

**AN ANALYSIS ON THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN THE  
WORKPLACE IN NIGERIA**

**BY**

**FORTUNE AREROSUOGHENE OGOR (Miss)**

**FACULTY OF LAW**

**UNIVERSITY OF BENIN**

**BENIN CITY**

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**FORTUNE AREROSUOGHENE OGOR (Miss)**

**LAW1906241**

**PROJECT SUBMITTED TO THE**

**FACULTY OF LAW**

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**IN FULFILLMENT OF THE REQUIREMENT FOR THE AWARD OF BACHELOR OF LAW (LL.B)  
DEGREE**

**NOVEMBER 2025**

### **DECLARATION**

I hereby declare that this work is the product of my own research efforts; undertaken under the supervision of and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged

**SIGNATURE**

**FORTUNE AREROSUOGHENE OGOR**

**DATE**

**AN ANALYSIS ON THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN THE  
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### **CERTIFICATION**

This is to certify that this project work on the topic: **AN ANALYSIS ON THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN THE WORKPLACE IN NIGERIA** by **FORTUNE AREROSUOGHENE OGOR LAW1906241** was carried out under my supervision.

#### **SIGNATURE.**

BARR. U. O. OLORUNFEMI

(Supervisor)

#### **SIGNATURE**

PROF. BRIGHT BAZUAYE

(Dean of Law)

#### **SIGNATURE**

DR. O. F. OSUJI

(Project Coordinator)

## **DEDICATION**

To God Almighty for his love and protection all throughout my stay in school. I also dedicate this project work to my parents for their support, love, prayers, may God Almighty continue to bless them.

### **ACKNOWLEDGEMENT**

My profound gratitude goes to God Almighty for his grace towards my life during the period of my study in University of Benin.

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## **TABLE OF CONTENTS**

COVER PAGE

TITLE PAGE

DECLARATION

CERTIFICATION

DEDICATION

ACKNOWLEDGEMENT

TABLE OF CONTENT

LIST OF CASES

LIST OF STATUTES

LIST OF ACRONYMS/ABBREVIATION

ABSTRACT

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

1.2 Statement of the Problem

1.3 Objectives of the Study

1.4 Scope and Delimitation

1.5 Significance of the Study

1.6 Research Methodology

CHAPTER TWO

CONCEPTUAL, THEORETICAL FRAMEWORK, AND LITERATURE REVIEW

INTRODUCTION

2.1 Definition of Terms

2.2 Theoretical Framework

2.3 Literature Review

2.4 Forms of Workplace Discrimination Against Persons with Disabilities

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK ON THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN THE WORKPLACE

INTRODUCTION

3.1 Nigerian Legal Framework

3.2 Institutional Framework

3.3 Factors contributing to the discrimination against persons with disabilities in employment settings

CHAPTER FOUR

ANALYSIS OF THE LEGAL AND INSTITUTIONAL RESPONSE TO WORKPLACE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN NIGERIA

INTRODUCTION

4.1 Analysis of Nigerian Disability Legislation in Employment Context

4.2 Comparative Analysis of the UK laws, court attitude and implementation regarding discrimination in the workplace

4.3 Enforcement of Workplace Disability Rights: Institutional and Judicial Perspectives

4.4 Barriers to Effective Enforcement of Disability laws and Good Practices Nigeria Can Adopt

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION

- 5.1 Summary of Findings
  - 5.2 Recommendation
  - 5.3 Contribution to Knowledge
  - 5.4 Suggested Area for Further Studies
  - 5.5 Conclusion
- BIBLIOGRAPHY

### **LIST OF CASES**

- Abacha v Fawehinmi (2000) 6 NWLR (Pt 660) 228.
- Archibald v Fife Council (2004) UKHL 32.
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Employment Equity Act 55 of 1998

Equality Act 2010

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International Labour Organization, Vocational Rehabilitation and Employment (Disabled Persons) Convention, (No. 159) 1983

National Human Rights Commission Act, Cap N46 LFN 2004

The Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act, 2018

## **LIST OF ACRONYMS/ABBREVIATIONS**

CFRN

CRPD

EHRC

NCPWD

NHRC

NICN

NSTIF

PWD

## **ABSTRACT**

This research provides an in-depth analysis of workplace discrimination against persons with disabilities (PWDs) in Nigeria, assessing the adequacy of the legal, institutional, and policy measures designed to protect their rights and foster inclusion. The study evaluates the extent to which Nigeria fulfils its obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD) and the International Labour Organization (ILO) Convention No. 159. Using a doctrinal and comparative legal approach, it examines statutory provisions, case law, and the functions of enforcement institutions, notably the National Commission for Persons with Disabilities (NCPWD), the National Human Rights Commission (NHRC), Nigeria Social Insurance Trust Fund and the National Industrial Court of Nigeria (NICN). The findings indicate that although Nigeria's legislative framework is progressive, implementation is undermined by weak institutional capacity, inadequate funding, low awareness, and enduring societal prejudice. Judicial responses, while occasionally advancing disability rights, face obstacles such as prolonged litigation, high legal costs, and limited judicial expertise. Persistent issues include discriminatory hiring, inadequate infrastructure accessibility, non-compliance with the statutory 5% public sector employment quota, and unclear reasonable accommodation guidelines. The study identifies legal ambiguities, enforcement weaknesses, and policy gaps, recommending reforms such as strengthening institutional mandates, creating sector-specific compliance frameworks, expanding public education on disability rights, and improving access to affordable legal remedies. The research concludes that realising workplace equality for PWDs in Nigeria requires more than legal provisions, it demands effective enforcement, structural reforms, and a cultural shift towards genuine inclusion, recognising disability rights as both a human rights priority and a driver of national development.

## **CHAPTER ONE**

### **INTRODUCTION**

Discrimination against people with disabilities in the workplace is a major issue that affects their ability to secure fair employment opportunities. Although there have been legal and social advances to promote inclusivity, many individuals with disabilities still face obstacles when trying to gain meaningful employment. These challenges can include physical barriers, lack of proper accommodations, and widespread misconceptions about the abilities of people with disabilities. As a result, they often experience higher unemployment rates, lower pay, and limited opportunities for career growth compared to non-disabled individuals.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) stresses that everyone, including people with disabilities, has the right to work in an environment that is inclusive and accessible. Despite this, many countries, including Nigeria, still struggle to fully implement this right, leaving persons with disabilities either excluded from the workforce or stuck in low-status jobs with little chance of advancement.

This study will examine the extent of discrimination faced by people with disabilities in the workplace, focusing specifically on Nigeria. It aims to identify the factors that contribute to this discrimination, evaluate the effectiveness of existing laws and policies, and suggest ways to

improve employment practices for greater inclusion. By understanding the challenges faced by people with disabilities, this research hopes to help create a more inclusive society where all individuals can participate equally in the workforce.

## **1.1 Background of the Study**

The inclusion of persons with disabilities (PWDs) in the workforce is a pivotal aspect of achieving equitable and inclusive development. Despite international and national efforts to promote inclusivity, PWDs often encounter various forms of discrimination in the workplace. These discriminatory practices can manifest in biased recruitment processes, inadequate access to promotions and training, insufficient reasonable accommodations, inaccessible work environments, and prevailing negative attitudes from employers and colleagues.<sup>1</sup>

Internationally, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), particularly Article 27, recognizes the right of PWDs to work on an equal basis with others. It mandates state parties to safeguard and promote this right through appropriate legislation and policy measures.

In Nigeria, the enactment of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 marked a significant legislative milestone. This Act prohibits discrimination on the basis of disability in various sectors, including employment, and mandates employers to provide reasonable accommodations for employees with disabilities. Section 4 of the Act specifically states that a person with a disability shall not be discriminated against on the ground of their

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<sup>1</sup> United Nations, Convention on the Rights of Persons with Disabilities [2006], Article 19 <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd> accessed 3 April 2025.

disability by any person or institution in any manner or circumstance. Furthermore, the Act establishes the National Commission for Persons with Disabilities, tasked with ensuring the full integration of PWDs into society and monitoring compliance with the Act's provisions.

Other countries have enacted similar protections, such as the Americans with Disabilities Act (ADA) in the United States and the Equality Act 2010 in the United Kingdom. While these statutes represent progress in the legal recognition of disability rights, enforcement and awareness still lag behind in practice. Many workplaces continue to operate in ways that exclude or marginalize PWDs, either through systemic barriers or societal biases.

This study aims to investigate the nature, causes, and consequences of discrimination against persons with disabilities in the workplace, with particular reference to the effectiveness of legal and institutional mechanisms like the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018. The ultimate goal is to highlight areas for policy reform and advocacy that will foster a more inclusive and equitable work environment.

## **1.2 Statement of the Problem**

Although various laws have been established to protect the rights of persons with disabilities (PWDs), discrimination in employment remains a serious and ongoing concern. In Nigeria, the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 was introduced to address such challenges by outlawing unequal treatment and promoting equal employment opportunities for individuals with disabilities. Despite this legal advancement, many PWDs continue to encounter significant barriers in accessing and retaining jobs. These challenges are often rooted in negative stereotypes about disability, which influence employer attitudes and

workplace practices. As a result, individuals with disabilities are frequently overlooked during recruitment, denied career advancement, and excluded from training or leadership roles. Many workplaces also fail to provide the necessary accommodations or modify their environments to support diverse needs, further limiting access for PWDs.<sup>2</sup>

Reports from the National Bureau of Statistics and disability rights groups have highlighted the low employment rates among PWDs in Nigeria, revealing a substantial gap in inclusion. In many cases, acts of discrimination go unreported due to a lack of awareness, insufficient legal enforcement, or fear of retaliation from employers. This systemic exclusion not only violates the rights of individuals with disabilities but also deprives society of their potential contributions to national development.<sup>3</sup>

Therefore, it becomes imperative to critically examine the ongoing discrimination faced by PWDs in the workplace, the underlying factors that enable such practices, and the effectiveness of existing legal measures like the 2018 Act. This research aims to explore these issues in depth and contribute to the broader effort of creating more inclusive and equitable work environments. This research will attempt to answer the following questions:

i. What types of discrimination do persons with disabilities commonly experience in the workplace?

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<sup>2</sup> World Health Organization, 'World report on disability' [2011] <https://www.ncbi.nlm.nih.gov/books/NBK304079/> accessed 3 April 2025.

<sup>3</sup> National Bureau of statistics, 'Nigeria Labour Force Survey Q2 2024 Nigeria'.

ii. What are the major factors contributing to the continued discrimination against persons with disabilities in employment settings?

iii. To what extent are employers and employees aware of, and compliant with, the provisions of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018?

iv. What strategies can be implemented to promote greater inclusion and equal opportunities for persons with disabilities in the workforce?

### **1.3 Objectives of the Study**

This study aims to explore the different ways persons with disabilities face discrimination in the workplace and to evaluate how effective existing legal measures especially the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 have been in addressing these challenges.

i. To examine the types of discriminatory practices commonly encountered by persons with disabilities in work environments.

ii. To explore the key factors that lead to or sustain discrimination against employees with disabilities.

iii. To assess the level of awareness, compliance, and enforcement of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 within workplaces.

iv. To propose actionable solutions for improving workplace inclusion and protecting the rights of persons with disabilities in employment contexts.

#### **1.4 Scope and Delimitation**

This study focuses on exploring the types of discrimination persons with disabilities face in formal workplaces in Nigeria, particularly in both public and private sectors. It will look at how these sectors handle or contribute to discriminatory practices and how well they implement the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018.

The study will cover the existing legal protections for persons with disabilities in the workplace, as well as the experiences of disabled employees and the role of employers in creating inclusive environments. It will also assess how discrimination impacts the social, mental, and financial well-being of employees with disabilities, focusing on barriers to career growth and workplace integration.

However, the study will be limited to employees and employers in urban settings, particularly those working in larger organizations. Additionally, the study will not consider differences between regions in Nigeria or look at individuals with disabilities who are self-employed or running their own businesses.

#### **1.5 Significance of the Study**

This research holds considerable value as it sheds light on the persistent issue of workplace discrimination against persons with disabilities, particularly in Nigeria. By investigating the nature and impact of such discrimination, the study aims to provide a clearer understanding of how legal protections like the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 are functioning in practice.

The findings of this study are expected to assist policymakers and relevant government agencies in strengthening laws and enforcement mechanisms that promote inclusive employment. Employers and HR professionals can also benefit from the insights presented, using them to improve workplace practices and foster a more supportive environment for employees with disabilities.

Additionally, the research will serve as a valuable resource for advocacy groups, disability rights organizations in related fields. It contributes to the broader academic dialogue on social justice, equality, and workplace inclusion, while also supporting ongoing efforts to ensure that persons with disabilities are given equal opportunities to thrive professionally.

## **1.6 Research Methodology**

The methodology adopted in this research is the doctrinal method which intends to explore all the existing documents including statutes and legislative documents relating to the Act in Nigeria. The connection between the Act and this research will be explored. This research will focus primarily on the relevant legislations in Nigeria. This research will be done with a view on disability theory including the social models of disability.

The research will simplify the explanatory analysis of necessary documents focusing on the Discrimination against Persons with Disabilities (Prohibition) Act, 2018 of the Federal Republic of Nigeria, the Nigerians with Disabilities Decree of 1993 and relevant provisions of the UN convention on the Rights of persons with Disabilities



## CHAPTER TWO

### CONCEPTUAL, THEORETICAL FRAMEWORK, AND LITERATURE REVIEW

#### INTRODUCTION

This research will attempt a review of the relevant literature to be reference in this work and the main focus of the literature will be a discussion on relevant theories of law and the concept that are applicable to this work.

A common understanding of the term disability is an essential first step to knowing the concept of work disability and is the foundation for a fruitful discussion of improving research in the general area of disability and more specifically in the area of work disability. This will examine the key issues surrounding the legal construction of the concept of discrimination based on disability and also equal treatment in employment and occupation.

#### 2.1 DEFINITION OF TERMS

The following key terms used will have the following meanings attributed to them in this research:

**Accessibility:** Accessibility means designing environments, services, and tools in ways that allow people with disabilities to use them independently and efficiently<sup>4</sup>

**Disability:** Disability includes long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder full and effective participation in society on equal basis with others.<sup>5</sup>

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<sup>4</sup> United Nations, Convention on the Rights of Persons with Disabilities [2006], Article 9 <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd> accessed 3 April 2025.

<sup>5</sup> The Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, s57.

**Discrimination:** Discrimination on the basis of disability" means any distinction, political, economic, social, cultural, civil or any other field. It includes all exclusion or restriction on the basis of disability which has the purpose or equal basis with others, of all human rights and fundamental freedoms in the effect of impairing or nullifying the recognition, enjoyment or exercise, on an forms of discrimination, including denial of reasonable accommodation.<sup>6</sup>

**Equal Employment Opportunity (EEO):** This principle promotes fair treatment for all people in hiring, promotions, and workplace practices, regardless of personal traits like disability.<sup>7</sup>

**Inclusion:** Inclusion involves ensuring that all individuals, regardless of their backgrounds or abilities, feel respected, valued, and fully able to participate in all aspects of work and social life.<sup>8</sup>

**Mental health:** Mental health refers to a person's emotional, psychological and social well-being as it relates to their legal capacity, rights and responsibilities.<sup>9</sup>

**Persons with disabilities:** This term applies to all persons with disabilities including those who have long term physical, mental, intellectual or sensory impairment which hinders their full and effective participation in society.<sup>10</sup>

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<sup>6</sup> United Nations, Convention on the Rights of Persons with Disabilities [2006] Article 2 <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd> accessed 3 April 2025.

<sup>7</sup> Ibid, Article 27.

<sup>8</sup> Ibid, Article 19.

<sup>9</sup> World Health Organization [1948].

<sup>10</sup> United Nations, Convention on the Rights of Persons with Disabilities [2006] Article 2 <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd> accessed 3 April 2025.

**Reasonable Accommodation:** These are changes or adjustments in the work environment or job tasks that enable individuals with disabilities to perform their jobs effectively, without placing a heavy burden on the employer.<sup>11</sup>

**Workplace Discrimination:** This is the act of treating a job applicant or employee unfairly because of personal characteristics like a disability, rather than their qualifications or performance.<sup>12</sup>

## 2.2 THEORETICAL FRAMEWORK

Discrimination against individuals with disabilities in the workplace involves a variety of social, psychological, and legal factors. To understand this issue fully, it's essential to explore different theoretical perspectives that highlight the causes and consequences of such discrimination. These include societal attitudes, systemic barriers, and legal frameworks.

### 2.2.1 Social Model of Disability

The Social Model differentiates between impairment and disability:

Impairment refers to the condition or functional limitation of a person (e.g., a physical or mental impairment).

Disability arises when society fails to accommodate these impairments, leading to exclusion or marginalization. For example, a person in a wheelchair may not be disabled by their condition, but by the lack of wheelchair access in public buildings, public transport, or workplaces.

The Social Model of Disability proposes that disability arises from societal barriers, not from an individual's impairments. This model emphasizes that people with disabilities face

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<sup>11</sup> *ibid.*

<sup>12</sup> International Labour Organization, Discrimination (Employment and Occupation) 1958 (No.111), Article 1  
[https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_Ilo\\_Code:C111](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C111) accessed 3 April 2025.

discrimination due to these external factors, such as physical obstacles and social attitudes, rather than their impairments themselves. In the workplace, this theory suggests that discrimination is a result of the failure to accommodate these barriers, not the disability itself.<sup>13</sup>

In the case of *Archibald v Fife Council*<sup>14</sup> the claimant, a disabled woman, was unable to attend a meeting due to a lack of accessible transport to her workplace. The council argued that there were no reasonable adjustments it could make. The House of Lords ruled that the employer (Fife Council) was required to make reasonable adjustments, and the lack of accommodation constituted discrimination under the DDA 1995. This case reinforced the Social Model by emphasizing that barriers (in this case, transportation and access) were preventing full participation in the workplace. The judgment focused not on the claimant's disability but on the failure to address systemic barriers.

In Nigeria, the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 reflects the principles of social theory. The Act prohibits discrimination on the basis of disability across various sectors, with specific provisions addressing the workplace. For instance, Section 1 guarantees the right to equality and freedom from discrimination, Section 4 mandates accessibility in public spaces, including workplaces, and Section 28 requires employers to provide equal employment opportunities without prejudice against persons with disabilities. These provisions underscore the need for inclusive environments, consistent with the social model's emphasis on dismantling societal and institutional barriers.

Ultimately, social theory advocates for a restructuring of societal attitudes and institutions to promote genuine inclusion. It asserts that discrimination arises not from the impairment itself, but from the social dynamics that exclude persons with disabilities from full participation in

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<sup>13</sup> Shakespeare Tom, *Disability Rights and Wrongs revisited* (2nd edition, London: Taylor and Francis 2013) 72.

<sup>14</sup> *Archibald v Fife Council* (2004) UKHL 32.

public life, including in the workplace. The Social Model changes the focus from "fixing" the individual to changing society, which is especially important in tackling workplace discrimination. It argues that by removing barriers whether physical, attitudinal, or organizational society enables people with disabilities to participate fully and equally.<sup>15</sup>

### **2.2.2 The Medical Model of Disability**

The medical model of disability conceptualizes disability as an individual's physical or mental impairment that limits their functional capacity. Under this model, the "problem" lies within the person, and the solution is often treatment or rehabilitation. In legal and employment contexts, this model has historically justified exclusion from work, on the grounds that the disabled person is "unfit" for the job due to their condition. Although modern disability law increasingly embraces rights-based and social models, the medical model continues to influence workplace practices, especially where employers rely on medical reports to assess fitness for work or eligibility for accommodations.<sup>16</sup>

Schedule 8 & 20 of The Equality Act Imposes a duty to make reasonable adjustments. Employers often seek medical evidence before adjustments are made, sometimes using it to deny adjustments. In *Paterson v Commissioner of Police of the Metropolis*<sup>17</sup> a candidate with dyslexia was denied reasonable adjustments during a promotion exam. The court stressed that reliance solely on medical advice without further inquiry was discriminatory.

The Discrimination against Persons with Disabilities Prohibition Act 2016 attempts to shift towards inclusion, the reliance on medical proof risks reinforcing exclusionary attitudes if

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<sup>15</sup> Oliver Michael, *Understanding Disability* (Palgrave Macmillan 1996) 30-42.

<sup>16</sup> Johnson Emily, 'Disability, Medicine and Ethics' [2016] (18)(4) *AMA Journal of Ethics* 355-358 [doi: 10.1001/journalofethics.2016.18.4.fred1-1604](https://doi.org/10.1001/journalofethics.2016.18.4.fred1-1604). accessed 3 April 2025.

<sup>17</sup> *Paterson v Commissioner of Police of the Metropolis* (2007) IRLR 763.

employers or authorities focus solely on impairment rather than ability or accommodation needs.

The medical model remains a significant influence in workplace practices and legal reasoning, especially where medical fitness is prioritized over reasonable adjustments. However, modern disability law is progressively rejecting the limitations of this model, pushing employers and courts toward inclusive, barrier-removing approaches grounded in anti-discrimination principles.<sup>18</sup>

### **2.3 LITERATURE REVIEW**

The challenge of workplace discrimination against persons with disabilities has been widely examined across jurisdictions, producing diverse perspectives from scholars, policymakers, and international bodies. Although there is broad consensus that exclusion remains a global issue, the literature reflects varying interpretations of its root causes, its manifestations, and the adequacy of legislative responses.

A key starting point is the debate over how disability itself is understood. Michael Oliver, writing from the standpoint of the social model of disability, insists that disability is not primarily about impairment but about the social and structural barriers that restrict participation in community and working life.<sup>19</sup> Tom Shakespeare, while recognising the political value of Oliver's approach, critiques it as overly rigid, proposing instead a "critical realist" position that integrates the realities of impairment with the effects of social exclusion.<sup>20</sup> These competing approaches are central to understanding workplace discrimination. While Oliver

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<sup>18</sup> Degener Theresia, 'Disability in a Human Rights Context' [2016] (5)(3) *Disability Human Rights Laws* 35 [doi.org/10.3390/laws5030035](https://doi.org/10.3390/laws5030035) accessed 3 April 2025.

<sup>19</sup> Oliver Michael, *Politics of Disablement* (Palgrave Macmillan 1990) 45.

<sup>20</sup> Shakespeare Tom, *Disability Rights and Wrongs* (1st ed, Routledge 2006) 56.

directs attention to systemic prejudice and inaccessible environments, Shakespeare cautions that the embodied experiences of impairment must also be factored into any employment discourse. In the United States, Bagenstos has argued that the Americans with Disabilities Act (ADA) transformed disability rights by reframing the workplace from a charity model to one grounded in equality.<sup>21</sup>

European literature shows a similar pattern of optimism and critique. Lawson highlights that the Equality Act 2010 in the United Kingdom consolidated existing disability discrimination laws and introduced the duty of reasonable adjustment, yet persistent employment gaps suggest that legal mechanisms alone are insufficient.<sup>22</sup> Nevertheless, empirical evidence across the European Union reveals that unemployment rates for disabled persons remain disproportionately high, despite robust legislative frameworks.

African contributions add further depth to the discussion. Ngwena observes that across much of the continent, workplace discrimination is sustained by weak enforcement structures and entrenched cultural stereotypes.<sup>23</sup> In many other African states, disability is still framed as a welfare issue rather than as a matter of enforceable rights, a framing that significantly limits effective workplace inclusion.<sup>24</sup>

On the international stage, the International Labour Organisation (ILO) stresses that disability and poverty intersect in ways that intensify exclusion from labour markets. The capability approach developed by Sen provides a useful framework for understanding this, as it shifts

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<sup>21</sup> Samuel R. B, *Law and the Contradictions of the Disability Rights Movement* (Yale University Press 2009) 33.

<sup>22</sup> Lawson Anna, *Disability and Equality Law in Britain: The Role of Reasonable Adjustment* (1st ed, Hart Publishing 2008) 92.

<sup>23</sup> Ngwena Charles, 'Equality for People with Disabilities in the Workplace: An Overview of the Emergence of Disability as a Human Rights Issue' [2004] (29)(2) *Journal for Juridical Science* 167.

<sup>24</sup> Wånggren Lena and others, 'Disability policy and practice in Malawian employment and education' [2022] (45)(6) *Sociology of Health & Illness* 1354-1375

attention from resources alone to individuals' ability to transform them into meaningful opportunities.<sup>25</sup> It emphasizes on the role of dignity and participation, highlighting the workplace as a central site for realising these capabilities. Together, these theoretical contributions have influenced international and domestic policy directions, reframing disability from an anti-discrimination issue to one that requires proactive inclusion.

Empirical studies offer further insights into how discrimination is experienced. In the United States, Schur and Kruse found that disabled workers face underemployment and limited promotion prospects, even when qualifications are equal.<sup>26</sup> In the UK, Hoque and colleagues found that many employers adopt superficial compliance with disability laws, making only minimal adjustments that do not address underlying workplace culture. Similarly, Lee's study of Japan and South Korea illustrates that rapid industrialisation and economic growth have not dismantled longstanding stigma, particularly against those with psychosocial disabilities.<sup>27</sup> These findings show that while legal frameworks differ, discrimination in practice often takes similar forms across regions. Kayess and French caution that treaty ratification does not automatically translate into effective enforcement, pointing to the persistent gap between formal obligations and real change.<sup>28</sup>

Overall, the scholarship demonstrates that workplace discrimination against persons with disabilities is not confined to any single country or region but is a pervasive, multifaceted

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<sup>25</sup> Sen Amartya, *Development as Freedom* (Oxford University Press 1999) 87.

<sup>26</sup> Schur Lisa and others, 'Why Do Workers with Disabilities Earn Less? Occupational Job Requirements and Disability Discrimination' [2018] (56)(4) *British Journal of Industrial Relations*

<sup>27</sup> Lee Sunwoo & Lee Sookyung, 'Comparing Employment Quota Systems for Disabled People Between Korea and Japan', [2016] (10) *Asian Journal of Human Services* 83.

<sup>28</sup> Kayess Rosemary and French Philip, 'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities' [2008] (8)(1) *Human Rights Law Review* 7 <https://doi.org/10.1093/hrlr/ngm044> accessed 2 October 2025.

challenge. Authors broadly agree that barriers arise from the interaction of inaccessible environments, cultural stigma, and institutional weakness. Where they diverge is in their assessments of solutions: some advocate stronger enforcement of anti-discrimination laws, while others prioritise cultural change and proactive measures of inclusion. This diversity of perspectives highlights the complexity of the subject and underscores the importance of comparative inquiry in evaluating workplace discrimination globally.

## **2.4 Forms of Workplace Discrimination Against Persons with Disabilities**

Workplace discrimination against persons with disabilities can manifest in a wide range of explicit and subtle forms. These discriminatory practices often result in unequal access to employment opportunities, limited career progression, hostile work environments, and denial of reasonable accommodations. Although anti-discrimination laws exist in many jurisdictions, such practices remain deeply entrenched, often due to a combination of attitudinal bias, lack of awareness, and systemic institutional barriers.<sup>29</sup>

### **(i) Discriminatory Recruitment and Hiring Practices**

One of the earliest points of discrimination arises during recruitment and hiring. Employers may exclude or overlook candidates with disabilities based on preconceived notions about their capabilities or assumed costs of accommodations. This often manifests through inaccessible job postings, biased interview processes, and outright rejection based on disclosed or visible impairments.<sup>30</sup>

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<sup>29</sup> Sandra Fredman, *Discrimination law* (2nd ed, Oxford: Oxford University Press 2011) 87-91.

<sup>30</sup> Roulstone Alan and Williams Jannine, 'Being disabled, being a manager: "Glass partitions" and conditional identities in the contemporary workplace' [2013] (29)(1) *Disability & Society* 16-29 [doi.org/10.1080/09687599.2013.764280](https://doi.org/10.1080/09687599.2013.764280) accessed 3 April 2025.

Studies have shown that individuals with disabilities are significantly less likely to be called for interviews, even when they possess equivalent qualifications to non-disabled applicants.<sup>31</sup> Such differential treatment violates provisions under the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, which mandates equal employment opportunities and prohibits discrimination at all stages of employment, including recruitment.<sup>32</sup>

### **(ii) Denial of Reasonable Accommodation**

Another prevalent form of discrimination is the denial of reasonable accommodations, modifications or adjustments that enable individuals with disabilities to perform job functions. These may include flexible work hours, assistive technologies, modified equipment, or accessible workplace layouts.<sup>33</sup>

Section 6 of Nigeria's Discrimination Against Persons with Disabilities Act obliges employers to make necessary adjustments to accommodate employees with disabilities. Yet, in practice, many organizations fail to implement such changes, either due to cost concerns, lack of awareness, or unwillingness to modify existing structures.

### **(iii) Inequitable Retention and Career Advancement Opportunities**

Persons with disabilities often encounter structural barriers that hinder their progression within organizations. Discrimination manifests when disabled employees are denied training, leadership roles, or promotions, irrespective of merit. These limitations stem from assumptions

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<sup>31</sup> Ameri Mason and others, 'The disability employment puzzle: A field experiment on employer hiring behavior' [2018] (71)(2) *ILR Review* 329-364 [doi.org/10.1177/0019793917717474](https://doi.org/10.1177/0019793917717474) accessed 3 April 2025.

<sup>32</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s28.

<sup>33</sup> Schur Lisa and others, *People with Disabilities : sidelined or mainstreamed?* (Newyork: Cambridge University Press Copyright 2013) 83.

that persons with disabilities lack the capacity to handle greater responsibility, or that their condition may affect team performance.<sup>34</sup>

Research has shown that employees with disabilities are overrepresented in low-wage, part-time, or temporary jobs and underrepresented in executive or leadership positions.<sup>35</sup> This pattern reveals a systemic bias that restricts professional growth.

Section 4 of the Nigerian Disability Act affirms the right to career development and prohibits any workplace practice that hampers the upward mobility of employees with disabilities.

#### **(iv) Harassment and Hostile Work Environments**

Hostile work environments are another insidious form of discrimination. Persons with disabilities may be subjected to verbal abuse, mockery, ostracism, or subtle forms of exclusion by colleagues and supervisors. This not only causes psychological distress but can also affect job performance and career longevity.<sup>36</sup>

Section 1 and 2 of The Discrimination Against Persons with Disabilities Act 2018 recognizes psychological harm as a form of discrimination and mandates sanctions against harassers.

#### **(v) Inaccessibility of Workplace Infrastructure and Technology**

Discrimination also arises from the failure to design inclusive and accessible work environments. Buildings without elevators, restrooms without grab bars, websites incompatible with screen

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<sup>34</sup> Adrienne J.C and Susanne M.B, 'Disability and Employment: New Directions for Industrial and Organizational Psychology' [2011] (1) *APA handbook of industrial and organizational psychology, Vol 1: Building and developing the organization* 473-503 <http://dx.doi.org/10.1037/12169-015> accessed 3 April 2025.

<sup>35</sup> Lindsay Sally and others, 'A Systematic Review of the Benefits of Hiring People with Disabilities' [2018] (28)(4) *Journal of Occupational Rehabilitation* 634-655 [doi: 10.1007/s10926-018-9756-z](https://doi.org/10.1007/s10926-018-9756-z) accessed 3 April 2025.

<sup>36</sup> Fevre Ralph and others, 'The ill-treatment of employees with disabilities in British workplaces' [2013] (27)(2) *Work, Employment and Society* 288-307 <https://doi.org/10.1177/0950017012460311> accessed 3 April 2025.

readers, or communication platforms that exclude the hearing-impaired all constitute indirect forms of exclusion.<sup>37</sup>

Under international human rights frameworks like the UN Convention on the Rights of Persons with Disabilities (CRPD), accessibility is recognized as a core obligation. Article 9 of the CRPD requires states to ensure access to the physical environment, transportation, and information on an equal basis with others.<sup>38</sup> Nigeria's domestic legislation echoes these requirements, making it mandatory for public and private entities to incorporate universal design principles.<sup>39</sup>

#### **(vi) Discriminatory Dismissals or Constructive Termination**

Another form of discrimination is termination based on disability, either explicitly or by creating conditions that force an employee to resign. Employers sometimes rely on vague justifications such as "inability to meet performance expectations" or "incompatibility with job demands," ignoring the role that lack of accommodation or support may have played in the employee's difficulties.<sup>40</sup>

In *Chevron Nigeria Ltd & Anor v Kehinde Omeregha and ors*<sup>41</sup> while the Nigerian Court of Appeal recognized the employer's right to manage, it warned against exercising such discretion in a way that violates anti-discrimination laws. Similarly, *British Columbia (Public Service Employee*

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<sup>37</sup> Imrie Rob, 'Universalism, Universal Design and Equitable Access to the Built Environment' [2012] (34)(10) *Disability and Rehabilitation* 873-882 <https://doi.org/10.3109/09638288.2011.624250> accessed 3 April 2025.

<sup>38</sup> Convention on the Rights of Persons with Disabilities 2006, Article 9 <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd> accessed 3 April 2025.

<sup>39</sup> Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s3.

<sup>40</sup> Schur Lisa and others, *People with Disabilities: sidelined or mainstreamed?* (Newyork: Cambridge University Press 2013) 91.

<sup>41</sup> *Chevron Nigeria Ltd & Anor v Kehinde Omeregha and ors* (2015) JELR 40668 (CA).

*Relations Commission) v. BCGSEU*<sup>42</sup> emphasized the duty to accommodate employees before resorting to dismissal.

## **Conclusion**

This chapter has provided the conceptual foundation for the study by defining disability and workplace discrimination, with emphasis on the medical, social, and rights-based models. It also discussed theoretical perspectives such as Oliver's social model, Shakespeare's realist critique, and the capability approach of Sen and Nussbaum, which together offer useful tools for analysing exclusion in employment. Various forms of workplace discrimination were outlined, including direct refusal of opportunities, discriminatory dismissal, inadequate accommodations and others.

The literature review demonstrated that although workplace discrimination is recognised globally, its causes and responses differ across jurisdictions. While there is broad agreement that the barriers are both structural and cultural, scholars disagree on whether the most effective remedy lies in stronger legislation, cultural change, or active inclusion strategies. Comparative studies from the US, Europe, Africa, and Asia highlight that despite progressive laws, employment inequalities persist.

In conclusion, workplace discrimination against persons with disabilities is a complex, multidimensional challenge. This discussion provides the basis for the next chapter, which examines the legal frameworks established to address these issues and assesses their effectiveness.

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<sup>42</sup> *British Columbia (Public Service Employee Relations Commission) v. BCGSEU* (1999) 3 SCR 3.



## CHAPTER 3

### LEGAL AND INSTITUTIONAL FRAMEWORK ON THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN THE WORKPLACE

#### INTRODUCTION

Although there has been increasing global awareness of the rights of persons with disabilities reflected in instruments like the United Nations Convention on the Rights of Persons with Disabilities (CRPD) many individuals with disabilities in Nigeria still face entrenched discrimination in accessing and retaining employment. The right to work, which is protected under both domestic and international law, remains largely unrealised for this group due to a range of legal, social, and structural challenges. This chapter sets out to examine the legal and institutional structures that exist to prevent and remedy workplace discrimination against persons with disabilities in Nigeria.

#### 3.1 Nigerian Legal Framework

##### i. The 1999 Constitution of the Federal Republic of Nigeria (as amended)

As the foundational legal document in Nigeria, the Constitution sets the tone for equality and non-discrimination. Section 42(1) prohibits discrimination against Nigerian citizens on the basis of ethnicity, religion, sex, or political views.<sup>43</sup> However, the section notably omits any mention of disability, which is a significant shortcoming. This exclusion means that persons with

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<sup>43</sup> CFRN 1999 (as amended), s42(1).

disabilities do not enjoy express constitutional protection from discrimination, especially in employment contexts.

Furthermore, Section 17(3) of the Constitution under Chapter II encourages the government to promote equal opportunity and eliminate all forms of discrimination. Yet, these provisions are non-justiciable, meaning they cannot be legally enforced in a court of law. As a result, the constitutional foundation for the rights of persons with disabilities remains weak and lacks enforceable guarantees. Although the spirit of equality is present, the absence of disability as a protected category creates a legal vacuum that undermines the efforts to prevent workplace discrimination against persons with disabilities.

## **ii. The Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act, 2018**

This Act represents a groundbreaking shift in Nigeria's legal approach to disability. Passed into law after over a decade of legislative delay, the Act introduces a rights-based approach to disability. One of its central features is Section 1,<sup>44</sup> which expressly prohibits all forms of discrimination against persons with disabilities. It affirms that such individuals are entitled to the same opportunities in employment, education, healthcare, and other areas of public life as every other citizen.

A critical aspect of the Act is Section 6, which codifies the concept of reasonable accommodation. This provision obliges employers to make practical modifications to the work environment or job responsibilities to enable persons with disabilities to perform their duties

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<sup>44</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s1.

effectively. These modifications could range from providing assistive technologies to adjusting work schedules or physical infrastructure.

In addition, Section 28 mandates that employment practices be inclusive and non-discriminatory, especially in areas such as recruitment, promotions, and training. The law even goes a step further under Section 36, requiring public establishments to reserve at least 5% of available positions for persons with disabilities.

The enforcement of the Act is strengthened by Section 30, which makes discriminatory acts criminal offences, punishable by fines or imprisonment. To oversee its implementation, the law also established the National Commission for Persons with Disabilities, tasked with monitoring compliance, conducting investigations, and promoting awareness.<sup>45</sup> However, despite the comprehensive nature of the Act, its practical impact remains limited due to factors such as poor public awareness, inadequate funding, lack of political will, and weak enforcement mechanisms at both federal and state levels.

### **iii. Mental Health Act 2021**

Section 13 of the National Mental Health Act 2021 expressly safeguards the right to work for persons with mental health conditions. It provides that no person shall be denied employment, dismissed, or discriminated against on the grounds of a past or present mental health condition. It also mandates employers to offer reasonable assistance to employees whose mental health affects work performance, rather than terminating their employment.

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<sup>45</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s31.

This section is particularly relevant to issues of mental stress and psychosocial disabilities in the workplace. It recognises that employees who experience stress-related mental disorders are entitled to equal treatment, fair remuneration, and rehabilitation opportunities instead of dismissal.<sup>46</sup> The provision reinforces equality and inclusion, aligning with the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and Article 27 of the UN Convention on the Rights of Persons with Disabilities (CRPD), which Nigeria has ratified.

In the case of *Paul v National Probation Service*,<sup>47</sup> Mr Paul had a relevant disability by virtue of a chronic depressive illness. He applied to the National Probation Service for the position of part time community service supervisor. On being interviewed, he volunteered information concerning his disability. He was offered the job subject to a satisfactory occupational health report. He was also subsequently interviewed by the respondent for another post, as a handyman, and offered this post subject to the same condition. The occupational health report was to the effect that the post of community service supervisor would be too stressful for Mr Paul, but that he was fit for the handyman role. It recommended the situation be reviewed after three months. As a result, the respondent withdrew the offer of the community service supervisor post. Mr Paul brought a disability discrimination claim. The court held that where an employer had withdrawn a job offer from a disabled person, following an occupational health report, the employment tribunal had erred in finding that the employer was justified in following such advice, without considering adequately whether there was any breach of the

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<sup>46</sup> Rights of Mental Health Patients in Nigeria: National Mental Health Act 2021.

<sup>47</sup> *Paul v National Probation Service* [2004] IRLR 190, EAT.

duty to make reasonable adjustments. It was recognised that an employee suffering from depression was disabled under employment law and entitled to adjustments at work.

#### **iv. Employee's Compensation Act 2010**

Section 8 of the Employee Compensation Act (ECA) extends compensation to cases of mental stress that arise out of and in the course of employment. The Act provides that such compensation is payable where the mental injury results from a sudden traumatic incident or from a gradual process related to the nature of the job.<sup>48</sup> However, the law excludes compensation where mental stress results from employer decisions such as termination, demotion, or transfer.<sup>49</sup>

This provision marks a significant recognition of psychological harm as an occupational injury under Nigerian labour law. It is particularly relevant to persons with disabilities, who often encounter workplace discrimination, exclusion, and undue pressure, which can lead to mental or emotional distress. Where such distress can be directly linked to employment conditions, Section 8 offers a legal basis for compensation through the Nigeria Social Insurance Trust Fund (NSITF).

In *Amina v. First Bank of Nigeria Plc*<sup>50</sup>, the claimant suffered severe anxiety and depression due to persistent workplace harassment. The court held that if mental stress results from hostile or discriminatory treatment, it may amount to an occupational injury under the ECA. The court

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<sup>48</sup> Employee's Compensation Act 2010, s8.

<sup>49</sup> *ibid*, s8(3).

<sup>50</sup> *Amina v. First Bank of Nigeria Plc* (2020) 68 NLLR (Pt. 242) 233.

emphasized the employer's duty to maintain a psychologically safe working environment. This case reinforces the employer's duty to provide not just physical safety but also a psychologically safe work environment, especially for workers with disabilities who may be more vulnerable to stress or emotional harm arising from workplace discrimination.

### **3.1.1 International Legal Framework**

#### **i. United Nations Convention on the Rights of Persons with Disabilities (CRPD)<sup>51</sup>**

The CRPD represents a paradigm shift in how disability is understood and addressed globally. Nigeria ratified the Convention in 2007 and its Optional Protocol in 2010. The CRPD is based on the social model of disability, which holds that disability is not merely a medical condition but a result of the interaction between individuals with impairments and attitudinal or environmental barriers.

Article 27 of the CRPD is particularly significant for employment. It commits State Parties to eliminate discrimination in hiring, promotion, working conditions, and job security. It also encourages the integration of persons with disabilities into the general workforce by ensuring accessibility, providing reasonable accommodations, and offering vocational training.

Although Nigeria has ratified the CRPD, its domestication into national law as required by Section 12 of the Nigerian Constitution has not been fully achieved. This limits its direct enforceability in Nigerian courts. Nevertheless, the principles of the CRPD have influenced the

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<sup>51</sup> United Nations, *Convention on the Rights of Persons with Disabilities* [2006].

framing of the 2018 Disability Act, and the Convention continues to serve as a benchmark for assessing Nigeria's compliance with international standards.

**ii. C159 - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)<sup>52</sup>**

This International Labour Organization (ILO) Convention underscores the importance of providing equal opportunities for persons with disabilities in employment.<sup>53</sup> It calls on member states to adopt and implement national policies that facilitate vocational rehabilitation and inclusive employment.<sup>54</sup>

The Convention promotes a framework where disabled persons can access training, retain employment, and be protected from unfair dismissal or marginalization in the workplace.<sup>55</sup> Although Nigeria has ratified this Convention, the extent of its implementation is unclear, and its impact on national employment law remains limited.

### **3.2 Institutional Framework**

The protection of the rights of persons with disabilities particularly in employment requires not only the existence of sound legislation but also strong institutional mechanisms to enforce those laws. While legal provisions establish entitlements, institutions are the structures through which those rights are realized, monitored, and defended. In Nigeria, several government

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<sup>52</sup> International Labour Organization, Vocational Rehabilitation and Employment (Disabled Persons) Convention, (No. 159) 1983.

<sup>53</sup> Ibid, Article 4.

<sup>54</sup> Ibid, Article 9.

<sup>55</sup> Ibid, Article 7.

bodies and supporting organizations play crucial roles in ensuring the fair treatment of persons with disabilities in the workplace which among them is the National Commission for Persons with Disabilities (NCPWD), supported by other governmental and non-governmental institutions.

**i. National Commission for Persons with Disabilities (NCPWD)<sup>56</sup>**

The NCPWD was established pursuant to the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, and serves as the central agency responsible for enforcing the provisions of the Act. The Commission is mandated to coordinate all disability-related programs, policies, and interventions at both the federal and state levels.

Under Sections 31 to 36 of the Act, the NCPWD is tasked with responsibilities such as monitoring public and private institutions to ensure compliance with accessibility and employment provisions, promoting awareness campaigns about disability rights, and investigating complaints of discrimination in workplaces.<sup>57</sup> The Commission also oversees implementation of the 5% employment quota for persons with disabilities in public sector recruitment as mandated by Section 28 of the Act.<sup>58</sup>

The Commission advocates for inclusive workplace policies that support reasonable accommodations, such as adjusting work hours, modifying facilities, or providing assistive technology. It also works to ensure that job opportunities are made accessible to qualified

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<sup>56</sup> National Commission for Persons with Disabilities (NCPWD) 2020

<sup>57</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s31-36.

<sup>58</sup> Ibid s28.

candidates with disabilities by encouraging employers to eliminate systemic and physical barriers. However, the Commission faces numerous challenges. It operates with limited funding, which affects its ability to monitor and enforce compliance nationwide. There are also insufficient personnel with specialized skills in accessibility design, inclusive employment, or disability law. Furthermore, many Nigerians including employers are unaware of the Commission's role or the requirements of the 2018 Act, limiting its overall impact. Another critical concern is that the Commission lacks the power to impose binding sanctions, often having to rely on litigation or referrals to other authorities for enforcement.<sup>59</sup>

## **ii. International Agencies and Development Partners**

International bodies such as the International Labour Organization (ILO) and the United Nations Development Programme (UNDP) have played a notable role in strengthening institutional responses to disability issues in Nigeria. Through technical support, capacity-building initiatives, and funding, they have assisted local agencies including the NCPWD and CSO in promoting inclusive employment practices and aligning Nigeria's frameworks with global best practices.<sup>60</sup>

These partnerships have been instrumental in promoting data collection, advancing research on disability inclusion, and encouraging legal reforms.

## **iii. National Human Rights Commission (NHRC)**

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<sup>59</sup> National Commission for Persons With Disabilities 2020.

<sup>60</sup> ILO-Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), Article 2.

The NHRC, established under the National Human Rights Commission Act (as amended in 2010), serves as an independent national institution tasked with promoting and protecting human rights in Nigeria. While it does not focus exclusively on disability issues, it is empowered to investigate and report on all forms of human rights abuses, including discrimination based on disability in employment. The Commission has the authority to mediate disputes, hold public hearings, and make policy recommendations.<sup>61</sup> In situations where employers have failed to provide equal opportunities to employees or job applicants with disabilities, the NHRC may intervene either directly or in collaboration with the NCPWD.

#### **iv. Nigeria Social Insurance Trust Fund**

The Employees' Compensation Act (ECA) 2010, administered by the Nigeria Social Insurance Trust Fund (NSITF), expressly recognises mental stress as a compensable condition. Section 8 of the Act provides that an employee who suffers mental stress not resulting from a physical injury is entitled to compensation, provided that the condition arises from an acute reaction to a sudden and unexpected traumatic event occurring in the course of employment, or where the employer has unreasonably altered the employee's working conditions beyond their capacity.<sup>62</sup> This statutory recognition underscores the Nigerian legislature's attempt to adapt to modern understandings of workplace injury, which now extend beyond physical harm to encompass psychological and emotional distress.

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<sup>61</sup> National Human Rights Commission (NHRC)—Overview and Functions, Details on NHRC's role in promoting and protecting human rights in Nigeria <https://www.nigeriarights.gov.ng/> accessed 21 April 2025.

<sup>62</sup> Employee's Compensation Act 2010, s8.

In practice, however, compensation for mental stress remains difficult to secure due to challenges of proof and causation. The claimant must present medical evidence from an accredited practitioner diagnosing the mental disorder and linking it directly to workplace conditions.<sup>63</sup> The NSITF is empowered to assess such claims and determine compensation, but judicial interpretation remains limited. In the case of *Felix Esuturie v Michael Abraka (Nig)*<sup>64</sup> the claim involved alleged disability and termination; parties disputed whether claimant's condition (including psychological effects) flowed from an occupational accident and whether mental stress/dysfunction arising from an occupational accident qualifies for compensation under the ECA and whether claimant proved loss of amenities of life. The Court held that the ECA allows compensation for mental stress arising from occupational accidents, but emphasised the need for evidence showing the extent of disability and its impact on claimant's life.

The Nigeria Social Insurance Trust Fund is a proactive and employee dedicated government institution committed to the welfare of employees in the event of work related accidents and injuries.<sup>65</sup>

### **3.3 Factors contributing to the discrimination against persons with disabilities in employment settings**

Despite the presence of legal protections at both national and international levels, persons with disabilities (PWDs) in Nigeria continue to face significant barriers in employment. These

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<sup>63</sup> Nwankwo P. I 'Mental Stress, Workplaces and Nigeria's Employees' Compensation Act' [2022] (66)(2) *Journal of African Law* 145-162.

<sup>64</sup> *Felix Esuturie v. Michael Abraka (Nig)* NICN 2023

<sup>65</sup> <https://lenvica.com/nigeria-social-insurance-trust-fund-nsitf/>

barriers are rooted in a combination of social, institutional, and legal shortcomings that enable discriminatory practices to persist in the workplace.

### **i. Cultural Beliefs and Social Stigma**

One of the key factors fueling discrimination is the persistence of negative cultural beliefs and stereotypes about disability. In many Nigerian communities, disability is often viewed through a lens of charity or misfortune, with persons with disabilities regarded as dependent or incapable. These attitudes significantly influence hiring decisions, as employers may presume that individuals with disabilities are unable to meet workplace demands, regardless of their qualifications or competencies.<sup>66</sup> This principle highlights how preconceived notions whether based on disability or other characteristics can lead to unjust treatment in employment settings.

### **ii. Poor Enforcement of Disability Laws**

While Nigeria's Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 is a landmark legal development, its implementation has been weak. Section 4 of the Act clearly prohibits employers from denying jobs to individuals solely on the basis of disability, provided the person is otherwise qualified. However, in practice, the enforcement of this provision has been inconsistent. In *Iwuoha v. Nigerian Army & Anor*<sup>67</sup>, this case highlights systemic challenges in enforcing disability rights in Nigeria, especially where government institutions like the military are involved. The court's failure to apply a rights-based disability framework

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<sup>66</sup> Lang R & Upah L, 'Scoping study: Disability issues in Nigeria' *Department of Foreign and International Development (DFID)*, (London, 2008) Final Report. <https://studylib.net/doc/13390397/scoping-study--disability-issues-in-nigeria-final-report> accessed 21 April 2025.

<sup>67</sup> *Iwuoha v. Nigerian Army & Anor* (2017) LPELR-43256(CA).

demonstrates how poor enforcement and lack of awareness of disability laws can result in injustice.

### **iii. Lack of Reasonable Accommodation**

Another significant contributor to workplace discrimination is the failure of employers to provide reasonable accommodations for employees with disabilities. Section 6 of the 2018 Act obliges employers to make necessary adjustments to ensure accessibility and inclusion, yet many work environments remain physically and structurally inaccessible.

Lack of reasonable accommodation occurs when an employer, service provider, or government body fails to make necessary and suitable adjustments that enable persons with disabilities to fully enjoy their rights and freedoms on equal terms with others.<sup>68</sup> According to Article 2 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), such failure amounts to discrimination. In employment and public services, reasonable accommodations may include changes like flexible working hours, accessible infrastructure, the use of assistive devices, or the provision of sign language interpreters. When these are not provided, it can lead to the exclusion of persons with disabilities and limit their equal participation.<sup>69</sup>

In Nigeria, although court decisions on this issue are still emerging, the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 clearly provides for the right to reasonable accommodation under Sections 4 and 6. Failing to meet this requirement may constitute a breach of both domestic law and international human rights standards. The international legal

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<sup>68</sup> CRPD 2006, Article 2.

<sup>69</sup> *ibid* 9 & 27.

standard under Article 5 of the UN Convention on the Rights of Persons with Disabilities (CRPD) ratified by Nigeria in 2007 also considers the denial of reasonable accommodation a form of discrimination.

#### **iv. Inaccessibility of Legal Remedies**

Despite the legal protection afforded to persons with disabilities under the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, access to legal remedies remains a significant challenge in Nigeria. The enforcement mechanisms under the 2018 Act are still weak and poorly coordinated, with limited institutional support to facilitate reporting and adjudication of discrimination claims.<sup>70</sup> Even when rights are violated, many PWDs face substantial hurdles in pursuing justice. Physical inaccessibility of court premises, lack of sign language interpreters, limited disability-friendly

#### **v. Absence of Affirmative Action and Policy Enforcement**

The underrepresentation of PWDs in the workforce is also linked to the lack of concrete affirmative action policies. Section 28 of the 2018 Act requires public institutions to reserve at least 5% of employment opportunities for persons with disabilities. However, this quota is rarely enforced, and compliance remains largely voluntary.

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<sup>70</sup> Mwiza J.N, 'Access to Justice for Persons with Disabilities in Malawi: Exploring Challenges and Possibilities in the Criminal Justice System' [2021] (8) *African Disability Rights Yearbook* <https://doi.org/10.29053/2413-7138/2020/v8a6> accessed 21 April 2025.

In contrast, countries like South Africa have adopted more robust legal frameworks. For instance, the Employment Equity Act of 1998<sup>71</sup> imposes specific obligations on employers to implement affirmative action measures aimed at increasing representation of disadvantaged groups, including persons with disabilities. The Nigerian framework, though progressive in its language, lacks the enforcement capacity necessary to drive genuine inclusion.

## **Conclusion**

This chapter analysed Nigeria's legal framework protecting persons with disabilities in the workplace. These laws collectively prohibit discrimination, ensure equal employment opportunities, and recognise mental stress and psychosocial disabilities as legitimate grounds for workplace protection. Section 13 of the Mental Health Act guarantees the right to work without discrimination, while Section 8 of the Employees Compensation Act provides redress for mental stress. However, weak enforcement<sup>71</sup>, employer ignorance, and social stigma persist, creating a gap between legislative intent and practical workplace inclusion.

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<sup>71</sup> Employment Equity Act 55 of 1998, s15.

## **CHAPTER 4**

### **ANALYSIS OF THE LEGAL AND INSTITUTIONAL RESPONSE TO WORKPLACE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN NIGERIA**

#### **INTRODUCTION**

This chapter provides an analysis of how persons with disabilities are treated in Nigerian workplaces, particularly in relation to the legal protections that exist. It explores whether the laws and institutions designed to protect them are actually effective in practice. The discussion begins by examining the main legal instruments that address disability rights in employment in Nigeria, such as the Discrimination Against Persons with Disabilities (Prohibition) Act of 2018, the Constitution of Nigeria (1999). It also considers international agreements Nigeria has signed, like the United Nations Convention on the Rights of Persons with Disabilities. The aim is to assess whether these laws are adequate and properly enforced. The chapter also reviews the roles of relevant bodies, including the National Commission for Persons with Disabilities, the National Human Rights Commission, and the courts. It considers whether these institutions are actively protecting the rights of persons with disabilities and helping to address workplace discrimination.

#### **4.1 Analysis of Nigerian Disability Legislation in Employment Context**

This section examines the legislative framework in Nigeria that governs the employment rights of persons with disabilities (PWDs), focusing on the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, related constitutional provisions, and other statutory

instruments. It analyses the scope, strengths, and weaknesses of these laws, assesses their compatibility with international standards particularly the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and relevant International Labour Organisation (ILO) conventions and identifies existing legal gaps and ambiguities.

#### **4.1.1 Scope of the Legal Framework**

The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 is the primary legislative instrument that protects the rights of PWDs in Nigeria. Enacted in 2018, it represents the first comprehensive federal law addressing disability rights across multiple sectors, including employment.

##### **(i) Right to Employment and Non-Discrimination**

Section 28(1) of the Act provides that a person with a disability “shall not be denied access to employment by reason only of his or her disability,” thereby establishing a statutory prohibition on disability-based discrimination in recruitment and workplace practices. Section 28(2) further mandates employers to make “reasonable accommodation” for PWDs to enable them to work effectively.

##### **(ii) Employment Quota**

Section 29(1) imposes a requirement that “all employers of labour in public organisations shall, as much as possible, have persons with disabilities constituting at least 5% of their

employment.” This provision is aimed at enhancing representation of PWDs within the public service.<sup>72</sup>

#### (iii) Sanctions for Violation

The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 establishes both criminal and civil liability for discriminatory acts. Under Section 28(3), an individual employer who contravenes the employment provisions commits an offence and is liable to a fine of not less than ₦100,000 or imprisonment for a term of six months, or both.<sup>73</sup> For corporate bodies, Section 28(4) prescribes a fine of at least ₦1,000,000, while Section 28(5) allows the aggrieved person to recover general and special damages.<sup>74</sup>

#### (iv) Accessibility Requirements

Beyond employment, Section 6(1) mandates that all public buildings, facilities, and vehicles be made accessible to PWDs within five years from the commencement of the Act, indirectly influencing workplace accessibility standards.<sup>75</sup>

### **4.1.2 Strengths of the Framework**

#### (I) Explicit statutory recognition of disability rights

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<sup>72</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s29(1).

<sup>73</sup> Ibid, s28(3)

<sup>74</sup> Ibid, s28(4)(5).

<sup>75</sup> Ibid, s6(1).

The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 provides Nigeria's first explicit statutory guarantee against disability-based employment discrimination.<sup>76</sup> Unlike the Constitution, which offers only general anti-discrimination protections, The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 expressly recognises disability as a protected category, providing clarity for employers, employees, and the courts.

(ii) Broad scope of protection within the public sector

The combination of Section 28's non-discrimination rule, Section 29's quota requirement, and Section 6's accessibility mandate addresses multiple dimensions of employment from recruitment to workplace infrastructure. If enforced, the 5% quota could substantially increase PWD representation in the public sector.<sup>77</sup>

(iii) Enforceable sanctions with victim compensation

Sections 28(3)–(5) provide for both punitive and compensatory remedies.<sup>78</sup> The possibility of imprisonment, significant fines, and the award of damages offers a potentially strong deterrent against discrimination. The availability of civil damages is especially important in empowering victims to pursue redress.

(iv) Alignment with international obligations

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<sup>76</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s28.

<sup>77</sup> Ibid s6, 28 & 29.

<sup>78</sup> Ibid s28(3)-(5)

The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 reflects key aspects of Article 27 of the CRPD which Nigeria ratified in 2007 including equal access to employment, non-discrimination, workplace accommodation, and accessibility standards. It also mirrors the equality principles enshrined in ILO Convention No. 111 on Discrimination (Employment and Occupation), ratified by Nigeria in 1960.

#### **4.1.3 Weaknesses of the Framework**

##### **(i) Limited scope of quota obligation**

The quota requirement in Section 29(1) of the Act applies exclusively to public organisations, excluding the private sector and informal economy, where the majority of Nigerians including PWDs are employed.<sup>79</sup> This restriction significantly limits the Act's potential impact.

##### **(ii) Absence of operational definitions**

The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 does not define “reasonable accommodation” or “accessibility” in precise terms.<sup>80</sup> Without statutory clarity or implementing regulations, employers may be uncertain about their obligations, and courts lack clear benchmarks for enforcement.

##### **(iii) Weak enforcement infrastructure**

Although the NCPWD is mandated to monitor compliance, it suffers from inadequate funding and staffing, making it difficult to carry out nationwide oversight. There are no statutory

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<sup>79</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s29(1).

<sup>80</sup> Ibid s28(2) & s6(1).

provisions requiring regular audits, compliance reports, or public naming of non-compliant entities.

(iv) No dedicated enforcement tribunal

While victims can seek redress through the general court system under Section 28(5),<sup>81</sup> there is no specialised mechanism such as an employment or equality tribunal to handle disability discrimination claims swiftly and affordably. This leads to under-utilisation of legal remedies.

(v) Minimal judicial interpretation

Since The Discrimination Against Persons with Disabilities (Prohibition) Act enactment, there have been few reported judicial decisions interpreting its employment provisions, leaving critical questions unresolved such as how to assess compliance with the quota or determine the scope of reasonable accommodation.<sup>82</sup>

#### **4.1.4 Compatibility with International Standards**

(i) United Nations Convention on the Rights of Persons with Disabilities (CRPD)

Nigeria ratified the CRPD in 2007. Article 27 obliges State Parties to “recognise the right of persons with disabilities to work, on an equal basis with others,” which includes the right to equal pay, safe and healthy working conditions, protection from harassment, and access to general technical and vocational guidance. Article 27(1)(i) specifically requires the provision of “reasonable accommodation” to PWDs in the workplace. Article 2 defines reasonable

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<sup>81</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018. s 28(5).

<sup>82</sup> *ibid*, ss 28&29.

accommodation as “necessary and appropriate modification and adjustments” that do not impose a disproportionate or undue burden, which contrasts with Nigeria’s Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, where the term is undefined under Section 28(2).<sup>83</sup> This absence of a statutory definition in the Act weakens interpretative clarity compared to the CRPD’s precise formulation.

Article 33(2) of the CRPD mandates the establishment of an independent mechanism for monitoring implementation. In Nigeria, the National Commission for Persons with Disabilities (NCPWD) established under Section 31 of The Discrimination Against Persons with Disabilities (Prohibition) Act serves as the focal institution. However, it lacks the statutory independence and powers envisaged by the CRPD.

#### (ii) ILO Conventions

Nigeria has ratified ILO Convention No. 111 on Discrimination (Employment and Occupation) (ratified 1960), which obligates the elimination of discrimination in employment and occupation, including on the ground of disability. However, Nigeria has not ratified ILO Convention No. 159 on Vocational Rehabilitation and Employment (Disabled Persons) (1983), which requires States to adopt policies that promote vocational training, placement, and rehabilitation services for PWDs.<sup>84</sup>

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<sup>83</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s28(2).

<sup>84</sup> International Labour Organization, Discrimination (Employment and Occupation) 1958 (No. 111) & International Labour Organization, Vocational Rehabilitation and Employment (Disabled Persons) Convention, (No. 159) 1983.

## 4.2 Comparative Analysis of the UK laws, court attitude and implementation regarding discrimination in the workplace

The United Kingdom maintains a comprehensive legal and institutional framework against workplace discrimination, primarily through the Equality Act 2010, which consolidates prior anti-discrimination statutes. The Act defines disability as any physical or mental impairment that has a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities<sup>85</sup>. The Act prohibits direct and indirect discrimination, harassment, and victimisation on protected grounds such as disability, age, and sex, while imposing a positive duty on employers to make reasonable adjustments for disabled employees.<sup>86</sup>

UK courts interpret these obligations through a pragmatic but protective lens. In *Archibald v Fife Council*,<sup>87</sup> the claimant, Mrs. Archibald, was employed as a road sweeper by Fife Council. After undergoing surgery that left her unable to walk, she was declared unfit for manual work. Although she applied for several sedentary posts within the council, she was not appointed and was subsequently dismissed. The House of Lords held that the council failed in its duty to make reasonable adjustments under the Disability Discrimination Act 1995 (now the Equality Act 2010). The court ruled that transferring the claimant to an existing vacancy without requiring competitive selection could constitute a reasonable adjustment. This decision affirmed the positive, substantive nature of the employer's duty to accommodate disabled workers. Similarly,

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<sup>85</sup> The Equality Act 2010, s6.

<sup>86</sup> *Ibid*, ss19-21

<sup>87</sup> *Archibald v. Fife Council* (2004), UKHL 32.

in *Homer v Chief Constable of West Yorkshire Police*,<sup>88</sup> the Supreme Court held that indirect discrimination can occur where a provision, criterion, or practice disproportionately disadvantages disabled employees, and employers must justify such measures as a proportionate means of achieving a legitimate aim.

Enforcement in the UK combines individual redress and systemic oversight. The EHRC enforces compliance through investigations, unlawful act notices, and technical guidance, particularly on harassment prevention. Employment Tribunals continue to grant significant awards in discrimination cases, notably in disability and sex discrimination, reflecting effective though evolving implementation.<sup>89</sup> UK employers are expected to have policies (reasonable-adjustment procedures, absence-and-return arrangements, occupational health processes). In practice, variability exists: large public bodies and multinational employers typically document and implement adjustments; small firms may lack awareness or resources. Tribunals assess each case factually (what adjustments were asked for, cost/burden on employer, effect on the employee).<sup>90</sup>

By contrast, Nigeria's Discrimination Against Persons with Disabilities (Prohibition) Act 2018 mirrors the UK's legislative intent by prohibiting workplace discrimination and establishing a right to reasonable accommodation.<sup>91</sup> However, its implementation remains comparatively

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<sup>88</sup> *Homer v Chief Constable of West Yorkshire Police* [2012] UKSC 15.

<sup>89</sup> Equality and Human Rights Commission (EHRC) (2023). Employment Code of Practice.

<sup>90</sup> Equality Act 2010, 'Duty on employer's to make reasonable accommodation for their staffs'.

<sup>91</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, ss 1-4.

weak due to low employer awareness, inadequate institutional capacity, and inconsistent enforcement mechanisms.<sup>92</sup>

### **4.3 Enforcement of Workplace Disability Rights: Institutional and Judicial Perspectives**

The enforcement of workplace disability rights in Nigeria is carried out through a mix of statutory institutions, quasi-judicial bodies, and the courts. Each plays a distinct role in translating the formal guarantees found in Nigeria's legal framework into tangible protections for persons with disabilities (PWDs). While there are notable advances in institutional capacity and jurisprudence, significant gaps remain in coordination, authority, and public accessibility. This section examines these mechanisms in detail, highlighting their mandates, achievements, and limitations, while also reflecting on how they compare to international standards.

#### **4.3.1 Institutional Enforcement Mechanisms**

##### **(i) National Commission for Persons with Disabilities (NCPWD)**

The NCPWD was established under section 31 of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 as the primary agency to oversee implementation of the Act's provisions. It is responsible for promoting public awareness of disability rights, monitoring compliance with accessibility requirements, and enforcing the statutory 5% employment quota for PWDs in public institutions under section 29 of the Act.

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<sup>92</sup> Rosa M.M and Varalakshmi Vemuru, *Social inclusion of persons with disabilities in Nigeria: Challenges and opportunities* (2020) 23.

The Commission also receives and investigates complaints, advises government on policy, and collaborates with other agencies to promote inclusion. However, its lack of prosecutorial powers means it cannot independently bring offenders to court; instead, it must refer cases to the Attorney-General or other competent authorities. Coupled with inadequate funding, understaffing, and low public awareness, these constraints reduce its ability to act swiftly and decisively.<sup>93</sup>

#### (ii) National Human Rights Commission (NHRC)

Established under the National Human Rights Commission Act, Cap N46 LFN 2004, the NHRC is mandated to promote and protect human rights, including the right to equality and non-discrimination guaranteed under section 42 of the 1999 Constitution (as amended). The Commission investigates human rights complaints, conducts public inquiries, and engages in policy advocacy.

The NHRC has occasionally intervened in disability-related disputes, particularly where discrimination intersects with other human rights violations, such as denial of access to public facilities or unjust dismissal. Nonetheless, its powers are primarily recommendatory, and compliance with its findings often depends on the goodwill of respondents rather than enforceable mandates.<sup>94</sup> In contrast, human rights commissions in countries like Canada have quasi-judicial powers to issue binding rulings, illustrating a possible reform pathway for Nigeria.

#### (iii) Civil Society Organisations (CSOs)

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<sup>93</sup> National Commission for Persons with Disabilities 2020.

<sup>94</sup> National Human Rights Commission Act, Cap N46 LFN 2004, s 5.

Organisation like the Joint National Association of Persons with Disabilities act as catalyst for enforcement.<sup>95</sup> It provides legal assistance, engage in strategic litigation, and conduct public education campaigns. CSOs often fill gaps left by under-resourced government bodies, but their reach is limited by funding constraints and dependence on donor support.

#### **4.3.2 Judicial Enforcement Mechanisms**

The judiciary especially the National Industrial Court of Nigeria (NICN) is central to defining the scope of disability rights in employment and resolving disputes between employers and employees.

##### **(i) Constitutional Protections**

Section 42(1) of the 1999 Constitution prohibits discrimination based on circumstances of birth or “other status,” which courts have interpreted to include disability. In *Uzoukwu v Ezeonu II*,<sup>96</sup> the Court of Appeal stressed that constitutional equality guarantees should be read broadly to prevent all unjustifiable forms of discrimination. While the case did not directly involve disability, it established a judicial approach favourable to expansive interpretation of equality provisions.

##### **(ii) National Industrial Court Jurisdiction**

The NICN, vested with exclusive jurisdiction over labour and employment matters has delivered progressive rulings in disability-related cases. The court decisions indicate judicial willingness to

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<sup>95</sup> Joint National Association of Persons with Disabilities 1992.

<sup>96</sup> *Uzoukwu v Ezeonu II* (1991) 6 NWLR (Pt 200) 708.

apply the Act in a purposive manner. However, not all claims succeed in cases where claimants fail to establish that the alleged discrimination was directly linked to their disability, courts have sometimes dismissed actions for lack of sufficient evidence.

### (iii) Application of International Standards

In *Abacha v Fawehinmi*,<sup>97</sup> the Supreme Court clarified that international treaties become enforceable in Nigeria only after domestication. Since the Act incorporates principles from the UN Convention on the Rights of Persons with Disabilities (CRPD), courts can directly rely on CRPD standards, such as those on reasonable accommodation and workplace equality, when interpreting domestic law.

The NICN has occasionally cited CRPD provisions to strengthen its reasoning, aligning Nigeria's jurisprudence with global disability rights norms. This mirrors practices in jurisdictions like the United Kingdom, where courts frequently integrate international human rights standards into domestic decision-making.

Despite these positive trends, enforcement through the courts remains challenging for many PWDs. High litigation costs, prolonged proceedings, and limited legal aid access can deter claimants. Furthermore, not all judges possess specialised training in disability law, sometimes leading to narrow interpretations of statutory obligations.<sup>98</sup>

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<sup>97</sup> *Abacha v Fawehinmi* (2000) 6 NWLR (Pt 660) 228.

<sup>98</sup> Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/147011.htm> accessed 21 April 2025.

### **4.3.3 Assessment and Reform Pathways**

Institutional and judicial mechanisms in Nigeria represent a growing, though incomplete, framework for the protection of workplace rights of PWDs. The establishment of the NCPWD and the willingness of the NICN to interpret The Nigerian Discrimination Act in line with international standards are significant achievements. Yet, systemic weaknesses such as limited powers of enforcement bodies, resource shortages, lack of proactive monitoring, and restricted judicial access continue to undermine full realisation of these rights.

Reforms could include:

- i. Expanding the NHRC's jurisdiction to issue enforceable orders in employment discrimination cases.
- ii. Mandating regular disability-focused workplace inspections by the Ministry of Labour.
- iii. Establishing a specialised judicial training programme on disability rights.

By adopting such measures, Nigeria would bring its enforcement architecture closer to the standards envisaged under the CRPD and the International Labour Organization (ILO) Convention No. 159 on vocational rehabilitation and employment of disabled persons.

### **4.4 Barriers to Effective Enforcement of Disability laws and Good Practices Nigeria Can Adopt**

Although the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 provides a fairly comprehensive legal basis for safeguarding the rights of persons with disabilities (PWDs), its enforcement in workplace settings remains inconsistent. This section analyses the principal

obstacles to enforcement and proposes international best practices that Nigeria could adopt to improve compliance with its domestic and treaty obligations.

#### **4.4.1 Barriers to Effective Enforcement**

##### **(i) Weak Institutional Capacity**

The National Commission for Persons with Disabilities (NCPWD), established under section 31 of the Act is mandated to oversee the Act's implementation. However, it operates with limited funding, inadequate staffing, and without direct prosecutorial powers. This hinders effective monitoring, complaint investigation, and compliance action.

##### **(ii) Lack of Clear Procedural Frameworks**

Although the The Discrimination Against Persons with Disabilities (Prohibition) Act prohibits discrimination and mandates reasonable accommodation,<sup>99</sup> it provides no detailed guidance on complaint filing, timelines for resolution, or evidential burdens. In contrast, the UK Equality Act 2010 sets out structured procedures for initiating and resolving disability discrimination claims, making the process more accessible to complainants.<sup>100</sup>

##### **(iii) Low Awareness Levels**

Awareness of rights and obligations under The Nigerian Discrimination Act remains low among both employers and employees. A 2021 survey by the Joint National Association of Persons with Disabilities revealed that more than 60% of employers had never heard of the reasonable

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<sup>99</sup> The Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, Section 1 & 28.

<sup>100</sup> Equality Act 2010, Part 3 & 5.

accommodation requirement under section 28.<sup>101</sup> This lack of knowledge undermines voluntary compliance and deters PWDs from asserting their rights.

#### (iv) Social and Cultural Prejudice

Deep-rooted stereotypes and societal misconceptions about disability often lead to subtle forms of workplace exclusion that are difficult to prove legally. While section 42 of the 1999 Constitution (as amended) expressly prohibits discrimination, ingrained biases still negatively influence hiring and promotion practices.

#### (v) Weak Monitoring and Reporting Systems

Section 29 of the Nigerian Discrimination Act imposes a 5% employment quota for PWDs in public institutions, yet there is no standardised reporting or annual compliance audit. The absence of reliable data makes enforcement largely reactive rather than preventative.

### **4.4.2 Good Practices Nigeria Can Adopt**

#### (i) Creation of a Specialised Disability Rights Tribunal

Nigeria could establish a dedicated tribunal within the National Industrial Court system or as an autonomous body to hear disability rights claims. The South African CCMA model, which resolves most employment disputes within 30 days, demonstrates how specialised forums can encourage reporting and expedite justice.

#### (ii) Defining and Regulating Reasonable Accommodation

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<sup>101</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s28.

The Nigerian Discrimination Act could be amended to incorporate the CRPD's definition of reasonable accommodation and to issue regulations with concrete examples, timelines, and evaluation criteria.<sup>102</sup> Canada's Human Rights Act provides a clear precedent by defining "undue hardship" and applying measurable legal tests.

### (iii) Ratification of ILO Convention No. 159

Ratifying the ILO Convention on Vocational Rehabilitation and Employment (Disabled Persons) 1983 would commit Nigeria to a national framework for vocational training and employment services for PWDs, aligning domestic practice with international labour standards.<sup>103</sup>

## **Conclusion**

This chapter established that while Nigeria's Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 provides a commendable legal foundation for protecting persons with disabilities in the workplace, its practical implementation remains largely ineffective. The absence of strong enforcement institutions, low awareness among employers, and minimal judicial engagement have continued to limit its impact. In contrast, the United Kingdom's Equality Act 2010 presents a more functional model, supported by active institutions, detailed

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<sup>102</sup> CRPD, Article 2 <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd> accessed 21 April 2025.

<sup>103</sup> International Labour Organization, Vocational Rehabilitation and Employment (Disabled Persons) Convention, (No. 159) 1983.

guidance, and consistent enforcement that make workplace inclusion a lived reality rather than a theoretical right. The comparison underscores that having comprehensive legislation is not enough; effective enforcement mechanisms, sustained public sensitization, and a culture of accountability are essential to achieving genuine equality for persons with disabilities in Nigeria's labour sector.

## CHAPTER 5

### RECOMMENDATIONS AND CONCLUSION

#### 5.1 SUMMARY OF FINDINGS

The study establishes that while Nigeria has a progressive legal framework for safeguarding the employment rights of persons with disabilities (PWDs) principally under the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, the anti-discrimination guarantee in section 42 of the 1999 Constitution (as amended), its practical impact is undermined by weak enforcement, low compliance, and limited awareness among PWDs. Institutional actors such as the National Commission for Persons with Disabilities (NCPWD) and the National Human Rights Commission (NHRC) are central to enforcement but remain constrained by insufficient powers, inadequate funding, and minimal public outreach. Judicial decisions, particularly from the National Industrial Court of Nigeria (NICN), have shown willingness to protect disability rights in line with the UN Convention on the Rights of Persons with Disabilities (CRPD), yet procedural delays, high litigation costs, and limited judicial expertise hinder access to justice. In practice, discriminatory recruitment, inaccessible workplace infrastructure, entrenched prejudice, and non-implementation of the statutory 5% public sector employment quota for PWDs persist,<sup>104</sup> while notable gaps remain in Nigeria's alignment with CRPD obligations, particularly in the areas of enforcement mechanisms, clear reasonable accommodation guidelines, and effective remedies.<sup>105</sup>

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<sup>104</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, s29.

<sup>105</sup> Equality Act 2010, s20.

## 5.2 RECOMMENDATIONS

In view of the gaps identified in the study, the following recommendations are proposed to strengthen workplace protections for persons with disabilities (PWDs) in Nigeria:

First, the National Commission for Persons with Disabilities (NCPWD), created under section 31 of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, should be granted more direct enforcement powers. Instead of relying on referrals and persuasion, the Commission should be able to hear complaints, impose administrative sanctions, and issue binding compliance orders, similar to the model of South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA). This would also meet the CRPD's requirement for independent bodies to monitor and enforce disability rights.<sup>106</sup>

Second, the Federal Ministry of Labour and Employment should introduce a dedicated inspection system focusing on disability rights. Using its existing authority under sections 71–76 of the Labour Act, it should appoint and train specialised inspectors to carry out workplace audits, ensuring compliance with The Discrimination Against Persons with Disabilities (Prohibition) Act anti-discrimination rule, reasonable accommodation duty, and the 5% public sector quota.<sup>107</sup> The United Kingdom's compliance inspections under the Equality Act 2010 provide a useful example.

Third, public education is essential. Government agencies, civil society groups, and the media should run continuous awareness campaigns explaining disability rights in accessible formats

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<sup>106</sup> CRPD 2006, Article 33(2).

<sup>107</sup> The Discrimination Against Persons with Disabilities (Prohibition) Act 2018, ss1,4&29.

such as sign language interpretation, and captioned videos. This will help address the widespread lack of awareness that fuels discrimination.

Fourth, there should be a dedicated legal aid service for disability-related employment disputes. The Legal Aid Council of Nigeria, in partnership with the NCPWD, could establish this programme so that PWDs can challenge workplace discrimination without facing prohibitive legal costs, following examples from the UK.

Fifth, the Ministry of Labour should issue clear national guidelines on what amounts to “reasonable accommodation” under section 4 of the Act, using the CRPD’s for guidance. These should include sector-specific examples, such as assistive technology, modified work schedules, or physical workplace adjustments, to make compliance easier for employers.

Finally, Nigeria should create a public compliance database tracking organisations’ adherence to disability employment laws, especially the 5% quota. This would promote accountability by naming both compliant and non-compliant organisations.

### **5.3 CONTRIBUTION TO KNOWLEDGE**

This research makes notable contributions to the understanding and promotion of workplace rights for persons with disabilities (PWDs) in Nigeria.

To begin with, it presents an examination of Nigeria’s legal framework for protecting PWDs in employment, linking together the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, section 42 of the 1999 Constitution. Unlike earlier studies that have treated these

laws separately, this work considers them collectively, showing how their overlaps and inconsistencies affect enforcement and practical outcomes.

It also delivers a comparative assessment between Nigeria's legal protections and international obligations, particularly under the UN Convention on the Rights of Persons with Disabilities (CRPD) and International Labour Organization (ILO) Convention No. 159. This reveals precise gaps such as unclear reasonable accommodation measures, weak enforcement powers, and inadequate remedies and provides a clear basis for targeted reforms.

The study further contributes to knowledge by exploring the real-world limitations of enforcement, looking beyond the text of the law to evaluate how institutions like the National Commission for Persons with Disabilities (NCPWD), the National Human Rights Commission (NHRC), and the National Industrial Court of Nigeria (NICN) and the NSTIF respond to workplace discrimination cases. It also explains why, despite progressive judgments, systemic change remains slow. By incorporating evidence of practical workplace challenges including discriminatory hiring, inaccessible infrastructure, cultural bias, and non-implementation of the statutory 5% public sector quota the study bridges the gap between legal provisions and day-to-day realities, offering an insight that purely doctrinal studies often overlook. It also lays the groundwork for future research, particularly in tracking the implementation of disability employment laws and assessing their long-term effectiveness.

#### **5.4 SUGGESTED AREAS FOR FURTHER STUDIES**

Although this research offers a comprehensive examination of the legal and institutional

framework addressing workplace discrimination against persons with disabilities (PWDs) in Nigeria, there remain several areas where further scholarly exploration would be valuable.

First, future studies should focus on empirical research into the real-life experiences of PWDs in the workplace. While this study has primarily relied on legislation, judicial decisions, large-scale surveys and in-depth interviews could reveal the everyday challenges PWDs face, the types of discrimination encountered, and the extent to which existing remedies are effective from the viewpoint of affected individuals.

Second, industry-specific research could yield targeted recommendations. Patterns of discrimination and accessibility challenges may vary significantly between sectors such as education, finance, oil and gas, technology, and public service. Mapping these sectoral differences could guide the creation of more tailored compliance guidelines and sector-focused enforcement strategies.

Third, long-term studies are essential to monitor the implementation and impact of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. Such research could evaluate whether the statutory 5% public sector employment quota is being met, whether reasonable accommodation provisions are consistently applied, and whether institutional enforcement has strengthened over time.

Fourth, future research should examine the overlap between disability discrimination and other forms of discrimination, such as gender, age, or ethnicity. Understanding these intersectional disadvantages for example, how women with disabilities may face compounded barriers would help in designing more inclusive legal and policy interventions.

Lastly, economic-focused studies could assess how disability-inclusive employment practices influence productivity, staff retention, innovation, and organisational reputation. Providing economic evidence for inclusion could strengthen both the legal and business cases for compliance among employers.

## **5.5 CONCLUSION**

This research demonstrates that although Nigeria has a relatively progressive legal framework for protecting the employment rights of persons with disabilities (PWDs) built upon the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, section 42 of the 1999 Constitution, and supplementary labour legislation, the gap between legal provisions and workplace realities remains wide. Enforcement is weakened by institutional limitations, insufficient resources, low levels of awareness among the public and PWDs themselves, and deep-seated cultural prejudices. While the judiciary, particularly the National Industrial Court of Nigeria, has on occasion delivered forward-looking judgments, these have not yet generated widespread systemic reform due to procedural bottlenecks, high litigation expenses, and limited specialised expertise.

The analysis also reveals that Nigerian laws do not fully align with international obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD) and ILO Convention No. 159. Areas such as the definition and application of reasonable accommodation, the establishment of strong enforcement mechanisms, and the provision of effective remedies remain underdeveloped. In practice, workplace discrimination persists in many forms, including

biased hiring processes, lack of physical accessibility, and the consistent failure to achieve the statutory 5% employment quota for PWDs in the public sector.

Ultimately, ensuring full workplace inclusion for PWDs in Nigeria is not solely a matter of legal compliance; it is a test of national commitment to equality, human dignity, and social justice.

The transition from legislative promises to lived realities will depend on persistent enforcement, structural reform, and a shift in societal attitudes toward genuine acceptance and inclusion.

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