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Disability Advocacy: towards a Legal Framework for the Inclusion of PWs in Complex Humanitarian Emergency in Nigeria

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List of Appendices

List of Acronyms

ASCEND	Association for the Comprehensive Empowerment of Nigerians with Disabilities
CCAPS	Change and Africa Political Stability
CCD	Centre for Citizens with Disabilities
CHE	Complex Humanitarian Emergency
CRPD	Convention on the Rights of Persons with Disabilities
DDR	Disaster Risk Reduction
DRAC	Disability Rights Advocacy Centre
DPO	Disabled People Organizations
HRBA	Human Rights Based Approach
IDMC	Internal Displacement Monitoring Centre
JONAWPD	Joint National Association of Persons with Disabilities
LEMA	Local Emergency Management Agency
MAARDEC	Mobility Aid and Appliances Research and Development Centre
NDMF	National Disaster Management Framework
NEMA	National Emergency Management Agency
NHCAN	National Handicap Career Association of Nigeria
NGO	Non-Governmental Organization
SEMA	State Emergency Management Agency
PLAC	Policy and Legal Advocacy Centre
PWD	People With Disability
UN	United Nations
WHO	World Health Organization

Acknowledgement

Dedication

I dedicate this work to God Almighty for his mercies and compassion which saw me through during this period of stimulating academic exercise. His provision, protection and guidance are the reason why I am celebrating the successful completion of this programme. To him be all the glory, honour and adoration given, now and forever and ever. Amen.

Abstract

This study is about the inclusion – or rather non-inclusion till today - of persons with disabilities in the management of complex humanitarian emergencies in Nigeria. The focus is on the key role that can be played by law as an instrument of protection through a legal framework that protects persons with disabilities during natural disasters and in situations of high risk such as armed conflict or civil and religious disturbances. These we call complex humanitarian emergencies in this study (CHEs). People with disabilities (PWDs) tend to be forgotten during planning for emergencies, despite being a special group of persons requiring protection. Sometimes they are simply forgotten or left behind in the crisis. In Nigeria, there is still no legislation or policy that seeks to guarantee the inclusion of PWDs in the management of complex humanitarian emergencies. Despite the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) having been ratified by Nigeria, there is no provision in domestic law to address the plight of PWDs in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters. Yet such provisions are contained in Article 11 of UNCRPD. The problem is that they are not yet domesticated in Nigeria, as required by the Constitution of the country. These provisions are so far non-justiciable therefore, and outside the scope of domestic legal remedies or rights.

Interestingly, no other study has so far been conducted on this subject in Nigeria, and on this gap in legal protection for people with disabilities in times of emergencies. This study uses as its basis secondary sources, and the texts of laws and regulations, especially the legal provisions specifying the responsibilities of NEMA (National Emergency Management Agency), which was established in 1999. Interviews were also conducted with some key decision-makers in the field. On this basis, the study identified a clear 'gap' in domestic legal protection. The study then examined the role of civil society, and especially of Disabled People's Organisations (DPOs) in bringing about pressure on government to provide a legal framework that guarantees inclusion of PWDs in management of CHEs. Some obstacles to realizing this objective are identified, and the consequences of failing to provide legal protection will be highlighted. The hope ultimately is to show that such a legal framework is urgently required in Nigeria.

Through a range of different examples and experiences, insights are sought for advocacy for inclusion of PWDs in all aspects of planning and management for complex humanitarian emergencies. Occasionally, DPOs have advocated in partnerships with international organisations, but the main focus of this study is on domestic actors engaged in Disability Advocacy.

Relevance to Development Studies

In the past, the focus of humanitarian assistance towards refugees and Internally Displaced People (IDPs) has always been the women, children and the old, as the most vulnerable groups of people during conflict and emergencies. It is only recently that the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol have highlighted the significance of disability as a human rights issue that requires special attention in situations of risk, including natural disasters and conflicts that often lead to displacement. To support these identified vulnerable groups of people, every ratifying state is obliged to follow the articles of the Convention on the Rights of Disabled. Although the existing conventions and treaties on human rights offer significant opportunities for the promotion and protection of rights of persons with disabilities, it seems this potential is not yet realized domestically in the laws of Nigeria today, for disabled people in particular. This makes it imperative to conduct this study so as to contribute to wider efforts to ensure that the government does move towards formal legal provision in domestic law to protect PWDs during CHEs.

Keywords

Persons with Disabilities (PWDs), Disability, Complex Humanitarian Emergencies (CHEs), Legal Protection, Human Rights-Based Approach, Disability Bill, Advocacy.

Chapter 1: Introduction

Introduction

When disasters or emergencies (man-made or natural) occur, the impact on different populations varies. Apart from on-going humanitarian emergencies and political crises in Syria, Yemen and Northern Nigeria, the world witnessed the 2004 Tsunami in Asia, the 2008 Cyclone Nargis in Myanmar and the 2010 and 2011 earthquakes in Haiti and Great East Japan. In the US, Hurricane Katrina in 2005, and Sandy in 2012 were similar events. Many CHE situations arose when disasters happened in countries where the population had already experienced civil war and violent displacement.

The plethora of disasters and emergencies in past decades drew the attention of the international community to experiences of PWDs during disasters. PWDs exposed to disasters and emergencies are among the most vulnerable of any social group; their death toll is estimated to be double or even triple that of other people affected by CHEs, without disabilities (Paul and Mahmood, 2016; Hemingway & Priestley, 2014; Blaikie et al., 2014; Nishikiori et al., 2006). For example, more than half of the 145 disabled schoolchildren under the care of Indonesia Society for the care for Children living with Disabilities lost their lives during the 2004 Indian Ocean Tsunami (Center for International Rehabilitation, 2005). Individuals, mostly elders in wheelchairs, drowned in hospitals during Hurricane Katrina in 2005 and the death toll of PWDs from the 2011 Tsunami and the Great East Japan Earthquake was double that of the population as a whole. The main reasons were a lack of appropriate emergency response to specifically address the needs of PWD during CHE planning and management (Hisamatsu, 2013; Tatsuki 2012).

It is estimated that worldwide around 40 million persons with disabilities (PWD) are internally displaced in their own countries, or are refugee in a foreign land (Stein and Lord, 2011: 401). But the number continues to grow as we witnessed more conflicts in the last 6 years. In Yemen alone, more than 3 million PWDs have been displaced (HRW, 2015), and more than in 1 million PWDs in Syria are displaced (Karasapan, 2016). In 2015, more than 65 million people were forced to flee their homes as a result of persecution or conflict which means for every minute, 24 people flee their homes in 2015 a four times higher to previous years that only witnessed 6 people forced to flee their home in every minute (UNHCR, 2016, (UN, 2016). Apart from conflict that contributed to the majority of IDPs, more than 19 million people in 113 countries were forced to abandon their homes as a result of natural disaster (IDMC and NCR, 2016:7). However, the general estimate of the total number of people that has been displaced from their homes around the world in need of humanitarian assistance is approximately 130 million people (UN, 2016)

Northern Nigeria has been exposed for several years to a worsening humanitarian crisis because of the Boko-Haram insurgency and army 'mop-up' security operations that have caused massive displacement and deaths. According to the Norwegian Refugee Council's Internal Displacement Monitoring Centre (IDMC) global overview report of 2014, Nigeria has 3.3 million IDPs, although, the statistics of the PWDs that are IDPs are not available. Nevertheless, this study suggests PWDs have exceptional contributions to make in CHE planning and management, but are habitually ignored when it comes to reducing the risk of disasters and building resilient communities and societies (IDMC, 2014: 11-14). PWDs seem to be excluded at all levels of disasters and emergencies mitigation, intervention, and even preparedness (International Federation of Red Cross and Red Crescent Societies, 2007: 90).

Even before they flee their homes, PWD are already extremely marginalized within their communities. The result is that: "the difficulties faced by persons with disabilities throughout the displacement process contribute to their increased vulnerability" (Kett, 2010:12). PWD are commonly confronted with various challenges that are related to registration at the camps, lack of accessible restrooms, bathroom, toilets, difficulty in getting access to meals, inadequate medical equipment and medical supplies that are peculiar to their needs. Besides, there are challenges in communication, which include lack of or insufficient signage, captioning and translation in communicating messages (Twigg et al., 2011: 254-255). The disproportionate effect of disasters and emergencies on PWDs is because of a wide range of factors such as exclusion from local decision-making, poor living condition, limited access to basic services, especially information and education. PWDs representing 15 percent of the world's population (WHO and World Bank, 2011: 261). The estimates of the numbers of displaced, as presented above, are staggering and should serve as a relevant argument in favour of their inclusion in planning for CHEs in Nigeria.

This study is organized into five chapters. The first chapter captures the research problem, context, questions, justification for the study, and the selected methods of data collection. Chapter 2 is on the theoretical framework that centers on the Human Rights-Based Approach. I discuss the relevance of the HRBA to the study, and why it seems the most suitable framework to capture all elements from international treaties and conventions on PWDs to government responsibility for domestication of those provisions, and the role of Disabled People's Organisations (DPOs) in mobilizing for improvement in protection of PWDs legal protection in Disasters Risk and Management. Chapter 2 highlights participation, non-discrimination and inclusiveness as key principles of HRBA. I also discuss the concept of Disability and various models of disability that arise in literature and in policy-making. Chapters 3 and 4 focus is on answering the sub questions, and shows the main obstacles to inclusion of PWDs in planning for CHEs. In the last chapter, I revisit the main research question and deduce from the findings presented in Chapters 3 and 4 key

findings that speak to the main question. The next section addresses the research problem

Research Problem

In the past, the focus of most humanitarian assistance towards refugees and Internally Displaced People (IDPs) has been directed to women, children and the old as the most vulnerable group of people during conflict and disasters. It is only quite recently that the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol highlighted the significance of disability as a human rights issue that requires special attention in situations of risk, including natural disasters and violent conflicts that lead to displacement (Stein and Lord, 2011; Kett, 2010; Kett and Ommeren, 2009).

Some progress has been made recently in relation to how policies and humanitarian frameworks address issues of PWD inclusion in Complex Humanitarian Emergencies (CHEs). This is evident in the Sendai outcomes and the post-2015 Disaster Risk Reduction framework and the consultation processes around that. Available evidence suggests that actors in various countries, most especially, those in the developing countries, however, continue to encounter difficulties in translating those policies into action and into laws in the domestic arena (Handicap International, 2015:6).

For instance, the Nigeria government has ratified several international conventions and treaties that emphasise the state's obligation to ensure that PWDs are included in CHE Frameworks. The Federal Republic of Nigeria Constitution states that: "…no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly" (MacDonnell Chilemba et al., 2016:281). Therefore, as long as the international conventions protecting PWDs are not domesticated, these provisions still "do not have the force of law". Although certain parts of the signed treaties have been incorporated into national legislation and the amended 1999 Nigeria constitution, unfortunately, no provision(s) exist in the constitution yet that explicitly and directly address the rights of PWDs in any shape or form, let alone in CHEs. In this way, government ratification of international treaties does not translate into domestic law in Nigeria until and unless the National Assembly passes these provisions into law, with the assent of the President.

There is at present a Disability Bill which has been championed by DPOs in Nigeria. Yet this Bill has failed to be given Presidential assent in two successive administrations, even after passage in the 6th and 7th assemblies. The implication of this failure of two Nigeria presidents to approve the Bill means Nigeria has no legal basis yet for a more disability-inclusive Disaster Management Framework legislation either. This is in clear breach of Nigeria's

obligations under the international law, however. Explicit protection for PWDs during CHEs is provided for in Article 4 (1b)[1] and 11[2] of UNCRPD. By the same token, the UNISDR Hyogo Framework for Action (HFA) on disaster risk reduction, explicitly identifies persons with disabilities as a priority group for support (UNISDR, 2006). So too do the Sphere Standards, outlined in the Sphere Handbook, which is described as "one of the most widely known and internationally recognized sets of common principles and universal minimum standards for the delivery of quality humanitarian response", and is used to "identify minimum standards for good practice in disaster responsiveness" (Sphere Project, 2011).

The Picture of Complex Humanitarian Emergencies (CHEs) in Nigeria

Before going into details about the CHEs in Nigeria, it is highly germane to first look at what is Complex Humanitarian Emergencies (CHEs) also knows as Complex Emergencies (CEs). A complex humanitarian emergency is a critical and multi-causal situation that calls for an urgent and system-wide response. CHEs usually involve violent conflict and political repression, resulting in mass displacement of the population (Brennan, 2001: 147). "Conflict, warfare, and civilian risk are at the core of all CE definitions" (Spiegel et al., 2007). Changing patterns and the overlapping of complex emergency with disaster has blurred the difference between so-called manmade and natural emergencies, however. A more multi-causal definition of a CHE includes elements of natural disaster, including floods and drought, storms and earthquakes. Yet CHEs are not only natural disasters, but may include violent conflict, displacement and elements of drought, so that their complexity merit closes attention, needs to be understood in its political and environmental context, and needs to be responded to accordingly (Duffield, 1994:38). This is because, CHEs "have a singular ability to erode or destroy the cultural, civil, political and economic integrity of established societies...they attack social systems and networks", unlike more one-dimensional natural disasters (Duffield, 1994:38).

To identify the best way to respond to CHEs, the emergency aid organisations need to know more about the type of CHE they want to address. Various studies have attempted to classify CHEs into distinct categories. For example, Keely (2001:4) categorized CHEs into five types based on the pattern

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[1] "To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities"

[2] "States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters".

of population risk and their settings. He thus identifies (1) Ethnic Cleansing or Genocide, (2) Short-Onset, Short-Duration Natural Disaster, (3) Rural Famine or the Refugee Paradigm, (4) Conflict among Combatants, and (5) Urban Services Collapse or Urban Depopulation. For the purposes of the focus in this study, however, more useful is a typology developed by the Climate Change and Africa Political Stability (CCAPS) project in 2013. CCAPS defined CHE as the outcome of different crises interacting with one another and classified CHEs into four types as follows (CCAPS, 2013:5).

(1) Acute CHEs, entailing an active, sophisticated and advanced armed conflict, a high level of poverty, an acute environmental disaster such as an unexpected 'shock' or temporary disaster, and complex social and ethnic geography.

(2) Chronic CHEs involving long-term disaster or high exposure to climate change, high regional poverty, a persistent low-level armed conflict which includes high rates of internal displaced persons and refugees, settled in camps.

(3) Urban CHEs involve high exposure to environmental hazards due to densely populated spaces, high rates of 'civic' violence such as protests and riots and protests.

(4) Protracted CHEs describe the usual picture of a 'failed state' in addition to vulnerability to long-term disasters as a result of high exposure to climate change (CCAPS, 2013: 3).

These four types of CHEs are all common in different parts of the African continent, and when related to the situation in Nigeria, perhaps the best description that suits the CHEs situation in Nigeria today would be the Acute type of CHE. The table below further explains the CHE situation in Nigeria and relates this to some other situations in the African continent as a whole
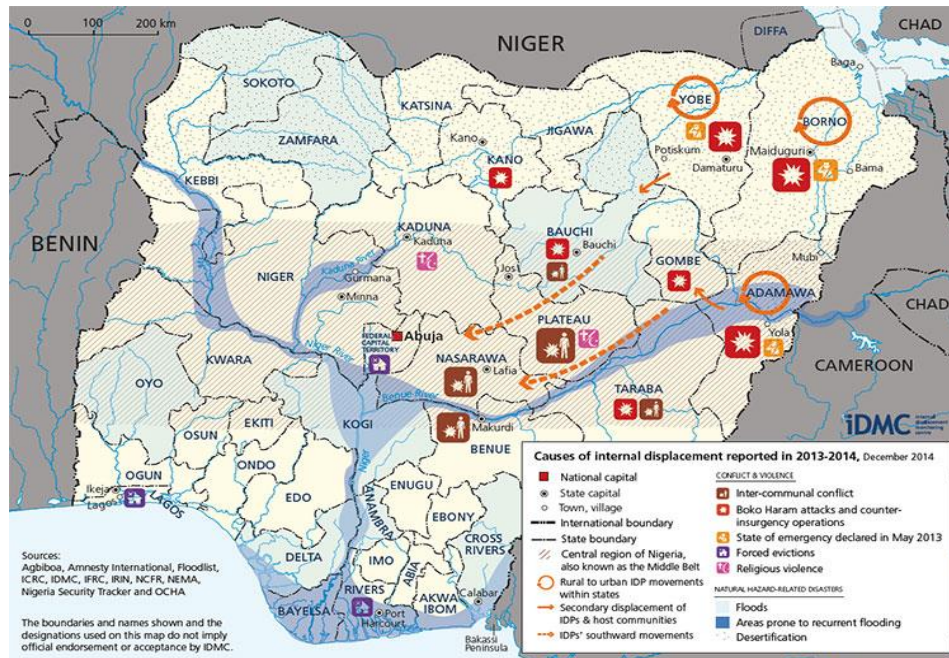
Table 1: Typology of Complex Humanitarian Emergencies

Main Types of CEs	Components	Examples	Relative Impact Assessment	Possible Responses
Type 1 *Acute*	- Acute high-intensity conflict: level is higher than the country's baseline of violent events - Acute environmental disaster - High level of poverty - Complex social and ethnic geography	Sudan Nigeria	- Large affected area - Food insecurity: price hikes - High mortality rates - Concentrated forms of conflict-induced displacement: refugees and IDP settlements - Epidemic outbreaks	**Food aid** - Short-term distribution for displaced persons - Protection of refugees and IDPs **Negotiation and coordination** - Open negotiation of a humanitarian access with all the conflict actors - High coordination between the NGOs and agencies - Build resilience
Type 2 *Chronic*	- Chronic, low intensity of armed and fatal political violence - Vulnerability to climate change induced hazards - High level of poverty: marginalized region - Changing demographics between groups	**Sahel Region Mali**	- Large affected area - Medium-to-high level of displacement: internal, short term, and circular [17] - Chronic food insecurity: collapse of market and price hikes	**Continued presence in the region and food aid** - Short term distribution of food aid - Aid to facilitate the resumption of agricultural activities **Long-term measures** - Aid for long-term adaptation to climate change - Plan for integration of conflict parties
Type 3 *Urban*	- High level of civic violence: rioting and protesting - High level of exposure to climate change hazards - High level of unemployment and high percentage of under serviced population (public service) - Unstable demographic dynamics: rural-urban migration and urban refugees	**Nairobi** (Kenya) **Freetown** (Sierra Leone) **Monrovia** (Liberia) **Harare** (Zimbabwe)	- Localized affected area - Epidemic outbreaks - Concentrated forms of displacement - Acute food insecurity: seasonal price hikes - Large slum population	**Better service delivery to population** - Food aid - Education - Vaccination programs - Cooperation over the reinforcement of health institutions **Improve urban governance** - Investment in urban employment - Improved living standards for the poor
Type 4 *Protracted*	- Absence of central authority and large scale protracted conflict with multiple non-state actors - Severe vulnerability to climate change induced: consistently re-occurring and sudden disasters - High level of poverty and collapse of state and local economies - Disturbed demographics	**Somalia**	- Transnational with local hotspots - Epidemic outbreaks - Chronic food insecurity and famine: food availability - Intermittent phases of displacement (e.g. Mogadishu)	**Reinstatement of a central control Large scale poverty reduction programs** - Food aid distribution - Investment for agriculture productivity **Resumption of public services** - Reinforcement of health institutions

Source: CCAPS (2013:4) Available at https://www.files.ethz.ch/isn/168071/research%20brief%20no%2016_final.pdf

According to the Global Overview of internally displaced people, currently, Nigeria has the largest number of IDPs in Africa, with 3.3 million displaced individuals. (IDMC, 2014: 18-38). As shown in Table 1 above, the causes of displacement in Nigeria are complex, multi-faceted, and often overlapping. The country has witnessed various forms of natural disasters, including floods (general, coastal and flash floods), landslides causing mass movements, cases of epidemics (viral and bacterial infectious diseases), extreme temperature (heat-waves), and storms. Locations of these events cut across the entire country (Adeagbo et al., 2016:1). However, compounding these disasters are the inter-communal clashes, which have fuelled ethnic and religious tensions. These clashes flare up on a more or less weekly basis throughout the middle belt region of the country (IDMC, 2014:3). Political tensions of this kind are worsened by

the horrible weather conditions, floods and droughts. With thousands of people displaced due to desertification, displacement from civil violence increases their vulnerability. This is especially so for PWDs (IDMC, 2014:4).

Source: IDMC, 2014
http://www.internal-displacement.org/assets/library/Africa/Nigeria/graphics/201412-map-af-nigeria-en.pdf

The complexity of CHEs in Nigeria has intensified considerably with the emergence of the Boko-Haram insurgency. This movement, starting in the North, has overtaken floods and windstorms as the most pervasive and probably the most intensive cause of human displacement. More than a million Nigerians have fled or been expelled from their homes since Boko Haram started operating around 2009, especially in the northeast of the country (IDMC, 2014). The northeast of Nigeria, a place with a slight Christian majority, became the main target of jihadists. The majority of Christian churches and houses were burned and destroyed; people were injured on all sides, and maimed. Civilians were stolen and held captive, or ruthlessly killed. Although the Boko Haram insurgency started in 2009, it was low-level till mid-2014 or so, when attacks by militants started to grow drastically. Resembling refugees in their own country, Nigerians started to flee to different towns and villages, leaving their burning houses behind (Cook, 2011:13-15). Although Boko Haram, a radical Nigerian Islamist organization, was first created in 2002, it did not take up arms till its first leader, Mohammed Yusuf, was killed in July 2009 by the security forces. His deputy Abubakar Shekau then headed Boko Haram and under his leadership, an Islamist ideology started to engage in full-scale military actions against the government, and also engaged in attacks on civilians defined as terrorist in nature. Boko Haram carried out several dozen bombings and kidnappings,

including of foreigners. Internationally, the activities of "Boko Haram" were understood as part of the 'war on terror', and appeared to go beyond Nigeria in terms of its significance strategically.

The main aim of Boko Haram has been to extend sharia law across the Northern territory of Nigeria, and uproot the remnants of a westernized culture which Boko Haram has associated – perhaps wrongly – with the Christian population of Nigeria. The name "Boko Haram" itself can be translated as "books are forbidden" – i.e. western education is forbidden under sharia. In 2009, in an interview, Yusuf stated that Darwinism, the Big Bang theory, the concept of a round Earth, and other scientifically established facts, violated Islam and would not be tolerated in a Nigeria under sharia (Boyle, 2009). In 2011, violence intensified as Boko Haram launched a major suicide attack on the UN building in Abuja, the capital of Nigeria, killing students and dozens of workers. (Johnson, et al. 2015; 2-4). And in April 2014, Boko Haram kidnapped 300 schoolgirls, offering to exchange the girls for all arrested militants. The government refused to do a deal (Rushing, 2014; web). After this event, through social media, Boko Haram came to be known throughout the whole world through the 'Bring Back our Girls' hashtag campaign. The question is, how do people with disabilities feature in all these frameworks and typologies, and in the history of how acute CHEs emerged in Nigeria?

Rationale and Justification

Empirical studies on the effects of disaster on PWD, though scarce, confirm that PWDs are at a higher overall risk of losing properties during disasters (van Willigen et al., 2002), are more likely to sustain injuries during emergencies (Wisner, 2002), and are more vulnerable to dying during crisis events (Aldrich and Benson, 2008). Previous studies also show that PWDs are more vulnerable in post-disaster situations to injury, loss and death (Phibbs et al. 2015). They also encounter specific difficulties with finding adequate shelter (Twigget et al., 2011) and generally require more thorough disaster case management than those who are not disabled (Stough et al. 2010). In addition, PWDs are more likely to be exposed to violence and threats of aggression during wartime and conflicts than able-bodied individuals (Handicap International, 2015; Ayazi et al. 2013). Despite this evidence, there is a propensity overall for PWDs to be ignored in most disaster registration systems, and this is also the case in Nigeria (Ito, 2014).

Many people with disabilities will eventually find ways to adjust to their displacement, just like others do who have no disability. However, the challenge is for those who have no alternatives for adapting to camp life and who cannot manage without concerted efforts from humanitarian agencies to enable them to adapt (Kett, 2010:14). In present day humanitarian emergencies in Nigeria, it has become evident that, in practice, assistance operations neither anticipate nor respond to the specific needs of PWDs (Stein and Lord, 2011; Kett and Ommeren, 2009). Thus:

"Although some guidelines and manuals support the explicit inclusion of people with disabilities in emergencies, most programs focus on disability as a cross-cutting issue, or on protecting people with disabilities as a vulnerable group, rather than on the specifics of inclusion and overcoming barriers" (Kett and Ommeren, 2009:1801).

This means that PWDs "are often the first and only responders to the everyday risks they face, and have their own existing sources of resilience developed through extensive learning from real life experiences on the ground" (WCRRD, 2015). This is because PWDs are not only vulnerable; they also possess and share some unique capacities and knowledge that enables them to tackle a wide range of interconnected risks within the complex, multifaceted settings in which they find themselves, including in an emergency situation.

The predicament of PWDs during and after disasters has not been ignored entirely. Internationally, a concern with this issue has led to the emergence of several treaties, conventions, international, and national laws that make provision for the rights of PWDs to be recognise in the event of disasters and CHEs. Although there remains the problem of a lack of documented evidence of how these mostly United Nations treaties and conventions are being used to positively affect the situation of PWDs in different contexts. The main focus of this study, which will now be introduced, is with CHEs in Nigeria and how PWDs could be included – legally in the first place – within the design and management of CHE planning.

Study Objective and Research Questions

Against this backdrop, the objective of the thesis is to examines the main obstacles that have so far prevented domestication through legislation, of international treaties and conventions ratified by the Nigeria government, and which legislate for an inclusive approach to complex humanitarian emergencies (CHEs), including explicit provision for protection of the rights of PWDs in such CHE responses.

Main Question

To what extent have key stakeholders been effective or ineffective in advocating for national legislation that will ensure PWDs should be included in management of CHEs in Nigeria?

Sub Questions

1. How do existing national policies on CHE and disasters marginalize or include PWDs?
2. What underlying factors hinder the successful domestication in Nigerian law of international treaties and conventions ratified, in relation to PWDs position in CHEs?

3. How can advocacy, including by Disabled Peoples Organisations, facilitate enactment of a more inclusive legal framework, consistent with international treaties and conventions on PWDs' protection in CHE planning?

Methodology

To achieve the objective of this study a qualitative methodological approach was adopted. Sources of information included telephone interviews with more than 20 key informants. This was vital for understanding the reasons the domestication of already ratified treaties and laws did not make their way into domestic legislation, and were not enshrined in the Nigerian constitution. The broad theoretical framework adopted was the Human Rights-Based Approach (HRBA) which is advocated by the UN, and in modified form (as Rights-based approaches) by NGOs. The HRBA framework was established on the foundation of the concepts of participation, non-discrimination and accountability, as well as empowerment and inclusion (OHCHR, 2012). The concept of disability was adopted in this study, and I searched for sources through which I could analyse my case study, from both primary and secondary literature. In this section I will discuss the choice of methods of data collection, the merit and demerits of materials selected and interviewing respondents by telephone, questions of subjectivity and ethical challenges, as well as some constraints encountered whilst conducting the study.

Method of Data Collection

The first sub-question, about underlying factors hindering successful domestication into law of ratified international treaties and conventions on PWDs, and their inclusion in CHE planning, will be addressed through a critical analysis of existing policy documents of NEMA (National Emergency Management Agency), Nigeria, the organisation that is responsible for planning Nigeria's disasters and emergencies response. Analysis of provisions of various NEMA documents helped to design relevant questions for telephone interviews. These interviews were then used to collect data used in providing an answer to the second sub-question as well.

Ideally, I would have preferred a face-to-face interview because phone interviews are not seen as offering the same opportunity for visual and non-verbal communication around responses and questions asked (Stephens, 2007:210). Nevertheless, a telephone interview worked well for this researcher, and proved a valid alternative to face-to-face meetings. In some ways, the on-line interviews may have been more productive, especially when they minimised interruptions during interviews with elite respondents, for example (Stephens, 2007:203). In the context of this study, the targeted respondents were either high-ranking government officials, or representatives of NGOs, DPOs, and civil

society actors at the forefront of PWDs rights advocacy. As explained in the next section, these respondents were purposively selected. Indeed, since telephone interviews: "enable researchers to include participants from virtually any geographic region" they have some advantages including: "The ability to cast this broader net" since I could speak to people in many parts of a very large country, and this proved "quite attractive…[and] an efficient and economical way to capture the experiences of non-local participants" (Knox and Bukard, 2009:4-5), and to do so economically (Musselwhite et al, 20006), who were working in different regions of Nigeria. Not all respondents were in one region, most have busy schedules, and they are involved in constant movement for advocacy purposes. Telephone interviews proved the most suitable medium for busy advocates and NGO workers, otherwise quite a hard-to-reach group (Opdenakker, 2006). Telephone interviews still allow respondents to ask for a pseudonym if they do want to remain anonymous (Hill et al., 1997; Hill et al., 2005). Some of the interviewees described profound and difficult, and intensely personal experiences, something they might not have done during a face-to-face interview.

Selection of Respondents

Selection of the respondents that participated in this study was based on existing knowledge and using my own networks in the field of disability rights and law. A purposive sampling technique is most useful when the researcher is looking for informants with specific types of knowledge and specific experiences relevant to the subject of the study. Therefore, my respondents were selected with specific criteria in mind; they needed to be able to advance the main objectives of the study. There are numerous NGOs and DPOs in Nigeria, often dealing with specific kinds of impairments, with organisations for the Blind, Deaf and Dumb, the physically disabled etc. To ensure that more detailed information about advocacy would be obtained, in relation to an inclusive approach to CHE management, I selected NGOs and DPOs that have been in the forefront of disability rights advocacy. Most of them also represent multiple types of disability in their advocacy agenda, and have an inclusive approach.

Being a PWD myself and a legal practitioner that work with the Nigeria Ministry of Justice, I am fortunate to have access to the registered DPOs and NGOs in Nigeria that have petitioned the Ministry on various issues. On many occasions I participated in a private capacity in the actions for disabled people's rights, organized by some DPOs selected for interview. With this information, I contacted 28 DPOs and NGOs I expected would be able to provide some answers to my questions, and help me understand what still needed to be done for successful advocacy around inclusive CHE legislation in relation to PWDs. Eight of the 28 contacted organizations were willing to participate in the study, and I conducted telephone interviews with one representative from each. Individuals were interviewed from the following organisations: the National Handicap Carers' Association of Nigeria; Global Hope and Justice Inc.; Joint

National Association of Persons with Disabilities (JONAWPD); the Association for the Comprehensive Empowerment of Nigerians with Disabilities (ASCEND); Centre for Citizens with Disabilities; Disability Rights Advocacy Centre; Policy and Legal Advocacy Centre (PLAC), and the Mobility Aid and Appliances Research and Development Centre (MAARDEC).

Several attempts were made to interview representatives of NEMA Nigeria, Nassarawa State SEMA (Plateau State Emergency Agency), and one Member of Parliament, a staunch supporter of the Disability Bill in the National Assembly. Unfortunately, I was not successful in contacting these organisations and individuals, but I sought their views through media, where possible. I relied on policy documents of NEMA, an approach suggested by O'Leary (2010, 221-222), who suggests that policy documents can be treated like respondents. This helped assess whether Nigeria government responses to PWDs in emergencies adhered to international standards or not. These documents were also explored for provisions that could ensure CHE planning in Nigeria involves and acknowledges the rights of PWDs in future. Of seven policy documents identified from the NEMA Nigeria website, two were selected as relevant for the research questions: (1) Nigeria Existing Disaster Response Plan and (2) National Disaster Management Framework. Both were closely consulted.

Ethical Issues and Challenges

I am aware that my positionality and subjectivity might affect my research because of my personal experience as someone living with disability. I am also a lawyer, and work for the Ministry of Justice. So for me, as Peshkin argues: "…subjectivity is like a garment that cannot be removed" (Peshkin, 1988: 17). More positively, this can lead to a kind of "monitoring of self" for qualitative researchers, something I have strived to achieve (Peshkin, 1988: 20). I followed Morrow (2005) who suggested strategies to address subjectivity, arguing that researchers should "strive to fairly represent participants' realities, including, within the data gathering process, asking for clarification and delving ever more deeply into the meanings of participants, taking the stance of naïve inquirer" (Morrow, 2005: 255).

I did not disclose my PWDs status to my respondents, and yet they appeared more or less motivated to find answers to my research questions. I am aware that approaching the study as an insider might cloud my judgement during interviews, and in transcribing. To ensure my respondents' views were not misinterpreted, given my deep involvement with PWDs rights issues, I sent the summary of interview transcripts to all respondents asking them to confirm whether their position was correctly presented. What Moro (2005) called a participants' check helps in "…avoiding lopsided interpretations that represent the biases of the researcher or only a few participants" (Morrow, 2005: 255). Only two respondents corrected some omissions in the record, adding what they considered key elements of their arguments.

Conclusion

In Nigeria, PWDs face daunting challenges in the face of a growing CHE, not having been explicitly included at any stage of disaster risk management; pre-disaster planning, disaster implementation or post-disaster, post-violence recovery programs. The country needs to adopt a more human rights approach to inclusion of PWDs in their broad disaster risk management strategies, which we have here termed CHEs. Policies and programmes need to be formulated that will be able to inculcate the participation and inclusion of PWDs in planning and managing CHEs. This way PWDs can feel more in charge of their lives, and can even work with the government to address risk factors more effectively and preventatively.

Chapter 2 Conceptual Framework

Introduction

The focus of this chapter is on the concept of Disability and four main models that scholars and practitioners use to engage with the issue,-related problems in society. In addition, this chapter covers in detail the theoretical framework of a Human Right Base Approach (HRBA), which is proposed as the central principle of a more inclusive Disaster and Risk Management approach in Nigeria in future. This chapter introduces four models of disability, namely the: 1) Medical model; 2) Charity model, 3) Social model, and 4) the Rights-Based model, which is shown to be the most appropriate for this study. Then the concept of HRBA is discussed. The third and fourth parts of the chapter address concepts of participation and inclusion in relation to CHE.

Disability as a Concept

According to the International Classification of Functioning Disability and Health by WHO (2001), disability is "an umbrella term for impairments, activity limitations and participation restrictions, it states that disability is the interaction between individuals with a health condition, personal and environmental factors e.g. negative attitudes, inaccessible transportation and public buildings, and limited social supports". People with disabilities, according to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) include "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others" (WHO and World Bank, 2011). These definitions reveal the fact that interaction between deficiencies or *impairments* (including problems in bodily functions, configurations or intellectual capacity), and obstacles or *barriers* people face in their communities give rise to disability. There are diverse traditional interpretations or models of disability. In this project, we will see examples of the use of both the medical and social models of disability. Yet these are not central to my analysis which is based on a human rights based model.

The Four Models of Disability

Medical model

The medical model, also known as the individual model of disability, views disability as a state or condition that can be treated through applying medical knowledge, surgery and therapy (Goering 2010:55). The medical model makes society view disability as an illness that needs treatment. People recognize the disability as a problem that requires a cure. In other words it makes people not

think about persons with disabilities as having qualities and capacities beyond their (mostly visible) disabilities (Goering 2010; Harris and Enfield, 2003). The medical approach views PWDs as being in need of help, since they are thought to be ill. Therefore: "the person and his or her life becomes defined solely in terms of the diagnosis. Someone with a diagnosis is a patient: no longer a person, just a case for clinical treatment" (Harris and Enfield, 2003:169). The medical model explains why CHE policy makers considered medical expertise to be the main need of PWDs (specialist doctors, therapists, hospitals, drugs.) including during emergencies.

The main focus of a medical approach will be on the things PWDs cannot do, rather than what they are able to do. As a result, PWDs are seen to be people who cannot do things that others can do and society has used this way to disable them the more because they are not given chance to try out what they can do but instead they are branded as those who cannot do anything on their own and need help (WHO 2001).

Charity Model

The Charity Model can be linked to the medical model, since it perceives PWDs as victims of impairment and therefore not capable of leading an independent life or catering for themselves. This closely relates – and is sometimes the counterpart - to the medical model. Both consider disability as inherently a problem in the individual with the impairment. The assumption of the charity model is deeply rooted in the thinking that PWDs' major needs are to have someone or some institution take care of their material and emotional needs in life. PWDs, according to this view: "are to be pitied and need our help, sympathy, charity, welfare in order to be looked after. Sometimes people with disabilities themselves adopt this concept, in which case they usually feel "unable" and have a low sense of self-esteem" (Handicap International, 2008). Again, the main effort centres on what a person cannot do: they cannot hear without a hearing aid, cannot walk without crutches, and so on. This model can mean that PWDs and DPOs will tend to be excluded from decision-making, since for the charity model (still dominant in the humanitarian sector) it will be "…assumed that disabled people can't think, decide, or act on their own behalf, and that someone else needs to do those things for them" (Haris and Enfield, 2003:170).

Social Model

The social model of disability is the inverse of both the medical and charity model, and views problems of PWDs as mainly the result of failure by society to take the particular needs of PWDs into account. Disability is not seen as only an individual limitation, from this perspective, but a societally-imposed set of limitations (Goering 2010:55). According to Barness (2009:4)

> "a social model…does not deny the importance or value of appropriate indi-vidually based interventions in the lives of disabled people, whether they be

medically, re/habilitative, educational or employment-based, but draws attention to their limitations in terms of furthering their empowerment and inclusion in a society constructed by 'non-disabled people' for 'non-disabled' people".

Disability is seen as a multifaceted reality that reflects relations between features of a person's body and features of the society in which he or she lives (WHO 2001). Typical of this model is the WHO definition of disability (2001). This is known as the International Classification of Functioning Disability and Health, and defines disability as: "an umbrella term for impairments, activity limitations and participation restrictions…disability is the interaction between individuals with a health condition, personal and environmental factors e.g. negative attitudes, inaccessible transportation and public buildings, and limited social supports".

This definition points to a salient fact, namely the external challenges that limit the performance and capacities of PWDs, rather than their inability to perform certain tasks, as if the external environment was not determining. What this suggests is that when provided the right enabling environment, PWDs can perform many more tasks than otherwise. The social model dwells on issues of stigmatization, marginalization and discrimination of PWDs by society and points to institutional changed needed to enable PWDs to be accommodated into society more fully (Goering 2010). This model advocates for the fullest possible participation of PWDs across all policy-making, including in the formulation and implementation of policies and programmes concerned with CHEs.

The social approach also acknowledges that disability experiences are very diverse, since types and degrees of deficiency interact with environmental factors, and with characteristics of age, gender, class and caste. Some scholars stress that this very diverse, non-generalizable quality of PWD experiences in the social model make it difficult to act on this model (Oliver, 1992; Sheldon, 2005 cited in Owens and Torrance 2013). The lesson does seem to be that actions directed at PWD may need to be directed at those who exclude PWDs, for whatever reasons (indifference, prejudice, other models of disability like the medical or charity).

Human Rights-Based Model

The conception of 'disability' in the recent times within the human rights-based discourse has come to be theorized as a socio-political paradigm. The focus of human rights model is mainly on the realization of the fundamental of human rights of PWDs, for instance the right to equal participation and opportunities in the society. Therefore, there must be a change in the society in order to make sure that all people – including PWDs – have the same opportunities for participation. In turn, a rights-based approach draws on the ways PWDs themselves have sought a political voice, with the emphasis shifting from medical and charity narratives of dependence towards narratives of greater

independence. PWDs are now actively claiming rights against social forces, the state and social prejudices termed "ableism" for short.

Just like the social model serves to critique the medical model (Deneger, 2017), the human rights model is a legitimate criticism of the charity model, and is closely connected with the social model. It can be seen as: "an improvement on the social model of disability, [since it is] …a tool to implement the CRPD", the Convention on the Rights of People with Disabilities (Degener, 2017:41). The implication of a HRBA is that laws and policies need to be in place to eradicate societal barriers hindering full participation of PWDs in the full range of socielual activities.

Table 2: Different types of Disability Model

Situation	Charity Model	Medical Model	Social Model	Rights-Base Model
Young women using a wheelchair	"What a pity, this beautiful woman is bound to a wheelchair, she'll never be able to marry, have children and care for her family."	"Oh, this poor woman, she should go to a doctor and discuss with him if there is a therapy which could enable her to walk again, like everybody else."	"The community really should build ramps in front of public buildings, so that persons like her can participate in social life."	"When she gets a job, her employer will have to build accessible rooms. This is her right!"
Man with an intellectual disability	"Look at this poor confused man; he seems mentally retarded. It would be better for him to live in a foster home, where somebody could take care of him."	"Perhaps there is some medicine or treatment which could improve his perception. He should try a psychiatrist."	"It's a good solution that he lives with his brother, so he is surrounded by nondisabled people."	"Where does he want to live? Let's go and ask him!"
Parents with a hearing-impaired daughter	"It must be very sad having a child and knowing that she will never be able to live on her own."	"I'm sure in a few years there'll be a hearing aid available which will make this child able to hear better."	"We should all learn sign language, so that we can communicate with this child and all other hearing-impaired people."	"When this child grows up, she'll study at university, if she wants to."

Source: Handicap International (2008) http://www.making-prsp-inclusive.org/en/6-disability/61-what-is-disability/611-the-four-models.html

Whilst medical, charity and social models tend to be dominant in Nigeria today in Nigeria today, this study will suggest that moving to a more human rights-based approach is vital before PWDs can be fully included, as active members of society, in planning for CHEs. Strategies for meeting the needs (or rights) of PWDs are heavily dependent on the model adopted. Knowing about these four models can provide more clarity when differences arise about how to promote or protect the interests of PWDs, especially when it comes to the issue of CHE on which this study is focused, as an example. Policy makers may hold a different perception of disability to DPOs, for example, and may exhibit prejudice against PWDs, or a patronising attitude, whether subtly or explicitly. Perhaps some of these attitudes can even be seen as explaining why the Disability

Bill has not yet passed into law in Nigeria. More so, it may be argued that policy makers have the resources, power and authority, and take crucial decisions which may make or mar the continuous survival of the most vulnerable in CHE. They may therefore abuse their power, which invariably leads to discrimination and exclusion.

Human Rights-Based Approach to Complex Humanitarian Emergencies

This study has adopted a theoretical perspective embedded in a Human Rights-Based Approach (HRBA) to the interrelated concepts of inclusion and participation of PWDs in CHEs. In this study, which investigates the obstacles hindering implementation of various treaties and conventions on CHE and PWDs into Nigerian law, a human:

> "…rights-based approach is set apart from others in that it draws on the existing legal framework of human rights, which codifies relationships between rights-holders—those individuals and groups with valid claims and legal entitlements— and duty-bearers, those with correlative obligations to those claims or legal entitlements" (Klasing et al., 2011: 11).

Overall, a human rights-based approach aims to strengthen the ability of rights holders themselves (in this case PWDs) to advocate for and claim their own rights and seeks to enhance the capacity of duty-bearers to respond to such claims and fulfil their legal obligations. HRBAs are built on international legal standards and human rights norms, underlining the importance of non-discrimination and equality, empowerment, transparency, accountability, rule of law and participation as basic principles of international human rights law (UNOCHRC, 2006). These HRBA principles are evident in philosophies of Inclusive CHE, founded on three core principles: participation, accessibility, and non-discrimination (for example, see Handicap International, 2014: 6; Sphere Project, 2011).

The HRBA to disability echoes a paradigm shift in attitudes towards PWDs from medical and charity models to more social models of disability, which instead of focusing on the individual's limitations, considers the role of societal barriers in hindering individuals' access to work, to basic social services and to enjoy a range of human rights. Instead of treating PWDs as objects of social protection or charity, for instance in planning for CHEs, PWDs are viewed through an HRBA lens as people with capacities to claim their own rights, to organise and to inform decisions by participating actively in society and in consultation processes (Njelesani et al., 2012:23).

HRBAs centre on ideals of social justice for the most vulnerable groups in society, including PWDs. As Hickey and Mitlin (2009) show, some of the basic justice principles of HRBAs are: inclusion, dignity, equality, equity and respect. Right holders can only claim their rights, however, through empowerment

(Hickey and Mitlin, 2009:166). Since throughout history, many PWDs were deprived of opportunities to improve their own situation, there is a need for empowerment to enable them to claim their rights in the first place (Kett & van Ommeren, 2009). In Nigeria, PWDs have often been excluded in the past from many spheres of social life, a situation greatly worsened in situations of forced displacement, or complex emergencies. At such times, most humanitarian programs focus on those at least able to reach feeding centres and camps.

Through a HRBA theoretical lens, the Nigerian government ought to consider consulting PWDs and DPOs from the start of the process, when designing disaster management frameworks for the country. If this is done, then the fundamental human right of PWDs are more likely to be protected, bringing the Nigerian government into line with the international conventions and treaties to which the state has signed up. PWDs involvement in CHE needs to go beyond merely having PWD representatives involved in decision-making; it requires empowering PWDs so they can participate individually and, especially, collectively, in society. This will enable them to actively take part in designing CHE responsiveness frameworks that promote their inclusion.
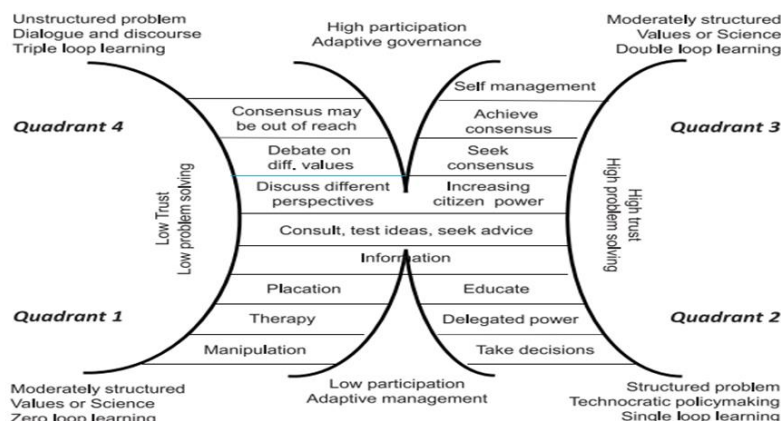
Participation

The choice of participation as a concept to analyze the data collected for this study is deeply rooted in empirical evidence from various studies (Wates, 2014; Kumar & Surname Corbridge; 2002; Stiglitz, 2002) that have shown that development projects or policies mostly fail when stakeholders lack involvement. Thus, for example, without effective and active participation of PWDs, relief efforts cannot be inclusive. Participation is the foundation of an inclusive CHE approach, as: "…both an end in itself as well as a means to an end, that is, reduced disaster risk for all" (Handicap International, 2014: 6). The concept of participation can be understood as "the exchange of ideas and information from all parties…in a development initiative, in the process, people at the community level identify the problems and come up with solutions to the problems" (Kheerajit and Flor, 2013:704).

In relation to CHE planning, participation can be understood from three perspectives, not mutually exclusive. First, participation means involvement of PWDs in decisions affecting their lives; secondly, PWDs participate as representatives of users of services in service provision governance; and thirdly, PWDs take part in influencing decision-making processes, policies and practices, for example, by advocating and lobbying for the Disability Bill, or new accessibility standards (ibid). Thus, voices of targeted communities for any programs or projects – even humanitarian programs – can be agreed to be vital to successful implementation of projects. Participation can be time-consuming and expensive to include in planning. And: "if done poorly, public participation processes can result in, for example, loss of faith in the agency. A negative experience of the process may lead participants to have negative perceptions of

the outcome, and they may be less likely to participate in future processes" (Wouters et al., 2011:17). So participation is not a magical formula, but something that needs to be worked at in the longer-term, alongside empowerment.

The argument of Wouters et al., (2011) above implies that stakeholder participation in policy design is not just a simple task as under some circumstances participation is more likely to work. A more comprehensive argument about the limits for participation, is presented in the work of Hurlbert and Gupta (2015). Table 3 below shows their model, a useful tool for identifying the limits of participation as method and means. As Table 3 shows, successful stakeholder participation may depend on how governance and management are conceptualised and the policy process understood. Hurlbert and Gupta suggest: "The ladder is an evaluation tool..[and] can be used to study policy problems with a history…in this way past policy problems can offer insights and be compared across places, contexts and times" (Hurlbert and Gupta, 2015:104).

Table 3: The split ladder of participation

Source: "The split ladder of participation: A diagnostic, strategic, and evaluation tool to assess when participation is necessary", Hurlbert and Gupta, 2015.

The vital role of PWD participation and the need for DPO involvement has been explicitly recognised under Paragraph 36(a) of the Sentai Statement, which explains that:

> "Persons with disabilities and their organizations are critical in the assessment of disaster risk and in designing and implementing plans tailored to specific requirements, taking into consideration, inter alia, the principles of universal design" (UNISDR 2015: 23)

The next section will look into the role of Disabled People's Organisations (DPOs) in this respect in more detail.

DPOs as Vehicles for Inclusion of PWDs

Historically, in providing for rights of PWDs in relation to usual development goals like housing, schooling and health, the dominant approach in the past has generally been segregation of PWDs in institutions offering special provisions 'tailored' to PWDs (Rimmerman, 2013; Schulze, 2010; WHO & World Bank, 2011). By the 1970s, this started to change as those with disabilities started to be included in 'mainstream' schooling, housing and work arrangements. This move was partly driven by the self-organisation of PWDs, who were keen to realise their basic human rights without being socially excluded in the process (Rimmerman, 2013; WHO & World Bank, 2011). There resulted a gradual shift in policies, in some countries, with: "…medically-focused solutions [giving] way to more interactive [and inclusive] approaches recognising that people are disabled by environmental factors as well as by their bodies" (WHO & World Bank, 2011:3).

Demands for inclusion were rooted in the notion of a "society for all" wherein freedom for everyone to improve their own situation was the foundation, contributing to communal goods through individual abilities, whilst making the most of the support and services available in society (BMZ, 2013:6). The concept of inclusion in complex humanitarian emergencies implies that "especially at risk groups take decision that affect them jointly with local, national and international decision makers, and that they are involved in planning and implementing pertinent activities" (BMZ, 2013:6). Especially at-risk groups include children, the elderly and people with disabilities.

The self-organization of PWDs led to emergence of Disabled People's Organisations (DPOs) internationally, where PWDs represented themselves, perhaps for the first time (Barron & Amerena, 2007: 14). For decades, extended families, social workers and medical professionals had represented PWDs. However, DPOs believe the best spokespersons for PWDs are PWDs themselves, since "when others speak for you, you lose" (Roberts, 1983 cited in Enns, 2008). In Nigeria DPOs emerged with a common slogan resonant of the US civil rights movement: "nothing about us, without us". Globally there was growing awareness of the need for PWDs to advocate for their own rights (Barron & Amerena, 2007; Rimmerman, 2013; Irvine, 2014). DPOs may lack capacity, but are still better placed to advocate for inclusive development based on PWDs own self-defined rights rather than other, general development NGOs (Barron & Amerena, 2007; Wapling & Downie, 2012).

In Nigeria as elsewhere, some DPOs represent just a single type of disability (e.g Blind, Deaf or Physical handicap). Some speak up more for women than for men, or for elites rather than for the poor (Bruijn et al., 2012; Trani et al., 2011). Even so it was DPOs worldwide, including in Nigeria, which in conjunction with various international NGOs, helped draft the UNCRPD (UN Convention on the Rights of Peoples with Disabilities). Very much in line with the social model of disability, this initiative represented a paradigm shift in civil society and

government to PWDs (Woodburn, 2013; Schulze, 2010). UNCRPD is considered a ground-breaking step in the global disability rights movement's history (Meekosha & Soldatic, 2011:1384), which became more firmly embedded in the human rights-based approach of the UNCRPD text (Woodburn, 2013: 82). Disability is defined in a rights-based way, and disabled women rights are given priority (Schulze, 2010; Woodburn, 2013:85-89).

Some have suggested that the consultations that led to CRPD did not really reflect the reality of PWDs in the Global South. There were fewer southern NGOs involved than those from the Global North (Woodburn, 2013: 90; Meekosha & Soldatic, 2011: 1383). Nevertheless, perspectives of PWDs needed to be heard, and this was the case. PWDs are now seen as critical in the design and implementation of many areas of development, including in disaster and emergency planning and management. As human beings, PWDs should not be left behind in situations of emergency or disaster, in CHEs. Inclusiveness requires that every single person at risk in a CHE can claim specific rights in relation to their own peculiarities and uniqueness

Conclusion

This chapter discussed various approaches to disability, and suggested that for inclusive development and inclusive humanitarian responses, PWDs and DPOs should participate more in decision-making. Four different models or understandings of disability were outlined. It was suggested the dominant model in a specific context like Nigeria, would largely determine how government and NGOs respond to emergency situations, and how they view PWDs within their preparedness. The chapter further discussed the importance of approaching CHE responses through a HRBA lens, based on inclusion and participation. This is because "who wears the shoes, knows best where it pinches". To understand the failure to include PWDs in all stages of emergency responses planning, it is necessary to remember that medical and charity models continue to dominate perceptions about PWDs' capacities for participation.

Chapter 3 Assessing Inclusion of PWDs in Policies and Strategies for CHEs

Introduction

According to the WHO (2005), disability-inclusion in emergency management can significantly lessen morbidity and mortality. This chapter seeks to show this, returning to the first two research sub-questions, to examine existing CHE procedures in Nigeria. The aim is to identify elements that speak to PWDs' inclusion in all the stages of CHE decision making. This chapter also considers factors that hinder the successful domestication of international treaties and conventions on PWDs involvement in CHE in Nigeria. To address these issues, a critical examination of the National Disaster Management Framework and the Nigeria Existing Disaster Response Plan is needed. In addition, responses in the telephone interviews with key informants are included in the analysis.

This chapter reveals that demands of international conventions and treaties for PWDs inclusion in the CHE are still neglected in Nigerian national legislation and policy instruments. Some barriers mitigate against successful advocacy for disability legislation, and are addressed in this chapter, which asks how PWDs' rights are incorporated into CHE management in Nigeria. The analysis includes, but is not limited to, the dominant perception of disability through the charity lens rather than a human rights-based approach. Finally, the chapter considers some of the power struggle among NGOs and DPOs seeking to represent PWDs in policy processes, especially around efforts to implement the National Assembly Disability Bill.

The first section discusses Nigeria's CHE-management policies and provisions. The second section focuses on barriers to making CHE management and legislation more inclusive of PWDs. This second section show how those at the forefront of advocacy of PWDs rights, policy makers as well as PWDs themselves, perceive disability through the charity and medical lenses, rather than focusing on PWDs' rights. Lobbying for the Disability Bill to be assented to by the President, seemed to be premised on the idea that including PWDs in the CHE framework would be an act of charity. I show how problems of cooperation among NGOs and Disabled People Organizations (DPOs) led to their inability to unite around common agendas for PWDs' basic rights. This section also address lack of representation of PWDs in rural areas, who are often those most affected by CHEs, but quite neglected by the generally elitist leadership of urban-based DPOs. We now examine Nigeria's CHE policies.

Marginalization of PWDs in National CHE Policy

The main coordinating institution in disaster management in Nigeria is the National Emergency Management Agency (NEMA), established by the Federal Government under the National Emergency Management (Establishment) Act in 1999. This is regarded as the key disaster management law in Nigeria, and essentially established the NEMA and made provisions for its staffing and budgetary financing. Damage assessments after natural disaster events are usually conducted by the Nigerian Emergency Management Agency (NEMA). However, when it comes to Complex Humanitarian Emergencies in Nigeria, which also involve civil violence, or armed conflict, the bulk of responses to such disasters and emergencies come from State and Local responders. In principle, Federal Government is called upon to support State and Local responders only if the consequences of emergencies exceed State and local government capabilities. In this case,

> "If required, the Federal Government can mobilize an array of resources to support State and local efforts. Various emergency teams, support personnel, specialized equipment, operating facilities, assistance programmes, and access to private sector resources constitute the overall Federal disaster operations' system" (NEMA-NDRP, u.d: 13).

Mostly, the State Government through the SEMA, is responsible for policy formulation around disaster management in the State, and coordinates programs and plans that aim to ensure effective and efficient responses. State government is also responsible for monitoring disaster situations and risks, and providing feedbacks to NEMA on the preparedness of the State and of local agencies and organisations within the State which contribute to disaster management. Other functions of SEMA includes educating the public within the State on disaster control and deterrence measures, facilitation and coordination in providing the resources needed for search and rescue operations within the state, and mobilizing resources to support NEMA in circumstances where state capacity is insufficient to address the damage and assessed needs of affected populations. Also, SEMA is responsible for the facilitation of the enabling legislation for the creation of Local Emergency Management Authority (LEMA) for all the Local Governments in the state, and works closely with LEMA for direct and indirect distribution of relief materials to disaster victims (NEMA-NDRP, u.d: 13).

In order to fulfil the mandate of coordinating emergencies response as stated above, the National Disaster Management Framework (NDMF) created the State Emergency Management Agency (SEMA) Governing Council, which is headed by the Deputy Governor of the State and the Secretary to the State Government. Membership of the Governing Council includes one representative from each of the State Ministries (Women's Affairs and Social Development, Agriculture, Health, Information, Education, Finance, Works, Water Resources, Environment, Urban and Regional Planning/Lands and Survey, Justice, Local Government and Chieftaincy Affairs). Other government

institutions and agencies such as the State Fire Service, Nigeria Security and Civil Defence Corps, the Federal Airport Authority of Nigeria in the State, Directorate of Road Traffic Services, Disaster Response Unit (DRU), the Nigeria Police Force and the Federal Road Safety Corps also have one representative each in the SEMA Governing Council. Finally, the Nigerian Red Cross and Crescent Societies, the Maritime Administration and Safety Agency (in coastal States), the National Oil Spill Detection and Response Agency (NOSDRA), and other voluntary organisations can be approved by the Council and be included.

In practice, the real first responder to disasters and emergencies situations is the Local Government through the Local Emergency Management Authority (LEMA) before contacting the SEMA. One would have expected that if the SEMA Governing Council did not have representatives of the PWDs, the LEMA ought to at least have one member of the PWDs community in the composition of the Governing Council. Against the backdrop of the existing National CHE framework, Nigeria has proven that the demands of the international conventions and treaties are often neglected in government's dealings with PWDs in emergencies. I argue that the inclusion of people with disabilities in Complex humanitarian emergencies should follow principles of a human rights approach to disability, starting with awareness of disability and its consequences, the need for participation and lively involvement of PWDs, and a more comprehensive, inclusive approach to ensuring accessibility.

The UNCRPD is one tool for measuring the realisation of PWDs' rights against international legal standards and norms. The UN Convention on the Rights of Disabled People also serves as a rallying point for lobbying and advocacy, as well as offering a platform for analysing barriers to PWDs, how these can be defined and tackled (Groce et al., 2011; Wapling & Downie, 2012; Meekosha & Soldatic, 2011). The existence of the UNCRPD, and its ratification by Nigeria, have assisted to bring PWD rights to the forefront of issues dealt with in international development circles (Groce et al., 2011: 1495). Many countries have signed and ratified UNCRPD, and even in countries that are not signatory to UNCRPD (e.g. Tajikistan, South Sudan) PWDs and DPOs have used provisions of UNCRPD to encourage the government to ratify and implement the treaty (Aldersey, 2013). This could be attempted in Nigeria as well, perhaps, in future, including in relation to increasing protection for PWDs in the planning and management of CHEs.

In many countries, regardless of official commitments to implement the UNCRPD provisions, in reality application and enforcement are still big problems (Groce et al., 2011:1495). Where UNCRPD is effective or considered as binding through national law, this means the provision of UNCRPD have been domesticated. Policymakers or emergency responders also cannot reasonably be held accountable for not doing something they are not yet mandated to do, such as include the human rights concerns of PWDs in their

disaster-related CHE planning. They can decide whether or not to include PWD representatives and DPOs into all decision-making processes involved in coordinated emergency responsiveness.

The constitution of Nigeria on the one hand makes it clear that there should be non-discrimination against PWDs. On the other hand, the Nigeria National Emergency Management Authority (NEMA) which has almost sole responsibility for managing disasters and CHEs in Nigeria, cannot be held accountable without the Disability Bill. From my interactions with respondents, and reading the policy documents, it seems clear that the main points of hope for PWDs and DPOs lie in having the Disability Bill become law. Until then, even if NEMA fails to protect the basic rights of PWDs during emergency situations, it can be claimed that they had a lack of knowledge or the capacity to know how to deal with specific issues of concern to PWDs during emergencies.

There is a problem, therefore, summed up in the principle "nulla poena sine lege", which means "no penalty without the law". This legal principle simply means someone cannot be punished for something not prohibited by law. The opinion of my respondents was also clearly in line with Article 7 of the ECHR that provides that:

> "…no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed".

This is the main reason that some DPOs adopt HRBA in their campaign because accountability of policy makers is one of the key components of HRBA. Even though the government has not domesticated the CRPD, there are still signs of a broad move towards more human rights-based approaches, at least among some Nigerian DPOs. These organisations are increasingly calling for government to fulfil its duties, at national and state or local levels, and to act accountably. This is in line with a human rights-based approach, which needs to be advocated by PWDs themselves, and should be based on the premise that: "human rights…must be respected, protected, facilitated, and fulfilled. Human rights are indivisible and interdependent and…are of equal importance" (Gabel, 2016: x).

DPOs Inability to Speak in One Voice

So far, more inclusive CHE management has not been an explicit priority of the disability movement in Nigeria, despite the evidence vulnerability of PWDs in CHEs. This study has suggested so far that DPOs' inability to speak in unison and to harmonize their agendas may have hampered past advocacy for Disability Bill legislation to be accepted.

Two major bodies have presented themselves as the umbrella of PWDs: the Joint National Association of Persons with Disabilities (JONAWPD) and the Association for the Comprehensive Empowerment of Nigerians with Disabilities (ASCEND). My interaction with the respondents from these two organizations and a few others during the interview sessions revealed the competition that exists between these two bodies. The result is failure to come up with a unified agenda that can strengthened advocacy for PWDs interests in Nigeria in general, and in relation to CHE management in particular. The level of disunity became clear as I interviewed respondents from JONAWPD and ASCEND. Each respondent claimed their own organization was the only one truly able to represent the interests of PWDs in Nigeria.

> "Before the establishment of JONAPWD each DPO was formed to advocate and fight for the welfare and rights of her members and with each group making different requests to government, this was seen as improper for people working for common and similar objectives. This is what gave birth to JONAPWD as a mouth-piece" (Respondent 7 JONAPWD, Interview session, January 18th 2017).

On the other hand, disagreeing with this interpretation of the problem and the solution, a spokesperson from ASCEND told me:

> "ASCEND is the only National body for PWDs that has a comprehensive collection and coming together of PWDs. This includes the Mentally Retarded, the Physically Challenged, the Blind, the Deaf, the Albinos, the Lepers and others categories of disabled into one big umbrella in order to fight a united and common front" (Respondent 8 ASCEND, Interview session 19th January 2017).

What I infer from the statements above is a degree of mutual distrust. PWDs have more confidence in organisations they are familiar with, and may not trust other DPOs with which they have not interacted (Pretty and Ward, 2001). For Tsaang et al, social trust shows whether people are prepared to comply with the decisions of other stakeholders in the policy process, or not. Social trust can be high if individuals are eager to work together towards a mutually beneficial solution (Tsaang et al., 2009 cited in Hulbet and Gupta, 2015: 103). For effective participation of all stakeholders in decision-making, trust and free information flow are two priorities. These two elements play a major role in the effective organising of advocacy to exercise some control with the structure of stakeholder decision-making processes (Dorcey et al., 1994). The implication is that, once one group suspects the other of ulterior motives, break-up and disunity are intensified. This may explain why two major DPOs in Nigeria both presented themselves as the only 'true' advocate for PWDs.

According to another respondent from the National Handicapped Carers Association of Nigeria, the inability of the disability movement to create a single national umbrella body became a problem since many DPOs preferred to operate alongside rather than pursue objectives alongside other, similar organisations. Smaller DPOs may avoid associating themselves with either JONAWPD or ASCEND. He elucidates further that:

"The major problem we are encountering in the process of advocating for our rights is that JONAWPD and ASCEND compete with each other for relevancy and the government we are demanding our rights from recognised the lack of unity. Rather than coming together under one umbrella and present a united position, both bodies considered themselves as the legitimate voice of PWDs. This has a severe detrimental consequence upon the PWDs movement capability to lobby the government effectively to follow the path of rights-based approach in addressing the problems that PWDs are facing in the society" (Respondent 6, Interview session January 16th, 2017).

The responses above are a clear demonstration of how far advocacy for PWDs is from a unified agenda, which could promote more inclusive CHE legislation. Although the Disability Bill was introduced, passed, and adopted by the Nigeria House of Representatives and the Senate, as was mentioned at the start of this study, two Presidents refused their approval. This should have been a wake-up call for the PWDs movement and led DPOs to pull themselves together and speak with one voice.

There are of course some obvious problems with the narrative of "speaking with one voice", as suggested by Sandman (2006a). Any organization or coalition where different opinions exist, will only speak with one voice if they focus on issues that unite them, and this can involve suppressing discrepant voices. Considering the fact that DPOs and PWD movements comprise people with very different disabilities, focused on different kinds of basic human rights, opinions on how to go about advocacy are bound to differ. Sandman maintains that the only situation where "speaking with one voice" is applicable and achievable is, "if there is no significant disagreement among the players about what's happening and how best to handle it" (Sandman, 2006b:260).

However, the majority of respondents thought the passage of the Disability Bill would give room for the proposed PWDs commission and PWDs will have the opportunity to be at the core of decision making that affects their well-being. Moreover, from my discussion with respondents from the Disability Rights Advocacy Centre, Policy and Legal Advocacy Centre (PLAC), it emerged that "disability elites", with little knowledge of problems faced by PWDs living in rural areas or among the urban poor, dominated the leadership of the mainstream DPOs. Therefore, PWDs in the rural areas, often most badly affected by emergencies and disasters, tend to be left behind in advocacy for inclusive CHE. This is in line with Gabel argument that:

"participatory involvement alone will not reorient public policies or the policy-making process. Policies need to be evaluated against the normative goals of a society that were arrived at through the participation of its broad spectrum of citizenry. Otherwise, policies can easily become instruments to effectively and efficiently implement the goals determined by an elite group that often omits the importance of negotiating and bargaining that occurs in policymaking" (Gabel, 2016:4).

The challenges in seeking to increase participation of PWDs in CHE measures is to enable them to prioritize and plan precautionary measures, and pay closer attention to their own disaster preparedness. Moreover, most prominent organization that manage to represent the interests of PWDs, enabling them to become engaged in planning processes, for example, are based in the cities, mainly the larger cities. Therefore, there is need to provide support to also develop or establish local organizations to represent PWDs' interests in rural areas and smaller towns. Another solution would be to include more individuals with disabilities in local committees and the General Council of SEMA and other bodies responsible for dealing with CHEs (BMZ, 2013:7).

Impediments to Rights-based Legal Advocacy for PWDs in CHEs

Advocacy Model based on Charity

The existing CHE policy plan and framework in Nigeria, as discussed earlier, does not accommodate the principle of inclusiveness as required in Article 11 of CPRD and in the UN Sendai Framework. The first barrier that hindered successful advocacy for legislation to include PWDs in policies involved in the Nigeria CHE framework, is political will. The provisions of the international conventions and treaties on inclusive CHE are strongly supported by some DPOs and NGOs. Many others are too deeply rooted in the charity approach to disability in general, however. Whilst the disability advocacy movement in Nigeria is relatively strong, and was successful in pushing for the Disability Bill in the National Assembly, many mainstream NGOs and DPOs that were at the forefront of such PWD-related advocacy, failed to identify with the rights-based approach to using law to agitate for the interest of PWDs.

Of eight respondents from different NGOs and DPOs, only two made any reference to a human rights-based approach or philosophy. The others saw advocacy as aimed at addressing PWDs issues in general, and not as a matter of human and legal rights. Even those two respondents who favoured a human rights-based approach did not see it as a priority to apply this to the field of CHE. Instead they connected a rights-based approach with 'normal' access issues, like education, health, housing and employment. As one respondent argued, the preference was to discuss inclusion in basic needs before the 'special case' of including PWDs in planning for CHEs was thought possible. In other words, emergency situations were still seen as so unusual that other, more basic rights, were seen as having priority over CHE inclusion.

> "It is important to first make sure that the sufferings of PWDs are alleviated so that they can be in the right frame of mind to participate in the decision-making process in all areas of life that affect them. For example, my organization's main focus is to raise funds that will be used in securing mobility aids for PWDs. This includes tricycle, wheelchairs, leg braces, crutches, artificial legs,

hand controls for driving, hearing aids, braille watches, braille machines etc. The mobility aids I mentioned are necessary tools PWDs need to start earning a living, without depending on anybody. Even during emergencies, what makes a lot of PWDs to be stranded is as a result of lack of mobility aids" (Respondent 4, Interview session January 13th 2017).

Another respondent corroborated the position of respondent 4 in relation to the mission, aims and objectives of various DPOs and NGOs, again relegating CHE policies very far down the ladder of the PWD advocacy movement's priorities. During my interaction with the respondents, it was clear that most organisations were deeply rooted in the more established charity model of disability. Since emergency situations continue to be seen as exceptional, rather than chronic or acute, disability rights in such situations are not even on the agenda. This informant shared the reasons behind the priorities set by his organization:

> "In Nigeria, those that are non-disabled still struggled to secure employment [let alone] PWDs. The society did not accept us, and when they do, they exclude us by putting up many different barriers. This has led to high levels of poverty among PWDs in the country. Therefore, it is important to ensure that PWDs are not only empowered with vocational skills that are suitable with their impairment but also to provide funding that will allow them to establish [themselves] on their own" (Respondent 5, Interview session January 14th 2017).

The opinion expressed by the respondents correlates with the argument by Katsui and Kumpuvuori (2008:229) that development interventions by tradition seek to fulfil the material wants and needs of PWDs above all else. Katsui and Kumpuvuori also maintained that these priorities arose out of a charity-based approach that sees disability, and not social or human rights dimensions, as critical for PWDs. This means offering technical aids, ensuring that health services are available, securing decent nutrition for PWDs and all rest on assuming this group cannot provide these services and resources for themselves.

A Hierarchical Approach which marginalises PWD Rights

The focus of all the respondents was on health, education, employment, political rights (to be able to vote and voted for), and protection from violence and discrimination, among others. They were also mostly of the opinion that the Disability Bill, once approved by the President of Nigeria, will solve most of these problems, and that inclusion of PWDs within CHEs will be more or less automatic too. This made me raise a fundamental observation with all the respondents, to the effect that event the Disability Bill does not presently make any provision for PWD-inclusive CHE.

Elsewhere, Section 17 of the Bill on Emergencies states that: "Government shall take all necessary steps to ensure the safety and protection of PWDs taking cognisance of their peculiar vulnerability". From our point of view, whilst this explicit mentioning of PWDs is welcome, the approach seems to address disability issues from a charity perspective. The phrase "peculiar vulnerability" may acknowledge the particularism also present in the Disability Bill, but it also portrays PWDs as victims, one of the bases for the charity model. One of the

respondents was of the opinion that since PWDs are not in the mainstream of policy discourse in Nigeria, if they want to achieve any meaningful progress in terms of PWDs rights, they need to push for basic rights, not for something marginal like asserting the rights of PWDs in relation to CHE management. He elucidates further that:

"In a society where realization of rights is rare, we must pursue our agitation for the rights of PWDs tactically. For example, look at women and child rights, the women movement rights movement in Nigeria did not just reach where they are today in terms of women rights, they are dealing with fundamental issue by issue. I am very sure if they had pushed for total rights at the beginning, they might not have gotten so far in their advocacy. Yes, they still have a long way to go but they are far better than we are. That is why my organization and many others believed that we should be tactical in our agitation and focus on the main issues that will enhance the realization of other rights in the nearest future" (Respondent one, Interview session on January 10th 2017).

Another respondent was more emphatic about the need to prioritize what is obtainable, and his position was based on what members of his own organization prioritized.

"We have a lot of problems and an attempt to approach all the problems concurrently will not yield any results, as we have learnt our lessons that we need to take a step at a time. Our situation is just like children that have been starving for years to the point of death. You will not just take the children and send them to school immediately because they have the rights to education. You will first need to make sure that they are healthy enough and possess the stamina to attend classes. We are yet to achieve equal employment opportunities, access to education, and health services without hindrances. Trust me, the issue of inclusion in the CHE decision making is not on our mind right now" (Respondent two, Interview session January 11th, 2017)

What I can deduce from the accounts of the two respondents above is that, PWDs in Nigeria are more concerned with addressing the challenges they encounter in society as a whole, than with emergencies. As various scholars have previously documented (Amusat, 2009; Okoli, 2010; Ejedafiru and Isebe, 2011; Lawal-Solawi, 2012; Ilayaraja and Manoharan, 2012), when PWDs try to assert even the most basic human rights, they may face rejection, discrimination, stereotyping, depersonalization and poverty. My own interactions with other respondents did not produce different narratives. In fact, some were of the opinion that realization of human rights as stated in the UNDHR is impossible given the social structure of Nigeria. For example, many local communities in Nigeria still consider disability a form of retribution from the ancestors, from the gods for an evil act. This perception forms the basis of societal discrimination against PWDs (Olaogun et al., 2009:25). One can always expect that PWDs will want to prioritize overcoming any obstacles they may come across, that will be a hindrance to a better living standard.

Be that at it may, I then asked the PWDs that participated in the interviews whether they agreed that it was important to include PWDs at all the stages of decision-making in relation to CHEs. The response I got from the majority of

those I spoke to was a real eye-opener for me in understanding why the future of advocacy for legislation around PWDs in CHE management looks fairly bleak. According to one respondent, it is not a problem to be included in the decision-making process. As he argued, some of his colleagues in his organization already belong to various committees that take decision at their various places of work. He stated further that:

> "The problem is, did your fellow committee member perceive you as unintelligent or incapable of making sound judgement? Please tell me, what is the essence of one belonging to a committee that will be tantamount to adding to the number of members of the committee but your contribution will be null and void. That is main reason we focus on the passing of the Disability Bill that is all encompassing which will empower PWDs. For example the political rights to be voted for or to vote, heavy penalty for discrimination against PWDs in employment, health, and even in the family are all stated clearly in the Bill" (Respondent 3, Interview session, January 11th, 2017).

The view shared by Respondent 3 is closely related to Nirje (1985) who comments that states "laws and legislative work cannot provide total answers to problem solving and proper actions with regards to the realisation of human rights. These can only come into existence in the full cultural and human context because such problems are not only practical but also ethical" (Nirje, 1985: 65).

From the views expressed above, it is safe to conclude that the disability advocacy movement have set their priorities elsewhere than in securing more inclusive CHE legislation. PWDs do not considered all rights indivisible; instead they would rather prioritise those they feel are the most important. Although a number of studies have argued in line with the Vienna Declaration that all human rights are universal, interrelated, interdependent and indivisible.

> "All human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. Thus, the right of everyone to an adequate standard of living cannot be compromised at the expense of other rights, such as the right to health or the right to education" (UNFPA, 2005).

Compared with some provisions in the international community and in human rights provisions, in particular, disability rights seem to be given less priority in Nigeria, a testament to the fact that: "what you consider to be your most important human right appears to depend largely on where you live" (Luxton, 2016). Whereas elsewhere, preparing for disasters and conflict-related emergencies may be viewed as something that should involve the basic human rights of PWDs, and their full participation, in Nigeria it seems this is not yet the case.

Instead, within contemporary Nigerian society, there seems relatively little appreciation of disability as fundamentally a human rights problem (Lang and Upah, 2008). This helps explain why most Nigerian NGOs and DPOs at the forefront of advocacy for PWDs issues still follow a charity model rather than opting for a human rights-based approach to disability. A hierarchical approach

to PWDs rights, however, is not the only obstacle to advocacy for more inclusive CHE legislation in Nigeria. In the next chapter, further hindrances, deeply rooted in divisions among different DPOs, are highlighted as another problem for making progress towards considering the rights of PWDs in Federal, State and local preparedness for CHEs.

Conclusion

The CHE framework of NEMA, the agency with primary responsibility for disaster management in the country, shows that human rights-based demands for PWDs, based on the CRPD and other treaties, tend to be neglected. The result is forms of discrimination on the grounds of disability, which reinforce a charity model of disability, especially in emergencies, so that disability rights are rarely seen as relevant to planning. As a consequence, PWDs continue to depend mainly on charity and medical models of disability, and the disabled themselves are deprived of the human right to participate in decision-making, relegating them to the margins of Nigerian society in respects and all parts of the country. This is contrary to the Conventions and treaties that provide a reasonable basis for ensuring PWDs' engagement in CHE planning. Thus, many problems are left unsolved.

Inclusion and participation of PWDs in disaster risk management, in a country like Nigeria is further restricted by DPOs that operate mainly in capital cities. Since persons living with disabilities are spread across urban and rural areas, with rural-dwellers more likely to face increased exclusion and non-participation, there is a need to make support available to establish local organizations aimed at representing their interests more broadly. This will help to reinforce efforts being made to make policies, including CHE policies, more all-encompassing and inclusive. PWDs' experiences are of course very diverse, and given these types of variability in relation to the social environment, and because of age, gender, class and caste, there is a need to place these diversities at the heart of any inclusion strategy in the CHE sector. Only in this way can the resources and capacities of PWDs be harnessed and factored into the planning, formulation and implementation of policies regarding disaster risk management and CHEs.

Chapter 4 What Needs to Be Done? PWDs and CHE Management

Introduction

As discussed earlier in this study, during government responses to CHEs, PWDs are often even more marginalised than other low status social groups, like women or children (UNISDR, 2014; Mitchell & Karr, 2014; Smith et al., 2012). PWDs continue to be ignored, and this results in their being among the worst affected by problems of internal displacement, violent conflict and disasters, like floods or droughts (Kett & Twigg, 2007: 94). PWDs' participation in formal and official program planning and in displaced persons' camp management are very limited (WRC, 2008: 4). Disabled women and children are also more likely than others to be subjected to physical and sexual violence and harassment (WRC, 2015; Mitchell & Karr, 2014, Barriga & Kwon, 2010). PWDs are certainly at higher risk during emergencies, since they find it generally more difficult to flee their homes at the onset of violent conflict or disaster (Rohwerder, 2013: 774).

Against this backdrop, as already discussed, there is no panacea for addressing these problems of exclusion. Yet a potential solution does lie in the embedding of PWDs rights in relation to a more inclusive CHE management framework in Nigeria, on the basis of legislation. We have also identified in the previous chapter some challenges to ensuring that legislation is in place to protect PWDs.

This chapter focuses on the consequences of not having legislation in place for PWDs at all. Also, the chapter seeks to identify what needs to be done if there is to be movement towards realization of legislation that can help ensure PWDs are included in the CHE management framework in Nigeria. This chapter is divided into three-parts: the first part discusses consequences of there being no legislation in place to protect the rights of PWDs in general. The second part discusses what still needs to be done in terms of advocacy to address the specific challenge of including PWDs in CHE planning.

"No Accountability without Legislation": advocating for PWD rights in relation to CHE

The major consequences of the lack of legislation for PWDs rights, in the CHEs responsiveness sector is a kind of "open season" during emergencies. This means that those responsible for emergency responses will treat PWDs in an arbitrary way, depending on how convenient it is to neglect the concerns of PWDs, or even ensure their survival on the same basis as that of others affected by CHEs. Without any fear of backlash, or legal consequences, PWDs who are

displaced or at risk can find themselves at the mercy of emergency responders who may or may not offer the kind of help PWDs need. Uninvolved in processes of risk management from the onset, PWDs may also be neglected in their implementation. One example was an incident that respondent 6 shared. He had been visiting a refugee camp in Abuja some two years ago with a friend, in order to go and see distant family members, who had been displaced by Boko Haram-related violence, from Maiduguri. Respondent 6 said he had been appalled by how PWDs were treated in the camp, and had complained. He had noticed at the time that there appeared to be no plan in place at all to cater for their particular needs; they were simply neglected. When this individual spoke to a NEMA official, and asked that the situation of PWDs be addressed, he was unable to get any positive response. He explained that:

> "There is a popular proverb in my tribe that says, "*ilu ti ko si ofin, ese ko si*", which means "in a community without law, there is no sin"…there can never be accountability, or who do you want to hold accountable, when there is no law that mandates [the government agencies]…to include PWDs in their plans. NEMA is the only approved body mandated to address crisis and disaster situations. They are confined within the limit that laws permit, so to make them include PWDs in the framework of their response, there has to be legislation in that regard" (Respondent 8, Interview session January 18th, 2017).

Respondent 6 buttressed the position of respondent 8, in his opinion, there is no short cut to PWDs inclusion in CHE planning, without the President finally assenting to the Disability Bill. For him, without the Bill, PWDs will continue to be marginalised, including in emergency situations, and may even be treated badly, given PWDs have no explicit legal basis yet in Nigeria, for seeking redress for discriminatory or neglectful polices that affect them, and can be fatal during emergency responses.

> "In this country, we still find it difficult to hold people accountable for their actions if they trampled on our rights, but at least it is there in the constitution of Nigeria what the consequences will be, of violating our rights. With consistency and advocacy, we have had cases where PWDs that lost their jobs and were compensated when we dragged the violators to court. In this case, what is going to be the premise of our argument if NEMA did not meet up with our needs during emergencies? We can complain that their failure was a result that PWDs were not involved in the process. The truth is - are they mandated to do so [i.e. to involve PWDs)? NEMA cannot reconstitute the committee; only legislation can do that" (Respondent, 6, Interview session January 16th, 2017).

It is true that when government fails to reduce risks or to prevent deaths or injury due to foreseeable disasters, people can resort to the use of legal means to hold the government accountable, including PWDs (Ferris, 2014:2). There have been documented cases where citizens held the government responsible, for example, for failing to protect or warn local people of impending emergencies. For example, in the case of the 2012 Kyrmsk Floods and the 2009 L'Aquila earthquake. There have also been cases (e.g. the 2013 Hurricane Katrina) where specific state emergency authorities, were determined by the national judicial

authorities not to be responsible for the high loss of PWDs' lives (Ferris, 2014: 2-4).

By removing communication barriers and challenging attitudinal, physical and policy barriers to PWDs involvement in planning. For instance, a Twin Track Approach could ensure that PWDs were given more equal access to 'mainstream' disaster management operations, and to those 'specialist' services to meet particular needs, for example assistive devices (e.g. wheelchairs, crutches, spectacles etc.), as well as having priority access to essential medications (CBM, 2012 & 2013). Drawn from the Convention on the Rights of Persons with Disabilities and the Humanitarian charter and minimum standards in disaster response (cited in WHO, 2013: 16), the core principles to control disability-inclusive emergency risk management should include:

Equality and non-discrimination: Emergency risk management should include all those in need, specifically the most vulnerable, including people living with disabilities. Discrimination based on disability "means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms. It includes all forms of discrimination, including denial of reasonable accommodation" (WHO, 2013:16)

Accessibility: PWDs should have "access, on an equal basis as others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and rural areas" (Humanitarian Charter and Minimum Standards in Disaster Response cited in WHO, 2013: 16).

Participation and dignity: Persons with disabilities have the right to partake in the evaluation, design, execution and monitoring of emergency policies and programmes. They also have the right to make their choices, be recognized likewise be respected as equal citizens and human beings who is capable of making contribution prior to, during and post emergency (WHO, 2013:16)

Resourcefulness and capacity: Many PWDs are endowed resources and capacities prior to disaster which can be channelled to making meaningful contributions and aids to emergency or disaster risk management. In addition, they have the right to get aid and assistance needed to develop the capacities, knowledge and skills vital to prepare and safeguard themselves from risks, and to make the most of their ability to survive and recover after a disaster (WHO, 2013:16)

In line with CBM (2012:77-78) submission, a possible checklist for those seeking PWDs' inclusion in disaster management, should include:

- Have specific needs of PWDs been recognized at all stages of disaster risk management?

- Have families been reunited and situated close to facilities such as administration and lighting, to improve their security?
- Are camps, shelters and other facilities meeting universal design standards that make them suitable for PWDs?
- In the 'Rapid Assessment' questions, have diverse types of disability and experiences of barriers by PWD been recognised?
- Has there been facilitation of active participation of PWDs or DPOs in decision-making groups?
- In what ways has the emergency, comprising community and environmental changes affected PWDs?
- Are PWDs included in the re-construction phase?

When utilizing the inclusion approach to CHEs, it is imperative to ensure that there is the recognition of the types of disability and diversity of their experiences. In other words, the inclusiveness of persons with disabilities in CHEs must represent their diverse interests and experiences. Diversities of class/status, age and gender must be well addressed, among others, for an inclusive CHE management program., PWDs' lack of inclusion in CHE management in Nigeria can best be understood by exploring the factors that hinder PWDs' and DPOs' self-advocacy for the legislation required as a prior condition for more successful and inclusive CHE management in future.

The need for unification: DPOs and Professional Advocacy Agendas

"I don't think, we can achieve anything without getting ourselves together under one platform. I remember a day that we went to submit a position paper to the Senate Committee Chairman on Employment, he pulled out from his file 4 different position papers of various DPOs addressing the same concern. So I contacted the DPOs leadership that they should withdraw their position papers so that we can all submit one joint paper. A month later, the joint paper that was submitted by 5 of us produced the desired results. Now imagine what we can do together if everybody queues behind a unified agenda" (Respondent, 5 Interview sessions January 14th 2017).

One other respondent argued that the majority of the actors in the Disability advocacy movement lack the capacity to advocate for PWDs' rights from a HRBA standpoint, since they are not familiar with human rights-based approaches to disability. The disability advocacy movement thus has to start collaborating with various CSOs with the capacity to train their members in Rights-Based Approaches to disability rights. Moreover, the advocacy campaign needs to first establish the vital legal framework for ensuring a closer 'fit' between the means available and the goals of fully including PWDs in planning and management, including of CHEs. Since there are now more PWDs with a strong legal professional background, who are becoming involved in movements

and campaigns for disability rights, there may start to be a shift away from the charity model towards a more rights-based approach.

> "The first thing that is important in advocacy is knowledge about what you want to advocate for, what are the historical factor behind this demand. There is a need for more PWDs with legal knowledge to be involved in the advocacy, although, people might say we can get a lawyer to do that for us. But we are talking about lawyers that knows what it means to be a PWD" (Respondent 4, Interview Session).

The traditional interpretation of advocacy is that it involves a person, usually a lawyer, pleading for another person in court (Wheeler, 2000). However, an extended definition means "stating a case to influence decisions, getting better services, being treated equally, being included, being protected from abuse, redressing the balance of power and becoming aware of and exercising rights" (Jugessur and Iles, 2009 cited in Amusa, 2009:31). In fact, there are various types of advocacy, including but not limited to citizen advocacy, peer advocacy, self-advocacy and collective advocacy. In reality, it can be challenging to differentiate one category of advocacy from others (Wheeler, 2000).

The much-needed advocacy for and by PWDs, would usually include legal advocacy, and at the forefront of such PWD advocacy will be those PWDs with a professional background, including in law. Ordinarily, advocacy has two aspects: advocacy on behalf of someone else, and advocacy by the person or group advocated for (Lewis et al, 2011:8). From discussions with respondents, this study found a preference for self-advocacy over professional legal advocacy. This is in line with Lord (2007) who suggests the disabled are the best advocates for disability rights, given their relevant life experiences (Lord, 2007:230). From this perspective, it is vital PWDs come together and identify their own priorities, and select the best means to make their rights claims known. Paulo Freire explained this in his work "The Pedagogy of the Oppressed" where he stated:

> "…those who recognize, or begin to recognize themselves as oppressed must be among the developers of the pedagogy. No pedagogy that is truly liberating can remain distant from the oppressed by treating them as unfortunates and by presenting for their emulation models from among the oppressors. The oppressed must be their own example in the struggle for their redemption" (Freire, 1970:39).

The implication of Freire argument is consistent with a slight preference for self-advocacy among consulted DPOs. According to interviews, for greater solidarity and mutual support, PWDs should become more actively involved as members, and leaders in DPOs and NGOs. It is hoped that in this way, a stronger sense of common purpose could emerge among DPOs so they work to promote citizenship rights for all, including PWDs. Living in Nigerian society without discrimination, means being entitled to support and solidarity, most especially in emergency and disaster situations (Lord, 2007).

Conclusion

This chapter considered some of the implications of the lack of a legislative framework to ensure that the rights of PWDs are clearly addressed in the CHE management framework in place in Nigeria. It will be difficult to prevent violations of the rights of PWDs during emergencies effectively, unless there is also a law in place to protect PWDs' human rights, ideally the Disability Bill. Otherwise those agencies involved in preparedness for CHEs cannot be held accountable when they fail to include PWDs and ignore their human rights. To guarantee that human rights of PWDs are respected, DPOs in turn need to develop a unified advocacy agendas, including more self-advocacy by PWDs. This can start to shift dominant attitudes away from charity and medical models towards more social and human rights-based approaches. The priority is to combine a law that mandates explicit inclusion and participation of DPOs and PWDs in CHE management, with a broad-based movement for disability rights.

This chapter stressed the need for unity between DPOs and professionals – including legal advocates – as crucial for bringing about a shift in approach, alongside new protective legislation. DPOs should unite with professional advocates to present a single agenda, for example through an advocacy campaign for new disability legislation. DPOs need to become more rights-based in their work, and pass on these approaches to members. Such advocacy will help if more PWDs become actively involved alongside those with a professional background, whether PWDs or not.

Chapter 5 Conclusion

One aim of this study has been to consider some problems that have arisen because of the failure of the Nigerian government to domesticate the various treaties and conventions ratified in relation to rights of the disabled, and on preparedness for Complex Humanitarian Emergencies (CHEs). The study has proposed that PWDs, disproportionately affected by CHEs, should be able to participate, as of rights, in all levels of preparing responses to CHEs. The main question was about identifying how effective, or ineffective, stakeholders had been in advocating for legislation that includes PWDs in Nigeria in planning and managing of CHEs. To answer this, three sub-questions were proposed.

1) How do existing national policies on CHE and disasters marginalize or include PWDs?

2.) What underlying factors hinder the successful domestication in Nigerian law of international treaties and conventions ratified, in relation to PWDs position in CHEs?

3.) How can advocacy, including by Disabled Peoples Organisations, facilitate enactment of a more inclusive legal framework, consistent with international treaties and conventions on PWDs' protection in CHE planning?

For research sub-question one, the study concluded that the existing CHE framework of NEMA which is responsible for disaster management in Nigeria, is not in accordance with the guidelines and principles of the CRPD and other treaties. The NEMA provisions neglected the concerns of PWDs in CHEs. It was therefore suggested that the NEMA Act needs to be amended to explicitly require that PWDs be included at all the stages of CHE management. This move towards inclusion is critical if CHE responses are to more evenly protect the lives of PWDs compared with the able-bodied. By doing this, it will not only go a long way to cater for the needs of PWDs during CHEs but also will allow them to be treated with dignity as human beings.

For research sub-question two, this study concluded that the main challenges of successful advocacy for legislation towards the inclusion of PWDs in the CHE management framework of Nigeria can be understood from two major angles. First, DPOs and NGOs leading the advocacy movement for PWDs in Nigeria are far from united. Those interviewed did not see inclusion of PWDs in CHE management as a priority. Rather, from a charity-based model of disability, advocates for PWDs tended to focus on the need for access to services such as education, employment and mobility. The main reason for such a pragmatic and welfare-based approach to advocacy is that DPOs believe that demands for all-inclusive rights may not be realistic, considering the political, and social-cultural climate of Nigeria. A typical example is women and girls' rights advocacy, which is gaining momentum gradually towards the realization

of one right after the other. PWDs rights in Nigeria, from any perspective, whether charity, social or human rights-based, are virtually non-existent. One reason most DPOs still follow a charity model of disability, is that this is more in line with both social attitudes among Nigerians, and close to the government position on PWDs issues as well.

Some of the challenges faced in the quest to increase or intensify the participation of PWDs in Complex humanitarian emergency processes comprise facilitating them to plan safety measures. Moreover, most times, prominent and potent organization that better represents their interests, which can be engaged in planning processes, can only be found in the cities or the capital which are dominated by the elite PWDs, therefore marginalizing the PWDs in rural areas. In addition, the infighting among the DPOs has affected the movement to towards more successful advocacy for a legislation that will include PWDs in the government CHE management framework. The competition between the two leading national bodies, each one claiming to be the legitimate representative of PWDs, has discouraged DPOs from associating with the PWD advocacy movement. The inability of DPOs to present a common agenda that will cover the interest of all the PWDs in the country is a major setback in the advocacy

The rights of PWDs are unlikely to be adequately protected during the acute CHE situations prevailing in several parts of Nigeria today. For failing to protect PWDs, moreover, nobody would be held accountable, unless the Disability Bill becomes law. PWDs still have some residual rights as stated in the Nigeria Constitution, yet even these basic provisions are violated due to the lack of enforcement and due to societal prejudice about disability in general. The non-existence of legislation is tantamount to an on-going chronic disaster for PWDs, since during CHEs there is simply no legal ground for demanding special consideration for their rights vis a vis emergency responders and agencies at involved in decision-making. No legislation prioritising the rights of PWDs to be included at all stages of CHE management, means that DPOs are the only source of support, and it is vital that these organisations adopt a less charity-oriented and more human rights-based approach to disability in their advocacy in future. Only in this way can DPOs become a social force that is capable of holding government accountable for reform.

For sub-question three, the study concluded that successful advocacy towards legislation that includes PWDs in Nigeria's CHEs management depends on greater unity between DPOs. I argued that PWDs movements should come together under one umbrella with a unified agenda, and send a message to the Nigeria government that are not going to succumb to the divide and rule tactics of the state. Advocacy will be more successful if the campaign is tailored towards the Human Rights Based Approach rather than the charity model to disability that saturated the messages of many DPOs. Besides, the potential of having a successful advocacy campaign is high if there are active people in the movement

with professional background that understands the practical details of the PWDs rights from standpoint of law.

Finally, of course PWDs in Nigeria will require support from charities for some time, especially in emergency situations in a country ravaged by poverty. Nevertheless, the widespread charity-based model of disability serves to limit our understanding of how PWDs can contribute to policy processes, including for CHE planning and management. Disabled people can help to prepare for disaster, displacement and other eventualities. HRBA is founded on the principle that the correct approach: "creates claims to those who possess rights and freedoms, and through this mechanism creates, for the claim-holders, a new level of ownership of their lives" (Katsui and Kumpuvuori, 2008: 229). If such an approach is adopted, then planning for CHEs in a way that includes PWDs would not seem strange, or a marginal or exotic concern – it would become obvious, given that PWDs suffer disproportionately in situations of CHEs generally. In conclusion, according to Handicap International: "The Rights-based Model states that support [for PWDs] is not a question of humanity or charity, but a basic human right that any person can claim" (2008). This kind of claim should apply even more in an emergency situation.

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Appendix 1

List of Key Informants

Respondent	Organization	Type of Disability	Occupation/Profession	Date of Interview
One	CCD	None	IT Consultant	10/01/2017
Two	PLAC	Physical Impaired	Lawyer	11/01/2017
Three	MAARDEC	Physical Impaired	Accountant	11/01/2017
Four	DRAC	Virtual Impaired	None	13/01/2017
Five	Global Hope and Justice Inc.,	None	Lecturer	14/01/2017
Six	NHCAN	Physical Challenge	Lawyer	16/01/2017
Seven	JONAPWD	Virtually Impaired	Self Employed	16/01/2017
Eight	ASCEND	Physical Challenge	Self Employed	19/01/2017