

## Legal Appraisal of the Electoral Rights of the People Living with Disabilities (PLWDS) in Nigeria: Need for Collaboration and Inclusivity

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### **Abstract**

**Aim:** According to the World Health Organisation, persons living with disability in Nigeria constitute 15% (25 million) of Nigeria's population, and their civil and political rights must be protected. It is noteworthy that by virtue of the Discrimination Against Persons with Disabilities (Prohibition) Act, the voting rights of Persons Living with Disabilities (PLWDs) are secured, however, implementation of this Act has become an impediment to the rights of PLWDs. This paper investigates the reasons for the decline in political participation among the PLWDs and effective measures to actualize the already provided legal frameworks.

**Methods:** This work adopts a desk-based (doctrinal) research methodology.

**Results:** This paper reveals that the primary threat to the enjoyment of political rights by PLWDs is the failure to include PLWDs in decision-making, which is nearly impossible as there are few or no PLWDs in the legislature. It is noteworthy that Nigeria's democracy will be deemed pseudo if a fraction of the society, regardless of their population, are disadvantaged or put in such a position that enforcing their suffrage is impracticable.

**Conclusion:** This study concludes that involving the PLWDs in decision making or seeking their suggestions before making laws concerning or affecting them will make the laws practicable.

**Keywords:** Disability, right to vote, discrimination, legal frameworks.

## 1.0 INTRODUCTION

The Collins English Dictionary defines voting as the action or process of indicating choice, opinion, or will on a question, such as the choosing of a candidate by or as if by some recognized means, such as ballot.<sup>1</sup> Voting is a process by which citizens of a country elect their representatives, and the persons who vote are called voters. The method of voting, or otherwise referred to as electoral process differs according to jurisdiction. The act of voting takes place at polling stations recognized and authorised by the government. However, with the current wave of technology, certain countries and associations, for instance, the United States of America (USA), Estonia, the Nigerian Bar Association (NBA) among others, have utilized the internet for their electoral process (Electronic voting or E-voting).<sup>2</sup> Voting can either be voluntary, as in the case of Nigeria and the United Kingdom among others, or compulsory, as in the case of Australia, Argentina, Austria, Belgium, etc.<sup>3</sup>

The major significance of voting is to actualize the aim of democracy, that is, a government founded upon majority. Voting is a very vital part of democracy. This is so because through this medium, citizens decide who leads and represents their ideas, welfare, and interest as provided by section 14 (2) (b) of the 1999 Constitution (as amended),<sup>4</sup> that the primary purpose of government is the welfare and security of its people. It is noteworthy that democracy and voting are interdependent, that is, a democratic society is determined by the genuineness of the voting process. Democracy as defined by Abraham Lincoln is the government of the people, by the people and for the people.<sup>5</sup> This definition has been globally accepted as the most concise definition of democracy. The medium through which democracy can be achieved is by voting. In a democratic society, the citizens, on a stipulated day, come out to vote their candidates in a free and fair election, and the candidate with the highest votes emerges the winner.

Initially, voting in Nigeria was restricted to a great extent, in that only male British subjects or Nigerian natives who had lived in their municipal area for the 12 months prior to the election, who were 21 years of age and above, and who earned at least 100 Pounds in the previous calendar year, were deemed eligible to vote.<sup>6</sup> Nevertheless, as the society advanced, voting rights began to broaden to encompass all men. After the battle for inclusion of all men in the right to vote, the

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<sup>1</sup> Collins English Dictionary. (n.d). *Voting Definition and Meaning*. Retrieved March 4, 2023, from [www.collinsdictionary.com/votingdefinitionanf=dmeaning](http://www.collinsdictionary.com/votingdefinitionanf=dmeaning)

<sup>2</sup> History House. (n.d.). *Electronic Voting – US House of Representatives*. Retrieved April 30, 2023 from <https://history.house.gov/electronicvoting>

J. Onyekwere, (2020, August 11). *Nigerian Bar Association and Controversial Electronic Voting*. The Guardian. Retrieved May 1, 2023, from <https://www.guardian.ng/news/nba-ad/>

The Nigerian Bar Association introduced electronic voting in its 2015 Constitution under the leadership of its then President, Mr. Augustine Alegeh (SAN).

<sup>3</sup> Parliament of Australia. (n.d.). *Appendix G-Countries with Compulsory Voting*. Retrieved May 3, 2023, from <https://www.aph.gov.au>elect04>

<sup>4</sup> Section 14 (2) (b) 1999 Constitution of Federal Republic of Nigeria CFRN (as amended).

<sup>5</sup> House Divided. (n.d.). *HD Daily Report Definition of Democracy (August 1, 1858) Lincoln's Writings: The Multi-Media Edition*. Retrieved May 1, 2023, from <https://housedivided.dickson.edu/sites/lincoln/definition-of-democracy-august-1-1858/>

<sup>6</sup> N.T. Tekana. (1966). *Nigeria and Electoral Representation 1923-1947*. Heinemann Publishers, 126.

battle to enfranchise women began, and after its success, franchise became unrestricted; except for minors and persons of unsound mind, which is the standard introduced by the United Nations.<sup>7</sup>

## 2.0 THE RIGHT TO VOTE IN PERSPECTIVE

The right to vote falls under the category of civil and political rights, and is a fundamental political right. The superiority of the right to vote in the hierarchy of political rights has been emphasised in the case of *Westberry v Sanders*,<sup>8</sup> thus no right is more precious in a free country than that of having a choice in the election of those who make the laws. As good citizens, they must live, other rights even the most basic are illusory if the right to vote is undermined.

The right to vote is perceived as inextricably intertwined with the concept of democracy. According to Venkatarangaiya, as cited by Epiphany Azinge:<sup>9</sup> If popular control of government through the mechanism of elections is the essence of democracy, it follows that the control should be by all people and not by any few among them. Unless it can be proved that those who are excluded are either unfit or incompetent to exercise the vote...the basis of democracy is the principle of equality of all citizens and that to give the right to vote to some and to deny it to others is in conflict with this principle and is therefore unjust.

Epiphany further argues that although the right to vote is constitutional, the constitution still further provides guidelines which determines who has the capacity to exercise the right to vote. Section 117 (2) of the Constitution of the Federal Republic of Nigeria, 1999 states thus every citizen of Nigeria who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for purposes of election to any legislative house, shall be entitled to be registered as a voter for that election.<sup>10</sup>

The purpose of democracy which is intertwined with the right to vote is defeated if persons deemed eligible by the constitution are not allowed to vote due to their disability. According to the United Nations, elections lie in the heart of democracy, and remain the primary means through which individuals exercise their right to participate in public affairs – Countries and people across the globe have recognized that free and genuine elections are a crucial democratic requirement and an imperative means of giving voice to the will of the people, which is the basis of government authority.<sup>11</sup>

Furthermore, as provided by Article 21 of the Universal Declaration of Human Rights; “everyone has the right to take part in the government of his country directly or through freely chosen representative.”<sup>12</sup> According to United Nations’ Handbook on International Human Rights Standards on Elections, “the right to equality and non-discrimination must be respected so that all citizens are ensured equal access to participation in electoral processes.” It further stipulates that “where needed, special measures should be taken to increase the representation of women,

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<sup>8</sup> 376 US 17

<sup>9</sup> Epiphany Azinge, (1994). *The Right to Vote in Nigeria: A Critical Commentary on the Open Ballot*. *Journal of African Law*, 38 (2), 173.

<sup>10</sup> Section 117 (2) 1999 CFRN (as amended).

<sup>11</sup> According to Kofi Annan, former Secretary-General of the United Nations, ‘Elections are at the Heart of Democracy’ Retrieved May 4, 2023, from <https://www.facebook.com>.

<sup>12</sup> See Article 21 Universal Declaration of Human Rights.

minorities and persons with disability especially those with intellectual or psychosocial disabilities may exercise their right to vote.”<sup>13</sup>

The aim of harnessing the right to vote is to emphasize on the significance or the need of the vote of a person. The constitution stipulates that no one should be discriminated by nature of his birth; therefore, whether directly or indirectly, no disabled person who is an eligible voter should be denied of right to register to vote, and right to vote.<sup>14</sup>

### 3.0 COMPREHENSIVE AND CONTEXTUAL APPRAISAL OF “DISABILITY”

A disability is a condition that impedes a person from performing certain activities that a human ordinarily can.<sup>15</sup> Therefore, a disabled person is simply a person living with a disability. According to the World Bank in 2023, 1.3 billion people or 16% of the world’s population experience some form of disability.<sup>16</sup> According to a 2018 World Bank Report, one in 6 Nigerians live with a disability and in 2020, it was reported that over 27 million Nigerians live with some form of disability, ranging from visual impairment, hearing impairment, physical impairment, intellectual and communication impairment. There have been movements, both nationally and internationally<sup>17</sup> to include disabled persons in all sectors of the society.<sup>18</sup> Undoubtedly, disabled persons undergo segregation, marginalization, and discrimination in the society, hence, the establishment of the United Nations Convention on the Rights of Persons with Disabilities, which primarily emphasizes on facilitating full integration of persons with disability in the society.<sup>19</sup> As a matter of fact, the 2030 Agenda for Sustainable Development clearly states that disability cannot be a reason or criteria for lack of access to development programmes and the realisation of human rights.<sup>20</sup>

<sup>13</sup> United Nations Human Rights Office of the High Commissioner Professional Training Series. (2021). *Human Rights and Election: A Handbook on International Human Rights Standards on Elections*. United Nations.

<sup>14</sup> See generally Sections 15 (2), 17 (2) (3) 1999 CFRN (as amended).

<sup>15</sup> Merriam-Webster Dictionary. (n.d.). *Disability*. Retrieved July 7, 2023, from <https://www.merriam-webster.com/dictionary/disability>

<sup>16</sup> World Bank. (n.d.). *Disability Inclusion Overview*. Retrieved March 7, 2023, from [www.worldbank.org/org/en/topic/disability](http://www.worldbank.org/org/en/topic/disability)

<sup>17</sup> Daily Trust. (2023, March 26). *Key Rights of Persons with Disabilities in Nigerian Elections*. Retrieved March 25, 2023, from <https://dailytrust.com/key-rights-of-persons-with-disabilities-in-nigerian-elections/>

<sup>18</sup> For instance, Advocacy for Women with disability Initiative in Nigeria, Association of Lawyers with Disability in Nigeria, Centre for Disability and Development in Nigeria, Centre for Citizens with Disability, Nigerian Association of the Blind, Voice for Disability Initiative, Nigeria, Hope Alive Foundation in Nigeria, Uganda National Action on Physical Disability, Commonwealth Disabled People’s Forum, Kenya Disables Information and Advisory Centre. See generally FCDO Disability Inclusion and Rights Strategy 2022-2030, which started a new movement through co-hosting the first Global Disability Summit (GDS) held in 2018, coded (GDS, 2018). The second Global Disability Summit was held in Oslo in Norway in 2022 (GDS 2022) co-hosted by Norway and Ghana.

<sup>19</sup> Daily Trust, (supra).

<sup>20</sup> See Goal 10 strives to reduce inequality within and among countries by empowering and promoting the social, economic and political inclusion of all, including persons with disabilities. United Nations Department of Economic and Social Affairs. (n.d.). *Sustainable Development Goals (SDGs) and Disability*. Retrieved May 2, 2023, from <https://social.desa.un.org/issues/disability/sustainable-development-goals-sdgs-and-disability>

### 3.1 Categories of Disability

According to Disabled World,<sup>21</sup> there are four basic categories of disability; Visual impairment, which includes total blindness, low vision and partial blindness. Hearing impairment, which includes deafness, partial deafness and hard hearing. Locomotor disability, which includes any disability of movement, for instance, amputation, spinal injury, fractures, soft tissue, cerebral palsy, among others. Dwarfism and speech and language disability, and Leprosy. Leprosy, according to the Cleveland Clinic, leprosy, which is also known as Hansen Disease is an infectious disease caused by mycobacterium leprae, and in its advanced stages, can cause deformity in the eyes, hands, and feet. According to the World Health Organisation, approximately 200,000 people have leprosy around the globe. Leprosy affects people of all ages. When leprosy is in its advanced stage, it can cause paralysis, vision loss, disfigurement of the nose, permanent damage to the hands and feet, shortening of the fingers and toes, and chronic ulcers on the bottom of the feet that do not heal.<sup>22</sup> The severity of leprosy is classified in a grading system. The grading system has been outlined by the WHO thus;<sup>23</sup> grade 0 is absence of disability and no visible damage or deformity on eyes or feet, grade 1 is loss of protective sensibility on eyes, hands and feet, and grade 2 is presence of deformities or visible damage to the eyes, hand or feet.<sup>24</sup>

Leprosy is quite popular disease in Nigeria. It is common in villages where the people have little or no enlightenment about the disease and are unable to identify it until it gets to the stage of deformity. Leprosy is attached with extreme stigma in Nigeria. Persons who have been diagnosed with leprosy, even after successful treatment are still subject to stigma. The case of one Mrs. Aisha Yunisa covered by Nigeria Health Watch is an example under this scenario.<sup>25</sup> Mrs. Yunisa, a native of Niger State, was stigmatised in her community and by her co-wives after she was diagnosed of leprosy. Nevertheless, although the treatment was successful, the disease had already deformed her hands, feet and eye, thus the stigmatization. As a result of this, she divorced her husband and left Niger state for Alhen community in Yangogi village, Kwali Area Council, Federal Capital Territory, which has become a home to more than 500 people, most of whom are people affected by leprosy, and their families. Another story is that of Ifeanyi Agbai, who owned a clothing boutique prior to being diagnosed with leprosy. He lived in ignorance of the disease for three years, within which he tried several alternatives including modern medicine, traditional medicine, and spiritual options. He was also successfully cured of the disease, but still suffered stigma in the

<sup>21</sup> Definition, Types and Models of Disability available at <https://www.disabledworld.com>. M. Wallace, (n.d.). *Types of Disability: Common Types of Physical Disabilities*. Doctor Disability. Retrieved April 28, 2023, from <https://www.doctordisability.com/disability-types/>

<sup>22</sup> Cleveland Clinic. (2022, May 18). *Leprosy (Hansen's Disease)*. Retrieved March 7, 2023, from <https://myclevelandclinic.org/health/diseases/23043-leprosy-hansens-disease>

<sup>23</sup> J. Brandsma, & H. Brakel. (2003). WHO Disability Grading: Operational Definitions. *Leprosy Review*74 (4), 366-373. Courtright, P. & Lawellen, S. (1992). Consideration in the Integration of Eye Care into Leprosy Care Services. *Leprosy Review*, 63 (1), 73-77.

<sup>24</sup> H. Gunawan, A. Kamilia, S.L. Menaldi, Marissa Melani, C.R.S. Prakaoewa, M.D. Alinda, D. Widasmara, S. Basuki, Q. Anum, T. Ariani, E.H. Mamujaja, & L.M.M. Rusyati, . (2021). Characteristics of Grade 2 Disability in Indonesian Children with Leprosy: A Five Year Multicenter Retrospective Study. *Clinical, Cosmetic and Investigational Dermatology Journal*, 1 (14), 1149-1153. <https://doi.org/10.2147/CCID.S325858>

<sup>25</sup> Nigerian Health Watch. (2021, January 27). *World Leprosy Day 2021: Making Life Count for People Affected*. Retrieved April 30, 2023, from <https://articles.nigeriahealthwatch.com/world-leprosy-day-2021-making-life-count-for-people-affected-by-leprosy-in-nigeria/?amp=1>

society, and remains in Uzuakoli Leprosy Centre, Abia State of Nigeria, as he yearns for financial support to restart his business.<sup>26</sup>

In Nigeria, leprosy subsists as a significant public health concern with over 3,000 new cases being diagnosed every year in the country and as stated by the National Centre for Disease Control, 25% of them causing irreversible deformities (Grade 2).<sup>27</sup> In order to impede leprosy from creating deformities, it must be detected early and immediately treated with Multidrug Therapy (MDTY) as recommended by the World Health Organisation. However, as a result of ignorance of its symptoms, it is rarely discovered on time. Based on a 2018 study conducted by Daniel Olusoji et al, the Grade 2 Disability rate was 0-17 per 100,00, and out of 2835 cases of leprosy in 2016, 286 had Grade 2 Disability.<sup>28</sup>

The Nigerian Health Watch notes that the stigma associated with the leprosy makes life difficult for the victims and push them to spend most of their lives in isolation, and in so doing, they are denied the right to association, and further seclude themselves from voting. Most persons living with leprosy are ostracized and forced to live in lepers' colony/settlements (leprosarium). There are 64 leprosy settlements across Nigeria, and the patients who live there can barely feed, talk more of locating polling units to exercise their votes. They depend on donations from NGOs or even missionaries. Most of them live in these centres till their death because they have been banished from their communities or deserted by their family members, and they do not have a place to stay outside the leprosarium. In many communities in Nigeria, there is a superstition that leprosy is a disease carried by persons who have committed sins or have been cursed. For instance, in several villages in South Eastern Nigeria, it is believed that leprosy is payment for abominable acts.

Intellectual disability encompasses speech learning disabilities and autism spectrum disorder. A mental disability is a cognitive or psychological condition that limits a major activity in some way or requires special services.<sup>29</sup> It is characterized by a clinically significant disturbance in an individual's cognition, emotional regulation, or behaviour.<sup>30</sup> As a matter of fact, 1 in every 8 people live with a mental disorder. Disability caused by certain diseases encompasses chronic neurological conditions, such as multiple sclerosis and Parkinson's disease or blood disorder, such as, haemophilia, thalassemia, and sickle cell disease.

<sup>26</sup> Linus Onah, (2020, January 15). *Leprosy lives on in Nigeria 20 years after its Elimination as a Public Health Problem*. Devex. Retrieved April 30, 2023, from <https://www.devex.com/news/leprosy-lives-on-in-nigeria-20-years-after-its-elimination-as-a-public-health-problem-96345/amp>.

<sup>27</sup> World Health Organisation: Enhanced Global Strategy for Further Reducing the Disease Burden due to Leprosy, 2011-2015. Geneva: World Health Organisation: 2009; S. Udo, J. Chukwu, and J. Obasanya. . (2013). Leprosy Situation in Nigeria. *Leprosy Review*, (84), 229-237.

<sup>28</sup> O.J. Daniel, O.A. Adejumo, K.S. Oritogun, O. Omosebi, J. Kuye, and S. Onyemaechi. (2017). Leprosy Disease Burden, Active Transmission and Late Presentation at the Lowest Administrative Level in Nigeria: A Spatial Approach. *British Leprosy Review Association*, 88 (3), 343 -353. doi:10.47276/lr.88.3.343

<sup>29</sup> Lisa Roundy. (2021, December 27). *Different Types of Mental Disabilities: Definitions and Examples*. Study. Retrieved May 5, 2023, from <https://www.study.com/academy/lesson/different-types-of-mental-disabilities-definitions-examples.html>

<sup>30</sup> World Health Organisation. (2022, June 8). *Mental Disorders* Retrieved May 5, 2023, from <https://www.who.int/news-room/fact-sheets/detail/mental-disorders>.

#### **4.0 LEGAL AND INSTITUTIONAL FRAMEWORK PROTECTIVE OF POLITICAL RIGHTS OF PEOPLE WITH DISABILITY.**

##### **4.1 The Electoral Act, 2022**

This Act recognizes the voting rights of persons living with disability in Section 54<sup>31</sup>. Thus;

(1) A Voter with visual impairment or other form of disability who is otherwise unable to distinguish symbol or who suffers from any other physical disability may be accompanied into the polling unit by a person chosen by him or her and that person shall, after informing the Presiding officer of the disability, be permitted to accompany the voter into the voting compartment and assist the voter to make his or her mark in accordance with the procedure prescribed by the Commission.

(2) The Commission shall take reasonable steps to ensure that persons with disabilities, special needs and vulnerable persons are assisted at the polling place by the provision of suitable means of communication, such as Braille, large embossed print, electronic devices, sign language interpretation, or offsite voting in appropriate cases.

##### **4.2 The Discrimination Against Persons with Disability (Prohibition) Act, 2018<sup>32</sup>**

This Act defines discrimination as “differential treatment”. The aim of the National Commission for Persons with Disability is not only to fight against discrimination against disabled persons, but also to make disabled persons have equal opportunities like others with disability.<sup>33</sup> Section 1(2) of the Act makes it a criminal offence to discriminate against a disabled person with offender being liable on conviction to a fine of N1,000,000 if the person is a body corporate, and a fine of N100,000 or six months imprisonment or both, if the offender is an individual.<sup>34</sup> Furthermore, section 30 (i) of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 provides that; (i) Persons with disabilities shall be encouraged to fully participate in politics and public life.<sup>35</sup>

##### **4.3 United Nations Convention on the Rights of Persons with Disabilities**

This convention kicks against discrimination against persons with disabilities. Article 12 (3) of the Convention on the Rights of Persons with Disabilities provides that; “State parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.”<sup>36</sup> Article 29 (a) provides further that “To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others directly or through freely chosen representatives. Including the right and opportunity for person with disabilities to vote and be voted for, inter alia, by (i) Ensuring the voting procedures, facility and materials are appropriate, accessible and easy to understand and use.”<sup>37</sup>

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<sup>31</sup> Section 54 of the Electoral Act 2022.

<sup>32</sup> Discrimination Against Persons with Disability (Prohibition) Act LFN 2018.

<sup>33</sup> Section 1(1) of the Discrimination Against Persons with Disability Act 2018 prohibits all forms of discrimination by any person or institution in any manner or circumstance.

<sup>34</sup> Section 1 (2) *ibid*.

<sup>35</sup> Section 30 (i) Discrimination Against Persons with Disabilities (Prohibition) Act, 2018.

<sup>36</sup> Article 12 (3) of the Convention on the Rights of Persons with Disabilities.

<sup>37</sup> Article 29 (a) of the Convention on the Rights of Persons with Disabilities.

#### **4.4 Evidence Act**

Section 119 of the Evidence Act 2011 supports Section 54 of the Electoral Act 2022 on the disabilities of illiterates, blindness, deafness, dumbness and persons without hand vis-a-vis their right to execute documents.<sup>38</sup>

#### **4.5 The 1999 Constitution of the Federal Republic of Nigeria (as amended)**

This constitution also fights against all forms of discrimination in the country. Section 15 (2) provides that “Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic associations or ties shall be prohibited.”<sup>39</sup> Section 17 encompasses the social objectives of Nigeria, and it provides in (1) that “the state social order is founded on ideals of Freedom, Equality and Justice.”<sup>40</sup> Section 17 (2) (a) further provides that “Every citizen shall have equality of rights, obligations and opportunities before the law.” Furthermore, Section 117 (2) states thus, every citizen of Nigeria, who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for purposes of election to any legislative house, shall be entitled to be registered as a voter for that election.<sup>41</sup> The significance of the right to vote has been enunciated in this work, for the purposes of situating the consequence of the denial of such right. Nevertheless, the conditions of leprosum (leprosy settlements or colonies) have been brought to the notice of the government and public, and these disabled persons who feel abandoned by the government have the right to choose whom they believe will alleviate their conditions.

#### **4.6 The National Commission for Persons with Disabilities (NCPWD)**

This commission was inaugurated by the Nigerian President, Muhammadu Buhari on 8<sup>th</sup> January, 2021. This agency (NCPWD) was established to protect, preserve and advance the rights of the disabled. It is also to prevent discrimination against persons with disabilities and to make every one of them have equal rights and opportunities with their counterparts with no disabilities. The NCPWD was provided for in the Discrimination Against Persons with Disability (Prohibition) Act, 2018 and it is headed by an Executive Secretary who is under the supervision of the Federal Ministry of Humanitarian and Affairs, Disaster Management and Social Development. This agency protects political rights of the disabled as well.

#### **4.7 The Civil Society and other numerous Non-Governmental Organizations (NGO)**

There are plethora of civil society groups and other NGOs on the field championing the rights of the disabled generally. The civil society and the NGOs also protect the political rights of the disabled.

#### **4.8 National Human Rights Commission (NHRC)**

This agency of the federal government is given the responsibility of protection human rights as much as possible and to take necessary action in the event of a breach to seek redress. NHRC serves as an extra-judicial mechanism for the respect and enjoyment of human rights. The disabled

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<sup>38</sup> See generally Sebastian T. Hons, *Law of Evidence in Nigeria* (2<sup>nd</sup> edn, Pearl Publishers 2012), Chapter 11, pp.874-888. .

<sup>39</sup> Section 15 (2) 1999 Constitution of the Federal Republic of Nigeria (as amended).

<sup>40</sup> Section 17 (1) 1999 Constitution of the Federal Republic of Nigeria (as amended).

<sup>41</sup> Section 117 (2) 1999 CFRN (as amended).

as humans are captured under this agency. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues. It was established by the NHRC (Amendment) Act 2010.

## **5.0 PERSONS LIVING WITH DISABILITIES AND POLITICAL MARGINALISATION AND APATHY**

Political apathy is absolute abstinence from political activities. Generally, political participation by Persons Living with Disability (PLWD) is very low. Stigmatisation and discrimination is a major reason why PLWD abstain from electoral processes. As a matter of fact, lepers with Grade 2 disability amongst other categories of PLWD account for a fraction of beggars on the street. They barely get any reasonable jobs, and are ostracized upon disclosure of their condition. More so, there was no special provision for them to enable them participate as fingerprint was a prerequisite to participating in any voting (registration, accreditation, and marking of ballot paper). The use of Bimodal Voter Accreditation System (BVAS) by the Independent National Electoral Commission (INEC) in the 2023 elections has received praise from human rights activists who believe that BVAS has allowed for inclusion of lepers and other victims of injury and natural causes. The BVAS allows for a dual biometric identification; the fingerprint and face recognition. This implies that a person without fingers can still participate in electoral processes via face recognition. This is a huge relief to leprosy deformed persons who believe that it is the actualization of the promise of the INEC chairman; Professor Mahmoud Yakubu that “the commission will ensure that several measures are adopted to ensure that persons living with disabilities are included in the electoral process in the country.”<sup>42</sup>

Lepers and their representatives in Nigeria have voiced out the relief brought by the BVAS. Mallam Bello Umar, the Chief of Leprosy Colony in Niger State commended INEC in 2023, for including the leprosy community via BVAS. He further stated that in previous election they were not carried along either during the registration or voting process. He narrated that “in the previous elections there was no provision in the ballot for the lepers to vote, but in this new system, since you don’t have finger to be captured by the machine, your face will be scanned with a camera for authentication, then you go and cast your vote with your guide.”<sup>43</sup> The 2022 Electoral Act did not make specific provisions for lepers in the section for disabled persons. Section 54 (2) states: “The Commission shall take reasonable steps to ensure that persons with disabilities, special needs and vulnerable persons are assisted at the polling place by the provision of suitable means of communication, such as Braille, large embossed print, electronic devices, sign language interpretation, or offsite voting in appropriate cases.”<sup>44</sup>

All proffered solutions (Braille, large embossed print, electronic devices, sign language interpretation, or offsite voting) do not cover lepers. Lepers, deformed lepers to be precise, by virtue of their implied exclusion in electoral processes were of no value to politicians, and Mallam

<sup>42</sup> Speaking at the public presentation of a Report on ‘Disability Votes Matter’ an event organised by Inclusive Friends on 25<sup>th</sup> October 2017 in Abuja, INEC Chairman pledged support for Persons Living with Disabilities (PLWDs). Today, the story is better having developed Disability Framework and Action Plan to make electoral services more accessible to PLWDs. Apparently, enhancing the electoral value of the PLWDs is a process not a destination.

<sup>43</sup> Abdul Mohammed Isa. (2023, February 25). *Election: Leprosy Colony Commends use of BVAS’* Voice of Nigeria. Retrieved March 22, 2023, from <https://von.gov.ng/election-leprosy-colony-commends-the-use-of-bvas/>

<sup>44</sup> Section 54 (2) of Electoral Act 2022 LFN has no express provision for the lepers.

Bello Umar assents to this in his statement: “Politicians don’t even come here for campaigns, they believe that we don’t have any political value since we can’t vote and there was no provisions for us to vote in the ballot papers”.<sup>45</sup>

Presently, the problem of exclusion from electoral processes has been resolved, but it is barely known by the persons it is meant for. As earlier stated, it is very rare to find a Grade 2 deformed leper who has been successfully treated in the society. They are exposed to stigmatization, and prefer to live with people with the same condition. In almost all states in Nigeria, there is a settlement for lepers, particularly the deformed ones, called a Leprosy Colony. Their basic means of survival is begging, farming, and donations from Non-Governmental Organisations or missionaries and other humanitarian aids. There were some movements to include lepers in the electoral process; that is to ensure that they utilize the already provided BVAS, but unfortunately, they were very few. Nevertheless, a move to promote inclusion of lepers was carried out in Chachanga Local Government Area of Niger state. There, Professor Samuel Egwu, the Resident Electoral Commissioner (REC) deployed officials in the Local Government’s Leprosy Colony to conduct voter registration in respect to the 2023 elections.<sup>46</sup>

During the voters’ registration of 2022, PLWDs accounted for less than 1% of registered voters as at May 30. Undoubtedly, INEC, alongside the Federal Government has done a commendable work by establishing a legal framework for the inclusion of disabled persons in electoral processes after a longtime of activism. Section 54 of the Electoral Act, 2022 and the Minodal Voter Accreditation System (BVAS) is a breakthrough for the disabled community, especially grade 2 lepers and persons without fingers.

With all the promises made by INEC and section 54 of the Electoral Act, 2022, the disability community strongly hoped for effective implementation of the “inclusion drive”. However, reports from PLWDs and their representatives<sup>47</sup> reveals the various challenges and impediments encountered by PLWDs in the exercise of their voting rights, hence, there is still a huge gap between theoretical expressions and practical actualization. Kemi Falodun, in his 2023 report, opines that the allocated budget for disability inclusion was channeled into creating awareness about the process and procuring magnifying glasses, tactile ballot guides, signage posters, sign language, interpreters and other aids, but experts argue that although this is a nice step, but disability inclusion is still far away. According to some PLWDs who were witnesses, some people with albinism and visual impairment could not vote as not all polling units had access to Braille ballot paper.<sup>48</sup> The founder of the Centre for Citizens with Disability (CCD), David Anyaele, stipulated that during the 2023 elections, most poll units remained inaccessible, and was a no-go area for physically disabled persons in terms of access and participation in electoral processes. He mentioned that securing a legal framework that prohibits discrimination and other harmful practices against citizens with disability was a source of joy to the community. He further noted

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<sup>45</sup> Kemi Falodun. (2023, June 8). *Nigerian with Disabilities seek Inclusion in Electoral Process*. Aljazeera. Retrieved March 27, 2023, from <http://www.aljazeera.com/amp/features/2022/6/29/in-a-nigerian-lepers-colony-residents-endure-stigma-and-neglect>

<sup>46</sup> Channels Television. (2022, July 24). *INEC Conducts Voter Registration for Lepers in Inclusion Drive*. Retrieved March 23, 2023, from [www.channels.tv.com/2022/07/23/inec-conducts-voter-registration-for-lepers-in-inclusion-drive/amp/](http://www.channels.tv.com/2022/07/23/inec-conducts-voter-registration-for-lepers-in-inclusion-drive/amp/)

<sup>47</sup> Ibid 45, 51 & 55.

<sup>48</sup> Ibid 35.

that “we recognize the collaborative posture of some state institutions to our work [but] the electoral management body must take appropriate measures to [fully] implement the Electoral Act, 2022.”<sup>49</sup> Kofi Annan, a former Secretary General of the United Nations identified this problem in his statement of actualization of human rights in 2005: “We all know what the problems are, and we all know what we have promised to achieve. What is needed now is not more declarations or promises, but action to fulfill the promises already made.” The law has already been provided for in this circumstance, therefore, the primary focus is bringing the law into reality.<sup>50</sup>

A report conducted by CCD’s research desk on the 18<sup>th</sup> June 2022 Ekiti State Governorship election revealed that 95% of PLWD in Ekiti were prepared to vote, 80% of them had Permanent Voters Card (PVC), but 44.2% of them found some of the polling units inaccessible – the physically disabled complained about topography.<sup>51</sup> The Chairman, Joint National Association of Persons Living with Disabilities, Ekiti Chapter; Kayode Owolabi noted that INEC had not been carrying his members along as expected.<sup>52</sup> Nevertheless, this was otherwise in Osun’s July 16 2022 governorship election, where the CCD praised INEC for providing materials contained in section 54 of the Electoral Act, 2022, but complained of the inaccessible locations for the physically disabled.<sup>53</sup>

The general problems faced by persons with disabilities include; venue inaccessibility (physically disabled), poor communication as a result of unavailability of sign language interpreters (hearing impairment), no access to printed materials and braille (visual impairment). It is noteworthy that bad governance affects both the disabled and abled but is more severe on the disabled who are already by default, disadvantaged. Therefore, the government must ensure that disabled persons are given the same opportunity as abled persons to exercise their voting rights.<sup>54</sup> Persons with disabilities abstain from politics consciously. They feel segregated and marginalized. They complain of rarity of sign language interpreters as a general disregard for PLWD. They claim that inclusion of PLWD in political campaigns is a mere charade to incite them to vote. According to an interview granted by the National President, Joint National Association of Persons Living with Disabilities, Abdullahi Kebbi, in July 2022, manifestos including the disability community is a mere charade. He states,<sup>55</sup>

Personally, I am yet to see any candidate that specifically stated he would do this for people with disability. What they have done is generalize everything they intend do, and it does not work that way. If they say they will build infrastructures, but they are not accessible to PLWD, how have we benefited from that?...We have our needs, which are

<sup>49</sup> Ibid. 35.

<sup>50</sup> Kofi Annan. (2005, May 2005). In *Larger Freedom: Towards Development, Security and Human Rights for All*. Retrieved May 5, 2023, from <https://www.un.org/largerfreedom/contents/html>

<sup>51</sup> Josiah Oluwole. (2022, May 24). *Ekiti 2022: People with Disabilities Threaten to Sue INEC*. Premium Times. Retrieved March 27, 2023, from [www.premiumtimesng.com/news/headlines/532019-ekiti-2022-people-with-disabilities-threaten-to-sue-inec.html?tztc=1](http://www.premiumtimesng.com/news/headlines/532019-ekiti-2022-people-with-disabilities-threaten-to-sue-inec.html?tztc=1)

<sup>52</sup> Ibid.

<sup>53</sup> Samuel Bolaji. (2022, July 16). *Osun; Disability Group Hails INEC on Voting Access*. Punch Newspaper. Retrieved March 27, 2023, from <https://punchng.com/disability-group-hails-inec-on-voting-access/?amp>

<sup>54</sup> Ibid. 41.

<sup>55</sup> Solomon Odeniyi. (2023, January 10). *Party Manifestos Overlook Persons with Disabilities – Associate President*. Punch Nigeria. Retrieved March 27, 2023, from <https://punchng.com/party-manifestos-overlook-persons-with-disabilities-association-president/?amp>

special....From governorship to presidential candidate, I have not seen anyone with a manifesto that states he or she will address A, B, and C problems facing people with disabilities.

The effect of this is that many of our people will not come out to vote during the 2023 general elections, despite having their PVCs. For example, all these presidential candidates are busy campaigning, promising this, promising that, how do you think blind and deaf will understand them and vote for them? Some of our members cannot make informed decision with what is in place. To gain the support of our community, any candidate must guarantee that the law will be implemented in its entirety throughout the country.<sup>56</sup>

The primary challenge posed to the disabled community is implementation. Subsequent to 9 years of tireless advocacy for the rights of PLWD, President Muhammadu Buhari signed the Discrimination Against Persons with Disability (Prohibition) Act, 2018 into law on January 23, 2019, 9 states have disability laws protecting PLWD, and Nigeria has ratified the United Nations Convention on the Rights of Persons with Disabilities. PLWDs are one of the most marginalized groups in Nigeria and other parts of the world. Disabled people have constantly been discriminated against, treated as less humans, side-lined, neglected, and seen as objects of pity and instruments of alms begging. The purpose of the Convention on the Rights of Persons with Disabilities is to promote and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

## 6.0 CONCLUSION

Associations of PLWDs in Nigeria have bitterly lamented about their terrible conditions both in the social exclusion and political exclusion. Some members of these associations have sought political offices, but have remained unsuccessful. PLWDs are citizens of Nigeria whose welfare should also be considered. During political campaigns, politicians make manifestos that include helping the disabled community, but the grade 2 lepers do not even benefit from these political campaigns, as the politicians are aware of their political insignificance. It is noteworthy that many disabled persons are uneducated, they are therefore not conscious of their rights, both socially and politically. This research work concludes that Section 54 of the Electoral Act and the provision of BVAS is of no relevance if the persons for whom they are made do not partake as a result of ignorance. Inclusion drive should be intensive; that is, the government should employ all feasible means to ensure that every disabled eligible voter is sensitized on the electoral reforms which are favourable to them and the need to maximize the full benefits of the reform through political participation of every disabled person Hence, Nigeria cannot afford to keep on marginalizing these army of disabled in the electoral process. The government has done well to have established the National Commission for Persons with Disabilities (NCPWD). INEC needs to collaborate with the NCPWD to ensure absolute inclusivity for PLWDs in future elections. The NCPWD should live up to its mandates.

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<sup>56</sup> Ibid.

## 7.0 RECOMMENDATIONS

1. Toe-print can be substituted for or complemented with fingerprint in the case of lepers with only deformed hands or persons who were amputated after registering as voters, and in this case, the ballot paper may be adjusted to suit the shape of an average toe.

2. Inclusion Drive. The government should organize seminars, not just anywhere, but in the leprosy colonies to ensure that they are abreast with the recent adoption of BVAS and utilize it.

The goal is basically to ensure that PLWDs are treated equally as their able counterparts, and ensure that they have political value to ensure their needs are being met.

3. INEC and government should register and collate the actual statistics of the PLWDs in Nigeria to be able to accurately map out an action plan to meet their specific need based on their geographical locations. Need for Data Bank of PLWDs is necessary towards inclusivity of PLWDs in the elections.

4. INEC and government should have special budget for PLWDs in an effort to ensure all-inclusion in the electoral process.

5. The law should be amended (Electoral Act and party constitutions) to expressly stipulate that certain percentage of elective and appointive offices (e.g. 5% or 10%) should be reserved for PLWDs. Also, certain percentage of polling agents should be PLWDs. INEC should appoint PLWDs into the commission too.

6. PLWDs should truly enjoy their right to be assisted to vote as stipulated in the Electoral Act 2022. This right to be assisted should in extreme cases include proxy voting rights as applicable in often climes such as Belgium where persons unable to vote personally may give power of attorney to family members to vote on his or her behalf by proxy. Electoral Act states that the INEC shall take all reasonable steps to ensure that persons with disabilities, special needs, and vulnerable persons are assisted at the polling place.

7. Also, online voting otherwise called electronic voting or E-voting should be incorporated in the Electoral Act to ease the stress of the PLWDs, some of who can vote in the comfort of their houses as done in the United States of America and other countries. Electronic voting will enable Nigerian Diasporan living with disability to vote from their various diasporan base.

8. Protection of PLWDs during emergencies while voting in line with Section 25 of the Discrimination Against Persons Living with Disability (Prohibition) Act 2018.

9. All possible methods should be employed to ensure that PLWDs participate in electoral processes to enable them become political decision makers, and their opinions are also sought during the process of making a law that concerns them or directly affects them.

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