ground for protection under constitutional and statutory law. Section 42 of the 1999 Constitution prohibits discrimination on certain grounds but omits disability. However, if interpreted through a human rights lens, the Constitution’s broad provisions on dignity (section 34) and equality (section 42) can—and arguably should—be read to include disability. Nigerian courts, however, have been reluctant to adopt such expansive interpretations. Second, human rights theory requires that the **Discrimination Against Persons with Disabilities (Prohibition) Act 2018** be treated not as a discretionary social policy but as the codification of binding human rights obligations.

In the United Kingdom, the human rights approach has had more concrete impact. The **Human Rights Act 1998** incorporated the **European Convention on Human Rights (ECHR)** into domestic law, thereby strengthening judicial review of state action. When combined with the **Equality Act 2010**, this ensures that disability is addressed not as a matter of policy benevolence but as a justiciable entitlement. Case law such as *Archibald v Fife Council*³⁵ reflects this approach, where the House of Lords upheld that employers must make adjustments to prevent discrimination against disabled employees.

Thus, human rights theory situates disability rights within the broader discourse of dignity, equality, and justice, insisting that PWDs enjoy the same legal protections as every other citizen.

2.2.2 Social Justice Theory

While human rights theory emphasises universality, **social justice theory** focuses on fairness and equity in the distribution of opportunities and resources. John Rawls’ seminal

³⁵ [2004] 4 All ER 303 (HL)

work, *A Theory of Justice* (1971), defines justice as fairness and stresses that inequalities are permissible only if they benefit the least advantaged members of society.

Applied to disability, social justice requires that states adopt measures to eliminate systemic barriers and ensure substantive equality. For example, mere formal equality treating PWDs the same as everyone else may be insufficient if structural disadvantages remain. A policy that requires all job applicants to undergo a written test may appear neutral but disadvantages persons with visual impairments. Social justice theory would demand accommodations, such as providing assistive technology, to level the playing field.

Nigeria presents a striking case study for this theoretical lens. PWDs constitute an estimated 15 million people, representing a significant minority of the population. Yet they remain disproportionately excluded from education, employment, healthcare, and political participation.¹¹ Social justice theory insists that without corrective mechanisms such as accessibility laws, quotas, or targeted welfare programmes PWDs will remain marginalised despite the existence of constitutional and statutory guarantees. The **2018 Act** attempts to address these inequalities by mandating accessibility standards and establishing the National Commission for Persons with Disabilities. However, implementation challenges such as underfunding, cultural stigma, and lack of awareness undermine the Act's capacity to deliver social justice in practice.

In the UK, social justice is operationalised through both legislation and judicial doctrine. The **Public Sector Equality Duty (PSED)** under the Equality Act 2010 requires public authorities to consider the needs of disadvantaged groups, including PWDs, in all policy decisions. This goes beyond formal equality and compels the state to proactively advance fairness. Judicial decisions have further entrenched this obligation, ensuring that PWDs are not left behind in the distribution of public resources.

Therefore, social justice theory enriches this study by emphasising that disability rights are not only about legal prohibitions against discrimination but also about creating inclusive systems that redress historic inequalities.

2.2.3 Legal Positivism

The third theoretical lens provides a pragmatic explanation for why rights are only as effective as the legal texts that enshrine them. Legal positivism, as articulated by scholars like H.L.A. Hart, insists that law derives its authority from its enactment by recognised institutions, not from moral or natural law. In this view, rights are not enforceable unless they are codified and backed by institutional mechanisms.

This theory is especially relevant in the Nigerian context. Nigeria ratified the CRPD in 2007, thereby committing itself internationally to protect disability rights. Yet, for over a decade, PWDs in Nigeria could not rely on the CRPD in domestic courts because of section 12 of the Constitution, which requires that international treaties be domesticated by legislation before they can have the force of law.³⁶ In the absence of enabling legislation, the CRPD was aspirational rather than enforceable. It was only with the enactment of the **2018 Act** that disability rights acquired concrete statutory status in Nigeria.

Legal positivism also explains the gap between rhetoric and reality in Nigeria. While civil society organisations consistently appealed to morality, human dignity, and international commitments, successive presidents refused to assent to disability bills until 2019. It was not moral arguments alone but the eventual enactment of the 2018 Act that finally gave PWDs enforceable rights under Nigerian law.

In contrast, the UK's legal framework illustrates how positivism can work effectively when combined with strong institutions. The **Disability Discrimination Act 1995** and later

³⁶ Constitution of the Federal republic of Nigeria 1999 (as amended).

the **Equality Act 2010** created binding statutory duties, enforceable in courts and supported by independent oversight bodies such as the Equality and Human Rights Commission. These laws did not rely on moral persuasion but on enforceable obligations backed by penalties and remedies.

Thus, legal positivism provides a sobering reminder: without statutory backing and institutional enforcement, human rights and social justice remain aspirational ideals.

2.3 Literature Review

Introduction

The academic discussion on the constitutional and statutory protection of persons with disabilities has expanded considerably in the last two decades. Globally, scholars have moved away from perceiving disability merely as a health or welfare issue to recognising it as a matter of human rights and social justice. This intellectual shift is largely influenced by the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which calls on states to integrate disability rights into their domestic legal frameworks. Against this backdrop, Nigerian and UK scholars have interrogated the adequacy, implementation, and impact of their respective legal frameworks for protecting persons with disabilities. The literature reflects both convergences and divergences in how disability rights are conceived, legislated, and enforced in the two jurisdictions.

A) Disability Protection in Nigeria

Pre-2019 Legal Landscape

Much of the Nigerian scholarship before 2019 focused on the inadequacy of constitutional protection for persons with disabilities. Analysts pointed out that while section 42 of the 1999 Constitution prohibits discrimination on grounds of sex, ethnic group, religion, or political opinion, it makes no mention of disability. Scholars such as civil society

advocates, legal researchers, and policy experts described this omission as emblematic of Nigeria's longstanding neglect of disability rights. The constitutional silence effectively relegated persons with disabilities to reliance on general equality provisions that were often narrowly interpreted by courts.

Additionally, the pre-2019 framework was characterised by piecemeal measures. For instance, some states such as Lagos enacted disability laws earlier (Lagos State Special People's Law 2010), and Nigeria ratified the CRPD in 2007. Yet, these measures lacked coherence at the national level. Commentators argued that such fragmented efforts created a legal vacuum where persons with disabilities had no enforceable statutory entitlements.

The 2018 Act and Scholarly Responses

The passage of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 was welcomed as a milestone. Nigerian scholars highlighted its significance in criminalising discrimination, establishing accessibility standards, and creating the National Commission for Persons with Disabilities (NCPWD). Academic reviews praised the Act for aligning Nigeria with international human rights commitments under the CRPD.

However, critical literature quickly emerged pointing out implementation challenges. Legal commentators observed that the five-year compliance moratorium for accessibility (which expired in 2024) has not translated into tangible improvements in infrastructure. Public buildings, transportation systems, and schools remain largely inaccessible. Empirical studies by NGOs reveal low levels of awareness about the Act, especially in rural areas. Scholars note that without robust institutional capacity and funding, the lofty aspirations of the Act may remain aspirational.

Another strand of literature focuses on the judicial vacuum. Unlike the UK, Nigerian courts have not yet developed a body of case law interpreting the Act. This absence of

judicial activism limits clarity on how rights and duties under the Act should be operationalised. Scholars therefore warn of an “implementation gap” between law on paper and law in practice.

Emerging Debates

Nigerian scholarship continues to debate whether the disability rights movement should prioritise constitutional amendment or focus on strengthening statutory implementation. Some scholars argue that constitutional entrenchment of disability as a protected category would enhance judicial enforcement and elevate the normative status of disability rights. Others contend that amending the Constitution may be politically unrealistic in the short term, and that energy is better spent in building awareness, strengthening the Commission, and promoting compliance with the 2018 Act.

B) Disability Protection in the United Kingdom

Historical Development

In contrast to Nigeria, literature on the United Kingdom reflects a much longer trajectory of statutory engagement with disability. Scholars trace this journey from welfare-oriented legislation such as the Disabled Persons (Employment) Act 1944 to the rights-based approach introduced by the Disability Discrimination Act (DDA) 1995. The DDA is widely analysed as a turning point, establishing enforceable rights against discrimination.

However, critical scholars described the DDA as fragmented, limited in scope, and overly reliant on litigation. Its piecemeal structure led to calls for consolidation, culminating in the Equality Act 2010. The Equality Act has since attracted significant scholarly attention as a unifying statute that harmonised anti-discrimination law across protected characteristics, including disability.

Jurisprudence and Academic Debate

UK literature highlights the dynamic role of case law in shaping disability rights. Commentators analyse cases such as *Archibald v Fife Council*, which expanded the concept of reasonable adjustment by requiring employers to redeploy disabled employees where necessary. Other cases, such as *Paterson v Commissioner of Police of the Metropolis*, broadened the understanding of “long-term impairment.” Scholars emphasise that UK courts have been proactive in interpreting statutory provisions in a purposive manner, often extending protection in ways not expressly foreseen by Parliament.

Debates in UK literature also revolve around the Public Sector Equality Duty (PSED). Academics praise the PSED for moving beyond reactive non-discrimination to a proactive requirement that public bodies consider equality in decision-making. Critics, however, argue that enforcement mechanisms under the PSED remain weak, as they rely heavily on judicial review, which can be costly and inaccessible for individuals.

Contemporary Challenges

Despite its maturity, the UK system is not without criticism. Scholars point to continuing structural barriers, such as inaccessible housing and persistent employment discrimination. Others highlight austerity measures and welfare reforms as undermining the gains of disability rights by cutting support for persons with disabilities. Thus, while the UK represents a more advanced model, literature acknowledges that rights on paper do not always guarantee substantive equality in practice.

C) **Comparative Perspectives**

Convergences and Divergences

Comparative scholarship underscores the differences between Nigeria and the UK while noting shared challenges. The UK is portrayed as a jurisdiction with decades of statutory and jurisprudential development, whereas Nigeria is still implementing its first comprehensive disability law. Scholars agree that Nigeria can learn from the UK's experience with institutionalising disability rights through case law, strong equality duties, and public awareness campaigns.

However, comparative literature also cautions against simple transplantation of UK models into Nigeria. The socio-economic and institutional contexts differ sharply. Nigeria's infrastructural deficits, weak institutions, and funding limitations mean that enforcement strategies must be adapted to local realities. For example, while the UK's PSED works within a robust administrative state, Nigeria's governance structures may not yet have the capacity to implement such duties effectively.

Lessons for Nigeria

Literature highlights several lessons Nigeria can draw from the UK experience:

1. The importance of a strong and independent equality body to monitor compliance.
2. The role of purposive judicial interpretation in expanding protection.
3. The need for proactive equality duties that require institutions to integrate disability concerns into their decision-making.
4. Public awareness campaigns to shift societal attitudes and reduce stigma.

The Implementation Gap

Both jurisdictions, however, share a common challenge: the gap between statutory promises and lived realities. Scholars note that while the UK has a more advanced legal regime, persons with disabilities still face barriers in employment, housing, and social services. In Nigeria, the challenge is even more acute, as enforcement structures are still nascent. Comparative literature thus frames the central issue not merely as legislative enactment but as the effective realisation of rights through sustained political will, institutional strengthening, and societal change.

Overall, the literature reviewed demonstrates that while Nigeria and the UK are at different stages in the evolution of disability rights, both face the challenge of translating legal frameworks into practical outcomes. The UK provides a useful model of consolidation, judicial interpretation, and proactive equality duties, but it is not immune to shortcomings. Nigeria's challenge lies in bridging the gap between legislative aspiration and practical enforcement. Overall, the literature points to the need for context-sensitive strategies that combine legal reform with institutional capacity building and social awareness.

CHAPTER THREE

LEGAL, INSTITUTIONAL AND INTERNATIONAL FRAMEWORK FOR THE PROTECTION OF PERSON LIVING WITH DISABILITY

3.1 Legal Framework

3.1.1 Constitution of Federal Republic of Nigeria

The Constitution of the Federal Republic of Nigeria 1999 (as amended) remains the grundnorm of the legal system, and all laws, policies, and administrative actions derive their validity from it. It lays down the framework for the recognition and protection of fundamental rights, which are guaranteed to every individual within Nigeria irrespective of status. On its face, these rights extend to persons with disabilities (PWDs). Yet, a closer interrogation reveals that the Constitution falls short of providing explicit recognition or protection for disability rights.

For instance, the Constitution affirms that “*every individual is entitled to respect for the dignity of his person*”.³⁷ This provision is broad enough to encompass disability-based discrimination, as acts that degrade or dehumanise individuals because of their disabilities arguably undermine human dignity. Similarly, it also guarantees personal liberty, which implies that PWDs cannot be arbitrarily detained, institutionalised, or restricted in ways that are inconsistent with human rights standards.³⁸

Most relevant, however, is section 42³⁹, which prohibits discrimination on grounds of “*community, ethnic group, place of origin, sex, religion or political opinion.*” Noticeably, disability is omitted from this list of protected grounds. Scholars have pointed out that this omission creates a constitutional gap, leaving PWDs vulnerable to discrimination that cannot

³⁷ CFRN 1999, s 34 (1).

³⁸ Ibid s 35.

³⁹ Ibid s 42 (1) (2).

be directly challenged under section 42.⁴⁰ Thus, while other categories of vulnerable groups are constitutionally shielded from discriminatory treatment, PWDs are left to rely on more general provisions such as dignity and liberty, which require broad judicial interpretation.

In *Mariana Díaz Figueroa v The Defendant Company*⁴¹, a civil lawsuit for moral damages (indemnización por daño moral) was filed by the plaintiff, Mariana Díaz Figueroa, against a private company in Mexico. The lawsuit stemmed from a job advertisement published by the company that explicitly excluded people with disabilities, stating: "The vacancy contemplates the hiring of people with disabilities: No". Díaz Figueroa, a lawyer with a disability, argued that this exclusion was a direct act of discrimination that violated her human rights and caused significant moral harm. The case was a multi-year legal battle that eventually reached the Supreme Court to address fundamental questions of constitutional law and the interpretation of the right to non-discrimination. The core legal theme was the interpretation of Article 1 of the Federal Constitution, which prohibits all forms of discrimination. On January 22, 2014, the First Chamber of the Mexican Supreme Court of Justice of the Nation (SCJN) issued a landmark ruling: The Court held that job offers that exclude people with disabilities are acts of discrimination and thus unconstitutional. The Court determined that the exclusion was arbitrary because the job in question appeared to be intellectual in nature (requiring a specific academic profile) and did not have a logical or reasonable connection between the discriminatory measure (excluding people with disabilities) and the legitimate purpose of the job. The ruling established a significant precedent by shifting the burden of proof in discrimination cases. It held that once the plaintiff demonstrates a potential act of discrimination, the defendant (the company, in this instance) must prove that their actions were based on objective and non-discriminatory reasons. The SCJN revoked the lower court's decision and ordered that the case be returned to

⁴⁰ A. Oba, Human Rights and the Nigerian Constitution: The Missing Link (2019) *Nigerian Law Journal* 45.

⁴¹ SCJN, Amparo Directo en Revisión 1387/2012 (ADR 1387/2012)

the original Circuit Court for the sole purpose of determining the appropriate amount of compensation (indemnización) for the moral damages caused to the plaintiff by the company's discriminatory actions. The ruling solidified the right to work for people with disabilities on an equal basis and established a strong judicial precedent against employment discrimination in Mexico.

The Constitution also enshrines a series of socio-economic guarantees under Chapter II (Fundamental Objectives and Directive Principles of State Policy). These include provisions mandating the State to ensure equality of opportunity, adequate social welfare, education, and healthcare for all citizens.⁴² These ideals resonate with the global disability rights agenda, which emphasises substantive equality and social inclusion. However, the Constitution renders these provisions non-justiciable, meaning that they cannot be enforced in a court of law.⁴³ As a result, while they may guide policy formulation, they do not create enforceable rights for PWDs.

This constitutional limitation has been widely criticised for entrenching inequality. The Supreme Court in *Okogie v. Attorney-General of Lagos State*,⁴⁴ held that socio-economic rights in Chapter II are unenforceable aspirations, not actionable rights. For PWDs, this means that demands for accessible infrastructure, inclusive education, or social support cannot be constitutionally compelled, even though they are central to full participation in society.

3.1.2 The Discrimination Against Persons with Disabilities (Prohibition) Act 2018

The Discrimination Against Persons with Disabilities (Prohibition) Act 2018 represents a watershed in Nigeria's disability rights landscape. For nearly two decades,

⁴² CFRN 1999, ss13-24.

⁴³ *Ibid* s 6 (6)(c).

⁴⁴ (1981) 1 NCLR 218.

disability advocates, civil society organisations, and international partners campaigned for the adoption of a comprehensive framework law.⁴⁵ Their demands were reinforced by Nigeria's ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) 2007, which required states to adopt legislative, administrative, and other measures to secure the rights of PWDs.⁴⁶ Against this backdrop, the eventual passage and presidential assent in January 2019 marked an important symbolic and legal milestone.

The Act adopts a wide-ranging approach, criminalising discrimination against persons with disabilities in multiple spheres: employment, education, healthcare, housing, transportation, and access to public facilities.⁴⁷ Importantly, it shifts disability rights from being a matter of policy discretion to enforceable legal entitlement. For instance, employers are prohibited from discriminating against job applicants or employees on the basis of disability, while service providers must ensure accessibility and equal participation.⁴⁸

A notable innovation is the accessibility mandate. Section 3 in the Act provides that all public buildings, roads, and transportation services must be made accessible to PWDs, with a five-year transition period for compliance.⁴⁹ This provision directly reflects Article 9 of the CRPD, which emphasises accessibility as a precondition for the enjoyment of all other rights. However, as the five-year deadline expired in 2024, the reality on the ground reveals minimal compliance. Many public institutions, schools, courts, and transport systems remain physically inaccessible, highlighting the gap between law and practice.

⁴⁵ D. Adepoju, *Advocacy for Disability Rights in Nigeria: From Policy to Legislation* (2019) *African Human Rights Law Journal*, 121.

⁴⁶ UN Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, arts 4 and 9.

⁴⁷ *Discrimination Against Persons with Disabilities (Prohibition) Act 2018*, s 1.

⁴⁸ *Ibid* s 4.

⁴⁹ *Ibid* s 3.

The Act also establishes the National Commission for Persons with Disabilities (NCPWD), vested with responsibilities to formulate policies, coordinate programmes, monitor compliance, and handle complaints from PWDs.⁵⁰ The creation of such an institutional mechanism was a long-awaited development, providing a focal point for disability advocacy and enforcement. Nevertheless, the Commission has faced serious challenges. It suffers from inadequate funding, limited personnel, and weak enforcement powers. While it can receive complaints, it lacks the coercive authority of more established human rights bodies, such as the UK's Equality and Human Rights Commission (EHRC).

By contrast, the UK's EHRC enjoys substantial institutional capacity, including powers to investigate discriminatory practices, issue compliance notices, and initiate strategic litigation.⁵¹ It is backed by stronger political will and societal awareness of equality norms, making enforcement more effective. The Nigerian Commission, in its current form, is more dependent on executive goodwill than on statutory autonomy, which limits its effectiveness as a rights-enforcing body.

Another challenge lies in the criminalisation approach adopted by the Act. While it prescribes sanctions such as fines and imprisonment for discrimination,⁵² criminal prosecutions have been almost non-existent. This may be due to reluctance on the part of law enforcement agencies, social stigma, or lack of awareness among PWDs of their legal rights. In practice, litigation and administrative remedies remain underdeveloped as tools for advancing disability rights in Nigeria.

Despite these shortcomings, the Act remains a crucial step forward. It provides a clear legislative anchor for disability rights and aligns Nigeria with its international obligations. It

⁵⁰ Ibid s 31.

⁵¹ Equality Act 2006 (UK), ss 8-20.

⁵² Discrimination Against Persons with Disabilities (Prohibition) Act 2018, ss 5 and 7.

also creates opportunities for judicial interpretation and civil society mobilisation. However, the effectiveness of the law will ultimately depend on stronger enforcement, adequate resourcing of the NCPWD, and broader societal change in perceptions of disability.

Comparatively, the Nigerian framework remains nascent and aspirational, while the UK's regime under the Equality Act 2010 has matured through extensive case law and robust institutional enforcement. For Nigeria, the lesson is clear: passing a statute is only the beginning. Without effective implementation, deadlines for accessibility and promises of equality risk becoming symbolic rather than transformative.

Before the enactment of the **Discrimination Against Persons with Disabilities (Prohibition) Act 2018**, certain Nigerian states took the lead in addressing disability rights within their jurisdictions. These state-level initiatives were often driven by advocacy from local civil society groups and international partners, reflecting both grassroots demand and the absence of federal action at the time.

The most prominent example is the **Lagos State Special People's Law 2011**, a pioneering piece of legislation that set out detailed provisions prohibiting discrimination against persons with disabilities in employment, education, health, and public services.⁵³ It also created the **Office for Disability Affairs**, tasked with implementing the law, promoting awareness, and ensuring compliance by public and private institutions.⁵⁴ Lagos further established a **Disability Fund** to support PWDs, a feature that reflected a more practical attempt to provide social security and empowerment measures.⁵⁵

Following Lagos' lead, states such as **Plateau, Ekiti, Anambra, and Kano** also enacted disability-specific laws, though the content and effectiveness of these laws vary considerably.

⁵³ Lagos State Special People's Law 2011, s 1.

⁵⁴ Ibid s 9.

⁵⁵ Ibid s 12.

Some states emphasised education and welfare, while others focused more on prohibiting discrimination and providing for accessibility. However, the differences in scope, institutional frameworks, and enforcement mechanisms highlight the **fragmentation of Nigeria’s legal response to disability** prior to the federal Act.⁵⁶

This fragmented approach created several challenges. First, it meant that PWDs in some states enjoyed legal protection while others were left without a comparable framework, leading to **unequal access to rights depending on geography**. Second, the lack of harmonisation across states made it difficult to ensure national consistency in standards of accessibility, employment obligations, and social inclusion. For example, while Lagos mandated accessibility in public buildings, many other states had no such requirement, perpetuating structural exclusion in large parts of the country.

Moreover, even where state laws existed, enforcement was limited by resource constraints, political will, and weak institutional capacity. Offices for disability affairs were often underfunded, lacked trained personnel, and had minimal authority to compel compliance. This created a situation where laws existed on paper but were not robustly implemented in practice.

In sharp contrast, the **United Kingdom’s Equality Act 2010** provides a **single, unified statutory framework** across England, Scotland, and Wales.⁵⁷ By consolidating previous legislation (including the Disability Discrimination Act 1995), the Equality Act harmonised protections and established clear, enforceable duties applicable nationwide. Disability is expressly recognised as a protected characteristic, and all public bodies, employers, and service providers are bound by uniform obligations.

⁵⁶ 32J. Akintunde, *State-Level Disability Laws in Nigeria: A Review of Trends and Gaps* (2017) 3(2) African Disability Rights Yearbook 95.

⁵⁷ Equality Act 2010 (UK), Pt 2.

The comparative lesson is clear: Nigeria's state-level experimentation was a useful starting point, but it underscores the need for **national uniformity in disability rights protection**. The federal Act of 2018 addressed this gap by establishing a single baseline of rights across the federation. However, its effectiveness will depend on harmonisation with existing state laws, as conflicts or overlaps may otherwise persist. For instance, in Lagos, questions arise as to how the Special People's Law interacts with the federal Act, and whether the state's more detailed provisions should prevail where they are more progressive.

Thus, while Nigeria's decentralised model allowed early adopters like Lagos to innovate, it also reinforced inequalities between states. The UK's centralised approach under the Equality Act demonstrates the benefits of consistency, clarity, and stronger enforcement through a unified legal regime.

3.2 Institutional Framework

3.2.1 The National Commission for Persons with Disability (NCPWD)

The National Commission for Persons with Disabilities (NCPWD) is a pivotal institution in Nigeria's framework for protecting and promoting the rights of persons living with disabilities (PWD). Established under the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018. The NCPWD is tasked with ensuring the full implementation of disability rights, fostering inclusion, and addressing systemic barriers faced by PWDs.⁵⁸

The NCPWD is a federal body created to coordinate, monitor, and enforce policies and programs that promote the welfare, inclusion, and rights of PWD in Nigeria.⁵⁹ It serves as the primary institution for implementing the 2018 Act, aligning Nigeria's disability framework

⁵⁸ S.31 Discrimination Against Persons with Disabilities Act, 2018

⁵⁹ Ibid

with the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which Nigeria ratified in 2007. The Commission works across sectors, including education, health, employment, and infrastructure, to ensure accessibility and non-discrimination.

The Commission was established by Section 31 of the 2018 which establishes the NCPWD as a corporate body with perpetual succession and the ability to sue or be sued in its corporate name.⁶⁰ This legal status grants the Commission autonomy to carry out its mandate effectively.⁶¹

The Act also outlines the composition of the Commission’s Governing Council.⁶² This governing council includes: a part-time Chairman, one representative each from the Federal Ministries of Education, Health, Women Affairs and Social Development, Labour and Productivity, and Works and Housing, one person from each of Nigeria’s six geopolitical zones, knowledgeable in disability matters. A person with a disability representing organizations of PWD. An Executive Secretary, who serves as the chief executive and accounting officer.⁶³

The inclusion of PWD representatives ensures that the Commission reflects the lived experiences of its beneficiaries, aligning with the CRPD’s principle of “nothing about us without us.”

The Act further assigns the NCPWD a broad mandate to protect and empower PWD.⁶⁴

These functions and powers include:

⁶⁰ S.31(1) Discrimination Against Persons with Disabilities Act (2018)

⁶¹ Ibid

⁶² S.32 Discrimination Against Persons with Disabilities Act (2018)

⁶³ Ibid

⁶⁴ S.33 Discrimination Against Persons with Disabilities Act (2018)

Formulating and implementing policies The Commission develops policies to ensure PWD have equal access to education, employment, healthcare, and public services.⁶⁵

Promoting accessibility. It conducts audits of public buildings and infrastructure to enforce accessibility standards, such as ramps and braille signage, as mandated by (accessibility to public building, roads and sidewalks).⁶⁶

Advocacy and awareness. The NCPWD campaigns to combat stigma and promote societal acceptance of PWD, aligning with Section 1 (prohibition of discrimination).

Issuing accessibility compliance certificates. The Commission issues Certificates of Compliance to public buildings that meet accessibility standards and can impose penalties for non-compliance.⁶⁷

Monitoring and enforcement. It monitors compliance with the Act's provisions, such as the 5% employment quota for PWD in public organizations and investigates violations of PWD rights.⁶⁸

The Commission can also work with ministries, NGOs, and international organizations to provide assistive technologies, vocational training, and social welfare programs. The Commission has some key Responsibilities Under the 2018 Act:

Non-discrimination. The Commission ensures PWD are not discriminated against in employment, education, or public services. It can investigate complaints and facilitate legal recourse, with penalties for violators e.g., fines

The Commission has had little success and achievements in some areas

⁶⁵ S.33(1) Discrimination Against Persons with Disabilities Act (2018)

⁶⁶ Ss.3 & 4 Discrimination Against Persons with Disabilities Act (2018)

⁶⁷ S.6 Discrimination Against Persons with Disabilities Act (2018)

⁶⁸ S.29 Discrimination Against Persons with Disabilities Act (2018)

Since its establishment, the NCPWD has undertaken several initiatives:

- i. Accessibility audits: The Commission has conducted inspections of public buildings to enforce compliance with accessibility standards.
- ii. Partnerships: It collaborates with organizations like the Nigeria Communication Commission to promote video relay services for the deaf.
- iii. Advocacy: The NCPWD runs campaigns to raise awareness about PWD rights and combat societal stigma.
- iv. Policy development: It has pushed for the domestication of the 2018 Act in states, with successes in places like Lagos and Enugu.

But despite its embryonic age and meagre success mandate, the NCPWD faces significant challenges:

- i. Funding: Inadequate budgetary allocations limit the Commission's ability to implement programs, conduct nationwide audits, or provide assistive devices.
- ii. Enforcement: Weak enforcement mechanisms and lack of compliance by some public and private entities hinder progress.
- iii. State-level adoption: Many states have yet to domesticate the 2018 Act, creating uneven protection for PWD across Nigeria.
- iv. Data gaps: The absence of comprehensive data on PWD hampers targeted interventions.
- v. Capacity: Limited staff training and resources affect the Commission's ability to monitor and enforce compliance effectively.

3.3 International Legal Framework

**United Nations Convention on the Rights of Persons with Disabilities (CRPD),
2006**

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) 2006 is the most significant international instrument on disability rights. Unlike earlier approaches that framed disability within a welfare or medical model, the CRPD represents a paradigm shift by adopting the social model of disability. This model recognises that disability arises not merely from individual impairment but from societal barriers that restrict participation and equality.⁶⁹

The CRPD establishes disability as a human rights issue, requiring states to eliminate barriers and adopt proactive measures to ensure inclusion. It affirms rights in diverse areas such as accessibility, independent living, education, work, political participation, and access to justice.⁷⁰ In doing so, it transforms disability from a matter of charitable benevolence to a matter of enforceable human rights.

Nigeria signed and ratified the CRPD in 2007, becoming one of the earliest African countries to commit to its obligations. However, domestication of the CRPD into national law was delayed for over a decade, until the enactment of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. The 2018 Act mirrors many of the CRPD's core principles:

- Accessibility (s 3), echoing Article 9 CRPD;
- Equality and non-discrimination (s 1), echoing Article 5;
- Independent living and community participation (s 7), echoing Article 19.

⁶⁹ R. Kayess and P. French, *Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities* (2008) *Human Rights Law Review* 1.

⁷⁰ UN Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, arts 5, 9, 19.

Nonetheless, gaps remain. For example, the CRPD requires comprehensive data collection and monitoring (Article 31), but Nigeria has limited disability-related statistics to inform policy. Similarly, enforcement mechanisms under the Act are weaker than envisaged by the CRPD’s monitoring and implementation framework.⁷¹

The United Kingdom, by contrast, ratified the CRPD in 2009 and relies primarily on the Equality Act 2010 to fulfil its obligations. The Equality Act prohibits disability discrimination, imposes a duty to make “reasonable adjustments,” and recognises harassment and victimisation as unlawful. These provisions are consistent with Articles 2, 5, and 9 of the CRPD. The UK government also submits periodic reports to the UN Committee on the Rights of Persons with Disabilities, though civil society organisations have sometimes criticised the UK for welfare reforms that allegedly undermine the Convention’s spirit.⁷²

This comparison demonstrates that while both Nigeria and the UK are bound by the same international treaty, their domestic implementation differs: Nigeria through a relatively new but weakly enforced Act, and the UK through a mature statutory regime subject to judicial scrutiny.

3.3.1 Other Global and Regional Instruments

In addition to the CRPD, several international and regional instruments reinforce the rights of PWDs and provide interpretive guidance.

⁷¹ E. Durojaye, *Disability Rights in Nigeria: Lessons from the CRPD* (2020) African Disability Rights Yearbook 65.

⁷² UN Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of the United Kingdom* (2017) CRPD/C/GBR/CO/1.

1. Universal Declaration of Human Rights (UDHR) 1948 – Although not legally binding, the UDHR laid the foundation for modern human rights law by affirming the “*inherent dignity and equal rights of all members of the human family.*”⁷³ This universal affirmation provides the philosophical basis for extending rights protections to PWDs.
2. International Covenant on Civil and Political Rights (ICCPR) 1966 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 – Nigeria has ratified both instruments, thereby committing to protect civil-political rights (such as equality before the law and freedom from discrimination) and socio-economic rights (such as education, health, and work) for PWDs.⁷⁴ In practice, however, Nigeria’s constitutional limitation on the justiciability of socio-economic rights (section 6(6)(c)) hampers full implementation.
3. African Charter on Human and Peoples’ Rights (1981) – This regional treaty is of particular importance in Nigeria because it has been domesticated as Cap A9, Laws of the Federation 2004, making it directly enforceable in Nigerian courts.⁷⁵ Articles 2 and 3 of the Charter guarantee equality before the law and non-discrimination, provisions broad enough to cover disability. The Charter thus supplements Nigeria’s constitutional framework, enabling courts to apply international human rights standards directly to disability-related claims.
4. UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (1993) – Though not binding, the Standard Rules provided the earliest comprehensive policy framework for disability rights at the international level. They influenced

⁷³ UDHR 1948, Arts 1-2.

⁷⁴ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

⁷⁵ African Charter on Human and Peoples’ Rights (1981), domesticated as Cap A9 LFN 2004.

legislative reforms globally and paved the way for the CRPD. Nigeria, like many states, drew inspiration from the Rules in designing early disability policies.⁷⁶

Taken together, these instruments form a multi-layered international framework that reinforces disability rights as human rights. They provide interpretive standards for domestic courts and policy makers, while also serving as advocacy tools for civil society.

3.4 Judicial Decisions

3.4.1 Nigerian Case Law

Nigeria's jurisprudence on disability rights remains relatively underdeveloped. This is partly due to the late enactment of comprehensive legislation the Discrimination Against Persons with Disabilities (Prohibition) Act of 2018 and the absence of express constitutional mention of disability as a prohibited ground of discrimination. Nonetheless, broader constitutional cases on human dignity and equality offer interpretive guidance.

In *Oyewumi v Ogunesan*,⁷⁷ the Supreme Court underscored that human dignity is inviolable and must be respected at all times. Although the case did not involve a person with a disability, its principle resonates with the lived experiences of PWDs, who often face indignities ranging from inaccessible infrastructure to exclusion in workplaces. If extended, the Court's reasoning could ground claims that degrading treatment or structural exclusion of PWDs offends section 34(1) of the 1999 Constitution.

Similarly, in *Uzoukwu v Ezeonu II*,⁷⁸ the Court of Appeal clarified the nature and scope of fundamental rights under the Constitution. The Court observed that fundamental rights are rights which stand above ordinary laws and can only be tampered with by due

⁷⁶ UN General Assembly, *Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* (Resolution 48/96, 1993).

⁷⁷ (1990) 3 NWLR (Pt. 137) 182.

⁷⁸ (1991) 6 NWLR (Pt. 200) 708.

process. This foundational reasoning provides a potential basis for interpreting constitutional rights expansively to include protection against disability-based discrimination, even in the absence of express mention.

The Supreme Court in *A.G. Ondo State v A.G. Federation*,⁷⁹ emphasised the State's responsibility to protect vulnerable groups, drawing from the non-justiciable principles in Chapter II of the Constitution. While the decision did not directly address PWDs, it signals those socio-economic directives though formally unenforceable remain important interpretive tools in shaping judicial reasoning.

Recent cases are beginning to test the 2018 Act. In *Kpakol v Incorporated Trustees of FIDA & Ors*,⁸⁰ the Federal High Court was invited to consider access and participation rights of a visually impaired candidate in an election process. Although still evolving, such cases indicate growing awareness and judicial engagement with disability-specific legislation.

However, there remains a noticeable vacuum in Nigeria's reported decisions where courts directly adjudicate on the rights of PWDs under either the Constitution or the 2018 Act. The absence of judicial activism in this field has slowed the crystallisation of disability rights into enforceable norms. Without strong precedent, enforcement of the 2018 Act often relies on advocacy rather than litigation.

3.4.2 United Kingdom Judicial Decisions

In contrast, the United Kingdom boasts a far richer body of jurisprudence on disability protection, largely attributable to the long-standing statutory regime on equality, now consolidated under the Equality Act 2010. UK courts have consistently interpreted disability

⁷⁹ (2002) 9 NWLR (Pt. 772) 222.

⁸⁰ (Unreported) FHC/ABJ/CS/123/2021.

rights robustly, ensuring that statutory guarantees are not reduced to mere formalities but become living, enforceable obligations.

In *Mills v Board of Education of the District of Columbia*,⁸¹ the U.S. District Court for the District of Columbia held that the District of Columbia Public Schools could not deny or exclude children with disabilities from a free and publicly supported education because of their disabilities or the school system's financial constraints. The Court ruled that: All children with disabilities are entitled to a publicly financed education suited to their needs, regardless of the type or severity of their disability. Lack of funds cannot justify the exclusion or unequal treatment of disabled children. If funds are limited, they must be equitably distributed, ensuring that disabled children are not disproportionately affected. The school system must provide: Individualized educational programs, due process protections before any change in placement, suspension, or exclusion and procedural safeguards, including notice, hearings, and rights of appeal. The Court mandated the creation of a comprehensive plan to identify, evaluate, place, and educate children with disabilities within the DC school system.

In *Archibald v Fife Council*,⁸² the House of Lords held that employers are under a duty to make “reasonable adjustments” for disabled employees, even where this involves transferring them to another position without the usual competitive interview process. This landmark ruling illustrated the proactive nature of disability protection in the UK—employers are not merely to avoid discrimination but must take positive steps to accommodate disability.

In *Paulley v FirstGroup Plc*,⁸³ the UK Supreme Court addressed accessibility in public transport. The Court ruled that bus operators must take meaningful steps to secure

⁸¹ 348 F Supp 866 (D.D.C., 1972).

⁸² [2004] UKHL 32.

⁸³ [2017] UKSC 4.

wheelchair spaces for disabled passengers, even if this means requiring non-disabled passengers to vacate such spaces. The decision highlights the balance between practical realities and the principle of substantive equality, ensuring that accessibility rights are not theoretical but effective in everyday life.

Furthermore, in *Coleman v Attridge Law*,⁸⁴ the European Court of Justice recognised the concept of **associative discrimination** under EU law. This extended protection to employees who themselves may not be disabled but face adverse treatment because of their association with a disabled person—for example, a caregiver of a disabled child. This interpretation reflects the evolving nature of disability law, extending protection beyond the individual PWD to their immediate social network.

In *Griffiths v Secretary of State for Work and Pensions*,⁸⁵ the Court of Appeal considered whether absences related to disability should be accommodated through reasonable adjustments in workplace attendance policies. The Court emphasised that blanket policies that fail to account for disability-specific circumstances may amount to discrimination.

In *City of York Council v Grosset*,⁸⁶ the Court of Appeal held that a teacher dismissed after misconduct linked to his disability (stress from cystic fibrosis) had suffered disability discrimination. The case underscored the principle that even unintended discrimination is unlawful where it arises from a disability.

⁸⁴ [2008] C-303/06, [2008] ECR I-5603.

⁸⁵ [2015] EWCA Civ 1265.

⁸⁶ [2018] EWCA Civ 1105.

In *EHRC v Royal Mail Group*,⁸⁷ tribunals reinforced that employers must justify any disadvantage suffered by disabled employees under objective justification tests, showing how judicial scrutiny ensures proportionality in workplace policies.

The divergence between Nigeria and the UK is clear. Nigerian jurisprudence remains at a formative stage, relying on broad constitutional principles rather than direct disability rights litigation. The UK, by contrast, has developed a sophisticated body of case law that not only enforces statutory protections but also interprets them progressively to close gaps in practice.

This comparative insight underscores a critical lesson: while legislation is necessary, it is judicial interpretation that often breathes life into statutory rights. For Nigeria, courts could begin to play a similar role by construing the 2018 Act purposively and aligning it with constitutional guarantees of dignity and equality. Without such jurisprudential development, the gap between law on paper and lived reality for PWDs will remain wide.

There are real life examples of certain cases of neglect and sometimes outright discrimination of persons living with disabilities even in our own neighborhood and backyard. An example is a former retired matron of University of Benin Teaching Hospital who I would refer to as Mama. Mama was brought down by stroke sometime in 2007, which caused partial paralysis to the left part of her body of which as a result she had to retire. Since she retired, she has gone back to her home in Port Harcourt so she could be close to her family but despite her condition she has to travel every year from Port Harcourt to Edo every quarter just for her pension auditing, she has to endure the bad road, the too tight space in the vehicles and the rickety vehicle itself or she forgoes her source of income. There is no Virtual option

⁸⁷ (2019) UKEAT/0214/18.

of doing this auditing which would in turn save both her time and that of the auditor and still save her the stress and discomfort of travelling this distance frequently.

There is also the example of the Almajiri problem in Nigeria which is almost becoming a pandemic to Nigeria. Every nook and cranny of Nigeria, has these young children roaming one street or the other with bowls begging for alms to feed, or some children leading a blind parent with a cane on one hand with the other outstretched holding a bowl or a bag waiting to receive whatever help can be rendered to them. It is not uncommon to see parents of these children with amputated arms or legs sitting on the side of the road with their three to four children begging for alms and assistance, sometimes these children mostly below ten years of age even run into oncoming traffic just to attract a passerby or motorists to look their way in traffic jams and hold ups to assist them and give them alms.

There are numerous examples of discrimination of persons living with disabilities and neglect. In Nigeria even till date, in almost all national television channels across the country there are no interpreters or signage for persons with hearing disability only on some special occasions, so it begs the question. Is it that the everyday news does not matter to these persons but only when the president is addressing the nation or they are lesser humans because of their disability?

The question then follows is the Discrimination Against Persons with Disabilities Act 2018 a myth or a calculated step in the direction of fulfilling all righteousness just so Nigeria can beat her chest too when her peers are talking about inclusivity?

CHAPTER FOUR

DISABILITY RIGHTS: IMPLEMENTATION, CHALLENGES AND COMPARATIVE ANALYSIS OF THE PLWDs RIGHTS IN NIGERIA AND THE UNITED KINGDOM

Persons with Disabilities (PWDs) constitute one of the world's largest minority groups. According to the World Health Organization (WHO), over 1.3 billion people which is about 16% of the global population live with some form of disability.⁸⁸ Disabilities can be physical, sensory, intellectual, or psychosocial, and they often intersect with poverty, gender, and social exclusion.

In Nigeria, official statistics are inconsistent, but the 2018 National Population Commission Survey estimated that approximately 25 million Nigerians live with disabilities.⁸⁹ Many face structural barriers such as inaccessible infrastructure, limited employment opportunities, and discriminatory attitudes. Historically, disability in Nigeria was viewed through a charity or welfare lens, where persons with disabilities were recipients of benevolence rather than holders of enforceable rights.⁹⁰

The shift toward a rights-based approach gained momentum in the early 2000s, driven by local advocacy and global developments such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD).⁹¹ Nigeria's eventual passage of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 marked a turning

⁸⁸ World Health Organization, *Disability and Health* (WHO Fact Sheet, 2023) <https://www.who.int/news-room/fact-sheets/detail/disability-and-health> accessed 5 October 2025.

⁸⁹ Ode Uduu, "Over 25 Million Nigerians Excluded Due to Disability" (Dataphyte, 20 January 2020) <https://archive.dataphyte.com/latest-reports/governance/over-25-million-nigerians-excluded-due-to-disability/> accessed 5 October 2025.

⁹⁰ Raymond Lang and Lucy Upah, *Scoping Study: Disability Issues in Nigeria* (DFID, 2008) https://assets.publishing.service.gov.uk/media/57a08b56ed915d622c000d67/Disability_Nigeria.pdf accessed 19 November 2025.

⁹¹ United Nations, *Convention on the Rights of Persons with Disabilities* (General Assembly, A/RES/61/106, 13 December 2006) https://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf accessed 19 November 2025.

point. The Act not only criminalizes discrimination but also establishes institutional mechanisms for protection and inclusion. However, implementation remains uneven due to weak enforcement, poor awareness, and limited resources. Irrespective of this assertion, their rights are non-negotiable.

In contrast, the United Kingdom (UK) represents one of the most mature disability rights regimes in the world. The UK has progressively evolved from fragmented anti-discrimination statutes to a consolidated framework under the Equality Act 2010. This Act harmonized prior legislation such as the Disability Discrimination Act 1995, bringing disability under a unified equality framework that also covers gender, race, religion, age, and sexual orientation. The UK approach is rooted in reasonable accommodation now termed "reasonable adjustments" under Equality Act 2010, which legally mandates employers, service providers and amongst others to take necessary steps to remove or lessen barriers faced by disabled people.⁹² The UK's model reflects a deep integration of disability rights into public administration, employment, education, and transport systems.⁹³ Courts and the Equality and Human Rights Commission (EHRC) have played an active role in interpreting and enforcing these rights.⁹⁴ Consequently, the UK experience offers a valuable comparative model for Nigeria's developing legal landscape.

4.1 Comparative Analysis of the Nigerian and the UK Legal Systems

The legal landscape of Nigeria and the United Kingdom's legal frameworks for the protection of persons with disabilities called a Siamese twin but can also be likened to the parable of the Sower in the bible of which some seeds fell on good soil and some fell on

⁹² (n-14)

⁹³ S.B Effiom, 'Discrimination, Disability and Substantive Equality: What lessons can be learned from the British Sector Equality Duty' *E Journal of Comparative Labour studies* (Vol.4 No.2 May-June 2015)

⁹⁴ Enforcing the Equality Act: The Law and Role of the Equality and Human Rights Commission<<https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/147006.html>>Accessed 3rd October 2025

rocky ground of which Nigeria is the rocky ground in this instance. The comparison focuses on five major dimensions: constitutional and statutory foundations, institutional enforcement, judicial interpretation, accessibility and reasonable accommodation, and societal outcomes.

By contrast, the United Kingdom presents a markedly different model. Lacking a single written constitution, the UK nonetheless secures disability rights through a robust statutory framework most notably the Equality Act 2010. This Act explicitly identifies disability as a protected characteristic and prohibits discrimination in employment, education, goods and services, housing, and public functions.⁹⁵ Moreover, the Act imposes proactive duties on employers and service providers to make “reasonable adjustments” for PWDs, thereby going beyond a negative prohibition of discrimination to require affirmative inclusion.

Thus, while Nigeria’s Constitution provides a broad foundation through dignity and equality clauses, it fails to identify disability as a specific ground of protection, leaving PWDs at the mercy of legislative supplementation. The UK’s approach demonstrates the advantage of clear statutory entrenchment of disability rights, backed by judicial enforcement and practical duties. The Nigerian system, in its current form, is more aspirational than enforceable, underscoring the need for constitutional amendment or purposive judicial interpretation to bridge the existing protection gap.

4.1.1 Constitutional and Statutory Foundations

Nigeria’s constitutional protection of disability rights is indirect. The 1999 Constitution (as amended) guarantees dignity and equality but omits disability as a prohibited ground of discrimination.⁹⁶ The omission has been widely criticized as a constitutional gap, leaving the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 to fill the

⁹⁵ Equality Act 2010 (UK), Pt 2.

⁹⁶ (n-3)

void. However, since ordinary legislation is subordinate to the Constitution, this creates uncertainty about the hierarchy and enforceability of disability rights. There's a principle of law that says "the express mention of one thing is the exclusion of another" hence it highlights the notion that for the word disabled which has been in existence since time immemorial, to be omitted was a deliberate and calculated step and not a mere oversight that be fixed by construing meaning or looking to the ejus dem generis or the mischief rules of interpretation of law and it seemed like this error was discovered by the legislature that there was loophole, a gap to be filled but instead of them to amend that paragraph of the Constitution before passing into law the DAPD Act 2018, they were in hurry not to be labelled a backward nation amongst her peers and installed the Discrimination Against Persons with Disabilities Act (2018) which today is really more like a relic than a Statute.

By contrast, the UK, although lacking a single written constitution, ensures disability protection through statutory supremacy and judicial enforceability. The Equality Act 2010 consolidates all major equality rights into one binding instrument applicable across England, Scotland, and Wales.⁹⁷ It is underpinned by the Human Rights Act 1998, which incorporates the European Convention on Human Rights (ECHR) into domestic law, reinforcing dignity and equality as core principles.⁹⁸

Thus, while Nigeria's framework is split between the Constitution, Chapter II policy directives, and the 2018 Act, the UK's regime is unified, coherent, and enforceable. The Nigerian Constitution remains silent where the UK's statutory structure speaks with clarity.

⁹⁷UK Parliament, 'A Short Introduction to Equality Law and Policy

<<https://commonslibrary.parliament.uk/research-briefings/cbp>> accessed 5th October, 2025

⁹⁸Freedom From Torture, 'The UK Human Rights Act 1998' <<https://www.freedomfromtorture.org/news-and-stories/the-human-rights-act>> accessed 4th October 2025

4.1.2 Institutional Enforcement Mechanisms

The National Commission for Persons with Disabilities (NCPWD) was established under Part IV of the 2018 Act to oversee implementation, monitor compliance, and handle complaints.⁹⁹ However, it faces chronic underfunding and limited administrative capacity. Its enforcement powers are largely recommendatory, and it lacks the prosecutorial authority or autonomy enjoyed by the Equality and Human Rights Commission (EHRC) in the UK.¹⁰⁰

The EHRC, established under the Equality Act 2006, has robust investigative and enforcement powers.¹⁰¹ It can initiate proceedings, issue compliance notices, and intervene in litigation involving equality or human rights violations.¹⁰² It also conducts public education and policy advocacy on inclusion.¹⁰³ The Commission's institutional strength ensures that disability rights are not left to individual litigation but are structurally embedded in governance.

Nigeria's institutional weakness, therefore, undermines the transformative potential of the 2018 Act. Without effective monitoring, accessibility provisions, such as the five-year deadline for modifying public buildings remain largely unmet.

4.1.3 Judicial Interpretation and Case Law Development

As earlier discussed in Chapter Three, Nigerian courts have not yet developed a consistent body of disability jurisprudence. Most cases rely on general constitutional principles of dignity and equality. The National Industrial Court's emerging role in employment-related disability cases is promising but still limited.

⁹⁹ (n-23)

¹⁰⁰ (n-23)

¹⁰¹ S.20 Equality Act 2010

¹⁰² Ss 20 & 21 Equality Act 2010

¹⁰³ Ibid

By contrast, UK courts have developed a sophisticated jurisprudence interpreting disability broadly and purposively. Cases such as *Archibald v Fife Council*,¹⁰⁴ *Paulley v FirstGroup plc*,¹⁰⁵ and *City of York Council v Grosset*¹⁰⁶ these cases have established concrete standards for reasonable accommodation, access to transport, and indirect discrimination. The judiciary's proactive stance ensures that disability rights are living principles, not aspirational declarations.

Nigeria's courts could emulate this approach by interpreting the 2018 Act in harmony with constitutional guarantees and international obligations under the CRPD. The doctrine of judicial activism in human rights adjudication already applied in cases like *A.G. Ondo State v A.G. Federation*¹⁰⁷ could serve as a model for enforcing social rights through intentional reasoning and development of robust legal system that nothing only seeks to see do justice but ensures that justice is done while being guided by the climate of the era and not the weather of the day.

4.1.4 Accessibility, Reasonable Accommodation, and Socio-Economic Inclusion

In the UK, reasonable adjustment is the cornerstone of disability inclusion. Under the Equality Act 2010,¹⁰⁸ employers, service providers, and public authorities must take steps to remove barriers that substantially disadvantage PWDs.²⁰ This duty is proactive and anticipatory as it applies even before a disabled person experiences discrimination. Nigeria's 2018 Act contains similar obligations, requiring accessible buildings, transport, and education, and mandating a five-year transition for compliance.¹⁰⁹ Yet enforcement is weak. Public infrastructure remains largely inaccessible, and penalties under the Act are rarely applied.

¹⁰⁴ (n-44)

¹⁰⁵ (n-45)

¹⁰⁶ (n-48)

¹⁰⁷ (n-42)

¹⁰⁸ S.20 Equality Act

¹⁰⁹ Ss 3,4,5, 10, 12 and 15 DAPDs Act (2018)

Some examples are our hostels in school lack access for people using wheel chairs. Parking spaces and lots also lack reserved parking for people with disabilities just to mention a few. With the lack of these parameters in place, people with disability either have to learn to function like people with all their limbs and sensory organs working perfectly or risk harm in public spaces.

The contrast reflects a deeper cultural divergence. The UK model is rooted in social model thinking, which views disability as arising from environmental barriers rather than individual impairment. Nigeria still operates largely under the medical or charitable model, where PWDs are perceived as objects of pity rather than rights-holders.

4.1.5 Societal Outcomes and Policy Integration

Empirical evidence shows that the UK's integrated equality framework has yielded measurable progress. Persons with disabilities are better represented in public employment and enjoy extensive accessibility provisions in public transport and education.¹¹⁰

In Nigeria, progress remains slow. The 2018 Act has improved visibility and policy dialogue, but socioeconomic outcomes for PWDs such as employment and education access remain poor.¹¹¹ The absence of reliable data compounds policy inefficiency. To achieve substantive equality, Nigeria must strengthen enforcement, mainstream disability across sectors, and promote attitudinal change.

In summary the comparative perspective reveals that Nigeria's disability rights regime is still nascent, while the UK's is mature and integrated. Nigeria has made commendable progress

¹¹⁰ Motability, 'The Transport Accessibility Gap: The Opportunity to Improve the Accessibility of Transport for Disabled People' <https://www.motabilityfoundation.org.uk/media/iwaidhxx/motability_transport-accessibility-gap-report_march-2022_final.pdf> accessed 6th October, 2025

¹¹¹ United Nations Nigeria, 'Situational Analysis on the Rights of Persons with Disability in Nigeria Country Brief' <<https://globaldisabilityfund.org/new/wp-content/uploads/2025/07/SITAN-Nigeria-Brief.pdf>> accessed 6th October, 2025

through the 2018 Act, but it must now move from legislation to implementation. Strengthening institutions, empowering courts, and promoting disability awareness are critical to bridging the gap. Ultimately, the Nigerian state must embrace a transformative constitutionalism approach interpreting the law not narrowly, but in a way that advances equality and human dignity for all persons, including those with disabilities.

CHAPTER FIVE

FINAL CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary of Findings

This study examined the constitutional and statutory protection of persons with disabilities (PWDs) in Nigeria, juxtaposed with the more established framework in the United Kingdom. The comparative analysis revealed that, while both jurisdictions recognise the importance of disability inclusion, their approaches differ significantly in structure, enforceability, and practical outcomes.

The major findings of the study are summarised as follows:

1. The Nigerian Constitution, though guaranteeing human dignity and equality, fails to expressly recognise disability as a prohibited ground of discrimination under section 42. This omission creates a constitutional vacuum, leaving PWDs to rely primarily on the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, which is subordinate legislation and, therefore, more vulnerable to weak enforcement.
2. The 2018 Act represents Nigeria's first comprehensive disability legislation and aligns broadly with the United Nations Convention on the Rights of Persons with Disabilities (CRPD). It criminalises discrimination and provides for accessibility, inclusive education, and equal opportunities. However, its implementation remains inconsistent. Many public buildings, transport systems, and workplaces remain inaccessible, despite the five-year compliance window that has now expired.
3. The National Commission for Persons with Disabilities (NCPWD), established under the 2018 Act, lacks adequate resources, autonomy, and enforcement powers. In contrast, the UK's Equality and Human Rights Commission (EHRC) possesses strong investigative and prosecutorial authority, enabling it to ensure compliance and pursue systemic change.

4. Nigerian case law on disability rights is still evolving. Courts have largely relied on general constitutional principles of dignity and equality rather than disability-specific adjudication. In contrast, the UK judiciary has developed rich jurisprudence through cases like *Archibald v Fife Council*, *Paulley v FirstGroup plc*, and *City of York Council v Grosset*, which actively interpret statutory duties on reasonable accommodation and accessibility.
5. Nigeria's disability discourse remains influenced by the medical and charitable models, viewing disability as an individual impairment or object of sympathy. The UK operates primarily under the social model of disability, which identifies systemic and environmental barriers as the true source of disadvantage. This conceptual difference shapes policy, attitudes, and enforcement approaches.
6. Even with progressive legislation, Nigeria faces attitudinal barriers, limited awareness, and resource constraints that hinder effective protection. Public institutions rarely prioritise disability inclusion, and the private sector's compliance remains minimal.
7. The UK's integrated equality framework demonstrates the effectiveness of harmonised legislation, robust institutions, and active judicial interpretation. It also underscores the need for continuous monitoring, reasonable adjustments, and a strong culture of accountability.

5.2 Recommendations

Based on the above findings, this study makes the following recommendations:

1. Nigeria should consider amending section 42 of the 1999 Constitution to expressly include "disability" as a prohibited ground of discrimination. This would elevate disability rights to the same constitutional status as other forms of equality and provide stronger judicial enforceability.

2. The National Commission for Persons with Disabilities should be granted greater autonomy, adequate funding, and enforcement powers similar to those of the UK's EHRC. Its mandate should include power to issue compliance notices, prosecute offenders, and monitor both public and private sector obligations.
3. The Nigerian judiciary should adopt a purposive and rights-based interpretation of the 2018 Act and related provisions, aligning them with the CRPD and constitutional principles of dignity. Judges and legal practitioners should receive specialised training on disability rights adjudication to enhance judicial competence in this area.
4. There is a need for nationwide sensitisation campaigns to change societal attitudes toward disability. Disability inclusion should be incorporated into school curricula, professional training programmes, and public service charters.
5. Disability inclusion should be mainstreamed across all sectors of government policy, education, health, employment, housing, and transport. Ministries and agencies should be mandated to include disability impact assessments in all programmes and budgets.
6. The Federal Government should establish a reliable national database on persons with disabilities. Accurate data are essential for evidence-based policymaking and for assessing progress toward inclusion.
7. Nigeria should shift from the welfare or medical approach to the social model, recognising that disability results from societal barriers. This shift would promote systemic reforms such as accessibility, inclusion, and non-discrimination rather than charity-based interventions.
8. The implementation of the 2018 Act should be reviewed every three years by the National Assembly, in consultation with DPOs (Disabled Persons' Organisations), civil society, and the NCPWD. Regular progress audits will ensure continuous accountability.

9. Nigeria can benefit from technical and institutional cooperation with the UK and other Commonwealth nations experienced in implementing equality legislation. Such partnerships could enhance local capacity and promote best practices in enforcement.

5.3 Conclusion

This study set out to examine how persons with disabilities are protected under Nigerian and UK law. What it has revealed is both hopeful and sobering. On one hand, Nigeria has made remarkable progress by finally enacting the Discrimination Against Persons with Disabilities (Prohibition) Act in 2018, a law that many activists waited almost two decades to see. On the other hand, the reality on the ground still falls far short of what that law promises.

The Nigerian Constitution of 1999 is the foundation of all rights, yet it remains silent on disability. Section 42, which prohibits discrimination, lists several grounds; ethnicity, sex, religion, and political opinion but not disability. That omission matters. It sends an unspoken message that disability is an afterthought, a social issue rather than a constitutional one. As a result, persons with disabilities are forced to rely on ordinary legislation, which is weaker and more easily ignored. Without constitutional backing, the rights of PWDs often depend on goodwill rather than obligation.

The UK experience stands in sharp contrast. There, the Equality Act 2010 creates a clear, enforceable duty to prevent discrimination and to make reasonable adjustments for people with disabilities. It is a single, unified law that applies across the country, supported by an independent and well-funded Equality and Human Rights Commission. This means that equality in the UK is not just a promise. It is a daily practice, woven into the structure of employment, education, and public life.

The difference between both systems goes beyond law. It lies in the way society understands disability. In Nigeria, disability is still often seen through a medical or charitable

lens. People think of those with disabilities as needing help or sympathy. The UK, however, embraces the social model of disability, which says that it is not the impairment that disables a person, but the barriers society puts in their way. That shift from pity to rights has transformed public policy and courtroom decisions.

Judicial attitudes tell the same story. Nigerian courts, though occasionally progressive, have not yet developed a strong line of cases on disability rights. There are few examples where judges have interpreted constitutional guarantees to protect PWDs directly. Cases like *Oyewumi v Ogunesan* and *Uzoukwu v Ezeonu II*, affirm human dignity and equality in broad terms, but none squarely confront discrimination against persons with disabilities. In the UK, however, the courts have gone much further. In *Archibald v Fife Council*, employers were told they must make reasonable adjustments, even if that means bending normal rules. In *Paulley v FirstGroup plc*, the court insisted that transport providers must ensure wheelchair users can access designated spaces. And in *Coleman v Attridge Law*, even carers of disabled people were protected from discrimination. These cases show how law can become a living instrument for fairness when courts are willing to give it life.

The Nigerian Act has strong provisions on paper. It prohibits discrimination, mandates accessible buildings and services, and even created a National Commission for Persons with Disabilities. But enforcement has been painfully slow. Many public places are still inaccessible; public transport remains unfriendly to wheelchair users; and awareness among employers and schools is minimal. The Commission itself struggles with limited funding and little political attention. Laws without enforcement are like promises without action, they inspire hope but rarely change lives.

Despite these shortcomings, Nigeria is not standing still. Ratifying the UN Convention on the Rights of Persons with Disabilities in 2007 was an important step, and the 2018 Act

reflects many of its principles; accessibility, equality, and inclusion. What is needed now is not more laws, but stronger will: from the government, the courts, and society itself.

True inclusion requires more than compliance; it requires compassion, awareness, and justice. Nigeria must move beyond the idea of disability as a “special” condition and instead recognise it as part of human diversity. That means revising the Constitution to include disability as a prohibited ground of discrimination under section 42. It means giving the National Commission real power to enforce the law. It means ensuring that every school, hospital, court, and public office can be accessed and used by everyone. And it also means changing mindsets because no law can fully succeed if society still looks down on those it is meant to protect.

Ultimately, this study has shown that disability rights are human rights. They are not privileges or handouts, but entitlements that flow from the basic idea of dignity. When a country ensures that persons with disabilities can move freely, work meaningfully, and live independently, it is not doing them a favour, it is fulfilling its own constitutional promise of equality and justice.

The UK’s experience shows what is possible when law, policy, and public conscience work together. Nigeria can learn from that example, but it must also find its own path; one grounded in empathy, community, and the belief that inclusion strengthens us all. The journey toward full equality may be long, but it has already begun. What matters now is keeping that promise alive not just in the statute books, but in everyday life, where justice either thrives or fades.

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