

African Disability Rights Yearbook 2025

The *African Disability Rights Yearbook* aims to advance disability scholarship. Coming in the wake of the United Nations Convention on the Rights of Persons with Disabilities, it is the first peer-reviewed journal to focus exclusively on disability as human rights on the African continent. It provides an annual forum for scholarly analysis on issues pertaining to the human rights of persons with disabilities. It is also a source for country-based reports as well as commentaries on recent developments in the field of disability rights in the African region.



African Disability Rights Yearbook 2025



ISSN: 2311-8970

Pretoria University Law Press
PULP

www.pulp.up.ac.za

PULP

Editors

Nkatha Murungi (convening editor)
*Acting Director, Centre for Human Rights,
Faculty of Law, University of Pretoria*

Dianah Msipa
*Manager, Disability Rights Unit, Centre for
Human Rights, Faculty of Law, University
of Pretoria*

Helène Combrinck
*Associate Professor, Faculty of Law, North-
West University (Potchefstroom)*

Willene Holness
*Associate Professor, School of Law, College
of Law and Management Studies,
University of KwaZulu-Natal*

Serges Djoyou Kamga
*Professor, Faculty of Law, University of the
Free State*

Assistant editors

Enoch Chilemba
*Head of Department, Faculty of Law,
Chancellor College, University of Malawi*

Elizabeth Kamundia
*Assistant Director, Research, Advocacy
and Outreach Directorate, Kenya
National Commission on Human Rights*

Innocentia Mgjijima-Konopi
Atlantic Fellow, South Africa

Louis Oyaro
*Consultant, Max Planck Foundation for
International Peace and the Rule of Law*

Assisted by

Sabeeha Majid
*Disability Rights Unit, Centre for Human
Rights, Faculty of Law, University of
Pretoria*

Kate Painting
Attorney and legal researcher

International advisory board

Tsitsi Chataika
*Senior Lecturer, Department of
Educational Foundations, Faculty of
Education, University of Zimbabwe*

Luke Clements
*Professor, School of Law, Leeds University,
United Kingdom*

Therese Degener
*Professor, University of Applied Sciences,
Bochum, Germany*

Anna Lawson
*Professor, School of Law, Leeds University,
United Kingdom*

Janet Lord
*Senior Researcher, Harvard Law School
Project on Disability, Harvard University*

Christopher Mbazira
*Professor, Faculty of Law, Makerere
University, Uganda*

Charlotte McClain-Nhlapo
*World Bank (serving on the Advisory
Board of the African Disability Rights
Yearbook in her personal capacity)*

Bonita Meyersfeld
*Professor, Director, Centre for Applied
Legal Studies, School of Law, University of
the Witwatersrand, South Africa*

Lawrence Mute
*Lecturer, School of Law, University of
Nairobi; Member of the African
Commission on Human and Peoples'
Rights, the African Commission Working
Group on Older Persons and Persons with
Disabilities, and Chair of the African
Commission's Committee for the
Prevention of Torture in Africa*

Michael Ashley Stein
*Executive Director, Harvard Law School
Project on Disability, Harvard University;
Professor, William & Mary Law School,
United States*

Gerard Quinn
*Professor, Centre for Disability Law and
Policy, National University of Ireland,
Ireland*

Monica Mbaru
Justice of the Labour Court, Kenya

THIS YEARBOOK SHOULD BE CITED AS (2025) 13 ADRY

The *African Disability Rights Yearbook* publishes peer-reviewed contributions dealing with the rights of persons with disabilities and related topics, with specific relevance to Africa, Africans and scholars of Africa.

The *Yearbook* appears annually under the aegis of the Centre for Human Rights, Faculty of Law, University of Pretoria.

The *Yearbook* is an open access online publication, see www.adry.up.ac.za

For subscriptions to receive printed copies and for guidelines to contributors, also see www.adry.up.ac.za

African Disability Rights Yearbook

Volume 13 2025

Pretoria University Law Press

PULP

2025

African Disability Rights Yearbook (2025) 13

Published by:

Pretoria University Law Press (PULP)

The Pretoria University Law Press (PULP) is a publisher at the Faculty of Law, University of Pretoria, South Africa. PULP endeavours to publish and make available innovative, high-quality scholarly texts on law in Africa. PULP also publishes a series of collections of legal documents related to public law in Africa, as well as text books from African countries other than South Africa. This book was peer reviewed prior to publication.

For more information on PULP, see www.pulp.up.ac.za

Printed and bound by:

Pinetown Printers, Durban, South Africa

To order, contact:

PULP

Faculty of Law

University of Pretoria

South Africa

0002

pulp@up.ac.za

www.pulp.up.ac.za

Cover:

Yolanda Booyzen

ISSN: 2311-8970

EISSN: 2413-7138

Open access online: <http://www.adry.up.ac.za>

© 2025

TABLE OF CONTENTS

TRIBUTE TO PROF CHARLES NGWENA	iv
EDITORIAL	v

SECTION A: ARTICLES

1	Bridging the digital divide amidst FinTech developments for persons with visual disabilities in Tanzania's digital economy <i>Abdallah Mrindoko Ally</i>	3
2	Examination of access to justice barriers for children with disabilities in Nigeria <i>Ijeoma Chinaka Ezeude</i>	29
3	Wheels of change: Integrating ICT and assistive technology for disability-inclusive public transport in Africa <i>Neville Mupita</i>	56
4	Protection of the rights of children with disabilities in Nigeria: Challenges and constitutional rights-based solution <i>Kolawole Kazeem Oyeyemi</i>	71

SECTION B: COUNTRY REPORTS

	Democratic Republic of Congo <i>Muyamba Mangu</i>	101
	Eswatini <i>Perekeme Mutu and Veronica Irima Modey-Ebi</i>	124
	Guinea-Bissau <i>Ana Carolina Figueiró Longo and Tatiana Reinehr de Oliveira</i>	153
	São Tomé and Príncipe <i>Jorge Manhique and Quina Fernandes Bragança</i>	173

SECTION C: REGIONAL DEVELOPMENTS

	The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa: A commentary on implementation and monitoring <i>Dagnachew B Wakene and Marishet M Hamza</i>	191
	The African Union Convention on Ending Violence against Women and Girls: Opportunities, gaps and the potential impact on women and girls with disabilities <i>Miriam Nihenge</i>	204

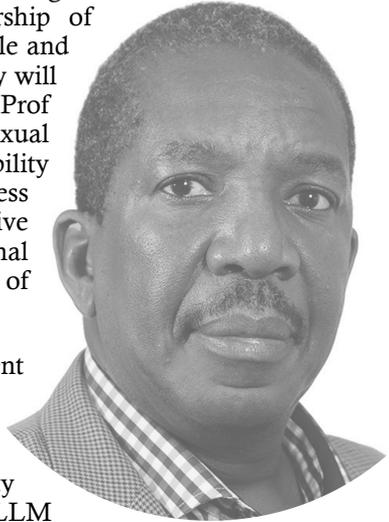
BOOK REVIEW

	C Ohajunwa, K Dube & E Chitando (eds) <i>Religion, Disability and Sustainable Development in Africa (2025)</i> <i>Thina Mihembu</i>	215
--	--	-----

TRIBUTE

The profound loss of Prof Charles Ngwena to academia is deeply felt by the disability rights community through the indelible mark he left on us. Prof Ngwena, the convening editor of the African Disability Rights Yearbook since 2013, sought to bring together scholars on the continent and allies outside its boundaries, to inculcate rich scholarship contextualised to Global South concerns and solutions.

His ability to foster connections between people and ideas, cemented disability rights in Africa as a discrete source of critique and innovation on law and policy impacting positively on the rights of persons with disabilities. His mentorship of emerging scholars, in a steadfast, humble and gracious manner, ensured that his legacy will be carried forward in various capacities. Prof Ngwena was a prolific author, both in sexual reproductive health rights and disability rights. As to the latter, he inspired countless students and scholars with his incisive commentary on domestic and international law, with an unparalleled understanding of regional African law.



Prof Ngwena wove his prodigious talent into various projects which were often interrelated and mutually supporting, such as his post graduate supervision, the influential annual African Disability Rights Conference since 2013 and the LLM in Disability Rights since 2018. Again, it bears mentioning that his ability to weave connections in many ways made the tapestry of his influence across the globe unparalleled. Two of the editors of this edition of the Yearbook were doctoral students of Prof Ngwena. As we pay tribute to the mensch we lost, we, and many scholars and students touched by him, remain committed to carrying forward disability rights in Africa.

Prof Willene Holness

On behalf of the Editorial Committee of the African Disability Rights Yearbook

EDITORIAL

The editors of the *African Disability Rights Yearbook (ADRY)* are pleased to announce the publication of the thirteenth volume of the *ADRY*.

Section A of this volume features four articles by: Abdallah Mrindoko Ally on bridging the digital divide amidst FinTech developments for persons with visual disabilities in Tanzania's digital economy; Ijeoma Chinaka Ezeude on an examination of access to justice barriers for children with disabilities in Nigeria; Neville Mupita on integrating ICT and assistive technology for disability-inclusive public transport in Africa; and Kolawole Kazeem Oyeyemi on the protection of the rights of children with disabilities in Nigeria.

Section B contains four country reports: Democratic Republic of Congo by Muyamba Mangu; Eswatini by Perekeme Mutu & Veronica Irima Modey-Ebi; Guinea-Bissau by Ana Carolina Figueiró Longo & Tatiana Reinehr de Oliveira; and São Tomé and Príncipe by Jorge Manhique & Quina Fernandes Bragança.

Section C on regional developments contains two commentaries by: Dagnachew B Wakene & Marishet M Hamza on The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa: A commentary on implementation and monitoring; and Mirriam Nthenge on The African Union Convention on ending violence against women and girls: Opportunities, gaps and the potential impact on women and girls with disabilities.

The thirteenth volume of the *ADRY* ends with a book review of *Religion, Disability and Sustainable Development in Africa (2025)* by C Ohajunwa, K Dube & E Chitando (eds). The book is reviewed by Thina Mthembu.

The financial assistance of Wellspring Philanthropic Fund is gratefully acknowledged.

Editors

Nkatha Murungi (convening editor)

Dianah Msipa

Heléne Combrinck

Serges Djoyou Kamga

Willene Holness

SECTION A: ARTICLES

BRIDGING THE DIGITAL DIVIDE AMIDST FINTECH DEVELOPMENTS FOR PERSONS WITH VISUAL DISABILITIES IN TANZANIA'S DIGITAL ECONOMY

*Dr Abdallah Mrindoko Ally**

Summary

This paper examines the legal challenges affecting financial inclusion for persons with visual disabilities in Tanzania, assessing its role in poverty reduction and the realisation of socio-economic rights. It specifically analyses how the absence of accessible assistive technologies (AT) within FinTech platforms compromises the privacy and security of persons with visual disabilities, thereby limiting their safe participation in digital financial services. Tanzania has ratified the United Nations' Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol and has domesticated disability rights through the National Policy on Disability, 2004, the Persons with Disabilities Act, 2010, and article 13(4)-(5) of the Constitution, which guarantees equality and non-discrimination. Notwithstanding these commitments, existing legal frameworks remain inadequate in addressing financial inclusion as a core component of economic empowerment. Although policy initiatives such as the National Financial Inclusion Framework (NFIF) aim to expand access to financial services, they lack explicit measures to ensure the accessibility of FinTech platforms for persons with visual disabilities. Using doctrinal and comparative legal methodologies and drawing on international best practices, this study critically evaluates Tanzania's laws and policies governing digital finance. The research identifies substantial legislative and regulatory gaps in safeguarding accessibility, privacy, and security for persons with visual disabilities. It argues for the development of specialised policies and enforceable legal standards mandating inclusive FinTech design and technological accommodations to enable the meaningful participation of persons with visual disabilities in Tanzania's digital economy.

* PHD (Open University of Tanzania); Lecturer, Open University of Tanzania, Department of Private Law; abdallahally2@gmail.com/abdalla.ally@out.ac.tz; orcid.org/0000-0002-3910-8663.

1 Introduction

In an era characterised by rapid digital transformation, financial technology (FinTech) is fundamentally reshaping how individuals and businesses access, manage, and utilise financial services on a global scale.¹ FinTech has emerged as a disruptive force within the financial sector, driving significant shifts in traditional banking, investment strategies, payment systems, insurance models, and other financial operations.² This paradigm shift is fuelled by the integration of advanced digital tools, including artificial intelligence (AI), block chain technology, big data analytics, and cloud computing, which collectively enhance efficiency, security, and accessibility in financial transactions.³

FinTech refers to the application of innovative technology to deliver financial services in a more efficient, user-friendly, and cost-effective manner. It encompasses a diverse range of technology-driven start-ups and platforms that challenge conventional banking institutions by offering alternative financial solutions.⁴ Key FinTech services include mobile payment systems, peer-to-peer (P2P) lending, and crowd funding platforms, robo-advisory services, decentralised finance (DeFi), and international money transfer solutions. These innovations are not only redefining financial interactions but also fostering financial democratisation by bridging gaps in access to financial services, particularly for underserved populations.⁵

In Tanzania, where a substantial portion of the population has historically been excluded from formal banking systems, FinTech represents a transformative force for financial inclusion. The rise of mobile money services, such as M-Pesa, Tigo Pesa (Mixx by Yas), and Airtel Money, has been instrumental in bridging the financial accessibility gap, particularly in rural and underserved communities. These digital platforms have enabled millions to conduct transactions, save, borrow, and invest without requiring access to traditional banking infrastructure. By eliminating geographical and bureaucratic barriers, mobile money services have democratised financial access, fostering economic empowerment for individuals and small businesses alike.⁶

1 DP Macha & NM Massawe 'Financial technology in Tanzania: Assessment of growth drivers' AERC Working Paper FI-007 African Economic Research Consortium, Nairobi (2023).

2 I Bhattacharjee and others 'The rise of FinTech: Disrupting traditional financial services' (2024) 30 *Educational Administration: Theory and Practice* 89.

3 As above.

4 IA Zeidy 'The role of financial technology (FinTech) in changing financial industry and increasing efficiency in the economy' COMESA special report (2022).

5 As above.

6 AM Ally 'Regulatory oversight of FinTech in the era of artificial intelligence: Assessing consumer risks in Tanzania's FinTech sector' (2024) 1 *African Journal of Law and Practice* 127.

The introduction of mobile money (M-money) services in Tanzania in 2008 marked a significant milestone in the evolution of the country's financial sector. Since then, FinTech has profoundly transformed financial services, particularly benefitting those at the bottom of the economic pyramid.⁷ The adoption of FinTech services has revolutionised financial transactions for businesses, government institutions, and individuals in Tanzania. Today, many entities rely on FinTech solutions for sending and receiving money, settling various bills, and managing financial operations with greater ease. The widespread availability of these digital services, alongside ATM machines in traditional banks, has significantly minimised long queues, enhanced efficiency, and improved accessibility to financial resources.⁸

Beyond these fundamental benefits, the integration of AI into banking services has further elevated financial operations to an advanced level. AI-powered technologies, such as automated fraud detection, personalised financial recommendations, and chatbot-assisted customer service, have streamlined banking experiences, making them more secure, efficient, and user-friendly. Additionally, AI-driven data analytics enable financial institutions to assess creditworthiness more accurately, fostering greater financial inclusion by extending banking services to underserved populations.⁹ However, despite these progresses in financial accessibility, a considerable digital divide remains, extremely impacting persons with disabilities, particularly persons with visual disabilities. While FinTech services have played a transformative role in promoting financial inclusion, they continue to pose significant accessibility challenges for those who depend on assistive technologies (AT).¹⁰ Studies highlight key barriers such as non-adaptive user interfaces, the lack of screen-reader-friendly applications, and the absence of comprehensive digital literacy programmes tailored to persons with visual disabilities.¹¹

These challenges not only hinder financial independence but also contravene national and international commitments to inclusivity, such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD).¹² Moreover, the absence of a robust legal and policy framework mandating accessibility in digital financial services exacerbates the exclusion of persons with disabilities. Regulatory bodies, including the

7 Ally (n 6) 127.

8 AM Ally 'Legal and regulatory framework for mobile banking in Tanzania' (2024) 66 *International Journal of Law and Management* 44.

9 NN Ridzuan and others 'AI in the financial sector: The line between innovation, regulation and ethical responsibility' (2024) 15 *Information* 432.

10 S Goundar & M Sathye 'Exploring access to financial services by visually impaired people' (2023) 16 *Journal of Risk and Financial Management* 96.

11 WiLDAF Tanzania 'Mainstreaming disability in financial policies and plans' Policy Brief V3 (2021).

12 UN General Assembly, Convention on the Rights of Persons with Disabilities: Resolution/adopted by the General Assembly, 24 January 2007, UN Doc A/RES/61/106 (2007).

Tanzania Communications Regulatory Authority (TCRA), have yet to implement comprehensive guidelines that ensure mobile money services are designed with universal accessibility in mind. This gap perpetuates social and economic disparities, reinforcing financial exclusion for persons with visual disabilities.¹³

As Tanzania continues to expand its digital economy, closing the digital divide must remain a policy priority. Achieving inclusive financial technology requires a multi-stakeholder approach that brings together FinTech innovators, policymakers, disability rights advocates, and technology developers.¹⁴ Key measures should include enforcing accessibility standards for mobile financial applications, integrating AT into digital financial platforms, and implementing targeted digital literacy programmes for persons with disabilities. Addressing this accessibility gap is not merely a financial inclusion issue, it is a fundamental human rights concern that demands urgent and sustained attention.¹⁵

2 Literature review

2.1 Governing theories

This article critically examines various theoretical perspectives to assess the impact of technology on the financial sector, with a particular emphasis on the role of FinTech in fostering financial inclusion while addressing the persistent barriers that contribute to financial exclusion for persons with visual disabilities. The discussion underscores how FinTech can function as an enabler rather than an obstacle, ensuring that digital financial services are accessible to all, irrespective of their physical abilities. By exploring the rights of persons with visual disabilities within the FinTech ecosystem, this analysis integrates multiple theoretical frameworks to evaluate how technology can be harnessed to create an inclusive financial landscape rather than deepening existing inequalities. These frameworks emphasise fundamental principles such as equity, social justice, technological adaptation, and regulatory oversight, each of which plays a vital role in advancing financial inclusivity.

Among the key theories and models shaping the discourse on financial inclusion for persons with visual disabilities are the Social Inclusion Theory, the Capability Approach, Financial Inclusion Theory, the Human Rights-Based Approach (HRBA), Universal Design Theory, Digital

13 WiLDAF Tanzania (n 11).

14 National Council for Financial Inclusion 'National Financial Inclusion Framework (2023-2028)' (2023).

15 GK Munyegera 'Disability, digital financial services and financial inclusion: Evidence from Rwanda' AERC Working Paper DFSP-TT-005, African Economic Research Consortium, Nairobi (2024).

Divide Theory, and the Technology Acceptance Model (TAM).¹⁶ While all these frameworks contribute to the broader understanding of inclusive FinTech, this article will specifically focus on the Social Inclusion Theory, Digital Divide Theory, and the Human Rights-Based Approach (HRBA) to critically assess their applicability in bridging the digital divide in Tanzania's FinTech ecosystem.

2.1.1 Social Inclusion Theory

Social Inclusion Theory underscores the importance of equitable access to economic and social opportunities, advocating for systems that enable full participation rather than marginalisation. In the context of FinTech, this theory highlights the necessity of ensuring that digital financial services are designed to be inclusive, particularly for persons with disabilities. Rather than reinforcing existing disparities, FinTech should serve as a tool to facilitate accessibility and financial empowerment.¹⁷ Financial inclusion refers to the provision of and access to financial services for all persons, especially those who are economically disadvantaged or otherwise excluded from the formal financial sector.¹⁸

According to Munyegera, financial inclusion plays a critical role in development by reducing poverty and economic vulnerability. However, persons with disabilities continue to face significant barriers in accessing and effectively utilising financial services, particularly digital financial platforms. Persons with physical and visual disabilities encounter unique challenges, such as difficulty in physically traveling to financial institutions, which is further complicated by the concentration of service providers in urban areas.¹⁹ For persons with visual disabilities, the barriers extend beyond physical access. They often struggle with reading and comprehending financial documents, which limits their ability to make informed financial decisions. Additionally, discrimination and stereotypes within the financial sector further restrict their access to critical services, including credit facilities. Some financial service providers deny them access to certain financial products due to misconceptions about their ability to manage financial resources.²⁰

The Social Inclusion Theory suggests the need to bridge these gaps by ensuring equal access to financial services for all segments of society. This involves implementing policies and technological innovations that accommodate persons with disabilities, such as accessible digital banking platforms, voice-assisted transactions, and inclusive financial education

16 PK Ozili 'Social inclusion and financial inclusion: International evidence' (2020) 19 *International Journal of Development Issues* 169.

17 As above.

18 As above.

19 Munyegera (n 15).

20 As above.

programmes. By prioritising accessibility in financial service delivery, FinTech can serve as a transformative force in fostering financial inclusion and reducing socio-economic inequalities.

2.1.2 *The Digital Divide Theory*

The Digital Divide Theory explores how technological advancements can intensify disparities among social groups. In the realm of FinTech, it underscores the challenges faced by persons with visual disabilities in accessing digital banking and mobile payment systems. It highlights the dual nature of technology: while it holds the potential to drive progress, the absence of robust policies and legal frameworks can reinforce exclusion and deepen socio-economic inequalities.²¹ The Organisation for Economic Cooperation and Development (OECD) defines the digital divide as the gap between different socio-economic groups, including individuals, households, businesses, and geographic areas, in their access to and use of information and communication technologies (ICT) and the Internet. As digital technology increasingly permeates various sectors of the economy, ensuring its inclusive and accessible utilisation becomes vital.²²

Persons with disabilities, particularly those with visual disabilities, encounter significant barriers throughout the digital ecosystem. Many digital tools remain inaccessible without specialised AT. Addressing these barriers requires robust policies and legal frameworks that promote equitable access and participation in the digital economy, thereby fostering social and economic inclusion. This discussion highlights the critical need for proactive measures to bridge the digital divide, ensuring that technological advancements benefit all segments of society, including those with disabilities. This approach not only promotes technological equity but also enhances overall societal well-being by leveraging the full potential of digital innovations for inclusive economic growth.²³

2.1.3 *The Human Rights-Based Approach (HRBA) Theory*

The Human Rights-Based Approach (HRBA) in the context of FinTech, guarantees that financial inclusion policies should align with human rights principles. Human rights are rooted in the recognition of the inherent dignity and equal worth of all human beings, regardless of their social background, gender, age, religion, health status, sexual orientation or other status. Every person is equally entitled to the fundamental rights

21 J Pick & A Sarkar 'Theories of the digital divide: Critical comparison' Conference paper, 49th Hawaii International Conference on System Sciences (2016).

22 As above.

23 As above.

enshrined in the Universal Declaration of Human Rights (UDHR),²⁴ and the subsequent nine core human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR),²⁵ the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW),²⁶ or the Convention on the Rights of the Child (CRC).²⁷ These binding treaties impose obligations on states parties to respect, protect and fulfil human rights.²⁸

The integration of human rights into development programming has been an ongoing process for quite some time. Although the concept of the HRBA is relatively recent, its significance was formally acknowledged in 1997 during Kofi Annan's tenure as UN Secretary-General, when he advocated for its adoption and integration across the UN system.²⁹ In the FinTech sector, HRBA plays a critical role in ensuring that financial innovations are inclusive and equitable. The approach advocates for eliminating discrimination in financial services, guaranteeing equal access to digital payments, and reinforcing legal protections for persons with visual disabilities. This is particularly important in the digital economy, where financial technologies have the potential to either bridge or widen the existing socio-economic gap.³⁰

Lima and Pereira³¹ highlight that the ongoing debate among legal scholars regarding the scope of human rights that may be interpreted as closely linked to the emerging right to financial inclusion such as the right to microfinance, the right to credit, and the right to be free from poverty reflects a growing convergence in discussions surrounding the intersection of international human rights, economic development, and financial systems. This dialogue highlights the recognition that financial inclusion is not merely an economic issue but a fundamental human rights concern with significant implications for social justice and equitable development. At the core of this debate is the argument that access to financial services, including banking, credit, insurance, and digital payments, is essential for individuals and communities to fully participate in economic life.

24 UN General Assembly, Universal Declaration of Human Rights, 217 A (III), 10 December 1948.

25 UN General Assembly, International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, vol 993, p 3, 16 December 1966.

26 UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series, vol 1249, p 13, 18 December 1979.

27 UN General Assembly, Convention on the Rights of the Child, United Nations, Treaty Series, vol 1577, p 3, 20 November 1989.

28 UNDP 'Applying a human rights-based approach to development cooperation and programming' A UNDP Capacity Development Resource, Capacity Development Group Bureau for Development Policy (September 2006).

29 AJ Loeffen and others 'A human rights based approach: A practical guide for the realisation of the human rights to water and sanitation through programming' Human Right 2 Water (2021).

30 As above.

31 D Lima & CM Pereira 'European human rights law for a digital economy: A right to financial inclusion?' (2024) 18 *Revista Direito Mackenzie* 1.

Financial exclusion disproportionately affects marginalised populations, including low-income individuals, women, and persons with disabilities, limiting their ability to improve their livelihoods, invest in education, and access healthcare. The inability to access credit or financial services perpetuates cycles of poverty and inequality, reinforcing the case for financial inclusion as a right rather than a privilege.³²

Positioning financial inclusion as a fundamental human rights issue enables legal scholars and policymakers to advocate for stronger regulatory frameworks that enforce non-discriminatory financial services, uphold ethical lending practices, and embed financial accessibility into global development agendas. This perspective not only advances financial empowerment but also contributes to reducing inequalities and fostering sustainable economic growth.³³ Integrating a HRBA into the FinTech sector is instrumental in ensuring that financial innovations are inclusive and equitable. Key stakeholders including financial institutions, policymakers, and technology developers can play a pivotal role in designing digital financial services that are accessible to all, particularly persons with disabilities.³⁴

2.2 International and regional legal frameworks

The accessibility of FinTech for persons with visual disabilities is regulated by various international and regional legal frameworks that prioritise inclusivity, non-discrimination, and equal access to digital financial services.³⁵ One of the key UN conventions that safeguard the rights of persons with disabilities, including access to FinTech, is the CRPD.³⁶ This international treaty is designed to promote, protect, and ensure the full and equal enjoyment of human rights and fundamental freedoms by all persons with disabilities. It emphasises the principles of dignity, equality, non-discrimination, and inclusion, ensuring that persons with disabilities have the same legal protections and opportunities as others.³⁷

The CRPD explicitly addresses the importance of digital and financial accessibility for persons with disabilities, particularly through several key provisions. Article 9 mandates equal access to ICT, including digital financial services such as FinTech platforms, mobile banking, and ATMs.

32 Lima & Pereira (n 31) 13-14.

33 MM Malipula & NH Msuya 'Human rights-based approach to development in Tanzania: A myth or realisable prospect?' (2024) 7 *African Journal of Social Issues* 133.

34 C D'Alessandro, K Karaki & S Bilal 'Integrating a human rights-based approach in European development finance institutions' ECDPM Technical Report, Discussion paper 353 (2023).

35 GU Ebirim & B Odonkor 'Enhancing global economic inclusion with FinTech innovations and accessibility' (2024) 12 *Finance & Accounting Research Journal* 648.

36 CV McClain-Nhlapo 'The Convention on The Rights of Persons with Disabilities: A normative tool for dismantling disability stereotypes' (2023) 8 *University of Pennsylvania Journal of Law & Public Affairs* 216.

37 McClain-Nhlapo (n 36) 216-217.

It requires states to identify and eliminate barriers that hinder persons with disabilities from accessing the physical environment, transportation, and digital services in both urban and rural settings. It also encourages the adoption of universal design principles and AT to ensure that digital financial services are accessible to persons with visual and other disabilities.

Article 12 of the Convention ensures that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, including financial decision-making. It calls for accessible financial services, ensuring that persons with disabilities can independently manage their finances, open bank accounts, apply for credit, and conduct digital transactions without discrimination. Furthermore article 21 requires states to guarantee accessible communication, including digital banking and FinTech platforms, through alternative formats such as braille, audio, large print, and screen reader-compatible websites and applications. The Convention encourages financial institutions to adopt inclusive digital platforms that cater to the needs of persons with visual disabilities. Besides, article 27 promotes inclusive economic participation, ensuring that persons with disabilities have equal opportunities in the labour market.

The Convention recognises that access to digital financial services is crucial for supporting independent economic activity, entrepreneurship, and financial empowerment for persons with disabilities. To cement these rights, the CRPD directs governments, financial institutions, and technology developers to adopt legal frameworks that require financial service providers to: comply with accessibility standards; invest in AT that improve accessibility, such as voice-enabled banking systems, biometric authentication, and AI-driven financial assistance tools; strengthen regulatory oversight to ensure compliance with digital accessibility requirements; penalise non-compliant financial institutions; and promote public-private partnerships (PPPs) to foster the development of inclusive financial services.

The UDHR and the ICESCR provide a robust foundation for promoting financial inclusion for persons with disabilities. These legal instruments emphasise financial inclusion as a fundamental human right and affirm the responsibility of states and financial institutions to guarantee equal access to digital financial services.³⁸ Article 19 of the UDHR which guarantees the right to freedom of information, extends to financial information, emphasising that all persons including those with disabilities should have equal access to financial data, services, and tools. This is particularly relevant in the digital age, where financial transactions and banking services increasingly rely on online platforms. Ensuring accessibility in FinTech aligns with this principle by allowing persons with

38 T Degener 'Disability in a human rights context' (2016) 5 *Laws* 35.

disabilities to make informed financial decisions independently. Furthermore, article 25 of the UDHR, which recognises the right to an adequate standard of living, highlights the necessity of financial inclusion as a means of achieving economic stability. Access to financial services plays a critical role in enabling persons with disabilities to maintain financial independence, access credit, and participate in economic activities, ultimately improving their quality of life.

The ICESCR further reinforces these principles, particularly through article 11, which affirms the right to an adequate standard of living. This provision implies that access to financial services is an essential component of ensuring economic security and independence, particularly for vulnerable populations, including persons with disabilities. Without inclusive FinTech services, persons with disabilities may face barriers in managing their finances, accessing social welfare benefits, and participating fully in the economy. By embedding financial accessibility within the broader human rights discourse, the UDHR and ICESCR provide a strong legal and ethical foundation for governments, financial institutions, and technology providers to adopt inclusive digital financial solutions. Aligning FinTech development with these human rights standards ensures that technological advancements contribute to a more equitable and accessible financial ecosystem for all.

Another significant instrument in this regard is the African Disability Protocol, officially titled the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa. This ground-breaking framework is specifically designed to address the unique challenges faced by persons with disabilities across the continent. Adopted during the 2018 African Union Summit, this Protocol acknowledges and confronts the cultural, social, and systemic barriers that impact disability rights in Africa. Notably, the African Disability Protocol also upholds the right of persons with disabilities to access financial services. Article 15(1) emphasises that every individual with a disability has the entitlement to unfettered access to physical environments, transportation, and information, including communication technologies and systems and other facilities and services that are accessible to the public.

The Marrakesh Treaty,³⁹ adopted in 2013 under the auspices of World Intellectual Property Organization (WIPO), aligns with other international legal instruments and plays a vital role in improving access to published works for persons with visual disabilities. This international agreement is instrumental in fostering inclusivity and empowering persons with disabilities, particularly by enhancing their financial literacy and

39 World Intellectual Property Organisation (WIPO), Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, TRT/MARRAKESH/001 (2013).

enabling them to navigate the complexities of FinTech services. By ensuring broader access to books and other published materials in accessible formats such as braille, audio, and digital text, the Marrakesh Treaty addresses a significant barrier faced by persons with visual disabilities. This accessibility is fundamental for fostering independence and enabling them to engage more effectively with FinTech.

In an increasingly digital world, where financial services are predominantly accessed online or through mobile applications, equitable access to information becomes even more critical.⁴⁰ Moreover, the Treaty supports initiatives that promote technological innovations tailored to the needs of persons with visual disabilities. This includes advancements in AT and digital platforms designed to facilitate seamless navigation of FinTech applications, thereby promoting financial inclusion on a global scale. In essence, the Marrakesh Treaty not only upholds the right to access information but also underscores the importance of leveraging technology to empower persons with visual disabilities, ensuring they can actively participate in and benefit from the evolving landscape of financial services and technologies.⁴¹

The 2030 Agenda for Sustainable Development, adopted by the United Nations in 2015, establishes a comprehensive global framework aimed at fostering inclusive and sustainable development. The Sustainable Development Goals (SDGs), which serve as a blueprint for achieving this vision, explicitly emphasise financial accessibility for persons with disabilities, recognising their right to participate fully in economic and social life. Goal 8 promotes inclusive economic participation, ensuring that all persons, including persons with disabilities, have access to employment opportunities, entrepreneurship, and financial services. Digital financial inclusion plays a critical role in advancing this goal by enabling persons with disabilities to access online banking, mobile payments, microfinance, and digital investment platforms. Accessible FinTech solutions, such as voice-assisted banking and screen-reader-compatible financial applications, help break barriers that traditionally excluded persons with visual disabilities from participating in the digital economy.

Goal 10 aims at eliminating social and economic disparities, ensuring that financial and economic systems are designed to cater to the needs of marginalised populations, including persons with disabilities. It encourages the adoption of financial policies that promote accessibility, including regulations that require financial institutions to implement

40 D Ferri & G Rossello 'The role of the Marrakesh Treaty in supporting access to printed material for people who are blind or visually impaired: A critical discussion of the results of an empirical study conducted in six European countries' (2023) 55 *International Review of Intellectual Property and Competition Law* 89.

41 As above.

inclusive digital platforms. It supports the development of assistive FinTech that enable persons with disabilities to manage their finances independently, reinforcing their financial autonomy and security.

To achieve these goals, governments, financial institutions, and technology providers must take deliberate steps to enhance the accessibility of digital financial services: mandating accessibility standards for all digital financial services; ensuring compliance with international best practices, such as the Web Content Accessibility Guidelines (WCAG);⁴² investing in AT, such as AI-driven financial assistants, biometric authentication, and voice-command banking, to create an inclusive digital financial ecosystem; strengthening policy and regulatory frameworks to ensure that FinTech platforms prioritise disability inclusion in their design and implementation; and expanding financial literacy programmes that cater specifically to persons with disabilities, equipping them with the skills and knowledge needed to navigate digital financial systems and encouraging PPPs to promote inclusive financial solutions that integrate disability-friendly technologies.⁴³

Furthermore, the Web Content Accessibility Guidelines (WCAG),⁴⁴ established by the World Wide Web Consortium (W3C), are pivotal in advancing the rights of persons with visual disabilities within the realm of FinTech. These guidelines establish global standards for digital accessibility, ensuring that FinTech applications, websites, and banking platforms are designed in a manner that accommodates AT. By adhering to WCAG standards, stakeholders in the FinTech sector can enhance accessibility, allowing persons with visual disabilities to navigate digital financial services independently and effectively.⁴⁵ Together, the G20's Principles for Digital Financial Inclusion⁴⁶ and the WCAG serve as instrumental frameworks in promoting inclusive practices within FinTech, fostering a more accessible and equitable financial landscape for all persons, including those with disabilities.

2.3 Best practices

Several countries, together with global policy-leadership organisations, have proactively developed policies and legal frameworks aimed at

42 C Pazarbasioglu and others 'Digital Financial Services' World Bank Group (2020) <https://thedocs.worldbank.org/en/doc/305a39cbb6f35567db78bda6709c5cd8-0430012025/original/World-Bank-DFS-Whitepaper-DigitalFinancialServices.pdf> (accessed 15 December 2025).

43 As above.

44 Web Content Accessibility Guidelines (WCAG) 2.1 <https://www.w3.org/TR/WCA-G21/> (accessed 15 December 2025).

45 D Ferri & S Favall 'Web accessibility for people with disabilities in the European Union: Paving the road to social inclusion' (2018) 8 *Societies* 40.

46 G20 High-level Principles for Digital Financial Inclusion (2016) <https://sdgs.un.org/publications/g20-high-level-principles-digital-financial-inclusion-30373> (accessed 15 December 2025).

ensuring that FinTech services are accessible to persons with visual disabilities. The overarching objective of these initiatives is to advance financial inclusion by enabling persons with visual disabilities to independently access and use digital financial services, thereby strengthening their economic participation and empowerment. As observed by the Alliance for Financial Inclusion (AFI),⁴⁷ access to formal financial systems can position persons with disabilities as active contributors to economic and social development and sustainability. Nonetheless, despite their capability and readiness to engage with financial services, persons with disabilities continue to encounter significant barriers to accessing formal financial channels. Among the challenges that cause the persistence of all these challenges including the regulatory framework, the main barriers consist of insufficient policies and standards to promote the access and usage of adaptive financial technologies, absence of alternative collateral requirements and registries, lack of incentives for financial institutions to develop services adapted to persons with disabilities, and insufficient coordination between different public and private bodies.⁴⁸

Another significant barrier is the absence of regulations against discrimination of persons with disabilities. A significant number of persons with disabilities continue to face digital exclusion and remain unconnected. Roughly 90 per cent are estimated to not have adequate access to the AT they require. In low and middle-income countries, persons with disabilities face significant challenges in obtaining assistive devices, including the cost and availability of standalone, specialised equipment. Women with disabilities experience the highest rates of digital exclusion, having less access to cell phones and limited use of mobile internet, despite the fact that connectivity allows access to information and digital services.⁴⁹

The Government of Indonesia (GoI) has taken a bold step by issuing Presidential Regulation 114/2020 regarding the National Strategy for Financial Inclusion (SNKI) as a progressive strategy to expedite financial access for all, with persons with disabilities as one of the priority groups.⁵⁰ This regulation is expected to address challenges facing persons with disabilities in accessing financial services, including the lack of disability-friendly facilities and infrastructure, low levels of financial literacy, fear of rejection when accessing financial services, and inadequate communication skills with financial institution staff. Implementing innovative

47 Alliance for Financial Inclusion 'Financial inclusion for persons with disabilities: Insights from AFI members' strategies and policies' (2023).

48 As above.

49 GSMA 'The Mobile Disability Gap Report 2021' (2021) <https://www.gsma.com/solutions-and-impact/connectivity-for-good/mobile-for-development/wp-content/uploads/2021/11/Mobile-Disability-Gap-Report-2021.pdf> (accessed 15 December 2025).

50 Asian Development Bank 'Financial inclusion in Indonesia: Summary sector assessment' (2016).

financial services, including digital financial services, can help overcome some of the obstacles faced by the persons with disabilities in accessing financial services. Some examples of these innovations include SMS banking, audio guide instructions, braille, and headphones installed at bank ATMs.⁵¹

The Bank of America has renovated several financial centres to better meet the needs of clients with disabilities, with its new specialty centres located near schools, hospitals, and neighbourhoods that cater to larger populations of persons with disabilities. Standard Chartered India launched a special sign language service proposition for hearing impaired priority segment clients. The Bank is also working on making product offering videos in sign language for savings account, term deposits, credit card, wealth offerings and loans, to enable hearing impaired clients get a better understanding of these products. Other banks such as ANZ, HSBC, and Standard Chartered seek to improve customer service for persons with disabilities by training branch staff on disability awareness, inclusive customer service and language, as well as the accessibility features of bank branches.⁵²

Thailand has also made significant strides in inclusive FinTech solutions. Kasikornbank has developed an innovative mobile application specifically designed for users with visual disabilities. This app enables seamless financial transactions through a combination of touch screen navigation, voice commands, and vibration feedback, allowing users to operate the platform without requiring visual input.⁵³ Similarly, China has embraced cutting-edge technologies to enhance digital financial accessibility. Tencent's WeBank has integrated biometric authentication, artificial intelligence-powered speech synthesis, and real-time image processing to ensure users with visual disabilities can securely and efficiently access financial services.⁵⁴ These advancements not only improve usability but also enhance security by reducing reliance on traditional input methods that may pose privacy risks.

Beyond financial institutions, some countries, including Australia, Canada, and the United Kingdom, have enacted legal requirements mandating web and digital accessibility for FinTech platforms. Website accessibility refers to the practice of making websites accessible to all users inclusive of race, nationality, religion and disability. Website accessibility

51 B Santoso 'Inclusive digital financial services for persons with disabilities: Impact on economic empowerment and financial inclusion' (2023) 10 *Indonesian Journal of Disability Studies* 105.

52 International Finance Corporation 'Inclusive banking: Emerging practices to advance the economic inclusion of persons with disabilities' (2022).

53 K Kasikornthai 'Bank of sustainability: Sustainability report 2022' (2022).

54 C Burt 'Biometrics and conversational AI power China's Tencent-backed online-only bank' (2018) <https://www.biometricupdate.com/201811/biometrics-and-conversational-ai-power-chinas-tencent-backed-online-only-bank> (accessed 15 December 2025).

includes, but is not limited to, the communication style of the text as well as the technical development of the website.⁵⁵ The Australian Human Rights Commission (AHRC) is responsible for investigating discrimination on any grounds including race, colour, ethnic origin, sexual preference, gender, marital status, pregnancy and disability.

The AHRC states that website owners are obliged to make websites accessible to everyone, without discrimination.⁵⁶ The Australian Human Rights Commission Disability Discrimination Act (DDA) mandates equal access for persons with disabilities. Websites that fail to provide accessible information are considered in breach of the DDA, making their owners liable for prosecution on grounds of discrimination. This was exemplified in *Maguire v Sydney Organising Committee for the Olympic Games*, where Maguire argued that the Sydney Organising Committee for the Olympic Games (SOCOG) had designed a website that was inaccessible to persons with visual disabilities.⁵⁷ As a result, affected users were unable to access essential information such as ticketing details, event schedules, and competition results. The court ruled in Maguire's favour, holding SOCOG accountable under the DDA and imposing a fine of \$20 000.⁵⁸

Several judicial and quasi-judicial interventions across jurisdictions have reinforced the right of persons with visual disabilities to equal access to digital services, particularly within the financial sector. In *Kuan, S & Richardson, C v Bank of America Corp* (Settlement Agreement, United States, 2014), the plaintiffs, both persons with visual disabilities challenged the inaccessibility of the Bank's website and mobile banking applications to screen-reader users. The claim, grounded in the Americans with Disabilities Act of 1990 (ADA), alleged unlawful discrimination in the provision of public accommodations through digital platforms.⁵⁹ The dispute was resolved through a settlement requiring the Bank to bring its digital services into compliance with the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA, alongside the implementation of continuous accessibility testing, staff training, institutional accessibility policies, and compliance monitoring mechanisms. This settlement has since become a frequently cited authority confirming that financial institutions are legally obliged to ensure digital accessibility for persons with visual disabilities.

55 J Grantham, E Grantham & D Powers 'Website accessibility: An Australian view' Proceedings of the Thirteenth Australasian User Interface Conference (AUIC2012), Melbourne, Australia (2015) 21.

56 Grantham, Grantham & Powers (n 55) 22.

57 (H/99/115, 24 August 2000).

58 Grantham, Grantham & Powers (n 55) 22.

59 Bank of America 'Online and Mobile Security Solutions Settlement Agreement' <https://www.lflegal.com/2013/03/bofa-security-settlement/> (accessed 15 December 2025).

A parallel development emerged in *National Federation of the Blind v H&R Block Inc*,⁶⁰ where the National Federation of the Blind and individual plaintiffs alleged that the company's website and mobile applications were inaccessible to users with disabilities, including visual disabilities. The matter concluded with a consent decree under which H&R Block committed to remediating its digital platforms to meet accessibility standards and to pay compensation.⁶¹ Collectively, these cases underscore the growing recognition of digital accessibility as an enforceable component of non-discrimination and consumer protection law in the provision of technology-based services.

In the UK, digital accessibility is a legal obligation, with specific laws mandating that online content be usable by all persons, including those with disabilities. Compliance is enforced through The Equality Act, 2010 and The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations, 2018, which establish accessibility standards, particularly for public sector digital content. These regulations safeguard the rights of persons with disabilities while imposing legal responsibilities on UK-based organisations to ensure inclusivity.⁶²

On 22 December 2016, the European Union introduced the Web and Mobile Accessibility Directive (EU) 2016/2102 under the European Disability Act, applicable to all EU member states. This directive establishes an implementation reporting procedure along with a three-year monitoring mechanism to ensure compliance. The EU enforces accessibility standards through EN 301 549 V3.2.1, also known as the Harmonised European Standard for Accessibility Requirements for ICT Products and Services.⁶³ Additionally, there is a proposed directive aimed at harmonising laws, regulations, and administrative measures across member states, setting minimum accessibility requirements for products and services in specific sectors.⁶⁴

Tanzania can also gain valuable insights from Kenya's efforts to enhance financial accessibility for persons with disabilities. Although Kenya's financial legal framework, like Tanzania's, does not explicitly cater to the specific needs of persons with disabilities in financial services,

60 No 1:13-cv-01099 (D Mass, Consent Decree, 25 March 2014).

61 M Jensen 'Breaking down four landmark web accessibility lawsuits' <https://www.audioeye.com/post/four-landmark-web-accessibility-lawsuits/> (accessed 15 December 2025).

62 A Cahais 'UK digital accessibility: Legal requirements' (2024) <https://cdpcom.com/uk-digital-accessibility-legal-requirements/> (accessed 11 March 2025).

63 Harmonised European Standard: Accessibility requirements for ICT products and services EN 301 549 V3.2.1 (2021) https://www.etsi.org/deliver/etsi_en/301500_301599/301549/03.02.01_60/en_301549v030201p.pdf (accessed 15 December 2025).

64 R Utami and others 'Digital accessibility for integrated and inclusive digital public services' (2022) 22-23.

strategic initiatives led by key stakeholders reflect a strong commitment to inclusion.⁶⁵ A notable example is the Kenya Bankers Association (KBA), which has actively integrated disability considerations into its strategic framework. By prioritising the inclusion of persons with disabilities in financial service design, KBA has systematically identified and addressed digital accessibility barriers within the banking sector. This initiative ensures that all customers, including those with disabilities, can independently access and utilise financial services. By championing universal financial access, KBA has set a model for financial institutions seeking to implement inclusive banking solutions.⁶⁶ Tanzania can build on this approach by adopting universal design principles, integrating AT such as screen readers, and formulating policies that enforce accessibility standards.

3 Methodology

This study is a product of both doctrinal and comparative legal research methods. The doctrinal approach was the primary method, involving a systematic analysis of statutes, judicial decisions, reports, scholarly publications, and model laws relevant to the selected title. The key statutes that have been analysed include: the Persons with Disabilities Act, 2010; the Electronic Transaction Act, 2015; the National Payment Systems Act, 2015; and Personal Data Protection Act, 2022. This approach enabled the interpretation and evaluation of the existing legal frameworks through statutory analysis and legal reasoning, utilising both inductive and deductive methodologies.

A comprehensive review of academic journals, conference proceedings, and other scholarly works was conducted using electronic databases such as Google Scholar to ensure the inclusion of diverse perspectives. This rigorous process contributed to a robust understanding of Tanzania's regulatory environment for persons with disabilities and FinTech. The doctrinal methodology proved instrumental in achieving continuity, consistency, and certainty in legal analysis. It facilitated critical evaluations of Tanzania's current legal landscape, identifying gaps in the existing framework and offering actionable recommendations to address these gaps while fostering innovation. To complement the doctrinal approach, this study adopted a comparative legal methodology to assess legislative advancements, jurisprudence, and legal principles in jurisdictions that have made significant strides in FinTech accessibility for persons with visual disabilities. These jurisdictions include Kenya, the United States, Thailand, China, Australia, Canada, and the United Kingdom. The analysis extended to the contributions of international

65 WiLDAF Tanzania (n 11) 4.

66 As above.

organisations such as the CRPD, the World Bank Group (WBG), the International Monetary Fund (IMF), the Global Partnership for Financial Inclusion (GPII), the International Telecommunication Union (ITU), the World Blind Union (WBU), and the Better than Cash Alliance.

This comparative analysis provided valuable insights by identifying best practices from global financial regulatory frameworks and adapting them to Tanzania's context. Examining how other jurisdictions address the intersection of technological innovation, accessibility, and regulatory oversight allowed for a deeper understanding of potential solutions to financial exclusion challenges faced by persons with disabilities. By integrating doctrinal and comparative legal research, the study provided a multidimensional perspective on the legal and regulatory hurdles affecting FinTech accessibility for persons with visual disabilities in Tanzania. The findings contribute to policy development, ensuring that regulatory advancements balance technological progress with equitable access to financial services for all.

4 Findings and discussion

4.1 Legal framework

Tanzania's legal framework governing FinTech rights for persons with visual disabilities remains underdeveloped and fragmented. To date, no specific statute expressly guarantees digital financial inclusion or imposes binding accessibility obligations on FinTech providers. Although financial technologies have expanded overall access to financial services, existing laws and regulations do not clearly require mobile banking platforms, electronic payment systems, or related digital interfaces to comply with recognised accessibility standards for users with visual disabilities.⁶⁷ Consequently, accessibility obligations are largely implied through general disability and non-discrimination principles rather than articulated as enforceable, sector-specific mandates. The following discussion elaborates on these gaps and their implications for inclusive digital finance.

4.1.1 *The Constitution of the United Republic of Tanzania, 1977*

The Constitution of the United Republic of Tanzania, 1977, establishes a fundamental legal framework for equality and non-discrimination principles that can be interpreted *ejusdem generis* to encompass digital financial accessibility for persons with disabilities. While the Constitution does not explicitly address FinTech accessibility, its human rights provisions create a strong basis for advocating for inclusive digital financial

67 Macha & Massawe (n 1).

services as a constitutional obligation. Article 13 guarantees equality before the law and explicitly prohibits discrimination on any basis, including disability. This provision can be extended to include equal access to digital financial services, ensuring that persons with visual and other disabilities are not excluded from the financial ecosystem due to technological barriers. Given the increasing digitisation of financial services, failing to accommodate persons with disabilities effectively denies them an essential aspect of economic participation and independence.

Additionally, article 11 mandates the government's role in bridging the digital divide to empower persons with disabilities. It obligates the state authority to make appropriate provisions for realising a person's right to work, self-education, and social welfare, particularly in cases of old age, sickness, or disability. This provision supports the argument that the government has a legal and moral duty to promote financial inclusion by ensuring that FinTech platforms are accessible to persons with disabilities. Without prejudice to these rights, article 11 further requires the government to provide conditions that enable every person to earn a livelihood, which in today's digital economy is increasingly dependent on access to online financial services, mobile banking, and digital payment systems.

Therefore, interpreting these constitutional provisions in alignment with international human rights frameworks strengthens the case for FinTech accessibility as a human rights issue. By legally mandating accessibility in financial technology, Tanzania can take significant steps toward ensuring that persons with disabilities enjoy full economic participation without facing structural or technological barriers. Moreover, integrating inclusive digital finance policies within the broader framework of constitutional rights would reinforce the government's obligation to bridge the financial accessibility gap and foster economic empowerment for persons with disabilities.

4.1.2 The Persons with Disabilities Act 9 of 2010

The Act was enacted with the aim of making provisions for the healthcare, social support, accessibility, rehabilitation, education and vocational training, communication, employment or work protection and promotion of basic rights for the persons with disabilities and to provide for related matters. However, while FinTech has not been mentioned, the term promotion of basic rights can be interpreted in relation to international legal instruments to bridge the legal gap within the legislation. Although section 37 is not extensive in scope, its wording underscores a crucial legal obligation: when a public body provides a service, the head of that body must ensure that the service is accessible to persons with disabilities. This

provision seeks to address and bridge existing accessibility gaps, reinforcing the broader commitment to inclusivity.

Moreover, section 38(2) specifically highlights accessibility to information, including digital content, recognising that barriers to information access significantly impact the ability of persons with disabilities to fully participate in society. This aligns with global trends in digital accessibility laws, such as the Web Content Accessibility Guidelines (WCAG), which advocate for inclusive digital environments. Ensuring accessibility to digital information is particularly vital in sectors such as education, healthcare, and public services, where timely and equitable access to information can directly affect persons' rights and opportunities. These legal provisions, while foundational, highlight the need for further legislative refinements and enforcement mechanisms to ensure that accessibility is not just a policy aspiration but a fully realised right.

4.1.3 The National ICT Policy, 2016

The National ICT Policy, 2016, was developed in alignment with Tanzania's long-term national vision statements, particularly the Tanzania Development Vision 2025. This vision acknowledges that Information and Communication Technology (ICT) is a critical enabler of social and economic transformation, fostering national competitiveness in the digital era.⁶⁸ The policy sets forth several objectives aimed at leveraging ICT for national development, among which specific objective ii and specific objective xviii are particularly relevant to inclusivity and public engagement.⁶⁹

Specific objective ii seeks to enhance public participation and awareness of ICT's transformative potential, fostering a shift towards a knowledge-based society. Meanwhile, specific objective xviii emphasises the importance of promoting gender and social diversity in ICT participation, ensuring that technological advancements benefit all societal groups equitably. Collectively, these objectives reflect the broader principle of digital inclusivity, advocating for equitable access to ICT resources and opportunities for people from all backgrounds.

However, while the policy promotes inclusive ICT adoption, it does not explicitly address FinTech accessibility for persons with visual disabilities. This omission highlights a critical gap in ensuring that marginalised groups, particularly persons with disabilities, fully benefit from digital financial innovations.⁷⁰ Given the growing significance of

68 The United Republic of Tanzania Ministry of Works, Transport and Communication 'National Information and Communications Technology Policy' (2016).

69 ICT Policy (n 68) 13-14.

70 As above.

FinTech in driving financial inclusion, it is imperative that future policy frameworks explicitly integrate accessibility considerations for persons with disabilities. This would ensure that ICT infrastructure recognised as a fundamental enabler of financial inclusion effectively supports the needs of all users, including those with visual disabilities. By embedding universal design principles and AT into ICT and FinTech ecosystems, Tanzania can foster a truly inclusive digital economy. Bridging this gap would not only align with the policy's broader inclusivity objectives but also contribute to socio-economic empowerment by ensuring that marginalised groups can fully participate in, and benefit from, the country's digital transformation.

4.1.4 National Financial Inclusion Framework (2023-2028)

The Third National Financial Inclusion Framework (NFIF3) builds upon the progress made by its predecessor (2018-2022), with a continued emphasis on increasing the usage of financial products and services. It reinforces collaboration between the public and private sectors to establish a more inclusive financial system. One of its key objectives is to address financial inclusion challenges by setting a strategic roadmap for Tanzania's financial sector over the next five years through a PPP approach.⁷¹

NFIF3 recognises the importance of expanding access to formal financial services for persons with disabilities and highlights the need for policy reforms to enhance physical accessibility and promote non-discriminatory practices. Additionally, it advocates for partnerships between Financial Service Providers (FSPs), policymakers, and disability organisations to raise awareness of the unique needs of this marginalised group. Such collaborations could drive the development of accessible financial products, including voice-assisted ATMs, screen reader-compatible mobile banking applications, and braille financial statements.⁷²

However, a significant shortcoming of NFIF3 is its lack of mandatory accessibility standards. The framework does not impose legal obligations on financial institutions to ensure that digital financial services are designed to accommodate users with visual disabilities. As a result, accessibility initiatives remain largely voluntary, dependent on the goodwill of banks, FinTech firms, and mobile money providers through corporate social responsibility (CSR) programmes rather than enforceable legal mandates. This leaves persons with visual disabilities vulnerable to exclusion from digital financial services, a critical concern given the

71 NFIF3 (2023-2028) 3-4.

72 As above.

increasing shift toward mobile banking and cashless transactions.⁷³ To truly bridge the digital divide in FinTech for persons with visual disabilities, NFIF3 should integrate enforceable accessibility regulations within its policy framework. Establishing universal design standards for financial products, enforcing compliance audits, and incentivising accessible FinTech innovations would ensure that financial inclusion is not merely aspirational but a legally enforceable reality.

4.1.5 National Payment Systems Act, 2015

The National Payment Systems Act, 2015, was enacted to regulate and supervise payment systems, oversee electronic payment instruments and electronic money, govern payment system service providers, and ensure the validity and enforceability of netting arrangements, as well as the finality and settlement of payment instructions, among other related aspects. Although section 51 of the Act focuses on regulating electronic payment systems and safeguarding consumer rights in this domain, it does not explicitly provide for persons with visual disabilities.

4.1.6 The Electronic Transactions Act, 2015

The Electronic Transactions Act, 2015, was enacted to establish a legal framework for the recognition and regulation of electronic transactions in Tanzania. The Act facilitates the use of ICT in legal and commercial transactions by providing for the admissibility of electronic evidence in judicial proceedings, the recognition and regulation of secure electronic signatures, and other related matters. These provisions are essential in promoting digital transactions, enhancing legal certainty, and fostering trust in electronic commerce and financial services.

Section 12A of the Act specifically acknowledges the validity and enforceability of digital contracts and electronic transactions, reinforcing the shift toward a digital economy. However, despite this progressive legal stance, the Act lacks explicit provisions addressing the accessibility of electronic financial services for persons with visual disabilities. The absence of legally mandated accessibility standards leaves users with visual disabilities at a disadvantage, as they rely on discretionary measures taken by financial institutions and service providers. This legal gap raises concerns about digital inclusivity and the right to equal access to financial services.

To bridge this gap, there is a need for policymakers to integrate accessibility requirements within the regulatory framework, ensuring that electronic financial services incorporate AT such as screen readers, voice-

73 NFIF3 (2023-2028) 26.

enabled authentication, and braille-friendly transaction confirmations. Aligning Tanzania's electronic transaction laws with international best practices, such as the principles of universal design and the CRPD, would foster a more inclusive digital financial ecosystem. Furthermore, regulatory bodies, including the Bank of Tanzania and the Tanzania Communications Regulatory Authority, should collaborate with financial service providers to establish binding guidelines that promote accessible digital financial platforms for all users, including persons with visual disabilities.

4.1.7 The Tanzania Digital Economy Strategic Framework 2024-2034

The Tanzania Digital Economy Strategic Framework 2024-2034 presents a comprehensive roadmap for leveraging digital technologies to drive economic modernisation, foster resilience, and promote a sustainable digital economy. This framework underscores the government's commitment to integrating digital solutions across various sectors, ensuring that Tanzania remains competitive in the evolving global digital landscape. By focusing on digital transformation, the framework seeks to expand access to digital services, enhance financial inclusion, and promote economic growth through technology-driven innovations.⁷⁴

One of the key components of the framework is Pillar Six, which prioritises the facilitation of digital transactions through FinTech for both domestic and cross-border financial activities. The government aims to broaden access to formal digital financial services, enabling a wider segment of the population to participate in the digital economy. By promoting the adoption and use of digital financial services, the framework seeks to reduce reliance on cash-based transactions, enhance efficiency, and improve financial security for individuals and businesses. However, while Pillar Six stresses the development of inclusive, secure, and sustainable digital financial services to support economic activities, it lacks explicit provisions addressing the inclusion of persons with visual disabilities in the digital financial ecosystem.⁷⁵

This oversight presents a significant challenge, as financial accessibility for persons with visual disabilities remains dependent on voluntary initiatives by financial institutions rather than legally mandated standards. To ensure true digital inclusivity, it is imperative that accessibility for persons with visual disabilities be explicitly integrated into the framework. The government should require financial service providers to incorporate AT, such as screen readers, voice-guided transaction processes, and braille-friendly interfaces, ensuring that users with visual

74 The Tanzania Digital Economy Strategic Framework 2024-2034.

75 As above

disabilities can access and navigate digital financial services independently.

4.2 Legal challenges

Despite the existence of various policies and legal frameworks aimed at promoting financial inclusion for persons with disabilities in Tanzania, significant gaps persist, particularly in ensuring full accessibility of FinTech services for persons with visual disabilities. While certain legal instruments, such as the National ICT Policy, 2016, and the Universal Communications Services Access Act, 2006, recognise the inclusion of persons with disabilities in the ICT sector, their provisions remain broad and lack enforceable mechanisms that specifically mandate accessibility in digital financial services. Similarly, the NFIF3 underscores the importance of ensuring e-accessibility to e-services, recognising diversity and inclusion factors like disability, literacy levels, geographical disparities, age, and language. However, the framework primarily comprises policy directives and aspirational goals, lacking concrete legal obligations for financial institutions and FinTech service providers. This absence of clear implementation guidelines and regulatory oversight undermines the framework's ability to effectively tackle the unique challenges persons with visual disabilities encounter when accessing digital financial services.

Section 111(1) of the Electronic and Postal Communications Act, 2010, mandates that the Minister formulate regulations to ensure electronic content meets the needs of persons with visual and hearing disabilities. However, no such regulations have been enacted under the Act to enforce accessibility standards for users with visual disabilities. This regulatory gap presents a significant barrier to financial inclusion, as it permits digital financial service providers to operate without mandatory accessibility requirements, leaving many persons with visual disabilities unable to independently and securely access FinTech platforms, mobile banking applications, and digital payment systems. Tanzania, is a state party to various international legal instruments that promote disability inclusion, most notably the CRPD. It has made policy-level commitments to ensuring equal access to services for persons with disabilities. However, it has not translated these commitments into concrete policies, legal frameworks, or regulatory guidelines that specifically enforce financial accessibility for persons with visual disabilities.

While the rights to privacy, equality, and life are recognised under Part III of the Constitution of the United Republic of Tanzania, the absence of subordinate laws to effectively enforce these rights for persons with visual disabilities in the FinTech sector remains a significant challenge. While FinTech rights and the right to life are distinct legal concepts, they are closely interconnected, particularly for persons with disabilities in Tanzania. Article 14 of the 1977 Constitution guarantees the protection of

every individual's life, and for persons with disabilities, access to FinTech is essential in realising this right particularly in ensuring economic survival, healthcare access, and overall well-being. Although FinTech is not an explicitly recognised constitutional right, its accessibility is fundamental to the enjoyment of core rights, including the right to life, for persons with disabilities. Consequently, the government has a constitutional duty to advance financial inclusion as a means of safeguarding the rights of marginalised groups.

The lack of mandatory accessibility standards in key FinTech regulations, financial consumer protection laws, and banking policies has created a systemic gap that limits the full financial participation of persons with visual disabilities. Additionally, Tanzania lacks disability-specific consumer protection regulations, particularly in the digital financial services sector. While general financial consumer protection laws exist, they fail to address the unique vulnerabilities of users with visual disabilities. For instance, The Cybercrimes Act, 2015, provides safeguards against online fraud, but it does not include provisions specifically addressing financial fraud targeting persons with disabilities. There are no legally binding guidelines that ensure FinTech service providers integrate accessible and fraud-proof digital payment solutions for users with visual disabilities.

It remains crucial to establish binding legal instruments that enforce accessibility standards in FinTech services for persons with visual disabilities. The current regulatory framework does not compel financial service providers to integrate AT, such as screen reader-compatible applications, voice-guided transaction services, and secure biometric authentication methods. To address this gap, urgent regulatory reforms are needed to establish clear, enforceable accessibility standards, supported by monitoring mechanisms to ensure compliance within the FinTech sector. Achieving genuine financial inclusion for persons with visual disabilities in Tanzania requires more than just policy acknowledgment it demands a comprehensive legal and regulatory framework that transforms inclusive financial principles into tangible, enforceable rights and obligations for all stakeholders in the digital financial ecosystem.

5 Conclusion and recommendations

5.1 Conclusion

While Tanzania has taken significant steps by ratifying international conventions and formulating inclusive policies, its failure to translate these commitments into enforceable laws and regulations has left persons with visual disabilities financially marginalised. Drawing insights from Kenya's approach and other countries such as UK, USA and Australia, Tanzania must prioritise institutional frameworks that mandate FinTech

accessibility, ensuring that disability inclusion in financial services is not merely a voluntary effort but a legal and regulatory obligation.

While Tanzania has a general legal framework supporting digital financial inclusion, it lacks specific, enforceable regulations mandating FinTech accessibility for persons with visual disabilities. The Constitution, Disability Act, and Financial Inclusion Framework provide broad protections, but weak enforcement and regulatory gaps leave persons with visual disabilities at risk of digital financial exclusion. Strengthening legal mandates, enforcing accessibility standards, and fostering multi-sector collaboration will be essential for ensuring inclusive FinTech services in Tanzania's digital economy.

5.2 Recommendations

To bridge the gap between Tanzania's strong human-rights commitments and the lack of enforceable obligations on FinTech accessibility, the following measures are proposed:

- (a) Undertake legislative reform, particularly by amending the Persons with Disabilities Act, 2010, and relevant financial sector statutes, to explicitly require digital accessibility across all financial services, in conformity with the CRPD and WCAG accessibility standards.
- (b) Enact binding regulations under the Electronic and Postal Communications Act, 2010, and the Electronic Transactions Act, 2015, mandating that mobile banking platforms, FinTech applications, ATMs, and payment systems comply with minimum accessibility requirements.
- (c) Integrate disability-specific consumer protection measures and accessibility compliance into the supervisory mandates of the Bank of Tanzania, including routine accessibility audits and the imposition of sanctions for non-compliance.
- (d) Establish formal coordination mechanisms involving the Bank of Tanzania, TCRA, organisations of persons with disabilities, and FinTech providers to collaboratively design, implement, and monitor accessible financial solutions.
- (e) Strengthen capacity through targeted training for FinTech developers and regulators on inclusive design principles, while introducing regulatory incentives to encourage early and sustained compliance with accessibility standards.

CHAPTER 2

EXAMINATION OF ACCESS TO JUSTICE BARRIERS FOR CHILDREN WITH DISABILITIES IN NIGERIA

Ijeoma Chinaka Ezeude*

Summary

Improving access to justice for the enforcement of rights of children with disabilities remains arduous for the Nigerian Government. This constitutes a drawback to the actualisation of the purpose and objectives of the global international human rights standards on disability rights, to which Nigeria is a state party. Despite the enactment of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, the inability of the country to effectuate the provisions of the law, has continued to widen the scale of rights abuses of children with disabilities. Children with disabilities continue to be pervasively abused and, in many instances, used as catalysts for the invocation of pity in alms begging. The increasing number of children with disabilities roaming the streets of major cities across Nigeria underscores the importance of this paper. At the hub of these implementation challenges are a lack of infrastructural, technological and manpower assistive devices to assist children with disabilities to wit: disability curb cuts, lifts, ramps, braille, screen readers, switch devices for accessibility to court rooms, police stations and other justice buildings; and a lack of technical and qualified expertise to handle disability cases. The aim of the research is to examine the barriers to access to justice for children with disabilities, in doing so, the work adopted a mix of doctrinal and empirical approaches to discussing these barriers faced by children with disabilities. The doctrinal approach reviewed the extant law on disability in Nigeria, whilst the empirical approach involved the distribution of online surveys and questionnaires to participants across the six geo-political zones in Nigeria to get their views on the way forward in addressing these challenges. Lastly, the work advocates for concerted collaborative efforts by key stakeholders through action plans, policy strategies, efficient institutional mechanisms, and effective monitoring and accountability for these implementation gaps to be effectively addressed.

* LLB, BL, LLM (University of Nigeria); PhD, Public Law (University of Nigeria).

1 Introduction

Since 1989, the rights of children have been given due recognition in a plethora of instruments globally. The first treaty to recognise the rights of children is the United Nations Convention on the Rights of the Child (CRC) of 1989.¹ The CRC emphasises ‘the right to a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community’.²

The Committee on the Rights of the Child is also clear that special measures or adaptations may be needed to ensure that children with disabilities have their rights equally respected, protected, and fulfilled when they are accessing justice.³ The United Nations Convention on the Rights of Persons with Disabilities (CRPD) of 2006 also reinforces the rights of children with disabilities.⁴ The CRPD provides that ‘States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children’.⁵ Nigeria ratified the CRPD in 2007 and its Optional Protocol in 2010.

At the regional level, The African Charter on the Rights and Welfare of the Child (ACRWC)⁶ together with the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa (The African Disability Protocol)⁷ also recognise the rights of the child. Nigeria domesticated the CRC in 2003 through the Child’s Right Act (CRA).⁸ In addition, Nigeria enacted the Discrimination Against Persons with Disabilities (Prohibition) Act (DAPDPA) of 2018. It has been put forward that:

The UNCRD has revolutionized the way the legal framework responds to the rights of persons with disabilities, it has the potential to help them come out of benevolence welfare mindset that creates a dependency syndrome.⁹

1 UN General Assembly, Convention on the Rights of the Child, United Nations, Treaty Series, vol 1577, p 3, 20 November 1989. Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of (20 November 1989), entry into force (2 September 1990), in accordance with art 49 <https://www.unicef.org> (accessed 5 November 2024).

2 CRC, art 23.

3 UN Children’s Committee, General Comment 5: General measures of the implementation of the Convention on the Rights of the Child (arts 4, 42 and 44, para 6), 27 November 2003, UN Doc CRC/GC/2003/5 (2003) para 12.

4 A Flynn & J Hodgson ‘Access to justice and legal aid’ (2017) 39 *Journal of Social Welfare and Family Law* 522.

5 CRPD, art 7(1).

6 Organisation of African Unity (OAU), African Charter on the Rights and Welfare of the Child, CAB/LEG/24.9/49 (1990), 11 July 1990.

7 Nigeria formally ratified the African Disability Protocol on 19 October 2023 <https://fmno.gov.ng> (accessed 5 November 2024).

8 Cap C 50 Laws of Federation of Nigeria, 2004.

9 S Mukhopadhyay & E Moswela ‘Disability rights in Botswana: Perspectives of individuals with disabilities’ (2019) 31 *Journal of Disability Policy Studies* 1.

Despite the CRC, CRPD, ACRWC, and the Nigerian DAPDPA, reports show that children with disabilities are confronted daily with the challenges of enforcing their legal rights. These rights include the civil, social, economic, health and cultural rights of children with disabilities. According to the United Nations Children's Fund (UNICEF) report in 2023, 'children with disabilities are 25 per cent less likely to attend early child education [and] 47 per cent more likely to be out of primary school'.¹⁰ Similarly, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) report in 2023 indicates that 'the global number of out of school children has risen by 6 million since 2021 and now totals 250 million'.¹¹ These figures are undoubtedly accentuated by the lack of access to justice to enforce their legal rights.

The main purpose of the paper is to highlight these barriers facing children with disabilities and to recommend that concerted collaborative efforts by key stakeholders in the area of implementation of the rights of children with disabilities are imperative in Nigeria, through action plans and effective strategic policy implementation.

The paper is divided into seven parts. Part one is a general introduction, part two aims to define the concepts of rights, disability and access to justice for more clarity. Part three problematises the discourse of disability by raising some hypothetical problem questions to buttress several challenges facing children with disabilities in the justice system. Part four discusses the international, regional and national responses to access to justice for children with disabilities with a view to finding out the extent to which the right of access to justice of children with disabilities has received global recognition. Part five discusses the barriers of access to justice by critiquing the relevant parts of the Nigerian DAPDPA requiring urgent implementation so as to improve access to justice for children with disabilities. Part six analyses the empirical approach through surveys and questionnaires to participants, to get their perspectives on ways of addressing access to justice challenges for children with disabilities. Lastly, part seven is the conclusion with recommendations on ways to improve access to justice for children with disabilities in Nigeria.

10 UNICEF 'Fact sheet: Children with disabilities' (August 2022) https://www.unicef.org/sites/default/files/2022-10/GIP02115_UNICEF_Children-with-Disabilities-Factsheet-final%20-%20accessible.pdf (accessed 19 August 2024).

11 UNESCO '250 million children out-of-school: What you need to know about UNESCO's latest education data' (19 September 2023) <https://www.unesco.org/en/articles/250-million-children-out-school-what-you-need-know-about-unescos-latest-education-data> (accessed 20 August 2024).

2 Understanding the concepts of rights, disability and access to justice

Right is derived from the Latin word '*rectus*' which in the noun form means that to which a person has a just and valid claim. This connotes the capacity of doing an act or an interest to be benefitted by the holder of such right. A right is an indispensable valuable possession; a world without rights no matter how full of benevolence and devotion to duty would suffer an immense moral impoverishment.¹²

A jurist, Oputa, in one of his prolific writings called it 'a legal right and the capacity residing in a person or group of persons of controlling, with the assent and the assistance of the state, the action of others'.¹³ Oputa's definition can be said to mean that every person has a legal right for the sake of being human and the right of a person therefore demands from the other party, to either perform or refrain from performing certain actions. Children with disabilities as children therefore possess legal rights. These rights of children, including children with disabilities, were prominently espoused with the adoption of the League of Nations in 1922¹⁴ and the 1959 Declaration of the Rights of the Child.¹⁵ The CRC was ushered in as the first legally binding instrument on children's rights.¹⁶ The CRC also specifically recognised the rights of children with disabilities.¹⁷ For a proper understanding of who a child with disability is, the paper shall define 'disability' first.

Disability is defined as 'resulting from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others'.¹⁸ The definition of 'disability' under the CRPD signifies that 'disability' is a combination of genetic and environmental factors; the CRPD therefore provides a shift away from a purely medical model to social realities which incorporates a transformative view of disability.¹⁹ The social model strives to transform children with disabilities' limitations

12 MDA Freeman *Lloyd's introduction to jurisprudence* (1985) 434.

13 CA Oputa *Human rights in the political and legal culture of Nigeria: Volume 2 of Idigbe memorial lectures* (1988) 38.

14 The Covenant of the League of Nations (1920), art 23 <https://www.un Geneva.org/en/about/league-of-nations/covenant> (accessed 4 November 2024).

15 UN General Assembly, Declaration of the Rights of the Child, 20 November 1959, UN Doc A/RES/1386(XIV) (1959), Principles 1-10 provide for the rights of the child in detail. Principle 5 specifically provides for the rights of children with disabilities.

16 The Convention was adopted by the UN General Assembly on 20 November 1989 and entered into force in September 1990. The Convention outlines in 41 articles the human rights to be respected and protected for every child under the age of 18 years.

17 CRC, art 23.

18 CRPD, art 13.

19 A Lawson & A Beckett 'The social and human rights models of disability: Towards a complementarity thesis' (2021) 25 *International Journal of Human Rights* 348.

through eliminating discriminatory practices and social barriers in the society.

Similarly, in Nigeria, disability is defined under the DAPDPA to include 'long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder full and effective participation in society on equal basis with others'.²⁰ The Nigerian CRA defines 'a child in need of special protection measures as a child who is mentally or physically impaired'.²¹ Therefore, a child with disability according to the social model of disability is a child hindered by societal barriers to exercise his/her legal rights. These legal rights include the right to development, right to health and right to access to justice which is the main subject of this discourse. What then is the concept of access to justice?

Access to justice is a fundamental principle of the rule of law which encapsulates the right to be able to approach the mechanisms of justice.²² Access to justice therefore includes 'normative legal protection, legal structures and procedures, legal awareness, legal aid and legal advice, enforcement of rights and civil society oversight',²³ and is broader in scope and entails the protection of the law and whatever rights are protected by the law must be enforced without any forms of hindrance.²⁴ Access to justice has been identified to have three distinct components to wit: substantive, procedural and symbolic.²⁵ For children with disabilities, the procedural access to justice requires particular attention in Nigeria so as to remove barriers that prevent them from participating actively in court proceedings.

In the next sections, the paper will explore the problematisation of access to justice and the normative framework for access to justice.

20 DAPDPA, sec 57.

21 CRA, sec 277.

22 MDAC 'Access to justice for children with mental disabilities: International standards and findings from ten EU member states' (2015) file:///C:/Users/evanr/Downloads/MDAC_Access%20to%20justice%20for%20childredn%20with%20mental%20disabilities_Summary%20Report_July%202015_EN.pdf (accessed 20 August 2024); see also J Beqiraj, L McNamara & V Wicks 'Access to justice for persons with disabilities: From international principles to practice' International Bar Association (October 2017) https://www.biiicl.org/documents/1771_access_to_justice_persons_with_disabilities_report_october_2017.pdf (accessed 5 November 2024).

23 As above.

24 F Falana *Topical issues on women's rights in Nigeria* (2018) 2.

25 MJ Nkhata 'Access to justice for persons with disabilities in Malawi: Exploring some challenges and possibilities in the criminal justice system' (2020) 8 *African Disability Rights Yearbook* 124, 128.

3 Problematisation of the discourse

Three hypothetical examples follow. A 13-year-old girl with a sensory disability is defiled, she has no legal assistance and even her legal representative sees her as a burden. Who will take this girl's case to court and as a child with sensory disability who will challenge her legal representative who has refused to protect her right?

A group of girls with intellectual disabilities have been serially deceived and sexually abused and used in soliciting alms along the streets. Who will assist these girls when their case is finally brought to court? Who will ensure they are heard? Who will support them in expressing themselves? What guarantees are there that the court will accept their testimonies as evidence?

A 12-year-old girl with Down syndrome has been raped and becomes pregnant. Her parents and the court believe that she is still too young to give evidence. They decide to do a caesarean operation and give the baby up for adoption. Nobody asks the girl questions about the rape incident as to whether she will recognise the perpetrator or whether she is capable of understanding that she was pregnant and whether she could have taken care of the baby. Who will take her case to court and see that she is heard? Who will have the patience to understand what the girl is capable of doing and the assistance she wants and needs? Who will protect her right as a child and as a mother?

These issues are core principles for this discourse and throw more highlights on the imperatives of navigating these implementation challenges in the enforcement of rights of children with disabilities in Nigeria as recent statistics hereunder stated reveal the pervasiveness of these problems which is becoming endemic.

It is reported that children with disabilities are most often deprived of early opportunities in life to develop and participate fully in society.²⁶ They frequently face disproportionate levels of marginalisation and exclusion as well as higher levels of violence, exploitation, abuse²⁷ and poverty.²⁸ The UN Children's Committee²⁹ states that:

Children with any kind of impairment encounter a combination of social, cultural, attitudinal and physical obstacles to the realization of their rights and that action is needed to remove those barriers to ensure that they are treated equitably and without any discrimination and to ensure that their best interests are taken into account as a primary consideration.

26 WHO *World Report on Disability 2011* (2011) file:///C:/Users/evanr/Downloads/9789240685215_eng.pdf (accessed 10 April 2023).

27 L Jones and others 'Prevalence and risk of violence against children with disabilities: A systematic review and meta-analysis of observational studies' (2012) 380 *The Lancet* 899 <http://www.gocwd.org/endviolence.html> (accessed 11 March 2024).

28 *World Report on Disability* (n 26).

29 UN Children's Committee, General Comment 9 (2006): The rights of children with disabilities, 27 February 2007, UN Doc CRC/C/GC/9 (2007) para 5.

Reports also reveal that children with disabilities find it more difficult to access education³⁰ and healthcare.³¹ Girls with disabilities face a higher risk of violence and neglect than other girls.³² Children with disabilities who live in areas affected by emergencies, disasters, or armed conflict also face heightened challenges.³³

The United States Department of Justice reported that the rate of violent victimisation against persons with disabilities was 2.5 times higher than those without disabilities.³⁴ Persons with disabilities face disproportionate socio-economic marginalisation resulting in poorer health and medical conditions, lower quality of education, and limited employment. In the case of children, it has been reported that children with disabilities are most often deprived of early opportunities in life to develop and participate fully in society, they are frequently denied access to equal opportunities for learning and are also at more vulnerable risk of abuse and violence, yet their testimonies are often ignored or dismissed.³⁵ Mercy Gichuhi, Country Director, Save the Children International Nigeria, stated:

Children, girls and women with disabilities are the most affected and disadvantaged in times of disaster, armed conflict or humanitarian crisis, they are often neglected as part of communities during recovery and response programs.³⁶

Children with disabilities in Nigeria are rampantly abused and, in many instances, used as a catalyst for invocation of pity used in alms begging in major metropolitan cities across Nigeria.³⁷ Children with disabilities are seen begging for alms near traffic lights, restaurants, shopping malls and churches, amongst other public places, in Nigeria.³⁸ These children face

30 UNICEF 'Regional report on out-of-school children' (2015).

31 *World Report on Disability* (n 26).

32 United Nations Human Rights Council 'Thematic study on the issue of violence against women and girls and disability: Report of the Office of the United Nations High Commissioner for Human Rights' 30 March 2012, UN Doc A/HRC/20/5 (2012) paras 12-27.

33 UNICEF 'Children with disabilities in situations of armed conflict: Discussion paper' (2018).

34 E Harell 'Crime against persons with disabilities: 2009-2014 – Statistical tables' US Department of Justice (November 2016) <https://bjs.ojp.gov/content/pub/pdf/capd0914st.pdf> (accessed 6 April 2023).

35 M Miller and others 'Promoting the rights of children with disabilities' *UNICEF Innocenti Digest* 13 (2007) https://www.un.org/esa/socdev/unyin/documents/children_disability_rights.pdf (accessed 10 April 2023).

36 ZB Ibrahim '95.5% of children with disability in Nigeria have no access to education – SCI' *HumAngle* 16 February 2022 <https://humanglemedia.com/95-5-of-children-with-disability-in-nigeria-have-no-access-to-education-sci/> (accessed 10 May 2023).

37 S Chukwudi & V Ojatorotu 'Disability and children as begging guides: For how long shall children be used as begging guides by visually impaired persons in Africa?' (2021) 9 *Journal of Intellectual Disability – Diagnosis and Treatment* 602.

38 As above.

different types of discrimination and have limited access to basic social services like health, legal and educational facilities.³⁹

This paper advocates for concerted collaborative efforts by multi-sectoral stakeholders in the area of implementation of the rights of children with disabilities in Nigeria. These stakeholders must include the government, civil society organisations (CSOs), and public and private sector establishments which are imperative to account for the needs of children with disabilities.

4 Access to justice for children with disabilities: International, regional and national responses

Nearly all international, regional and national human rights instruments provide for the right of access to justice. Article 8 of the Universal Declaration of Human Rights (UDHR) provides that ‘everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights guaranteed to him by the constitution or by law’. The International Covenant on Civil and Political Rights (ICCPR) provides that ‘all persons shall be equal before the courts and tribunals’.⁴⁰ Article 14(2)(f) of the ICCPR provides that with respect to criminal proceedings, every person has the right to have the free assistance of an interpreter if he cannot understand or speak the language used in court. It is worthy to note that the CRC remains at the core with the principle of the ‘best interests of the child’ considered as one of the fundamental principles to guide all the procedures and policies regarding children and their access to justice.⁴¹ The CRPD which was ushered in later has added impetus to the right of access to justice and promotes the shift towards a social model of disability. Article 13(1) of the CRPD sets out that governments shall:

Ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigation and other preliminary stages.

The CRPD therefore makes it obligatory for government to promote the training of professionals working in justice systems to ensure that people can access justice on an equal basis with others.⁴² The government’s obligations are to be read together with the CRPD provisions in article 9 which ensure the full inclusion of persons with disabilities in society

39 As above.

40 ICCPR, art 14.

41 M Leskoviku & M Prenc ‘Access to justice an evolving concept’ (2015) 6 *Mediterranean Journal of Social Sciences* 103.

42 CRPD, art 13(2).

through 'identifying and eliminating barriers to justice' including those that are attitudinal.

At the regional level, the ACHPR in article 7 recognises the right to a fair hearing for every person. Nigeria has since ratified and domesticated the ACHPR⁴³ thereby making it part of Nigerian municipal law in line with the Constitution of Nigeria.⁴⁴ Additionally, the ACRWC provides as follows:

In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.⁴⁵

The African Disability Protocol,⁴⁶ ensures that states parties take measures to ensure that persons with disabilities have access to justice on an equal basis with others.⁴⁷ The European Convention on Human Rights (ECHR) provides that access to remedies must be guaranteed on an equal basis to everyone without discrimination.⁴⁸ Also the Charter of Fundamental Rights of the European Union (EU Charter)⁴⁹ in particular provides for the right to fair hearing within a reasonable time. Everyone has the right to receive legal advice, a defence and representation and a restatement of the presumption of innocence.⁵⁰

Access to justice is embedded in the Constitution of the Federal Republic of Nigeria, 1999 (As amended 2023) (CFRN). Section 46(1) of the CFRN guarantees every person the right to enforce his/her fundamental rights where it provides that:

Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him, may apply to a High Court in that State for redress.

43 African Charter on Human and Peoples Rights (Ratification and Enforcement) Act Cap A9 LFN 2004.

44 Constitution of the Federal Republic of Nigeria, 1999 (As amended 2023), sec 12.

45 ACRWC, art 4.

46 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, 2018.

47 African Disability Protocol, art 13.

48 ECHR, art 14.

49 European Union, Charter of Fundamental Rights of the European Union, 2012/C 326/02, 14 December 2007.

50 EU Charter, arts 47-48.

In pursuance to this provision of the Constitution, the Fundamental Rights (Enforcement Procedure) (FREP) Rules were made by the Chief Justice of Nigeria (CJN) deriving powers under section 46(3) of the CFRN, so as to further advance the course of justice in cases of human rights.⁵¹ The importance of the FREP Rules, which emerged as an additional advantage to the African Charter is that it makes the Charter applicable in its procedural framework.⁵² The FREP provision also enables the court to proactively 'pursue enhanced access to justice for all classes of litigants especially ... the vulnerable'.⁵³

Drawing from the above provision of the FREP Rules, it is worthy to note that for children with disabilities, special assistive devices shall be provided to ensure effective access to justice. Nigerian courts are yet to make pronouncements on cases involving the enforcement of the right of access to justice for children with disabilities. In recognising the need for special measures to be taken in matters involving children with disabilities. The Nigerian CRA, applicable only in the Federal Capital Territory of Nigeria,⁵⁴ provides that:

Every child who is in need of special protection measures has the right to such measure of protection as is appropriate to his physical, social, economic, emotional and mental needs under conditions which ensure his dignity, promote his self-reliance and active participation in the affairs of the community ...

Every person, authority, body or institution that has the care or the responsibility for ensuring the care of a child in need of special protection measures shall endeavour, within available resources, to provide the child with such assistance and facilities which are necessary for his education, training, preparation for employment, rehabilitation, and recreational opportunities in a manner conducive to his achieving the fullest possible social integration and individual development and his cultural and moral development.⁵⁵

The above provisions of the CRA give credence to the importance of access to justice for children with disabilities whose rights must be adequately protected and safeguarded in the administration of justice.⁵⁶ Nigerian courts have failed to make pronouncements regarding the barriers facing children with disabilities in enforcing their legal rights in court due to lack of assistive devices in court rooms.

51 The Late Chief Justice Legbo Kuitigi made the ground-breaking Fundamental Rights (Enforcement Procedure) Rules 2009.

52 The FREP Rules, para 3(a)(6) of the overriding objectives of the Rules.

53 FREP Rules, Preamble 3(d).

54 Currently 34 out of 36 states of Nigeria have passed the Child's Rights Act into law.

55 CRA, secs 16(1)-(2).

56 CRA, sec 16.

In a similar vein, the CRA establishes the Family Court for the Federal Capital Territory and for each State of the Federation for the purpose of hearing and determination of matters pertaining to children.⁵⁷ The Act establishes two court levels of the Family Court to include the Division of the High Court at the High Court levels and at the Magistrates' Court level.⁵⁸

The Act provides that the Family Court shall have jurisdiction to entertain civil and criminal matters pertaining to the existence of legal rights, power, duty, liability, privilege, interest, obligation or claim in respect of a child or criminal proceeding relating to any penalty or other liability in respect of an offence committed by a child or against the interests of a child.⁵⁹ The Act provides for the constitution of the Family Court when sitting on matters of children to include: a) Judges of the High Court of the State or Federal Capital Territory Abuja; and b) Assessors, who shall not be below the rank of a Chief Child Development Officers.⁶⁰ The provision of having assessors who are professionals in child development is laudable. The law makes it mandatory for the Court to be duly constituted when sitting and such constitution shall include two assessors who have attributes of dealing with children. The Act replicates the same provisions on the constitution of the Court at the Magistrates' Court level as well. The constitution of the Court at the Magistrate's Court level shall also be magistrates not below the rank of Chief Magistrate, and also two assessors.

But the addition in the Magistrates' Court is that one of the assessors shall be a woman and the other shall be a person who has attributes of dealing with children. The Act provides for adequate training, and refresher courses to be given to court personnel from time to time.⁶¹

The child has the right to be represented by a legal practitioner and is also entitled to free legal aid in the hearing and determination of any matter pertaining to a child.⁶² The privacy of the child in any proceeding is safeguarded by the Act where it provides that only the members of the Court, parties to the case, solicitors and counsel, parents and guardians of the child or any other persons involved in the case shall be in a court where proceedings relating to a child are done.⁶³ The section also excludes members of the press.

57 CRA, sec 149.

58 CRA, sec 150.

59 CRA, sec 151.

60 CRA, sec 152.

61 CRA, sec 153.

62 CRA, sec 154.

63 CRA, sec 155.

The Act gives the Family Court exclusive jurisdiction in cases of children.⁶⁴ The Act prohibits any child from being treated like an adult before the justice system.

Only few States in Nigeria including the Federal Capital Territory (FCT) have established the family courts. This adversely poses a challenge to the enforcement of the rights of children with disabilities. The deficiency in the number of Family Courts across the Country hampers the effective implementation of the CRA.⁶⁵ Coupled with the fact that special measures as provided under the CRA in cases of children with disabilities appearing in court are still lacking. These special measures which include assistive devices for evidence taking among others constitute the gap which this study seeks to resolve. The challenges in providing special assistive devices in Nigeria also corroborate the research emphasis on the importance of moving beyond legislative enactments in providing special measures that will assist effective access to justice for children with disabilities. General provisions on the right of access to justice in extant laws discussed above cannot alone be sufficient in the exercise of the right of access to justice for children with disabilities who are in contact with the justice system in the absence of assistive devices.

A UNICEF report in 2023 revealed the inability of the Nigerian Government to submit child rights reports for the past 13 years.⁶⁶ Reacting also to access to justice barriers in Nigeria, the UNICEF Child Protection Specialist in Nigeria in 2023, while commenting on this gap in implementation of the Child's Rights Act, made an important statement on the need to look into enforcement challenges facing children's rights especially the rights of children with disabilities as follows:

It is imperative that we have family courts in all the States that have adopted the CRA, without them, where will cases involving children be adjudicated? The absence of family courts undermines the protection and representation of vulnerable children and this negligence has grave consequences.

The Evidence Act (EA), 2011 of Nigeria provides for the competence and compellability of witnesses so as to enhance effective access to justice in giving evidence in courts as follows:⁶⁷

All persons shall be competent to testify, unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by reason of tender years, extreme old age, disease, whether of mind or any other cause of the same kind ... A person

64 CRA, sec 162.

65 L Akinboade 'UNICEF reveals Nigerian Government's 13-yr failure to submit child rights report' *Daily Asset* (Abuja) 29 May 2023, 1 <https://dailyasset.ng/unicef-reveals-nigerian-governments-13-yr-failure-to-submit-child-rights-report/> (accessed 22 August 2023).

66 As above.

67 EA, sec 175(1)-(2).

of unsound mind is not incompetent to testify unless he is prevented by his mental infirmity from understanding the questions put to him and giving rational answers to them.

In the case of a witness with speech impairment,⁶⁸ the EA provides that a person who is not able to speak, is a competent witness and compellable depending on the circumstances and can give evidence in any of manner which is intelligible such as writing or that the evidence shall be deemed to be oral evidence. Sebastine Tar on this premise, added that evidence of such persons will necessarily entail ‘calling expert interpreters, for easy comprehension thereof’.⁶⁹

The EA also provides that:

A witness who is unable to speak may give evidence in any other manner in which he can make it intelligible, as by writing or by signs but such writing and signs must be made in an open court.⁷⁰

Such evidence shall be deemed oral evidence.⁷¹

The Administration of Criminal Justice Act (ACJA) applicable in the Federal Capital Territory of Nigeria⁷² is also relevant for protecting persons with mental impairment standing trial as follows:

Where in the course of a criminal trial, the court has reason to suspect the mental capacity or soundness of mind of a defendant, by virtue of which he is unable to stand trial or defend himself, the court shall order the medical examination of the defendant’s mental state or soundness of mind.⁷³

The National Mental Health Act (NMHA)⁷⁴ is remarkable for expansively providing for the rights of persons in need of mental health conditions and provides for the right of a person with a mental health condition to access medical, social and legal services.⁷⁵

Undoubtedly, these salient substantive provisions on access to justice are commendable but efforts should be made to improve the procedural arm of access to justice in Nigeria by providing assistive devices in court rooms in Nigeria, so as to avoid these provisions from being mere academic rhetoric.

68 EA, sec 176.

69 ST Hons *S.T. Hon's Law of Evidence in Nigeria: Based on the Nigerian Evidence Act, 2011* (2019) 1093.

70 EA, sec 176(1).

71 EA, sec 176(2).

72 Several other states have passed the ACJA into law in Nigeria.

73 ACJA, sec 278.

74 The Bill was proposed before the Nigeria National Assembly in 2021 but was finally passed into law in January 2023.

75 NMHA, secs 12(1)(a)-(b) & (2)(a)-(h).

5 Barriers to access to justice: A review and critique of the rate of implementation of the DAPDPA

5.1 Attitudinal barrier

The DAPDPA provides for the full integration of persons with disabilities into society and established the National Commission for People with Disabilities charged with the responsibilities for their education, healthcare, social, economic and civil rights.⁷⁶ The Act prohibits discrimination on the grounds of disability and penalises any person who discriminates against persons with disabilities.⁷⁷ Section 16 prohibits the use of persons with disabilities in solicitation of alms. This section is currently not being enforced in Nigeria as the majority of persons with disabilities in Nigeria are street beggars.⁷⁸ Some families in Nigeria use their children with disabilities to solicit for almsgiving along the major expressways.⁷⁹ Yet the Nigerian Government has not arrested any person for such illicit conduct perpetrated against persons with disabilities.⁸⁰

The Federal Ministry of Information is saddled with the responsibility for awareness creation,⁸¹ yet the awareness campaign has not been implemented as the consciousness to enforce the legal rights of children with disabilities among justice professionals still needs to be awakened.

5.2 Infrastructural and accessibility barriers

The DAPDPA provides for the accessibility of physical structures.⁸² The sections on accessibility clearly state that public physical structures should be modified to make them accessible to persons with disabilities.⁸³ Public buildings whether movable or immovable should be modified to grant access to persons with disabilities,⁸⁴ also road sidewalks and general

76 DAPDPA, explanatory memorandum, also 13 states out of 36 states of the Federation have passed the DAPDPA into laws of their various states in Nigeria.

77 DAPDPA, secs 1(1)-(2).

78 E Etieyibo & O Omoregbe 'Religion, culture and discrimination against persons with disabilities in Nigeria' (2016) 5 *Africa Journal of Disability Law* 192; TA Oluwole 'A critical analysis of the causes and implications of street begging among people with disabilities in Ibadan metropolis, Nigeria' (2016) 2 *International Journal of Advanced Research in Social Sciences, Environmental Studies & Technology* 42; A Adesokan & MK Owoyemi 'Perceived causes and effects of street begging among adolescents with disabilities in Ilorin metropolis' (2022) 6 *International Journal of Academic Management Science Research* 190.

79 MK Aliyu & JT Kayode 'Street begging among school age children and social protection policy in South Western, Nigeria' (2024) 12 *Global Journal of Arts, Humanities and Social Sciences* 1, 3.

80 As above.

81 DAPDPA, sec 2.

82 DAPDPA, sec 3.

83 As above.

84 DAPDPA, sec 4.

facilities.⁸⁵ A transitory period of five years is provided under the Act.⁸⁶ Building plans should be designed with persons with disabilities in mind, especially those in wheelchairs. Government and relevant authorities are prohibited from approving building plans lacking in this regard. Persons with disabilities may seek redress in court by notifying the appropriate authority of the inaccessibility of the building.⁸⁷ The Act provides punishment for failure to comply with provisions on accessibility.⁸⁸

While this is a well-thought-out measure, it is important to note that most public buildings in Nigeria especially the court rooms lack sufficient infrastructural and assistive devices to guarantee access to justice for children with disabilities. The transitory period of five years is almost running out and there is no indication that the bodies will adhere to this mandatory provision.

The Act provides for the accessibility of vehicles.⁸⁹ Public vehicles are mandated to display auditory and visual guides in their vehicles within five years of passing the Act.⁹⁰ Transport providers are enlisted to frequent maintenance of the auditory and visual guides.⁹¹ Drivers owe a duty of care to persons with disabilities to come to a stop before alighting the vehicle.⁹² Currently, they do not have access to public transportation to courts. Available vehicles do not have assistive devices such as auditory and visual guides to aid persons with disabilities.

5.3 Communication barrier

The Act also entitles persons with disabilities access to assistive devices such as braille, screen readers, and sign language interpreters in court rooms. These assistive devices are important for receiving and taking evidence of children with disabilities as witnesses, claimants or respondents. The majority of courts in Nigeria lack these assistive devices as a result of inadequate funding. On the issue of lack of funding from the Nigerian Government, the provision in the CRA which provides for special protection measures and for institutions in charge of ensuring that the child in need of special protection 'shall endeavour within available resources to provide the child with such assistance' did not help matters.⁹³ The phrase 'available resources' has been critiqued because it has given room for institutions not to provide assistance devices for children with disabilities on the grounds of limited resources even where the resources

85 DAPDPA, sec 5.

86 DAPDPA, sec 6.

87 DAPDPA, sec 7.

88 DAPDPA, sec 7(3).

89 DAPDPA, sec 10.

90 DAPDPA, sec 10(2).

91 DAPDPA, sec 11.

92 DAPDPA, sec 11(4).

93 CRA, sec 16(2).

are available it may not be utilised. Ajanwachuku and Faga aptly critiqued the phrase ‘available resources’ as follows:

We argue that the inclusion of the clause ‘subject to available resource’ is a major clog in the full enjoyment of the provisions of the Act. We argue that the inclusion of this clause in the Act is tantamount to taking back with the left hand what the right hand has given. It would seem that the inclusion of the subject to available resources’ clause in the Child’s Rights Act was deliberate to render the rights of disabled children to the provision of special facilities and services non-justiciable as already contained in Chapter 11 of the Constitution.⁹⁴

6 Empirical study

6.1 Research design and methodology

Due to the objective of this research, which emphasises an in-depth understanding of the barriers to accessing justice for children with disabilities, the quantitative research approach enabled the researchers to gain a deeper understanding of the experiences of children with disabilities through their parents and caregivers.

6.2 Procedure

The quantitative research involved the distribution of online questionnaires across the six geo-political zones in Nigeria. In addition, questionnaires were physically distributed to teachers and parents of children with disabilities in two special needs schools in the Southern and Northern parts of Nigeria namely: the Therapeutic School Abakpa Nike, Enugu; and Zamarr Institute of Special Needs, Abuja, Federal Capital Territory, Nigeria. The study was targeted particularly at getting information from parents and teachers of children with disabilities from their daily experiences.

6.3 Instrument, pilot testing and validation

The questionnaire was designed after a thorough review of relevant literature on the subject and validated by three experts – a university professor of Social Sciences and two associate Professors who are data analysts in the Department of Statistics, University of Nigeria.

94 MA Ajanwachuku & HP Faga ‘The Nigerian Child’s Right Act and the rights of children with disabilities: What hope for enforcement?’ (2018) 72 *Curentul Juridic – Juridical Current* 57, 64.

The pilot testing was run through 30 respondents, 15 females and 15 males, who were either parents, caregivers or persons knowing a child with a disability. Feedback from these respondents did not constitute part of the final respondent’s results that were analysed.

6.4 Participants

Participants have been randomly recruited across the six geo-political zones in Nigeria. Five hundred (500) participants answered the research questionnaire. Two hundred (200) were online participants, while 300 participants were parents and teachers of children in two spotlight disability schools in the Northern and Southern regions of Nigeria.

6.4.1 Socio-demographic characteristics

Out of 500 administered questionnaires, 408 were returned completed, giving a response rate of approximately 82 per cent. The overall mean age of respondents is 30 + SD (Standard Deviation). Out of them 275 (67,4 per cent) were females. More than half of these respondents are single, that is 245 (60 per cent); 136 (33,3 per cent) are married; while 14 (3,4 per cent) are divorced. Considering their level of education, 320 (80,7 per cent) attained a higher educational level (Tertiary, Postgraduate); 74 (18,1 per cent) a lower educational level (Primary, Secondary); while 5 (1,2 per cent) attained none. The majority, about 383 (84,1 per cent) are employed and more than half of the respondents 273 (66,9 per cent) came from the Southern part of the country; the South-East recorded 197 (48,3 per cent), South-South 39 (9,6 per cent), South-West 37 (9,1 per cent), while North-Central 70 (17,2 per cent), North-West 33 (8,1 per cent) and the North-East about 32 (7,8 per cent).

Table 1: Socio-demographic characteristics of respondents (N = 408)

Variable	Classification	N	Per cent
Age of respondents	M=30; SD		
Gender of respondents	Male	133	32,6
	Female	275	67,4
Marital status	Single	245	60
	Married	136	33,3
	Divorced	14	3,4
	Widowed	8	2
	Separated	5	1,2
Educational level	None	5	1,2
	Lower (Primary, Secondary)	74	18,1
	Higher (Tertiary, Postgraduate)	329	80,7

Occupation	Employed	383	93,9
	Unemployed	25	6,1
Geo-political zone	South-East	197	48,3
	South-South	39	9,6
	South-West	37	9,1
	North-Central	70	17,2
	North-East	32	7,8
	North-West	33	8,1

Source: Author

6.5 Ethical consideration

The study was approved by the University of Nigeria Ethical Committee, College of Medicine Research and Ethical Committee (COMREC). A research proposal was submitted to the COMREC with some supported documents which included a consent form of participants as mandatory.

6.6 Data analysis

The data was analysed using the Statistical Package for Social Sciences (SPSS). The SPSS is a contemporary statistical analysis due to its easy-to-use graphical user interface. Although it offers a wide range of capabilities ranging from add-on packages such as Amos and Clementine. SPSS was first developed in 1968 and has since been used extensively in university research applications.⁹⁵

6.7 Results of data analysis

About 20 per cent (85/408) of the respondents admitted to having a child with a disability (Table 2). The types of disability pointed out by these respondents include invisible, head injury, spinal, visual, mobility/physical, psychological, hearing and cognitive/learning disabilities. The result of this study revealed that out of 96 types seen in respondents' children with disabilities, 39/96 (40,6 per cent) had cognitive/learning disabilities, followed by 16/96 (16,7 per cent) with hearing problems, and 26/96 (27 per cent) with physical or psychological disabilities. However, visual, spinal, head injury, and invisible disabilities made up the remaining proportion (Figure 1).

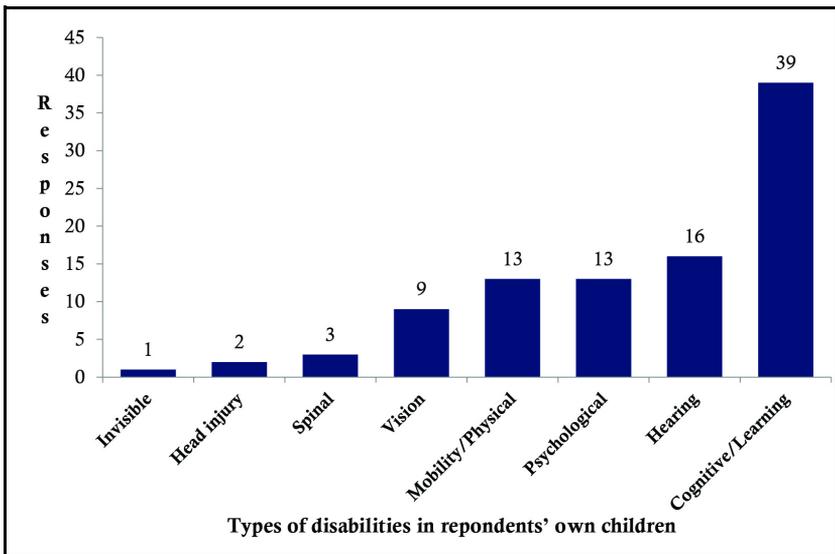
95 <https://www.alchemer.com> (accessed 20 June 2023).

Table 2: Respondents who have a child with a disability (N = 408)

Have a child with a disability?	Frequency (N)	Per cent
Yes	85	20,8
No	323	79,2

Source: Author

Figure 1: Types of disabilities reported by respondents who have children with disability



Source: Author

Only one respondent reported invisible disability, two respondents reported head injury, three respondents reported spinal cord injury, nine respondents reported visual disability, 13 respondents reported mobility and physical disability, 13 respondents reported psychological disability, 16 respondents reported hearing disability, while 39 respondents reported cognitive and learning disability.

Table 3: Respondents that know a child with a disability (N = 408)

Know any child with a disability?		Frequency (N)	Per cent
	Yes	267	65,4
	No	141	34,6

Source: Author

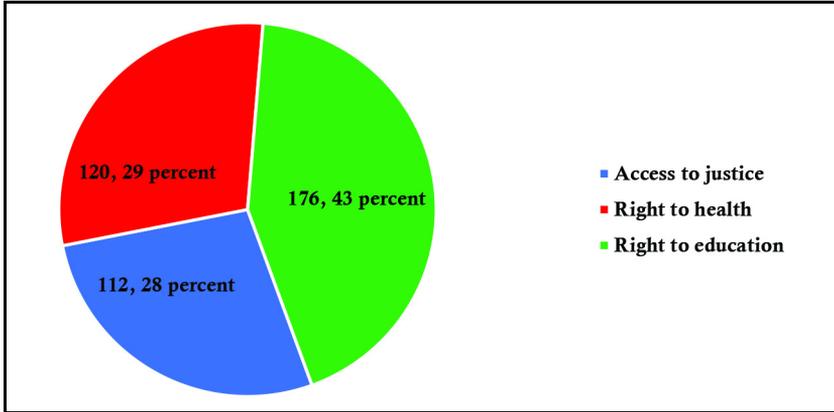
A good number of the respondents, 267/408 (65,4 per cent) were found to know a child with a disability. Out of these children with known disability, 67/267 (25 per cent) have cognitive dysfunction, 54/267 (20,2 per cent) physical disability, 53/267 (19,9 per cent) hearing disability, 28/267 (10,5 per cent) visual disability, while spinal, head injury and invisible disability made up the remaining proportions (Table 4).

Table 4: Types of disabilities in known children (N = 267)

Disability		Responses	
		Frequency (N)	Per cent
	Invisible	9	3,4
	Head injury	10	3,8
	Spinal	11	4,1
	Vision	28	10,5
	Psychological	35	13,1
	Hearing	53	19,9
	Mobility/ Physical	54	20,2
	Cognitive/ Learning	67	25

Source: Author

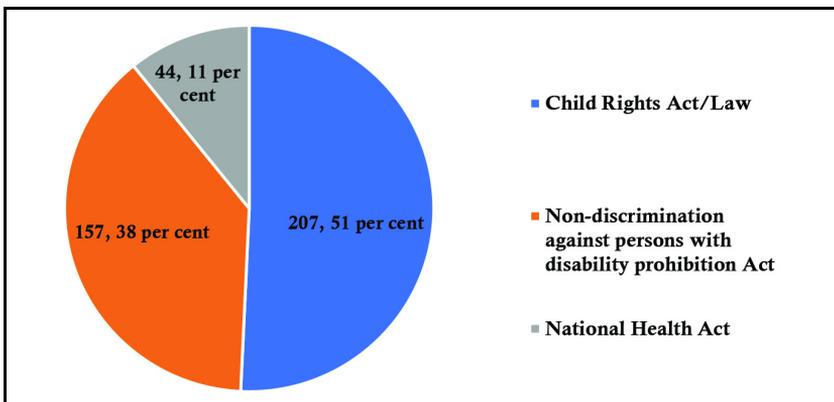
Figure 2: Awareness of legal rights of children with disability among respondents (N = 408)



Source: Author

Regarding the awareness of the legal rights of children with disability, 176 (43,2 per cent) respondents said that they are aware of children with disability's right to education; 120 (29,3 per cent) admitted being aware of their right to health, while 112 (27,5 per cent) were aware of their right of having access to justice.

Figure 3: Respondents' awareness of relevant laws in Nigeria protecting the rights of children with disability (N = 408)



Source: Author

Respondents admitted being aware of relevant laws in Nigeria protecting the rights of a child with a disability. About half of them 207 (50,7 per cent) were aware of the CRA; 157 (38,5 per cent) of the Discrimination Against Persons with Disability (Prohibition) Act; and 44 (10,8 per cent) of the National Health Act.

Furthermore, when asked if they have access to the rights of a child with a disability in justice institutions, the majority, 371 (90,9 per cent) gave a 'No' answer (Table 5).

Table 5: Access to the rights of a child with a disability in justice institutions by the respondents (N = 408)

Access the rights of a child with a disability in justice institutions	Frequency (N)	Per cent
Yes	37	9,1
No	371	90,9

Source: Author

Approximately 39 per cent (158/408) of the respondents strongly agreed that stigmatisation is a barrier to enforcing the rights of children with disabilities, 169 (41,4 per cent) agreed to the above assertion, 13 (3,2 per cent) disagreed, 32 (7,8 per cent), strongly disagreed while 36 (8,8 per cent) neither agreed nor disagreed to the notion (Table 6).

Table 6: Respondents' extent of agreement on stigmatisation as a barrier in enforcing the rights of children with disabilities (N = 408)

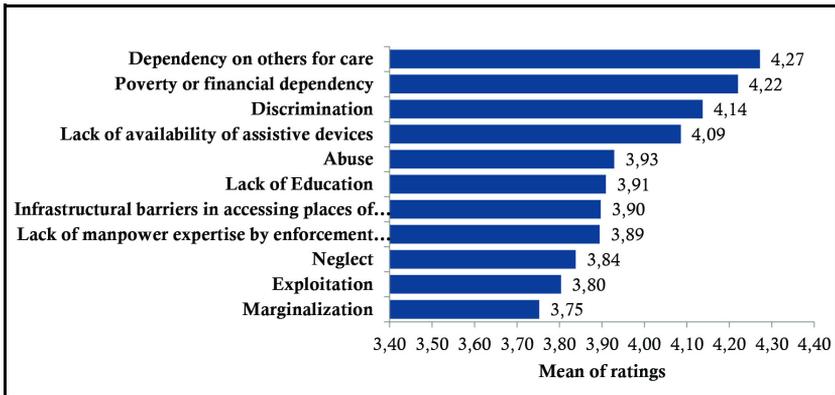
Stigmatisation is a barrier to enforcing the rights of children with disabilities	Frequency (N)	Per cent
Strongly Disagree	32	7,8
Disagree	13	3,2
Neutral	36	8,8
Agree	169	41,4
Strongly Agree	158	38,7

Source: Author

The influences of barriers to enforcing rights of children with disabilities as rated in this study include the following: marginalisation, exploitation,

neglect, lack of manpower expertise by enforcement agencies, infrastructural barriers in accessing places of justice, lack of education, abuse, lack of availability of assistive devices, discrimination, poverty or financial dependency and dependency on others for care. The mean rates are shown in Figure 4 below.

Figure 4: Rating of influences of barriers to enforcing the rights of children with disabilities



Source: Author

Considering the impact of barriers affecting the enforcement of rights of children with disabilities, the majority of the respondents, 319 (78,2 per cent), agreed that these barriers can be decreased through effective justice and improving access to justice for the children with disabilities, 25 (6,1 per cent) disagreed, while 64 (15,7 per cent) remained neutral about it (Table 7).

Table 7: Respondents' extent of agreement on the impact of effective access to justice for children with disabilities in decreasing the various barriers (N = 408)

Various barriers can be decreased through effective access to justice for children with disabilities		Frequency (N)	Per cent
	Strongly Disagree	18	4,4
	Disagree	7	1,7
	Neutral	64	15,7
	Agree	172	42,2
	Strongly Agree	147	36

Source: Author

7 Conclusion

The work in adopting both doctrinal and empirical approaches to the subject of disability discovered that so far in Nigeria there are adequate laws protecting the rights of children with disabilities, but the problem lies with improving access to justice in places of justice institutions to be able to enforce these legal rights of children with disabilities.

The rate of implementation of these laws is slow. The empirical approach of this work, which involved the administration of online surveys and questionnaires, reveals that some level of awareness of the existence of disability laws exists. Sensitisation is still paramount for more awareness creation on disability rights. But the crucial and immediate factor the participants noted was the importance of improving access to justice for children with disabilities which is imperative for enforcing the rights of children with disabilities in Nigeria. Some of these indicators that the participants highlighted that will help improve access to justice for children with disabilities in Nigeria include: the provision of disability ramps in buildings by the government, provision of adequate manpower, efficient and effective justice delivery system, and provision of technical aid interpreters in justice institutions. The absence of improved access to justice for children with disabilities will continue to compound the daily challenges they face in enforcing their legal rights to education and health, among others.

While the DAPDPA is a notable addition to the plethora of laws on disability rights, there is still room for improvement. The Disability Commission should be proactive in enforcing the provisions of the Act. They should also organise special awareness seminars for the public especially the justice professionals. Though efforts have been made by

some states in Nigeria, example Lagos State and Anambra State in the area of sensitisation on disability rights, some persons are still oblivious that DAPDPA exists and hence need to know how to abide by the law. Special schools should be funded by the Government of Nigeria to enable access to free and comprehensive education for persons with disabilities. Educators and justice professionals should be mandated to undergo special training on the use of assistive devices and resources. Public buildings, especially the courts, should be modified with ramps and assistive devices for persons with disabilities to access them. Separate vehicles should be made available to transport persons with disabilities. These should be equipped with assistive aids and specially trained personnel. Pedestrian bridges should also be built along wide roads to enable them to cross the roads. Hopefully, the remaining transitory period will be put to good use to ensure that the rights of persons with disabilities are respected and upheld.

Multi-sectoral collaborative efforts through effective planning, policy strategies and institutional support are key. These efforts will encompass representatives from the Government, law enforcement agents, social protection and welfare, education, health communities, national human rights institutions, CSOs, and disability protection organisations for proper monitoring, evaluation, and accountability on the enforcement of the rights of children with disabilities in Nigeria. The Nigerian Government should live up to its responsibility of providing more funding for the institutional mechanism of enforcement, and provision of adequate disability technologically driven assistive devices in public places and justice institutions, among others. An example of a technological assistive device Nigeria can emulate is seen in the United States where the Federal Communications Commission oversees the services that allow persons with speech and hearing disabilities to use 711 service and video relay services. These services allow persons with disabilities to contact people with or without disabilities. This technological service can be replicated by the Nigerian Communications Commissions which is the regulatory body for the telecommunications company as it may not require much if the system in Nigeria is really efficient. The American Communications technology is widely recommended and worthy of adopting into the Nigerian telecommunication system.⁹⁶ The Government should also co-operate with non-governmental organisations in the area of funding, because they are the ones that have data and their activities centre on these vulnerable groups including children with disabilities. Adequate data on the number of children with disabilities will enhance effective planning in every area of their lives, especially in education, health and legal sectors.

96 DA Larson 'Access to justice for persons with disabilities: An emerging strategy' (2014) 3 *Laws* 220.

Periodic research should be conducted on the specific barriers that children with disabilities face in accessing justice. An increase in the networks and exchange of ideas and information between the multi-sectoral stakeholders should be encouraged.

More awareness and sensitisation campaigns through the media to raise awareness on breaking down the barriers on disability rights and to challenge the ills of negative societal stereotyping, and the right to equitable access to justice to engender positive attitudes towards disability.

Funding by the Nigerian Government of the institutional mechanisms is fundamental so as to monitor the progress rate of implementation. It is not encouraging that after five years of enacting the Nigeria Disability Act, the Commission set up under the Act to oversee disability implementation is still moribund and yet to operationalise its functions.

Justice institutions in Nigeria should be strengthened so that they can be effective, accommodating, friendly, and accessible. It is essential that interpreters should be employed in police stations and courtrooms.

The work strongly recommends a curriculum for teaching disability studies from the law degree programme in Nigerian Universities, through the Nigerian law school for training of prospective judges and lawyers. The resultant effect will be that by the time of call to the Nigerian Bar, prospective judges and lawyers will be fully trained in disability rights studies and will have mastered the art of disability adjudication. A typical example is in Kenya where several law schools and other institutions in Kenya have included disability rights studies in their curriculum.

Continuous capacity training of the justice sector, judges, lawyers, and law enforcement agents in the handling of disability cases is also imperative. Most of the CRPD Committee's concluding observations emphasise the training of the judiciary, legal professionals, and court staff. More recent concluding observations on the issue of training are seen in those issued to New Zealand and Ecuador.

Lastly, technology has proved to be a useful tool to promote social inclusion, global development, and equality. The technology space is founded on innovations that allow people to access skills, education, and employment. Through technology and assistive technology like screen readers for persons with visual disabilities, braille displays, braille notes takers, electronic magnifiers, optical character recognition software (OCR), screen readout software, text-to-speech software, and alternative input devices persons with disabilities can be empowered to attain their full potential thereby activating their ability to compete favourably in society. It is also important that developers and designers understand assistive technologies and ensure the creation of apps, websites, and platforms that are disability friendly. Hence, a need for institutions to adopt disability-

inclusive models/facilities, unique learning programmes, safe ICT spaces, and investment into research on the intersecting areas of technology and disability. Through strategic collaboration, actors can campaign and raise awareness of the potential of technology to overcome existing setbacks faced by persons with disability, especially children.

CHAPTER 3

WHEELS OF CHANGE: INTEGRATING ICT AND ASSISTIVE TECHNOLOGY FOR DISABILITY-INCLUSIVE PUBLIC TRANSPORT IN AFRICA

Neville Mupita*

Summary

Public transportation systems across many African countries remain largely inaccessible to persons with disabilities, which critically hinders their social inclusion and economic participation. Despite technological advances significantly improving the quality of life for the majority of persons with disabilities, 36 per cent in developing countries, particularly in Africa, still regard public transportation as inaccessible due to inadequate infrastructure and slow adoption of assistive technology (AT). This analysis critically examines how Information and Communication Technology (ICT) can integrate AT into African public transportation, promoting accessibility and inclusion. The paper is grounded in the social and human rights model of disability, reinforced by international and regional standards, including the Convention on the Rights of Persons with Disabilities (CRPD) and the African Disability Protocol (ADP). Case studies from South Africa (MyCiTi), Nigeria (Lagos BRT), and Kenya demonstrate that while progress is evident in formal systems through features like audio-visual aids and low-floor buses, these efforts are often limited in scope or undermined by systemic challenges. Key barriers include the pervasive inaccessibility of dominant informal transport networks (matatus, minibuses), the reliability gap caused by inadequate maintenance and non-functional features in existing technology, and the inconsistent enforcement of progressive national policies. Deep-seated socio-cultural issues, such as discrimination by transport operators, also impede true inclusion. Achieving equitable transport demands a comprehensive, multi-stakeholder approach. This necessitates decisive government action to enforce robust policy standards, engagement of private and informal operators through training and

* BA Law majoring in criminology (with distinction) (University of Pretoria); LLB (University of Pretoria); LLM specialising in Human Rights and Democratisation in Africa (University of Pretoria); Researcher at the Centre for Sexualities, AIDS and Gender; <https://orcid.org/0009-0007-9220-8616>.

affordable modifications, and collaboration with civil society in the design process to ensure systems are built 'with them'. Ultimately, only a holistic framework that strategically combines ICT and AT with consistent funding, strong policy frameworks, and vital changes in societal awareness can eliminate all obstacles and achieve a fully inclusive transport system.

1 Introduction

In an increasingly digital world, the integration of Information and Communication Technology (ICT) and assistive technology (AT) has become crucial in fostering disability inclusion. While technological advancements have made significant strides in improving the quality of life for persons with disabilities, public transportation systems in many African countries remain inaccessible to a large portion of the population.¹ This challenge hinders the social inclusion, economic participation, and mobility of persons with disabilities, limiting their access to education, employment, healthcare, and other vital services.

According to the 11th edition of the *Technology and disability report* carried out by Keysight Technologies and the Adecco Foundation, the quality of life for nine out of ten persons with disabilities has been significantly improved by new technology.² However, despite these advances, 36 per cent of persons with disabilities in developing countries, particularly in Africa, still regard public transportation as inaccessible due to a lack of inclusive infrastructure and the slow adoption of assistive technology.³ The public transport systems in Africa often lack provisions for the mobility-impaired, which restricts the movement of millions of individuals and hinders their full participation in society.

This paper critically analyses how ICT can be leveraged to integrate AT into the African public transportation system, promoting accessibility and inclusion for persons with disabilities. By exploring best practices and case studies from South Africa, Nigeria, and Kenya, the paper assesses the current status of ICT-driven accessibility initiatives, the barriers faced, and the opportunities for improvement. The goal is to propose a multi-stakeholder approach, emphasising collaboration between governments, civil society, and private enterprises in driving innovation for an inclusive transport system.

1 United Nations *Sustainable transport, sustainable development* Interagency report for second Global Sustainable Transport Conference (2021).

2 L Clemares 'ICT and disability: Tools for integration' *Telefónica* 15 October 2024 <https://www.telefonica.com/en/communication-room/blog/ct-disability-tools-integration/> (accessed 15 October 2024).

3 UN (n 1).

2 Theoretical and conceptual framework

This paper's analysis of public transport and disability is mounted within the social and human rights model of disability. This model fundamentally asserts that physical, systematic, and attitudinal barriers, including inaccessible transport systems, are the elements that hinder persons with disabilities from full and effective participation in society, rather than their individual disabilities.⁴ This stands in direct contrast to the medical model perception, which views disability through the medical and deficit-based lens with a focal point on the individual's disability as the root cause of exclusion.⁵ The application of the social model underlines the importance of inclusive infrastructure, technologies, and policies in creating an enabling environment. Therefore, the core theoretical premise is that the inaccessibility of public transportation is an actionable barrier to full socio-economic inclusion for persons with disabilities, a barrier which can be overcome by leveraging ICT and AT.

The theoretical premise is normatively enforced by international and regional human rights instruments, establishing accessibility as a right that views exclusion as a consequence of societal barriers. The Convention on the Rights of Persons with Disabilities (CRPD) serves as the foundational global standard, explicitly aiming to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, while promoting respect for their inherent dignity.⁶ The CRPD embeds the social model framework, defining disability as the result of the interaction between impairments and attitudinal and environmental barriers that hinder full and effective participation in society.⁷ The CRPD translates this human rights requirement into specific duties regarding mobility and access.⁸ Moreover, it mandates states parties to take appropriate measures to ensure access, on an equal basis with others, to the physical environment, transportation, and information and communications technologies, including systems in both urban and rural areas.⁹ This includes the identification and elimination of obstacles and barriers to accessibility. Furthermore, it provides that states parties must take effective measures to ensure personal

4 N Mupita 'Back to basics: From the medical model to the social model of disability rights – Where are we now?' *AfricLaw blog* 26 August 2024 <https://africlaw.com/2024/08/26/back-to-basics-from-the-medical-model-to-the-social-model-of-disability-rights-where-are-we-now/> (accessed 18 September 2024).

5 As above.

6 UN General Assembly, Convention on the Rights of Persons with Disabilities: Resolution/adopted by the General Assembly, 24 January 2007, UN Doc A/RES/61/106 (2007).

7 CRPD, Preamble.

8 CRPD, art 9.

9 CRPD, art 9.

mobility with the greatest possible independence, including facilitating access to quality mobility aids, devices, and ATs at an affordable cost.¹⁰

Complementing this global framework is the regional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol).¹¹ The purpose of this Protocol is to promote, protect and ensure the full and equal enjoyment of all human and peoples' rights by all persons with disabilities in Africa.¹² The Protocol's General Principles emphasise ensuring accessibility and reasonable accommodation.¹³ This regional instrument reinforces the global mandate by conferring upon every person with a disability the right to barrier-free access to the physical environment, transportation, and communication technologies. It explicitly requires states parties to take progressive steps to ensure this accessibility in rural and urban settings, mandating the modification of all inaccessible infrastructure and the universal design of all new infrastructure.¹⁴

These international and regional standards underpin national policy efforts. The analysis uses these established normative standards to highlight that the central challenge across the continent is the inconsistent enforcement of these progressive mandates, which acts as a significant roadblock, leading to accessibility gaps and restricting the full socio-economic participation of persons with disabilities.

3 Role of ICT and AT in disability-inclusive transport systems

Many have argued that ICT is one of the key factors in socio-economic development.¹⁵ They also believe that the introduction of ICT in Africa will foster development. This has led to the penetration of ICT systems in many sectors in Africa; however, the use of these systems has been saddled by underdeveloped or non-existent ICT infrastructure.¹⁶ ICT encompasses a broad range of technologies used to manage and communicate information digitally. In the context of public transport, ICT includes mobile applications, GPS-based systems, real-time data tools, and smart technologies that enhance the experience of users, particularly those with

10 CRPD, art 20.

11 African Union, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, adopted by the 30th ordinary session of the Assembly, held in Addis Ababa, Ethiopia, 29 January 2018.

12 ADP, art 2.

13 ADP, art 15.

14 ADP, art 15.

15 N Roztocky and others 'The role of information and communication technologies in socioeconomic development: Towards a multi-dimensional framework' (2019) 25 *Information Technology for Development* 171.

16 M Dwomoh-Tweneboah 'Information technology for Africa' (2008) 17 *Revista de Educação do Cogeime* 166.

disabilities. However, with the perceived benefits of ICT, it presents a double-edged sword for persons with disabilities. It can disadvantage persons with disabilities, this is due to the lack of access to technology and skills, causing a digital divide and the inaccessibility of content on digital platforms which were designed without accessibility in mind.

However, the other edge of the sword presents opportunities for ICT accessibility through AT. ICT accessibility entails intentionally designing and deploying technologies that anyone can use, despite their abilities.¹⁷ This includes using AT, which refers to systems and devices created to boost the functional capabilities of persons with disabilities and provide them with comprehensive access to ICTs. In public transportation, examples of ATs include but are not limited to tactile maps, audio announcements, and lowering mechanisms. Such design and implementation of disability-inclusive transport systems ensures equal access and opportunities for persons with disabilities.

Recognising that technology offers convenience and simplifies life for everyone, it holds even greater significance for individuals with disabilities. It enables them to lead independent lives, allowing equal access to spaces, services, and products alongside others. Therefore, accessibility of transport systems is more than just moving from point A to B; it is about enabling persons with disabilities to live independently and participate in all aspects of life.¹⁸ With persons with disabilities making up approximately 1.3 billion of the world's population,¹⁹ including more than 188 million people across Africa,²⁰ ICT and AT, if harnessed appropriately, have the potential to enhance accessibility in public transportation systems.

AT in public transport takes different forms; these can either be personal, vehicle-based, or infrastructure-based.²¹ They enhance transportation self-efficacy among persons with disability and significantly boost confidence by offering user-friendly tools that simplify navigation and planning for public transport, enabling individuals to feel more capable of travelling independently. These technologies, such as mobile applications providing real-time updates and tailored support, facilitate independence and reduce reliance on others, ultimately empowering users to explore new transportation options. Integrating ICT and AT represents a transformative opportunity to improve mobility and quality of life for

17 EnableMe 'Inclusive ICT and disability' <https://www.enableme.ke/en/article/inclusive-ict-and-disability-399> (accessed 12 October 2024).

18 CRPD, art 19.

19 World Health Organisation 'Disability' <https://www.who.int/health-topics/disability> (accessed 3 December 2024).

20 World Health Organisation 'International Day of persons with disabilities' <https://www.afro.who.int/regional-director/speeches-messages/international-day-persons-disabilities-day-2025> (accessed 7 December 2025).

21 Kentkart 'Assistive technologies for accessible public transport' <https://www.kentkart.com/assistive-technologies/> (accessed 5 October 2025).

persons with disabilities by fostering greater confidence and independence in transportation. However, in the transportation industry, providing disability inclusion has become a niche, and persons with disabilities, especially those with physical disabilities, bear the burden of paying almost triple the price of the fare due to the requirements of aides.²²

4 ICT-driven accessibility in African public transport systems

Public transport systems across Africa face significant challenges in terms of accessibility for persons with disabilities. From poorly designed infrastructure to the absence of ATs, many urban and rural transport networks fail to accommodate the diverse needs of persons with disabilities. With 36 per cent of persons with disabilities in developing countries citing transportation as inaccessible, the barriers faced in African countries are not unique.²³ Still, they are exacerbated by inadequate infrastructure, service quality, lack of action plans and funding constraints.²⁴ In cities like Lagos, Nairobi, and Cape Town, where rapid urbanisation has outpaced the development of adequate public services, there is evidence that evolving transport infrastructure fails to include accessible features like ramps, tactile paving, and audio-visual aids. Furthermore, informal transport systems such as minibuses and motorbike taxis dominate the market in many African cities, and these services typically lack the necessary provisions for accommodating persons with disabilities.

However, to assert that there is no effort to establish disability-inclusive transportation systems in these countries would be inaccurate, as research indicates that several African nations are beginning to leverage ICT to enhance the accessibility of public transportation.²⁵ Although these initiatives mark progress toward more inclusive transport systems, they are often confined to specific provinces and cities, resulting in benefits for only certain populations and leaving others without adequate access.²⁶

To explore the application and challenges of integrating ICT and AT into African public transport systems, this section provides critical case studies from South Africa, Nigeria, and Kenya, assessing the current status

22 Flone Initiative *Policy brief on the need for inclusive transport in Kenya* (2022).

23 UN (n 1).

24 B Duri & R Luke 'Transport barriers encountered by people with disability in Africa: An overview' (2022) 16 *Journal of Transport and Supply Chain Management* 1, 2.

25 Guest writer 'The rise of digital transportation solutions in African countries' *ICT Works* 21 June 2023 <https://www.ictworks.org/digital-transportation-solutions-african-countries/> (accessed 20 October 2024).

26 Disability Info SA (DISA) 'Transport services & vehicle hire' <http://disabilityinfo.sa.co.za/mobility-impairments/transport-services-vehicle-hire/> (accessed 21 November 2024).

of ICT-driven accessibility initiatives, the barriers faced, and the opportunities for improvement.

4.1 South Africa

South Africa has made significant strides in disability-inclusive public transportation, with systems like Cape Town's MyCiTi Integrated Rapid Transport (IRT) leading the way in accessible design.²⁷ MyCiTi is the first transport system in sub-Saharan Africa to integrate universal access features across its stations, vehicles, and facilities.²⁸ To cater for passengers with diverse disabilities, the MyCiTi system includes features such as tactile paving for users with visual disabilities, wide entrance gates without turnstiles for easier access, and wheelchair-accessible toilets. Further, for seamless boarding, level boarding, and wheelchair users, designated spaces are included on these low-floor kneeling buses. They also provide audio screens that display service information that provides travel updates that are crucial in formats that are accessible, with trained onsite customer support staff to assist passengers with disabilities.

For persons who cannot use conventional public transport, kerb-to-kerb services are provided under a service called 'Dial a Ride'.²⁹ This programme regularly supports about 350 users and additional passengers on an ad-hoc basis, offering essential lifelines for persons with mobility disabilities.³⁰ More services are provided in other cities in South Africa, where accessible features have been adopted to improve inclusion. In cities such as Johannesburg and Pretoria, notably, systems like the Gautrain network³¹ and Rea Vaya Bus Rapid Transit (BRT)³² provide passengers with real-time travel information, enabling easier navigation for persons with disabilities seeking more flexible travel options. Moreover, they have accessible stations, low-floor buses with ramps and audible announcements to guide passengers.

27 KIPPRA 'Enhancing accessibility in transport infrastructure by PWDs' (28 July 2020) <https://kippra.or.ke/enhancing-accessibility-in-transport-infrastructure-by-pwds/> (accessed 20 October 2024).

28 MyCiTi 'Myciti recognised as a world leader in universal access' (28 February 2014) <https://www.myciti.org.za/en/contact/media-releases/MyCiTi-recognised-as-a-world-leader-in-universal-access> (accessed 5 December 2024).

29 MyCiTi 'Dial a Ride' <https://www.myciti.org.za/en/routes-stops/dial-a-ride/> (accessed 21 October 2024).

30 As above.

31 Gautrain 'Passengers with disabilities' <https://www.gautrain.co.za/commuter/general-information#> (accessed 15 December 2024).

32 City of Johannesburg 'Jozi's new BRT trunk route to be universally accessible' https://joburg.org.za/media_/Newsroom/Pages/2017%20Articles/Jozi%E2%80%99s-new-BRT-trunk-route-to-be-universally-accessible.aspx (accessed 25 October 2025).

Despite these advancements, South Africa's transport system still has limitations. While large formal operators like PUTCO Bus Services deliver a 'safe, reliable and affordable service' across critical commuter routes,³³ including Soweto, Soshanguve, and Western Mpumalanga, their dedicated provisions for persons with disabilities remain highly limited.³⁴ PUTCO operates only two disability friendly buses under its 'differently abled bus services' in the Northern region. These buses are confined to specific routes, transporting passengers with disabilities in the Soshanguve area daily to the Tshwane central business district for employment, or servicing villages in the Mpumalanga area to take learners with disabilities to the nearest dedicated school, with passengers able to buy a special discounted ticket.³⁵ These limited initiatives demonstrate that accessible services are often restricted in scope, underscoring that many rural areas and peri-urban regions are left without accessible public transport, restricting opportunities for persons with disabilities living outside major cities. The broader challenge persists because South Africa's public transport system is dominated by minibus taxis.³⁶ These ten to 15-seater buses penetrate every city's last section, including the poorest settlements and are the cheapest form of transport for the working population.³⁷ However, these do not provide accessible infrastructure, therefore making access for persons with disabilities difficult.

Furthermore, enforcing disability-inclusive policies, such as those outlined in the National Land Transport Act,³⁸ which mandates universal access to public transport, the White Paper on National Transport Policy,³⁹ and other government policies, remain inconsistent.⁴⁰ This has led to gaps in policy implementation, where accessible infrastructure is available in some regions but remains lacking in others. While ICT and AT, like the audio announcements and low-floor kneeling buses, contribute to a more inclusive system, the high cost of specialised features and uneven access to supportive technologies can limit the broader adoption needed for true national accessibility. The current model, while innovative, highlights a pressing need for expanded coverage, sustained policy enforcement, and more significant investment to ensure that accessible transport truly reaches all South Africans, including those in underserved areas.

33 Putco Bus Services 'Our services' <https://putco.co.za/Pages/Our-Services.asp> (accessed 7 December 2025).

34 As above.

35 As above.

36 Arrive Alive 'Public Transport' <https://www.arrivealive.mobi/Public-Transport> (accessed 21 November 2024).

37 As above.

38 National Land Transport Act 5 of 2009.

39 Department of Transport *White paper on National Transport Policy* (2021).

40 South African Human Rights Commission *Investigative inquiry into accessibility of public transport in Gauteng for people with disabilities* (2023).

4.2 Nigeria

In Nigeria, studies have shown that the transportation systems are inaccessible for persons with disabilities. A study by Mogaji and Nguyen explored the interaction between passengers with disabilities and the public transport service provider in Lagos.⁴¹ The study focused on Danfos' 14 to 18-seater yellow minibuses operating informally and unregulated. It found that passengers with disabilities were dissatisfied with the Danfos operators' poor service and the other passengers' negative attitudes.⁴² Further, a lack of commitment to accommodate persons with disabilities was shown by drivers who were most worried about meeting targets, showcasing a lack of empathy and awareness of disabilities.⁴³

The Lagos Bus Rapid Transit (BRT) is an alternative to the Danfos. The Lagos BRT system has promising initiatives, including more space and ramps for wheelchair access, audio-visual announcements, route tracking apps, and automated audio-visual announcements to help passengers with hearing and visual disabilities.⁴⁴ With a population of 29 million persons with disabilities,⁴⁵ the country has made strides in leveraging ICT and ATs to improve the accessibility of its transport systems. However, unlike Danfos, which operates almost everywhere, the BRT operates on a specific route (running from Mile 12 through Ikorodu Road and Funsho Williams Avenue up to CMS),⁴⁶ thus making it not entirely accessible. Even with these ICT advances that the Lagos BRT offers, maintenance of the technologies remains a problem. An investigation of the Lagos BRT system bus terminals and routes done in 2021 showed that the system does have accessibility features.⁴⁷ However, the features are often poorly maintained or non-functional; for instance, the poor ramps require attendants to carry wheelchair users onto buses.⁴⁸ Moreover, while mobile apps assist with route tracking, the lack of voice command makes it difficult for passengers with visual disabilities, who have to depend on others for help. The lack of trained staff exacerbates these challenges and limits the effectiveness of ATs already in place.

41 E Mogaji & NP Nguyen 'Transportation satisfaction of disabled passengers: Evidence from a developing country' (2021) 98 *Transportation Research Part D: Transport and Environment* 102982.

42 As above.

43 As above.

44 B Otunola and others 'The BRT and the *danfo*: A case study of Lagos' transport reforms from 1999-2019' (2019) 21.

45 World Bank Group *Disability inclusion in Nigeria: A rapid assessment* (2020) VII.

46 Lagos Metropolitan Area Transport Authority 'BRT' <https://www.lamata-ng.com/bus-services/> (accessed 05 December 2025).

47 T Igomu 'Disabled by fate, denied rights to mobility: Nigerians living with disabilities tell tales of anguish accessing public transportation' *Punch Newspapers* 12 September 2021 <https://punchng.com/disabled-by-fate-denied-rights-to-mobility-nigerians-living-with-disabilities-tell-tales-of-anguish-accessing-public-transportation/> (accessed 21 October 2024).

48 As above.

Nigeria needs to develop an accessible and inclusive public transport system that enhances the independence and quality of life of persons with disabilities. It shows that the strides to achieving accessibility in improving its system are still limited to formal transportation systems like BRT, with little or no integration across the vast network of informal minibuses and motorbike taxis.

4.3 Kenya

In Kenya, like in many other African countries, the informal shared minibuses (*matatus*) and motorbikes (*boda boda*) dominate the public transport system. These transport options are not designed with accessibility in mind, posing major barriers to persons with disabilities. Although there are efforts to modernise the Kenyan transport system through innovations like the *Huduma* card and mobile payment platforms to improve efficiency, they overlook the specific needs of persons with disabilities, such as wheelchair ramps and low floors, forcing persons with disabilities to opt for expensive transport services like ride-hailing services. Compounding the challenges is the fact that the availability of accessible ride-hailing transport is also scarce. Uber introduced UberAssist in 2019 to serve persons with mobility disabilities.⁴⁹ The service has since been unofficially discontinued as it is not available as an option on the e-hailing website and the mobile application, leaving a gap in transportation options for persons with disabilities.⁵⁰

A study by the Flone Initiative revealed that 77 per cent of persons with disabilities rely on public transport, yet 94 per cent report that *matatus* are not adapted to their needs.⁵¹ Passengers with disabilities experience frequent discrimination, with operators refusing service or using derogatory language.⁵² Additionally, the absence of designated seating and inadequate terminal infrastructure limits their mobility. At the same time, unregulated fare systems burden persons with disabilities with higher costs, especially those who require aides or wheelchairs.⁵³

According to the Kenyan government, there are plans to launch a Bus Rapid Transit (BRT) in Nairobi.⁵⁴ This initiative will offer a promising step towards inclusive transportation for persons with disabilities. The

49 'UberASSIST: Making Nairobi more accessible' *Uber blog* 3 January 2019 <https://www.uber.com/en-KE/blog/uberassist-making-nairobi-more-accessible/> (accessed 11 November 2024).

50 Checked on 20 October 2024.

51 Flone Initiative 'The accessibility of public transport service in Nairobi Metropolitan Area' (2021).

52 As above.

53 As above.

54 E Manga 'Can the on-going Nairobi BRT Project guarantee a just transition? Signposts from Labour Impact Assessment Report and other studies' ATINER's Conference Paper Proceedings Series TRA2024-0333 Athens, 5 September 2024, 3.

government asserts this new BRT fleet will feature inclusive features like designated spaces for mobility devices, automated ramps, and priority seating.⁵⁵ In addition, more features, such as digitised signage and automated stop announcements for passengers with sensory disabilities, will be included to allow for independent travel.⁵⁶ Moreover, real-time route updates and GPS tracking will be available to reduce uncertainty and ensure timely travel.

Despite all these promising planned innovations, the new BRT system will cover little ground, and the issue remains the inclusion of persons with disabilities who reside in the peri-urban and rural areas. Kenya's progress toward accessible transport requires more than technological upgrades. It demands inclusive policies, operator training, and public awareness campaigns. Without these efforts, persons with disabilities will continue to face exclusion from important socio-economic and political activities, infringing their right to accessible mobility as guaranteed by Kenya's Constitution⁵⁷ and the Persons with Disabilities Act of 2025.⁵⁸

5 Analysis of implementation barriers and systemic challenges

The integration of ICT and AT in African public transport systems reveals a complex interplay of challenges that significantly impact mobility access for persons with disabilities. Examining implementation efforts in South Africa, Nigeria, and Kenya reveals several critical barriers that must be addressed to achieve meaningful progress in transport accessibility. These challenges span multiple dimensions, from physical infrastructure to societal attitudes, creating a multilayered problem that requires comprehensive solutions.

A significant challenge lies in the pronounced disparity between urban and rural areas, particularly regarding accessible infrastructure. South Africa exemplifies this issue well. In Cape Town, the MyCiTi system offers a range of comprehensive accessibility features; however, in rural regions or even peri-urban areas, the options available for individuals with disabilities are drastically reduced. Often, there is virtually nothing in terms of support.

The situation becomes more complicated when the significant role of informal transport networks is factored in, an issue prevalent in all African countries. This is also evident in Kenya, where 77 per cent of persons with

55 KIPPRA (n 27).

56 Institute for Transportation and Development Policy 'Service plan for Nairobi BRT Line 2' (2019)

57 Constitution of Kenya, 2010.

58 Persons with Disabilities Act, 2025.

disabilities rely on public transport, and 94 per cent report that the *matatus*, the main informal buses, are inaccessible.⁵⁹ These illustrate the significant gap between the need for transport and the utilisation of what is available. People rely on a system that often excludes them; these informal networks are frequently the only option available outside the major cities, exacerbating geographical inequalities.

Furthermore, ICT and AT are intended to provide support, but their implementation often presents a unique set of challenges. The practical aspects involve not only installing the technology but also, and perhaps more importantly, ensuring its ongoing functionality, which can be a significant obstacle. Nigeria's BRT system exemplifies various implementation issues, with instances of audio announcements malfunctioning or wheelchair ramps being out of order.⁶⁰ Frequently, these problems appear to arise from inadequate maintenance. This results in a reliability gap; individuals with disabilities are unable to depend on these features being operational when needed. Consequently, this undermines their confidence in the system, making the experience of using public transport more stressful and anxiety-inducing, which complicates journey planning and their ability to move independently.

The challenges extend beyond malfunctioning equipment. Even when technology is operational, its design may not be appropriate. For example, transport navigation apps, which are tools created to help everyone navigate their surroundings, are, in principle, beneficial. However, many of these apps lack essential accessibility features, such as compatibility with screen readers or voice commands, which effectively excludes persons with visual disabilities. Ironically, the very technology meant to promote inclusivity can inadvertently create new barriers if not designed with care. This highlights the dangers of partial implementation; addressing one issue while overlooking another can perpetuate the exclusion of certain individuals.

On the critical area of policy: how effectively are those good intentions translating into practical outcomes? Policies on paper must align with real-world implementation. South Africa serves as a good example, boasting comprehensive policies for disability inclusion; however, the challenge lies in consistent application. Research indicates that inconsistent enforcement acts as a significant roadblock.⁶¹ One might find notable examples of accessibility in certain locations, yet it is not enforced system wide. A lack of standardised enforcement mechanisms and weak monitoring cycles contribute to this inconsistency. Regarding the Kenyan BRT plans, there are promises for future accessibility, but for now, the existing, largely

59 Flone Initiative (n 51).

60 Igomu (n 47).

61 B Duri & R Luke 'Assessing accessibility of transport and universal access in the City of Tshwane using expert opinion' (2024) 13 *Social Sciences* 690.

inaccessible services just keep running. Thus, there is a disconnect between the policy goals and what is happening day to day. This is evidence that having progressive policies is not enough; implementation and enforcement are crucial missing pieces. There is a need to look beyond the physical elements and policies.

Socio-cultural barriers are fundamental. One may have all the ICT and AT in the world, but it cannot magically resolve deeply entrenched negative attitudes. The experiences of persons with disabilities on the Kenyan *matatus* illustrate this, with cases of the kind of discrimination that persons with disabilities face being offensive comments, drivers refusing to pick them up, or being charged more simply because they have a disability.⁶² This underscores that making transport truly inclusive is not solely about ramps and apps; it is also about addressing these negative perceptions head-on and fostering a culture where everyone is treated with respect and dignity.

The cost of specialised equipment is high, and ongoing costs such as maintenance, upgrades, and training staff add up, presenting a huge financial challenge, especially when resources are already stretched thin. The Nigerian BRT system exemplifies this, where maintenance issues often link back to insufficient or unsteady funding.⁶³ It can create a vicious cycle: lack of funding leads to unreliable services, which may discourage usage and make it harder to argue for further investment down the line. However, looking at South Africa's MyCiti system, it shows that with significant, sustained investment, comprehensive accessibility can be achieved. This highlights the importance of prioritising this issue and consistently allocating enough resources over time.

Further, the lack of smooth integration between different modes is another significant systemic issue. Most cities often have formal systems like BRTs existing alongside informal ones like minibuses, operating under entirely different rules and standards of accessibility. Examining South Africa, there is a contrast between the more accessible BRT buses and the traditional minibus taxis, which often have zero accessibility features. Striving for standardised accessibility across that fragmented landscape is incredibly difficult. For example, if a person needs to switch from a BRT to a minibus to complete their journey, and one is accessible while the other is not, it disrupts the travel chain. This makes independent travel challenging, if not impossible, for many persons with disabilities.

A complex knot of interconnected barriers and systemic challenges: the urban-rural infrastructure gap, the significant challenge of inaccessible

62 Flone Initiative (n 51).

63 FD Diallo 'Lagos' impossible bus rapid transit: Implementing and keeping together Lagos' first mass-transit project in a paratransit-dominated and financially challenged urban transport landscape' (2025) 72 *EchoGéo* 1.

informal transport, practical issues with implementing and maintaining technology, and the gap between policy and practice is evident. Additionally, socio-cultural attitudes, real economic constraints, and the lack of integration between different transport modes all play a role. What is important is that these issues are not separate; they feed into and reinforce each other, creating an entire ecosystem that makes achieving truly equitable, universally accessible public transport incredibly difficult.

6 Making African transport inclusive for persons with disabilities

Achieving a truly inclusive transport system across Africa necessitates a comprehensive, multi-stakeholder approach that strategically integrates diverse efforts to dismantle persistent physical, technological, economic, and attitudinal barriers. The inherent complexity of these challenges underscores that technical solutions alone are insufficient, demanding instead a cohesive and collaborative framework where progress in one area is deeply intertwined with advancements in others.

Governments are indispensable catalysts in this endeavour, tasked with establishing robust policy frameworks that mandate universal design, ensure clear enforcement through regular audits, and implement inclusive fare policies without discrimination. Furthermore, public entities must foster financial sustainability through crucial government incentives, such as tax credits for operators investing in accessibility, and targeted subsidy programmes, particularly for low-revenue rural services.

The private sector, encompassing both formal and predominant informal operators (for example, minibuses and motorbike taxis), is vital for driving innovation and implementation. Leveraging private investment through public-private partnerships (PPPs) is crucial for financing accessible infrastructure and vehicles. Engaging informal operators requires tailored approaches, including targeted awareness campaigns, practical training on disability etiquette, and exploring affordable modifications to existing vehicles. Maintenance protocols, consistent funding, and the availability of trained technicians are also essential to ensure the longevity and effectiveness of accessible solutions.

A collaborative model between disability organisations and civil society at large is essential, not just as recipients but also as important collaborators in the process. Their feedback mechanism and active participation in the design and testing of transport solutions, ensuring that systems are built ‘with them’, not just ‘for them’, cannot be overstated. Aside from technical elements, civil society is crucial in addressing the human aspect, stimulating greater social development through disability awareness and sensitisation initiatives for transport personnel and the public, ultimately breaking down adverse perceptions and inequity.

Ultimately, the need to develop a transport system that is inclusive and empowers persons with disabilities to participate fully in society calls for a collective dedication. A holistic, multi-stakeholder strategy approach that strategically employs information and communication technology along with assistive devices, supported by a strong policy framework, consistent funding and vital changes in societal awareness, is the only practical means to eliminate all obstacles and achieve a transport system in Africa that is both accessible and equitable.

7 Conclusion

While initiatives leveraging ICT, such as real-time tracking apps and audio-visual aids in formal systems like Cape Town's MyCiTi and the Lagos BRT, demonstrate progress, these efforts are often limited in scope or undermined by implementation issues. Specific barriers include the reliability gap caused by inadequate maintenance and non-functional accessibility features, inconsistent enforcement of progressive policies, and deep-seated socio-cultural issues like discrimination by transport operators.

Achieving truly equitable transport across Africa demands a comprehensive, multi-stakeholder approach to dismantle these persistent physical, technological, economic, and attitudinal barriers. This framework requires decisive action: governments must establish and enforce robust policy standards, private and informal operators must be engaged through targeted training and affordable modifications, and civil society must collaborate in the design process to ensure systems are built 'with them'. Ultimately, only a holistic strategy, combining the strategic employment of ICT and AT with consistent funding, strong policy frameworks, and vital changes in societal awareness, is the practical means to eliminate all obstacles and achieve a transport system that empowers persons with disabilities to participate fully and equally in African society.

CHAPTER 4

PROTECTION OF THE RIGHTS OF CHILDREN WITH DISABILITIES IN NIGERIA: CHALLENGES AND A CONSTITUTIONAL RIGHTS-BASED SOLUTION

*Kolawole Kazeem Oyeyemi**

Summary

There are an estimated 240 million children worldwide with disabilities, with many in sub-Saharan African countries lacking access to education, healthcare, transportation, and public facilities. Nigeria, a signatory to the Convention on the Rights of Persons with Disabilities (CRPD), signed the African Disability Protocol in October 2023. The CRPD and its Optional Protocol provide for equal rights for children with disabilities. The African Disability Protocol, in addition to the aforementioned, obliges states to respect and promote the rights of children with disabilities. Nigeria enacted the Discrimination Against Persons with Disabilities (Prohibition) Act in 2019 to address barriers faced by persons with disabilities. The Disability Act provides free and inclusive education, accessible healthcare, and equal access to the physical built environment. Yet, children with disabilities still face barriers in accessing their rights on an equal basis with other children due to several challenges such as systematic exclusion and discrimination of persons and children with disabilities, lack of enforcement and political will to implement disability inclusive policies, funding etc. More so, not all states in Nigeria have adopted the Disability Act into their state's legislation, creating non-existence of disability rights in some states and lack of uniformity in the provisions of specific rights for children with disabilities in Nigeria. The foregoing underscores the need for further ways to entrench the rights of children with disabilities and ensure equal access of their rights. Accordingly, this paper examines the specific international, regional and national laws for the protection of children with disabilities in Nigeria, particularly provisions on free and inclusive education, accessible healthcare, and equal access to the physical built environment. It highlights several challenges on the

* LLB (Hons) (University of Ilorin), LLM (University of Ilorin), BL (Abuja University), LL.D (NWU, South Africa); Senior Lecturer, Department of Public Law, Faculty of Law, University of Maiduguri, Borno State, Nigeria; kolawoleoyeyemi@unimaid.edu.ng; orcid.org/0000-0002-1297-0018.

KK Oyeyemi 'Protection of the rights of children with disabilities in Nigeria: Challenges and a constitutional rights-based solution' (2025) 13 *African Disability Rights Yearbook* 71-97
<https://doi.org/10.29053/adry.v13i4.5529>

access to these rights of children with disabilities in Nigeria. Finally, some proactive measures, chief among which is a constitutional rights-based approach through amending the Nigerian Constitution to specifically include the rights of persons and especially children with disabilities, are recommended to increase and entrench access to children with disabilities' rights on an equal footing with others.

1 Introduction

An estimated 240 million children worldwide live with disabilities, accounting for one-third of all persons with disabilities.¹ Many of these children live in sub-Saharan African countries, where they face limited access to free and inclusive education, healthcare, transportation, and public facilities.² Nigeria, with about 27 million of its population³ with varying degrees of disabilities, has signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (Africa Disability Protocol) into law in October 2023. Prior to the presidential assent, Nigeria is a signatory to the United Nations Convention on the Rights of Persons with Disabilities (CRPD).⁴ The CRPD and its Optional Protocol as well as Africa Disability Protocol ensure children with disabilities have equal human rights, that the best interests of children with disabilities are considered in all actions, and children with disabilities' views are given due weight in accordance with their ages and maturity. The African Disability Protocol takes cognisance of the peculiarities of children with disabilities in Africa.⁵ It obliges states parties to respect and promote children with disabilities' right to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate children with disabilities' active participation in their community in Africa.⁶

The Nigerian government passed the Discrimination Against Persons with Disabilities (Prohibition) Act in January 2019 (Disability Act) to

- 1 UNICEF 'Using the human rights framework to promote the rights of children with disabilities: Discussion paper - An analysis of the synergies between CRC, CRPD and CEDAW' (2021) <https://www.unicef.org/media/126396/file/Synergies-paper-Web.pdf> (accessed 19 April 2023).
- 2 African Child Policy Forum 'The African report on children with disabilities: Promising starts and persisting challenges' (2014).
- 3 J Ibileke '27.3 million Nigerians living with disability' *TheNews* (Nigeria) 3 December 2018 <https://www.thenewsnigeria.com.ng/2018/12/03/27-3-millionnigerians-living-with-disabilities/> (accessed 25 August 2022).
- 4 UN General Assembly, Convention on the Rights of Persons with Disabilities: Resolution/adopted by the General Assembly, 24 January 2007, UN Doc A/RES/61/106 (2007), which came into force 2008, and was signed and ratified by Nigeria on 30 March 2007 and 24 September 2010 respectively.
- 5 Centre for Human Rights 'Press statement: Centre for Human Rights calls on African States to ratify newly adopted African Disability Rights Treaty' (2018) <https://www.chr.up.ac.za/dru-news/482-press-statement-centre-for-human-rights-calls-on-african-states-to-ratify-newly-adopted-african-disability-rights-treaty> (accessed 15 October 2022).
- 6 African Disability Protocol, art 7(2).

address barriers faced by persons with disabilities. The Disability Act provides for free and inclusive education,⁷ accessible healthcare,⁸ and equal access to the physical built environment through special facilities in public buildings among others.⁹ However, years after the passage of the Disability Act, and the five years' moratorium for compliance with its provisions regarding the alteration of the built environment to improve access of persons with disabilities to public infrastructure in Nigeria, persons and children with disabilities in Nigeria still encounter various barriers. These barriers range from widespread discrimination and systemic exclusion of children with disabilities from access of the aforementioned rights on an equal basis with others,¹⁰ to lack of political will from the government to implement and enforce extant laws on the protection of children with disabilities' rights, inadequate funding towards disability inclusive facilities and services, poverty as well as prejudicial beliefs towards persons and children with disabilities, to mention but a few.¹¹

Furthermore, Nigeria is a pluralistic country with multiple laws, norms, and fora.¹² Under the Nigeria law, each state is empowered to make laws, with the federal government making laws on exclusive lists and the state sharing on concurrent lists.¹³ Children are considered under the residual lists for the states. Presently, not all states of the federation have adopted the Disability Act,¹⁴ and those that have, do so at their own discretion. This creates a lack of uniformity in terms of the provisions of children's disability rights enacted by some states in their jurisdictions. Consequently, children with disabilities cannot also access their aforementioned rights as provided by the Disability Act, the CRPD, and the African Disability Protocol on an equal basis with others in Nigeria. The foregoing justifies the need to seek further means of promoting national application of the Nigerian Disability Act, which domesticated the CRPD and African Disability Protocol, as fundamental to the uniform realisation of children with disabilities' rights in Nigeria. Perhaps, through

7 Disability Act, secs 17-20.

8 Disability Act, secs 3-8 & 21.

9 Disability Act, secs 9-11.

10 U Prince-Oparaku & N Chuma-Umeh 'Imperatives of securing equitable access to healthcare services for persons with disabilities in Nigeria' (2022) 10 *African Disability Rights Yearbook* 41.

11 See the discussion in part five of this paper on some challenges on specific rights of children with disabilities and the way forward.

12 E Durojaiye, B Okeke & A Adebajo 'Harmful cultural practice and gender equality in Nigeria' (2014) 12 *Gender & Behaviour* 6169.

13 See 1999 Constitution of Nigeria (as amended), sec 4 and 2nd Schedule, Parts I and II.

14 As of 2024, 23 out of 36 states in Nigeria have passed their own disability laws. Despite this, only 15 of those states have established functional agencies to implement the laws. See UN Global Disability Fund 'Situational analysis on the right of persons with disability in Nigeria' (2024) 3 <http://www.globaldisabilityfund.org> (accessed 3 Dec ember 2025); L Adejoro, 'Five years after, 17 states yet to adopt Disability Act' *Punch Healthwise* 8 August 2024 <http://healthwise.punchng.com/five-years-after-17-states-yet-to-adopt-disability-act/#> (accessed 3 December 2025). See also further discussion on this in part 6 of this paper.

a constitutional approach as is the case in other jurisdictions in Africa, such as Ghana, South Africa, Uganda and Rwanda with specific constitutional rights-based provisions on disabilities, demonstrating their governments' efforts to provide equal opportunities for persons with disabilities.¹⁵ The foregoing proposition for Nigeria cannot be overemphasised because of the simple fact that the Constitution, Nigeria's highest law, overrides any inconsistent legislation,¹⁶ among other reasons.

In light of the foregoing, a central question is not only on the specific rights applicable to children with disabilities, such as free and inclusive education, accessible healthcare, adequate transportation, and access to public facilities, but also the challenges on accessing these rights and the way forward for children with disabilities in Nigeria. This question is important as it provides an opportunity to examine the provisions of the laws on the specific rights of children with disabilities as well as the extent to which children with disabilities have access to these rights in Nigeria. It also affords a platform to focus on surmounting barriers to equitable access to free and inclusive education, accessible healthcare, adequate transportation, and public facilities for persons and children with disabilities in Nigeria as well as a national application of laws specific to children with disabilities, perhaps through a constitutional rights-based approach.

Hence, this paper examines the general provisions of the CRPD, the African Disability Protocol, and the Disability Act on children with disabilities and specifically provisions on free and inclusive education, accessible healthcare and access to the physical built environment on an equal basis with other children in Nigeria. It also examines the barriers to children with disabilities' access to these rights in Nigeria. Ultimately, the paper suggests proactive measures towards the realisation of the provisions of laws on children with disabilities, chief among which is a constitutional rights-based approach and protection through amending the Constitution to specifically include the rights of persons and especially children with disabilities in Nigeria.

To achieve the foregoing focus and aims, this paper adopted doctrinal methods of research. It goes, therefore, to say that the paper is based on an analytical and descriptive exposition of all the primary and secondary sources considered.

Furthermore, this paper is structured into seven parts. The first is the introductory part, which highlights the aims and focus of the discussion in the paper. The second part provides some level of clarification on the

15 See later discussion on this in part five of this paper. Take note that the focus this paper is not to make a detailed comparison between Nigeria and these aforementioned countries. However, reference is made to these countries' specific constitutional provisions on persons with disabilities.

16 See 1999 Constitution of Nigeria, sec 1.

protection of human rights under the Nigerian Constitution. The third part provides an overview of the provisions in international and regional instruments such as the CRPD and African Disability Protocol that specifically address the rights of persons and children with disabilities. The fourth part examines the provisions of the Nigerian Disability Act which demonstrate the Nigerian government's commitment to her obligations under the CRPD and African Disability Protocol to adopt all required legal, administrative, and other measures to implement the rights recognised in these instruments. Furthermore, the fifth part addresses specifically provisions on inclusive and free education, equitable access to healthcare services, adequate transportation, and access to public facilities for children with disabilities. It also highlights several challenges on the access to these rights by children with disabilities and suggests the way forward. In the same nexus, part six of the paper advocates for a constitutional rights-based approach and protection through amending the Constitution to specifically include the rights of persons and especially children with disabilities in Nigeria, while part seven is the concluding part.

2 Protection of human rights under the Nigerian Constitution

Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended) (1999 Constitution) guarantees fundamental human rights to all citizens, including children.¹⁷ These rights include the right to life, dignity, personal liberty, fair hearing, freedom of movement, and unjust discrimination.¹⁸ However, the text does not provide specific rights for children or those with disabilities.¹⁹ At best, section 42 of the Constitution prohibits unjustifiable discrimination on the basis of 'ethnic group, place of origin, sex, religion or political opinion'.

Apart from the Chapter IV provisions, the 1999 Constitution outlines the fundamental objectives and directive principles of the Nigerian state in its Chapter II, aiming to promote and protect the interests of every citizen, including children. Chapter II requires the government to provide free primary, secondary, university, and adult literacy programmes. Section 13 mandates the government to observe fundamental objectives related to

17 See for example, sec 33(1) on rights to life which provides that: 'Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.' See also sec 34(1) on human dignity which provides that: 'Every individual is entitled to respect for the dignity of his person.'

18 See the Nigerian Children's Rights Act, 2003, sec 3(1). See the provisions of secs 33-41 for the rights guaranteed under Chapter IV which includes: the right to life, the right to personal liberty, the right to dignity of human person, the right to fair hearing and the right to freedom of movement.

19 See generally the 1999 Constitution.

socio-political, economic, educational, and cultural matters. Section 14 prioritises the security and welfare of the people, while section 16 focuses on controlling the economy to ensure maximum welfare, freedom, and happiness. Section 17 focuses on the state's social order, ensuring all citizens have equal opportunities for employment, fair work conditions, and adequate facilities for leisure and social, religious, and cultural life.²⁰ The state must also safeguard the health, safety, and welfare of all employees, provide adequate medical health facilities, and ensure equal pay for all work without discrimination.²¹ It also protects children, young persons, and the elderly from exploitation and neglect, and encourages the evolution and promotion of family life.²²

Although, Chapter II of the Nigerian Constitution outlines the duty and obligations of states to promote and protect children's interests in several areas, these provisions are directive principles of state policy, and their enforcement in a court of law is limited by the Constitution itself.²³ As a consequence, the Supreme Court of Nigeria in *AG Ondo v AG Federation*,²⁴ held that courts cannot enforce Chapter II provisions until specific laws are enacted by the National Assembly. Furthermore, the objectives and principles of the constitutional policy of governance are mere declarations and disregarding them would only be seen as a failure of duty and responsibilities of state organs.²⁵ Therefore, the directive principles of Chapter II are regarded as not enforceable in a court of law but can be made justiciable by legislation. This means that where there is a law passed to implement a particular principle, individuals can challenge the government's compliance with that law in court.²⁶

Another way of enforcing the Chapter II rights, is by linking such a right, to a provision in Chapter IV, that is the fundamental human rights' chapter, through judicial activism as was the case in *SERAC and CESR v Nigeria*²⁷ before the African Commission on Human and Peoples' Rights. In *SERAC*, it was argued and the Commission agreed that social and economic rights enshrined in Chapter II of the 1999 Constitution are indivisible from civil and political rights enshrined in Chapter IV of the Constitution, and that any violation of the former would also be a violation of the latter.²⁸

20 1999 Constitution, sec 17(3)(a)-(c).

21 1999 Constitution, sec 17(3)(c)-(e).

22 1999 Constitution, sec 17(3)(f)-(h).

23 1999 Constitution of Nigeria, sec 6(6)(c) which provides that the judicial powers vested in accordance with the provisions of the Constitution 'shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution'.

24 (2002) 9 NWLR (Pt 772) 222. See also the earlier case of *Anthony Okojie v AG Lagos state* (1981) 2 NCLR 333, 350.

25 As above.

26 See also *Olafisoye v Federal Republic of Nigeria* (2005) 51 WRN 62.

27 Communication 155/96, 27 October 2001.

Instructively, in the case of *Odafe v Attorney-General*,²⁹ the Nigeria Federal High Court held that the rights of a prisoner to medical care is enforceable in Nigeria under the African Charter on Human and People's Rights. The Court is of the view that the African Charter entrenched socio-economic rights of persons and the 'Court is enjoined to ensure the observation of these'. The Court went further to state that a dispute regarding 'socio-economic rights such as rights to medical attention requires the Court to evaluate state policy and give judgment consistent with the Constitution'.³⁰ This means that courts may use Chapter II for interpreting other justiciable laws and fundamental rights but cannot enforce Chapter II provisions independently.³¹ The decision of the Federal High Court in *Odafe's* case is progressive in nature and allows for the interpretation of cases on the justiciability of socio-economic rights in Nigeria in a more liberal way.³²

While the foregoing ways of enforcing Chapter II provisions are viable progressive methods through judicial activism in Nigeria, it is noted that achieving and enforcing these rights through these processes are almost always cumbersome³³ and often hampered.³⁴ For instance, *SERAC*, though a landmark decision in international human rights law, particularly regarding the enforceability of socio-economic and environmental rights, its impact on Nigerian courts is seen as merely of persuasive influence rather than a legally enforceable precedent.³⁵ Moreso, the lack of a direct enforcement mechanism for the African Commission³⁶ and ECOWAS

28 As above.

29 (2004) AHRLR 205 (NgHC 2004).

30 Para 38.

31 See earlier Supreme Court decision in *AG Ondo v AG Federation* (2002) 9 NWLR (Pt 772) 222; *Olafisoye v Federal Republic of Nigeria* (2005) 51 WRN 62; and the decision in *Ogboru v President* (2005) JELR 45299 (CA), where the Court of Appeal per Abba-Aji (JCA) reached the conclusion that when a right does not fall under any of the provisions of Chap IV, no declaration, other determination or judgment can be made in the name of basic rights. No matter how severely a right was infringed, if it is not expressly listed in Chap IV, which contains the fundamental human rights provisions, the court cannot raise it to the level of a fundamental right.

32 EO Ekhatior 'Improving access to environmental justice under the African Charter on Human and Peoples' Rights: The role of NGOs in Nigeria' (2014) 22 *African Journal of International and Comparative Law* 63, 71.

33 For instance, the *SERAC* case took over five years from the date the communication was received by the African Commission (14 March 1996) to final decision on the merits (27 October 2001). For academic commentaries on the length of proceedings and delays that can occur within the Commission's procedure, see TF Yerima 'Over two decades of the African Commission on Human and Peoples Rights: Flying or fledging' (2012) 12 *Global Journal of Human Social Science Arts & Humanities* 1.

34 Ekhatior (n 32) 71-74.

35 See the Supreme Court decision in *AG Ondo* case 222; see also the Court of Appeal decision in *Ogboru* per Abba-Aji (JCA).

36 According to Okolosie, the African Commission is only a quasi-judicial body, hence has no legal status comparable to the African Court as a continental court of law. This arguably accounts for why the decisions and recommendations often are considered as non-binding on states parties. See C Okolosie 'Circumventing obstacles to the implementation of recommendations on human and peoples' rights' (2018) 8 *African Human Rights Law Journal* 31.

Courts's judgments,³⁷ and absence of political will by the Nigerian Government, are primary challenges in this regard.

Notwithstanding the above, the legal principles espoused in *SERAC* are now a vital part of the human rights jurisprudence in Nigeria. Several scholarly works in Nigeria and beyond have consistently called for a progressive interpretation of Chapter II of the 1999 Constitution.³⁸ For example, Onuora-Oguno and Silas argued that Chapter II should be treated as a 'guiding principle' for the government rather than strict non-justiciable rights or a 'Greek gift' that appears beneficial but lacks true power to enforce its provisions.³⁹ Onuora-Oguno and Silas' view aligns with the earlier perspective of Egbewole and Alatise⁴⁰ that pushes for a more functional interpretation of Chapter II and advocating for viewing these provisions as essential guiding principles that all arms of government in Nigeria – executive, legislative and the judiciary – have an obligation to pursue. Therefore, the legislature must enact laws to give effect to the principle in Chapter II, and the judiciary must be more active in its interpretations.⁴¹

In light of the discussion so far, it is evident that the Nigerian Constitution does not provide specific rights for persons and children with disabilities, but specific rights are guaranteed and achievable through national, international and regional legislations like the Nigerian Disability Act, CRPD and African Disability Protocol.

Arguably, the Nigerian Constitution approach aligns with the perspective that the implementation of human rights norms necessitates a flexible approach that takes the particular circumstance of each state into account.⁴² The approach may take the form of a comprehensive implementing legislation, various principles in different statutes, policy measures or a combination of them all.⁴³ Despite the aforementioned

37 Judgments from the ECOWAS Court are not self-enforcing within Nigeria. They must be registered with a Nigerian Federal High Court for enforcement, a process that can be subject to delays and technical challenges by the government.

38 AC Onuora-Oguno & T Silas 'The constitutional obligation to protect the right to education in Nigeria: A call for action' (2024) 24 *African Human Rights Law Journal* 369; AC Onuora-Oguno 'Disorder in the order of the economic and social rights jurisprudence in Nigeria' (2024) 264th Inaugural lecture delivered at the University of Ilorin, Nigeria (August 2024) 6; F Viljoen *International human rights law in Africa* (2nd ed) (2012) 551.

39 Onuora-Oguno & Silas (n 38) 369-384.

40 WO Egbewole & TN Alatise 'Realizing socio-economic rights in Nigeria and the justiciability question: Lesson from South Africa and India' (2017) 8 *International Journal of Politics and Good Governance* 1.

41 Onuora-Oguno & Silas (n 38) 369.

42 L Chenwi 'International human rights law in South Africa' in E de Wet, H Hestermeyer & R Wolfrum (eds) *The implementation of international law in Germany and South Africa* (2015) 353-354; SD Kaplan *Human rights in thick and thin societies: Universality without uniformity* (2018) 16-47; KK Oyeyemi 'Implementation of the right of the child to be heard under article 12(1) of the Convention on the Rights of the Child in Nigeria: Lessons from South Africa' (2024) 24 *African Human Rights Law Journal* 599.

43 As above.

approach in human rights implementation, it does not preclude other significant approaches needed for promoting specific human rights and wellbeing of the citizens,⁴⁴ especially children with disabilities. Specific constitutional protection will guarantee the rights of children with disabilities across the board. Thus, a constitutional rights-based approach as a solution for the uniform, national and equal protection of the rights of children with disabilities in Nigeria is proposed later in this paper. The next section of the paper examines the specific international and regional laws on the rights of persons with disabilities.

3 International and regional instruments on the rights of persons with disabilities

This section discusses the general and specific provisions in international and regional instruments such as the CRPD and African Disability Protocol that specifically address the rights of persons with disabilities. Take note that there are no separate international or regional rights instruments specifically addressing children with disabilities. However, there are general and specific provisions in these rights instruments applicable to persons and children with disabilities. Thus, the focus of the discussion in this part of the paper is on these general and specific provisions relating to persons and especially children with disabilities.

3.1 United Nation Convention on the Rights of Person with Disabilities (CRPD)

The CRPD is the first international treaty to specifically recognise the rights of persons with disabilities, including children with disabilities.⁴⁵ It adds new requirements for states parties to promote, protect, and fulfil these rights on an equal footing with others. The CRPD affirms the respect for inherent dignity, individual autonomy, non-discrimination, participation, inclusion, diversity, equality of opportunity, accessibility, equality between men and women, and the rights of children with disabilities to preserve their identities,⁴⁶ among other general rights for persons with disabilities.

Furthermore, states parties are obligated to ensure the full realisation of human rights and fundamental freedoms for persons with disabilities

44 Kaplan (n 42) 16-47; Oyeyemi (n 42) 599.

45 However, it is worthy of note that there were soft laws preceding the CRPD, such as the UN General Assembly, *Standard rules on the equalization of opportunities for persons with disabilities: Resolution adopted by the General Assembly*, 20 December 1993, UN Doc A/RES/48/96 (1993), that focused on protection of the rights of persons with disabilities, including children. The rules are a UN set of guidelines for governments to promote the rights of persons with disabilities.

46 CRPD, art 3.

without discrimination. This includes adopting appropriate legislative, administrative, and other measures to implement these rights, modifying or abolishing existing laws, regulations, customs, and practices that discriminate against persons with disabilities, incorporating the protection and promotion of human rights in policies and programmes, refraining from inconsistent acts or practices, eliminating discrimination by individuals, organisations, or private enterprises, promoting research and development of universally designed goods, services, equipment, and facilities, promoting the availability and use of new technologies, providing accessible information about mobility aids, devices, assistive technologies, and training professionals and staff to better provide assistance and services guaranteed by these rights. This commitment to universal design is crucial for promoting the rights of persons with disabilities.⁴⁷

Therefore, states parties are to be committed to utilising their resources and international cooperation to achieve the full realisation of economic, social, and cultural rights, while adhering to immediate obligations in the Convention, without prejudice to international law obligations.⁴⁸ In addition, states parties are required to involve persons with disabilities, including children, in decision-making processes related to the Convention and other disability-related legislation and policies. This active involvement fosters a sense of belonging and legitimises decisions, especially for children with disabilities.

Article 7 of the CRPD mandates states parties to ensure equal enjoyment of human rights and fundamental freedoms for children with disabilities.⁴⁹ It emphasises the best interests of the child⁵⁰ and ensures that children with disabilities have the right to express views freely on all matters affecting them. Moreso, that children with disabilities' views are given due weight in accordance with their ages and maturity, on an equal basis with other children, and they are provided with disability and age-appropriate assistance to realise that right.⁵¹ This provision aligns with article 12 of the Convention on the Rights of the Child (CRC), which also includes provisions on participatory rights.

The CRPD text asserts that individuals with disabilities should have the right to access and share information on an equal basis with others, regardless of their communication method, in all aspects of political, cultural, and national/community life.⁵²

47 CRPD, art 4(1)(a)-(i).

48 CRPD, art 4(3).

49 CRPD, art 7(1).

50 CRPD, art 7(2).

51 CRPD, art 7(3).

52 CRPD, art 21.

Furthermore, the CRPD mandates states parties to provide accessible information to persons with disabilities in various formats and technologies, including sign languages, braille, and alternative communication.⁵³ It also mandates states to encourage private entities to provide accessible services, including the internet, to ensure equal access to public information for children with disabilities.⁵⁴ This ensures that individuals with disabilities have the freedom to choose their preferred communication methods.

The CRPD mandates states to ensure an inclusive education system and lifelong learning without discrimination.⁵⁵ It also mandates the accessibility of relevant materials and services for persons with visual disabilities.⁵⁶ Furthermore, it guarantees the right to be informed and participate in elections, public administration, public affairs, and decision-making processes.⁵⁷ This obligation is crucial for children with disabilities in developing countries, as access to equal opportunity in education is a daily challenge.

Notably, the CRPD by its several ground-breaking provisions of rights set the perfect template for states parties in their obligations towards the protection of persons and children with disabilities. As discussed later in this paper, the Nigerian Disability Act includes specific provisions such as inclusive and free education, equitable access to healthcare services, adequate transportation, and access to public facilities among others for children with disabilities. The inclusion of these specific provisions demonstrates the Nigerian government's commitment to her obligations under the CRPD to adopt all required legal, administrative, and other measures to implement the rights recognised in the Convention.

Before proceeding to discuss the Nigerian Disability Act, the next part of the paper examines the regional instrument, that is the African Disability Protocol. Again, the focus of the discussion is on the general and specific provisions relating to children with disabilities.

3.2 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol)

As stated in the introduction, the primary goal of this instrument is to provide an Africanised perspective on disability rights that takes 'into account the lived realities of persons with disabilities while maintaining the

53 CRPD, art 21(a) & (b).

54 CRPD, art 21(c).

55 CRPD, art 24.

56 CRPD, art 30.

57 CRPD, art 29.

core values and principles on disability as set out in the CRPD.⁵⁸ The African Disability Protocol thus provides more promise in a disability-specific context. A notable distinction is that, unlike the CRPD, the African Disability Protocol includes separate provisions for girls/women, children, and youth with disabilities, addressing the long-standing issue of unique rights for a variety of persons with disabilities.

Furthermore, the African Disability Protocol actively advocates for children with disabilities to have equal access to all human rights and fundamental freedoms as other children,⁵⁹ as well as prioritising the child's best interests in all actions affecting the child.⁶⁰ More importantly, it actively promotes the right of children with disabilities to freely express opinions on all matters affecting them, with their opinions given due weight in accordance with their ages and maturity, on an equal footing with other children, and to be provided with disability and age-appropriate assistance to exercise that right.⁶¹ The aforementioned rights of children with disabilities will be implemented through state actions, whether policy, legislative, administrative, or otherwise, to promote their rights.

Article 7(3) of the African Disability Protocol is groundbreaking for a variety of reasons. First, it mimics in words and content the articles of the CRC,⁶² which states that children have the right to autonomous involvement in decision-making that affects them.⁶³ Second and most importantly, for the first time, a right to participation in decision-making affecting children with disabilities is not inferred from a broad reading of provisions, nor is it alluded to by way of general comments and recommendations, as was the case under some earlier African regional children's rights instruments.⁶⁴ Instead, it is officially stated in a regional document. So far, the instrument has received positive feedback, with the Special Rapporteur on the Rights of Persons with Disabilities welcoming this trailblazing instrument in the belief that it will result in a much greater inclusion of persons with disabilities' concerns in laws, policies, and

58 Centre for Human Rights (n 5).

59 CRPD, art 7(1).

60 CRPD, art 7(2).

61 CRPD, art 7(3).

62 United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by GA Resolution 44/25 of 20 November 1989, 1577 UNTS 3, entered into force 2 September 1990 (CRC).

63 For a detail discussion on the provisions of art 12(1) of the CRC, see R Stern 'The child's right to participation – Reality or rhetoric?' Doctoral dissertation, Uppsala University, 2006 161; KK Oyeyemi 'Cultural and traditional practices and the implementation of the rights of child to be heard under article 12 of the CRC' Doctoral dissertation, North-West University, South Africa, 2022 98-104; G Lansdown 'The realisation of children's participation rights: Critical reflections' in B Percy-Smith & N Thomas (eds) *A handbook of children and young people's participation: Perspectives from theory and practice* (2010) 12.

64 See for example Organisation of African Unity (OAU), African Charter on the Rights and Welfare of the Child, 11 July 1990, AU Doc CAB/LEG/24.9/49 (1990) (ACRWC).

budgets because it ensures increased accountability and closer oversight of how states implement their human rights obligations.⁶⁵

However, as with all early regional rights instruments, some critics believe that ‘autochthonous standard setting’ for regional rights instruments would ‘not guarantee an improvement in the plight of persons with disabilities’, even though the articulation of a regionalised disability rights treaty ‘may raise greater awareness and assist states in the process of crafting appropriate domestic laws and policies’.⁶⁶ They also claim that without a clear rationale identifying substantive weaknesses or omissions (within the CRPD), the drafting and adoption of an African pendant would amount to an exercise in ‘reinventing the wheel’.⁶⁷

Regardless of the preceding cautions, it is argued that the value of articulating and recognising the rights of children with disabilities in regional and municipal instruments is indisputable. At the core of the standardised children’s rights in the African Disability Protocol – for example, article 7(3) – is a close connection between rights and dignity as well as rights and respect, a connection critical not least for children with disabilities in their often-vulnerable position in relation to adults and society. Stern correctly observed that a person who is not given ‘dignity and respect is very easily reduced to an object of intervention, a commodity, or someone’s property’.⁶⁸ Moreso, children’s participation rights under article 7(3) of African Disability Protocol are linked to respect and dignity, as well as the development of children with disabilities. Consequently, the African Disability Protocol’s articulation of these rights as standards addressed substantive weaknesses or omissions in most African countries’ domestic disability legislation.⁶⁹

Having discussed the international and regional instruments, that is the CRPD and the African Disability Protocol in terms of general and specific rights applicable to children with disabilities, the next part of the paper examines strictly the provisions of Nigerian Disability Act. Again, take note that the discussion is on the general provisions of the Disability Act, while highlighting the specific provisions on inclusive and free education, equitable access to healthcare services, adequate transportation, and access to public facilities for children with disabilities in Nigeria. Part five of the paper focuses specifically on these rights as well as

65 OHCHR ‘African states affirm the rights of persons with disabilities in a new landmark Protocol’ (15 February 2018) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22661&LangID=E> (accessed 15 February 2022).

66 F Viljoen & J Biegon ‘The feasibility and desirability of an African Disability Rights Treaty: Further norm-elaboration or firmer norm-implementation?’ (2014) 30 *South African Journal on Human Rights* 345, 364.

67 Viljoen & Biegon (n 66) 352.

68 Stern (n 63) 81.

69 For instance, there is no specific equivalent provisions of art 7(3) of the African Disability Protocol in the Nigerian Disability Act.

the challenges of access to these rights by children with disabilities and the way forward.

4 Nigerian Discrimination Against Persons with Disabilities (Prohibition) Act 2019 (Disability Act)

The Disability Act, which has 58 sections, includes provisions that demonstrate the Nigerian government's commitment to her obligations under the CRPD to adopt all required legal, administrative, and other measures to implement the rights recognised in the Convention. In many respects, the Nigerian Disability Act is similar to the CRPD.

Part I of the Disability Act prohibits discrimination on grounds of disability in any manner or circumstance and imposes a fine of N1 000 000 for corporate bodies and N100 000 for individuals or a term of six months' imprisonment for violation.⁷⁰ The Disability Act mandated the federal Ministry of Information to promote awareness regarding the rights, respect, dignity, as well as the capabilities and achievements of persons with disabilities in society.⁷¹ It also guarantees the right to maintain civil action for damage by the person injured against any defaulter.

Part II of the Disability Act provides for the right of persons with disabilities to access the physical environment and public buildings on an equal basis with others, as well as the provisions of accessibility aids in public buildings such as lifts, ramps, and other facilities that will make easy accessibility for persons with disabilities into a public building.⁷² This also includes accessibility to roadside walks, pedestrian crossings, and other special facilities made for public use.⁷³ A five-year transitional period (already lapsed) is stipulated within which public buildings, structures, or automobiles are to be modified to be accessible to and usable by persons with disabilities, including those on wheelchairs.⁷⁴

Moreover, it is henceforth mandatory that before any public structure is erected, it must conform to the new building code. A government or government agency, body, or individual responsible for the approval of building plans shall not approve the plan of a public building if the plan does not make provision for accessibility facilities in line with the building code.⁷⁵

70 Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 (Disability Act), sec 1(1)-(2).

71 Disability Act, sec 2(a)-(b).

72 Disability Act, secs 3-4.

73 Disability Act, sec 5.

74 Disability Act, sec 1(3). See also CJ Eleweke & J Ebenso 'Barriers to accessing services by people with disabilities in Nigeria: Insights from a qualitative study' (2016) 6 *Journal of Educational and Social Research* 25.

75 Disability Act, sec 7(1).

An officer who approves or directs the approval of a building plan that contravenes the building code commits an offence and is liable on conviction to a fine of at least N1 000 000 or a term of imprisonment of two years or both.⁷⁶

Under Part III of the Disability Act, discrimination is prohibited in public transportation facilities, and service providers are to make provision for persons with physical, visual, and hearing disabilities and all persons, however challenged. This applies to seaports, railways, and airport facilities.⁷⁷ There is a provision that suitable space properly marked with signs be reserved for persons with disabilities at public parking lots and makes it an offence punishable with a fine per day of default for any person, corporate bodies, or organisation that fails to provide a parking space for persons with disabilities. This also includes anyone without a disability who parks his/her vehicle in the reserved space or intentionally obstructs the reserved space for a person with a disability.⁷⁸

Part IV of the Disability Act provides persons with disabilities the right to free and inclusive education and healthcare, the right of first consideration in queues, accommodation, and emergencies, and condemns the act of using a person with disabilities for begging.⁷⁹ This part of the Disability Act is of utmost importance, bearing in mind that free and inclusive education and healthcare are rights that majorly affect children with disabilities in Nigeria. The challenges on the accessibility of these provisions are discussed in the subsequent section.

Furthermore, under the Disability Act, all public organisations shall, as much as possible, have persons with disabilities constituting at least five per cent of their workforce.⁸⁰ The Act also encourages their participation in politics and public life.⁸¹ Part VII of the Disability Act provides for the establishment of a National Commission for Persons with Disabilities, which shall be vested with the responsibility for the education, healthcare, social, economic, and civil rights of persons with disabilities.⁸²

Ordinarily, the foregoing provisions of the Disability Act should be ample basis for providing special facilities to improve accessibility and sanction discrimination against the person with disability, and in the context of this paper, children with disabilities; however, the peculiar circumstances existing in Nigeria bring to the fore several challenges that impact accessibility to these laudable rights for persons and especially children with disabilities.

76 Disability Act, sec 7(2)-(3).

77 Disability Act, secs 9-11.

78 Disability Act, sec 12(3)-(6).

79 See generally Disability Act, Part IV, secs 19-27.

80 Disability Act, sec 29.

81 Disability Act, sec 30.

82 Disability Act, secs 31-39.

5 Some challenges on specific rights of children with disabilities and the way forward

It was expected that the Disability Act would spur the development of effective measures for the full realisation of disability rights in Nigeria, including inclusive and free education, equitable access to healthcare services, adequate transportation, and access to public facilities for children with disabilities. Persons with disabilities, on the other hand, continue to face widespread discrimination and are systemically excluded,⁸³ among other challenges. The discussion that follows specifically addresses the above-mentioned rights applicable to children with disabilities in Nigeria, as well as the challenges of accessing these rights and the way forward.

5.1 Free and inclusive education for children with disabilities

Sections 17, 18, 19, and 20 of the Disability Act, in accordance with article 24 of the CRPD, establish free and inclusive education as the primary mechanism for implementing the right to education for persons with disabilities. Inclusive education systems in this spectrum can be defined as all people learning together in mainstream classrooms in their locality or community, regardless of ability or disability, with teaching methods, materials, and school environments that address the needs of all children, gender aside.⁸⁴ Inclusive education systems are built on a rights-based framework that may empower students, celebrate diversity, oppose discrimination, and foster a more inclusive society.⁸⁵ This can be an effective technique for addressing inequities. It can also tackle discrimination by challenging widely held attitudes and behaviours and helping us to celebrate and embrace the diversity in our societies.

In addition, there are certain distinctions in disability; for example, some people have physical disabilities as well as issues with intelligence, emotional maturity, or social development. These disparities account for variations in their overall development, which special education is intended to address.⁸⁶ Hence, school systems are striving to enhance standards, develop social and personal skills, extend curricula, prioritise fair educational opportunities, and prepare students for a quickly changing

83 Prince-Oparaku & Chuma-Umeh (n 10) 41-61.

84 N Chuma-Umeh & AC Onuora-Oguno 'Inclusion of gender sensitivity into Nigeria primary education system: Implications functional development' (2018) 5 *Journal of Comparative Law in Africa* 98; Onuora-Oguno (n 38) 10-11.

85 Onuora-Oguno & Silas (n 38) 376-377; Onuora-Oguno (n 38) 11-12.

86 MA Oladejo & SA Oladejo 'Educating students with disabilities in Nigeria: Some challenges and policy implications' (2011) 3 *European Journal of Humanities* 127.

society.⁸⁷ Interestingly, the global trend is turning towards addressing the educational problems of children with one or more disabilities in order to improve their lives. The rationale for this is based on the assertion that persons with disabilities have vital roles to play in national development. To be able to accomplish this successfully and meaningfully, their educational requirements must be addressed appropriately.⁸⁸

In terms of the link between education and national development, Umeh and Onuora-Oguno,⁸⁹ observe that including gender sensitivity in Nigeria's primary education system is crucial for national development. They argue that a gender-sensitive approach is needed to address gender disparities, ensure equal opportunities for boys and girls, and create a more equitable society. The authors highlight how this inclusion impacts various aspects of functional development, such as social, economic and political progress.⁹⁰ Therefore, optimal national development requires full integration of the female population into the education system, this includes female children with disabilities.

Furthermore, General Comment 13 of the UN Committee on Economic, Social and Cultural Rights (CESCR) on the Right to Education,⁹¹ sets out the requirement for the characteristics and features of free and inclusive education. These requirements are availability,⁹² accessibility,⁹³ acceptability,⁹⁴ and adaptability⁹⁵ that apply to education in all its forms and at all levels.⁹⁶ Hence, for free and inclusive education to be properly implemented for children with disabilities, it must meet the above laid-down minimum thresholds. Moreso, each state has an obligation to protect the right of children with disabilities to education in all these dimensions.

Despite the Nigerian government's efforts to address inequality in education for persons with disabilities, these efforts have yet to yield any positive results in alleviating the plight of persons with disabilities in Nigeria.⁹⁷ There is evidence that impaired children in segregated school environments perform poorly academically when compared to non-

87 RN Osakwe 'Education for people with special needs in Nigeria: Challenges and way forward' in MI Atinmo and others (eds) *Education for sustainable development* (2010) 33-43.

88 Osakwe (n 87) 36.

89 Chuma-Umeh & Onuora-Oguno (n 84) 98-116.

90 As above.

91 UN Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment 13: The Right to Education (art 13 of the Covenant), 8 December 1999, UN Doc E/C.12/1999/10 (1999) <https://www.refworld.org/legal/general/cescr/1999/en/37937> (accessed 3 December 2025).

92 General Comment 13, para 6(a).

93 General Comment 13, para 6(b).

94 General Comment 13, para 6(c).

95 General Comment 13, para 6(d).

96 For a detail analysis on content of rights to education see Onuora-Oguno & Silas (n 38) 376-377.

97 UN Global Disability Fund (n 14); Oladejo & Oladejo (n 86) 15-24.

disabled children in regular courses.⁹⁸ Much of the additional education provided to pupils with disabilities focusses on 'social training' and 'general living skills'.

The government's efforts⁹⁹ in this regard have had some difficulties. These include inadequate educational financing as well as a lack of appropriate educational resources, facilities, and equipment that would allow persons with disabilities to access educational opportunities without discrimination.¹⁰⁰ For instance, Nigeria still relies heavily on special schools, which are poorly resourced, have inadequate learning materials and assistive technology and suffer from poor infrastructure and untrained teachers. Learners with intellectual and developmental disabilities are most marginalised due to a lack of skilled teachers and appropriate learning resources.¹⁰¹ Most Nigerian educational institutions' architectural designs fail to reflect the needs of persons with disabilities. These losses are compounded by the difficulty of inadequate and ineffective implementation of programmes, legislative and policies measures aimed at improving education for persons and children with disabilities.¹⁰²

In terms of legislative and policy measures, the Universal Basic Education (UBE) Act, 2004 is a legislative effort by the Nigerian government to ensure access to education for all children including children with disabilities. UBE was a rebirth after the failure of the earlier Universal Primary Education (UPE).¹⁰³ The UBE Act comprises 16 sections and deals with the issues of quality education and fundamental nature of education.¹⁰⁴ Notably, section 2 of the UBE Act establishes the rights of every Nigerian child to free, compulsory, and universal basic education, and imposes a duty on both the government and parents to ensure these rights are fulfilled. However, this remains unachieved in Nigeria with education still very poorly funded.¹⁰⁵ It is, therefore, imperative to ensure adequate budgetary funds towards the UBE Act provisions if the right of children with disabilities to free and inclusive education must be advanced.

98 As above.

99 See generally Nigerian government efforts such as the Nigerian National Policy on Inclusive Education (2023), Universal Basic Education Act, 2004. See also UN Global Disability Fund (n 14); Onuora-Oguno (n 38) 10-11.

100 Onuora-Oguno (n 38) 10.

101 UN Global Disability Fund (n 14) 9-10.

102 A Garuba 'Inclusive education in the 21st century: Challenges and opportunities for Nigeria' (2003) 14 *Asia Pacific Disability Rehabilitation Journal* 74; Onuora-Oguno (n 38) 10.

103 Onuora-Oguno (n 38) 10.

104 See UBE Act, 2004, secs 1-2.

105 Onuora-Oguno (n 38) 10.

In addition to the foregoing, the Nigerian National Policy on Inclusive Education (2023)¹⁰⁶ seeks to transform at least one special school per state into a resource centre for inclusive education. However, the transitioning to inclusive education has been difficult, again, due to lack of trained teachers in inclusive practices.¹⁰⁷ Also, the 2023 Policy does not allow separate deaf education, sparking debates about inadequate accommodations in inclusive schools.¹⁰⁸ Moreso, there is no reliable data on the prevalence of children with disabilities in schools, which affects planning and intervention. Most efforts focus on primary education, with little support for secondary-to-tertiary transition. Once more, there is inaccessible school infrastructure and learning materials, especially for students with visual and intellectual disabilities.¹⁰⁹

In light of the foregoing discussion, it is proposed that providing children with disabilities with fair and quality education will assist them to secure additional rights throughout their lives, such as improved access to jobs, healthcare, and other services. To perform this function as 'an enabling right', education must be of high quality, offered equitably, designed to combat discrimination, and allow each child to grow based on their own talents and interests.

5.2 Equitable access to healthcare services

Section 21 of the Disability Act provides for unhindered access to healthcare for persons with disabilities. In the same vein, sections 3 to 8 address the need to ensure that all elements of healthcare are accessible. Section 21 and sections 3-8 make it clear that persons with disabilities have the right not only to accessible and acceptable healthcare services, but also to equality and non-discrimination in all aspects of their right to health, as articulated in articles 9 and 25 of the CRPD.

CESCR General Comment 14 on the Right to the Highest Attainable Standard of Health,¹¹⁰ sets out the requirements for equitable access to healthcare. This requirement includes availability, accessibility, and acceptability. Accessibility is linked to availability, which refers to the public's access to a sufficient quantity of operating healthcare services, facilities, and programmes.¹¹¹ Acceptability, on the other hand relates to the necessity for health services to be respectful of professional ethics and

106 See generally Federal Republic of Nigeria *Nigerian National Policy on Inclusive Education in Nigeria* (7th ed) (2023).

107 UN Global Disability Fund (n 14) 10.

108 As above.

109 As above.

110 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14: The Right to the Highest Attainable Standard of Health (art 12 of the Covenant), 11 August 2000, UN Doc E/C.12/2000/4 (2000) <https://www.refworld.org/docid/4538838d0.html> (accessed 10 August 2023).

111 General Comment 14, para 12(a).

sensitive to the cultural preferences of people involved,¹¹² whereas quality necessitates that health facilities, goods, and services be medically suitable and of a high standard.¹¹³

Notably, accessibility is one of the CRPD's guiding principles.¹¹⁴ The CRPD Committee's discussion of accessibility includes access to the physical environment, transportation, information and communication, as well as other public facilities and services. This indicates that without the aforementioned interconnected factors, persons with disabilities would not have equitable access to adequate healthcare.¹¹⁵ In light of the foregoing, accessibility implies that facilities, goods, and services must be available to everyone, without prejudice. Therefore, physical access, information access, communication access, and attitudinal access are all essential characteristics to consider when determining access to healthcare.

Despite the existence of some state disability laws in Nigeria¹¹⁶ that offer free healthcare for individuals with disabilities, as well as a number of national and subnational health sector regulations,¹¹⁷ persons with disabilities continue to face widespread discrimination and institutional exclusion.¹¹⁸ In principle, state laws and national health sector policies appear to advance the provision of services to persons with disabilities; however, these laws/policies have entrenched the notion of simply supporting persons with disabilities rather than a rights-based policy for disability programmes as envisaged under international treaties.¹¹⁹ Furthermore, the majority of government players lack political commitment and a clear knowledge of the implications of promoting disability inclusion in the health sector through a rights-based approach and government institutions and the majority of Nigerians continue to have a medical understanding of disability, making complete articulation

112 General Comment 14, para 12(c).

113 General Comment 14, para 12(d). For further discussion on unfettered access to healthcare facilities and services, see Prince-Oparaku & Chuma-Umeh (n 10) 54-58.

114 CRPD, art 3(f).

115 CRPD, art 9(1).

116 Examples include Lagos State Special People's Law, 2011; Plateau State Indigenes with Disabilities Rights and for Other Matters Ancillary thereto, 2005; Kano State Persons with Disability Law, 2017 (1439AH); Jigawa State Persons with Disabilities Law, 2017; Bauchi State Persons with Disabilities Law, 2015; Ogun State persons with Disabilities Law, 2018; Ekiti State Rights of Persons with Disabilities Law, 2013 etc.

117 Such as National Policy on Sexual and Reproductive Health for Nigerian Women and Girls with Disabilities (2018); National Health Promotion Policy (2019); National Strategic Plan for Health Promotion (2020-2024).

118 Prince-Oparaku & Chuma-Umeh (n 10) 41-61.

119 These treaties include the UN General Assembly, Universal Declaration of Human Rights, 217 A (III), 10 December 1948; UN General Assembly, International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, vol 993, p 3, 16 December 1966; UN General Assembly, International Covenant on Civil and Political Rights, United Nations, Treaty Series, vol 999, p 171, 16 December 1966; CRPD; and Organisation of African Unity (OAU), African Charter on Human and Peoples' Rights (Banjul Charter), CAB/LEG/67/3 rev. 5, 21 ILM 58 (1982), 27 June 1981. See Prince-Oparaku & Chuma-Umeh (n 10) 50.

and implementation of policies and services based on the social model values of disability a suitable target.¹²⁰

Consequently, this lack of political will and knowledge gap in promoting disability inclusion prevents persons with disabilities from accessing essential healthcare services. For instance, most persons with disabilities in Nigeria lack access to healthcare services from teaching, orthopaedic, and specialist hospitals due to not being included in the National Health Insurance Scheme.¹²¹ Most health programmes are run by development partners/CSOs, with limited government involvement.¹²² Those who do access public or private hospitals face negative attitudes and unsuitable facilities.¹²³ Again, health infrastructure is inaccessible, and health communication is not provided in accessible formats (for example, braille, sign language).¹²⁴ While women with disabilities face higher risks of sexual exploitation, their access to sexual related health education and services is extremely limited.¹²⁵

A situational analysis by the Disability Rights Advocacy Centre (DRAC) revealed that women and girls with disabilities face numerous challenges in accessing healthcare, including inaccessible public transport, lack of accessible facilities, poverty, negative attitudes of healthcare personnel, and few skilled medical providers.¹²⁶ These gaps continue to exist and have not been addressed in most states and national hospital in Nigeria, denying persons and children with disabilities access to basic health services. The absence of adequate policy framework further exacerbates the issue.¹²⁷

In light of the foregoing, it is, therefore not enough to sign and ratify the CRPD, African Disability Protocol as well as enact a national Disability Act, there is an urgent need to advance administrative infrastructure and commitment for the effective implementation of the Disability Act. The CRPD, African Disability Protocol and the Disability Act, require a directing framework to prevent discrimination against children with disabilities in Nigeria. The government is responsible for

120 Prince-Oparaku & Chuma-Umeh (n 10) 50.

121 Y Osibanjo 'NHIS: Osibanjo says FG working to accommodate PWDs' *The Sun* 9 December 2021 <https://www.sunnewsonline.com/nhis-osibanjo-says-fg-working-to-accommodate-pwds/> (accessed 9 December 2021). Note that NHIS has been renamed as NHIA.

122 UN Global Disability Fund (n 14) 9.

123 FB Grema and others 'Camping condition and casual status of insurgency survivors living with disability in Internally Displaced Persons Camp in North-Eastern Nigeria: A case series' (2017) 3 *Bayero University Journal of Evidence-Based Physiotherapy* 28, 29.

124 UN Global Disability Fund (n 14) 9.

125 As above.

126 Disability Rights Advocacy Centre 'A situation analysis on access to sexual and reproductive health services by women and girls with disabilities in Nigeria' (May 2020) https://web.facebook.com/DRACNigeria/photos/women-and-girls-with-disabilitieswgwd-experience-many-difficulties-in-accessing/2978651835516968?rdc=1&_rdr (accessed 2 April 2022).

127 Prince-Oparaku & N Chuma-Umeh (n 10) 50-54.

ensuring equal opportunity in health systems, which are affected by other human rights. Thus, cross-sector collaboration is crucial for public sector reform and transformation, with disability sector experts working with government institutions to address challenges to disability issues.

5.3 Adequate transportation and access to public facilities for children with disabilities

The Disability Act prohibits discrimination in public transportation facilities, ensuring accessibility for physically, visually, and hearing-impaired individuals and all persons with disabilities. This applies to seaports, railways, and airports facilities.¹²⁸ Transportation includes services offered by the government through policies for children with disabilities and their families. Public transport systems, therefore, must adapt vehicles to accommodate disability needs, with priority given to persons with disability in all publicly supported transport systems.

Furthermore, the Disability Act ensures equal access to public facilities for individuals with disabilities, including public buildings, sidewalks and other special facilities, and ensures that persons and children with disabilities are not denied access due to lack of necessary aids.¹²⁹

Despite the above provisions in the Disabilities Act, and the standards set in the Persons with Disabilities (Accessibility) Regulations, 2023, limited enforcement and inadequate awareness among planners and builders result in widespread non-compliance, especially in rural and resource-constrained areas.¹³⁰ It goes, therefore, that there is inadequate commitment towards ensuring adaptable and accessible transportation for children with disabilities and their families. Hence, the structural design of most buildings in Nigeria, both public and private, does not consider accessibility for disabled individuals. Most public transport, including buses, trains and airports, lacks accessibility features such as ramps, priority seating and visual/audio information. This means that persons with disabilities are largely excluded from accessing many public services.¹³¹ Consequently, persons with disabilities often go out of their way to find accessible facilities, which can be dangerous, uncomfortable, or restrict their movement. The government's failure to provide and enforce the implementation of accessible transport services and accessibility aids for public facilities exposes persons and children with disabilities to discrimination and neglect, leading to hardship such as missed health appointments, school attendance, and denial of public facilities on equal basis with others.

128 Disability Act, secs 9-11.

129 See Disability Act, secs 3-5 and generally the provisions under Part III.

130 UN Global Disability Fund (n 14) 10.

131 As above.

In light of the above, there is the need for government renewed commitment towards public transportation services and alternatives to assist individuals with disabilities. There is a need for a comprehensive mobility management programme to assist persons with disabilities to use all types of transportation, and the need to ensure that new buildings are built according to accessibility codes and guidelines in all states of the federation and the Federal Capital Territory, Abuja. Also, government should adapt road construction and transportation to suit the unique circumstances of persons and children with disabilities.

Finally, the Disability Act grants the Disability Commission broad powers,¹³² including the right to sue for violations and receive complaints from persons with disabilities, managing the Commission's affairs, promoting rehabilitation centres, and collaborating with public and private sectors to ensure disability interests are considered in government policies.¹³³ It is further suggested that the Nigerian government should strengthen work with the Disability Commission to implement policies, assess programmes, and ensure free and inclusive education, healthcare access, transportation, and public facilities for persons and children with disabilities in Nigeria.

In light of the discussion so far, and the need to further entrench the rights of children with disabilities, the next discussion advocates for specific constitutional rights-based protection of children with disabilities in Nigeria.

6 Towards a constitutional rights-based approach for the protection of children with disabilities in Nigeria

As earlier noted, Nigeria is a multicultural state with multiple laws, norms, and fora.¹³⁴ Under the Nigerian Constitution, each state is empowered to make laws, with the federal government making laws on exclusive lists and the state sharing on concurrent lists.¹³⁵ This leaves the state House of Assembly to legislate exclusively on residual matters not included in either

132 Disability Act, secs 31-39.

133 Disability Act, secs 37-39.

134 Durojaiye, Okeke & Adebajo (n 12) 6169-6181.

135 See 1999 Constitution of Nigeria (as amended), sec 4 and 2nd Schedule, Parts I and II.

the exclusive or concurrent lists. Children are considered under residual lists.¹³⁶

The Nigerian Federal Government has enacted the Disability Act, a first step towards fulfilling its legal obligations under the CRPD. The enactment imposes positive obligations on the various state governments to adopt and pass the same. However, not all states have enacted disability laws.¹³⁷ For the states with disability laws, the main concern is that their laws on disability are influenced by other factors¹³⁸ rather than a rights-based approach¹³⁹ and the laws are only applicable and represent a mere arrangement of stipulations within the states.¹⁴⁰ This results in most state legislation not focusing on the full development of human potential and strengthening respect for human rights and dignity,¹⁴¹ particularly for children with disabilities in Nigeria. Moreover, there are discrepancies in the state enactments, lack of functional agencies to implement state laws on disability, coupled with the non-existence of children with disability laws in some states.¹⁴² In light of the foregoing, alternative means of promoting national application of the Disability Act for the benefit of all children with disabilities in Nigeria is apposite.

To address the lack of consistent and non-existence of children with disability laws in some states, constitutional protection with specific provisions that guarantee the rights of persons and especially children with disabilities is proposed. This proposition cannot be overemphasised. The Constitution, Nigeria's highest law, overrides any inconsistent legislation,¹⁴³ and the inclusion of specific provisions for children with

136 It is only two of the lists, the exclusive and concurrent lists, that are recognised in the 1999 Constitution, while the third list, the residual list, is consequential and recognised by the Nigerian constitutional law theory. See *Attorney-General Abia State & 35 Others v Attorney-General of the Federation* (2002) 3 SC 106. See also KK Oyeyemi 'Nationwide Application of the Nigerian Child's Rights Act; 2003: Constitutional thought and possibilities' (2023) 5 *International Journal of Law, Policy and Social Review* 146; ES Nwauche 'Child marriage in Nigeria: (Il)legal and (un)constitutional' (2015) 15 *African Human Rights Law Journal* 422.

137 As of late 2024, 23 out of 36 states in Nigeria have passed their own disability laws. See Adejoro (n 14). Example includes, Lagos State Special People's Law, 2011; Plateau State Indigenes with Disabilities Rights and for Other Matters Ancillary thereto, 2005; Kano State Persons with Disability Law, 2017 (1439AH); Jigawa State Persons with Disabilities Law, 2017; Bauchi State Persons with Disabilities Law, 2015; Ogun State Persons with Disabilities Law, 2018; and Ekiti State Rights of Persons with Disabilities Law, 2013, among others.

138 For a discussion on several factors that influence the adoption of children's rights at states levels, see KK Oyeyemi & LA La-Kadri 'Realizing the rights of child under the Nigerian Child's Rights Act, 2003: An exploratory critique' (2017) 2 *Unimaid Journal of Private and Property Law* 22.

139 NC Umeh 'Realising access to inclusive education for hearing-impaired learners in Nigerian Primary Schools' Doctoral thesis, University of Pretoria, 2017 97-98.

140 As above.

141 As above.

142 As of late 2024, 23 out of 36 states in Nigeria have passed their own disability laws. Despite this, only 15 of those states have established functional agencies to implement the laws. See Adejoro (n 14).

143 1999 Constitution of Nigeria, sec 1.

disabilities signifies a commitment to a rights-based approach for disability, as envisioned by the CRPD.

South Africa,¹⁴⁴ Uganda,¹⁴⁵ Ghana,¹⁴⁶ and Rwanda¹⁴⁷ have specific constitutional rights-based provisions on disabilities, though not specifically on children with disabilities,¹⁴⁸ demonstrating their governments' efforts to constitutionally provide equal opportunities for persons with disabilities. Nigeria lacks this synergy, highlighting the need for constitutional protection for persons with disabilities. Accordingly, it is strongly submitted that the Nigerian federal government should adopt a constitutional rights-based approach on disabilities, similar to these African countries, by amending the Constitution through the National Assembly to include specific provisions for persons and especially children with disabilities.

The foregoing submission is considered necessary because making provisions for children's rights in the Constitution 'is just a starting point; the extent to which it takes a genuine child's rights approach depends on the quality of the constitutional provisions in question'.¹⁴⁹ O'Mahony provides a typology for assessing the approach to protecting children's rights, based on visibility, agency, and enforcement spectrums.¹⁵⁰ Visibility indicates the extent of explicitly protecting children's rights,

144 For example, secs 9(3), (4) and (5) of the Constitution of the Republic of South Africa, 1996 forbids unfair discrimination directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. See Constitution (South Africa), secs 9(3)-(5).

145 For example, art 35 of the Uganda Constitution directs the legislature to take affirmative action to combat disability discrimination. It provides that persons with disabilities have a right to respect and human dignity, and the state and society shall take appropriate measures to ensure that they realise their full mental and physical potential; and parliament shall enact laws appropriate for the protection of persons with disabilities. See art 35, Constitution 1995 (Republic of Uganda).

146 For example, art 29(1) of Ghana Constitution, 1992 is another example of constitutional protection of disabilities rights as it guarantees persons with disabilities the right to live with their families or foster parents and to participate in social, creative or recreational activities. The section further forbids the subjection of disabled people to differential treatment in respect of residence other than that required by his or her condition or by the improvement which he or she may derive from the treatment. See Constitution 1992 (Ghana), arts 29(1)-(8); see, generally, M Rioux 'On second thought: Constructing knowledge, law, disability and inequality' in S Herr, L Gostin & H Hongju Koh (eds) *The human rights of persons with intellectual disabilities: Different but equal* (2003) 287-317.

147 For example, art 11 of the Rwanda Constitution, 2003, provides that all Rwandans are born and remain free and equal in rights and duties. Discrimination on the basis of physical or mental disability or any other form of discrimination is prohibited and punishable by law. See the Rwanda Constitution, 2003

148 With the exception of the South African Constitution that provides for a comprehensive children's rights. See South African Constitution, secs 2, 6(2) & 28.

149 C O'Mahony, 'Constitutional protection of children's rights: Visibility, agency and enforceability' (2019) 19 *Human Rights Law Review* 401; KK Oyeyemi 'Constitutional protection of children's rights: A study of Nigerian, South African and Australian Constitution' (Forthcoming 2026) 33 *African Journal of International and Comparative Law* 1 at 17-19.

150 O'Mahony (n 149) 403-432.

agency determines whether children are autonomous rights-holders or need protection, and enforcement specifies the extent of enforcement through various remedies.¹⁵¹ The foregoing classification of constitutional protection of children's rights allows for a multiple dimension analysis,¹⁵² indicating that merely mentioning children in the Constitution is insufficient if they are viewed as 'objects' needing protection rather than individuals with agency, and rights are seen as symbols without adequate remedies.¹⁵³

In light of the above, the Nigerian Constitution rates children with disabilities low due to its lack of visibility and agency. Agency is a measure of the extent to which the Constitution treats children as autonomous rights-holders, not objects in need of protection.¹⁵⁴ The explicit provision relating to children in the Nigerian Constitution does not convey agency.¹⁵⁵ Although, as indicated earlier, the Constitution provides fundamental rights applicable to every citizen, but these are limited and not absolute.¹⁵⁶ The directive principles of Chapter II on promoting and protecting children's interests in social, religious, cultural life, and family promotion are also not enforceable 'directly' in a court of law.¹⁵⁷ Moreso, the other ways and process of enforcing the non-justiciable Chapter II constitutional provisions can be cumbersome and often hampered.¹⁵⁸ The inevitable consequence is that some constitutional provisions on rights applicable to everyone are merely 'aspirational or declaratory and could be

151 O'Mahony (n 149) 402-434.

152 For other typologies of children's constitutional rights, see J Tobin 'Increasingly seen and heard: The constitutional recognition of children's rights' (2005) 21 *South African Journal on Human Rights* 86; J Habashi and others 'Constitutional analysis: A proclamation of children's right to protection, provision, and participation' (2010) 18 *International Journal of Children's Rights* 267. Tobin in his analysis uses the categories of 'invisible child', 'special protection' and 'child rights' constitutions, which is considered as a more rudimentary typology when compared to measuring the spectrums of visibility and agency. Furthermore, while Tobin mentions 'justiciability, access to justice, judicial conservatism and social legitimacy', when discussing enforcement, the component of enforcement is not well developed in his typology. Habashi and others on their part uses linguistic content analysis to give quantitative statistics on the prevalence of protection, provision and participation rights in constitutions of countries with a high, medium and low Human Development Index. For the sake of present discussion, this methodology is considered as too basic.

153 M Freeman 'Why it remains important to take children's rights seriously' (2007) 15 *International Journal of Children's Rights* 8.

154 O'Mahony (n 149) 402-434.

155 1999 Constitution, sec 17(3)(f)-(h). This section provides that the State shall ensure that: 'Children and young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect; and that provision is made for public assistance in deserving cases or other conditions of needs; and that the evolution and promotion of family life is encouraged.'

156 See generally 1999 Constitution, sec 45.

157 1999 Constitution, sec 6(6)(c). See also earlier discussion in part 2 of this paper.

158 See earlier discussion in part 2 of this paper on this issue. See also the case of *AG Ondo; SERAC and CESR v Nigeria*, Communication 155/96, African Commission on Human and Peoples' Rights (27 October 2001).

limited in scope'.¹⁵⁹ Therefore, it is essential to indicate the extent these rights specifically apply to children, particularly those with disabilities.

It is submitted that enumerating specific rights for persons and children with disabilities in a separate chapter in the Nigerian Constitution will not only serve as a tool for rights-based approach advocacy but also as a guiding implementation and for developing policies¹⁶⁰ towards protecting children with disabilities from abuse within the family, society, and across board. For instance, article 7(3) of the CRPD recognises children's vulnerabilities in power hierarchies and children with disabilities' autonomy rights. The inclusion of this provision in the Constitution will guarantee the protection of the rights of children with disabilities and serve as a powerful tool for guiding a uniform implementation in various states of the federation than general provisions on discrimination or equality in the constitution.

7 Conclusion

The CRPD and its Optional Protocol, the African Disability Protocol as well as the Disability Act, clearly identify children with disabilities as rights holders who should be included in all government policies and programming. Despite the presence of disability regulations, Nigeria is not on pace to satisfy its international, regional, and national obligations. Commitments such as access to inclusive and free education, health services, appropriate transportation, and related amenities, as well as a 'lapsed' five-year moratorium on accomplishment, have yet to be met in any significant way. Furthermore, Nigeria's disability laws and policies, which are mostly federal in nature with some state involvement, lack a consistent, uniform and specific focus on children with disabilities. Bridging this gap requires a constitutional rights-based approach to disabilities, as well as policies that link child disability rights with societal requirements and ensure successful policy implementation. The CRPD's articles 7, 8, and 23 provide guidelines for comprehensive childhood disability policies. Addressing policy gaps, supporting uniform and timely implementation throughout Nigerian states, and harmonising with international standards are critical for the proper inclusion of children with disabilities alongside others on an equal footing.

159 R Hodgkin & P Newell *Implementation handbook for the Convention on the Rights of the Child* (2002) 187.

160 The South African Constitution is an example in this regard, since it explicitly bestows children the right to participation. See South African Constitution, sec 28.

SECTION B: COUNTRY REPORTS

DEMOCRATIC REPUBLIC OF CONGO (DRC)

Muyamba Mangu*

Summary

According to the United Nations (UN), the population of the Democratic Republic of the Congo (DRC) is estimated to be 112 811 280. There has not been a recent census on persons with disabilities. In the DRC, disability affects an estimated 13 per cent of the population with significant challenges related to poverty, conflict and lack of access to basic services. According to the UN Partnership on the Rights of Persons with Disabilities (UNPRPD), the most prevalent forms of disabilities include: intellectual or developmental disability, hearing disability, visual disability, motor disability, autism, psychosocial disability, degenerative diseases, and albinism. The DRC signed and ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) as well as its Optional Protocol in 2015. The DRC's Constitution (article 49) and the law promulgated in 2022 on persons with disabilities aim to promote and protect the rights of persons with disabilities based on the Convention and the construction of an inclusive society. Although the government has enacted sectoral laws, the DRC currently lacks sufficient mechanisms to facilitate accessibility and full participation for persons with disabilities. Furthermore, the DRC does not have an official body specifically tasked with combating violations of the rights of persons with disabilities.

The difficulties and challenges related to the legal and institutional framework have been partly resolved with the promulgation of the new National Disability Law, which relates to the protection and promotion of the rights of persons with disabilities, and also previously by the creation and operationalisation of a dedicated ministry for the sector. The most urgent problems that need to be addressed progressively to ensure the inclusion of persons with disabilities include: lack of awareness of the Convention and the National Disability Act, lack of an appropriate legal/judicial framework in accordance with the Convention and the National Disability Act, lack of political will/interest/capacity, insufficient national budget and budgetary decrees in the provinces, low mobilisation capacity and low level of advocacy of organisations of persons with disabilities.

* LLM (University of Pretoria); PhD (University of South Africa); Lecturer at the University of the Free State, Faculty of Law, Department of Private Law.

1 Population indicators

1.1 What is the total population of the DRC?

Demographic indicators are based on a mix of information gathered from the estimated population as well as statistics on births, deaths, marriages, and divorces.

Since 1984, there has never been a census of the entire population of the DRC; instead, estimates have been used in recent years.

According to the UN, the estimated population of the DRC is 112.8 million people,¹ of which 50,4 per cent are women.²

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in the DRC. What criteria are used to determine who falls within the class of persons with disabilities in the DRC?

Few statistics have been developed in the DRC, and at present, only weekly documented surveys conducted by national and international organisations for persons with disabilities on a portion of the country have served to represent persons with disabilities.

1.3 What is the total number and percentage of persons with disabilities in the DRC?

The DRC has a severe deficiency of official, reliable, and consolidated disability data. Different studies and reports have estimated that between 7.4 million (11 per cent) and 13 million (or 18 per cent) of the population in the DRC are disabled.³

1.4 What is the total number and percentage of women with disabilities in the DRC?

There are no reliable national statistics on the number and percentage of women with disabilities. However, local studies have highlighted their vulnerability. For example, a study conducted in the North Kivu province discovered that women had a higher prevalence of disabilities.⁴ Statistics determining the precise proportion of women with disability in the DRC are lacking. The estimated

1 UN Population Fund 'World Population Democratic Republic of Congo' (2025) <https://www.unfpa.org/data/world-population/CD> (accessed 23 June 2025).

2 Available at <https://datareportal.com/reports/digital-2024-democratic-republic-of-the-congo> (accessed 23 June 2025).

3 UPR 'Protection of the rights of persons with disabilities in the Democratic Republic of Congo' [https://upr-info.org/sites/default/files/2024-05/Copy%20of%](https://upr-info.org/sites/default/files/2024-05/Copy%20of%20) (accessed 22 August 2025); Sida 'Disability rights in Democratic Republic of Congo' <https://cdn.sida.se/app/uploads/2021/05/07125813/rights-of-persons-with-disabilities-drc.pdf> (accessed 22 August 2025).

4 A Scolese and others 'Disability status and violence against women in the home in North Kivu, Democratic Republic of Congo, Global Public Health' (2020) 15 *Global Public Health* 985.

number of persons with disabilities is at least 13 million⁵ and they make up around 13,7 per cent of the population of the DRC.

1.5 What is the total number and percentage of children with disabilities in the DRC?

Similarly, it is difficult to obtain accurate national figures for children with disabilities. According to a 2013 Demographic and Health Survey, up to 35 per cent of children aged two to nine in the DRC may have some form of physical or learning disability.⁶ According to a more recent, quick assessment conducted in the Sud-Kivu, at least ten per cent of children have a disability.⁷

Currently, there are no statistics that can be used to determine the precise percentage of children with disabilities in the DRC. According to Handicap International, approximately 300 000 children have moderate to severe disabilities.⁸

The DRC's lack of reliable and up-to-date disability statistics is a significant impediment to effective planning and monitoring of legal and policy provisions for this vulnerable group of people.

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in the DRC?

Types of disabilities identified according to the study conducted in Kinshasa and in several provinces of the DRC are:⁹

- Intellectual or developmental disability.
- Hearing disability.
- Visual disability.
- Motor disability.
- Autism.
- Psychosocial disability.
- Degenerative diseases.
- Albinism.

5 F Langwana & J Bitumba 'Report on the collection of data on persons with disabilities in the DRC (Rapport de la collecte des données sur les personnes handicapées en RDC)' (2016) 5.

6 Street Child 'A Rapid assessment of the prevalence and impact of disabilities among children on the High Plateau in South Kivu, DRC' (2018) 1-18 <https://a.storyblok.com/f/138292/x/89d0c2b44e/19-02-23-drc-high-plateau-disability-rapid-assessment-january-2019-final.pdf> (accessed 22 August 2025).

7 As above.

8 Handicap International 'Democratic Republic of Congo: Belgian support makes the difference' <https://www.handicapinternational.be/fr/actualites/r-d-congo-> (accessed 22 June 2025).

9 UNPRPD 'Situational analysis on the rights of persons with disabilities in Democratic Republic of the Congo: Country Report' (2022) 7.

2 the DRC's international obligations

2.1 What is the status of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in the DRC? Has the DRC signed and ratified the CRPD? Provide the date(s).

The DRC ratified the CRPD and its Optional Protocol on 30 September 2015, without any objections or interpretive statements.¹⁰

The law ratifying the CRPD and its Optional Protocol was promulgated by Law 13/024 by the DRC President.¹¹

2.2 If the DRC has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for submission of the report? Did the DRC submit its report? If so, and if the report has been considered, indicate if there was a domestic effect of this reporting process. If not, what reasons does the relevant government department give for the delay?

Although the DRC has ratified the CRPD and its Optional Protocol, it has not yet submitted an initial report under the CRPD.¹² In addition, the DRC submitted a Periodic Report to the African Commission on Human and Peoples' Rights on the implementation of the African Charter on Human and Peoples' Rights from 2008 to 2015 (11th, 12th and 13th Periodic Reports) and of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women from 2005 to 2015 (Initial Report and 1st, 2nd and 3rd Periodic Reports). The Report included the protection of women with disabilities.¹³

2.3 While reporting under various other United Nations instruments, under the African Charter on Human and Peoples' Rights, or the African Charter on the Rights and Welfare of the Child, did the DRC also report specifically on the rights of persons with disabilities in its most recent reports? If so, were relevant concluding observations adopted? If relevant, were these observations given effect to? Was mention made of disability rights in the DRC's UN Universal Periodic Review (UPR)? If so, what was the effect of these observations/recommendations?

The DRC has submitted Periodic Reports to UN treaty bodies which were examined by Human Rights Committees on 16 and 17 October 2017, such as the

10 United Nations 'United Nations organization stabilisation mission in the Democratic Republic of the Congo' (2015) <https://monusco.unmissions.org/fr/node/100044384> (accessed 22 August 2025).

11 DRC Law 13-024 of 7 July 2013.

12 UNPRPD (n 9).

13 DRC 'Report to the African Commission on Human and Peoples' Rights on the implementation of the African Charter on Human and Peoples' Rights from 2008 to 2015 (11th, 12th and 13th Periodic Reports) and of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women from 2005 to 2015 (Initial Report and 1st, 2nd and 3rd Periodic Reports)'.

Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights, which have included information on the situation of persons with disabilities in the country.¹⁴ The treaty bodies, in their Concluding Observations, made specific recommendations to the DRC regarding the implementation of the rights of persons with disabilities, particularly in the areas of accessibility, education, employment, and social participation. The bodies recommended that the DRC take measures to combat discrimination against persons with disabilities, improve the accessibility of buildings and transportation, ensure access to inclusive education, and promote employment for persons with disabilities.

The DRC is a party to six of the nine core international human rights instruments. In addition to these instruments, the DRC is also a party to other international agreements, including the Rome Statute of the International Criminal Court and the Geneva Conventions on international humanitarian law. There have been delays in the submission of its Periodic Reports to the treaty bodies. The DRC submitted its UPR on 1 May 2019 with 239 recommendations. In 2022, the country submitted an interim national report. From November 4 to 15, 2024 in Geneva, the DRC submitted the national report pursuant to Human Rights Council Resolutions 5/1 and 16/21.¹⁵ This report mentioned the rights of persons with disabilities, the rights of the child, women's rights and the rights of vulnerable groups.

2.4 Was there any domestic effect on the DRC's legal system after ratifying the international or regional instruments in 2.3 above? Does the international or regional instrument that has been ratified require the DRC's legislature to incorporate it into the legal system before the instrument can have force in the DRC's domestic law? Have the DRC's courts ever considered this question? If so, cite the case(s).

Following its accession to the CRPD in 2015, the DRC took a major step towards aligning its domestic legislation with its international commitments. The most significant national outcome was the adoption of National Disability Law 22/003 on the Protection and Promotion of the Rights of Persons with Disabilities, promulgated in 2022.¹⁶ This law is a direct result of the DRC's accession to the CRPD and aims to incorporate the Convention's principles, providing a solid legal foundation for the protection of the rights of persons with disabilities in the country.¹⁷

For an international treaty to be enforceable under the DRC's legal system, it is not strictly necessary for the legislature to include it in a distinct domestic law. An essentially monist system is established by the 2006 Constitution, which means that domestic and international law are regarded as belonging to the same legal system. In the DRC, the monist theory prevails, meaning that ratified treaties are deemed to be an integral part of domestic law.¹⁸ This means that, in principle, a treaty ratified by the DRC has superior authority over domestic law and can be invoked by the courts.

14 UN 'UN Child Rights Committee review the Democratic Republic of the Congo' (12 January 2017) <https://www.ohchr.org/en/press-releases/2017/01/un-child-rights-committee-review-democratic-republic-congo> (accessed 23 June 2025).

15 UN Human Rights Council 'National report submitted pursuant to Human Rights Council Resolutions 5/1 and 16/21: Democratic Republic of the Congo' A/HRC/WG.6/47/COD/1 (29 August 2024).

16 UPR (n 3).

17 As above.

18 DRC Constitution of 2006, art 215.

There has been little direct application of international treaties by DRC domestic courts, and they have frequently refrained from making direct decisions on the matter.¹⁹ The exact application of article 215 has not been decided with authority, and scholarly analysis shows that cases involving the direct effect of international law are uncommon. Despite this general reluctance, there are notable exceptions, particularly within military courts. In two well-known cases dating from 2006, military judges directly applied the provisions of the Rome Statute of the International Criminal Court, invoking the authority of article 215 of the Constitution.²⁰

2.5 With reference to 2.4 above, has the CRPD or any other ratified international instrument been domesticated? Provide details.

Pursuant to the abovementioned monism theory, any treaty ratified or acceded to by the DRC is automatically incorporated into domestic law and may be immediately invoked before the courts if all or part of its provisions are self-executing, except for provisions that require legislative intervention to make them applicable in domestic law (implementing legislation passed by Parliament). For example, in Congolese criminal law, there was no separate offence defining and punishing torture. However, following the DRC's accession to the Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, it was necessary to amend the penal code to introduce a new offence punishing torture, a 2006 law whose definition refers verbatim to article 1 of the Convention against Torture.

The DRC, having ratified the CRPD, also adopted Organic Law 0°22/003 of 3 May 2022, on the protection and promotion of the rights of persons with disabilities. This Organic Law has a dual advantage:

- That of legally complying with the international instruments to which the DRC has acceded, relating to the protection and promotion of persons with disabilities, in particular: the Universal Declaration of Human Rights of 10 December 1948; Geneva Convention 102 of 28 June 1952, on the minimum standard of social security; the African Charter on Human and Peoples' Rights; the principles of the Inter-African Conference on Social Welfare; and article 18 of the African Charter on the Values and Principles of Public Service and Administration of 31 January 2011;
- To fill the legal void by establishing the terms of application of the law provided for in article 49 of the Constitution through the creation of an effective framework for the protection and promotion of the rights of persons with disabilities in order to ensure their full participation in national life on the same basis as all other citizens.

19 DP Zongwe 'Taking leaves out of the International Criminal Court Statute: The direct application of international criminal law by military courts in the Democratic Republic of Congo' (2013) 46 *Israel Law Review* 249 <https://www.cambridge.org/core/journals/israel-law-review/article/abs/taking-leaves-out-of-the-international-criminal-court-statute-the-direct-application-of-international-criminal-law-by-military-courts-in-the-democratic-republic-of-congo/8155C3A2DFF492691E9F9BE9F717C4F2> (accessed 23 August 2025).

20 Zongwe (n 19).

3 Constitution

3.1 Does the Constitution of the DRC contain provisions that directly address disability? If so, list the provisions, and explain how each provision addresses disability.

The Constitution of the DRC of 18 February 2006, as amended and supplemented to date by Law 11/002 of 20 January 2011, revising certain provisions of the Constitution of the DRC, addresses in Title II, human rights, fundamental freedoms, and the duties of citizens and the state.

Article 45 of the Constitution of the DRC, on freedom of education, stipulates:

Every person has access to national educational institutions, without discrimination based on place of origin, race, religion, sex, political or philosophical opinions, or physical, mental, or sensory condition, according to their abilities.²¹

Article 49 of the same Constitution provides: 'Older persons and persons with disabilities have the right to specific protection measures in accordance with their physical, intellectual, and moral needs.'²²

Article 202(35) of the Constitution provides for assistance to veterans and the war-disabled. The state has a duty to promote the presence of persons with disabilities within national, provincial, and local institutions. An organic law establishes the terms for implementing this right.

3.2 Does the Constitution of the DRC contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

The Constitution, as amended and supplemented to date by Law 11/002 of 20 January 2011, revising certain provisions of the Constitution of the DRC, deals in Title II with human rights, fundamental freedoms, and the duties of citizens and the state. This title enshrines the equality of citizens before the law and establishes the principle of equality and non-discrimination, which may be based on race, tribe, religion, social status, family origin, residence, political beliefs, etc.²³

Article 11 states: 'All human beings are born free and equal in dignity and rights.' Article 12 adds: 'All Congolese are equal before the law and are entitled to equal protection of the laws.'²⁴

Article 13:

No Congolese person may, in matters of education and access to public office, or in any other matter, be subject to any discriminatory measure, whether resulting from the law or an act of the executive, on the grounds of their religion, family origin, social status,

21 DRC Constitution of 2006, art 45.

22 DRC Constitution, art 49.

23 DRC Constitution, art 11.

24 DRC Constitution, art 12.

residence, opinions or political convictions, or membership in a race, tribe, or cultural or linguistic minority.²⁵

Article 16, for its part, goes further, stating:

The human person is sacred. The State has the obligation to respect and protect them. Every person has the right to life, to physical integrity, and to the free development of their personality, with respect for the law, public order, the rights of others, and morality. No one may be held in slavery or in a similar condition. No one may be subjected to cruel, inhuman, or degrading treatment. No one may be subjected to forced or compulsory labour.²⁶

Article 51 should also be added, which states:

The State has the duty to ensure and promote the peaceful and harmonious coexistence of all ethnic groups in the country. It also ensures the protection and advancement of vulnerable groups and all minorities. It ensures their development.²⁷

All these provisions aim to protect the human person, including people with disabilities. The state has established a constitutional and legal framework to protect every human being, without discrimination of any kind.

4 Legislation

4.1 Does the DRC have legislation that directly addresses issues relating to disability? If so, list the legislation and explain how the legislation addresses disability.

Yes, the DRC has legislation that directly addresses disability. National Disability Law 22/003 of 3 May 2022 concerns the protection and promotion of the rights of persons with disabilities. This law was adopted by Parliament with the support of the government.²⁸

Law 09/001 of 10 January 2009, on the protection of children, provides special treatment for children with physical or mental disabilities, including children in a situation that may constitute an obstacle or difficulty to the normal expression of all their physical or mental faculties, including intellectual and cognitive functions, language, motor skills, and social performance.²⁹

In summary, the DRC has established a solid legal framework to protect and promote the rights of persons with disabilities, recognising their specific needs and working towards their inclusion in all aspects of society. The issue is the implementation of the laws and political will.

25 DRC Constitution, art 13.

26 DRC Constitution of 2006, art 16.

27 DRC Constitution of 2006, art 51.

28 National Disability Law 22/003 of 3 May 2022, on the protection and promotion of the rights of persons with disabilities.

29 DRC Law 09/001 of 10 January 2009.

4.2 Does the DRC have legislation that indirectly addresses issues relating to disability? If so, list the main legislation and explain how the legislation relates to disability.

Currently the principle enshrined in the Constitution and the laws of the Republic is that of equality for all and non-discrimination, recognised for every citizen, including persons with disabilities. In addition, the Law on the Organisation of Presidential, Legislative, Urban, Municipal, and Local Elections guarantees, without discrimination, the right of every citizen of legal age to participate in the country's political affairs under the conditions set out in the Constitution. This implies that candidates may run regardless of the voting method, with all candidates receiving equal treatment from the state, particularly in the use of the media, equal representation of men and women, and the promotion of persons with disabilities, who must be included on the lists of candidates presented by political parties or groups.³⁰

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in the DRC ever decided on an issue relating to disability? If so, list the cases and provide a summary for each of the cases with the facts, the decision(s) and the reasoning.

Although the rights of persons with disabilities are guaranteed by article 49 of the Constitution of the DRC, and National Disability Law 22/003 on their protection and promotion was recently adopted, one major obstacle is the dearth of well-known court cases that deal with issues unique to persons with disabilities. In spite of legal frameworks, this situation implies that the judicial system is not effectively implementing and enforcing them, possibly as a result of ingrained prejudice, limited access to justice, and a need for greater public awareness and advocacy over these rights.³¹

Although the DRC's courts have jurisdiction to hear disability-related cases, the effective implementation of the rights of persons with disabilities remains a challenge due to poverty, remoteness of jurisdictions, and high legal fees, among other factors. There is no official body specifically dedicated to violations of the rights of persons with disabilities, but the courts are required to rule on cases brought before them.

30 Law 22/029 of 29 June 2022 amending and supplementing Law 06/006 of 9 March 2006 on the organisation of presidential, legislative, provincial, urban, municipal and local elections as amended by Law 11/003 of 25 June 2011, Law 15/001 of 12 February 2015 and Law 17/013 of 24 December 2017.

31 DO Mbidi & DA Otemikongo 'Social protection of people living with motor disabilities in the Democratic Republic of Congo: The case of the city of Kisangani from 2015 to 2020 (Protection sociale des personnes vivant avec handicap moteur en République Démocratique du Congo : Cas de la Ville de Kisangani de 2015 à 2020)' (2022) 7 *IJRDO - Journal of Social Science and Humanities Research* 292; Lawyers Without Borders 'Study on legal aid in the Democratic Republic of Congo Under the direction' ('Avocats Sans Frontières 'Etude sur l'aide légale en République Démocratique du Congo Sous la direction') (2014) 57.

6 Policies and programmes

6.1 Does the DRC have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

The DRC has programmes for persons with disabilities. In order for the Delegate Ministry for Persons with Disabilities to implement the five goals defined below, it has prepared a draft budget in US\$ entitled 'Cost and Funding of the Sectorial Policy' which is set out as follows:³²

Pillar 11 of Point I.3.1 of the Plan national stratégique de développement (PNSD) sets out the necessity for the latter of ensuring 'an improvement in social conditions: housing, health, education and employment'.³³

Pillar 11 of the PNSD advocates 'access to healthcare for all, as well as guaranteed universal health coverage'.³⁴

Pillars 13 and 14 of the PNSD advocate for 'overcoming poverty and social marginalization, and the inclusion of vulnerable groups', as well as 'the empowerment of women, the promotion of young people and children, and the establishment of a social protection platform'.³⁵

32 UNPRPD (n 9) 33.

33 As above.

34 As above.

35 As above.

In order for the Delegate Ministry for Persons with Disabilities to implement the five goals defined above, it has prepared a draft budget in US\$ entitled 'Cost and Funding of the Sectorial Policy' which is set out as follows:

	Designation	2021	2022	2023	TOTAL
Principle 1	Ensure the inclusion and empowerment of persons with disabilities and other vulnerable persons	3 100 000	2 300 000	1 800 000	7 200 000
Principle 2	Improve social educational infrastructure and strengthen the capacities of persons with disabilities	10 500 000	10 500 000	10 500 000	10 500 000
Principle 3	Mobilise the resources required for good operation of social care infrastructure and strengthen human and institutional capacities.	3 700 000	1 670 000	1 280 000	6 650 000
Principle 4	Support and manage the numbers and living conditions of persons with disabilities and other vulnerable persons	26 560 000	19 505 000	12 130 000	58 195 000
Principle 5	Combat any form of discrimination against persons with disabilities and other vulnerable persons	16 945 000	11 350 000	8 825 000	37 120 000
Total	60 805 000	40 475 000	18 535 000	119 515 000	60 805 000

Source: UNRPD 2022

Due to a lack of financial resources and political will, this programming and budgeting in accordance with the CRPD have remained a dead letter.

6.2 Does the DRC have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

Indeed, the DRC has disability-related policies and programmes, though their efficacy varies. In 2022, the country passed its foundational disability law. Programmes such as the National Programme for the Promotion and Protection of the Rights of Persons with Disabilities and the National Disability Law (Law 22/003), which create the framework for promoting and defending rights, are examples of these initiatives. Disability-related issues are directly addressed by the National Disability Law (Law 22/003) of 2022. This groundbreaking law upholds and advances the rights of persons with disabilities in domains like healthcare, education, and anti-discrimination.

By protecting and promoting the rights of persons with disabilities, it indirectly establishes the social and legal foundation for future laws that will directly increase their access to opportunities and services.

The National Programme seeks to promote and protect the rights of persons with disabilities. It implements and enforces the rights outlined in the disability laws. Indirectly, it serves as the law's operational arm, translating broad principles into concrete actions that can lead to better conditions for persons with disabilities.

Programmes for national vaccination and blindness prevention

The DRC funds these initiatives as a component of larger initiatives to prevent disabilities. It indirectly addresses disability by concentrating on preventing the conditions that cause disability; these programmes lower the prevalence of specific impairments, thereby reducing the need for services associated with those particular disabilities in the future.

The DRC's policies and programmes, whether in the areas of human rights protection, education, justice, or access to public office, are aimed at all citizens in general, without any discriminatory distinction based on a person's physical condition.

7 Disability bodies

7.1 Other than the ordinary courts and tribunals, does the DRC have any official body that specifically addresses violations of the rights of people with disabilities? If so, describe the body, its functions and its powers.

Apart from the National Human Rights Commission, there is a Ministry for People with Disabilities (headed by a person with a disability), a Permanent Secretariat for the Promotion and Protection of the Rights of People with Disabilities within the Ministry. The country has several organisations of persons with disabilities, including FENAPHACO (Congolese National Federation of People with Disabilities)³⁶ and FECOPEHA (Congolese Federation of People with Disabilities).³⁶ However, one of the most important ones, and one that provides an opportunity for partnership with the UNPRPD, is FENAPHACO.³⁷ It operates as a platform and includes several other associations of persons with disabilities, all categories combined, with representation in all provinces of the country. Alongside these two large movements, there are various centres for persons with disabilities, including the Association Congolaise Débout et Fier (ACDF) based in Kinshasa and Goma (North Kivu).³⁸

36 UNPRPD (n 9) 16.

37 As above.

38 As above.

7.2 Other than the ordinary courts or tribunals, does the DRC have any official body that though not established to specifically address violations of the rights of persons with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.

The DRC has a Ministry in Charge of Persons Living with Disabilities, and a Permanent Secretariat for the Promotion and Protection of Persons Living with Disabilities. There are also several other organisations in charge of persons with disabilities. Under the direction of the Minister, the DRC's Ministry of Persons Living with Disabilities works to uphold the rights of persons with disabilities by guarding against discrimination, guaranteeing their autonomy, and promoting their social and professional inclusion. This Ministry seeks to put laws, directives, and policies into effect that, by removing barriers and maximising their potential, enable persons with disabilities to access public representation, employment, infrastructure, and services.

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

8.1 Does the DRC have a Human Rights Commission, an Ombudsman or Public Protector? If so, does its remit include the promotion and protection of the rights of persons with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, the Ombudsman or Public Protector of the DRC has ever addressed issues relating to the rights of persons with disabilities.

The National Human Rights Commission, also known as CNDH, was established, organised, and operated by Organic Law 13/011, which was approved by the National Assembly and the Senate in December 2012. On 21 March 2012, the President of the Republic promulgated the law, which has been published in the Official Journal since 1 April 2013.³⁹ This law determines the mission, responsibilities, organisation, composition, and operation of the CNDH, a citizen institution supporting democracy, responsible for the promotion and protection of human rights in the DRC. Article 4 states that the National Human Rights Commission is responsible for the promotion and protection of human rights and ensures respect for human rights and mechanisms to guarantee fundamental freedoms. Article 6 of the same law, which deals with the CNDH's responsibilities, in point 5, stipulates: 'The CNDH's responsibilities include ensuring respect for the rights of persons with disabilities.'⁴⁰

In its composition, among the associations that must propose facilitators, it is stipulated that one of the nine members must be a person from a disabled people's organisation (DPO). The President of the Republic promulgated on 3 May 2022, National Disability Law 22/003, on the protection and promotion of human rights of persons with disabilities.⁴¹

39 DRC Journal Officiel, 2013.

40 Loi organique 13/011 du 21 mars 2013 portant institution, organisation et fonctionnement de la Commission Nationale des Droits de l'Homme.

41 DRC, Journal Officiel, Loi Organique des droits des PVH 2022.

9 Disabled peoples organisations (DPOs) and other civil society organisations

9.1 Does the DRC have organisations that represent and advocate for the rights and welfare of persons with disabilities? If so, list each organisation and describe its activities.

There are many organisations committed to promoting and protecting the rights of persons with disabilities, and the Constitution guarantees freedom of association. Below are a few, all of which are, of course, fully committed to defending the rights of persons with disabilities:

- Action for Albinism (APA DRC).
- Association of People with Disabilities: Perseverance (APHAP).
- Association of Christians with Disabilities of Kisenso (APHCK).
- Network of Community Rehabilitation Committees (RCRC).
- Cooperative of Mothers Living with Disabilities (COMAVAH).
- Foundation for Social Works for the Progress of People Living with Disabilities (FOSPHA).
- National Council for the Advancement of the Blind (CNPSA).
- Psycho-Educational Centre of Limeté (CPL).
- Association of Christian People with Disabilities (APHAC).
- Cooperation of People Living with Disabilities (COPEHANG).
- PAROUSIA – NGO/Non-profit Organisation.
- Collective for the Reintegration of People Living with Disabilities (COREPH).
- Professional Centre for Assistance and Promotion for People Living with Disabilities (CEPAPHA).
- Coordination of Women with Disabilities of East Kinshasa (COFHAKINE).
- Fraternity of the Catholic Blind of Kinshasa (FACK).
- Union of Blind Brothers and Sisters on a Mission for Christ (UFSAMC).
- Association of People Living with Disabilities for Development (APHAD).
- Action and Solidarity for the Social Advancement of People Living with Disabilities (ASOPHA).
- Association of People Living with Telecommunications Disabilities (APHATEL).
- National Union of the Blind.
- Association for Health, Hygiene, and Protection (ASHIP).
- League for the Advancement of Women and Children (LIPHAMA).
- Association of People Living with Telecommunications Disabilities (APHATEL).

All these DPOs have the same scope of action, namely, the person with a disability, and the promotion and protection of their rights, or a given form of disability, some being active throughout the territory of the DRC, and others whose scope of action is limited either to the province or to the city where they are established. For example, the National Association of Parents of Disabled Children of Congo (ANAPHECO), the Association of Disabled People La Perseverance (APHP), operating throughout the territory, and the Association of Disabled Christians of Kisenso (APHCK); and the Fraternity of the Catholic Blind of Kinshasa (FACK), operating in the city of Kinshasa.

9.2 In the countries in the DRC's region (West Africa) are DPOs organised/ coordinated at national and/or regional level?

There are several federations and networks of organisations of persons with disabilities. These entities work to promote and defend the rights of persons with disabilities, as well as their inclusion in various aspects of society. The best known are:

National networks

- National Council of Disabled People and for Disabled People (CNPH).
- Congolese Federation of People with Disabilities (FECOPEHA).
- National Commission for the Rights of Persons with Disabilities (CRDPH).
- Organization of Persons with Disabilities (OPH).
- Federation of Secular Economic NGOs of Congo (FOLECO).
- National Federation of People with Disabilities of Congo (FENAPHACO).
- Advocacy Consortium on Assistance to Mine Victims and Other People with Disabilities (CPAV).
- Action for Transparent and Peaceful Elections (AETA).
- Congolese Women's Caucus.
- Consultative Framework for the Integration of People Living with Disabilities (CCIPVH).
- National Network of Human Rights Organizations in Congo (RENADHOC).
- Gathering of Women's Organizations for Development (ROFED).
- Network of Community Rehabilitation Committees (RCRC).

As they also exist at the regional and international levels:

Networks at the regional and international levels

- Federation of Associations of Women with Disabilities of Central Africa (FEAFHAC).
- Association of Centres for the Disabled of Central Africa (ACHAC).
- World Organization of Disabled People (OMPD).
- UMOJA Network (Great Lakes Region of Africa).
- Africa with Disabilities.
- Hope for Disability.

These organisations and networks work in collaboration with the Congolese government, the UN and other actors to promote the rights and inclusion of persons with disabilities in the DRC.

9.3 If the DRC has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

The DRC has ratified the CRPD. The DRC ratified the CRPD in 2015.⁴² The DRC ensures that DPOs are involved in the implementation of the CRPD through consultative processes with the Ministry in charge of Persons with Disabilities. This approach entails DPOs helping to develop legislation, such as the Disability Act, and translating national policies into concrete actions.

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

NGOs, particularly those working with and for persons with disabilities, were key players in promoting the CRPD in the DRC. They conducted awareness-raising campaigns with members of the government, including the Minister of Social Affairs, to highlight the importance of ratification for the rights of persons with disabilities. The DRC has also established monitoring mechanisms to involve persons with disabilities in the CRPD implementation process, enabling broader participation.

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

DPOs face complex challenges that require a holistic approach to ensure the full realisation of the rights of persons with disabilities, such as:

- Lack of resources.
- Physical barriers (inaccessible buildings, transport and infrastructure).
- Social and attitudinal barriers (discrimination, stigma and prejudice against persons with disabilities).
- Barriers to employment.

Lack of participation (DPOs may feel excluded from decision-making processes, which limits their ability to make their voices heard and advocate for their rights).

9.6 Are there specific instances that provide ‘best-practice models’ for ensuring proper involvement of DPOs?

DPOs can serve as models for participation by adopting an inclusive approach and ensuring that persons with disabilities are involved in all aspects of their work. This includes programme planning, implementation, and evaluation, as well as decision-making. Concrete examples include participating in the design of accessible sanitation programmes, participating in awareness-raising activities, and advocating for the rights of people with disabilities.

An active participation model includes:

- Involving people with disabilities at all stages.
- Giving voice to people with disabilities.

42 United Nations Human Rights Treaty Bodies Database https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD (accessed 22 November 2025).

- Promoting autonomy.
- Considering the diversity of disabilities.
- Adapting participation methods.
- Promoting awareness.

By adopting these participation models, DPOs can play a crucial role in promoting the inclusion and empowerment of persons with disabilities.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

Here are some specific results of the successful implementation of the CRPD by organisations of persons with disabilities in the DRC:

Recognition and legal status

DPOs in the DRC are recognised by the state through the legal personality granted to them as legal entities.

Access to healthcare

Some organisations, such as Handicap International, are making efforts to improve access to healthcare for persons with disabilities, particularly through medical and psychosocial assistance.

Societal accessibility

Societal accessibility, which includes adapting social spaces and establishing a right to compensation, is an essential pillar of CRPD implementation.

Political and social participation

It is crucial that persons with disabilities be present in national, provincial, and local institutions, and that an organic law defines the modalities for implementing this right. A Ministry in Charge of People living with Handicap is established.

Human rights model

Adopting the human rights model for disability ensures that persons with disabilities are not denied their legal capacity and recognises the importance of disability in their lives.

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

Several projects can strengthen DPOs in the DRC. These projects aim to improve the inclusion, autonomy, and participation of persons with disabilities in all aspects of society. Here are some areas of action:

- Capacity building of organisations.
- Social and economic inclusion.
- Promotion of the rights of persons with disabilities.

These projects, when well-designed and implemented, can contribute to significantly improving the quality of life of persons with disabilities in the DRC and strengthening their role in society.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

To further empower DPOs in the implementation of international and regional instruments, it is crucial to ensure their active and meaningful participation at all stages of the process. This includes the design, implementation, monitoring, and evaluation of policies and programmes. Furthermore, it is essential to strengthen their technical and financial capacities, as well as promote their representation in decision-making bodies.

The major problem facing DPOs is insufficient material and financial resources. They are full of good faith, determination, and dynamism, but due to a lack of adequate financial resources, they are unable to achieve their stated objectives.

The main problem is empowering persons with disabilities to support themselves and abandon begging on the street, a deplorable phenomenon that we unfortunately witness every day in the DRC's major cities, where disability and begging generally go hand in hand.

9.10 Are there specific research institutes in the region where the DRC is situated (West Africa) that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

In the DRC, there are few specific research institutes working on the rights of persons with disabilities, and even fewer that actively involve organisations of persons with disabilities in their research. However, several organisations, including associations and committees for the defence of the rights of persons with disabilities, play a crucial role in promoting and protecting these rights.

There are also institutions and organisations working on the rights of persons with disabilities, but there is no academic research structures specifically dedicated to this field, as there are in the West. DPOs play a crucial role in defending their rights and actively participate in research initiatives. Although there is a lack of specific academic research on disability, DPOs collaborate with various partners to improve the living conditions of persons with disabilities.

The only existing institutions are those that provide training courses for persons with disabilities, such as persons with visual disabilities, persons with physical disabilities, and persons with hearing and speech disabilities (Sœurs de la Charité de Kasenga School for the Deaf and Mutes). Research centres or institutes are almost non-existent. The Kinshasa Rehabilitation Centre for the Physically Disabled (CRHP) is a centre that provides rehabilitation services to persons with

physical disabilities. It also offers social support services, including a restaurant and a craft shop.

10 Government departments

10.1 Does the DRC have a government department or departments that is/are specifically responsible for promoting and protecting the rights and welfare of persons with disabilities? If so, describe the activities of the department(s).

There is a Minister within the Ministry of Social Affairs, Humanitarian Actions and National Solidarity responsible for persons with disabilities and other vulnerable people. This Ministry is represented throughout the DRC. There is a permanent secretariat within this Ministry. Within the Ministry of Social Affairs, Humanitarian Action and National Solidarity, there is a directorate and two departments specifically responsible for issues related to persons with disabilities:

- **The Directorate for the Coordination of Rehabilitation Activities for Persons with Disabilities (DICOREPHA)**

Its responsibilities include: monitoring the implementation of projects initiated for persons with disabilities; organising and monitoring meetings of the National Council for the Rehabilitation and Reclassification of Persons with Disabilities with social partners; defining and coordinating the national policy for the promotion of persons with disabilities to enable them to actively participate in national production; and supervising the activities of all official and private institutions (Centres and Workshops), and associations involved in the training and professional reintegration of persons with disabilities.⁴³

- **The National Centre for Vocational Training for the Physically Disabled and Invalids (CENAPHI)**

Its main responsibilities are: to provide technical and financial support for the reclassification and social reintegration of trained young people; and the training and vocational rehabilitation of persons with disabilities with a view to their participation in the country's development.⁴⁴

- **The National Service for Rehabilitation, Learning, Placement and Socio-Professional Reclassification of the Blind of Congo (SENARAC)**

This Service's responsibilities are: to ensure the rehabilitation, learning, placement and socio-professional recovery of the blind; to carry out the rehabilitation and training of trades adapted to the blind; the rehabilitation of blind adults; and the creation of jobs in the informal and formal sectors at the local and national levels, especially in rural areas.⁴⁵

43 DRC, Ministère des Affaires sociales Actions Humanitaires et Solidarité Nationale 'Plan stratégique quinquennal de protection et de promotion des personnes en situation de handicap 2016-2020' <https://www.rodra.co.za/images/countries/drc/research/Plan%20strategique%20sur%20le%20handicap.pdf> (accessed 26 July 2025).

44 PO Lobe 'République Démocratique du Congo (RDC)' (2013) 1 *African Disability Rights Yearbook* 291.

45 As above.

11 Main human rights concerns of people with disabilities in the DRC

11.1 Contemporary challenges of persons with disabilities in the DRC (eg in some parts of Africa is ritual killing of certain classes of PWDs such as persons with albinism occurs).

Persons with disabilities in the DRC face a variety of obstacles, such as discrimination, limited access to education and employment opportunities, and obstacles that prevent them from participating in social activities. Conditions such as poverty, conflict, and social norms all contribute to their predicament. The challenges are multiple, among others: discrimination and stigmatisation lack of access to education; difficulties in accessing employment; obstacles to social participation; poverty, conflict and displacement; inadequate infrastructure; lack of appropriate services; and social and cultural norms. In the most remote areas of the country, persons with albinism are attacked, mutilated or killed during witchcraft rituals.⁴⁶

However, despite these efforts, the effective implementation of policies and measures remains a major challenge in the DRC, due in particular to the complexity of the situation, limited resources and the persistence of prejudices.

11.2 Describe the contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses to:

The government of the DRC has structures and mechanisms designed to ensure the full development of persons with disabilities. This development is supposed to include social and medical care, access to education and employment, economic reintegration, and other similar aspects. To address certain obstacles, the government has signed several decrees, namely:

- Decree 24/22 of 7 March 2024, establishing the implementation procedures for the representation of persons with disabilities in institutions.⁴⁷
- Decree 24/28 of 25 March 2024, establishing conditions for private law organisations working for the advancement of persons with disabilities.⁴⁸
- Decree 24/27 of 25 March 2024, establishing the organisation and operation of a public institution called the National Fund to Support the Empowerment and Accessibility of Persons with Disabilities.⁴⁹

46 H Maludi 'DR Congo: The struggle of albinos for their recognition (RD Congo : La lutte des albinos pour leur reconnaissance)' *Afrique analyse* 13 June 2023 <https://www.aa.com.tr/fr/afrique/rd-congo-la-lutte-des-albinos-pour-leur-reconnaissance/2921541#> (accessed 22 May 2025).

47 Décret 24/ 22 du 07 mars 2024 fixant les modalités d'application de la représentation des personnes vivant avec handicap dans les institutions en République Démocratique du Congo.

48 Décret 24/28 du 25 mars 2024 fixant les conditions d'obtention des facilités administratives, fiscales et douanières par les organisations de droit privé œuvrant pour la promotion de la personne vivant avec handicap en République démocratique du Congo.

- Decree 24/26 of 25 March 2024, establishing the practical arrangements for accessibility for persons with disabilities to infrastructure, aids, and other basic social services.⁵⁰

Although these decrees have been signed, the reality of daily life for persons with disabilities is quite different:

Access to public buildings

No specific measures regarding access to public buildings for persons with disabilities have been taken to date; even those using wheelchairs often have difficulty accessing them.

Access to public transportation

The same observation as above.

Access to education

The Constitution guarantees access to public education under the same conditions for all citizens, with the same principles of equality and non-discrimination. Article 45 of the DRC Constitution on freedom of education stipulates in its second paragraph:

Every person has access to national educational institutions, without discrimination based on place of origin, race, religion, sex, political or philosophical opinions, physical, mental, or sensory condition, according to their abilities.⁵¹

Access to vocational training

There are several schools and institutes throughout the country specialising in training persons with disabilities, either in the public sector, or in churches and private institutions (schools for persons and children with visual, hearing or speech disabilities, etc).

Access to employment

The Constitution guarantees every citizen access to employment under conditions of equality and non-discrimination.

Access to recreation and sports

Sports facilities are generally in the hands of churches, which sometimes organise competitions for persons with disabilities.

49 Décret 24/27 du 25 mars 2024 portant organisation et fonctionnement d'un établissement public dénommé Fonds National d'Appui à l'Autonomisation et à l'Accessibilité des Personnes avec Handicap en République Démocratique du Congo, en sigle « FONA-PVH ».

50 Décret 24/26 du 25 mars 2024 fixant les modalités pratiques d'accessibilité des personnes avec handicap aux infrastructures, aides et autres services sociaux de base en République Démocratique du Congo.

51 DRC Constitution, art 45.

Access to justice

Like other citizens, access to justice is guaranteed to everyone under the same conditions of equality and non-discrimination.

Access to healthcare

Access to healthcare, is a real problem for persons with disabilities.

11.3 Do people with disabilities have a right to participation in political life (political representation and leadership) in the DRC?

The Constitution recognises the same rights for every Congolese citizen as all other Congolese citizens, and the principles of equality before the law and non-discrimination are clearly affirmed. Persons with disabilities are granted access to positions of responsibility based on the same merit and competence as all other citizens. The right to participate in the management of public affairs, whether directly or indirectly, is guaranteed to every Congolese citizen, without any discrimination. Decree 24/22 of 7 March 2024, establishing the implementation procedures for the representation of persons with disabilities in the DRC institutions.⁵²

11.4 Are persons with disabilities' socio-economic rights, including the right to health, education and other social services protected and realised in the DRC?

Although FONA-PVH was created by decree and is not yet operational, the Congolese government has not implemented a policy or programme aimed at providing subsidies to DPOs or persons with disabilities, other than small sums of money sporadically provided by the Ministry of Social Affairs for minor assistance.⁵³

11.5 Specific categories experiencing particular issues/vulnerability.

Women with disabilities

The complete lack of reliable and credible statistics makes it difficult to understand the problems that may arise for a specific category of persons with disabilities. Nevertheless, the empowerment of women with disabilities remains a challenge.

Children with disabilities

The same observation applies to children with disabilities as well.

52 National Disability Law 22/003 on the Protection of Persons with Disabilities. Law enacted by the President of the DRC and published in the Official Gazette on 1 June 2022.

53 Décret 24/27 du 25 /Mars 2024 portant organisation et fonctionnement d'un établissement public dénommé Fonds National d'appui à l'Autonomisation et à l'Accessibilité des personnes avec Handicap en République Démocratique du Congo, en sigle « FONA-PVH ».

Albinism

The same observation applies to persons with albinism as well.

Others (eg, indigenous populations)

The same observation applies here as well.

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in the DRC at the moment?

Specific measures are being debated and considered for the protection and promotion of the rights of persons with disabilities, in accordance with the Constitution and the CRPD, ratified in 2015. National Disability Law 22/003 of 3 May 2022, on the protection of the rights of persons with disabilities was promulgated and published in the Official Gazette.⁵⁴ Sectoral laws have been signed by the government for the promotion and protection of persons with disabilities.

The state has a duty to promote the presence of persons with disabilities within national, provincial, and local institutions. An organic law establishes the modalities for implementing this right.

12.2 What legal reforms would you like to see in the DRC? Why?

The DRC has a significant arsenal of tools for persons with disabilities. It is essential that these tools be put into practice for the promotion and protection of persons with disabilities. As the DRC is a country in a situation of conflict, it would be appropriate to think of all the people who have become disabled as a result of the war, fractures, and amputations of limbs due to bullets, anti-personnel mines, and other weapons of war likely to cause disability. The situation of people who suffer these traumas and injuries is often aggravated by the prolonged delays in obtaining emergency care and long-term rehabilitation (case of soldiers who have been maimed, demobilised or wounded in the war).

The law must establish clear, accessible, and affordable procedures for persons with disabilities to seek justice when they are discriminated against. This could include expanding the National Human Rights Commission's authority to hear disability discrimination cases or establishing a specialised tribunal. Reform should ensure that the complainant's burden of proof is not insurmountable, and that courts can award meaningful remedies, such as compensation and injunctions to end discriminatory practices. Rights without remedies are meaningless. Many people are afraid to challenge discrimination because of the cost, complexity, and potential inaccessibility of legal proceedings. Developing a specific and accessible remedy would enable persons with disabilities to assert their rights, hold institutions accountable, and create a strong deterrent to future discrimination.

54 National Disability Law 22/003 of 3 May 2022, on the protection and promotion of the rights of persons with disabilities, published in *Journal Officiel de la République Démocratique du Congo* on 1 June 2022 (Première partie, No 11).

ESWATINI

Perekeme Mutu & Veronica Irima Modey-Ebi***

Summary

According to 2024 World Bank data, the Kingdom of Eswatini (Eswatini) has a total population of 1 242 822, of which 610 191 are male and 632 631 are female. According to Eswatini's 2017 Population and Housing Census (PHC), an estimated population of 146 554 individuals, representing approximately 13 per cent of the total population, faced one form of disability or difficulty in performing certain functions. The most prevalent form of disability is visual disability, with 47 812 persons with visual disabilities representing 32,6 per cent; followed by mobility 38 905 representing 26,5 per cent; hearing 22 054 representing 15,6 per cent; cognition 17 591 representing 12 per cent; self-care 13 268 representing 9,1 per cent; and communication 6 924 representing 4,7 per cent.

The Kingdom of Eswatini signed the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol to the CRPD in 2007 and ratified both documents in 2012. The signing and ratification of the CRPD in 2012 resulted in significant domestic legal effects, which include the enactment of the Persons with Disability Act 2018, which formally enshrines the rights of persons with disabilities and obligations in national law.

* Dr Perekeme Mutu is a legal and human rights expert with a multi-disciplinary academic background and professional experience. He holds a PhD in Law (University of Pretoria), an MPhil in Human Rights (University of Pretoria), an LLB (University of South Africa), and both undergraduate and Honours degrees in Political Science from the University of Pretoria and the University of South Africa, respectively. He is currently a Lecturer in the Department of Private Law University of Free State. Mutup1@ufs.ac.za; <https://orcid.org/0000-0003-1175-218X>.

** Dr Veronica Irima Modey-Ebi is an accomplished highly-skilled human rights advocate, refugee affairs specialist and a director-level team leader with over 20 years of dedicated humanitarian experience working with the United Nations High Commissioner for Refugees (UNHCR) in various countries around the world, advocating for refugee protection and the rights of vulnerable persons of concern to the UNHCR by building many connections and seeking durable solutions to their plights. She holds a PhD in Law (University of Pretoria), an LLM in Multi-disciplinary Human Rights (University of Pretoria), and an LLB (Honors) from the University of Cross River State, Uyo, Nigeria, and currently works with Anne Arundel County Public Schools (AACPS), 2644 Riva Road, Annapolis MD 21401, USA. irimamodey@yahoo.com; <https://orcid.org/0009-0008-3749-6675>

The Constitution of Eswatini contains provisions that directly and indirectly recognise and address disability. Section 30 of the Constitution provides that persons with disabilities have a right to respect and human dignity, and the government and society shall take appropriate measures to ensure that those persons realise their full mental and physical potential. Section 14 of the Constitution contains the Bill of Rights and provides for the protection of fundamental rights and freedoms of everyone, including persons with disabilities.

Eswatini also has policies and programmes that directly address the plight of persons with disabilities. This includes the National Disability Policy 2013; National Disability Plan of Action (NDPA) (2018-2022; 2024-2028); National Deployment Strategy 1999; National Population Policy (2002); National Education Policy and Special and Special Education Policy (1999); Broadcasting Content Guidelines 2017, revised 2022; and Infrastructure and Technological Access Programmes.

At the time of drafting this report, Eswatini does not have specific official bodies other than courts or tribunals that are established to address the rights of persons with disabilities. However, there are bodies, although not specifically established to address the rights of persons with disabilities, that can address violations of such rights. A key example is the Eswatini Commission on Human Rights and Public Administration (ECHRPA).

Disabled people's organisations (DPOs) are both nationally organised and regionally coordinated and are actively involved in engaging with the government of Eswatini on issues relating to persons with disabilities.

This research report reveals that DPOs have contributed to the implementation of the CRPD, Disabled Persons Act, and other legal frameworks, as well as policies that will promote their rights; therefore, there is a need to train DPOs on disability rights and human rights programmes.

The Department of Social Issues is embedded within the Deputy Prime Minister's Office; this department and other bodies lead disability inclusion by coordinating national policy development, overseeing the National Disability Plan of Action, and engaging with DPOs.

Despite policy advancement in the country, persons with disabilities continue to face cultural and structural challenges, such as access to education, access to quality healthcare, discrimination, and other forms of challenges.

While the Kingdom of Eswatini has made significant strides in terms of legal and policy advancement, implementation remains a challenge. There must be a concerted effort to ensure that legislation and policy are translated into concrete action that will impact on the lives of persons with disabilities on the ground.

1 Population indicators

1.1 What is the total population of Eswatini?

According to World Bank data 2024, the Kingdom of Eswatini has a total population of 1 242 822, of which 610 191 are male and 632 631 are female.¹

1 World Bank Group 'Population, female – Eswatini' <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.IN?locations=SZ> (accessed 25 August 2025).

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in Eswatini. What criteria are used to determine who falls within the class of persons with disabilities in Eswatini?

Eswatini's Population and Housing Census (PHC) was used to obtain data concerning the prevalence of disability in Eswatini. The criteria used to determine who falls within the class of persons with disabilities complies or conforms with the approach recognised by the United Nations. The 2017 PHC asked sets of questions developed by the Washington Group to determine disability. These questions were adopted by the UN for consistency and comparability.² The 2017 PHC asked questions concerning difficulties in the following areas: seeing, hearing, speaking, walking/climbing, remembering/concentrating, and self-care.³ The data presented excludes children below five years of age.⁴

1.3 What is the total number and percentage of persons with disabilities in Eswatini?

According to the 2017 PHC, an estimated population of 146 554 individuals, representing approximately 13 per cent of the total population, faced difficulties in performing certain functions.⁵

1.4 What is the total number and percentage of women with disabilities in Eswatini?

Females account for 16 per cent, while males account for 11 per cent.⁶

1.5 What is the total number and percentage of children with disabilities in Eswatini?

Data also reveals that 6,1 per cent of children between the ages of 5-9 years have some difficulties, 6 per cent of children between the ages of 10-14 have difficulties, and 5,6 per cent of children between the ages of 15-19 have difficulties.⁷

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in Eswatini?

The most prevalent form of disability is visual disability, with 47 812 persons with visual disabilities representing 32,6 per cent, followed by mobility 38 905 representing 26,5 per cent, hearing 22 054 representing 15,6 per cent, cognition 17 591 representing 12 per cent, self-care 13 268 representing 9,1 per cent and communication 6 924 representing 4,7 per cent.⁸

2 The Kingdom of Eswatini's 'The 2017 Population and Housing Census: Volume 6' (2019) 2 <https://gov.sz/images/FinanceDocuments/Volume-6.pdf> (accessed 14 May 2025).

3 As above.

4 As above.

5 As above.

6 As above.

7 2017 PHC (n 2) 4.

8 As above.

2 Eswatini's international obligations

2.1 What is the status of the UN Convention on the Rights of Persons with Disabilities (CRPD) in Eswatini? Has Eswatini signed and ratified the CRPD? Provide the date(s).

Eswatini signed the CRPD and the Optional Protocol to the CRPD in 2007 and ratified both documents in 2012.⁹

2.2 If Eswatini has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for submission of the report? Has Eswatini submitted its report? If not, what reasons does the relevant government department give for the delay?

According to the United Nations Treaty Body Database, the country's initial report was due in October 2014, but it was only able to submit its report on 24 August 2022.¹⁰

The reason for Eswatini's failure to submit its report on the initial scheduled date of October 2014 could not be ascertained at the time of drafting this report.

The Deputy Prime Minister's Office is responsible for the Disability Unit, which is under the Social Welfare Department.¹¹

2.3 While reporting under various other UN instruments, the African Charter on Human and Peoples' Rights, or the African Charter on the Rights and Welfare of the Child, has Eswatini also reported specifically on the rights of persons with disabilities in its most recent reports? If so, were relevant concluding observations adopted? If relevant, were these observations given effect to? Was mention made of disability rights in Eswatini's UN Universal Periodic Review (UPR) report? If so, what was the effect of these observations or recommendations?

- In its report to the Committee on the Rights of the Child (CRC), which was due in 2011 but was submitted in 2017, concerns were raised about high-level discrimination against persons with disabilities and the high poverty rate among persons with disabilities in the country.¹² The Committee observes that 84 per cent of persons with disabilities are economically inactive and experience routine social isolation.¹³ In response to the concern raised by the Committee, the Government of

9 UN General Assembly, Optional Protocol to the Convention on the Rights of Persons with Disabilities, A/RES/61/106, Annex II, 13 December 2006. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15a&chapter=4&clang=en (accessed 14 May 2025).

10 UN Treaty Body Database 'Deadlines for the submission of documentation for CRPD' https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/MasterCalendar.aspx?Treaty=CRPD (accessed 14 May 2025).

11 UNPRPD 'Situational analysis of the right persons with disabilities: Eswatini' Country Brief (2022) 8 https://unprpd.org/new/wp-content/uploads/2023/12/Situation_Analysis_CountryBrief_Eswatini-3a8.pdf (accessed 30 June 2025).

Eswatini noted that it has adopted a number of policies, laws, strategies, and programmes to address the plight of persons with disabilities in the country. It has strengthened enabling frameworks and guides, sectoral planning, budgeting, and evaluations, mainstreaming the recognition and realisation of the rights of children with disabilities.¹⁴

- The African Committee of Experts on the Rights and Welfare of the Child (ACERWC), in 2019, released Concluding Observations and Recommendations for the Kingdom of Eswatini on the status of implementation of the African Charter on the Rights and Welfare of the Child. The Committee commended Eswatini for adopting various measures in addressing the plight of children with disabilities in the country.¹⁵ Some of the measures highlighted by the Committee include, the enactment of Persons with Disabilities Act, 2018; the development of National Plan of Action and its Minority and Evaluation Framework; identification of learners with disabilities through the school health programme; procurement and training of school health nurses and senior medical doctors on early identification; educating government officials with specialised inclusive education diplomas and conducting capacity building pilot intervention for parents of children with hearing disabilities.¹⁶ These and other initiatives adopted by Eswatini to address the plight of persons with disabilities were commended by the Committee.¹⁷

The Committee also recommended that Eswatini embark on the following measures:

- Strengthen and scale up these initiatives to reach out to children with various types of disabilities, including mobility, visual, and mental disabilities.
- Undertake community sensitisation to combat the stigmatisation of children with disabilities.
- Undertake assessment of the needs of children with disabilities in other sectors/platforms aside from education, such as healthcare, family, and alternative care environment, a child participation platform with a view to ensuring their right to non-discrimination thereof.
- Undertake the necessary measures towards the implementation of inclusive education.
- The Committee further recommends that the state party take special measures towards decreasing the vulnerability of children with disabilities to sexual abuse and exploitation.
- In the Kingdom of Eswatini's second reporting cycle to the UPR, 131 recommendations were made for the country to address.¹⁸ Among these recommendations was the plight of persons with disabilities in the country. In its third reporting cycle at the UPR, the Kingdom of Eswatini was commended for taking measures to address the 131 recommendations made in the second reporting cycle.¹⁹ The effort the country is making to address the plight of persons with disabilities was acknowledged.²⁰

12 United Nations Committee on the Rights of the Child, Concluding Observations on the combined second to fourth periodic reports of Eswatini, 22 October 2021, UN Doc CRC/C/SWZ/2-4 (2019) para 47.

13 As above.

14 As above.

15 Concluding Observations and Recommendations by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on the Initial Report of the Republic Kingdom of Eswatini on the status of implementation of the African Charter on the Rights and Welfare of the Child (2019) https://reporting.acerwc.africa/sites/default/files/2022-06/Eswatini_Concludig_Observation.pdf (accessed 23 May 2025).

16 As above.

17 As above.

18 The Office of the United Nations High Commissioner for Human Rights 'The third cycle of the Universal Periodic Review (UPR) of the Kingdom of Eswatini' (2022) <https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/wgsessions/39th/2022-07-14/HC-Eswatini.pdf> (accessed 23 May 2025).

19 As above.

20 As above.

2.4 Was there any domestic effect in Eswatini’s legal system after ratifying the international and regional instruments in 2.3 above? Does the international or regional instrument that has been ratified require Eswatini’s legislature to incorporate it into the legal system before the instrument can have force in Eswatini’s domestic law? Have Eswatini’s courts ever considered this question? If so, cite the case(s).

Eswatini’s signing and ratification of the CRPD in 2012 have indeed resulted in significant domestic legal effects. Because of the ratification of the CRPD, it has enacted the Persons with Disabilities Act, 2018, which formally enshrines the rights of persons with disabilities and obligations in national law.

As part of the measures to ensure that Eswatini complies with its obligation towards the CRPD, a capacity-building workshop was organised to train judicial officers on issues relating to disability rights.²¹ The workshop empowers the capacity of state actors in the protection of human rights, and in particular, ensuring that magistrates are able to utilise a disability-rights lens when dealing with matters involving persons with disabilities.²²

2.5 With reference to 2.4 above, has the CRPD or any other ratified international instrument been domesticated? Provide details.

- Eswatini enacted the Persons with Disabilities Act in 2018.
- This Act reflects various provisions of the CRPD and other international instruments.

2.6 Do ratified international treaties automatically become domestic law under Eswatini’s legal system? If so, are there any cases where the courts applied international treaty provisions directly?

Eswatini follows a dualistic system in which provisions of international human rights treaties require a legislative process for purposes of domestication in accordance with section 238 of the Constitution. Provisions of international human rights treaties have been incorporated through various pieces of legislation and policies.

At the time of drafting this report, there are no known or reported cases in Eswatini where courts have directly applied international treaty provisions on disability rights.

21 ‘Eswatini: The judiciary can and should play a critical role in enhancing access to justice for persons with disabilities’ *ICJ* (2022) <https://www.icj.org/eswatini-the-judiciary-can-and-should-play-a-critical-role-in-enhancing-access-to-justice-for-persons-with-disabilities/#:~:text=a%20just%20society,-,Eswatini%3A%20The%20judiciary%20can%20and%20should%20play%20a%20critical%20role,justice%20for%20persons%20with%20disabilities&text=Persons%20with%20disabilities%20in%20Eswatini,participation%20in%20the%20justice%20system> (accessed 6 June 2025).

22 As above.

3 Constitution

3.1 Does Eswatini's Constitution contain provisions that directly address disability? If so, list the provisions and explain how each provision addresses disability.

Section 30: Rights of persons with disabilities

(1) Persons with disabilities have a right to respect and human dignity, and the Government and society shall take appropriate measures to ensure that those persons realise their full mental and physical potential.

(2) Parliament should enact laws for the protection of people with disabilities to enable those persons to enjoy productive and fulfilling lives.

The above constitutional provision is dedicated to disability rights. It recognises the inherent dignity of persons with disabilities. It also imposes a positive obligation on the state to take measures that ensure the full development of persons with disabilities by enacting specific legislation for their protection and inclusion.

3.2 Does Eswatini's Constitution contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

Section 14: Fundamental rights and freedoms of the individual

The Constitution of Eswatini contains provisions that indirectly address disability. Section 14 of the Constitution contains the Bill of Rights and provides for the protection of fundamental rights and freedoms. It stipulates that everyone has the right to equality before the law and equal protection under the law. While this provision is general, it lays the foundation for non-discrimination, including based on disabilities.

Section 20: Equality before the law

1. All persons are equal before and under the law in all spheres of political, economic, social, and cultural life and in every other respect and shall enjoy equal protection of the law.

2. For the avoidance of any doubt, a person shall not be discriminated against on the grounds of gender, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion, age, or disability.

This is the most explicit anti-discrimination provision relating to disability. It prohibits discrimination based on disability and promotes substantive equality in all aspects of life. It imposes a constitutional obligation on both state and private actors to respect, protect, and promote the rights of persons with disabilities.

4 Legislation

4.1 Does Eswatini have legislation that directly addresses disability? If so, list the legislation and explain how the legislation addresses disability.

Eswatini has a few laws that directly address disability, they are as follows:

Persons with Disabilities Act, 2018

The Persons with Disabilities Act, 2018, caters to the general rights and well-being of persons with disabilities. The Persons with Disabilities Act was enacted particularly to make provisions for healthcare, social support, accessibility, rehabilitation, education and vocational training, communication, employment or work protection, and promotion of basic rights of persons with disabilities. It ensures the improvement of the socio-economic status of men and women, and girls and boys with disabilities. It guarantees the rights to inclusive education, ensuring that no person or child with disability is excluded from mainstream schooling.

Children's Protection and Welfare Act, 2012

Section 4 of the Act provides that no child should be discriminated against based on 'disability' and other status. Section 11 further provides the following:

A child with disability has a right to special care, medical treatment, rehabilitation, family and personal integrity, sports and recreation, education, and training to help him enjoy a full and decent life in dignity and achieve the greatest degree of self-actualisation, self-reliance, and social integration possible.²³

4.2 Does Eswatini have legislation that indirectly address disability? If so, list the main legislation and explain how the legislation relates to disability.

The Employment Act of 1980, as amended, prohibits the unfair termination of employment. In terms of section 35(3)(e) and (f), an employer is prohibited from terminating an employee's services due to an accident or injury arising out of his employment. This provision indirectly protects employees with disabilities.

23 Children's Protection and Welfare Act, 2012, sec 11.

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in Eswatini ever decided on an issue relating to disability? If so, list the cases and provide a summary for each of the cases indicating the facts, the decision(s), the reasoning and impact (if any) the cases have had.

Ngwenya v Eswatini Wire (High Court of Eswatini, Case 89/2020)

Facts

Mr Ngwenya, an employee who was diagnosed with a disabling condition, was unilaterally retired by his employer, Eswatini Wire. He requested the Court to interdict or halt the retirement until a medical report clarifying his disability was obtained.

Decision

The High Court determined the application to be moot because retirement had already occurred, and terminal benefits were paid.

Reasoning

Even though the retirement violated the *Rule Nisi* (a temporary court order), the Court held that granting the interdict was impractical as the action (retirement) had been completed.

Mr Ngwenya argued that his rights had been infringed. However, the Court focused on proper procedure and enforceability rather than substantive disability rights.

Impact

- Demonstrated recognition by the judiciary of procedural protection in employment, notably when disability is involved.
- Highlighted the Court's reluctance to reverse completed actions even if procedural irregularities exist.
- Showed that employees with disabilities must act before retirement or dismissal to secure a remedy.

6 Policies and programmes

6.1 Does Eswatini have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

- **National Disability Policy (2013)**

A landmark policy was adopted in June 2013, which set a broad vision and objectives for disability inclusion.

The objectives of the policy are as follows:

- To improve the socio-economic status of men, women, boys, and girls with disabilities.
- To ensure equal access to education and health services.
- To guarantee accessible infrastructure and buildings
- To promote inclusive service delivery across all institutions.

- **National Disability Plan Action (NDPA)**

Multi-year implementation roadmaps aligned with the above framework:

- **2018-2022 NDPA**

- To operationalise the 2013 Policy and the 2018 Act.
- Government-funded assistive devices (wheelchairs, white canes, prostheses, and eyeglasses).
- Establish the National Advisory Council to monitor and coordinate disability mainstreaming.

- **2024-2028 NDPA**

- Launched in the month of June 2024, this latest plan continues the work started earlier.
- Focus areas include health, education, advocacy/awareness, and mainstreaming disability across all sectors.
- Emphasises inclusive education, health access, employment opportunities, social protection, and sports participation.

- **National Deployments Strategy (1999)**

Part of Eswatini's broader development agenda, which integrates disability, includes:

- Recognition of persons with disabilities as a disadvantaged group.
- Promotes socio-economic integration, equitable infrastructure, inclusive education, legislation, and infrastructural accessibility.

- **National Population Policy (2002)**

Includes disability under its thematic strategies:

- Establishes a national unit/framework for disability issues.
- Prioritises early detection, rehabilitation, non-discrimination, accessible transport and services, public sensitisation, and community empowerment.

- **National Education Policy and Special Education Policy (1999)**

Education sector inclusion:

- Mandates improved infrastructure (ramps, adapted classrooms) for learners with disabilities.
- Supports the integration of children with special learning needs from basic through tertiary education.
- Produced a Special Education Policy Statement, later reinforced in 2011.
- **Broadcasting Content Guidelines (2017, revised 2022)**
 - Media regulations include an anti-discrimination clause, prohibiting hate speech or vilification on grounds including disability.

Infrastructure and technology access programmes

Efforts to increase access for persons with disabilities through digital tools and accessibility features:

- Universal Access Service Fund provides assistive devices and mobile gadgets to support independent access to government services.
- United Nations-backed Advisory Council, created in April 2023 to advise on disability mainstreaming and implementation of the 2018 Act.

6.2 Does Eswatini have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

- **Eswatini National Youth Policy, 2020**

The National Youth Policy promotes an enabling environment, regardless of disability. The policy mandates that all youth programmes serve all young people regardless of disability. It ensures inclusive access to training, civic engagement, and development opportunities.²⁴

- **National Social Development Policy, 2010**

While not elaborated on in detail, it is cited among the national policy documents that allude to the rights and recognition of persons with disabilities. This suggests that social welfare programmes are designed with the inclusion and benefit of persons with disabilities in mind. Other national policy documents that alluded to the rights and recognition of persons with disabilities include the National Children's Policy (2009), National Plan of Action for Children in Eswatini (2023-2027), and Broadcasting Content Guidelines (2017 and 2022).

7 Disability bodies

7.1 Other than the ordinary courts or tribunals, does Eswatini have any official body that specifically addresses violations of the rights of persons with disabilities? If so, describe the body, its functions and powers.

At the time of drafting this report, there is yet to be a body that specifically addresses the violation of the rights of persons with disabilities in Eswatini.

24 Eswatini National Youth Policy, 2020.

7.2 Other than ordinary courts or tribunals, does Eswatini have any official body that, though not established to specifically address the violation of the rights of persons with disabilities, can nonetheless do so? If so, describe the body, its functions and powers.

Eswatini has official bodies other than courts or tribunals that are not specifically established to address the rights of persons with disabilities; however, it can address violations of such rights. A key example is the Eswatini Commission on Human Rights and Public Administration (ECHRPA)

- **ECHRPA**

The ECHRPA was established under section 163 of the Constitution of 2005, but began operation in September 2009, with the mandate to promote and protect human rights and ensure public accountability. The ECHRPA has the following functions and powers:

Although the Commission is not exclusively dedicated to disability rights, its broad human rights mandate allows it to deal with violations against persons with disabilities. Its functions include:

- Investigating complaints of human rights violations, maladministration, abuse of powers, and injustice.
- Monitoring the state's compliance with human rights obligations, including those under international and regional treaties.
- Making recommendations to government departments or public institutions to remedy violations or prevent recurrence.
- Receiving individual complaints from members of the public.
- Advising the government on laws and policies that affect human rights, including those affecting persons with disabilities.
- Public education and awareness-raising about human rights, equality, and non-discrimination.

Relevance to disability rights:

- Discriminatory practices against persons with disabilities.
- Inaccessibility of public services or buildings
- Denial of education, employment, or healthcare.
- Abuse or neglect in institutions or communities.

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

8.1 Does Eswatini have a Human Rights Commission, Ombudsman or a Public Protector? If so, does its remit include the promotion and protection of the rights of persons with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, Ombudsman or Public Protector has ever addressed issues relating to the rights of persons with disabilities.

- **ECHRPA**

ECHRPA, which is envisioned under section 163 of Eswatini's Constitution, has not yet been fully operationalised, but when well established, it may play a role in addressing human rights violations, including those affecting persons with disabilities.

Powers and functions

- Investigating complaints of human rights violations, maladministration, abuse of powers, and injustice.
- Monitoring the state's compliance with human rights obligations, including those under international and regional treaties.
- Making recommendations to government departments or public institutions to remedy violations or prevent recurrence.
- Receiving individual complaints from members of the public.
- Advising the government on laws and policies that affect human rights, including those affecting persons with disabilities.
- Public education and awareness-raising about human rights, equality, and non-discrimination.

Relevance to disability rights:

- Discriminatory practices against persons with disabilities.
- Inaccessibility of public services or buildings
- Denial of education, employment, or healthcare.
- Abuse or neglect in institutions or communities.

Despite the establishment of CHRPA, a lack of funding has hampered its effective functioning. Consequently, there is no public record of the Commission investigating or addressing issues specifically related to the rights of persons with disabilities.

9 Disabled peoples organisations (DPOs) and other civil society organisations

9.1 Does Eswatini have organisations that represent and advocate for the rights and welfare of persons with disabilities? If so, list each organisation and describe its activities.

• **Federation of Organisations of the Disabled in Eswatini (FODSWA)**
FODSWA is a cross-disability umbrella organisation that was established in 1993 and is managed by persons with disabilities themselves. Its activities include the following:²⁵

- Coordinates and empowers member disabled people's organisations (DPOs).²⁶
- Advocates work with the government to implement disability laws and policies

25 Southern Africa Federation of the Disabled <https://safod.net/our-affiliates> (accessed 22 June 2022).

26 As above.

- Promotes gender sensitivity and empowerment, especially of women with disabilities, drawing on its own research studies.
- Active in research; partnered with Southern Africa Federation of the Disabled (SAFOD) on the 2011 national living condition study, and UNICEF on a 2010 assessment of children with disabilities.

• **Cheshire Homes Eswatini (CheSwa)**

CheSwa is a rehabilitation NGO established in 1986.²⁷ Its activities include the following:

- Offers outpatient, inpatient, and residential rehabilitation services.
- Conducts paediatrics' clinics twice a week, providing physiotherapy, occupational therapy, speech, and language therapy.
- Provide assistive devices (wheelchairs, clutches), counselling, transport, and services for parents, learning, and carers.

• **Swaziland National Association of the Deaf (SNAD)**

SNAD came into operation in 1989. Its activities include advocacy for human rights, sign language training, HIV education, and life skills support.²⁸

• **Parents of Children with Disabilities in Swaziland (PCDSWA)**

PCDSWA came into operation in the year 2000. Its activities include advocacy for the rights of children with disabilities and raising awareness of living with disabilities among parents, the government, and society.

• **Swaziland National Association of the Disabled**

The Organisation was established in 1991 to promote accessibility, human rights, equal opportunities, and independent living of persons with disability.²⁹

• **Swaziland Association of Persons with Albinism (SAPA)**

SAPA was founded in 2013 and registered in 2016. It is the first Swati Association to raise awareness on the conditions of persons with albinism in Eswatini.³⁰ Its activities include enhancing awareness of the condition of albinism in Eswatini by educating and providing user-friendly information on albinism to communities and dispelling myths and misconceptions about albinism.³¹

• **Disabled Women of Swaziland (DIWOSWA)**

DIWOSWA was operationalised in the year 2013, and its main activities include capacity-building for persons with disabilities, women's advocacy for women with disabilities, and provision of assistive devices.³² It deals with issues relating to physical disabilities, women with visual disabilities, women with hearing

27 Cheshire Homes Eswatini <http://cheshire.org.sz/about-us.php> (accessed 22 June 2025).

28 Organisations of Persons with Disabilities in Eswatini https://rodra.co.za/images/countries/eswatini/Organisations_of_Persons_with_Disabilities_in_Eswatini.pdf (accessed 22 June 2025).

29 Independent Living Institute 'Swaziland National Association of the Disabled' <https://www.independentliving.org/cib/cibharare6.html> (accessed 22 of June 2025).

30 Submission by Africa Albinism Alliance, Albinism Society of Eswatini & Swaziland Association of Persons with Albinism to the Committee on the Rights of the Child on the situation of children with albinism in Eswatini (2021) <https://africaalbinism.network.org/wp-content/uploads/2022/09/1637237085527d3pylo49fw-1.pdf> (accessed 22 of June 2025).

31 As above.

32 Deputy Prime Minister Office of the Kingdom of Eswatini 'Organisation of and for persons with disability service directory' (2024) <https://www.unicef.org/eswatini/media/1946/file/Eswatini%20Disability%20Service%20Directory%202024.pdf.pdf> (accessed 22 of June 2025).

disabilities, women with psychosocial/psychiatric disabilities, and women with albinism.³³

9.2 In the countries in Eswatini's region, are DPOs organised or coordinated at a national and/or regional level?

DPOs are both nationally organised and regionally coordinated. In Eswatini, DPOs are coordinated primarily through national umbrella bodies. The most prominent include the Federation of the Organisations of the Disabled in Swaziland (FODSWA).³⁴ It acts as the national umbrella body for DPOs in Eswatini. It mandates, includes advocating for the rights of persons with disabilities, engages in policy dialogue, and represents DPOs at national and regional forums. At the regional level through SAFOD.³⁵

9.3 If Eswatini has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

Participatory drafting of National Disability Policy (2013) and Persons with Disabilities Bill (2014)

Eswatini ratified the CRPD on 24 September 2012, and shortly after organised a consultative workshop (24-28 September 2012) for drafting its 2013 National Disability Policy.³⁶ The Deputy Prime Minister's Office invited inputs from government ministries, civil society, the private sector, and DPOs, ensuring that their voices were incorporated in the policy text.³⁷ Similarly, DPOs served advisory roles with the Disability Unit during the drafting of the Persons with Disabilities Bill in 2014.

DPO-initiated advocacy and shadow reporting

Eswatini's FODSWA and other DPOs were instrumental in lobbying for CRPD ratification and in drafting disability-related legislation. They have submitted shadow (parallel) reports on CRPD implementation, complementing the government's reporting and providing independent perspectives.³⁸

Ongoing participation in implementation mechanisms

The National Disability Technical Working Group (2023), supported by United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD)/United Nations Educational, Scientific and Cultural Organisation (UNESCO), the government, including the Deputy Prime Minister's Office, and DPOs formalised

33 As above.

34 Deputy Prime Minister Office of the Kingdom of Eswatini (n 32).

35 Southern Africa Federation of the Disabled <https://safod.net/our-affiliates> (accessed 22 June 2025).

36 Deputy Prime Ministers Office 'Swaziland National Disability Plan of Action (NDPA) 2015-2020' (2015) <https://afri-can.org/wp-content/uploads/2019/08/Swaziland-Plan-of-Action-on-Disability.pdf> (accessed 22 June 2025).

37 As above.

38 Submission with respect to the third periodic cycle of the Universal Periodic Review (UPR) of the Kingdom of Eswatini 39th Session of the UPR Working Group (October/November 2021) https://upr-info.org/sites/default/files/documents/2021-10/js5_upr_39_swz_e_main.pdf (accessed 22 June 2025).

the National Disability Technical Working Group to coordinate, monitor, and expand disability programming.³⁹

Inter-Ministerial Committee and NDPA (2024-2028)

In late 2023, Eswatini launched the Inter-Ministerial Committee to mainstream disability inclusion across all 24 ministries, with active participation from FODSWA and other DPOs.⁴⁰ In February 2024, stakeholders validated the 2024-2028 National Disability Plan of Action (NDPA), co-created by government and DPOs, under UNPRPD auspices.⁴¹

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

DPOs have undertaken a range of actions to ensure that they are fully embedded in the process of implementation, including advocacy, partnership, capacity-building, and monitoring actions to ensure their full inclusion in the implementation of disability rights frameworks. For example, in area of advocacy and lobbying for legal and policy reforms, DPOs such as the FODSWA have played an essential role in successfully advocating for the adoption of a national disability law (culminating in the enactment of the 2018 Disability Act), and aligning national frameworks with the CRPD.⁴² Participating in drafting sessions for the National Disability Policy (NDP) and Disability Mainstreaming Guidelines.⁴³ Calling on the government to ratify and implement international and regional treaties, including the CRPD, which was eventually ratified in 2012.⁴⁴

In terms of strategic partnerships and government engagement, DPOs have engaged directly with line ministries, especially the Ministry of Administration and Development and the Ministry of Education, to co-develop disability action plans, push for inclusion in education, such as through the Inclusive Education Policy (2011), and support children with disabilities.⁴⁵

They have also collaborated with the UNICEF Eswatini Country Office and USAID on capacity-building programmes for state actors to recognise DPOs as key stakeholders in implementation.⁴⁶

In terms of capacity building and leadership development to enhance their role in implementation, DPOs have trained members in policy analysis, monitoring, and CRPD-based advocacy.⁴⁷ They supported the development of self-advocacy groups, especially for women and children with disabilities, to ensure grassroots

39 UNESCO 'UNPRPD MPTF supports disability-inclusion in Eswatini' (2023) <https://www.unesco.org/en/articles/unprpd-mptf-supports-disability-inclusion-eswatini> (accessed 22 June 2025).

40 UNESCO 'Ministerial Committee to Mainstream Disability Inclusion' (2023) www.unesco.org/en/articles/eswatini-launch-inter-ministerial-committee-mainstream-disability-inclusion (accessed 27 June 2025).

41 UNESCO 'Eswatini stakeholders endorse new 5-year Disability Plan of Action' (2024) <https://www.unesco.org/en/articles/eswatini-stakeholders-endorse-new-5-year-disability-plan-action> (accessed 27 June 2025).

42 Inclusion International and FODSWA Reports (2020).

43 As above.

44 UNDP Eswatini Country Office (2022).

45 USAID Southern Africa Disability Programming Reports (2021).

46 UNICEF Eswatini Inclusive Education Reports (2018-2023).

47 African Disability Alliance Reports (2020-2023).

voices are heard in implementation mechanisms.⁴⁸ They also run workshops on data collection and rights awareness to strengthen evidence-based engagement.

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

Resource constraints and donor dependence: Most DPOs in Eswatini operate on very limited budgets, relying heavily on international donor funding.⁴⁹ This limits their sustainability, independence, and ability to effectively monitor or implement disability rights frameworks.⁵⁰

Limited data and research infrastructure: DPOs lack access to disaggregated data on disability, which is essential for evidence-based advocacy and for holding the government accountable on service delivery and rights implementation.⁵¹

9.6 Are there specific instances that provide ‘best-practice models’ for ensuring proper involvement of DPOs?

Eswatini offers several notable best-practice models for ensuring the meaningful involvement of DPOs in implementing its disability rights frameworks. Some of the best-practice models are as follows:

Establishment of the National Disability Technical Working Group (ND TWG)

Established under the UNPRPD and Multi Partner Trust Fund Project Team (MPTF) initiative (2022-present), this multi-stakeholder TWG brings together government officials, UN agencies, and DPO representatives on an equal basis, to guide planning, coordination, implementation, and monitoring of national disability policies.⁵² DPOs actively co-chair sessions, contribute to drafting the 2024-2028 Disability Plan of Action, and shape national mainstreaming strategies.⁵³

National Advisory Council for Persons with Disabilities

Formally inaugurated in April 2023 via the UNPRPD project under the Deputy Prime Minister’s Office, this high-level council includes DPO leaders, government ministers, and UN partners. It serves as a permanent consultative and monitoring body, directly influencing the implementation of the 2018 Disability Act.

48 UNFPA Eswatini ‘Inclusion of Women with Disabilities in SRHR Programming’ (2021).

49 SAFOD ‘Strategic Plan 2016-2020’ <https://www.safod.net> (accessed 22 June 2025).

50 As above.

51 United Nations Economic Commission for Africa (UNECA) ‘Disability and development report: Realizing the SDGs by, for and with persons with disabilities’ (2018) <https://www.un.org/development/desa> (accessed 22 June 2025).

52 UNESCO ‘UNPRPD MPTF supports disability-inclusion in Eswatini’ (2023) <https://www.unesco.org/en/articles/unprpd-mptf-supports-disability-inclusion-eswatini?> (accessed 27 June 2025).

53 UNESCO ‘Eswatini stakeholders endorse new 5-year Disability Plan of Action’ (2024) <https://www.unesco.org/en/articles/eswatini-stakeholders-endorse-new-5-year-disability-plan-action> (accessed 27 June 2025).

Collaborative drafting of the National Disability Plan of Action (NDPA) 2024-2028

In early 2024, a validation workshop in Manzini included around 80 stakeholders, among them DPOs.⁵⁴ This ensured that the resulting NDPA covering health, education, advocacy, and data systems was co-developed with DPO insights and ownership.

Integration of disability statistics into national MIS

UNICEF-led efforts in 2024 introduced a Disability Management Information System (DMIS) into Eswatini's national MIS.⁵⁵ Crucially, this involved stakeholder engagement with DPOs at all stages, from design to oversight, ensuring data collection reflects the lived experience of people with disabilities.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

The engagement of DPOs in Eswatini (formerly Swaziland) has led to several tangible outcomes that demonstrate improved recognition and enforcement of disability rights:

Policy and legislation

The 2013 National Disability Policy and the 2018 Disability Act were drafted using a participatory, CRPD-aligned process in which DPOs were actively involved, marking their transition from consultative to collaborative actors in policymaking.⁵⁶

Governance and coordination

The National Disability Technical Working Group (2023), co-led by government and DPO representatives (including FODSWA), supports planning, coordination, and monitoring for disability inclusion in national development frameworks.⁵⁷ The National Advisory Council (2023), established with strong DPO involvement under a UNPRPD initiative, provides institutional mechanisms to guide implementation of the 2018 Disability Act.⁵⁸

54 As above.

55 UNICEF 'Disability dimension in Eswatini's National Management Information System: Disability dimension in Eswatini's National Management Information System 2024' (2024) <https://www.unicef.org/eswatini/reports/disability-dimension-eswatini-national-management-information-system-2024?> (accessed 27 June 2025).

56 Deputy Prime Ministers Office 'Swaziland National Disability Plan of Action (NDPA) 2015-2020' (2015) <https://afri-can.org/wp-content/uploads/2019/08/Swaziland-Plan-of-Action-on-Disability.pdf> (accessed 22 of June 2025).

57 UNESCO 'UNPRPD MPTF supports disability-inclusion in Eswatini' (2023) <https://www.unesco.org/en/articles/unprpd-mptf-supports-disability-inclusion-eswatini?> (accessed 22 June 2025).

58 United Nations Eswatini 'Eswatini unveils Advisory Council for persons with disabilities' (2023) <https://eswatini.un.org/en/226458-eswatini-unveils-advisory-council-persons-disabilities> (accessed 22 June 2025).

Strategic planning and action

The 2024-2028 Disability Plan of Action, was validated through workshops that included over 80 stakeholders, among them the government, UN agencies, and DPOs.⁵⁹ This plan institutionalises DPO participation in national programme design and implementation.

Service delivery and education

Inclusive Education Gains: Efforts to mainstream special needs education, like ramp installations, braille training in tertiary institutions, and affordable assistive devices, stem from DPO advocacy backed by policy endorsement.⁶⁰

Disability Service Directory and Management Info System (2024): Created under the joint government, United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD), supported by UNICEF, UNFPA, and UNESCO, in collaboration with DPOs playing oversight roles in data collection and service coordination.⁶¹

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

DPOs have contributed to the implementation of the CRPD, Persons with Disabilities Act, and other legal frameworks, as well as policies that will promote their rights; therefore, there is a need to train DPOs on disability rights and human rights programmes.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

There are several recommendations, both from global best practices and region-specific frameworks on how DPOs in Eswatini can be more comprehensively empowered to take a leading role in implementing international and regional disability rights instruments such as the CRPD and the African Disability Protocol (ADP).

Formal institutional participation mechanisms

- Establish or strengthen national disability councils or inter-ministerial committees with mandated DPO representation, giving DPOs voting powers rather than observer status.

59 UNESCO 'Eswatini stakeholders endorse new 5-year Disability Plan of Action' (2024) <https://www.unesco.org/en/articles/eswatini-stakeholders-endorse-new-5-year-disability-plan-action> (accessed 27 June 2025).

60 SAFOD 'Unlocking an inclusive society for persons with disabilities in Southern Africa' <https://safod.net/> (accessed 26 October 2025).

61 UNICEF 'Eswatini Disability Service Directory' (2024) <https://www.unicef.org/eswatini/reports/eswatini-disability-service-directory-2024> (accessed 27 June 2025).

- Strengthen DPO involvement in treaty reporting processes, including the CRPD Committee's review cycles, ensuring that they submit alternative (shadow) reports and participate in dialogues with international bodies.

Capacity building and resources

Provide sustainable funding to DPOs through government grants or donor partnerships to support their operations, advocacy, and policy engagement. Support training programmes for DPOs on: International and regional human rights instruments (for example, CRPD, ADP, and Sustainable Development Goals), rights-based advocacy, strategic litigation, participatory governance, and data collection.

Data and research collaboration

- Empower DPOs to be part of disability-disaggregated data collection and analysis, a key requirement under article 31 of the CRPD.
- Fund community-based research led by DPOs to document barriers and progress in disability rights implementation.

Monitoring and accountability mechanisms

- Integrate DPOs into the national human rights monitoring framework, including National Human Rights Institutions (NHRIs) and ombudsman bodies.
- Support DPOs in using regional and international complaint mechanisms, such as submitting communications to the CRPD Committee or the African Commission on Human and Peoples' Rights.

9.10 Are there specific research institutes in your region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

No standalone disability research institute has been established in Eswatini. However, the combined engagement of FODSWA, a DPO; Regional bodies such as the SAFOD; and international partners such as United Nations International Children's Emergency Fund (UNICEF), the United Nations Partnership on the Rights of Persons with Disabilities (UNPRPD), and national ministries have formed an effective, cross-sector research ecosystem.

10 Government departments

10.1 Do you have government department(s) that is/are specifically responsible for promoting and protecting the rights and welfare of persons with disabilities? If so, describe the activities of the department(s).

Deputy Prime Minister's Office (DPMO)

The Department of Social Issues is embedded within the DPMO; this department leads disability inclusion by coordinating national policy development, overseeing the National Disability Plan of Action, and engaging with DPOs.⁶²

National Disability Technical Working Group and Inter-Ministerial Committee

Established under the DPMO with UNPRPD support (UNICEF/UNESCO/UNFPA), these bodies bring together 24 ministerial focal points and DPO leadership to plan, implement, monitor, and mainstream disability rights across government.⁶³

National Advisory Council for Persons with Disabilities

- Inaugurated in April 2023 by the Deputy Prime Minister to operationalise the 2018 Persons with Disabilities Act.⁶⁴
- Comprised of both government officials and disability advocates/DPO leaders, tasked with safeguarding welfare, equity, and disability mainstreaming across public services.

Sector ministries

While there's no stand-alone 'Ministry of Disability', various ministries (Education, Health, Justice, etc) have disability units and focal points,⁶⁵ coordinated via the Inter-Ministerial Committee to ensure inclusive policy implementation. For example, the Ministry of Education has established Special Needs Units in teacher training colleges and integrated disability accommodations in mainstream education.⁶⁶

62 UNESCO 'UNPRPD MPTF supports disability-inclusion in Eswatini' (2023) <https://www.unesco.org/en/articles/unprpd-mptf-supports-disability-inclusion-eswatini> (accessed 27 June 2025).

63 As above.

64 United Nations Eswatini 'Remarks at the inauguration of the National Advisory Council for Persons with Disabilities' (2023) <https://eswatini.un.org/en/227573-remarks-inauguration-national-advisory-council-persons-disabilities> (accessed 27 June 2025).

65 As above.

66 UNESCO 'Eswatini to launch inter-ministerial committee to mainstream disability inclusion' (2023) <https://www.unesco.org/en/articles/eswatini-launch-inter-ministerial-committee-mainstream-disability-inclusion> (accessed 27 June 2025). Also see UNESCO 'Strengthening disability inclusion in the Kingdom of Eswatini's UNSDCF processes: Building synergies between UN Mechanisms and the National Disability Plan of Action (2024-2028)' (2025) <https://eswatini.un.org/sites/default/files/2025-06/Strengthening%20disability%20inclusion%20in%20the%20Kingdom%20of%20Eswatini%27s.pdf> (accessed 27 June 2025).

11 Main human rights concerns of people with disabilities in Eswatini

11.1 What are the contemporary challenges of persons with disabilities in Eswatini?

Persons with disabilities in Eswatini face a wide range of significant challenges today, both structural and cultural, despite recent policy advancements:

Accessibility barriers

- **Physical infrastructure:** Many health and education facilities lack ramps, accessible restrooms, and appropriate parking. For example, only four per cent of health facilities have disability parking, and nine per cent have accessible toilets.⁶⁷
- **Assistive devices shortage:** Critical tools like wheelchairs, hearing aids, white canes, and braille materials are scarce, due to limited funding.⁶⁸

Health and sexual and reproductive rights

- **SRH services:** Persons with disabilities often encounter untrained staff (74 per cent lack sign language skills) and communication barriers (for example, no interpreters, zero braille materials) in facilities.⁶⁹
- **HIV vulnerability:** Persons with disabilities, particularly women with cognitive or physical disabilities, face higher HIV risk and exclusion from prevention programmes.⁷⁰

Educational and employment exclusion

- **Education:** Teacher shortages in special needs training, late school entry, grade repetition, and lack of early identification support impair inclusion.⁷¹

67 UNFPA Eswatini 'A health facility assessment shows that persons with disabilities face challenges as they access health services' (2021) <https://eswatini.unfpa.org/en/news/health-facility-assessment-shows-persons-disabilities-face-challenges-they-access-health> (accessed 28 June 2025).

68 UNESCO 'Eswatini stakeholders endorse new 5-year Disability Plan of Action' (2024) <https://www.unesco.org/en/articles/eswatini-stakeholders-endorse-new-5-year-disability-plan-action> (accessed 27 June 2025).

69 UNFPA Eswatini (n 67).

70 African Press 'HIV prevalence high among disabled in Eswatini – FODSWA' (2024) <https://www.africa-press.net/eswatini/all-news/hiv-prevalence-high-among-disabled-in-eswatini-fodswa> (accessed 28 June 2025).

71 N Musi 'Eswatini university steps up inclusion efforts with the opening of disability support center' (2024) <https://www.voanews.com/a/eswatini-university-steps-up-inclusion-efforts-with-the-opening-of-disability-support-center-/7827379.html> (accessed 28 June 2025).

- **Employment:** 85 per cent unemployment among persons with disabilities.⁷² Women were particularly affected (9 862 females unemployed versus 5 667 males).⁷³

Social exclusion and discrimination

- **Traditional stigma:** Despite legislative and policy improvement, persons with disabilities still face the challenge of social exclusion and discrimination.⁷⁴

Safety and sexual violence

- Persons with disabilities are at heightened risk for sexual abuse and exploitation, perpetuating cycles of poverty, trauma, and disease.⁷⁵

11.2 Describe the contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses.

<p>Access to public buildings, premises, transport services, stations and platforms services and other recreational services.</p>	<p>Access to public buildings and premises National policies and legal framework</p> <ul style="list-style-type: none"> • The 2013 National Disability Policy mandates that all buildings and infrastructure be accessible to persons with disabilities, aligning with the 2018 Disability Act. • Complementing this, the 2024-2028 National Disability Plan of Action (NDPA) explicitly includes mainstreaming disability inclusion across all sectors, including health, education, transport, and sporting/recreational facilities. • To oversee implementation, Eswatini has formed the National Advisory Council and an Inter-Ministerial Committee to coordinate and monitor access compliance. <p>Transport services and stations/platforms Strategic emphasis</p> <ul style="list-style-type: none"> • Transport falls directly under the NDPA goals for inclusive infrastructure, monitored by the Inter-Ministerial Committee. • Public transport operators have been urged by the Deputy Prime Minister to respect and properly communicate with passengers with disabilities. Initiatives include training rank staff in basic sign language at key bus stops. <p>Recreational services and other public facilities</p> <ul style="list-style-type: none"> • The NDPA and Disability Policy require that persons with disabilities enjoy equal access to sports, and other opportunities and services. This implies that recreation grounds and cultural venues should be accessible.
--	--

72 As above.

73 T Mazibuko ‘Breaking barriers: Deputy Prime Minister tackles high unemployment among people with disabilities’ *Eswatini Daily News* 28 June 2025 <https://swazidailynews.com/2024/10/13/breaking-barriers-deputy-prime-minister-tackles-high-unemployment-among-people-with-disabilities/> (accessed 28 June 2025).

74 UNICEF Fact Sheet ‘Children with disabilities’ (2022) https://www.unicef.org/sites/default/files/2022-10/GIP02115_UNICEF_Children-with-Disabilities-Factsheet-final%20-%20accessible.pdf (accessed 28 June 2025) 27.

75 United Nations Eswatini ‘Eswatini unveils Advisory Council for persons with disabilities’ (2023) <https://eswatini.un.org/en/226458-eswatini-unveils-advisory-council-persons-disabilities> (accessed 28 June 2025).

<p>Access to education and vocational training.</p>	<p>Inclusive Education Policy (2011)</p> <ul style="list-style-type: none"> • The Ministry of Education and Training (MoET) adopted this policy to mainstream inclusive education, aiming to accommodate learners with special education needs. • It provides for: <ul style="list-style-type: none"> • Teacher training on inclusive practices. • Early identification and assessment of children with disabilities • Resource centres and support services. <p>Education and Training Sector Policy (2018-2030)</p> <ul style="list-style-type: none"> • Sets strategic goals for improving equity in access to education, including for learners with disabilities. • Recommends development of infrastructure, curriculum adaptations, and vocational options for all. <p>Eswatini National Youth Policy (2020)</p> <ul style="list-style-type: none"> • Acknowledges the marginalisation of youth with disabilities in vocational training. • Calls for inclusive technical and vocational education and training (TVET) programmes. <p>TVET institutions and access</p> <ul style="list-style-type: none"> • Institutions like Gwamile Vocational and Commercial Training Institute have piloted disability-sensitive training models, but these are not yet widespread. • Lack of assistive technologies, accessible curricula, and career guidance tailored to disability needs limits full participation.
--	---

<p>Access to employment</p>	<p>National Disability Plan of Action (2024-2028) Eswatini's new plan, endorsed in February 2024, explicitly lists employment as a key focus area. It aligns with CRPD article 27 (right to work), committing to 'inclusive education, training, and promotion of equitable access to the open labour market' for persons with disabilities.</p> <p>Creation of a qualifications database The Deputy Prime Minister's Office (DPMO) launched a mechanism for persons with disabilities to submit their qualifications for inclusion in a government-managed skills database, aimed at matching them with potential job opportunities. (Africa Press 'DPMO wants qualifications for people with disabilities' (2024) https://www.africa-press.net/eswatini/all-news/dpmo-wants-qualifications-for-people-with-disabilities (accessed 28 June 2025))</p> <p>Mainstreaming via DPMO and guidelines A National Disability Technical Working Group (established in August 2023) oversees the implementation of disability inclusion across sectors, including employment initiatives. (UNESCO 'UNPRPD MPTF supports disability-inclusion in Eswatini' (2023) https://www.unesco.org/en/articles/unprpd-mptf-supports-disability-inclusion-eswatini (accessed 27 June 2025))</p> <p>Operationalisation of the Persons with Disabilities Act (2018) In April 2023, a National Advisory Council was formed under this Act to monitor implementation. Among its mandates is ensuring access to economic opportunities for persons with disabilities. (United Nations Eswatini 'Eswatini unveils Advisory Council for persons with disabilities' (2023) https://eswatini.un.org/en/226458-eswatini-unveils-advisory-council-persons-disabilities (accessed 28 June 2025))</p> <p>Awareness campaigns & job fairs The DPMO has organised a National Job and Entrepreneurial Expo for persons with disabilities. Deputy PMs emphasised inclusive hiring and entrepreneurship and expressed intentions to pass an employment equity law mandating corporate hiring of persons with disabilities.</p>
------------------------------------	---

11.3 Do persons with disabilities have a right to participation in political life (political representation and leadership) in Eswatini?

The 2005 Constitution guarantees the right to vote and to be voted for to all persons without discrimination in section 85. Persons with disabilities have the right to participate in politics.⁷⁶ However, several barriers hinder the full political participation of persons with disabilities in Eswatini:

- **Inaccessible voting infrastructure** (for example, lack of braille ballots, ramps, or sign language interpreters).⁷⁷
- **Limited representation** of persons with disabilities in parliament and local government structures.⁷⁸
- **Social stigma and discrimination**, limiting leadership opportunities.⁷⁹

11.4 Are persons with disabilities' socio-economic rights, including the right to health, education and other social services protected and realised in the Eswatini?

Eswatini does provide income support measures for persons with disabilities, primarily through a disability social grant managed by the government's Social Welfare Department under the Ministry of Labour and Social Security and the Deputy Prime Minister's Office (DPMO).

The government spent approximately E496.4 million in the 2024/25 fiscal year on elderly and disability grants combined.

11.5 Specific categories experiencing particular issues/vulnerabilities.

Women and children with disabilities, and people with albinism in Eswatini face overlapping challenges. These challenges include widespread stigma, social exclusion, higher risk of physical and sexual violence, and major barriers to health facilities.⁸⁰

Women with disabilities

Women with disabilities face intersectionality of challenges. In addition to the general marginalisation that women encounter, women with disabilities face additional challenges of discrimination and stigmatisation in Eswatini on account of their disability. A country report by the UNPRPD, noted that women and girls with disabilities suffer particularly from sexual violence due to their vulnerability.⁸¹ This is also due to the perception that perpetrators of this crime may not be successfully prosecuted. Access to justice for women and girls is extremely poor due to lack of training by police and judicial staff, a lack of sensitivity, poor

76 K Thwala 'Eswatini ensuring inclusive election for persons with disabilities' *Eswatini Daily News* 3 June 2023 <https://swazidailynews.com/2023/06/03/eswatini-ensuring-inclusive-election-for-persons-with-disabilities/> (accessed 28 June 2025).

77 African Union 'Election observation mission to the 29th of September 2023 general elections in the kingdom of Eswatini' (2023) https://au.int/sites/default/files/pressreleases/43197-pr-PRELIMINARY_STATEMENT_-_AUEOM_IN_THE_KINGDOM_OF_ESWATINI_-_1_OCT_2023.pdf (accessed 28 June 2025).

78 As above.

79 As above.

80 UNPRPD (n 11) 17.

81 UNPRPD (n 11) 39.

infrastructure, communication and resources and stigma among family members.⁸²

Challenges face by persons with albinism

Albinism is a rare genetically inherited condition resulting in deficiency in production of melanin characterised by the partial or complete absence of pigment in the skin, hair and eyes.⁸³ This results in persons with albinism having the challenge of visual disability, and a high degree of vulnerability to skin damage as result of exposure to the sun.⁸⁴ This puts people with albinism at a higher risk of skin cancer.⁸⁵ Consequently, people with albinism require access to health facilities, which sometimes are not easily accessible to them in Eswatini. People with albinism also experience social challenges ranging from discrimination, stigmatisation and social exclusion due to their skin colour.⁸⁶

Challenges faced by children with disabilities

Children with disabilities encounter varying challenges, including access to education, health, social stigmatisation and social isolation. Several schools are not equipped to cater for children with disabilities.⁸⁷ Several schools lack trained teachers to cater for children with disabilities, and shortages of assistive technologies and negative attitudes of staff and fellow students towards children with disabilities, negatively affects their access to education.⁸⁸ Stigmatisation of children with disabilities, often results in their exclusion from community life and opportunities.⁸⁹

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in Eswatini at the moment?

Eswatini is actively considering and implementing several important measures for persons with disabilities at the moment, including:

- National Disability Plan of Action (2024-2028).
- Prioritising employment & entrepreneurship for persons with disabilities.
- Education and university inclusion for persons with disabilities.
- Ensuring ongoing accessibility in the voting infrastructure.

82 As above.

83 MA Miti-Drummond 'The report of the Independent Expert on the enjoyment of human rights by persons with albinism on children with albinism and the right to a family life' UN Doc A/79/175 (18 July 2024) 3.

84 As above.

85 As above.

86 As above.

87 P Mpofo & N Mkhathshwa 'The practicality of inclusive education in Eswatini primary schools' (2024) 5 *International Journal of Educational Management and Development Studies* 158, 168.

88 As above.

89 UN Eswatini 'United Nations Common Country analysis of the Kingdom of Eswatini' (April 2020) <https://eswatini.un.org/sites/default/files/2021-03/CCA%20Report%20-%20FINAL%20for%20printing%2022%20July.pdf> (accessed 04 December 2025).

12.2 What legal reforms are being proposed? Which legal reforms would you like to see in Eswatini? Why?

Eswatini has taken some steps toward aligning its legal framework with the CRPD. The next critical phase is focusing on operationalisation, systems strengthening, law reforms, and inclusive budgeting and enforcement. These steps are vital to transform Eswatini's legal framework from paper commitments into everyday lived equality and access for persons with disabilities.

Strengthening of the Commission on Human Rights and Public Administration (CHRPA)

Human Rights Commissions have the essential task of ensuring that the human rights of everyone in society are protected, including the rights of persons with disabilities, and that the state is held liable for its human rights violations. Unfortunately, the CHRPA in Eswatini is unable to effectively play this role because it lacks full independence, adequate resources, and a clearly defined mandate regarding the monitoring and enforcement of disability rights. Strengthening the Commission, through legal reforms that would allow it to function independently, effectively monitor violations, and issue binding recommendations. This includes empowering the Commission to receive and investigate complaints related to disability-based discrimination in areas such as education, healthcare, employment, and access to public services.

Electoral reforms to ensure increased political participation of persons with disabilities

Persons with disabilities in Eswatini continue to face significant structural and social barriers that hinder their effective political participation. Electoral processes in Eswatini are often physically and procedurally inaccessible.

- Polling stations lack ramps, tactile ballots, or sign language interpreters.
- Voter education materials are rarely available in accessible formats (for example, braille, large print, or audio).
- There is no provision for assisted or independent voting for persons with sensory or physical disabilities.

Therefore, targeted electoral reforms are essential to address these systemic exclusions and uphold democratic and human rights principles. Reforms must be mandated to ensure:

- Inclusive infrastructure at polling stations.
- Alternative voting mechanisms (for example, mobile voting units, absentee ballots).
- Disability-sensitive voter education programmes.

Scale up data systems

Reliable, disaggregated, and inclusive data is foundational to evidence-based policymaking, equitable service delivery, and the monitoring of national and international commitments such as the CRPD and the African Disability Protocol, the Disability Act of 2018, and other legal instruments. Currently, Eswatini faces significant data gaps that obscure the lived realities of persons with disabilities, impeding their inclusion in development planning and social protection mechanisms.

Scaling up disability-inclusive data systems is not merely a technical necessity; it is a moral and legal imperative for Eswatini. Without robust data, persons with disabilities will continue to be left behind in national development efforts, undermining the goal of a just, inclusive, and equitable society.

Stronger enforcement and oversight

Establishment of the Advisory Council is a good start, but it needs **real authority**, including complaint mechanisms, legal aid, and a budget for monitoring compliance across ministries.

GUINEA-BISSAU

Ana Carolina Figueiró Longo* & Tatiana Reinehr de Oliveira**

Summary

According to the United Nations (UN), the population of Guinea-Bissau is estimated to be 1.8 million. There has not been a recent census on persons with disabilities. In Guinea-Bissau, disability affects an estimated 0,94 per cent of the population (a significantly underreported figure compared to global estimates) with significant challenges related to poverty, conflict and lack of access to basic services. According to the World Health Organisation (WHO), the most prevalent forms of disabilities include deep-seated prejudice and negative social norms (linking disability to curses), limited access to essential services (for example, 59 per cent school non-attendance among youth with disabilities), poverty, and exposure to harmful traditional practices and ritualistic violence. Guinea-Bissau signed and ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol in 2014 and 2018, respectively. The Guinea-Bissau Constitution (articles 15, 16, 24) addresses disability indirectly through provisions on equality and access to health/education and directly references incapacity for work in social security (article 46(3)). However, the Draft Basic Law for the Protection, Promotion, and Inclusion of Persons with Disabilities is currently pending. Furthermore, Guinea-Bissau does not have an official body specifically tasked with combatting violations of the rights of persons with disabilities, but the National Commission for Human Rights and Citizenship (CNDHC) can indirectly address these issues.

The difficulties and challenges related to the legal and institutional framework have been partly resolved with adoption of the National Strategy for the Inclusion of People with Disabilities (2023) and the National Strategic Plan for Inclusive Education (2023), and also by the creation and operationalisation of a department for the sector in the Ministry for Women, Family and Social Solidarity (MFMSS). In addition, Disabled People's Organisations (DPOs) are critical in advocacy and filling service gaps.

The most urgent problems that need to be addressed progressively to ensure the inclusion of persons with disabilities include lack of awareness of the Convention and the National Disability Act, lack of an appropriate legal/judicial framework in accordance with the Convention; and lack of political will/interest/capacity.

* PhD candidate in Law and Public Policy, LL.M. in Constitutional Law (Brazilian Institute of Public Law); Professor of Human Rights in the undergraduate Law Programme at CEUB, mother of Gabriel and Thais.

** PhD in Law and Public Policy (CEUB/PDSE Paris 1 – Sorbonne), visiting professor at the Post Graduate Lato Sensu Programme of CEUB.

1 Population indicators

1.1 What is the total population of Guinea-Bissau?

In 2023, the total population of Guinea-Bissau reached 1 781 308 people, with the women outnumbering the men (939 041 versus 842 267). The majority of the population, 58,3 per cent, are concentrated in rural areas, as opposed to 47,6 per cent living in urban areas. SAB, Oio and Gabu are the most populated areas, representing, 25,2 per cent, 14,9 per cent and 14,2 per cent of the total population, respectively.¹

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in Guinea-Bissau. What criteria are used to determine who falls within the class of persons with disabilities in Guinea-Bissau?

The process of collecting statistical data on disability prevalence in Guinea-Bissau followed a structured and collaborative methodology, engaging both governmental institutions and civil society. It began with training sessions for ministry representatives on reporting under the Convention on the Rights of Persons with Disabilities (CRPD).² A working group then carried out consultations with various ministries, including Health, Education, Justice, and Public Works, as well as national bodies such as the National Institute of Statistics and the Motor Rehabilitation Centre. Civil society organisations (CSOs), including the Federation of Associations for the Defence and Promotion of the Rights of People with Disabilities and the National Association of the Deaf, were also involved. After forming a five-member working group, additional consultations were held with civil society (9 September 2024), followed by a validation meeting with nearly all ministries (8 October 2024), ensuring a governmental endorsement of the report.

The criteria for defining persons with disabilities in Guinea-Bissau are multifaceted, drawing from constitutional provisions, international conventions, and practical considerations in social protection. Although no single legal instrument exists, the country follows the CRPD definition, emphasising long-term disabilities and societal barriers. National studies have identified typologies such as visual, hearing, physical, intellectual, psychosocial, and motor disabilities. Functional capacity and socio-economic factors also play a role, particularly regarding eligibility for welfare programmes. Moreover, cultural norms and social perceptions significantly influence the recognition of disability, often reinforcing discrimination and exclusion. Thus, Guinea-Bissau adopts a holistic understanding that integrates medical, functional, and social dimensions.

1 World Health Organisation (WHO) 'Country profile: Guinea Bissau' (2025) <https://www.who.int/about/accountability/results/who-results-report-2024-2025/country-profile/2024/guinea-bissau> (accessed 27 October 2025).

2 CRPD, Initial Report submitted by Guinea Bissau under article 35 of the Convention, due in 2016, 5 December 2024, UN Doc CRPD/C/GNB/1 (2024) <https://www.ecoi.net/en/document/2120515.html> (accessed 27 October 2025).

1.3 What is the total number and percentage of persons with disabilities in Guinea-Bissau?

The last National Census in Guinea-Bissau, carried out in 2009, recorded 13 590 persons with disabilities, representing 0,94 per cent of the population. However, the lack of updated research for over more than 14 years has created significant data gaps.³ A nationwide mapping initiative conducted in 2020-2021 by the Federation of Associations for the Defence and Promotion of the Rights of Persons with Disabilities, with United Nations Development Programme (UNDP) support, identified 11 548 persons with disabilities across all regions. The results showed regional disparities, with Oio registering the highest number (2 172 people, 19 per cent) and Bolama-Bijagós the lowest (490 people, four per cent). Although the mapping process, carried out by 100 trained surveyors, provided valuable insights – especially during the COVID-19 response – some areas remained uncovered due to logistical constraints.⁴

1.4 What is the total number and percentage of women with disabilities in Guinea-Bissau?

In Guinea-Bissau, according to the 2009 Census, there were 6 265 women with disabilities, representing 46,1 per cent of the total population with disabilities. Furthermore, according to the Federation of Associations for the Defence and Promotion of the Rights of Persons with Disabilities of Guinea-Bissau's database on persons with disabilities in Guinea-Bissau, conducted in 2021, among those with registered disabilities, 5 378 (46 per cent) are female.⁵

1.5 What is the total number and percentage of children with disabilities in Guinea-Bissau?

Although recent official reports did not provide a total count of children with disabilities, a 2021 study by the Federation of Associations for the Defence and Promotion of the Rights of Persons with Disabilities in Guinea-Bissau revealed that approximately 16 per cent of children between the ages of five and 17 were living with some form of disability.⁶

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in Guinea-Bissau?

According to the study conducted by the National Institute for Study and Research (INEP) in 2009, specific identified typologies of disability included partial visual disability; hearing disability; physical disability, particularly of the lower limbs; intellectual and psychosocial disability; and motor disability. A peculiarity to disability in Guinea-Bissau is its relation to the country's chronic instability since independence in 1974, which has contributed to persistent poverty. As of September 2023, a significant portion of the population lives in poverty, with 64,4

3 UNDP 'Launch of database of persons with disabilities in Guinea Bissau' 9 August 2021 <https://www.undp.org/guinea-bissau/news/launch-database-persons-disabilities-guinea-bissau> (accessed 27 October 2025).

4 As above.

5 As above.

6 I Suvillaga 'Fighting disability and poverty in Guinea Bissau' The Borgen Project (5 September 2025) <https://borgenproject.org/fighting-disability-and-poverty-in-guinea-bissau/> (accessed 27 October 2025).

per cent of citizens subsisting below the poverty line. In addition, 68 per cent are unable to afford a healthy and nutritious diet. This challenging environment is particularly arduous for children and adults with disabilities, who encounter significant barriers exacerbated by prevalent prejudice and negative social norms.⁷

2 Guinea-Bissau's international obligations

2.1 What is the status of the UN Convention on the Rights of Persons with Disabilities (CRPD) in Guinea-Bissau? Has Guinea-Bissau signed and ratified the CRPD? Provide the date(s).

Guinea-Bissau has made a formal commitment to the CRPD by ratifying both the Convention and its Optional Protocol on 24 September 2014 and 22 October 2018, respectively. According to the Constitution of the Republic of Guinea-Bissau, international legal instruments, including human rights treaties, have direct applicability and immediate effect within the domestic legal system once they enter into force. This means that the CRPD's principles are integrated directly into the country's legal framework. Despite this legal progress, the state still faces significant challenges in fully incorporating the rights of persons with disabilities into specific public and macro-economic policies, largely due to ongoing political instability.⁸

2.2 If Guinea-Bissau has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for submission of the report? Has Guinea-Bissau submitted its report? If not, what reason does the relevant government department give for the delay?

Although Guinea-Bissau ratified the CRPD to reinforce its commitment to protecting disability rights, the state has struggled to translate its principles into effective public and macro-economic policies. On 5 December 2024, the country submitted its Initial Report under article 35 of the CRPD – originally due in 2016 – through the Ministry of Foreign Affairs, following the work of an inter-ministerial group and approval by the Minister for Women, Family and Social Solidarity. While acknowledging progress in fulfilling international obligations, Guinea-Bissau continues to face serious challenges, particularly in a context of widespread poverty. Data from the National Statistics Institute (2009) shows that 33 per cent of the population lives in extreme poverty, and 69 per cent in relative poverty, conditions that disproportionately affect persons with disabilities by limiting access to education, employment, and social inclusion.⁹

Disability demographics further illustrate structural challenges: while the World Health Organisation (WHO) estimates that 16 per cent of the global population lives with a disability, Guinea-Bissau's 2009 Census reported only 0,94 per cent.¹⁰ This discrepancy reflects the need for updated research and more effective data collection methodologies. To address this, the upcoming 2025

7 As above.

8 Initial Report (n 2).

9 As above.

10 As above.

General Census will introduce new questions aligned with CRPD principles to produce more accurate national statistics. Despite data inconsistencies, reports highlight that women are the main victims of violence in Guinea-Bissau, and women with disabilities are even more vulnerable, facing higher rates of abuse compared to women without disabilities

2.3 While reporting under various other UN instruments, the African Charter on Human and Peoples' Rights, or the African Charter on the Rights and Welfare of the Child, has Guinea-Bissau also reported specifically on the rights of persons with disabilities in its most recent reports? If so, were concluding observations adopted? If relevant, were these observations given effect to? Was mention made of disability rights in Guinea-Bissau's UN Universal Periodic Review (UPR)? If so, what was the effect of these observations/recommendations?

Regarding other instruments, according to the Report on the Right to Health in Guinea Bissau, from April 2017, the country has ratified: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) – 1 November 2010, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – 23 August 1985, the Convention on the Rights of the Child (CRC) – 20 August 1990, and the CRPD – 24 September 2014.

Guinea-Bissau submitted its Report on the Implementation of the CRPD in December 2024. In addition, it submitted its Combined Fifth and Sixth Periodic Reports on the Implementation of the CRC in May 2024. The State Report of Guinea-Bissau for the 4th Cycle of the Universal Periodic Review (UPR) also refers to the rights of persons with disabilities and highlights the country's efforts and challenges in this area.¹¹

As part of the United Nations Human Rights Council's UPR conducted in January 2015, Guinea-Bissau received 151 recommendations. Among them was a request that the country ratify human rights treaties aimed at protecting persons with disabilities and take the necessary measures to prevent ritual killings of children with disabilities, including investigating and prosecuting suspects and intensifying efforts to eliminate such practices.¹² In 2022, Guinea-Bissau adopted a national human rights strategy and action plan, fulfilling a previous commitment.¹³

Guinea-Bissau has demonstrated its commitment to human rights through various legal actions and legislative developments. It ratified the Optional Protocol to the CRPD on 22 October 2018. However, the country has not yet ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.

11 SF Imbunde 'Reflections on physical disability in the family environment in Guinea-Bissau' Final Course Work, Bachelor's Degree in Pedagogy, Institute of Humanities and Letters of Malês, University of International Integration of Afro-Brazilian Lusophony, São Francisco do Conde, 2023 <https://repositorio.unilab.edu.br/jspui/handle/123456789/3560> (accessed 27 October 2025).

12 Office of the United Nations Integrated Peacebuilding Office in Guinea Bissau 'Realising the human rights of children with disabilities must be a priority' (2015) <https://uniogbis.unmissions.org/en/node/100041373> (accessed 27 October 2025).

13 Imbunde (n 11).

Additionally, Guinea-Bissau has ratified several other significant international legal instruments concerning children's rights, including the African Charter on the Rights and Welfare of the Child and the CRC; both Conventions incorporate provisions relevant to the rights of children with disabilities.¹⁴

2.4 Was there any domestic effect on Guinea-Bissau's legal system after ratifying the international or regional instrument in 2.3 above? Does the international or regional instrument that has been ratified require Guinea-Bissau's legislature to incorporate it into the legal system before the instrument can have force in Guinea-Bissau's domestic law? Have Guinea-Bissau's courts ever considered this question? If so, cite the case(s).

The ratification of the CRPD in 2014 provided a framework for Guinea-Bissau to adopt laws and policies aimed at protecting and promoting the rights of persons with disabilities. However, the practical implementation of these commitments has been limited, and many initiatives remain pending. Recent reporting and reviews have highlighted the following domestic legislative developments:

- **Labour Code** – Act 07/2022, currently in force, establishes labour protections relevant to persons with disabilities.¹⁵
- **Code for the Comprehensive Protection of Children** – awaiting adoption by the National People's Assembly, with provisions relevant to children with disabilities.
- **Revisions to the Civil Code, Code of Civil Procedure, Criminal Code, and Code of Criminal Procedure** – pending approval, aimed at aligning civil and criminal legislation with human rights standards, including disability rights.
- **Draft Basic Law for the Protection, Promotion, and Inclusion of Persons with Disabilities** – currently under discussion in the Council of Ministers and awaiting submission to the National People's Assembly for approval.¹⁶
- **Constitution of the Republic of Guinea-Bissau** – Articles 24 and 49 guarantee the right to education for all citizens, indirectly encompassing persons with disabilities.¹⁷
- **Basic Law on the Educational System** – Law 04/2011, provides for inclusive education and the identification of children with special educational needs.¹⁸
- **Law on the Teaching Career** – Law 02/2011, includes provisions for the recruitment and professional development of teachers addressing special educational needs.
- **Law on Female Genital Mutilation (FGM)** – Law 14/2011, criminalises FGM and has led to convictions, demonstrating the judiciary's capacity to enforce specific laws.

Despite these frameworks, reports indicate that the domestic effect of the CRPD remains limited. The ratification has not yet resulted in widespread integration of disability rights into public and macro-economic policies, and enforcement of

14 Office of the United Nations High Commissioner for Human Rights 'UPR – Guinea-Bissau' (2025) <https://www.ohchr.org/en/hr-bodies/upr/gw-index> (accessed 27 October 2025).

15 F Cá 'Public policies for inclusion and access to education for people with disabilities (PWD) in Bissau/Guinea-Bissau' Undergraduate Public Administration Course, Institute of Applied Social Sciences, University of International Integration of Afro-Brazilian Lusophony, Redenção-Ceará, 2023 <https://repositorio.unilab.edu.br/jspui/handle/123456789/4784> (accessed 27 October 2025).

16 Imbunde (n 11).

17 BBVF Biague 'Constitution and human rights in Guinea-Bissau' Thesis, Department of Public Law, Federal University of Rio Grande do Norte, 2019.

18 Cá (n 15).

existing laws is uneven. The ongoing legislative initiatives, including the draft Basic Law for Persons with Disabilities, signal potential progress, but the gap between ratification,¹⁹ legislation, and effective implementation remains a persistent challenge.

2.5 With reference to 2.4 above, has the CRPD or any other ratified international instrument been domesticated? Provide details.

Guinea-Bissau's Initial Report under article 35 of the CRPD states that the Convention, once ratified, holds supra-legal force and is directly applicable within the national legal system, taking precedence over ordinary laws. The Report also notes the ratification of other key treaties, including ICERD, the CEDAW, the CRC, and the African Charter on the Rights and Welfare of the Child (ACRWC). While these instruments have been ratified, Guinea-Bissau is still harmonising its domestic legislation with international norms, as exemplified by the pending adoption of the Code for the Comprehensive Protection of Children and the ongoing revisions to the Civil, Civil Procedure, Criminal, and Criminal Procedure Codes.²⁰

3 Constitution

3.1 Does Guinea-Bissau's Constitution contain provisions that directly address disability? If so, list the provisions, and explain how each provision addresses disability.

The Constitution of Guinea-Bissau contains provisions that directly address disability, as follows:

- **Article 5(2)(a):** this provision expresses the Republic's duty to ensure a dignified existence for 'combatants for the liberation of the Homeland', particularly those who suffered a 'physical diminution that makes them, totally or partially, incapable of work' due to their participation in the liberation struggle. This directly addresses physical disability and its impact on work capacity for a specific group.
- **Article 46(3):** this article proclaims that: 'the State shall gradually create a system capable of guaranteeing workers social security in old age, illness or when they incur incapacity for work.' This explicitly mentions 'incapacity for work' as a condition for which social security should be provided, directly acknowledging disability in the context of employment and social protection.

3.2 Does Guinea-Bissau's Constitution contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

The Constitution of Guinea-Bissau also includes provisions that, while not explicitly naming disability, are relevant to its indirect recognition and protection, as listed below:

- **Article 15 (Public Health):** this article sets the objective of public health as promoting the physical and mental well-being of the population and their balanced

19 Office of the United Nations High Commissioner for Human Rights (n 14).

20 Initial Report (n 2).

integration into the socio-ecological environment. While not explicitly mentioning disability, access to healthcare and well-being are fundamental for persons with disabilities.

- **Article 16 (Education):** this provision states that education aims at human formation, providing qualifications, knowledge, and values for integration into the community. This general right to education applies to all citizens, including persons with disabilities, ensuring their access to learning and development.
- **Article 24 (Equality):** this article declares that 'all citizens are equal before the law, enjoy the same rights and are subject to the same duties, without distinction of race, sex, social, intellectual or cultural level, religious belief or philosophical conviction'. While disability is not listed, the principle of non-discrimination and equality before the law implicitly extends protection to persons with disabilities, ensuring they enjoy the same rights without distinction.
- **Article 29(1):** this provision states that 'the fundamental rights enshrined in the Constitution do not exclude any others contained in the other laws of the Republic and the applicable rules of international law'. This opens the door for the application of international human rights instruments, such as the CRPD, which specifically detail the rights of persons with disabilities, thus indirectly reinforcing those rights within the national legal framework.
- **Article 29(2):** this article mandates that constitutional and legal precepts relating to fundamental rights 'must be interpreted in harmony with the Universal Declaration of Human Rights'. Article 25 of the Universal Declaration of Human Rights (UDHR) includes the right to a standard of living adequate for health and wellbeing and specifically mentions 'disability' as a condition for which security is guaranteed. This provides an interpretative lens that includes disability rights.
- **Article 32 (Access to Justice):** this provision affirms the right of every citizen to have recourse to judicial bodies against acts that violate their rights, ensuring justice is not denied due to lack of economic means. This right is crucial for persons with disabilities to seek redress for any violations of their rights.
- **Article 37 (Integrity of the Person):** this article states that 'the moral and physical integrity of citizens is inviolable' and prohibits torture or cruel, inhuman, or degrading treatment. These protections are fundamental for all individuals, including persons with disabilities, who may be at a higher risk of such abuses.

4 Legislation

4.1 Does Guinea-Bissau have legislation that directly addresses disability? If so, list the legislation and explain how the legislation addresses disability.

Guinea-Bissau does not yet have a comprehensive, standalone national law specifically addressing all disability issues. However, disability rights are partially protected through ratified international treaties and existing national laws. The main instruments currently in force include:

- **CRPD** (ratified 2014): holds supra-legal force and is directly applicable within the national legal system; serves as the principal instrument for protecting the rights of persons with disabilities.
- **Draft Basic Law for the Protection, Promotion, and Inclusion of Persons with Disabilities:** Currently pending but once adopted it will be the first comprehensive national law dedicated exclusively to persons with disabilities.²¹ Currently, there is no approved national law exclusively dedicated to persons with disabilities; the CRPD serves as the main legal instrument.

21 Imbunde (n 11).

These instruments provide partial protection and guidance for disability rights, but a comprehensive, standalone national law on disability has not yet been enacted.²²

4.2 Does Guinea-Bissau have legislation that indirectly addresses disability? If so, list the main legislation and explain how the legislation relates to disability.

- Labour Code – Act 07/2022 – Protects workers and includes provisions relevant to the inclusion of persons with disabilities.
- Basic Education Law – Law 04/2010 – Provides for inclusive education, covering children with physical or intellectual and psychosocial disabilities.
- Law on the Teaching Career – Law 02/2011 – Establishes rights and duties for teachers addressing special educational needs.
- Constitution of the Republic of Guinea-Bissau, articles 24 and 49 – Guarantees the right to education for all citizens, including persons with disabilities.
- Law on Female Genital Mutilation (FGM) – Law 14/2011 – Protects vulnerable groups; not specific to disability but demonstrates enforcement of protective legislation.
- General Legislative Frameworks and Sectoral Provisions – Various codes and laws contain provisions benefiting persons with disabilities, though not exclusively.
- National Strategies and Plans – Strategic instruments guide inclusion policies, including for persons with disabilities.²³

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in Guinea-Bissau ever decided on an issue relating to disability? If so, list the cases and provide a summary for each of the cases indicating the facts, the decision(s), the reasoning and impact (if any) the cases have had.

The judiciary in Guinea-Bissau faces significant institutional, cultural, and operational weaknesses, limiting the protection of persons with disabilities. Although the country ratified the CRPD in 2014, its principles of inclusion and non-discrimination have not been consistently applied. The justice system suffers from lack of resources, poor infrastructure, and limited judicial independence, which suppresses access to justice and the ability to respond to rights violations.²⁴

A landmark case recorded in 2015 in the Biombo region involved sexual violence against a child with a disability. The accused was prosecuted, tried, and convicted under article 110 of the Penal Code, which protects the life and physical integrity of children, including those with disabilities. This judgment occurred amid international pressure from the UN Human Rights Council to address ritual killings of children with disabilities, demonstrating that criminal accountability, though rare, is possible.²⁵

In contrast, other serious cases have not led to judicial action. One example is the ritual killing of a child with a disability in Bissau, where the child drowned as

22 Office of the United Nations High Commissioner for Human Rights (n 14).

23 As above.

24 Imbunde (n 11).

25 Office of the United Nations Integrated Peacebuilding Office in Guinea Bissau (n 12).

part of a traditional ritual considered by certain communities as a spiritual act rather than a crime. The absence of prosecution in this case underscores the influence of cultural prejudices and the state's failure to enforce legal protections for persons with disabilities.²⁶

Overall, the justice system shows a wide gap between Guinea-Bissau's international obligations and domestic implementation regarding disability rights. The isolated conviction does not indicate a trend of accountability, as impunity remains widespread due to structural, cultural, and institutional barriers. Comprehensive reforms, human rights education, and targeted public policies are necessary to ensure compliance with the CRPD and guarantee justice for persons with disabilities.²⁷

6 Policies and programmes

6.1 Does Guinea-Bissau have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

In June 2023, Guinea-Bissau adopted the National Strategy for the Inclusion of People with Disabilities, as a specific national policy that directly addresses issues relating to disability. This strategy is a comprehensive framework aimed at guiding efforts towards the full inclusion of persons with disabilities in society. It sets out various strategic actions, including the crucial objective of creating specific legislation to ensure compliance with principles such as availability, accessibility, acceptability, and quality in accordance with article 25 of the CRPD. It is designed to foster a more inclusive society by addressing systemic barriers.²⁸

6.2 Does Guinea-Bissau have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

The National Strategic Plan for Inclusive Education, adopted in March 2023, also outlines efforts toward inclusive education for persons with disabilities. This plan specifically focuses on integrating children and persons with disabilities into the education system. It outlines strategies and actions to make education accessible and inclusive, ensuring that persons with disabilities have equal opportunities to learn and develop within the mainstream educational environment.²⁹

These policies demonstrate Guinea-Bissau's commitment to implementing the principles of the CRPD and fostering a more inclusive society for persons with disabilities.

26 As above.

27 Office of the United Nations High Commissioner for Human Rights (n 14).

28 Office of the United Nations Integrated Peacebuilding Office in Guinea Bissau (n 12)

29 As above

7 Disability bodies

7.1 Other than the ordinary courts and tribunals, does Guinea-Bissau have any official body that specifically addresses violations of the rights of persons with disabilities? If so, describe the body, its functions and its powers.

Guinea-Bissau currently does not have an official body specifically established to monitor or address violations of the rights of persons with disabilities. While strategic initiatives, such as the National Strategy for the Inclusion of Persons with Disabilities (2022) and the proposed Basic Law on the Protection, Promotion and Inclusion of Persons with Disabilities, aim to guide intersectoral policies, they lack coercive or enforcement powers and remain largely advisory.^{30 31}

Some sectoral structures, such as the General Directorate for Inclusive Education (DGEI) and the Inclusive Education Support Centres (CAEI), focus on promoting inclusive education and providing technical support to students with disabilities. However, these bodies do not have judicial or supervisory authority and cannot investigate or sanction rights violations. Their role is primarily in policy implementation, training, and dissemination of resources.³²

7.2 Other than the ordinary courts or tribunals, does Guinea-Bissau have any official body that though not established to specifically address violations of the rights of persons with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.

Several broader-mandate institutions can indirectly act to protect the rights of persons with disabilities. The National Commission for Human Rights and Citizenship (CNDHC) monitors human rights, reports violations, and recommends actions. While it lacks judicial authority, its mandate includes disability-related issues, and it serves as the main consultative and oversight body for human rights in the country.³³

Other relevant bodies include the National Child Protection Commission, the Ministry of Justice and Human Rights, and the Office of the Attorney General. These institutions can address cases affecting persons with disabilities as part of their general human rights and child protection mandates. Nevertheless, systemic challenges – such as limited resources, political instability, impunity, traditional

30 EA Costa 'Orphaned children in Guinea-Bissau' (2023) <https://repositorio.unilab.edu.br/jspui/handle/123456789/3482> (accessed 28 October 2025).

31 Office of the United Nations High Commissioner for Human Rights (n 14).

32 UNICEF 'National Strategic Plan for Inclusive Education for Guinea-Bissau 2022-2028' (2022) <https://www.unicef.org/guineabissau/media/2136/file/Plano%20Estrat%C3%A9gico%20Nacional%20de%20Educa%C3%A7%C3%A3o%20Inclusiva%20para%20a%20Guin%C3%A9-Bissau%202022%20%E2%80%93%202028.pdf> (accessed 28 October 2025).

33 Office of the United Nations High Commissioner for Human Rights (n 14).

practices, and low awareness of legislation – severely constrain their capacity to provide effective protection.³⁴

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

8.1 Does Guinea-Bissau have a Human Rights Commission, an Ombudsman or Public Protector? If so, does its remit include the promotion and protection of the rights of persons with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, Ombudsman or Public Protector has ever addressed issues relating to the rights of persons with disabilities.

Guinea-Bissau has a CNDHC, revised in 2022 to align with the Paris Principles and formally approved in 2024, serving as the country's main institution for the promotion and protection of human rights and as the de facto human rights unit within the Ministry of Justice and Human Rights.³⁵ The government has also announced plans to establish an Ombudsman (Public Protector) to function as a national human rights institution in line with international recommendations. The CNDHC's mandate explicitly includes vulnerable groups, such as persons with disabilities, reinforced by Guinea-Bissau's ratification of the CRPD, the National Strategy for the Inclusion of Persons with Disabilities (2022), the National Strategy for Inclusive Education (2023), and the draft Basic Law on Protection, Promotion, and Inclusion of Persons with Disabilities currently under review.³⁶

Despite these frameworks, effective implementation of disability-related policies remains limited. The country lacks adequate legal enforcement tools, and systemic challenges – including political instability, widespread impunity, persistence of traditional beliefs associating disability with curses, and weak state presence in rural areas – hinder protection and service access.³⁷ Consequently, CSOs, such as the Guinean Human Rights League and local associations, play a critical role in raising awareness, monitoring violations, and supporting enforcement of international standards. While the CNDHC has demonstrated commitment to disability rights, its actual impact depends on stronger institutional capacity, resources, and coordination with state and non-state actors.³⁸

34 UNDP 'Country programme document for Guinea-Bissau 2022-2026' (2024) https://www.undp.org/sites/g/files/zskgke326/files/2024-11/cpd1_final_0.pdf (accessed 28 October 2025).

35 United Nations Human Rights Council (n 14).

36 UNDP (n 34).

37 I Dansó 'Guinea-Bissau: Association denounces abuse against people with disabilities' *DW* 20 January 2022 <https://www.dw.com/pt-002/associa%C3%A7%C3%A3o-guineense-denuncia-abusos-contrapessoas-com-defici%C3%Aancia/a-60492302> (accessed 28 October 2025).

38 United Nations Human Rights Council (n 14).

9 Disabled peoples organisations (DPOs) and other civil society organisations

9.1 Does Guinea-Bissau have organisations that represent and advocate for the rights and welfare of persons with disabilities? If so, list each organisation and describe its activities.

Guinea-Bissau has several organisations representing persons with disabilities, including the Guinean League for Human Rights (LGDH), Guinean Association for the Rehabilitation and Integration of the Blind (AGRICE), Federation of Associations for the Defence and Promotion of Persons with Disabilities of Guinea-Bissau (FADPD-GB), and the National Platform of Organisations of Persons with Disabilities for Inclusive Development (PNOPDDI). These organisations engage in advocacy, public awareness campaigns, policy development, inclusive education initiatives, and the creation of essential services, such as the Bengala Branca School and the Guinean Sign Language Dictionary.^{39,40}

Their activities include monitoring violations, promoting rehabilitation and access to training, and collaborating with international partners to compensate for institutional gaps. LGDH also addresses broader human rights issues while highlighting violations affecting persons with disabilities. AGRICE focuses on visual disabilities and educational inclusion. FADPD-GB works with public and international institutions to promote inclusive education, and PNOPDDI coordinates local associations nationwide.⁴¹

9.2 In the countries in Guinea-Bissau's region (Oriental Africa), are DPOs organised or coordinated at national and/or regional level?

In Guinea-Bissau, there is no formal national or regional coordination of Organisations of Persons with Disabilities (OPDs). However, they participate in broader networks, such as the Human Rights and Child Rights NGO Forum of the PALOP countries (Portuguese-speaking African Countries), which facilitates some regional collaboration.

In other West African countries, there are examples of regional articulation among OPDs, especially in Lusophone Africa (for example, Angola and Cape Verde). These networks provide normative support through instruments like the ACHPR and the 2018 Protocol on the Rights of Persons with Disabilities in Africa, though formal regional coordination remains limited.⁴²

39 ZBS Sarr 'Social and educational policies for children with disabilities in schools in Guinea-Bissau' UNILAB Institutional Repository (2021) <https://repositorio.unilab.edu.br/jspui/handle/123456789/4661> (accessed 28 October 2025).

40 RT Djaló 'Educational Public Policies in Guinea-Bissau: The case of visually impaired persons (2009-2016)' UNILAB Institutional Repository (2022) <https://repositorio.unilab.edu.br/jspui/handle/123456789/4266> (accessed 28 October 2025).

41 United Nations Development Programme (n 3).

42 Cá (n 15).

9.3 If Guinea-Bissau has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

Guinea-Bissau ratified the CRPD in 2014 and has since engaged DPOs through the development of the National Strategy for the Inclusion of Persons with Disabilities (2022) and the National Strategy for Inclusive Education (2023). DPOs were involved in consultations and advocacy that informed these strategies, ensuring their perspectives were incorporated into national policy frameworks.

DPOs also contributed to reporting processes, such as national reports for the UPR, and provided input for the draft Basic Law on Protection, Promotion, and Inclusion of Persons with Disabilities, further integrating their voices into the implementation of CRPD obligations.⁴³

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

DPOs have actively conducted advocacy campaigns, public awareness initiatives, and policy lobbying, while creating concrete services to address gaps, such as the Bengala Branca School and the Guinean Sign Language Dictionary.⁴⁴ They also collaborate with international partners like the EU and Handicap International, participate in national strategy consultations, and monitor government compliance with disability rights obligations. These actions ensure their perspectives are considered in policymaking and service delivery.^{45 46}

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

DPOs face significant barriers including political instability, weak infrastructure, limited state support, outdated statistical data, and deep-rooted social prejudice, such as beliefs that disability is a curse.^{47 48} Other obstacles include lack of financial resources, insufficient technical capacity, and limited effectiveness of public policies, which collectively hinder meaningful participation in policymaking, monitoring, and enforcement of disability.⁴⁹

9.6 Are there specific instances that provide ‘best-practice models’ for ensuring proper involvement of DPOs?

The participatory process for the UN Sustainable Development Cooperation Framework in Guinea-Bissau is an example of inclusive consultation, where DPOs and civil society actors were engaged in shaping development priorities.^{50 51} Additionally, the creation of specialised services like the Bengala Branca School

43 United Nations Development Programme (n 3).

44 Office of the United Nations Integrated Peacebuilding Office in Guinea Bissau (n 12).

45 United Nations Development Programme (n 3).

46 Djaló (n 40).

47 BJT Silva ‘Human rights in Guinea-Bissau: An analysis of the role and challenges of the Guinean League for Human Rights of Guinea-Bissau’ UNILAB Institutional Repository: (2016) <https://repositorio.unilab.edu.br/jspui/handle/123456789/2818> (accessed 28 October 2025).

48 Djaló (n 40).

49 Biague (n 17).

50 United Nations Development Programme (n 3).

51 UNDP (n 34).

and the Guinean Sign Language Dictionary demonstrates effective collaboration between DPOs, government, and international partners, serving as models for participatory planning and policy implementation.⁵²

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

DPO engagement has contributed to the ratification of the CRPD, the adoption of national strategies, and increased public debate on disability rights. Access to inclusive education has improved through initiatives like the Bengala Branca School, and awareness of sign language and disability inclusion has expanded via the Guinean Sign Language Dictionary.^{53 54} These outcomes indicate that DPO involvement strengthens policy development, promotes social inclusion, and fills gaps left by limited state capacity, although challenges remain in ensuring full implementation and enforcement.⁵⁵

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

DPOs require capacity building in technical skills, research, and data collection to participate effectively in policy monitoring and the implementation of CRPD obligations.^{56 57} Enhancing research capacity would allow DPOs to document violations, analyse policy effectiveness, and provide evidence-based recommendations, thereby increasing their influence in national decision-making and advocacy processes.⁵⁸

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

Recommendations include formalising mechanisms for DPO participation in policymaking, ensuring financial and technical support, improving research capacity, conducting public awareness campaigns, and enforcing accountability measures to address abuse, discrimination, and violence against persons with disabilities. Institutionalised engagement, regular consultations, and stronger collaboration with both state and non-state actors would empower DPOs to take a leading role in CRPD implementation and broader human rights initiatives.⁵⁹

52 United Nations Integrated Peacebuilding Office in Guinea-Bissau (n 12).

53 As above.

54 Cá (n 15).

55 United Nations Development Programme (n 3).

56 Biague (n 17).

57 Dansó (n 37).

58 United Nations Development Programme (n 3).

59 As above.

9.10 Are there specific research institutes in the region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

No dedicated research institutes focusing exclusively on disability rights were identified in Guinea-Bissau or its immediate region. However, institutions such as Guinea-Bissau's National Institute of Statistics (INE), along with UN agencies like UNDP and UNICEF, have generated data and partnered with DPOs to inform inclusive policies and improve understanding of the realities faced by persons with disabilities.⁶⁰ These collaborations enable DPOs to participate more effectively in policy design and advocacy, compensating for the absence of specialised regional research centres.

10 Government departments

10.1 Does Guinea-Bissau have a government department(s) that is/are specifically responsible for promoting and protecting the rights and welfare of persons with disabilities? If so, describe the activities of the department(s).

Guinea-Bissau has established several government departments and entities tasked with promoting and protecting the rights and welfare of persons with disabilities, though significant gaps remain in the effective implementation of policies. The Ministry for Women, Family and Social Solidarity (MFMSS) leads in formulating disability-related policies, such as the National Strategy for the Inclusion of Persons with Disabilities (2022), and coordinates initiatives that address vulnerabilities, particularly for women and children with disabilities. The Ministry of National Education, Higher Education and Scientific Research oversees inclusive education through the National Strategy for Inclusive Education (2023) and the Directorate-General for Inclusive Education (DGEI), responsible for mapping students with special education needs and providing adapted teaching resources, including the Guinean Sign Language Dictionary and braille materials. The Ministry of Justice and Human Rights contributes by reporting on CRPD implementation, developing a National Strategy for Human Rights and Citizenship, and promoting accountability for human rights violations. Additionally, the National Human Rights Commission, following the revision of its statutes in 2022 to align with the Paris Principles, monitors the human rights situation, including the rights of persons with disabilities, and submits reports to the Human Rights Council (HRC). Despite these structures, challenges such as political instability, social prejudice, inaccessible infrastructure, lack of trained professionals, and insufficient funding limit the translation of legal and policy frameworks into tangible improvements in the lives of persons with disabilities.

60 UNDP (n 34).

11 Main human rights concerns of people with disabilities in Guinea-Bissau

11.1 What are the contemporary challenges of persons with disabilities in Guinea-Bissau?

Persons with disabilities in Guinea-Bissau face a range of significant contemporary challenges, stemming from societal attitudes, limited access to basic services, and, in some severe cases, harmful traditional practices and violence. These may include deep-seated prejudice and negative social norms surrounding disability, limited access to basic services, poverty and social marginalisation, and harmful customary practices and violence.⁶¹

11.2 Describe these contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses.

In Guinea-Bissau, children with disabilities are often stigmatised due to beliefs that link disability to curses or witchcraft, leading to neglect, abandonment, and social ostracisation. Essential services such as health, education, and social assistance remain largely inaccessible, with school non-attendance among youth with disabilities estimated at 59 per cent. Schools frequently lack inclusive education training, accessible infrastructure, and equitable practices. Disability is closely associated with poverty, malnutrition, and social marginalisation, which limits access to work, education, and social services, further exacerbating inequalities.⁶²

Harmful traditional practices pose additional risks. Some ethnic groups in remote areas perceive children with disabilities as reincarnations of bad spirits, exposing them to psychological, physical, and sexual violence, and in extreme cases, infanticide. Reports highlight ritual homicides and elevated violence against women with disabilities compared to women without disabilities. Calls have been made to prevent these abuses, investigate incidents, and prosecute perpetrators, yet implementation remains weak.^{63 64}

Despite progress through the domestication of the CRPD and adoption of national strategies, Guinea-Bissau lacks a comprehensive national law exclusively dedicated to disability rights, leaving enforcement dependent on broad interpretations of general laws. Persistent challenges – including limited access to services, inadequate infrastructure, high poverty rates, and deep-seated social prejudices – highlight gaps in effective implementation and societal protection. Legislative reforms are underway to align domestic law with international instruments, but full impact on disability rights remains limited and gradual.⁶⁵

61 C Alves, R Mbouet & M Gonzalez 'In Guinea Bissau, students with disabilities hit the books to make their parents proud' World Food Programme (1 December 2023) <https://www.wfp.org/stories/guinea-bissau-students-disabilities-hit-books-make-their-parents-proud> (accessed 28 October 2025).

62 Suvillaga (n 6).

63 United Nations Integrated Peacebuilding Office in Guinea-Bissau 'Fulfilling the human rights of children with disability must be a priority' *UNIOGBIS* 29 May 2015.

64 UNICEF (n 32).

65 UNDP (n 36).

11.3 Do persons with disabilities have a right to participation in political life (political representation and leadership) in Guinea-Bissau?

In Guinea-Bissau, persons with disabilities have a legal right to participate in political life through the nation's ratification of the CRPD, which guarantees voting, candidacy, accessible procedures, and involvement in political and civil organisations. While the Constitution broadly ensures equality and rights for all citizens, national legislation does not yet fully implement these CRPD provisions, and practical barriers persist, including inaccessible infrastructure, lack of support and accessible information, societal prejudice, and low representation, particularly for women with disabilities. Administrative hurdles such as legal guardianship, missing identification documents, and limited awareness among electoral officials further restrict participation. Consequently, despite formal legal recognition, meaningful political engagement for persons with disabilities remains limited, highlighting the need for advocacy, capacity-building, and systemic reforms to bridge the gap between legal rights and actual inclusion.⁶⁶

11.4 Are persons with disabilities' socio-economic rights, including the right to health, education and other social services protected and realised in Guinea-Bissau?

With regard to education and other social services, see question 11.2 above.

In Guinea-Bissau, the socio-economic rights of persons with disabilities, including the rights to health, education, and other social services, are recognised through international commitments, particularly the ratification of the CRPD. However, the full realisation of these rights faces significant challenges due to systemic issues, limited resources, and societal barriers.

While the CRPD provides the overarching legal framework, the translation of these international obligations into specific national laws and policies for persons with disabilities is an ongoing process. Reports indicate that a comprehensive legal instrument or policy on persons with disabilities defining the obligations of state institutions is still needed. The Constitution of Guinea-Bissau makes a general reference to the disabled, but more specific legislation is advocated for by disability organisations. Despite legal commitments, the realisation of these rights in practice is often limited by various factors: underfunded and resource-limited healthcare system, concentration in urban areas, lack of specialised services and political instability.

The healthcare system in Guinea-Bissau is significantly underfunded and lacks essential resources, including qualified medical staff and adequate infrastructure. In addition, health services are largely concentrated in the capital, Bissau, leaving many people in rural areas without access to medical care. There is also a deficiency in specialised medical services for persons with disabilities, including functional rehabilitation and doctors who understand sign language for deaf patients. Finally, ongoing political instability has consistently undermined efforts to improve healthcare, leading to frequent changes in administration within the Ministry of Health.⁶⁷ Despite all these challenges, organisations have been working with the Ministry of Health in order to control neglected tropical diseases

66 World Bank Group 'Disability inclusion' <https://www.worldbank.org/en/topic/disability> (accessed 28 October 2025).

67 World Health Organisation (n 1).

and improve public health services. There are also efforts to strengthen the national health system and introduce accountability mechanisms.⁶⁸

11.5 Specific categories experiencing particular issues/vulnerabilities.

- **Persons with disabilities (PWDs):** Face high poverty and social marginalisation; encounter prejudice, discrimination, and social stigma; have limited access to healthcare, education, social services, and accessible infrastructure; and are exposed to harmful customary practices, violence, and ritualistic killings, especially in rural areas.⁶⁹
- **Children with disabilities:** Often excluded from education due to lack of inclusive infrastructure and trained teachers; are at risk of violence and abuse linked to harmful customs and superstitions.⁷⁰
- **Women with disabilities:** Experience compounded discrimination based on gender and disability; face higher rates of violence compared to women without disabilities.⁷¹
- **Children in general:** Suffer from high malnutrition and limited healthcare access, particularly in rural areas; encounter barriers to school enrolment, attendance, and completion; are vulnerable to child labour, violence, abuse, and exploitation.⁷²
- **Populations in rural areas:** Have limited access to health services, education, and infrastructure, which worsens vulnerabilities for all residents, especially persons with disabilities.
- **Individuals living in poverty:** Face severe limitations in access to opportunities, reinforcing cycles of disadvantage, particularly for persons with disabilities and their families.⁷³

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in Guinea-Bissau at the moment?

Guinea-Bissau is currently discussing several measures to improve the inclusion of persons with disabilities. Key initiatives include the National Strategy for the Inclusion of Persons with Disabilities (adopted in 2022) and the National Strategy for Inclusive Education (adopted in 2023), both of which aim to address barriers in education, health, and social services. Other measures include the National Policy for the Comprehensive Protection of Children, the establishment of the Directorate-General for Inclusive Education, and social awareness campaigns led by the Ministry of Public Health in collaboration with international partners. While these measures provide a framework for inclusion, their effective implementation remains limited by insufficient resources, inadequate infrastructure, and societal stigma.

68 Sightsavers 'Sightsavers in Guinea-Bissau'.

69 World Health Organisation (n 1).

70 G Benchwick 'Education a lifeline for children with disabilities in Central African Republic' *UNICEF USA* 6 May 2025 <https://www.unicefusa.org/stories/education-lifeline-children-disabilities-central-african-republic> (accessed 28 October 2025).

71 UPR 'Guinea-Bissau' <https://upr-info.org/en/review/guinea-bissau> (accessed 28 October 2025).

72 Benchwick (n 70).

73 UNICEF 'Social inclusion: Building and inclusive society' (2022) <https://www.unicef.org/guineabissau/social-inclusion> (accessed 28 October 2025).

12.2 What legal reforms are being proposed? Which legal reforms would you like to see in Guinea-Bissau? Why?

Several legal reforms are under consideration to strengthen protections for persons with disabilities. The Draft Basic Law for the Protection, Promotion, and Inclusion of Persons with Disabilities is intended to create a comprehensive legal framework aligning national law with international standards. Other proposals include the Draft Code for the Comprehensive Protection of Children and revisions to core legal codes, including labour law provisions for persons with reduced capacity. Additional desirable reforms include strong anti-discrimination legislation; laws ensuring universal accessibility in public and private spaces; mandates for inclusive teacher training and curriculum reform; improved judicial capacity and specialised training for police, prosecutors, and judges; and the creation of reliable, up-to-date disability data systems. These reforms are critical to address gaps in enforcement, social stigma, and protection against violence, including ritual killings, and to translate existing commitments into practical outcomes.

SÃO TOMÉ AND PRÍNCIPE*

Jorge Manhique** & Quina Fernandes Bragança***

Summary

The 2024 Population Census in São Tomé and Príncipe (STP) reports a total population of 209 607, with 48 per cent male and 52 per cent female. The census data, however, inadequately represents persons with disabilities, estimating a prevalence of 2-4 per cent, similar to the 2012 Census. While the 2024 Census focuses on visual, hearing, and motor disabilities, it lacks data on other disabilities, hindering a comprehensive understanding of the situation.

São Tomé and Príncipe ratified the Convention on the Rights of Persons with Disabilities (CRPD), but its practical implementation remains limited. While the CRPD automatically becomes part of the national legal system upon ratification, specific legislation and policies are needed to ensure its full application. The existing Basic Law for the Protection of People with Disabilities, enacted in 2012, needs to be updated to align with the CRPD's standards and obligations.

A review of disability rights in STP reveals a lack of progress towards a human rights-based approach, ten years after ratifying the CRPD. Existing laws still favour substitution decision-making over supported decision-making for persons with disabilities. Persons with disabilities face numerous challenges across various domains, including inadequate government support, and barriers to education, employment, and justice. A Disability Strategy is currently being drafted, and if approved, it will provide a useful framework for addressing these challenges. This process presents also an opportunity for broader legal reforms to ensure that other national laws align with the CRPD.

* The majority of the information contained in this Country Report was extracted from the Global Disability Fund 'Situational analysis on the rights of persons with disabilities in São Tomé and Príncipe: Country full report' (2025). The report was authored by Jorge Manhique, with support from Quina Bragança.

** Jorge Monchique is a disability rights advocate and researcher. He serves as the Senior Programme Officer at the Disability Rights Fund and is pursuing a PhD degree at the University of Lisbon; jmanhique@edu.ulisboa.pt

*** Quina Fernandes Bragança is a lawyer from São Tomé and Príncipe, and a founding member of the São Toméan Association of Women Jurists. She is a woman with a disability; quinafvhh@gmail.com

STP's government has not designated a CRPD monitoring body (article 33), and the responsible ministry lacks capacity. While women and youth are represented in parliament, persons with disabilities are not, and disability rights are rarely addressed. The disability movement in STP is relatively small and nascent, with three dominant disabled people's organisations (DPOs), representing physical, visual and hearing disabilities. The umbrella DPO, Federação das Associações de pessoas com Deficiência de São Tomé e Príncipe (FADSTP), was recently established. There is a need to invest in the expansion and diversification of the movement with a view to include emergent and marginalised groups and infuse youth leadership and ideas.

1 Population indicators

1.1 What is the total population of São Tomé and Príncipe (STP)?

According to the preliminary results of the 2024 Population Census, the total population of the Democratic Republic of São Tomé and Príncipe (STP) is 209 607, comprising 99 820 males (48 per cent) and 109 787 females (52 per cent).¹

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in STP. What criteria are used to determine who falls within the class of persons with disabilities in STP?

In July 2025 the National Statistical Office (INE) published census data on the 2024 Population and Housing Census. From the Report, which is generic and not focused solely on disability, it is not immediately clear which methodologies and questions were used in the 2025 Census.² However, the report states that 'each resident was asked whether they were affected by certain types of disability, including visual and hearing disabilities, as well as difficulties in being able to move around independently'.³ For the purpose of the Census, INE considered persons with disabilities those who responded that: i) they have great difficulty seeing or cannot see; ii) they have great difficulty hearing or cannot hear; and iii) they have great difficulty moving or cannot move at all.⁴ This approach represents a slight change in the manner in which the 2012 Census was conducted. The methodology adopted to collect data in the 2012 Census, is based on the question: 'Do you have a disability?' and requires a 'yes/no' answer.⁵ Both the 2012 and 2024 Census methodological approaches are inadequate and are widely acknowledged for their tendency to underrepresent persons with disabilities, consequently leading to inaccurate estimates that typically range between two and three per cent.⁶ Indeed, similar to the 2012 results, data generated in 2024 is limited to specific types of disabilities. While the 2012 Census data focuses on visual disability, hearing disability, physical disability, and 'mental disability', the 2024 Census only focuses

1 National Institute of Statistics 'Preliminary global results of the Fifth General Population and Housing Census' (2025) <https://www.ine.st/index.php> (accessed 29 October 2025).

2 As above.

3 INE 'Report of the Fifth General Population and Housing Census' (2024).

4 As above.

5 Instituto Nacional de Estatística 'Fourth General Population and Housing Census – 2012: Population with disabilities' (2013).

6 D Mont 'Measuring disability prevalence' World Bank Social Protection Discussion Paper 0706 (2007); ME Loeb, AH Eide & D Mont 'Approaching the measurement of disability prevalence: The case of Zambia' (2008) 2 *Alter* 32.

on the first three types of disabilities. Finally, the definition used in the 2012 Census is not human rights based as it focuses on person limitation without consideration of the environment – it is not clear which definition was used for the 2024 Census.⁷

1.3 What is the total number and percentage of persons with disabilities in STP?

The recently published report with data from the 2024 Census, does not indicate the prevalence of disability in STP, presenting instead data disaggregated by three types of disabilities (see 1.6). However, our estimates, based on available data, suggest that the disability prevalence in STP is between two and four per cent. Data from the 2012 Census, indicates a disability prevalence of 3,5 per cent, equivalent to 6 274 people. Regionally, disability prevalence varies with some countries with data like those of STP (Togo 1,3 per cent; Gabon 2 per cent) while others present figures at significantly higher rates (Nigeria 7 per cent,⁸ Cameroon 10 per cent).⁹

1.4 What is the total number and percentage of women with disabilities in STP?

According to the 2024 Census, 2,37 per cent (4 968) of the total population are women with disabilities, while 1,63 per cent of the total population (3 417) are men.¹⁰

1.5 What is the total number and percentage of children with disabilities in STP?

In the overall results of the Fifth General Population and Housing Census, it is not possible to extract these data. However, based on data from the 2012 Census, STP has a total of 62 291 children aged between 0 and 11. According to the UNICEF study, 709 children in this age group were identified as being at risk of developmental issues and/or disabilities, which represents 1,14 per cent of the total population in this age group. More recent data from the Multiple Indicator Cluster Survey (MICS 2019) reveals that 18 per cent of children aged between two and 17 have functional difficulties in at least one domain.¹¹

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in STP?

An analysis of the incidence rates by type of disability, based on national data from the 2024 Census, reveals the following:

Visual disability

- Almost one in every 100 people (0,95 per cent) has difficulty seeing.

7 Global Disability Fund 'Situational analysis on the rights of persons with disabilities in São Tomé and Príncipe: Country full report' (2025).

8 National Bureau of Statistics 'Water, sanitation and hygiene: National outcome routine mapping: A report of findings' (2020).

9 UNRPD 'Situational analysis of the rights of persons with disabilities in Cameroon: Country Brief' (2023).

10 INE (n 3).

11 UNICEF 'Multiple indicators cluster survey 2019' (2020).

- Seven (7) in every 1 000 people (0,07 per cent) cannot see and are considered blind.
- Highest proportion of blindness: Lemba (0,13 per cent) and Caué (0,11 per cent) districts.
- Lowest proportion: Príncipe (0,04 per cent), Lobata (0,06 per cent), and Mé-Zochi (0,06 per cent) districts.

Hearing disability

- Twenty-one (21) in every 1 000 people (0,21 per cent) have difficulty hearing.
- Five (5) in every 1 000 people (0,05 per cent) cannot hear (deaf).
- Deafness affects men (0,07 per cent) more than women (0,04 per cent).
- Most prevalent in Lemba (0,14 per cent) and Lobata (0,09 per cent) districts.

Motor disability

- Affects men and women almost equally at the national level.
- Fifty (50) in every 1 000 people (0,50 per cent) have mobility difficulties.
- Twenty-four (24) in every 1 000 people (0,24 per cent) are unable to move.
- Most prevalent in Lemba (0,36 per cent), Mé-Zochi (0,32 per cent), and Cantagalo (0,29 per cent) districts.

In the publicly available document presenting the global results of the 2024 Census, only data related to three categories (visual, hearing, and motor) is presented, and it is not possible to determine whether data related to other types of disabilities such as psychosocial and intellectual disabilities was captured during the Census. Therefore, the existence of such data, its scope, and any related prevalence rates cannot be confirmed from the version of the results made public.

2 São Tomé and Príncipe's international obligations

2.1 What is the status of the UN Convention on the Rights of Persons with Disabilities (CRPD) in STP? Has STP signed and ratified the CRPD? Provide the date(s).

STP ratified the CRPD on 5 November 2015.

2.2 If STP has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for the submission of the report? Has STP submitted its report? If not, what reason does the relevant government department give for the delay?

STP's Initial Report to the CRPD Committee was due to be submitted in 2017. Regrettably, the country has yet to fulfil this obligation. The limited capacity and the apparent lack of prioritisation of disability appear to be the reasons for the delayed submission of the Report. The Human Rights Office (GDH), which is part of the Ministry of Justice, advises the government on the implementation of human rights treaties, and takes the lead in preparing reports to the UN treaty bodies. However, in the years since ratification of the CRPD, the drafting and submission of the Report has not been treated as a priority by the São Toméan state. The lack

of technical expertise, human and financial resources compromise the ability of this office to adequately fulfil its functions.

- 2.3 While reporting under various other UN instruments, the African Charter on Human and Peoples' Rights, or the African Charter on the Rights and Welfare of the Child, has STP also report specifically on the rights of persons with disabilities in its most recent reports? If so, were relevant concluding observations adopted? If relevant, were these observations given effect to? Was mention made of disability rights in STP's UN Universal Periodic Review (UPR)? If so, what was the effect of these observations/recommendations?**

Universal Periodic Review (UPR)

On 27 January 2021, STP was examined during the third UPR cycle of the UN Human Rights Council (HRC). The review report highlights the ratification of the CRPD as a significant advance. However, the UPR documents mainly focus on gender-based violence, children's rights and labour codes, without explicit reference to persons with disabilities.¹² Although the ratification of the CRPD is highlighted and welcomed, there are no specific recommendations related to the rights of persons with disabilities.

CRC Committee

In 2023 the CRC Committee issued its Concluding Observations which resulted from the Fifth and Sixth Periodic Reports of STP. In it the CRC Committee dedicated a full section with recommendations on children with disabilities. Briefly, the Committee recommended to STP:

To adopt a human rights-based approach regarding children with disabilities and review its legislation and policies accordingly...; b) To improve data collection, analysis and disaggregation¹³... conduct a study on the situation of children with disabilities and ... develop a policy and a strategy on children with disabilities, with the participation of children ... (c) To establish a system for disability assessment and the referral of persons with disabilities and ensure its uniform and harmonized application across different sectors ... (d) To strengthen support for the parents of children with disabilities and ensure the right of those children to grow up in their family environment ... (e) To ensure access to high-quality health care, including by providing early identification, intervention and rehabilitation programmes and training ... (f) To allocate adequate financial, human and technical resources and seek international cooperation and assistance to develop an inclusive education system ... (g) To address cases of violence and abuse and strengthen awareness-raising activities to combat stigmatization and promote a positive image of children with disabilities as rights holders.¹⁴

12 Human Rights Council 'Report of the Working Group on the Universal Periodic Review: São Tomé and Príncipe' A/HRC/47/16 (15 April 2021).

13 By 'age, sex, ethnicity, nationality, disability, geographical region, socioeconomic status and form of care'.

14 CRC Committee, Concluding Observations on the Combined Fifth and Sixth Periodic Reports of São Tomé and Príncipe, 23 June 2023, UN Doc CRC/C/STP/CO/5-6 (2023) 10.

CEDAW Committee

The Concluding Observations on the Combined Initial and Second to Fifth Reports of STP noted, with concern:

The inadequate resources allocated to preventing and addressing gender-based violence against women and girls, limited access to legal aid for victims of domestic violence, the lack of adequate shelters ... and the lack of victim support services, in particular for women belonging to ethnic minorities and women with disabilities.¹⁵

However, no recommendations include women and girls with disabilities.

2.4 Was there any domestic effect on STP's legal system after ratifying the international or regional instruments in 2.3 above? Does the international or regional instrument that has been ratified require STP's legislature to incorporate it into the legal system before the instrument can have force in STP's domestic law? Have STP's courts ever considered this question? If so, cite the case(s).

At the moment, the line ministry through the national directorate of social action, and support from UNICEF, is implementing two recommendations of the CRC Committee, namely:

b) conduct a study on the situation of children with disabilities and ... develop a policy and a strategy on children with disabilities, with the participation of children"; (c) establish a system for disability assessment and the referral of persons with disabilities and ensure its uniform and harmonized application across different sectors.¹⁶

According to article 12(2) of the Constitution of STP:

International treaties and agreements duly ratified and approved shall enter into force in the internal legal order after their official publication and for as long as they are internationally binding on the State of São Tomé and Príncipe.¹⁷

This means that ratified international treaties – including the CRPD – automatically become part of the national legal system once they have been ratified and published, without the need for a new national law to incorporate them. These treaties have infra-constitutional and supra-legal legal force, which means that they are below the Constitution but above ordinary laws. However, although they formally enter the national legal order, their practical application often depends on the adoption of specific domestic legislation, regulations or public policies to give effect at the administrative, judicial and social levels.

2.5 With reference to 2.4 above, has the CRPD or any other ratified international instrument been domesticated? Provide details.

As per the Constitution of STP once international treaties and agreements are ratified and approved, they become part of the national legal system. However,

15 CEDAW Committee, Concluding Observations on the Combined Initial and Second to Fifth Reports of São Tomé and Príncipe, 31 May 2023, UN Doc CEDAW/C/STP/CO/1-5 (2023) 7.

16 CRC Committee (n 14) 10.

17 Constitution of the Democratic Republic of São Tomé and Príncipe, Law 1/2003, published in the Official Gazette 2 of 29 January 2003.

although from a legal-formal point of view, the CRPD domestication took place with the ratification, the practical implementation of its provisions is still limited. The country already had a Basic Law for the Protection of People with Disabilities, approved in 2012, even before the Convention was ratified, but this law was not updated to reflect the international standards and obligations introduced by the CRPD. The Law needs to be revised and brought into line with contemporary human rights principles.

In addition, the Constitution of the Republic as well as the Labour Code (Law 6/2019) establish general principles of equality and non-discrimination, applicable to all citizens, including persons with disabilities. However, it does not include specific provisions on reasonable accommodation, accessibility measures or other material guarantees provided for in the CRPD. In short, despite the automatic domestication provided for in the Constitution, STP has not yet materialised the material domestication of the CRPD through legislative, administrative and public policy measures that guarantee its full application. There is therefore an urgent need to update the national legal framework and implement effective mechanisms to protect and promote the rights of persons with disabilities.

3 Constitution

3.1 Does STP's Constitution contain provisions that directly address disability? If so, list the provision, and explain how each provision addresses disability.

The Constitution of STP does not make any direct reference to the rights of persons with disabilities, although it recognises other groups such as children, youth and older persons.

3.2 Does STP's Constitution contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

Article 15 of the STP Constitution enshrines the principle of formal equality, guaranteeing that 'all citizens are equal before the law, without discrimination'.¹⁸ However, one of the main challenges of constitutional law is to ensure material equality, which requires specific measures to combat real inequalities. For groups in vulnerable situations, such as persons with disabilities, the effective application of this principle implies the adoption of inclusive policies and affirmative action, in order to guarantee true equality and not just theoretical equality.

18 As above.

4 Legislation

4.1 Does STP have legislation that directly addresses issues relating to disability? If so, list the legislation and explain how the legislation addresses disability.

In 2012, STP passed a specific disability law (*Lei de Base para as Pessoas com Deficiências*).¹⁹ The Law generally prohibits discrimination against persons with disabilities. However, it encompasses a limited set of rights, including education, healthcare, and employment; while excluding rights such as access to justice, equal recognition before the law, and accessibility, among others. In the law, 'disability' is defined as 'any permanent or transitory loss or abnormality of a psychological, physiological or anatomical function that generates an inability to perform an activity, within the standard considered normal for human beings'. The Law, places greater importance on rehabilitation of persons with disabilities (see articles 8, 9, 10 and 11), and prevention (see articles 7 and 26). Rehabilitation is conceived with a view to 'fixing' or 'compensat[ing] for loss of function or functional limitation'. Moreover, the Law adopts a restrictive view of who persons with disabilities are, and in doing so goes against the provisions of the CRPD by not recognising that 'disability is an evolving concept'. In doing so, the Law also leaves other groups of persons with disabilities unprotected, such as those with albinism, short stature, deaf-blindness, intellectual and psychosocial disabilities, among others. The legal approach to disability bears a resemblance to the medical model, which posits that persons with disabilities are incapable and necessitate intervention to 'correct' their condition. This understanding of disability is not grounded in the human rights approach enshrined in the CRPD.²⁰

4.2 Does STP have legislation that indirectly addresses disability? If so, list the main legislation and explain how the legislation relates to disability.

Article 138 of the Civil Code states that:

All those who, due to psychic abnormality, deafness-muteness or blindness, are incapable of governing their persons and property may be interdicted from exercising their rights, and who, after being decreed an interdict by court judgement, are treated as minors.²¹

Article 21 of the Family Code states, among others, that the following constitute impediments to a marriage if the person concerned has: 'a) Notorious dementia, even during lucid intervals, and [a person] interdicted or declared incapacitate due to mental condition'.²²

Article 211 of the Penal Code states the following, in relation to discrimination:

19 Basic Law for Persons with Disabilities, Law 7/2012, published in the Official Gazette 110 of 12 September 2012.

20 As above.

21 Civil Code approved by Decree-Law 47 344 of November 1966.

22 Family Code, approved by Law 19/2018 of the National Assembly on June 29, 2018.

Anyone who publicly discriminates against a disabled person, a person with an infectious or contagious disease or a sick person because of their disability or illness shall be punished with imprisonment of up to 2 years or a fine of up to 200 days.

The same penalty applies to anyone who, for the same reasons, does not grant a job to a disabled person, provided that their disability is not incompatible with the job in question.²³

This review confirms that the medical/pathological view of disability informs law and policy making in STP, and that a paradigm shift toward a human rights approach is yet to happen ten years after the ratification of the CRPD. Moreover, the review also confirms that existing laws continue to promote the substitution decision-making model in the exercise of legal capacity by persons with disabilities rather than the supported decision-making model with necessary safeguards, provided for in contemporary human rights standards.

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in São Tomé and Príncipe ever decided on an issue relating to disability? If so, list the cases and provide a summary for each of the cases with the facts, the decision(s) and the reasoning.

No.

6 Policies and programmes

6.1 Does STP have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

There is an ongoing process of adoption of the National Strategy for the Inclusion and Participation of People with Disabilities in STP. The Strategy, which was developed with the support from United Nation Country Team, is a planning instrument that aims to guide the implementation of concrete and structured actions for the direct benefit of persons with disabilities. The Strategy prioritises legal reforms, including the review and regulation of the *Lei de Bases*, improvements in data collection (statistic and administrative data), accessibility, and civic participation. The Strategy, which has span of five years, ultimate goal is to ensure the full inclusion and citizenship of São Toméans with disabilities.

6.2 Does STP have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

The Government of STP, with support from World Bank, implements the *Programa Família*, which aims to guarantee schooling for families in vulnerable situations. It

²³ Penal Code approved by Law 6/2012, published in the Official Gazette 95 of August 2012.

includes a bi-monthly transfer – 1300STN (\$58). The programme benefits 5 000 families and more than 16 000 children. The amount was established based on the 2017 Family Budget Survey and corresponds to 20 per cent of the expenses of an average family. These transfers are primarily to support children's education (purchase of materials, etc). However, the programme does not take into consideration disability specific costs, and in the programme administration, there is no distinction between families with children with disabilities and those without. For instance, a child with albinism to be able to go to school, it is essential that they have access to sunscreen to protect their skin against the sun. Failure to do so may result in skin cancer. In fact, it can be argued that promoting education of children with disabilities without consideration of disability cost, is detrimental to their inherent dignity, wellbeing, and in this case to the life of persons with albinism.

7 Disability bodies

7.1 Other than the ordinary courts and tribunals, does STP have any official body that specifically addresses violations of the rights of persons with disabilities? If so, describe the body, its functions and its powers.

The Government of STP has not formally designated any CRPD monitoring body to comply with article 33 of the CRPD. Parliament has a crucial role in monitoring human rights processes, and in the implementation of treaties and existing legislation at the national level. While women have secured representation in parliament, and there is a child-youth parliament that meets annually, there are no known representatives of person with disabilities in parliament. In fact, it is uncommon to see actions from members of parliament on disability rights issues.

7.2 Other than the ordinary courts or tribunals, does STP have any official body that though not established to specifically address violations of the rights of persons with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.

The National Institute for the Promotion of Gender Equality and Equity (INPG) was established in 2007 as the public entity responsible for the execution of government gender policies. INPG is under the Ministry of Justice and is also tasked with advising the government in implementing gender related policies. In this capacity, INPIEG played a significant role in the adoption of the parity law, a gender sensible budget, and advocacy for ratification of the Maputo Protocol. Notwithstanding these achievements and the strategic role, the INPIEG plays, the institute does not have the same protagonism when it comes to promoting the rights of women and girls with disabilities.

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

- 8.1 Does STP have a Human Rights Commission, Ombudsman or Public Protector? If so, does its remit include the promotion and protection of the rights of persons with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, Ombudsman or Public Protector has ever addressed issues relating to the rights of persons with disabilities.**

There is not an independent human right monitoring body as per the Paris Principles in STP at the time of writing. Nonetheless, with the support from United Nations Country Team, there is ongoing work to establish an independent human rights monitoring mechanism as per the Paris Principles.²⁴ Potentially, this mechanism will be designated to fulfil the state obligations under article 33(2) of the CRPD.

9 Disabled peoples organisations (DPOs) and other civil society organisations

- 9.1 Does STP have organisations that represent and advocate for the rights and welfare of persons with disabilities? If so, list each organisation and describe its activities.**

The disability movement in STP is relatively small and nascent, with three dominant DPOs, namely:

- *Associação dos Cegos e Ambliopes de São Tomé e Príncipe* (ACASTEP): established to represent persons with visual disabilities and advocate for their inclusion in society.
- *Associação dos Deficientes de São Tomé e Príncipe* (ADSTP), established to represent persons with physical disabilities, promote their rights and inclusion in society; and
- *Associação dos Surdos de São Tomé e Príncipe* (ASSTP), representing persons with hearing disabilities, and promoting their rights and inclusion in society.

Recently, however, few groups are emerging, including the *Associação Santomense de Apoio a Pessoas com Albinismo* (ASSAPA), representing persons with albinism, and their plans to establish an organisation of women with disabilities.

The umbrella DPO organisation, *Federação das Associações de pessoas com Deficiência de São Tomé e Príncipe* (FADSTP), was recently established, and aims to unite the movement and present a unique front in the fight for inclusion for persons with disabilities in STP. There is a need to expand and diversify the movement with

24 M Lourenço 'São Tomé and Príncipe moves forward in creating an independent body for the defence of human rights (São Tomé e Príncipe Avança na Criação de Órgão Independente para Defesa dos Direitos Humanos)' *Zunta TV* 26 February 2025 <https://zuntatv.st/sao-tome-e-principe-avanca-na-criacao-de-orgao-independente-para-defesa-dos-direitos-humanos/> (accessed 12 July 2025).

a view to include emergent and marginalised groups and infuse youth leadership and ideas.

9.2 In the countries in STP's region (West Africa) are DPOs organised or coordinated at national and/or regional level?

FADSTP is the national umbrella DPO and aims to unite the movement and present a unique front in the fight for inclusion of persons with disabilities in STP.

9.3 If STP has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

As mentioned above, STP is yet to establish the coordination, implementation and monitoring bodies under article 33 of the CRPD. DPOs have reported dissatisfaction with the way consultation processes are carried out, which are often conducted in inaccessible venues without the support and accommodation for persons with disabilities – such as sign language. They reported that to participate in consultations only the established groups are invited, and the process usually takes place late in the process and in a hurry.²⁵

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

Most DPOs are primarily focused on providing services and peer support. While they offer valuable contributions to their members, they have limited advocacy skills, and their leaders often possess modest educational backgrounds and limited leadership abilities. Additionally, DPO leadership structures tend to be male dominated, predominantly consisting of senior individuals.

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

Advocacy skills are constrained, and many of the DPOs prioritise providing services and distributing donations to their members. They lack full-time staff and primarily conduct work through volunteers. Some DPOs lack internal governance instruments and policies, and where they do exist, their implementation is problematic. Funding sources to support DPOs' work are severely limited. Consequently, DPOs' ability to influence policies and programmes remains constrained.

9.6 Are there specific instances that provide 'best-practice models' for ensuring proper involvement of DPOs?

The draft of the Strategy on Inclusion and Participation of Persons with Disabilities can be described as an example of meaningful inclusion of persons with disabilities. The draft of the Strategy was accompanied by an extensive consultation, which included workshop, key informant interviews and focus groups with persons with disabilities in their diversity. Appropriate support and accommodation were provided, including support for transport. These consultations led to the drafting of a Situational Analysis Report on the rights of persons with disabilities. This Report

25 Global Disability Fund (n 7).

provided the evidence necessary for identifying priorities for the movement and the most effective strategies to achieve the Strategy's goals.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

There are limited instances of DPOs successfully influencing policies, partly due to the aforementioned limitations in their advocacy capacity. Nevertheless, although not yet implemented, the Strategy described above, upon approval, could potentially be one of the successful outcomes resulting from engagements with DPOs. Another notable example is the advocacy carried out by ACASTEP, the DPO representing persons with visual disabilities, which led the Ministry of Health to issue a ministerial order granting free consultation exclusively to persons with visual disabilities. However, the absence of a well-defined protocol for accessing these benefits has resulted in their inaccessibility.

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

Generally, there is limited research on disability in STP, and both qualitative and quantitative data on disability to inform policy decisions are scarce. In terms of priority, there is a need to shed light on the economic, social, and political inclusion of persons with disabilities in STP. Research towards this end would contribute immensely to policy making.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

The Situational Analysis Report has identified the following key points:

- To support persons with disabilities and their representative organisations to conceptualise and implement an advocacy and awareness raising strategy targeting key stakeholders, including public administration, service providers and development partners to promote inclusion, access to services, and information and participation in decision-making processes by all persons with disabilities (for example, deafblind persons, persons with albinism, persons with intellectual disabilities, persons with psychosocial disabilities, persons with multiple disabilities, women and girls with disabilities, etc).
- To support the Federation of Organisations of Persons with Disabilities to mobilise and support the establishment of emergent and marginalised groups, and increase the capacity, including at grassroots level, to monitor the implementation of development and humanitarian programmes and policies.

9.10 Are there specific research institutes in your region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

No.

10 Government departments

10.1 Does São Tomé and Príncipe have a government department or departments that is/are specifically responsible for promoting and protecting the rights and welfare of persons with disabilities? If so, describe the activities of the department(s).

The Government through the Ministry of Labour, Solidarity and Social Security (MTSSS in Portuguese) to coordinate, implement, and mainstream disability inclusion in public programmes is limited. MTSSS, deal with other groups considered ‘vulnerable groups’ (children, elderly), is under-resourced and understaffed. MTSSS generally operates from a social action perspective and not from a human rights prism. State officials in key departments lack the knowledge needed to advance disability inclusion in line with CRPD obligations.

11 Main human rights concerns of people with disabilities in São Tomé and Príncipe

11.1 What are the contemporary challenges of persons with disabilities in STP?

In STP, the main contemporary challenge is poverty. Although official statistics are lacking, the structural barriers faced by persons with disabilities, coupled with the pervasive stigma and discrimination directed towards them, renders society unprepared to accommodate them effectively. Consequently, they endure a state of poverty and marginalisation, often resorting to begging in the capital, São Tomé.

11.2 Describe the contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses.

Education: there is need for conceptual clarity – a clear articulation of the concept of inclusive education as stated in the CRPD. Moreover, there is need of credible data of children with disabilities in and out of school, and a compressive approach to accessibility – one that goes beyond physical adjustments. In addition, personalised support for persons with disabilities is important for an effective enjoyment of an inclusive education environment. In this respect it is important to ensure that existing *Programa Família* be reviewed to ensure families with children and young adults with disabilities have dedicated disability support scheme to enable them offset specific disability cost.

Employment: interviews with persons with disabilities and representatives of vocational training centres, suggest that two primary obstacles impede employment opportunities for persons with disabilities. Firstly, the barriers encountered in accessing education and vocational training result in a lack of qualifications. Secondly, the legal and policy framework (as pointed above) lacks support for facilitating employment for persons with disabilities.

Access to justice: the laws of STP (ex The Civil Code) prevent persons with disabilities from exercising full legal capacity. This affects the ability of persons with disabilities to participate in the justice system as a victim of crime, a person suspected or accused of a crime, or a witness. In terms of what needs to be done to ensure access to justice, stakeholders suggested that: i) there is need to restore full legal capacity to all persons with disabilities, through a reform of legal provision on guardianship, primarily in the Civil Code; ii) training be conducted on the rights of persons with disabilities for all stakeholders within the justice system, including judges, prosecutor, lawyers, police, among others; iii) a disability bench book be developed to assist and guide stakeholders in the justice system on how support inclusion of persons with disabilities; and iv) physical access is ensured, including information access to all person with disabilities, through adoption of standards of accessibility.

11.3 Do persons with disabilities have a right to participation in political life (political representation and leadership) in STP?

At the moment of writing, there is no legal obligation to designate members of parliament with disabilities, and there are not known representatives of persons with disabilities in parliament. As mentioned above, the women movement managed to secure representation in parliament, through the parity law. However, these benefits are not extensive to women with disabilities. There are not women with disabilities in parliament and in any other political collegial bodies. Women with disabilities have fewer opportunities to participate in decision making forums and their representative organisations are generally weak and not properly represented in the broader movement of persons with disabilities, which is still dominated by older male voices and non-disabled voice.

11.4 Are persons with disabilities' socio-economic rights, including the right to health, education and other social services protected and realised in STP?

With regard to education and other social services, see question 11.2 above.

11.5 Specific categories experiencing particular issues/ vulnerabilities.

Persons with albinism face heightened risks due to the inaccessibility of sunscreen and the limited availability of dermatological services. Sunscreen is not included in the list of essential medicines, which makes it expensive and difficult to find in the local market. At the time of the writing of the Situational Analysis Report, there was no qualified dermatologist in the country. Treatment, including preventive treatment such as screen for skin cancer, is provided through a cooperative arrangement with Portugal, which periodically dispatches specialists. This cooperative framework also encompasses the provision of dermatological services remotely through telemedicine.

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in São Tomé and Príncipe at the moment?

The primary objective of the movement at present is the implementation of the Strategy for Inclusion and Participation of Persons with Disabilities. The movement anticipates that the adoption of this Strategy will facilitate the long-awaited review of the Disability Law and its Regulations.

12.2 What legal reforms would you like to see in São Tomé and Príncipe? Why?

The process of regulation of the Disability Law (Lei de Bases), has been on for some time. This process represents an opportunity to re-think, more broadly, the rights of persons with disabilities in light of the CRPD standards. Critically, this process should start by revision of the Law itself – the law was adopted before the ratification of the CRPD – to address the gaps and generally bring it closer to the standard of the CRPD. The review of Lei de Bases, should open up discussion about much bigger reform aimed to align other national laws with the CRPD.

SECTION C: REGIONAL DEVELOPMENTS

Disability rights in the African regional human rights system

Section C contains two commentaries related to disability, the first on The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa: A commentary on implementation and monitoring; and the second on The African Union Convention on ending violence against women and girls: Opportunities, gaps and the potential impact on women and girls with disabilities.

REGIONAL DEVELOPMENTS

THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA: A COMMENTARY ON IMPLEMENTATION AND MONITORING

Dagnachew B Wakene & Marishet M Hamza***

1 Introduction

The advent of contemporary disability rights discourses within the African human rights landscape dates back to the 1980s, alongside the evolution of global disability rights movements led by persons with disabilities themselves that eventually reframed disability as a social construct and a human rights issue.¹ The idea of an Africa-specific, binding legal instrument on disability rights, however, only came about two decades later. It prominently ensued at the African Union (AU) Ministerial Conference on Human Rights in Africa, held in 2003, in Kigali, Rwanda.²

* PhD (University of Pretoria), MPhil (Stellenbosch University), LLB (Addis Ababa University); Independent Consultant; orcid.org/0000-0002-8907-3665.

** LLM (Addis Ababa University), LLM (Geneva Academy of International Humanitarian Law and Human Rights), LLB (Jimma University); PhD Researcher at the Geneva Graduate Institute; orcid.org/0009-0001-1998-1721.

1 For example, the first African regional disability rights conference was held in Addis Ababa, Ethiopia, in October 1980 by the erstwhile Organisation of African Unity (OAU). See the United Nations Economic Commission for Africa (UNECA), Regional Seminar on the International Year of Disabled Persons (IYDP), Organised under the Joint Auspices of the Organisation of African Unity, the United Nations Economic Commission for Africa and the IYDP Secretariat, in cooperation with the Government of Socialist Republic of Ethiopia (UNECA: 6-7 October 1980, Addis Ababa, Ethiopia). Full proceedings available at <http://repository.uneca.org/pdfpreview/bitstream/handle/10855/5312/Bib-36376.pdf?sequence=1> (accessed 16 December 2025).

2 SAD Kamga 'A call for a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa' (2013) 21 *African Journal of International and Comparative Law* 219. In the Kigali Declaration, 2003, African leaders recognised 'the broad violation of the rights of vulnerable groups including persons with disability in general' and called for the adoption of 'a Protocol on the protection of the rights of people with disabilities and the elderly.' Available at <https://achpr.au.int/index.php/en/node/880> (accessed 3 May 2019).

Although pre-dating the UN Convention on the Rights of Persons with Disabilities (CRPD), this notion only gained momentum following the latter's adoption in 2006.³ African states contributed significantly to the drafting and fast-tracked signature of the CRPD⁴ and played a notable role in its rapid entry into force.⁵

As is the case with other international treaties, the CRPD, too, was a result of negotiations and compromise among states; meaning, that it did not necessarily reflect the priorities presented by each state party. Additionally, the final text left some key African disability rights contextual nuances and concerns under-addressed, including the rights of persons with albinism,⁶ harmful traditional practices and beliefs, potential contributions of African philosophies such as ubuntu,⁷ and the specific needs of youth and older persons with disabilities.

Against this backdrop, African disability advocates soon reinitiated calls for a standalone, binding disability rights instrument. Rooted in African contexts and philosophies, the Protocol would be designed to complement rather than diverge from the CRPD.⁸ Such a treaty, experts argued, could galvanise action, provide contextualised normative

- 3 See inter alia Mutua, who notes that a motion officially calling for the UN to elaborate and adopt an international convention on disability began in September 2001 when President Vicente Fox of Mexico gave voice to this effect, followed by establishment of an ad hoc committee for this purpose, and, in June 2002, an inter-regional disability expert group meeting hosted by Mexico in collaboration with the UN – M wa Mutua 'Standard setting in human rights: Critique and prognosis' (2007) 29 *Human Rights Quarterly* 547, 624.
- 4 LO Oyaro 'Africa at crossroads: The United Nations Convention on the Rights of Persons with Disabilities' (2015) 30 *American University International Law Review* 347, 363-364. The seven African countries represented in this Working Group were: Cameroon, Comoros, Mali, Morocco, Sierra Leone, South Africa and Uganda – one of the highest continental representations in the Working Group.
- 5 MA Stein & JE Lord 'Prospects and practices for CRPD implementation in Africa' (2013) 1 *African Disability Rights Yearbook* 97, 98-99. The first signatory states from Africa were: Algeria, Cape Verde, Republic of the Congo, Ethiopia, Gabon, Ghana, Kenya, Liberia, Morocco, Mozambique, Niger, Nigeria, Sierra Leone, South Africa, Sudan, Tunisia, Uganda and Tanzania. To date, nearly all African states are parties to the CRPD. For status of ratification, see https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD (accessed 16 December 2025).
- 6 See eg Human Rights Council, Resolution 23/13: Attacks and discrimination against persons with albinism, 24 June 2013, UN Doc A/HRC/RES/23/13 (2013) <https://undocs.org/A/HRC/RES/23/13> (accessed 16 December 2025) and Resolution 28/6: Independent Expert on the enjoyment of human rights by persons with albinism, 10 April 2015, UN Doc A/HRC/RES/28/6 (2015) <https://undocs.org/A/HRC/RES/28/6> (accessed 16 December 2025) referring to albinism and persons with albinism as a part of the disability constituency.
- 7 The word ubuntu is derived from a Nguni (isiZulu) aphorism: *Umntu Ngumuntu Ngabantu*, which can be translated as 'a person is a person because of or through others'. See G Fraser-Moleketi 'Towards a common understanding of corruption in Africa' (2009) 24 *Public Policy and Administration* 331.
- 8 *Communique by Secretariat of the African Decade of Persons with Disabilities (SADPD) to the African Commission* (March 2011) as quoted in J Mureriwa 'The Draft African Disability Protocol and socio-economic justice for persons with disabilities' (2011) 3 *Economic and Social Rights Review* 3, 6.

guidance tailored to Africa's realities,⁹ and strengthen litigation and advocacy before continental judicial and quasi-judicial bodies.¹⁰ It could also create a stronger framework for monitoring the implementation of disability rights by African states.¹¹

Following sustained advocacy endeavours by African disability rights advocates, the African Commission on Human and Peoples' Rights (African Commission) in 2009 adopted Resolution 143/09 establishing a Working Group on the Rights of Older Persons and Persons with Disabilities. This marked the formal beginning of the development of an additional protocol on disability rights pursuant to article 66 of the African Charter on Human and Peoples' Rights (ACHPR), which permits the adoption of supplementary protocols.¹² After several iterations and revisions, the process finally culminated in the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol) by the AU in Addis Ababa in January 2018.¹³ After obtaining the required 15 ratifications, the Protocol came into operation on 3 May 2024.¹⁴

The ultimate power of any human rights treaty rests in its built-in mechanisms for implementation and monitoring. In this regard, the CRPD, as a global treaty, has laid out multi-pronged, mutually-inclusive procedures. These include, but are not limited to: the obligation of states parties to designate governmental 'focal points' for matters relating to the implementation of the Convention;¹⁵ to establish or designate a coordination mechanism to facilitate implementation across government sectors;¹⁶ and to designate or establish independent national mechanisms

9 Stein & Lord (n 5) 226.

10 L Mute *Concept on the list of issues to guide preparation of a Protocol on the Rights of Persons with Disabilities in Africa* (2012) (unpublished manuscript on file with authors). It was, for example, notable that the African Commission on Human and Peoples' Rights (African Commission) – the body mandated to promote and protect human rights and interpret the African Charter on Human and Peoples' Rights (the ACHPR) – has hitherto addressed no further than one disability-related case in its jurisprudence, ie the matter of *Purohit and Moore v Gambia* Communication 241/2001 (2003) AHRLR 96 (ACHPR 2003).

11 B Lindqvist, 'All means all' Keynote speech by UN Special Rapporteur on Disability, Osaka Forum, Japan, October 2002, as quoted in Mutua (n 3) 625.

12 ACHPR, art 6.

13 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol), adopted in January 2018 in Addis Ababa. Note that the drafting history of the African Disability Protocol, while indispensable to a complete understanding of the document as adopted, is beyond the scope of this commentary and hence not thoroughly explored here.

14 African Commission, Resolution on the entry into force and implementation of the Protocols: Rights on the Rights of Older Persons and Persons with Disabilities in Africa, ACHPR/Res.617 (LXXXI) 2024 <https://achpr.au.int/en/adopted-resolutions/617-implementation-protocols-rights-rights-older-persons> (accessed 15 December 2025).

15 UN General Assembly, Convention on the Rights of Persons with Disabilities: Resolution/adopted by the General Assembly, 24 January 2007, UN Doc A/RES/61/106 (2007), art 33(1).

16 As above.

to promote, protect and monitor the implementation of the Convention.¹⁷ States parties are also required to submit periodic reports to the Committee on the Rights of Persons with Disabilities (CRPD Committee).¹⁸ An Optional Protocol is also in place as an addendum to the CRPD, stipulating detailed procedures for individual complaints alleging violations of rights enshrined in the Convention applicable on states that have specifically ratified the Optional Protocol other than the main text of the CRPD.¹⁹

As is the case with in the CRPD, the African Disability Protocol does stipulate that: ‘States Parties shall establish or designate national mechanisms, including independent national institutions, to monitor the implementation of the rights of persons with disabilities.’²⁰ However, as with the CRPD, states parties to the African Disability Protocol are required to report periodically to the African Commission on their implementation of the Protocol. Yet, under the African Disability Protocol, unlike the more realistic and practical approach of the CRPD, information on the implementation of the Protocol is incorporated into the periodic reports submitted to the African Commission, rather than provided as a stand-alone report.²¹

At the regional level, the broader mandate to interpret the provisions of the African Disability Protocol and monitor its implementation is given to the African Commission in Banjul, The Gambia, ‘in accordance with Article 62 of the African Charter’.²² In addition to the African Commission, the Africa Court on Human and Peoples’ Rights – based in Arusha, Tanzania – is mandated to interpret the provisions of the African Disability Protocol when such matters are referred to it by the ACHPR, and to hear ‘disputes arising from the application or implementation of the Protocol’.²³ Another rather vague implementation provision is also found under article 33(d) of the Protocol which calls on states parties to support setting up an ‘ad hoc Advisory Council on Disability’ within the African Union Commission (AUC).

Given that the African Disability Protocol has now gained legally binding status, implementation and monitoring of progress must be prioritised, along with normative development in the form of interpretation and monitoring of the Protocol while, to the extent possible, avoiding duplication of efforts focused on disability rights at the African

17 CRPD, art 33(2).

18 CRPD, art 35.

19 UN General Assembly, Optional Protocol to the Convention on the Rights of Persons with Disabilities, 13 December 2006, UN Doc A/RES/61/106, Annex II (2006).

20 African Disability Protocol, art 34(2).

21 African Disability Protocol, art 34(1).

22 As above.

23 African Disability Protocol, art 34(4)(5).

Union Commission level: case in point, the so-called ‘Africa Disability Architecture’ which has been in place for years without actual impact.

This commentary aims to examine the implementation and monitoring mechanisms incorporated in the African Disability Protocol. It is organised as follows: a brief introduction in section one, followed by section two that provides a critical analysis of implementation and monitoring measures at African regional level, emphasising largely on the mandate of the African Commission and the prospective function of the ad hoc Advisory Council envisaged under article 33(d) of the Protocol. Section three assesses domestic implementation by states parties, with attention to the establishment of national mechanisms under the African Disability Protocol and a comparison with the CRPD domestic implementation structures. Finally, section four offers concluding remarks.

2 Implementation and monitoring at the regional level

2.1 The African Commission

Following the precedent established by the Protocol on the Rights of Women in Africa (the Maputo Protocol),²⁴ the African Disability Protocol designates the African Commission as its principal monitoring body. Its mandate includes the review of implementation measures adopted by states parties, which they are required to include in their periodic reports submitted to the Commission; the interpretation of the Protocol’s provisions; and the referral of questions of interpretation, enforcement or disputes concerning the application or implementation of the Protocol to the African Court on Human and Peoples’ Rights.

2.1.1 State reporting

Article 34(1) of the African Disability Protocol obligates states parties to

indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realisation of the rights recognised in this Protocol.

However, this provision does not specify the timing, format, and content of the reporting requirements for states. Instead, it references article 62 of the ACHPR, which requires states to submit periodic reports every two

24 African Union, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 11 July 2003, art 26(1).

years. Accordingly, the duty to include information on these reports to the African Commission on measures taken to implement the African Disability Protocol begins two years after the Protocol enters into force. For states that accede to this instrument at a later date, the Commission's monitoring role begins two years after the Protocol enters into force for that specific state.²⁵

Since 1988, when the African Commission decided to accept its mandate to receive periodic reports from states parties,²⁶ it has developed various guidelines outlining the format and content of these reports,²⁷ as well as the procedures for their review.²⁸ Notably, the Guideline for National Periodic Reports, adopted in 1988, provides detailed instructions.²⁹ While this Guideline addresses nearly all provisions of the African Charter, it notably omits any mention of persons with disabilities. This omission is perhaps understandable, given that the ACHPR explicitly addresses states' obligation toward persons with disabilities only once – in a provision requiring the implementation of special measures of protection.³⁰ Subsequent guidelines adopted by the African Commission have attempted to provide somewhat better coverage of persons with disabilities. Notable in this regard are the Reporting Guidelines for Economic, Social, and Cultural Rights,³¹ and Guidelines for State Reporting under the Maputo Protocol.³² Nevertheless, the treatment of the rights of persons with disabilities within these guidelines remains limited. It may therefore be concluded that the existing state reporting guidelines do not adequately enable the African Commission to obtain comprehensive information on the situation of persons with disabilities in states parties to the African Disability Protocol.

25 African Disability Protocol, art 39(3).

26 Art 62 of the ACHPR does not specify the body responsible for receiving and reviewing periodic reports from states parties. It was during the 3rd Ordinary Session in April 1988 that the African Commission, in a broad interpretation of its powers and functions as outlined in arts 45 and 46 of the Charter, decided to assign this mandate for itself. African Commission 'State reporting procedures and guidelines' <https://achpr.au.int/en/states/reporting-procedures> (accessed 23 July 2025).

27 These include: African Commission 'Guidelines for National Periodic Reports' (1989) <https://achpr.au.int/en/documents/1989-04-14/guidelines-national-periodic-reports> (accessed 17 December 2025); African Commission 'Guidelines for state reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2010) <https://achpr.au.int/en/documents/2010-02-05/state-reporting-under-protocol-rights-women-africa> (accessed 17 December 2025), and African Commission 'State reporting guidelines for economic, social, and cultural rights (Tunis Reporting Guidelines)' (2010) <https://achpr.au.int/en/documents/2010-05-26/state-party-reporting-guidelines-economic-social-and-cultural-rights> (accessed 17 December 2025).

28 'Rules of procedure of the African Commission on Human and Peoples' Rights' (2021) <https://achpr.au.int/en/rules-procedure> (accessed 17 December 2025) rules 78-83.

29 As above.

30 ACHPR, art 18(4).

31 State reporting guidelines for economic, social, and cultural rights (n 27).

32 Guidelines for state reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (n 27).

Drawing on its experience with the Maputo Protocol, the Commission could adopt a structured reporting format for the African Disability Protocol. The guidelines on the Maputo Protocol require states to add a dedicated section (Part B) in their periodic reports outlining measures taken to implement the Protocol.³³ A similar framework could be applied to the African Disability Protocol, requiring states parties to include a dedicated section – say, Part C – to detail measures pertaining to the African Disability Protocol. In terms of content, initial reports could include both general background with detailed accounts of legislative and policy measures actions, and challenges faced. Subsequent periodic reports would then focus on progress made, including implementation of recommendations from previous concluding observations.

Given the overlap in the human rights and state obligations under the CRPD and the African Disability Protocol, there is considerable potential for complementarity between the CRPD Committee's reviews and the African Commission's review of states parties. Many African states have already been reviewed by the CRPD Committee, creating an opportunity for constructive synergy. In this regard, the African Commission could draw on the practice of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), whose State Reporting Guidelines permit states parties to draw on reports previously submitted to the UN Committee on the Rights of the Child while foregrounding obligations that are specific to the African Charter.³⁴ Introducing a comparable approach in the context of the African Disability Protocol would reduce duplication in reporting processes and encourage greater consistency across international and regional monitoring mechanisms. In addition, in this context, civil society organisations (CSOs), including disabled peoples' organisations (DPOs), have a pivotal role to play in tracking states' reporting histories before the CRPD Committee and engaging strategically with the African Commission.³⁵ Such engagement helps ensure that gaps identified during the CRPD reviews but left unaddressed are brought to the African Commission's attention, thereby enhancing the effectiveness and overall impact of the African Disability Protocol.

A number of states have already begun to include information on measures taken to advance the rights of persons with disabilities in their

33 Guidelines for state reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (n 27) Preamble.

34 African Commission, Guidelines on the form, content and consideration of initial and periodic state party reports, adopted during the 35th Ordinary Session of the ACERWC, in September 2020, sec I, Part XI, secs 24 & 25 <https://www.acerwc.africa/sites/default/files/2025-01/Guidelines%20on%20the%20form%2C%20content%20and%20Consideration%20of%20Initial%20and%20Periodic%20State%20Party%20Reports.pdf> (accessed 17 December 2025).

35 African Commission, Guidelines on shadow reports of the African Commission on Human and Peoples' Rights (2022) <https://achpr.au.int/en/documents/2022-10-28/guidelines-shadow-reports-african-commission-human-and-peoples> (accessed 17 December 2025).

periodic reports to the African Commission.³⁶ Notably, these references appear even though such information is currently submitted under states' general obligations arising from the African Charter, given that the African Disability Protocol has only recently entered into force.³⁷ A review of the Commission's concluding observations on some of these reports further shows that the Commission has started examining with some details the measures reported, situating its scrutiny within the framework of article 18(4) of the ACHPR.³⁸ This incipient practice demonstrates that the African Commission has already begun to integrate a disability rights lens into its review procedures. With the entry into force of the African Disability Protocol – and the specific monitoring responsibilities it assigns – the Commission is now required to engage even more systematically and rigorously with disability-related information, much as it does currently with its monitoring of the Maputo Protocol. Such enhanced engagement will not only strengthen the implementation framework of the African Disability Protocol but will also reinforce the regional human rights system's capacity to offer meaningful oversight and support to states in advancing the rights of persons with disabilities.

2.1.2 *Communications and standard setting*

The mandate of the African Commission to receive and consider individual and inter-state communications, to interpret treaty provisions, and to issue general comments and other normative guidance³⁹ are equally relevant for monitoring implementation of the African Disability Protocol, given article 34(3) of the Protocol, which entrusts the Commission with interpreting its provisions.

The Commission's jurisprudence on the rights of persons with disabilities remains comparatively underdeveloped. To date, only one

36 For further on this, see TF Hodgson, M Hamza & W Macharia 'Advancing disability rights in Africa: Leveraging the African human rights mechanisms for implementation and accountability under the African Disability Protocol' Conference paper presented at the 13th Annual Disability Rights Conference organised by the Centre for Human Rights, Faculty of Law, University of Pretoria, 3-4 November 2025.

37 See eg African Commission, Federal Democratic Republic of Ethiopia: 7th to 10th Periodic Country Reports (2015-2023), January 2024, paras 390-395 <https://achpr.au.int/en/state-reports/ethiopia-7th-10th-periodic-reports-2015-2023> (accessed 17 December 2025); and Mauritius, 11th Periodic Report (2019-2024), August 2024 paras 408-418 <https://achpr.au.int/en/state-reports/mauritius-11th-periodic-report-2019-2024> (accessed 17 December 2025).

38 See eg ACHPR, Concluding Observations and Recommendations – Egypt: 9th to 17th Combined Periodic Report, 2001-2017, 31st Extraordinary Session, 19-25 February 2021, paras 32-38 <https://achpr.au.int/en/state-reports/concluding-observations-and-recommendations-egypt-9th-17th-combined-period> (accessed 17 November 2025); and Concluding Observations on the 7th to 10th Periodic Report of the Federal Democratic Republic of Ethiopia under the African Charter on Human and Peoples' Rights (2015-2023), 84th Ordinary Session, 21-30 July 2025, secs 71-72 <https://achpr.au.int/en/state-reports/coethiopia7th-10thperiodicreports2015-2023> (accessed 17 December 2025).

39 ACHPR, arts 45 & 55-59.

communication has substantively addressed disability-related claims on the merits: *Purohit and Moore v The Gambia* (2003).⁴⁰ Although this communication marked an early recognition of the prohibition of discrimination on the basis of disability and the need for safeguards against institutionalisation of persons with intellectual or psychosocial disabilities, the Commission's analysis fell short of engaging comprehensively with the broader normative obligations central to these issues.

With the entry into force of the African Disability Protocol, the African Commission is now positioned to deepen its engagement with disability rights and to ensure that these rights are properly understood, monitored, and enforced across the continent. This moment calls for the Commission to adopt a holistic, disability-responsive interpretive approach across all aspects of its mandates – state reporting, communications, standard setting, and follow-up – and ensuring that these mechanisms function coherently to advance the Protocol's objectives.

A particularly important part of this mandate is the African Commission's authority to develop General Comments. By issuing authoritative interpretive guidance on the rights and obligations contained in the African Disability Protocol, as well as on overarching principles such as reasonable accommodation and accessibility,⁴¹ the Commission can provide much-needed clarity to states parties and other actors. Well-crafted General Comments will promote coherent implementation and fill gaps in understanding regarding the scope and content of African Disability Protocol obligations.

By developing these, the African Commission can enhance its credibility as a trusted forum for persons with disabilities and DPOs, while contributing to building a robust and coherent regional framework for the protection and promotion of disability rights in Africa.

2.2 Ad hoc Advisory Council on Disability

Article 33(d) of the African Disability Protocol envisions an ad hoc Advisory Council as a continental body to facilitate the implementation of disability rights across the AU's institutional frameworks and processes. The Advisory Council – mandated to be set up by the AU Commission –

⁴⁰ n 10.

⁴¹ Unlike the CRPD, the African Disability Protocol expressly identifies 'reasonable accommodation' as one of its general principles (see art 3). Moreover, whereas the CRPD frames accessibility primarily as an obligation of states parties (art 9), the African Disability Protocol goes further by articulating accessibility as a substantive human right held by persons with disabilities themselves (art 15).

serves as a complimentary mechanism to support and follow up on continental policies and plans.⁴²

The conceptualisation of the Advisory Council reflects the AU's shift from a welfare-based approach to a human rights-based approach to disability.⁴³ Initially, efforts at the AU level centred on rehabilitation services, marked by the establishment of the African Rehabilitation Institute (ARI) in 1988, which was framed on the medical model of disability.⁴⁴ A turning point came after the 1999 OAU Ministerial Conference on Human Rights, which produced the Grand Bay Declaration and launch of the African Decade of Persons with Disabilities (1999-2009).⁴⁵ The transition from the OAU to the AU, through the Constitutive Act of 2000, explicitly mandated the AU with promoting and protecting human rights.⁴⁶ This commitment was reinforced by the 2002 Continental Plan of Action, which reflected the human rights model of disability⁴⁷ and integrated disability rights into the AU's governance agenda. Agenda 2063 further emphasises the participation and empowerment of persons with disabilities as central to achieving inclusive development and 'an Africa of good governance, democracy, respect for human rights, justice, and the rule of law'.⁴⁸

To further advance the integration of disability rights into the AU's institutional frameworks and ensure that the AU's commitments to inclusion are translated into concrete disability-specific policies and strategies, the ad hoc Advisory Council could thus serve as a vital platform, but its Terms of Reference (ToRs) must necessarily be unpacked as a matter of priority. Such Council would play an indispensable role in, inter alia, institutionalising disability rights within the AU's broader governance and accountability framework by providing expert guidance to the African Union Commission, monitoring implementation at the continental level, and promoting peer learning among member states, including through aligning efforts with the African Peer Review Mechanism.

42 AU 'African model law on disability' (11 October 2019) https://tanzlii.org/akn/aa-au/statement/model-law/pap/2019/disability/eng%402019-10-11?utm_source=chatgpt.com (accessed 3 August 2025).

43 PO Juma 'Ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa: An overview of the implications' (2024) 12 *African Disability Rights Yearbook* 211.

44 As above.

45 J Biegon 'The protection and promotion of disability rights in the African human rights system' in I Grobbelaar-Du Plessis & T Van Reenen (eds) *Aspects of disability law in Africa* (2012); Juma (n 43).

46 Constitutive Act of the African Union, 2000, art 3(h). As Biegon notes, the AU's human rights mandate catalysed the gradual move towards a human rights-based approach to disability. Consequently, key AU instruments such as the Maputo Protocol, the African Charter on the Rights and Welfare of the Child, the African Youth Charter, and the African Charter on Democracy, Elections and Governance began to incorporate provisions on the rights of persons with disabilities – Biegon (n 45).

47 Juma (n 43).

48 AU 'Agenda 2063: The Africa we want' (2015) Aspirations 3 and 6.

3 Implementation and monitoring at national (domestic) level

Article 34(2) of the Disability Protocol requires states parties to establish or designate national-level frameworks, independent national institutions, to monitor implementation at the domestic level. As for monitoring and implementation (prospects, challenges, and the like) of the Disability Protocol, not much can be said at this point as the Protocol entered into force in May 2024. However, certain provisions of the Protocol, such as the pivotal article 36, ensure that in the event of any ‘contradictions’ between provisions of the Protocol and/or those disability rights stipulated in other treaties such as the CRPD itself, the provision that protects the ‘best interests’ of persons with disabilities prevails.⁴⁹ A similar provision is enshrined under the CRPD, article 4(4).

On substantive, institutional, and procedural obligations on states parties to ensure effective national monitoring of the Protocol’s implementation, notably the Disability Protocol’s formulation reflects a broader trend initiated by the CRPD, which explicitly elaborates institutional arrangements for national implementation and monitoring, moving beyond the more general obligation commonly found in earlier human rights instruments that states ‘take all appropriate measures’ to fulfil their treaty commitments.⁵⁰

A closer comparison between article 33 of the CRPD and article 34(2) of the Disability Protocol reveals important differences in how the two instruments structure the national implementation and monitoring duties of states parties. Article 33 of the CRPD adopts a sort of two-tiered approach. First, article 33(1) imposes an obligation to designate one or more ‘focal points’ within government and to create or identify a ‘coordination mechanism’ to facilitate and oversee implementation. Second, article 33(2) separately requires states parties to establish or designate a national framework, including independent mechanisms, for the purpose of monitoring implementation at the national level.⁵¹ In contrast, article 34(2) of the Disability Protocol collapses these different duties into a single obligation focused only on monitoring: the establishment or designation of independent national institutions. As a result, while the CRPD establishes a differentiated institutional architecture that distinguishes implementation and monitoring, the Disability Protocol articulates a narrower obligation.

49 African Disability Protocol, art 36(2).

50 V Aichele ‘Article 33: National implementation and monitoring’ in I Bantekas, MA Stein & D Anastasiou (eds) *The UN Convention on the Rights of Persons with Disabilities: A Commentary* (2018) 978-1011.

51 As above.

Article 34(2) of the Disability Protocol establishes a minimum institutional guarantee for independent monitoring. These differences should not, however, be understood as creating inconsistencies between the CRPD and the Disability Protocol but rather as reflecting distinct drafting choices that can be reconciled. States parties should conceptualise at national level, while reading its silence on implementation structures through the interpretive lens of the CRPD's obligations. In practical terms, this means that states implementing the Disability Protocol should not limit themselves to establishing independent monitoring bodies but should also ensure the existence of focal points and coordination mechanisms in accordance with article 33(1)-(3) of the CRPD. It is worth noting here that the Disability Protocol, as with the CRPD, clearly mandates that civil society – and in particular DPOs – should participate in the implementation and monitoring processes at national level.⁵²

4 Concluding remarks

All in all, one may validly conclude that while the recent entry into force of the Disability Protocol is a welcome development, it nonetheless comes with its own substantive and procedural complications – or indeed lack of clarity. There is, therefore, a time-sensitive need for an interpretative guideline of the Protocol – emulating already existing good practices in the continent such as, *inter alia*, the Guidelines for State Reporting under the Maputo Protocol on the Rights of Women in Africa and the Guidelines for State reporting adopted by the ACERWC.

Ongoing efforts by several stakeholders on fast-tracking ratifications and domestication of the Protocol by states parties should now also be geared towards possible implementation drawbacks created, and not eased by the Disability Protocol.⁵³

Finally, operationalising the Protocol demands – as a matter of urgency – capitalising on the instrument's call for meaningful cooperation (article 33) and clarity of framework between the various partners and stakeholders, led by DPOs with concrete support from states parties, development partners, and organs of the AUC that are already actively engaging disability rights, such as the Pan African Parliament (PAP) which, in recent years, adopted its own Model Disability Law, and the ACERWC, and the not-so-capacitated Working Group on the Rights of

52 African Disability Protocol, art 33(c).

53 Stakeholders should in particular, unpack the pivotal interplay between, for example, the currently existing 'Africa Disability Architecture' and the ad hoc Advisory Council of Experts. The architecture refers to programmatic (policy), legal (the Protocol itself), and institutional (yet to be materialised) components. The Advisory Council should be established sooner rather than later, as per article 33(d) which has been in force since May 2025.

Persons with Disabilities and Older Persons under the African Commission in Banjul.

REGIONAL DEVELOPMENTS

THE AFRICAN UNION CONVENTION ON ENDING VIOLENCE AGAINST WOMEN AND GIRLS: OPPORTUNITIES, GAPS AND THE POTENTIAL IMPACT ON WOMEN AND GIRLS WITH DISABILITIES

*Miriam Nthenge**

1 Introduction

The African Union Convention on Ending Violence Against Women and Girls (AU Convention) was adopted during the 38th ordinary session of the Assembly of Heads of State and Government of the AU, held in Addis Ababa, Ethiopia, from 15 to 16 February 2025.¹ The Convention seeks to fulfil four main objectives. First, to prescribe an enabling environment for ending violence against women and girls. Second, to provide preventive measures to end violence against women and girls. Third, to provide comprehensive support services to victims and their families. Fourth, to enhance enforcement mechanisms relating to health, social welfare, and the justice system to effectively respond to cases of violence against women and girls. By July 2025, only six countries have signed the Convention, namely, Angola, Burundi, Democratic Republic of the Congo, Djibouti, Liberia, and The Gambia.²

* LLM, International and Comparative Disability Law and Policy (National University of Ireland, Galway); BA, Communication and Sociology (University of Nairobi); Human Rights Adviser, International Disability Alliance. The views expressed in this chapter are those of the author and do not necessarily reflect the views of the International Disability Alliance.

1 See AU Press Release 'African Union adopts Convention on Ending Violence Against Women and Girls' 28 February 2025 <https://au.int/en/pressreleases/20250228/african-union-adopts-convention-ending-violence-against-women-and-girls> (accessed 16 December 2025).

2 See A Eweje 'Six African Union member states adopt AU Convention to End Violence Against Women, Girls' *BO News* 23 July 2025 <https://bonewssng.com/six-african-union-member-states-adopt-au-convention-to-end-violence-against-women-girls/> (accessed 16 December 2025).

Globally, women and girls with disabilities are at least two to three times more likely than other women to experience violence, including by family, intimate partners, caregivers, and institutional facilities.³ The aim of this commentary is to highlight the implications of the adoption of the AU Convention for efforts towards prevention and ending violence against women with disabilities in the African region. The commentary has six main sections. Following this introduction, section two provides a brief overview of violence against women with disabilities in Africa with reference to forms and causes of such violence. Section three examines specific provisions of the AU Convention in respect of women and girls with disabilities. Section four focuses on potential roadblocks to effectiveness of the Convention. Section five reflects on key recommendations to ensure that the Convention holds a meaningful impact for women and girls with disabilities, while section six provides the conclusion.

2 Situation of violence against women and girls with disabilities in Africa

Persons with disabilities represent about 16 per cent of the general global population, which translates to approximately 1.5 billion persons.⁴ Approximately 80 million persons with disabilities live in Africa.⁵ Globally women with disabilities comprise 19,2 per cent of all women.⁶ Violence against women and girls with disabilities is one of the most pervasive human rights violations that is related to both gender and disability-based discrimination. According to the UN Special Rapporteur on Violence against Women and Girls, women with disabilities are at high risk of violence based on social stereotypes and biases that attempt to dehumanise, infantilise, exclude or isolate them, and target them for sexual and other forms of violence.⁷

Women and girls with disabilities experience different and unique forms of violence including physical, sexual, psychological and emotional abuse, bullying, coercion, arbitrary deprivation of liberty, institutionalisation, female infanticide, trafficking, neglect and domestic

3 E Emerson & G Llewellyn 'Exposure of women with and without disabilities to violence and discrimination: Evidence from cross-sectional national surveys in 29 middle- and low-income countries' (2023) 38 *Journal of Interpersonal Violence* 7215.

4 World Health Organisation 'Fact sheets: Disability' <https://www.who.int/news-room/fact-sheets/detail/disability-and-health> (accessed 16 December 2025).

5 As above.

6 UN Women 'The empowerment of women and girls with disabilities: Towards full and effective participation and gender equality' (2018) <https://www.unwomen.org/en/digital-library/publications/2018/12/the-empowerment-of-women-and-girls-with-disabilities> (accessed 16 December 2025).

7 Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) 'Thematic study on the issue of violence against women and girls and disability' UN Doc A/HRC/20/5 (2012).

violence.⁸ Other forms of violence can include harmful practices such as child and forced marriage, female genital mutilation, forced sterilisation, forced abortion, forced contraception and invasive and irreversible involuntary treatments.⁹

3 The AU Convention in light of women with disabilities

3.1 Background

Over the last three decades, the normative framework on rights of women, including the right to be free from all forms of violence, has expanded and strengthened.¹⁰ Political commitments have paved the way to address violence against women not only as a gender equality issue but also as a development issue.¹¹ By 2063, Africa envisions a region where all forms of violence and discrimination (social, economic and political) against women and girls will have been eliminated, and they will fully enjoy all their human rights.¹² Violence against women and girls is further dealt with in the African Charter on Human and Peoples' Rights (ACHPR),¹³ the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol),¹⁴ the African Charter on Rights and Welfare of the Child (Children's Charter)¹⁵ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol).¹⁶

The AU Convention therefore builds on this framework by clarifying specific state duties to eradicate violence against women and girls in the African region, both generally and in contemporary environments such as violence in digital space.

8 OHCHR Thematic study (n 7) 3. See also Report of the Special Rapporteur on Violence against Women and Girls 'Advancement of women' UN Doc A/67/227 (2012) paras 31-39.

9 OHCHR Thematic study (n 7) 10. See also Report of the Special Rapporteur (n 8) paras 31-39.

10 Council of Europe, The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), ISBN 978-92-871-7990-6, November 2014.

11 SDG5, Target 5.2.1 calls for the elimination of all forms of violence against women and girls in public and private sphere.

12 AU Commission 'Agenda 2063: The Africa we want' (2015).

13 Art 18(3).

14 Art 3(4) & 4.

15 Art 16.

16 Art 27(j).

3.2 Specific articles of the AU Convention relevant to women and girls with disabilities

The AU Convention includes a Preamble and 20 articles ranging from definitions, scope, state obligations, guiding principles, protection and support, access to justice, collaboration and cooperation to implementation and monitoring. This commentary addresses specific provisions either due to the novelty of the article or its specific impact in relation to ending violence against women and girls with disabilities. The commentary therefore focuses on definitions, state obligations, access to justice, intersectionality, and collaboration and cooperation.

3.2.1 Definitions

Article 1 of the AU Convention defines violence against women as

all acts perpetrated against women and girls which cause or could cause them verbal, emotional, physical, sexual, psychological, or economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restrictions on, or deprivation of, fundamental freedoms in the private and public spheres, or cyberspace, in times of peace, armed conflict, transition, post-conflict, disaster and post disaster situations.

The scope of this definition is comprehensive in that it encompasses the public and private spheres, cyberspace, peace and conflict, and humanitarian situations. The novelty of this definition is the explicit inclusion of violence during and post conflict and violence in cyberspace. Though technologically facilitated violence has been a growing concern for human rights mechanisms and other entities, the AU Convention becomes the first regional human rights instrument to explicitly include cyberspace.¹⁷ This recognition is crucial for women with disabilities. According to UN Women, more than 50 per cent of girls and young women have experienced online violence.¹⁸ Women with disabilities are at a heightened risk of technologically facilitated gender-based violence including cyberbullying.¹⁹ According to the Global Disability Inclusion

17 Article 4(3) of the Istanbul Convention defines violence against women as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

18 UN Women 'UN Women strategy: Preventing and eliminating technology-facilitated violence against women and girls' (2025) <https://www.unwomen.org/sites/default/files/2025-12/un-women-strategy-preventing-and-eliminating-technology-facilitated-violence-against-women-and-girls-en.pdf> (accessed 16 December 2025).

19 According to UNFPA, tech-facilitated gender-based violence is an act of violence perpetrated by one or more individuals that is committed, assisted, aggravated and amplified in part or fully by the use of information and communication technologies or digital media against a person on the basis of gender.

Report (GDIR), persons with disabilities may face increased difficulty in identifying phishing scams and predatory online behaviour due to the inaccessibility of cyber-protection, which makes them easy targets for exploitation and bullying.²⁰ The expansion of the scope in the definition therefore offers additional protection and expands government obligations to eliminate violence against women with disabilities and ensure justice to victims of digital space violence.

3.2.2 *State obligations on laws, access to justice, data and resources (article 5)*

Article 5 mandates states to enact and enforce laws that eradicate violence against women and girls,²¹ ensure effective justice systems,²² conduct periodic census and surveys for evidence-based policies,²³ and utilise gender-responsive budgeting.²⁴ These obligations address key elements of preventing and eliminating violence against women and girls with disabilities. The jurisprudence of the CRPD Committee demonstrates that discriminatory laws advancing substituted decision-making, especially in relation to women with disabilities with or perceived psychosocial disabilities and those with intellectual disabilities, exacerbate reproductive violence such as forced sterilisation, forced abortion and forced contraception.²⁵

The second obligation on data is pivotal. Data plays a significant role in policy making, including identifying barriers and enablers of violence against women and girls, especially those encountering multiple and intersectional discrimination such as women with disabilities. However, the availability of data and intersectional data on violence against women and girls disaggregated by gender and disability is limited.²⁶ Article 4(1) states that one of the objectives of the Convention is to prescribe an enabling environment to systematically collect and use gender-disaggregated data on violence against women and girls, including by age.

20 Federal Ministry for Economic Cooperation and Development (BMZ) of Germany and others *Global disability inclusion report: Accelerating disability inclusion in a diverse and changing world* A Multi-stakeholder Report for the Global Disability Summit 2025 (2025) 99 https://www.globaldisabilitysummit.org/wp-content/uploads/2025/03/GIP03351-UNICEF-GDIR-Full-report_Proof-4.pdf (accessed 16 December 2025).

21 Art 5(a).

22 Art 5(b).

23 Art 5(c).

24 Art 5(d).

25 See IDA 'IDA's compilation of CRPD Committee's Concluding Observations: Article 17 CRPD: (Protecting the integrity of the person)' (2025) <https://www.internationaldisabilityalliance.org/documents/article17crpdsep2025-docx> (accessed 16 December 2025). See also CRPD Committee, Concluding observations on the combined second and third periodic reports of the European Union, 17 April 2025, UN Doc CRPD/C/EU/CO/2-3 (2025) art 16.

26 Open Data Watch 'Intersectional data and persons with disabilities' (2025) <https://opendatawatch.com/publications/intersectional-data-and-persons-with-disabilities/> (accessed 16 December 2025).

Though a critical provision, the explicit omission of data disaggregated by disability perpetuates an on-going global pandemic of lack of data disaggregated by gender and disability. On the other hand, article 32(a) of the African Disability Protocol obligates states to disaggregate statistics and data based on disability, gender, age and other relevant variables, including by ensuring that national population census and other surveys capture data on disability. For effective data collection, the Convention must be read with the African Disability Protocol which provides a robust framework for collecting disaggregated data by disability, age, gender and other relevant identities.

The obligation to ensure gender responsive budgeting is critical to resourcing measures to end and prevent violence against women and girls including those with disabilities. Without allocating resources for gender-based violence prevention and research, investing in services for survivors of violence, creating frameworks to eliminate disability-based discrimination, and guaranteeing accessibility, it is almost impossible to end violence against women with disabilities. It is worth noting though progress has been reported on gender responsive budgeting,²⁷ globally the needs of women with disabilities including on addressing violence are under addressed.

3.2.3 Intersectionality and disability (article 7)

Traditionally, laws and policies addressing women have ignored women with disabilities.²⁸ This invisibility has perpetuated the prevalence of multiple and intersecting forms of discrimination against women and girls with disabilities. Recognising that women do not experience discrimination as members of a homogenous group but rather, as individuals with multidimensional layers of identities, statuses and life circumstances is essential in addressing violence against women.²⁹ It means acknowledging the lived realities and experiences of heightened disadvantage of women caused by multiple and intersecting forms of discrimination, which requires targeted measures with respect to disaggregated data collection, consultation, policymaking, enforceability of non-discrimination and the provision of effective remedies.³⁰

27 K Gifford & Z Khan 'Strengthening public finance management systems for gender equality and women's empowerment: Promising practices and remaining gaps' UN Women Technical Brief (2023) <https://www.unwomen.org/en/digital-library/publications/2023/06/strengthening-public-finance-management-systems-for-gender-equality-and-womens-empowerment> (accessed 16 December 2025).

28 See IDA 'IDA's Compilation of CRPD Committee's Concluding Observations: Article 7 CRPD (Children with disabilities)' (2024) https://www.internationaldisabilityalliance.org/sites/default/files/article_7_crpd_0.pdf (accessed 16 December 2025).

29 Committee on the Rights of Persons with Disabilities, General Comment 3 (2016) on women and girls with disabilities, 25 November 2016, UN Doc CRPD/C/GC/3 (2016).

30 As above.

Article 7 of the Convention explicitly recognises that violence intersects with other forms of discrimination, including disability. Additionally, the Preamble of the Convention notes the inter-generational and evolving nature of violence against women and girls in Africa and its interconnection with multiple forms of inequality and discrimination relating to disability. In terms of state obligations, article 7(2)(e) specifically requires states to enact and enforce national laws protecting women and girls with disabilities from all forms of violence, discrimination, and exploitation, and provide them with holistic and tailored support services. These provisions potentially hold strong protections for women with disabilities.

However, the Convention misses a crucial opportunity to provide an interpretative definition of intersectional and multiple discrimination, which can adversely impact on states parties' understanding and recognition of factors that disproportionately expose women with disabilities to violence. Disability-based discrimination is similarly not defined, making it difficult to bring out specific elements that amount to discrimination on the basis of disability and intersects with violence such as denial of reasonable accommodation.

On a positive note, for African countries that have ratified the CRPD, the CRPD Committee through General Comment 6 on equality and non-discrimination³¹ defines intersectional³² and multiple discrimination,³³ thus providing guidance on key elements to be considered when interpreting situations of intersectional and multiple discrimination.

3.2.4 Access to justice (article 12)

Access to justice is fundamental for the enjoyment and fulfilment of all human rights, including the right to be free from all forms of violence. Women with disabilities face significant barriers to accessing justice, due to discrimination based on gender and disability. Such barriers include restrictions on the exercise of legal capacity, lack of physical access to justice facilities, lack of accessible transportation to and from these facilities, obstacles in accessing legal assistance and representation, lack of

31 Committee on the Rights of Persons with Disabilities: General Comment 6 (2018) on equality and non-discrimination, 26 April 2018, UN Doc CRPD/C/GC/6 (2018) para 6.

32 According to General Comment 6, intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable and thereby expose relevant individuals to unique types of disadvantage and discrimination.

33 Multiple discrimination is a situation where a person can experience discrimination on two or several grounds, in the sense that discrimination is compounded or aggravated.

information in accessible formats, and lack of training for professionals working in the field of justice.³⁴

Paternalistic or negative attitudes questioning the abilities of persons with disabilities to participate during all phases of the administration of justice may perceive women with disabilities, particularly women with intellectual or psychosocial disabilities, as being less credible witnesses which pose barriers to accessing justice in situations where the only evidence of abuse or another crime is the testimony of a woman with a disability, as is often the case with gender-based violence. As discussed earlier, national laws, policies, and plans may not reflect specific rights violations that women with disabilities experience, leaving them without legal remedies. For instance, the CRPD Committee defines institutionalisation as a form of violence. However, in many jurisdictions mental health laws permit involuntary admission and treatment and detention in hospitals which amounts to violence. These outdated laws impact access to justice for survivors of violence.

The Convention calls for fair and non-discriminatory legal processes and rules of evidence to ensure survivors of violence can effectively pursue justice. This includes timely investigations, protective measures during legal proceedings and appropriate sanctions for perpetrators. One could argue that these provisions provide concrete protections for women. However, the Convention misses key provisions that would guarantee access to justice for women with disabilities. The ten principles of access to justice for persons with disabilities by the UN Special Rapporteur on the Rights of Persons with Disabilities require fulfilment of key obligations, which include amongst others the right to legal capacity, appropriate procedural accommodations and accessible information and facilities.³⁵ The failure of the Convention to explicitly obligate states to provide reasonable accommodation and procedural accommodations poses an insurmountable challenge for women with disabilities especially those with or perceived psychosocial disabilities and intellectual disabilities. An additional gap is the failure to explicitly recognise the right to legal capacity. Though equality of opportunity and equal application of the law is one of the guiding principles of the Convention, no specific article addresses equality before the law and the obligations of states such as the duty to provide support to those who may require it to exercise their legal capacity. These omissions can have an adverse impact on the ability of

34 See IDA 'IDA's compilation of CRPD Committee's Concluding Observations: Article 13 CRPD (Access to Justice)' (2022) https://www.internationaldisabilityalliance.org/sites/default/files/article_13_crpd.pdf (accessed 16 December 2025); see ICJ 'Access to justice for persons with disabilities in Kenya: Progress and challenges' (2025) <https://www.icj.org/wp-content/uploads/2025/07/Access-to-Justice-for-Persons-with-Disabilities-in-Kenya.pdf> (accessed 16 December 2025).

35 'International principles and guidelines on access to justice for persons with disabilities' (2020) <https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/10/Access-to-Justice-EN.pdf> (accessed 16 December 2025).

women with disabilities to gain access to justice on an equal basis with other women.

3.2.5 Collaboration and cooperation (article 13)

Partnerships and collaboration play a fundamental role in the implementation and monitoring of human rights instruments. The role of civil societies has been underscored in several human rights instruments. For persons with disabilities and disabled peoples' organisations (DPOs), effective and meaningful engagement in decision-making processes and monitoring is an obligation guaranteed by both the African Disability Protocol³⁶ and the CRPD.³⁷ Article 13 of the AU Convention reinforces this obligation by requiring states to partner with civil society and women's organisations to create a coordinated response to violence against women and girls. This explicit obligation provides an opportunity for women with disabilities and representative organisations of women with disabilities to engage in national and African regional efforts to combat violence against women with disabilities. However, the reality is that women with disabilities and their representative organisations are excluded from key decision-making processes, including those relating to state reporting processes. To close this gap, there is a need to increase awareness among women with disabilities on existing accountability human rights mechanisms, to ensure that preconditions of meaningful and effective participation are guaranteed – such as accessibility and timely dissemination of information of upcoming sessions of the African Commission – and to financially resource these organisations. Additionally, the granting of Observer Status to the African Disability Forum increases the opportunity for more engagement by DPOs at the African Commission including organisations of women with disabilities.

4 Potential challenges impacting the effectiveness of the AU Convention

4.1 Overwhelmed monitoring mechanism

Article 13 of the AU Convention vests the mandate of monitoring and interpreting the Convention with the African Commission. This means that this Convention becomes the fifth instrument³⁸ to be monitored by the Commission. This would therefore require states to report on the five instruments under a single report. This approach is problematic for several

³⁶ Art 4(j).

³⁷ Art 4(3).

³⁸ The African Commission monitors implementation of the African Charter on Human and Peoples' Rights, the Maputo Protocol, the Protocol on Older Persons and the African Disability Protocol.

reasons. First, there is a possibility of overlap with the articles of other instruments and therefore states would not report in detail on measures taken to implement different obligations. Second, the limited time for interactive dialogue between the state under review and the Commission would result in a rushed process that does not adequately address all the issues under the five instruments. It is worth noting that unlike the UN human rights system that provides for interactions between civil society organisations (CSOs) and the Committees through private briefings, in the case of the African Committee such engagements are limited to the submission of alternative reports – although CSOs can privately reach out to country rapporteurs. Third, a lack of detailed interactive dialogues and engagement with civil society may result in a lack of substantive recommendations to states parties, thus impacting national reforms.

It is worth noting that while the mandate of the Special Rapporteur on the Rights of Women in Africa and the Working Group on Rights of Older Persons and Persons with Disabilities may remedy some of these gaps, specifically the promotional nature of their role which includes the preparation of thematic reports, conducting fact finding missions, adoption of resolutions and development of guidelines for reporting may not adequately address the state reporting which is core accountability process under the auspices of the Commission.

4.2 Ratify or not?

To date only the ACHPR has a near-continental ratification with only one country pending ratification, while the African Charter on the Rights and Welfare of the Child has been ratified by about 50 states. Ratification of Protocols related to the Charter and Conventions remain slow within the region. For instance, only 17 countries have ratified the Protocol on Disability and 15 have ratified the Protocol on Older Persons. As noted above, the AU Convention has only been signed by five countries so far, with no ratifications. Related to this process is ratification with reservations which denies certain rights. For instance, the reservations under article 14(2)(c) of the Maputo Protocol continue to impact on women's right to safe and legal abortion. Unless there is continental ratification without reservations, the objective and purpose of the AU Convention will not be achieved.

4.3 Resourcing the implementation and monitoring of the AU Convention

There is no doubt the AU Convention presents key legal guarantees and protection for women against violence. However, a failure on the part of African states to allocate financial resources to facilitate the realisation of rights such as funding accessible shelters, access to justice and others will

negatively affect its impact. Thirty years since the adoption of Beijing Platform of Action studies show that gender-specific programmes are still under-resourced.³⁹

5 Conclusion

The AU Convention presents concrete opportunities to address violence against women and girls from an intersectional perspective, including on disability. To achieve the purpose and objective of the Convention, the AU and states must take specific measures such as achieving a continental ratification of the Convention and the African Disability Protocol – in both instances without reservations, ensuring data-driven interventions, meaningfully engaging with women with disabilities through their representative organisations, making catalytic investments in ending violence against women with disabilities, repealing outdated substituted decision-making regimes and considering the establishment of a designated mechanism solely to monitor the implementation of the Convention.

39 UN Women 'Women rights in review 30 years after Beijing (2025) <https://www.unwomen.org/sites/default/files/2025-03/womens-rights-in-review-30-years-after-beijing-en.pdf> (accessed 16 December 2025).

BOOK REVIEW

C OHAJUNWA, K DUBE & E CHITANDO (EDS) *RELIGION, DISABILITY, AND SUSTAINABLE DEVELOPMENT IN AFRICA (2025)*

*Thina Mthembu**

(Routledge 2025) 298 pages, ISBN 9781032566627

1 Introduction

Religion, disability, and sustainable development in Africa, edited by Chioma Ohajunwa, Kudakwashe 'AK' Dube, and Ezra Chitando, constitutes a significant contribution to the scholarly discourse on the intersections of disability, religion, and development within the framework of the United Nations' Sustainable Development Goals (SDGs).¹ The book presents a comprehensive examination of the complex relationships between disability, religion, and development in select African countries, thereby advancing our understanding of the critical role that religion plays in shaping the experiences of persons with disabilities in these contexts. With a specific focus on countries in the Global South, particularly in Eastern and Southern Africa including Tanzania, Zambia, Zimbabwe, Uganda, Kenya, Eswatini, and others, this book brings together a diverse range of voices and perspectives to explore the multifaceted ways in which disability, religion, and development intersect.

* LLM, LLB, BA (UKZN).

1 The Sustainable Development Goals (SDGs) are the world's roadmap for ending poverty, protecting the planet and tackling inequalities. The SDGs offer the most practical and effective pathway to tackle the causes of violent conflict, inequalities, climate change and environmental degradation and aim to ensure that no one will be left behind. They reflect an understanding that sustainable development everywhere must integrate economic growth, social well-being and environmental protection. Sustainable Development Goals <https://www.un.org/sustainabledevelopment/development-goals/> (accessed 10 October 2025).

The standalone introductory chapter serves as a foundational introduction, in which the editors, draw extensively on the research of the late Dr Sinenhlanhla S Chisale, an African scholar who firmly believed ‘in the power of religion to contribute to human dignity, human flourishing and development’.² In her writings Chisale acknowledged that ‘religion has been known to cause division and exclusion’, she however also acknowledged ‘that [religion] has the capacity to promote unity and inclusion’.³ As such, she argued that it is a worthwhile endeavour ‘to cultivate and emphasise the redemptive windows that are available in [religion]’ especially for persons with disabilities.⁴ Chisale’s work challenges the conventional understanding of the dynamic between disability and poverty as two factors that tend to exacerbate each other, she contested this stance by asserting that it is crucial ‘to balance the discussion of disability and poverty with an understanding of how persons with disabilities generate their own livelihoods within their communities’, which can help achieve the inclusivity that has been a longstanding goal for the disability community.⁵ While Chisale’s scholarship does not link directly with religion, disability and sustainable development it does reveal a clear theme of development centred on inclusivity, empowerment, and dignity for persons with disabilities, catalysed by religion and the role it plays in their lives.⁶

The remaining 16 chapters are organised into four thematic sections, each of which examines the SDGs, disability, and religion in the context of specific issues, including poverty, health, gender, and various disciplines such as eco-justice, education, and indigenous religions. This review will provide an analysis of the book’s key themes, arguments, and contributions to the field, highlighting its relevance to ongoing conversations about disability, religion, and sustainable development in Africa, rather than offering a detailed discussion of each chapter.

2 The context of poverty and socio-cultural factors

The first collection of chapters sheds light on the multi-layered relationship between the SDG’s, disability, poverty and religion. In Chapter 3, Loreen Maseno and Vugutsa Beatrice Lukalo’s descriptive research methodology meticulously dissects the complex ways in which negative societal attitudes, stigma, and exclusionary practices aggravate poverty and marginalisation, offering the reader a poignant examination of the lived

2 C Ohajunwa, K Dube & E Chitando (eds) *Religion, disability, and sustainable development in Africa* (2025) 5.

3 As above.

4 As above.

5 As above.

6 Ohajunwa, Dube & Chitando (n 2) 10.

experiences of persons with disabilities in Kenya. Their analysis further reveals that persons with disabilities are often perceived as ‘incomplete and incapable of agency’ leading to their exclusion from mainstream society. This in turn perpetuates a rancorous cycle of poverty, that results in persons with disabilities facing significant barriers in accessing their human rights associated with education, employment, and social services.⁷ Maseno and Lukalo also astutely observe that naive religious perceptions further entrench stigma and marginalisation.⁸

Similar sentiments are found in Makomborero Allen Bowa’s research, which is grounded in qualitative research methods, utilising a multi-method approach that includes descriptive views, observations, and a thorough literature review on disability representation in the Old Testament of the Hebrew Bible, a revered sacred text in both Judaism and Christianity. The chapter also relies on the social model of disability and Nancy Fraser’s social justice theory to analyse the data.⁹

Bowa highlights the Old Testament’s contradictory portrayal of disability, featuring both discriminatory texts¹⁰ and non-discriminatory passages,¹¹ he argues that such contradictory perspectives have contributed to the exclusion, poverty, deprivation and perpetuating of negative and discriminatory attitudes towards persons with disabilities in many African societies.¹² He instead advocates for reform through harnessing the potential of religious texts to be the catalyst for social change, allowing for a paradigm shift in societal attitudes towards disability.¹³

Through the lens of Nancy Fraser’s social justice framework, which emphasises recognition, redistribution, and representation, Bowa seeks to challenge stigmatising attitudes and promote the rights and dignity of persons with disabilities. This approach prioritises meaningful participation and inclusivity, transforming religious discourse from a source of exclusion to a powerful tool for social justice and empowerment.¹⁴ Bowa’s chapter underscores the significance of addressing the challenges faced by persons with disabilities in order to achieve the SDG’s by promoting a positive and inclusive approach to

7 L Maseno & VB Lukalo ‘Disentangling disability in Africa: A panoramic view from critical disability studies on religion, disability and poverty in Africa’ in Ohajunwa, Dube & Chitando (n 2) 38-39.

8 Maseno & Lukalo (n 7) 39.

9 M Bowa ‘Positive perspectives on disability in the Old Testament: Pathways to breaking the disability-poverty nexus and leaving no-one behind in Africa’s quest to achieve sustainable development’ in Ohajunwa, Dube & Chitando (n 2) 23.

10 Leviticus 21:16-23, Leviticus 22:21-22, and Deuteronomy 28:28.

11 Leviticus 19:14 and Deuteronomy 27:18.

12 Maseno & Lukalo (n 7) 27.

13 Maseno & Lukalo (n 7) 33.

14 Bowa (n 9) 22-23, citing N Fraser *Scales of justice: Reimagining political space in a globalising world* (2010).

disability through the usage of positive interpretations of sacred texts given the significance of religion in most societies.

Gubela Mji's chapter about the African Network for Evidence to Action in Disability (AfriNEAD)¹⁵ highlights the importance of decolonising disability research and adopting an African-centric approach. Mji argues that dominant Western perspectives in disability research have led to the marginalisation and exclusion of persons with disabilities in Africa. To address this, AfriNEAD seeks to create a body of knowledge that considers disability from an African perspective, guided by African principles such as ubuntu, which emphasises collective consciousness and community-driven initiatives. It is submitted that AfriNEAD's approach of providing a platform for like-minded individuals to participate in dialogue on disability-centric issues allows room for the creation of customised solutions that cater to the unique requirements of persons with disabilities in various settings.

3 The context of health and well-being

The book's next section explores the intersection of health and well-being within the context of the SDGs, disability, and religion. Swabra Nakawesa and Ephraim Lemmy Nuwagaba explore the intersection between disability, religion and the SDGs within the context of Covid-19 using a literature review style methodology. Their review considers the challenges faced by persons with disabilities because of this intersection and calls for a critical reassessment of religious belief systems and the (re)development of intervention strategies to allow for the promotion of inclusivity. The chapter highlights current trends in African religiosity (homing in specifically on Christianity and Islam) and disability, noting amongst other things the 'increasing influence of Pentecostal and charismatic movements that emphasise divine healing and miracles'.¹⁶ While these movements often stem from positive intentions, Nakawesa and Nuwagaba argue that they can have adverse consequences for persons with disabilities, exacerbating stigma. However, the authors also identify a positive consequential trend which is a growing push for inclusivity within faith communities, with many proactively adapting to improve accessibility for persons with disabilities.¹⁷

15 G Mji 'The African Network for Evidence-to-Action in Disability (AfriNEAD) on its quest to be a Regional Disability Network guided by African wisdom' in Ohajunwa, Dube & Chitando (n 2). AfriNEAD is a flagship project of the Centre for Disability and Rehabilitation Studies at Stellenbosch University, and its aim is to translate research into evidence-based advocacy, practice and policy – particularly in the pan-African context so as to better the lives of persons with disabilities, AfriNEAD - Home page <https://blogs.sun.ac.za/afriNEAD/history-of-afriNEAD/> (accessed 24 October 2025).

16 S Nakawesa & EL Nuwagaba 'Exploring the intersection of disability and religion in the context of Covid-19 and sustainable development in Africa' in Ohajunwa, Dube & Chitando (n 2) 88.

17 Nakawesa & Nuwagaba (n 16) 90.

From a pandemic perspective Nakawesa and Nuwagaba argue that Covid-19 exposed the inadequacies of healthcare systems for persons with disabilities, highlighting that the one-size-fits-all pandemic response overlooked their unique needs, even with basic measures like sanitation equipment which was often inaccessible because of its structural build. They further contend that the pandemic intensified social isolation for a group already experiencing isolation thus furthering the marginalisation of persons with disabilities.¹⁸

The remainder of the chapter explores the vulnerabilities faced by persons with disabilities through various theoretical frameworks including religion, the social model of disability and the African philosophy of ubuntu to identify strategies for supporting and empowering persons with disabilities during and after the Covid-19 pandemic (and future calamities) ultimately promoting inclusivity in achieving the SDGs.¹⁹ Nakawesa and Nuwagaba highlight the dual role of religion in disability discourse, serving as both a positive force for change and a potential source of stigma. They note that religious institutions could leverage their influence to disseminate information and support persons with disabilities but also acknowledge that certain interpretations of religious texts can perpetuate negative attitudes towards disability, such as interpreting disability as a consequence of sin or punishment.²⁰

The authors then present the social model of disability as a practical tool for emancipation. Nakawesa and Nuwagaba also explore the ubuntu philosophy, which prioritises 'communal benefit and collective well-being'.²¹ However, they note that the Covid-19 pandemic presented challenges to such an approach, given its emphasis on social distancing and limiting gatherings. In closing Nakawesa and Nuwagaba contend that integrating religious conceptualisations, the social model of disability, and the ubuntu philosophy offers a more comprehensive and effective framework for advancing disability rights.²²

Ronald Julius Mbaos's²³ Chapter 9 offers a complementary yet distinct perspective on the role of faith-based organisations in promoting the SDG's, focusing specifically on the real-world efforts of Christian and Muslim faith-based organisations in implementing specifically SDG's 1, 2, 3, 4, 5, and 8 in Tanzania.²⁴ In his writings Mbaos critiques the Neo-

18 Nakawesa & Nuwagaba (n 16) 92-94.

19 As above.

20 John 5:14.

21 Nakawesa & Nuwagaba (n 16) 96.

22 Nakawesa & Nuwagaba (n 16) 97.

23 RJ Mbaos 'Sustainable Development Goal achievements for people with disabilities in Africa: The role of Christian-Muslim religions in Tanzania' in Ohajunwa, Dube & Chitando (n 2) 138.

24 Goal 1 (No Poverty), Goal 2 (Zero Hunger), Goal 3 (Good Health and Wellbeing), Goal 4 (Quality Education), Goal 5 (Gender Equality) and Goal 8 (Decent work and Economic Growth).

Pentecostal movement's misinterpretation of Christian biblical texts so as to place emphasis on miraculous intervention, which can sometimes blame persons with disabilities when they are not miraculously healed from their disability following healing-directed prayers.²⁵

Chapters 7 and 8 employ a literature review methodology to investigate novel topics, advancing the discussion on religion, disability, and the SDGs. Notably, they explore epilepsy within African indigenous religions and care development for elderly persons with disabilities through Botho ethics which is a corollary of ubuntu philosophy.²⁶

In Chapter 7, Sifiso explores the complex relationships between faith, spirituality, and disability, with a specific focus on epilepsy within Shamanism, Rastafarianism, and Christianity. Shifting the discussion slightly from Christianity, which has been examined extensively in this review, Sifiso sheds light on other distinctive perspectives including Shamanism and Rastafarianism. According to Sifiso, Shamans are typically marked by having overcome significant physical, mental, or neurological challenges, which are seen as transformative experiences that grant them supernatural and healing powers. Instead of being viewed as victims of their conditions, they are regarded as powerful figures who have conquered their 'afflictions'. This experience is what typically allows them to assume leadership roles within their tribes.²⁷ Conversely, Rastafarianism champions acceptance, inclusivity, and moral wellbeing, rejecting colonial influences and promoting natural healing practices, including the use of cannabis combined with hibiscus, to treat epilepsy and other health issues.²⁸ By examining these distinct religious contexts, the chapter highlights the many ways in which faith shapes the experiences of persons with disabilities in Africa.

In Chapter 8, Tshenolo J Madigele and Elizabeth P Motswapong underscore the critical intersection of disability and aging, highlighting that aging can be a disabling experience due to declining physical and cognitive functionality.²⁹ The authors emphasise the need for inclusive care development, underpinned by the botho ethics philosophy, which advocates for 'collective responsibility' and prioritises the active participation of elderly individuals with disabilities in shaping their own

25 Mbao (n 23) 142.

26 Botho is derived from a Setswana saying, 'motho ke motho ka batho', translated as follows: 'A person is a person through and because of other persons.' Botho aims at maintaining social cohesion. KT Resane 'Theology and botho/ubuntu in dialogue towards South African social cohesion' (2022) 78 *HTS Teologiese Studies/Theological Studies* a7677.

27 M Sifiso 'Understanding epilepsy in the context of African indigenous religions' in Ohajunwa, Dube & Chitando (n 2) 107.

28 Sifiso (n 27) 109-110.

29 EP Motswapong & TJ Madigele 'Care development: Botho ethics, ageing and disability' in Ohajunwa, Dube & Chitando (n 2) 117.

care.³⁰ Recognising the disproportionate impact of poverty, gender stereotypes, and societal attitudes on the elderly, particularly women, the authors stress the importance of context-specific interventions that address the complex needs of this demographic.³¹ Focusing on the Sub-Saharan African context, with particular emphasis on Botswana, the chapter highlights the role of religion and other stakeholders in promoting the well-being of the elderly and advocates for a collaborative approach to ensure 'healthy and happy aging', with the voices of the elderly at the forefront of strategy development and intervention.³²

4 The context of other disciplines

The next section of the book takes an interdisciplinary approach. In Chapter 11, Bridget Nonde Masaiti and Sophia Chirongoma explore the experiences of persons with disabilities in rural Zambia, highlighting their needs in education, religion, socialisation, health, and sexual and reproductive health rights (SRHR). An analysis of key instruments such as the *Zambian Persons with Disabilities Act*³³ and the *United Nations Convention on the Rights of Persons with Disabilities (CRPD)*³⁴ reveals the challenges faced by persons with disabilities in accessing essential services, 'partly due to inaccessible ecological landscapes'.³⁵ The chapter also draws on qualitative findings from a Disability Inclusion Training Workshop held in Zambia, the purpose of which was to inform attendees about the rights of persons with disabilities particularly in relation to essential services, education, and healthcare. In this chapter the authors unpack Conradie's theoretical framework on 'the whole household of God'.³⁶ This framework is then interlinked with Chisale's 'African women's theology of disability'.³⁷ Overall, Masaiti and Chirongoma's work highlights the need for ecological justice that prioritises the needs and

30 Motswapong & Madigele (n 29) 118-119.

31 Motswapong & Madigele (n 29) 120-122.

32 Motswapong & Madigele (n 29) 124.

33 *The Zambian Persons with Disabilities Act*, 2012.

34 UN General Assembly, *Convention on the Rights of Persons with Disabilities: Resolution / adopted by the General Assembly, 24 January 2007*, UN Doc A/RES/61/106 (2007) <https://www.refworld.org/legal/resolution/unga/2007/en/49751> (accessed 26 October 2025).

35 BN Masaiti & S Chirongoma 'Eco-justice and disability inclusion in Lusaka, Zambia: Towards an African women's theology of disability' in Ohajunwa, Dube & Chitando (n 2) 168.

36 According to Conradie 'the earth and everything in it is the whole household of God', see EM Conradie 'The whole household of God (Oikos): Some ecclesiological perspectives (Part 1)' (2007) 94 *Scriptura*, 1-9. Cited in Masaiti & Chirongoma (n 35) 169.

37 According to Chisale, African eco-feminist theology provides a framework for rethinking human relationships with the earth, emphasising liberation, harmony, and stewardship. It challenges patriarchal systems, promoting egalitarian communities that value interconnectedness and sustainability, and seeks to create a more just and harmonious world. SS Chisale 'Disabled motherhood in an African community: Towards an African Women theology of disability' (2018) 52 *Die Skriflig* <https://doi.org/10.4102/ids.v52i1.2375> (accessed 19 October 2025).

dignity of all individuals, particularly those who are most vulnerable such as persons with disabilities.

Nwacoye Gladness Mpya's work in Chapter 13 speaks to the need to address the lack of representation of the lived African experience in disability centric research as it was discussed at the 10th AFRINEAD conference hosted in Cape Town, South Africa under the theme: 'Disability unplugged focusing on the essential concerns of individuals with disabilities in Africa'.³⁸ In his contribution Mpya argues that the dominance of Global North perspectives in disability discourse 'overlooks African experiences and contexts, perpetuating stereotypes and limiting opportunities for persons with disabilities'.³⁹ In response thereto, Mpya calls for more context-specific approaches that consider local socio-economic and political factors.⁴⁰ To this end, Mpya suggests the implementation of Basotho indigenous religion principles together with the African philosophical principle of ubuntu to reimagine the disability discourse as one that promotes inclusive education and disability rights particularly in South Africa.⁴¹

Chapter 10 presents a compelling analysis of the intricate relationships between disability, law, and religion in Zimbabwe. Therein, Joseph Muyangata posits that the constitutional amendments made by Zimbabwe in the year 2013 marked a significant milestone in recognising the rights of persons with disabilities because it incorporated various demands from the disability community.⁴² However he submits that despite this constitutional change persons with disabilities including those with invisible disabilities,⁴³ continue to face significant challenges due to societal attitudes and perceptions.⁴⁴ Muyangata further notes that out of a total of 17 SDGs only five goals directly address the needs and rights of persons with disabilities.⁴⁵ To address this, Muyangata suggests a critical review of disability interpretation from a religious perspective, leveraging

38 NG Mpya 'The interplay of South African indigenous religions, disability and the Sustainable Development Goals: Reconceptualising disability in inclusive education' in Ohajunwa, Dube & Chitando (n 2) 196.

39 As above.

40 As above.

41 In the Basotho religion, disability is perceived as a manifestation of the will of God, emphasising a positive attitude that encourages the integration of children with disabilities. Similarly, the ubuntu philosophy, with its emphasis on interconnectedness and community, offers a framework for fostering inclusivity and acceptance through its core belief of 'I am because we are'. See Mpya (n 39) 198.

42 J Muyangata 'An examination of the relationship between disability, law and religion: The Zimbabwean disability practice' in Ohajunwa, Dube & Chitando (n 2) 151.

43 Invisible disabilities are disabilities that are not immediately apparent. An invisible disability is classified as a physical, mental or neurological condition that is not visible from the outside yet can limit or challenge a person's movements, senses or activities. Muyangata (n 42) 153.

44 Muyangata (n 42) 152.

45 Out of a total of 17 SDGs only five Goals directly address the needs and rights of persons with disabilities namely, Goal 4 (Quality Education), Goal 8 (Decent Work & Economic Growth), Goal 10 (Reduced Inequalities), Goal 11 (Sustainable Cities and Communities) and Goal 17 (Partnerships for the Goals).

the SDGs to promote religious and legislative inclusivity, Muyangata's recommendations include making houses of worship accessible including 'properly marked signage', and enforcing the implementation of the Constitution of Zimbabwe together with 'adopting a multifaceted approach that combines religious and legal strategies to protect the rights of persons with disabilities'.⁴⁶

In Chapter 12 Pamela Nizeyimana, Ojok Patrick and Victor Locoro explore the intersection of religion, disability and education in Uganda, focusing on the challenges and opportunities that emerge from Christian, Muslim, and African traditional ideologies, particularly in the context of inclusive (religious) education.⁴⁷ The authors rely on a qualitative methodology, reviewing relevant literature and engaging with religious leaders and persons with disabilities to uncover the textured interpretations of disability across these religious traditions.⁴⁸ The authors stress the importance of reasonable accommodations in educational settings, especially in religious institutions, and advocate for representation within curricula.⁴⁹ Moreover, they call on faith-based institutions to spearhead such inclusive education initiatives, setting a precedent for others to follow.⁵⁰

Lastly, the authors examine disability models, critiquing the social model's limitations and argue that this model overlooks the physical and emotional realities of impairment.⁵¹ As a solution they suggest the limits model which advances that being human inherently involves limitations and dependencies, whether physical, emotional, intellectual, or spiritual and because of this the theory insists that instead of seeing limits as unusual we should recognise them as a natural part of being human. This perspective encourages us to rethink our assumptions about what is 'normal' and to find value in the limitations that reveal our true nature and our relationship with God.⁵² Overall, this chapter contributes to an earlier discussion on disability, religion, and education, emphasising the need for critical dialogue and contextualised approaches to foster inclusive faith communities and educational systems. However, this chapter distinguishes itself by emphasising the catalytic role of religious institutions in promoting inclusive education highlighting their potential to drive meaningful change in learning environments.

46 Muyangata (n 42) 163-164.

47 P Nizeyimana, O Patrick & V Locoro 'Religion, disability and education in Africa: Perspectives from Uganda' in Ohajunwa, Dube & Chitando (n 2) 186-187.

48 As above.

49 Nizeyimana, Patrick & Locoro (n 47) 190.

50 Nizeyimana, Patrick & Locoro (n 47) 191.

51 As above.

52 As above.

5 The context of gender

The concluding section of this book explores the intersection of the SDG's, disability, and religion through a gendered lens.

In Chapter 15, Telesia K Musili explores the intersection of disability, gender, and religion in the context of SRHR. The chapter highlights the significance of international instruments, such as the CRPD in promoting disability rights inclusion in Kenya but notes that despite these efforts persons with disabilities particularly women, continue to face exclusion and marginalisation in accessing their SRHR.⁵³ Utilising a qualitative approach, Musili uncovers their struggles and praises their resilience in seeking sexual and reproductive health (SRH) information despite encountering numerous challenges, including inaccessible healthcare facilities, lack of accommodations and judgmental attitudes from healthcare workers. To this effect the chapter contemplates the concept of the 'disabled God', where Jesus Christ 'embodies solidarity with all individuals, regardless of their abilities'. By invoking this concept, Musili advocates for the dismantling of negative stereotypes surrounding disability, ultimately calling for the full inclusion of women with disabilities in accessing essential SRHR and information. The chapter also expands the concept of inclusion through a framework known as the 'theology of belonging' to challenges the adequacy of policies and rhetoric that prioritise inclusion alone. Musili argues that inclusion, while important, often fails to address the fundamental needs of persons with disabilities, whereas a belonging approach would encompass a deeper sense of acceptance, worth, and dignity that goes beyond physical or social inclusion.⁵⁴

Chapters 14 and 16 both scrutinise the pressing issue of gender-based violence (GBV) a topic of importance more specially in the African context where patriarchal norms, societal expectations, and weak institutional frameworks often exacerbate the vulnerability of women and girls, particularly those with disabilities.

In Chapter 14, Sonene Nyawo critically examines the intersection of disability and GBV in Eswatini, synthesising existing research to reveal the pervasive forms of abuse faced by women (particularly emotional abuse) noting that despite the prevalence of abuse in general, its impact on women with disabilities remains largely unaddressed, mainly due to a deeply ingrained culture of silence rooted in societal norms. This silence, according to Nyawo, is perpetuated by women's perceived minority status

53 TK Musili 'Women with disability's access to sexual reproductive health and well-being in Nairobi, Kenya: Towards a theology of belonging' in Ohajunwa, Dube & Chitando (n 2) 232.

54 Musili (n 53) 244.

and often reinforced by marriage.⁵⁵ Nyawo further highlights that even though the law does provide recourse, only a few women mostly in urban areas, are willing to report abuse. Women in rural areas face greater challenges due to indigenous laws that are often 'unsympathetic' to women and less likely to convict men of abuse, compared to modern court systems which may still typically impose light sentences.⁵⁶ Additionally, Nyawo contends that culture perpetuates oppressive stereotypes by assigning gendered roles from a young age, leading to the internalisation of these roles and the idolisation of men over women, this is especially evident in cultural practices pertaining to land ownership.⁵⁷ Nyawo concludes by proposing solutions that emphasise strengthening collaborative efforts among key stakeholders, aligning with the SDG's emphasis that sustainable development cannot be achieved without addressing gender inequalities, particularly in the context of GBV.⁵⁸

In Chapter 16, John Oluwajana explores the role of Pentecostal churches in combating GBV noting that these churches are well-positioned to address GBV due to their influence and emphasis on social transformation. To this end the chapter highlights the church's endeavours through advocacy work, including awareness campaigns, policy advocacy, and integration of gender sensitivity into theological education.⁵⁹ However, Oluwajana also identifies challenges, including financial constraints, limited resources, and entrenched cultural norms.⁶⁰ Oluwajana further exposes the internal contentions within the faith highlighting that some Pentecostal denominations still over emphasise the notion of divine healing, which as previously pointed out can have a negative impact on persons with disabilities.⁶¹ Instead, the chapter highlights the importance of acknowledging the inherent dignity of persons with disabilities by involving them in church activities and leadership roles.⁶² In his closing Oluwajana contends that Pentecostal churches can drive social change by leveraging their influence and collaborating with governments and non-governmental organisations (NGOs), underscoring the crucial role of partnership and collaboration in both effectively addressing GBV and achieving the SDG's.⁶³

In the final chapter, Mwawi N Chilongozi provides a poignant exploration of the lived experiences of women with obstetric fistula, a

55 S Nyawo 'Disability, gender-based violence and development in Africa: The case of Eswatini' in Ohajunwa, Dube & Chitando (n 2) 219.

56 Nyawo (n 55) 220.

57 As above.

58 Nyawo (n 55) 228.

59 J Oluwajana 'Transformative work of Pentecostal groups in addressing gender-based violence against people living with disability in Nigeria' in Ohajunwa, Dube & Chitando (n 2) 249.

60 Oluwajana (n 59) 252.

61 As above.

62 As above.

63 Oluwajana (n 59) 256.

disability that profoundly affects their physical, emotional, and social well-being. Through a qualitative study employing a narrative and storytelling approach, Chilongozi sheds light on the complex and often debilitating consequences of this condition, which is often caused by poorly performed surgery or prolonged obstructed labour without medical intervention.⁶⁴

Chilongozi's analysis reveals the intricate relationships between culture, religion, and disability, particularly in the Malawian context. The study highlights the significance of religion in shaping societal norms and morals, while also underscoring its potential to perpetuate ableist notions and reinforce patriarchal structures that subordinate women. The author argues that religion and culture can be 'a double-edged sword', promoting community and social cohesion while also perpetuating harmful practices that undermine women's dignity.⁶⁵ The study also highlights the therapeutic value of storytelling and narrative approaches in promoting healing and empowerment because by sharing their stories and experiences the women in the study were able to find solace and support in the company of others who have undergone similar experiences.⁶⁶

6 Critique and conclusion

This book provides a comprehensive and thought-provoking exploration of *Religion, disability and sustainable development in the Africa[n]* context, shedding light on the complex interplay between cultural norms, religious beliefs, and the experiences of persons with disabilities. The qualitative approach adopted by most chapters offers a rich and detailed understanding of grassroots efforts to achieve the SDG's, particularly through the work of Pentecostal churches and forums like AfriNEAD. The emphasis on invisible disabilities and the spectrum of disability experiences is a significant contribution, highlighting the need for inclusive and responsive legislation and policy development that acknowledges the diverse needs of persons with disabilities.

One of the standout aspects of this book is its exploration of disability from diverse religious perspectives, including Christianity, Islam, Rastafarianism, and shamanism. This multifaceted approach underscores the importance of understanding the role of religion in shaping attitudes towards disability and promoting social inclusion. The critique of the social model of disability by one of the chapters is also noteworthy, highlighting the need for ongoing reflection and evolution in our

64 MN Chilongozi (2025) 'Obstetric Fistula – A disability that affects the health and well-being of women: Reflections from the Malawian context' in Ohajunwa, Dube & Chitando (n 2) 266.

65 Chilongozi (n 64) 268.

66 Chilongozi (n 64) 273.

approaches to addressing the complex and changing needs of persons with disabilities.

While the book excels in many areas, there are some notable omissions that warrant attention. The African Disability Protocol, for instance, could have featured more prominently in the discussions, given its significance in shaping disability rights on the continent and its potential for forging meaningful Global South perspectives. The Protocol's emphasis on the rights of persons with disabilities to participate fully in society, access education, health, employment, and live free from discrimination and violence, resonates strongly with the book's themes.⁶⁷ Its inclusion would have added depth and context to the analysis.

Additionally, the treatment of harmful cultural practices,⁶⁸ particularly in the context of women's SRHR, feels somewhat underdeveloped. While the book touches on these issues, a more detailed and nuanced exploration would have been beneficial. A dedicated chapter on this topic would have provided an opportunity for a more in-depth analysis of the complex power dynamics and cultural norms that perpetuate these practices.

The absence of a concluding chapter is also notable, leaving readers without a comprehensive summary of the key takeaways and future directions. This omission slightly detracts from the book's overall impact, particularly given the thoughtful introductory chapter that sets the stage for the rest of the volume. A concluding chapter would have provided an opportunity for the editors to synthesise the key findings and themes, highlight the implications for policy and practice, and identify areas for future research.

Despite these few limitations, this book is a valuable contribution to the field of disability studies, offering insights that can inform policy, practice, and advocacy efforts. Its focus on the intersection of religion and disability is particularly noteworthy, highlighting the potential for faith-based organisations to drive positive change in the lives of persons with disabilities. As the 2030 deadline for the SDGs approaches, this book serves as a timely reminder of the importance of inclusive and responsive approaches to disability and development.

67 Article 3 (participation), Article 5 (non-discrimination), Article 10 (education), Article 17 (health), Article 19 (employment).

68 Article 11.