

LEGISLATION ON SPECIAL NEEDS EDUCATION IN NIGERIA: THE MISSING LINKS

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Abstract

The field of special needs education faces new challenges in its agitation for equal opportunities, good health and well being for persons with special needs especially in the right to quality education in Nigeria. A crucial area is the need for legislative acts for persons with special needs. In this regard, the paper examined the key issues of legislation in special needs education in Nigeria. The rights of persons with special needs were presented to set the tone of the discussion. Similarly, the fundamental aspects of legislation; social welfare, education, civil rights, rehabilitation, residential and workplace accessibility for persons with special needs were also discussed. The paper presented the missing links in the provision of legislation in special needs education in Nigeria. The need for legislative acts on special needs education was highlighted. The paper concludes with recommendations on filling the missing links in legislative provisions for persons with special needs in Nigeria.

Introduction

In the United States, federal laws require states to identify and serve all children with disabilities. As stated in the United Nations report (2007), the Americans with Disabilities Act of 1990 ensure access for individuals with disabilities in all aspects of life, education, workplace, transportation and telecommunication. Prior to this period especially in the 1970's, special education was in dismal, where most persons with disabilities were denied access to a public education. Most of them were either home schooled, did not receive any education at all or worse some were institutionalized. A brief history of special education legislation will not be complete without discussing what served as the foundation of today's Special Education Law which was passed in 1975 and was enacted in 1977(Special Education Advisor, (SEA, 2010).

However, in Nigeria the reverse is the case as none of the rights of persons with special needs have been translated into laws and properly implemented for them. The legal concerns for persons with special needs come out directly from the content of indirect applications of statements pertaining to other citizens or groups. Persons with disabilities are often denied their basic human rights on the bases of being challenged; and they are excluded from various meaningful activities, such as denial of educational opportunities, isolation, physical and social barriers, housing, transport and many more Therefore in Nigeria, it is necessary to develop clear laws on special needs children in order to make it distinct from other children without special needs. Formulating these laws helps in legitismatising their rights for contest in Nigeria law court if it is violated, as well as make for easy, clear and precise references for professionals in both the legal, special education and other related fields, especially when dealing directly with issues of special needs children. The enactment of laws also helps in appropriate development and

practices of special needs education delivery. In fact the Nigerian child rights monitor was launched in 1996 in Ibadan at the ten years anniversary of African Network for the prevention and protection against child Abuse and Neglect, (ANPPCAN).Nigeria chapter in order to monitor child abuse and neglect.

Consequently, a developing country like Nigeria, need to have a law on special needs children to protect their dignity and self independence, which must span their entire social, cultural, education and economic lifestyle. Therefore, it is expected that the missing links in legislation need to be identified in order to geared efforts at retracing the steps in the right direction as to achieve maximum functioning for persons with special needs. In essence, special education programme needs to be guided by legislation in order to make it efficient, functional and effective. According to Adelowo (2002), educational planners and policy makers are too far from Special education researchers and have remained ignorant or obvious of what most countries of the World consider as cardinal, in formulating policy and practice of special education. A policy statement on rights and privileges legislated upon and enacted into law, will be a powerful instrument to give voice to the voiceless and the vulnerable groups (Kolo, 2001). On the contrary, when such programmes are not properly guided by appropriate legislature or acts it is bound to fail and the aims may not be achievable. Moreso, mandatory legislation requires the establishment of an enacted law, which will promote the provisions of essential services to persons with special needs, which the public often deny them the opportunities, due to the effects of disability.

Legislation in Nigeria

In Nigeria today, there is a severe lack of legitimize legislation relating to the education of persons with special needs except with the “National Policy on Education” and the “Nigerians with Disability Decree” which serve as the only government literatures available. The National Policy was documented in 1977, and it set out the aims of special education in Nigeria and what is expected to be done to achieve it, but the implementation is defective and no proper monitoring of the execution of the policy till date. Adelowo (2002), asserted that Nigeria have very unstable legislative base line since 1981, it has been difficult to consider or attune to trends and direction of world actions in special education. The UNESCO Review (1988), noted, most states and countries including Nigeria had policies of a kind classifying children with special needs as more extensions of those referred to in general education law. This is nothing but a sweeping assumption of education for all irrespective of needs. Even with the educational law of Western Nigeria Cap 34 (1962) and National policy on education of 1977/81, Nigerian are culpable on this allegation.

Similarly, in 1993 the Nigerian government enacted the first and only piece of legislation on persons with special needs. The Nigerians with Disability Decree was enacted to provide a clear and comprehensive legal protection and security for Nigerians with disabilities as well as establish a standard for the enhancement of the rights and privileges guaranteed under this decree and other laws applicable to the disabled in Nigeria (Disability Rights Education and Defense Fund (DREDF), 2000). This decree outlines certain rights and privileges of persons with special needs in the areas of health services, education, vocational rehabilitation, employment, accessibility, transportation, supportive social services, sports and recreation, telecommunication, voting access and legal services. In addition, in May, 2001, the Special Educational Needs and Disability act became a law by strengthening the rights of special needs children educationally.

The Rights of Persons with Special Needs

The United Nations General Assembly in 1981, adopted as the theme of the year of the disabled person, the slogan “full participation and equality”. This category needs recognition at the highest possible political level, of the right to full participation, by persons with special needs in the society to which they belong. This has since become widely accepted globally and also in

Nigeria as an overall ultimate goal in the developmental efforts in the field of special needs education. There is need for mandatory legislations to enhance services for persons with special needs in Nigeria. The universal declaration of human rights as cited in the UN Standard rules on the equalization of opportunities for persons with disabilities is a cornerstone of international human rights law. It is not legally binding but is a list of principles which should not be broken by any civilized nation. These declarations as outlined in the Disability Awareness of Action (DAA) document (1992) includes the following:

Right to Life, Freedom and Dignity

Article 2

Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national, social origin, property, birth or other status.

The UN Standard Rule

Rule 15: Legislation

States have a responsibility to create the legal basis for measures to achieve the objectives of full participation and equality for persons with disability.

Access to Justice

The UN Standard Rule

Rule 15

National legislation and states under an obligation to enable persons with disabilities exercise their rights including human, civil, and political rights on an equal basis with other citizens.

Rights to Mobility

The UN Standard Rule

Rule 14

The needs and concerns of persons with disabilities should be incorporated into general development plans and not be treated separately.

Civil Rights

The UN Standard Rule

Rule 17

States should initiate and plan adequate policies for persons with special needs at the national level, stimulate and support action at regional and local levels

Right to Work

Declaration of human rights

Article 23

Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

The UN Standard Rule

Rule 7: Employment

States should recognize the principle that persons with disabilities must be empowered to exercise their human rights particularly in the field of employment. In both rural and urban areas they must have equal opportunities to productive and gainful employment.

Rehabilitation

The UN Standard Rule

States should ensure the provision of effective medical care to persons with disabilities.

In addition, other rights of persons with disability should involve; the right to education, right to medical care, right to sexual expression, right to marry and become parents, right to be saved (loved by God) right to protection from abuses and exploitation etc. However, member nations have accepted these declarations in policies and have signed them into law. Stammers (1995) in a critique to social approaches to human rights, argued that till date, a number of persons with special needs were still subjected to all forms of inhuman treatment across the globe. Therefore, there is a need for legitimize legislative mandate to support the implementation of policy and guidelines on the rights and education regarding persons with special needs.

Special needs education for the first time in Nigerian history, received recognition by the government by providing a policy statement in special education with the national policy statement in special education in 1977 and the revised 4th edition in 2008, in which Section 10 was specifically devoted to special education (FME, 2004). Similarly, the Nigerian with disability decree of 1993 also focused on making adequate provisions for the education, rehabilitation and employment of persons with special needs.

However, according to the Project Pass Plateau State report (2005), records in Plateau state, revealed that the defunct Plateau state house of assembly, passed a bill in favour of special needs education in 1981 entitled: "Handicapped Education Law". Currently bill was presented at the National assembly; the Handicapped Persons (public building) Special facilities Bill of 2003, is still pending (Obibesani, 2006). Access and Accommodation act; one hope it will address other Rights of persons with special needs. In overseas countries State and Federal laws had tremendous influence on the special education profession. Infact Federal laws always prescribe ways of educating exceptional children through the use of program and civil rights laws such as PL94-142, that guarantees funds to States and their schools, and it defines the procedures for delivering special educational services, in no mistakable terms. Sanctions are usually prescribed for non compliance.

Missing Links in Legislature in Nigeria

The process of enacting legislation on special needs provision is problematic due to the prevailing political and economic crisis in the country. Lack of stability in these areas pose a challenge to legislative processes generally and most especially in special needs education. Another missing link of legislature in Nigeria is the absence of legislative mandate to support the implementation of laws. The inability of the Nigerian government to pass laws to support persons with disabilities has continued to create ongoing myths about causes of disabilities (Abang, 2005; Fabumi, 2005)

Sadly, there is no funded mandate in the form of comprehensive legislative acts, that is recently passed to guide the implementation of special needs education laws in Nigeria. The reason for this according to (Obiakor & Offor, 2011) may be attributed to the low financial base of those expected to implement bills and the low political awareness of those whose rights are being protected. Moreso, the life of persons with disability are further impaired by pervasive negative attitudes of the society, in the form of discrimination, stereotyping, labelling and segregation. Attitudinal change from the family and the society in Nigeria is necessary for legislative efforts to be successful. Most of the laws in overseas countries are mooted by parents, advocacy groups, professionals, who felt dissatisfied about the going on in special education practices. This led to the promulgation of Federal and state Laws that are contestable in the courts of law. In the US, Ysseldyke and Algozzine (1982) compiled a list of primary rulings in such cases, which cover Testing, assessment and evaluation; Discipline and due process in schools; Protection of other students against nauseating effects of handicaps segregation, Placement and expulsion of pupils, funding and reimbursement and use of attorney among others.

In some cases, parents who are supposed to be powerful agents of advocacy in Nigeria are ashamed of exposing their children to the public. Advocacy has major influence for legislation especially for special needs education is not carried out effectively in Nigeria. Non governmental agencies and other human rights organizations cannot are doing their best but more can be done if parents and families of persons with special needs will take up this responsibility wholeheartedly.

Consequently, there are just but a few Organizations for Persons with Disabilities (OPWDs) which is also a missing link. The more persons with disabilities are encouraged to form organizations cutting across the various categories of disabilities, they are better heard and heir needs are met easily through such mediums. These Organizations for Persons with Disabilities should be established at the local (community), state, national level and also liaise with other international Organizations for Persons with Disabilities in developed countries.

In addition, sadly, there is no funded mandate in the form of legislation passed to guide the implementation of special needs education in Nigeria (Anderson, 2004). This is due to the low financial base of those expected to implement the bills and the low political awareness of those whose rights are protected.

Fundamental Aspects of Legislation for Persons with Special Needs

Disability-based discriminations have been particularly severe in fields such as education, employment, housing, transport, cultural life and access to public places and services. This results to exclusionary practices and restriction, denial of certain services, that will be of great benefit to them (UN, 2007). Legislation is fundamental in promoting the rights of persons with special needs in Nigeria. Persons with special needs are not able to exercise the same rights as persons without special needs. This fundamental aspects necessitate for a more comprehensive legislation to ensure equal rights of persons with special needs includes; civil and political rights, economic rights, social rights, cultural rights (to erase inappropriate myths about disabilities) as well as the right to education and support services. In essence a robust body of legislative acts is desirable now .There is a need for special education reform acts various reference committees and stake holders need to be more committed to it.

Recommendations

To bridge the gap in the missing link, the following suggestions are recommended in the provision of legislative education in Nigeria:

- i. There is need to provide civic and political education for Nigerians (with or without disabilities on how to value their rights, and when they are denied such rights and how to initiate due process and take legal actions appropriately (Anderson, 2004)
- ii. There is need to create increased awareness and growth to help increase awareness and growth rate of special education in Nigeria.
- iii. There is an urgent need for legislation to help increase awareness and growth rate of special education in Nigeria (Eleweke, 1999; Eleweke et al, 1993; Ozoji, 2003).
- iv. There should be advocacy activities by parents and professional organizations (Non-Governmental Organizations (NGO's) and government agencies) in the field of special needs education. This would help to influence the needs of citizens with disabilities into policy formulations and legislative mandates.

Conclusion

While government effort in implementing legislative procedures seems laudable, there are certain missing links that seem to impede progress. In addition, there is no mandatory law that guides the provision of special needs education services. This could be attributed to partly lack of funding, lack of advocacy, high rate of illiteracy, etc. It is therefore necessary that legislation in special needs education is enacted to help in meeting the legal concerns/needs of persons with special needs in Nigeria.

References

- Abang, T. B. (2005). *The Exceptional Child: Handbook of Special Education*. Jos, Nigeria: Fab Aniih Press.
- Adelowo, T. O. (2002). Legal, Ethical and Practical Consideration in Special Education. *The Special Educator*, 1(1), 99-106.
- Anderson, D. W. (2004). Human Rights and Persons with Disabilities in Developing Nations of Africa. A Paper Presented at the 4th Annual Lilly Fellows Program. National Research Conference, Birmingham, AL.
- Disability Awareness of Action (DAA). (1992). *Are Disabled People Included*. An Exposure Documentation on the Violation of Disabled Peoples Human Rights and Solutions Recommended within the UN Standard Rules to Commemorate the 50th Anniversary of the Universal Declaration of Human Rights.
- Disability Rights Education and Defense Fund (DREDF) (2000). Nigerians with Disability Decree of 1993. Retrieved from www.dredf.orginternational/nig1.html.
- Eleweke, C. J. (1999). The Need for Mandatory Legislations to Enhance Services to People with Disabilities in Nigeria. *Disability and Society*. 14, 227-237.
- Eleweke, C. J., Olaniyan, S. O. & Okeke, B. (1993). The Importance of Legislation in Ensuring Education for all Exceptional Children by the Year 2000 A.D. In E. D. Ozoji & I. A. Nwazuke (Eds). *Education of the Exceptional Child in the 21st century: Tasks and Practices*. National Council for Exceptional Child (NCEC)
- Fabumi, M. (2005). Historical Analysis of Educational Policy Formulation in Nigeria: Implications for Educational Planning and Policy. *International Journal of African and American Studies*, 4 (2) 1-6.
- Federal Ministry of Education (2004). *National Policy on Education*. Lagos: NERDC Press.
- Kolo, I. A.(2001). *Legislating for Memoranda*. A Paper Presented at the National Council for Exceptional Children (NCEC) Conference held at the Federal College of Education, Katsina from 21st – 24th August 2001.
- Obiakor, F. E. & Offor, M. I. (2011). *Special Education Provision in Nigeria: Analyzing Contexts, Problems and Prospects*. Retrieved from www.internationalsped.com/documents
- Obibesani, O. O. (2006). Legislation in special needs education. In E. D. Ozoji, I. O. Ezera, N. E. Ezeani & M. Abednego (Eds.) *Contemporary Issues in Special Needs Education*. Jos: Deka Publications.
- Ozoji, E. D. (2003). *Special Education for General Studies*. Jos: Deka Special Monograph Series No 7.
- Project Pass Plateau State (2005). *Plateau State Indigenes with Disability Law Working Convention*. Jos, Nigeria.
- Special Education Advisor (SEA) (2010). *Brief History of Special Education*. SEA Newsletter. Retrieved from www.specialeducationadvisor.com/spe
- Stammers, N. (1995). A Critique of Social Approaches to Human Rights. *Human Rights Quarterly*, 17 (3) 488 – 508.
- United Nations (2007). *Americans with Disabilities Act for Persons Living with Disabilities*. United Nations.
- Wikelmina, J. K. (1992). Developing Laws on Disabled Children in Nigeria. *The Journal of Special Education and Rehabilitation*, 3 (1), 16 - 25.
- Ysseldyke, J. E. & Algozzine, B. (1982). *Critical Issues in Special and Remedial Education*. Boston: Houghton Mifflin.