**Guidelines on Deinstitutionalization**

**A Paper Submitted to the United Nations Centre for Human Rights**

**Network of Women with Disabilities (NWD), Nigeria**

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**Executive Summary**

The United Nations is keen to ensure an equitable, just, and egalitarian society for all persons with disability, in all parts of the world. It is in the light of these that the global institution encapsulated the provisions guiding the independence, liberty, freedom, and empowerment of all persons with disability.

As a consequence, therefore, parties to the global organization and its conventions have no obligation than to respectfully adhere to the precepts and principles of the organization. Thus, Nigeria will not be an exception to that.

In the light of the, and other viable circumstances, the Network of Women with Disability (NWD) in Nigeria is poised to canvass and strongly advocate for continued empowerment and positive growth of persons with disability, through the enactment of solid and worthwhile legislative mandates that will impact the lives of all persons with disability and ensure that they are uplifted and nurtured to the heights they rightfully deserved.

**A Speech Complementing the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) Consultation Process 2022**

Observance of Protocol!

The United Nations Organization ably recognizes and respects the provision and unique needs for all persons with disabilities to enjoy unfettered access to equality and equal rights within the ambit of international corporation and international dispensation of justice for all persons with disabilities. It is on that premise that the global body came out to boldly and judiciously mandate its various agencies like: the United Nations Children’s Emergency Fund (UNICEF), the United Nations Education Scientific and Cultural Organization (UNESCO), the International Labor Organization (ILO) and other like-organizations to key into the needs of persons with disabilities.

It is in the light of the need for persons with disabilities to have access to social justice and live independently that the Article 19 of the Convention on Rights of Persons with Disability emphasized, inter-alia, “the importance of providing adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost, or received a reduction in, their income, have been denied employment opportunities or have a permanent disability. Such support should be provided in a dignified manner and reflect the special needs for assistance and other expenses often associated with disability.

Furthermore, with close reference to key provisions of the Article 19, it stated that “the support provided should cover family members and other informal carers. Footnote 17 Institutionalization of persons with disabilities, unless rendered necessary for other reasons, cannot be regarded as an adequate substitute for the social security and income-support rights of such persons, as well as rehabilitation and employment support, in order to assist persons with disabilities to secure work as required by articles 6 and 7 of the Convention”

In addition, it is thus expedient for Organizations, Government establishments and corporate bodies to be circumspective, be proactive, and take the employment needs of persons with disabilities more seriously. A bold initiative akin to the above is the decision by the Nigerian Federal Government to advocate 5% access to employment by Nigerian employment agencies, Still, the question to put forward, at this juncture, is: will the Nigerian government back its much-vaunted decision with pragmatism to ensure justice, fairness, and equity for persons with disability in the Nigerian polity? The Network of Disabled Women (NDW) in Nigeria believes that robust lobbying process must be exerted on the governments to abide by its/their words; not only in Nigeria, but equally in other climes where persons with disabilities are glaringly denied their inalienable right to social justice, fairness in distribution of social amenities and full-scale employment opportunities.

Going forward and with close reference to a key provision of Article 19, the Nigerian NDW organization is cognizant of the fact that living independently and being included in the community is a crucial need for/of persons with this disabilities, no matter where they are domiciled. Furthermore, this article recognizes the right of persons with disabilities to live independently and to participate in the community. Thus, the articles stressed that States Parties should report on: 1 The existence of available independent living schemes, including the provision of personal assistants for persons who so require 2 The existence of in-house support services allowing persons with disabilities to live in their community 3 The existence and range of options of residential services for living arrangements, including shared and sheltered accommodation which take into account the form of disability 4 The degree of accessibility for persons with disabilities to community services and facilities provided to the general population

Still, Article 19 equates the right to liberty with the right of persons with disability to live in and be a part of the community. It will operate as a prohibition on institutional models of supported accommodation for persons with disability, and require national investment in community based living options.

Going by the above fundamental statements on the viability of persons with disability to be accorded their rights to decent treatment in the process of qualitative and quantitative accommodation, it is thus expedient that deinstitutionalization should remove and replaced with full-scale provision of decent housing facilities where these members of the society will feel the impact of the government in their lives: they are expected to enjoy maximum satisfaction as citizens of their respective countries, no matter the barrier that might constitute the realization of that lofty goal. The United Nations declaration of decent housing for all should be maximally implemented and extended all persons with disability, with utmost consideration of the provision ramps in buildings for persons with Physical Disability to enhance their mobility and unhindered access to all type of edifices.

With the determination to ensure and entrench “social Security” scheme for persons with disability in Nigeria and in particular, and in other African countries in general, it is thus expedient to ensure that “the obligation to protect requires that State parties prevent third parties from interfering in any way with the enjoyment of the right to social security. Third parties include individuals, groups, corporations and other entities, as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures, for example, to restrain third parties from denying equal access to social security schemes operated by them or by others and imposing unreasonable eligibility conditions; arbitrarily or unreasonably interfering with self-help or customary or traditional arrangements for social security that are consistent with the right to social security; and failing to pay legally required contributions for employees or other beneficiaries into the social security system.

As a consequence of the above, the salient question to ask is “whither Nigeria?” in the area of the need to implement Social Security Scheme as is done in the United States of America and in other climes. The NDW in Nigeria stands on the premise that Social Security should be globalized as a standard requirement for persons with disability, most especial those unemployed and the elderly. Ensuring this, their care, security, and welfare will be ensured and ultimately guaranteed. A viable policy should be giving the needed fillip to institutionalize that, going forward, in the lives of persons with disability.

In the realm of security initiative for persons with disability, Article 14, with close reference to the provisions of the UNCRPD state, among other fundamental indices that, “the Committee has called on States parties to protect the security and personal integrity of persons with disabilities who are deprived of their liberty, including by eliminating the use of seclusion and various methods of restraint in medical facilities, including physical, chemical and mechanic restrains.[[1]](#footnote-1) The Committee has found that these practices are not consistent with the prohibition of torture and other cruel, inhumane or degrading treatment or punishment against persons with disabilities pursuant to article 15 of the Convention.

Based on the foregoing, therefore, the NDW in Nigeria is poised to canvass the unilateral liberty and freedom of all persons with disability, especially the most vulnerable. For example, persons and women with Intellectual disability, persons with Autistic Spectrum Disorders (ASD) persons with Attention Deficit Hyperactivity Disorders (ADHD) etc. THE NDW will be strategically positioned to champion the respect for their freedom, welfare, wellbeing and security within the law of Nigeria and the provisions of the UNCRPD.

Making a standard and incisive case for the principle of Non-discrimination of Persons with disability, there is need to draw on the fundamental provisions of Article 14 stating that: Through all the reviews of State party reports, the Committee has established that it is contrary to article 14 to allow for the detention of persons with disabilities based on the perceived danger of persons to themselves or to others. The involuntary detention of persons with disabilities based on risk or dangerousness, alleged need of care or treatment or other reasons tied to impairment or health diagnosis is contrary to the right to liberty, and amounts to arbitrary deprivation of liberty. The principle highlighted above, therefore, lend credence to the NDW advocating for the respect of rights of persons and women with disability. Our organization believes that widespread advocacy is a veritable source of enhancing the liberty, emancipation, and promulgation workable legislations for persons with disability thus securing their lives and enhancing their personal independence.

The freedom to make one’s own choices established in article 3(a) of the Convention includes the freedom to take risks and make mistakes on an equal basis with others. In its General Comment No. 1, the Committee stated that decisions about medical and psychiatric treatment must be based on a determination of the person’s autonomy, will and preferences.[[2]](#footnote-2) Deprivation of liberty on the basis of impairment or health conditions in mental health institutions which deprives persons with disabilities of their legal capacity also amounts to a violation of article 12 of the Convention.

From the analysis assessment of Articles 19 and Article 14 of the all-important document safeguarding the rights of persons with disabilities globally, it is safe to emphasize that all stakeholders in the disability community need to be in tandem with these provisions. There is need to be paradigm shift in policy planning, policy implementation and policy direction.

State parties to the provisions of the convention pertaining to the independence, liberty, and security of persons with disability the world over have to be proactive and pragmatic in ensuring that there is unified efforts in entrenching workable and efficient policies for in the best interests of persons with disability irrespective of where they are.

In conclusion, the following suggestions will be proposed:

* A unified and concerted effort to ensure solid legislation to promote the liberty and freedom of all persons with disability all over the world
* Social Security apparatus should be put in place, going forward, in ensuring that every disabled person enjoys protection and security from all forms of discrimination
* Full employment opportunities must be guaranteed for all persons with disability, with full access to mobility for those who are unable to move around couple with access to their environments
* Full inclusion must be guaranteed, and at all levels, for all persons with disability and this must be legislated.
* Pursuance of these legislations by United Nations Agencies to ensure adherence and full implementation, in all strata of the society

Thank you.

**References**

Article 19 of the United Nations Convention on Right of Persons with Disability

Article 14 of the United Nations Convention on Rights of Persons with Disability

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)