

Towards Ending the Information Poverty Among Persons with Print Disabilities: A Proposed Draft (Amendment) Bill for Disability Diversification of the National Library of Nigeria

*By Bizibrains Okpeh**

Globally, there is less information available or accessible to persons with print disabilities (PWPDs), or otherwise the print disabled. These are persons who are blind or have visual impairments or perceptual or reading disabilities, which cannot be improved to give visual function substantially equivalent to that of persons who have no such impairments or disabilities and so are unable to read printed works to substantially the same degree as persons without impairments or disabilities, or are otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading, regardless of any other disabilities.¹

Available data from the World Blind Union shows that of all books published globally, only between 1 and 7 percent are available or accessible to persons who are blind, visually impaired, or otherwise print disabled, who number about 285 million, most of whom are domiciled in underserved areas in developing countries.² This number is put at 300 million in some publications.³ According to the World Health Organisation (WHO), at least, 2.2 billion people worldwide have near or distant vision impairment.⁴ Notwithstanding the paucity of data, at least, 4.25 million⁵ Nigerians are blind or visually impaired.⁶

It is recorded that in the developed world, 95% of published works are inaccessible to PWPDs.⁷ The situation is even direr in the low-income, middle-income, and developing world such as Africa,

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¹ See the Marrakesh Treaty 2013, Article 3

² See WIPO's Main Provisions and Benefits of the Marrakesh Treaty (2013) p.1. Available at https://www.wipo.int/edocs/pubdocs/en/wipo_pub_marrakesh_flyer.pdf [Accessed 27 July 2021]

³ See the World Blind Union Guide to the Marrakesh Treaty, pp.15 and 22. Available at https://www.google.com/url?q=https://www.wipo.int/edocs/mdocs/copyright/en/wipo_cr_mow_17/wipo_cr_mow_17_topic_2_c.pdf&sa=U&ved=2ahUKEwiBsLKxtJzyAhUNmBQKHYuxD58QFnoECAMQAQ&usg=AOvVaw0fGkjbhRDRGYst97cLjbdR [Accessed 6 August 2021]

⁴ See the WHO's Factsheet on Vision and Impairment, 2013. Available at <https://www.who.int/en/news-room/factsheets/detail/blindness-and-visual-impairment> [Accessed 27 July 2021]

⁵ This figure does not account for children and may not reflect current realities being data collected between 2005 and 2007 and of persons who were 40 years and above.

⁶ See the Nigeria National Blindness and Visual Impairment Survey 2005-2007, Available at <https://iceh.lshtm.ac.uk/nigeria-national-blindness-and-visual-impairment-survey/> [Accessed 8 August 2021];

See also Oriakhogba, D. "As We Celebrate Nigeria's Ratification of the WCT, WWPPT, the Beijing Treaty, and the Marrakesh Treaty" Available at <http://infojustice.org/archives/38959> [Accessed 27 July 2021]

⁷ See the Collaboration Initiative Proposal Between Redemption International for the Blind and the National Library of Nigeria (Unpublished Work) p.2, being a proposal presented to the National Library of Nigeria, Jos Branch, on the

including Nigeria, where less than 1% of all published work is accessible to PWPDs.⁸ This means that 99% of published works are inaccessible to the print disabled in Nigeria. This global information poverty or “book famine” remains a veritable barrier to the quest for sustainable, equal, and inclusive education and access to quantitative and qualitative information. Hence, the importance of the Marrakesh Treaty cannot be overemphasised.

The Marrakesh Treaty and Access to Information to the Print Disabled

Viewing the global book/information famine as a human rights issue, and reinforcing the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Marrakesh Treaty aims to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled. The Treaty, ratified by Nigeria but not yet nationalised or domesticated,⁹ among other things, grants mandatory copyright limitations and exceptions on all books or published works to the print disabled (“beneficiaries”) and governmental and non-governmental organisations (“authorized entities”) to make it easier for books or published works to be published, or republished, and shared in accessible formats, nationally and internationally (across borders).¹⁰

By Article 2 of the Treaty, “accessible format copies” means copies of a published work in an alternative manner or form which gives persons with print disabilities access to the work, including to permit the persons to have access as feasibly and comfortably as persons without visual impairments or other print disabilities. The accessible format copies are used exclusively by persons with print disabilities and they must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the print disabled.¹¹ It includes assistive technology/software such as, screen readers, text to speech, switches, audiobooks, braille, large print, tactile graphics, e-books, and digital materials that are accessible to the print disabled, among others.

Still, the Marrakesh Treaty seemingly deals mainly with already published or available works and not otherwise. In other words, the Treaty seeks to resolve the gap between published works and availability or accessibility to PWPDs from the past by focusing on already published works, to republish them in accessible format copies. Thus, somewhat ignoring future publications. Because, while already published works are being republished in accessible format copies, future publications continue, the majority of which are yet in standard print or text-based formats.

The question may then be asked, would the gap between published works and their equivalent accessible format copies ever be closed, or would this be a case of an endless cycle where the latter perpetually lags behind or distantly follows the former? This somewhat anomalous situation means that beyond the laudable provisions of the Marrakesh Treaty, something more should and has to be done if the quest for sustainable, equal, and inclusive access to information and learning is to be attained in Nigeria.

8th day of July 2021 on the occasion of its sensitisation workshop on use of ISBN/ISSN on legal deposit compliance held on the 8th – 9th July 2021.

⁸ *Ibid*

⁹ The Constitution of the Federal Republic of Nigeria, 1999 (as amended), Section 12, requires every Treaty ratified or entered into by Nigeria to be nationalised or domesticated to become enforceable.

¹⁰ See the Marrakesh Treaty 2013, Articles 4, 5, 6, 9, 11, and 12

¹¹ *Ibid* Article 2

The National Disability Act and Access to Information to the Print Disabled

Even so, the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, otherwise called the National Disability Act, for all its far-reaching provisions, seems not to have gone far enough in addressing the information scarcity among the community of PWDs. The National Disability Act generally prohibits and criminalises all forms of discrimination against persons with disabilities (PWDs) by any person or institution in any manner or circumstance.¹²

In terms of access to education (information), Section 17 of the Act provides to the effect that PWDs shall be entitled to free education to secondary school level, have an unfettered right to education without discrimination or segregation in any form, and the National Commission for Persons with Disabilities (“the Commission”) shall provide educational (informational) assistive devices.¹³ One of the major drawbacks for the attainment of this provision is the lack of sufficient funds for the Commission. Although a fund is established for the Commission under the Act,¹⁴ funds of the Commission and any application thereof is largely constituted of and dictated by budgetary allocation, which largely covers only administrative, operational, or overhead costs, and there is no specific development fund set aside to carry out most of the projects of the Commission, which are beneficial to persons with (print) disabilities for whom the Commission exists.¹⁵

Also, Section 18 of the Act provides for inclusiveness of education to the effect that all public schools, whether primary, secondary, or tertiary shall be run to be inclusive of and accessible to persons with disabilities (PWDs). Hence, all public schools shall have special facilities for the effective education of PWDs, and Braille, sign language, and other skills for communicating with PWDs shall form part of the curricular of primary, secondary, and tertiary institutions.

Without much difficulty, it can be gleaned from Section 18 above that it deals only with public schools and facilities therein. Though not specifically mentioned, such facilities would include educational materials or resources and library facilities. Thus, it may serve to ensure accessible information to the print disabled within public schools if these resources are indeed made available in accessible forms.

Also, Section 20 of the Act provides for the appropriate mode of education for PWDs to the effect that government should ensure that the education of PWDs, particularly children who are blind, deaf, or with multiple disabilities, is delivered in the most appropriate language, mode, and means of communication for the individual, and in environments that maximise academic and social development. Again, the general effect of this section is that information should be accessible to PWDs, including the print disabled.

Furthermore, in addition to one of the functions of the Commission to collaborate with the media to make information available in accessible formats for PWDs,¹⁶ Section 15 of the Act appears to make the most specific provision in respect of PWDs and access to information. It provides to the effect that any general information shall be translated into the accessible format appropriate to the

¹² See the National Disability Act, Section 1(1)(2)(3)

¹³ *Ibid* Section 17(1)(2)(3)

¹⁴ *Ibid* Section 45

¹⁵ *Ibid* Sections 31, 38, and 39

¹⁶ See the National Disability Act, Section 38(q)

person with a disability, including the print disabled. However, a hard look at Section 15 shows that it may not be “general,” after all. Because it is inclined to information emanating from certain institutions and facilities such as seaports, railways, and airports concerning their transactions or operations, including safety briefings. Thus, in terms of the education and access to quantitative and qualitative information to the print disabled, it seems Section 15 comes somewhat too short.

Moreover, notwithstanding that the Commission shall not be subject to a direction, control, or suspension by any other authority or person in the performance of its functions under the National Disability Act except for the President,¹⁷ it could appear the Act does not necessarily improve on the provisions of other Acts that may be inconsistent with it, *per se*, nor does it override or abrogate them, *simpliciter*.

In the main, therefore, it is submitted that like an “Army General” without effective command, when the dice fall on access to information to the print disabled, the National Disability Act seems to be too general to affect specific and effective change in the current unequal scramble for information between the print disabled and their counterpart without visual impairments, especially as the Commission, so far, does not seem to be on top of the situation or have enough resources, beyond administrative or operational services, to embark on decisive projects that would bring about massive improvements in this respect.

Nevertheless, the National Disability Act could (or should) be the springboard for a more specific and/or further consequential and complementary legislative action, policy directives, or regulations where appropriate to reinforce the overriding purpose of the Act, which is to ensure the integration and full participation of persons with disabilities in the Nigerian society by entrenching inclusion and providing equitable equality in all spheres of life, including inclusive and sustainable access to opportunities, work, transportation, information, and education or learning.¹⁸ In this way, its intendment or purpose in respect of the print disabled would be effectively realised.

There is a greater need, therefore, for a more targeted and robust solution to the information poverty in Nigeria, one that does not only address the problem from a place of gross generality (as is the case with the National Disability Act), or from the past (already published works), or targets intellectual property, or copyright holders, or publishers after publication (as is the case with the Marrakesh Treaty), but one that also takes due cognisance of future publications, having regard to the very specific needs of the print disabled, by targeting copyright holders or publishers at the point of production or publication. And there could be no better place to start, I think, other than the National Library – the citadel of educational materials and information repository in Nigeria.

The National Library of Nigeria and Access to Information to the Print Disabled

There is no gainsaying that “Libraries play a catalytic role in the lives of people with disabilities by facilitating their full participation in society”.¹⁹ Hence, “Libraries should use strategies based upon the principles of universal [and inclusive] design to ensure that library policy, resources, and

¹⁷ See the National Disability Act, Section 39(3)

¹⁸ See generally the National Disability Act

¹⁹ American Library Association, Available at [Library Services for People with Disabilities Policy | Association of Specialized, Government & Cooperative Library Agencies \(ASGCLA\) \(ala.org\)](https://www.ala.org/advocacy-education/policy-advocacy-issues/library-services-for-people-with-disabilities-policy) Accessed 21/7/2021

services meet the needs of all people.”²⁰ The National Library of Nigeria as currently designed is largely not a diverse and inclusive institution. If it was meant to service the education and information needs of all citizens (and residents) of Nigeria, then it has failed the more than 30 million Nigerians with disabilities and 4.25 million (adult) Nigerians with print disabilities who cannot have access to it and/or the resources or books it holds, respectively. And this algorithm is by no means difficult to draw. Because, among other things, the National Library Act (“the Principal Act”) is inclined to print, or hard copy, or text-based materials, characterised by immobile or fixed characters, text, or images, which a person with a print disability cannot access, read, or otherwise manipulate without alternative modifications as a result of certain physical, cognitive, learning, or sensory deficiencies or disabilities, such as blindness, and other visual impairments, *etc.*²¹

More so, the deposit obligations under Section 4 of the Principal Act, *inter alia*, provides to the effect that every publisher of a book in Nigeria shall, within one month after publication, deposit with the National Library three copies of the book. And under Section 4(7) of the Principal Act, notwithstanding that “book” is defined to include “all forms in which documentary or oral records are published,”²² in effect, it could be said to mean or essentially inclined to print/hardcopy materials. Because the section goes further to define a “publisher,” in relation to a book, as “any person authorising or causing the book to be printed and distributed in Nigeria...”²³

If this were to be so, the Act might have subtly or inadvertently excluded other forms of books such as e-books or books in electronic format or softcopy, audiobooks, and other accessible format copies, *etc.* In effect, therefore, being that the National Library of Nigeria holds largely only print materials or resources, one could say that it was established without due contemplation or consideration of the print disabled – it has no place for them, it has no section for them, and it holds no books for them. Could this be the “Gakem” of the info-disablement – the beginning of the burgeoning national information poverty in Nigeria?

Proposed Draft (Amendment) Bill for Disability Diversification of the National Library

Currently, there is a Bill seeking to amend the National Library Act, the National Library (Amendment) Bill, 2019, (HB.1230). The Bill sponsored by Hon. Johnson Egwakhide Oghuma has passed the first reading at the House of Representatives.²⁴ While this Bill makes some improvement on the Principal Act, including the introduction of electronic publications as books,²⁵ regrettably, it too spared little or no thoughts for disability diversity and inclusion. It is, therefore, to complement or reinforce the National Disability Act and the Marrakesh Treaty, and institutionalise greater access to quantitative and qualitative information to the print disabled that I propose a draft amendment Bill – the Proposed Draft National Library (Amendment) Bill, 2021

²⁰ *Ibid*

²¹ See About Accessible Format Copies, Available at <https://aem.cast.org/acquire/accessible-formats> [Accessed 27 July 2021]

²² See the National Library Act, Section 4(7)(e)

²³ *Ibid* Section 4(7) [Underline mine for emphasis]

²⁴ See <https://honjohnsonoghuma.com/2020/10/19/video/> [Accessed 20 July 2021]

²⁵ See the National Library (Amendment) Bill 2019, Clause 4(8)

(“the Proposed Draft Bill”²⁶) – which offers a targeted and more sustainable solution to the problem of information scarcity in Nigeria.

As contained in its explanatory memorandum, the Proposed Draft Bill “seeks to amend the National Library Act Cap N56 Laws of the Federation of Nigeria, 2004; to make provisions geared towards ensuring that the National Library of Nigeria is disability diverse and inclusive, and maintains or holds resources, gadgets, or materials that are accessible to persons who are blind, visually impaired, or otherwise print disabled; and to mandate the National Library Board to establish and maintain a Section for Persons with Print Disabilities, especially persons who are blind or visually impaired, in its Headquarters and all its branches. And to consolidate the powers of the Board to enforce the deposit obligations under the Act to engender equal and inclusive access to qualitative information and education.”

The Proposed Draft Bill seeks to increase the availability of information or published works in formats accessible to PWDs by making the National Library of Nigeria inclusive through a proactive legal/policy framework that targets publishers at the point of publication. To achieve this, the Proposed Draft Bill proposes far-reaching amendments to the Principal Act. Containing seven clauses, the Proposed Draft Bill seeks to amend the Long Title and Sections 1, 2, 4, and 13 of the Principal Act.

In amending Section 2(2) of the Principal Act, which deals with the functions and powers of the National Library Board (“the Board”), Clause 4 (3), (4), (5), and (6) of the Proposed Draft Bill introduces, *inter alia*, new paragraphs (g), (h), (i) and (j), respectively, to the effect that it shall be the duty of the Board–

“(g) “to ensure that the National Library, including all its Branches, is structurally accessible to persons with disabilities, including wheelchair users, persons who are blind, visually impaired, or otherwise print disabled”.

(h) “to ensure that a section of the National Library, including all its Branches, is reserved for persons who are blind, visually impaired, or otherwise persons with print disabilities”.

(i) “to establish and maintain in the National Library, including all its Branches, a section for persons who are blind, visually impaired, or otherwise persons with print disabilities, holding resources, gadgets, equipment, facilities, or materials, including books, published works, and such other resources as the National Library may hold, in accessible format copies or in such formats that are accessible to persons who are blind, visually impaired, or otherwise print disabled”.

(j) “Notwithstanding the provisions of any other law in force in Nigeria, or on whom the copyright to a book or published work vests, to convert, republish, or reproduce in accessible format copies all books or published works deposited (or shared) with the National Library, whether alone or in partnership or collaboration with any interested person, group of persons, publishers, businesses, corporations, national/international organisations, including Civil Society Organisations, Non-Governmental Organisations,

²⁶ See the Appendix to this article.

Organisations of Persons with Disabilities, government ministries, departments, or agencies, *etc.* for permanent preservation, public use, or such other use as the books or published works may be put in accordance with the provisions of this Act and no more.”

Of equal fundamental importance, Clause 5 of the Proposed Draft Bill seeks to amend the deposit obligations under Section 4 of the Principal Act by the deletion of the subsisting section and substituting it with a new Section 4 thus:

“(1) Every publisher of a book or any published work in Nigeria shall, within one month from the date of publication, and at their own expense, deposit (or as the case may be share) with the National Library –

- (a) if the book is in print or printed format or hard copy, three copies of the book and their equivalent accessible format copies;
- (b) if the book is in electronic or softcopy format, three copies of the book and their equivalent accessible format copies;
- (c) if the book is an accessible format copy, three copies of the book; and
- (d) if the book is in any other format or copy, three copies of the book in that format or copy and their equivalent accessible format copies;

for permanent preservation, public use, or such other use to which the books or published works may be put in accordance with the provisions of this Act.

- (e) The accessible format copy or copies required in this subsection shall, as much as possible, be of such nature that is generally accessible to persons who are blind, visually impaired, or otherwise print disabled.”

This means that in addition to being able to republish already deposited books in accessible format copies, the National Library would also be able to hold or maintain all future publications, books, or published works, in whatever form, in accessible format copies. Thus, adequately servicing the information needs of the print disabled through a well-structured and most appropriately resourced or equipped section for persons who are blind, visually impaired, or otherwise, print disabled.

The National Library Board, A Toothless Bulldog?

The current enforcement procedure under the Principal Act is somewhat clumsy and does not effectively empower the Board to ensure legal deposit compliance. Section 4(4) of the Principal Act provides that “If a publisher fails to comply with any provision of subsection (1) or (2) of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding NI00; and the court before which he is convicted may in addition order him to deliver to the Director three copies of the book in question or to pay to the Director the value of those copies.” Apart from the negligible fine which does not reflect current reality, the Board has no power, *per se*, to impose sanctions or fines. Only the court can do so after the defaulting publisher has been

found guilty. This somewhat cumbersome process means that the Board could be likened to that proverbial dog that barks too much and bites too little.

To consolidate the powers of the Board to enforce any breach of the Principal Act, and to ensure that the goal for a disability-diverse National Library is attained, the Proposed Draft Bill under Clause 4(7) proposes the renumbering of the existing subsection (4) of the Principal Act as subsection (5) and the insertion of a new subsection (4) thus: “Subject to this Act, the Board shall have the power to make orders, or impose sanctions or fines as are appropriate to enforce any breach of the provisions of this Act.” This leaves no remote doubt as to the power of the Board to do so.

Furthermore, to ensure that the deposit obligations are complied with, without prejudicing the rights of publishers to judicial intervention, the Proposed Draft Bill further provides in Clause 5(3), (4), (5), (6), (7), (8), and (9) thus:

“(3) Every publisher who deposits (or as the case may be shares) a book or published work with the National Library shall be issued a Legal Deposit Receipt under the stamp and seal of the Board, which alone shall be evidence of such a deposition and no more.

(4) The Board may, by written notice, request from any publisher of a book or published work a copy of the Legal Deposit Receipt in respect of any book or published work to determine or reconcile whether such a book or published work has been deposited (or as the case may be shared) with the National Library, and the publisher shall honour such a request within 7 working days from the date of receipt of the notice.

(5) Failure of any publisher to honour a notice validly issued under subsection (4) of this section shall constitute a breach of this Act and the defaulting publisher shall be liable to –

(a) if the book or published work to which the notice refers has been deposited (or as the case may be shared) with the National Library, a fine not exceeding N50,000 only as the Board may determine from time to time.

(b) if the book or published work to which the notice refers has not been deposited (or as the case may be shared) with the National Library, any appropriate fine as contained under subsection (6) of this section.

(6) Where any publisher fails or defaults in complying with the provision of subsection (1) of this section, the defaulting publisher shall be guilty of a breach of this Act and shall be liable to –

(a) if the defaulting publisher is a natural person, a fine not exceeding N50,000 only as the Board may determine from time to time.

(b) if the defaulting publisher is a body corporate, a fine not exceeding N150,000 only as the Board may determine from time to time.

(7) Notwithstanding the provision of subsection (6) of this section, the Board shall order the defaulting publisher to deliver to the National Library the mandatory number of copies of the publication, book, or published work.

(8) For the purpose of enforcing any orders, sanctions, or fines imposed on any defaulting publisher for a breach of this Act, the Board may withhold from or refuse to render to the defaulting publisher any future library services, including the processing and issuance of International Standard Book Number (ISBN), International Standard Serial Number (ISSN), *etc.* until such orders, sanctions or fines are complied with, and may take any other legal step available to the Board under this Act.

(9) Nothing in this section shall prejudice or preclude the right of the Board or any publisher to seek redress in a court of competent jurisdiction in respect of a breach of this Act, or any orders, sanctions, or fines arising therefrom, or the enforcement thereof, and in any such suits instituted by the Board or any publisher –

(a) in the case of a natural person, where the court finds for the publisher, the court shall make an order rescinding any such orders, sanctions, or fine imposed on the publisher, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit. Otherwise, where the court finds against the publisher, the court shall order the publisher to pay a fine of N100,000 only to the Board and to deliver to the National Library the mandatory number of copies of the publication, book, or published work, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit;

(b) in the case of a body corporate, where the court finds for the publisher, the court shall make an order rescinding any such orders, sanctions, or fine imposed on the publisher, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit. Otherwise, where the court finds against the publisher, the court shall order the publisher to pay a fine of N250,000 only to the Board and to deliver to the National Library the mandatory number of copies of the publication, book, or published work, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit;

provided always that the Board shall not rely on its right under this subsection without exhausting the remedies available to the Board under this Act, except if the suit is instituted at the instance of the publisher”.

What Then is a Book?

Amending Section 4(7) of the Principal Act, Clause 5(12) of the Proposed Draft Bill further defines “book” to include all electronic or soft copy publications, and all works in accessible format copies, among other amendments. Also, the clause further amends the meaning of a publisher to reflect disability inclusiveness to the effect that “publisher,” in relation to a book, means any person authorising or causing the book to be printed, or produced in electronic or softcopy, or produced in accessible format copy, or otherwise produced in any other form in which documentary or oral records are published, and distributed in Nigeria, excluding the Federal Government and the

Governor of a State (or any person acting on its or his behalf), a public officer acting in his capacity as such and any person distributing in Nigeria a book published elsewhere”.

Which Way Forward?

The impact of this Proposed Draft Bill if passed into law cannot be overstated. Major outcomes would include making the National Library of Nigeria disability diverse and inclusive, reducing information poverty or scarcity, and encouraging inclusive learning, self-expression, and innovation among PWDs. This would result in their overall socio-economic empowerment, mental health improvements, and general wellbeing. Also, it would facilitate the mainstreaming of future publications or published works in accessible format copies, and would also influence the attainment of most of the Sustainable Development Goals (SDGs).

If the information poverty in Nigeria is not to endure any further, the National Library should necessarily become disability diverse and inclusive. This would have a spillover effect on the education institutions in Nigeria and the country at large. If I should dream, let me dream of a day when persons who are blind or visually impaired could work to any public library in our primary, secondary and tertiary institutions, and find there, readable or accessible books to the best of their disabilities. The print disabled should not be left to overcome information scarcity all by themselves, which is currently the case. No. The solution should be deliberately institutionalised, systematised, and mainstreamed. This is the only sustainable way forward – the road worth taking.

It is for this reason, therefore, that no efforts should be spared towards ensuring an inclusive National Library of Nigeria. All stakeholders should double down on this conversation. The Commission must leverage on its power,²⁷ including the power to make regulations vested on the Governing Council for the Commission,²⁸ and functions under the National Disability Act, which include formulating and implementing guidelines as appropriate for the education and social development of PWDs,²⁹ ensuring that facilities in all communities in the federation shall be built and modified to accommodate PWDs³⁰ establishing and promoting inclusive schools, vocational centres, and rehabilitation centres for PWDs,³¹ liaising with the public and private sectors to ensure the interests of PWDs are taken care of in every government policy, programme, and activity,³² collaborating with the media to make information available in accessible formats for PWDs,³³ and procuring assistive devices for all disability types,³⁴ among others, to pursue inclusion and disability diversification of the National Library.

Furthermore, increased efforts should be made towards nationalising the Marrakesh Treaty by accelerating the passage of the Copyright (Repeal and Re-enactment) Bill, 2021 (SB.688),³⁵ which

²⁷ See the National Disability Act, Section 39(1)

²⁸ *Ibid* Sections 32(1), 37, and 56

²⁹ *Ibid* Section 38(e)

³⁰ *Ibid* Section 38(g)

³¹ *Ibid* Section 38(j)

³² *Ibid* Section 38(k)

³³ *Ibid* Section 38(q)

³⁴ *Ibid* Section 38(r)

³⁵ The Draft Copyright Bill is billed to amend the Copyright Act to, among other things, incorporate (some of) the provisions of the Marrakesh Treaty, *mutatis mutandis*, to achieve some form of nationalisation of the Treaty.

has passed the second reading at the Senate.³⁶ And should there be anyone who is still in doubt of what to do, or how to do it, here you already have it – the Proposed Draft National Library (Amendment) Bill, 2021 – own it and run with it.

APPENDIX

Proposed Draft National Library (Amendment) Bill, 2021

³⁶ See the National Assembly Bill Tracker, Available at <https://nass.gov.ng/documents/bills> [Accessed 8 August 2021]; See also Elumoye, D. “Bill to Repeal 22-year-old Copyright Act Passes Second Reading at Senate” ThisDay News online June 8, 2021, Available at <https://www.thisdaylive.com/index.php/2021/06/08/bill-to-repeal-22-year-old-copyright-act-passes-second-reading-at-senate/> [Accessed 8 August 2021]

PROPOSED DRAFT
NATIONAL LIBRARY (AMENDMENT) BILL, 2021

Drafted by Bizibrains Okpeh

PROPOSED DRAFT NATIONAL LIBRARY (AMENDMENT) BILL, 2021

ARRANGEMENT OF CLAUSES

Clause:

1. Amendment of the National Library Act Cap N56 Laws of the Federation of Nigeria (LFN), 2004
2. Amendment of the Long Title of the Principal Act
3. Amendment of Section 1 of the Principal Act
4. Amendment of Section 2 of the Principal Act
5. Amendment of Section 4 of the Principal Act
6. Amendment of Section 13 of the Principal Act

7. Citation

A BILL

FOR

AN ACT TO AMEND THE NATIONAL LIBRARY ACT CAP N56 LAWS OF THE FEDERATION OF NIGERIA, 2004; TO MAKE THE NATIONAL LIBRARY DISABILITY DIVERSE AND INCLUSIVE, MAINTAIN RESOURCES OR MATERIALS ACCESSIBLE TO PERSONS WHO ARE BLIND, VISUALLY IMPAIRED, OR OTHERWISE PRINT DISABLED; AND MANDATE THE NATIONAL LIBRARY BOARD TO ESTABLISH AND MAINTAIN A SECTION FOR PERSONS WITH PRINT DISABILITIES; AND FOR RELATED MATTERS.

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1. Amendment of Cap N56 LFN, 2004**

The National Library Act Cap N56 Laws of the Federation of Nigeria, 2004 (in this Bill referred to as “the Principal Act”) is hereby amended as set out in this Bill.

2. Amendment of the Long Title

The Long Title of the Principal Act is amended by the deletion of the subsisting Long Title and substituting it with a new Long Title:

“AN ACT TO ESTABLISH THE NATIONAL LIBRARY BOARD, CHARGED WITH THE RESPONSIBILITY OF ESTABLISHING AND MAINTAINING THE NATIONAL LIBRARY OF NIGERIA AND TO PROVIDE SUCH SERVICES AS IN THE OPINION OF THE BOARD ARE USUALLY PROVIDED BY NATIONAL LIBRARIES OF GLOBAL REPUTE, HAVING REGARD TO THE NEED FOR EQUAL, SUSTAINABLE, AND INCLUSIVE ACCESS TO QUALITATIVE INFORMATION AND EDUCATION”.

3. Amendment of Section 1

Section 1 of the Principal Act is amended in subsection (1) by the insertion of, after the word “Board,” the words “(in this Act referred to as “the Board”)”.

4. Amendment of Section 2

Section 2 of the Principal Act is amended:

(1) In subsection (1), paragraph (b) by the deletion of the subsisting paragraph and substituting it with a new paragraph (b):

“provide in accordance with this Act such services as in the opinion of the Board are usually provided by national libraries of global repute, having regard to the need for equal, sustainable, and inclusive access to qualitative information and education”.

(2) In subsection (2), line 2 by the deletion of the words “so far as its resources permit.”

(3) In subsection (2) by the insertion of a new paragraph (g):

"to ensure that the National Library, including all its Branches, is structurally accessible to persons with disabilities, including wheelchair users, persons who are blind, visually impaired, or otherwise print disabled”.

(4) In subsection (2) by the insertion of a new paragraph (h):

“to ensure that a section of the National Library, including all its Branches, is reserved for persons who are blind, visually impaired, or otherwise persons with print disabilities”.

(5) In subsection (2) by the insertion of a new paragraph (i):

“to establish and maintain in the National Library, including all its Branches, a section for persons who are blind, visually impaired, or otherwise persons with print disabilities, holding resources, gadgets, equipment, facilities, or materials, including books, published works, and such other resources as the National Library may hold, in accessible format copies or in such formats that are accessible to persons who are blind, visually impaired, or otherwise print disabled”.

(6) In subsection (2) by the insertion of a new paragraph (j):

“Notwithstanding the provisions of any other law in force in Nigeria, or on whom the copyright to a book or published work vests, to convert, republish, or reproduce in accessible format copies all books or published works deposited (or shared) with the National Library, whether alone or in partnership or collaboration with any interested person, group of persons, publishers, businesses, corporations, national/international organisations, including Civil Society Organisations, Non-Governmental Organisations, Organisations of Persons with Disabilities, government ministries, departments, or agencies, *etc.* for permanent preservation, public use, or such other use as the books or published works may be put in accordance with the provisions of this Act and no more.”

(7) In subsection (4) by renumbering the existing subsection as subsection (5) and inserting a new subsection (4):

“Subject to this Act, the Board shall have the power to make orders, or impose sanctions or fines as are appropriate to enforce any breach of the provisions of this Act.”

5. Amendment of Section 4

Section 4 of the Principal Act is amended by the deletion of the subsisting section and substituting it with a new Section 4 thus:

“(1) Every publisher of a book or any published work in Nigeria shall, within one month from the date of publication, and at their own expense, deposit (or as the case may be share) with the National Library –

- (f) if the book is in print or printed format or hard copy, three copies of the book and their equivalent accessible format copies;
- (g) if the book is in electronic or softcopy format, three copies of the book and their equivalent accessible format copies;
- (h) if the book is an accessible format copy, three copies of the book; and
- (i) if the book is in any other format or copy, three copies of the book in that format or copy and their equivalent accessible format copies;

for permanent preservation, public use, or such other use to which the books or published works may be put in accordance with the provisions of this Act.

- (j) The accessible format copy or copies required in this subsection shall, as much as possible, be of such nature that are generally accessible to persons who are blind, visually impaired, or otherwise print disabled.

(2) Where the publication is by or on behalf of any department of Government of the Federation, State, or Local Government Council, it shall be the duty of the official in charge of the department to deliver 25 copies of the publication to the Director for permanent preservation, public use, or such other use to which the publication may be put in accordance with the provisions of this Act.

(3) Every publisher who deposits (or as the case may be shares) a book or published work with the National Library shall be issued a Legal Deposit Receipt under the stamp and seal of the Board, which alone shall be evidence of such a deposition and no more.

(4) The Board may, by written notice, request from any publisher of a book or published work a copy of the Legal Deposit Receipt in respect of any book or published work to determine or reconcile whether such a book or published work has been deposited (or as the case may be shared) with the National Library, and the publisher shall honour such a request within 7 working days from the date of receipt of the notice.

(5) Failure of any publisher to honour a notice validly issued under subsection (4) of this section shall constitute a breach of this Act and the defaulting publisher shall be liable to –

- (a) if the book or published work to which the notice refers has been deposited (or as the case may be shared) with the National Library, a fine not exceeding N50,000 only as the Board may determine from time to time.

- (b) if the book or published work to which the notice refers has not been deposited (or as the case may be shared) with the National Library, any appropriate fine as contained under subsection (6) of this section.

(6) Where any publisher fails or defaults in complying with the provision of subsection (1) of this section, the defaulting publisher shall be guilty of a breach of this Act and shall be liable to –

- (a) if the defaulting publisher is a natural person, a fine not exceeding N50,000 only as the Board may determine from time to time.

- (b) if the defaulting publisher is a body corporate, a fine not exceeding N150,000 only as the Board may determine from time to time.

(7) Notwithstanding the provision of subsection (6) of this section, the Board shall order the defaulting publisher to deliver to the National Library the mandatory number of copies of the publication, book, or published work.

(8) For the purpose of enforcing any orders, sanctions, or fines imposed on any defaulting publisher for a breach of this Act, the Board may withhold from or refuse to render to the defaulting publisher

any future library services, including the processing and issuance of International Standard Book Number (ISBN), International Standard Serial Number (ISSN), *etc.* until such orders, sanctions or fines are complied with, and may take any other legal step available to the Board under this Act.

(9) Nothing in this section shall prejudice or preclude the right of the Board or any publisher to seek redress in a court of competent jurisdiction in respect of a breach of this Act, or any orders, sanctions, or fines arising therefrom, or the enforcement thereof, and in any such suits instituted by the Board or any publisher –

(a) in the case of a natural person, where the court finds for the publisher, the court shall make an order rescinding any such orders, sanctions, or fine imposed on the publisher, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit. Otherwise, where the court finds against the publisher, the court shall order the publisher to pay a fine of N100,000 only to the Board and to deliver to the National Library the mandatory number of copies of the publication, book, or published work, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit;

(b) in the case of a body corporate, where the court finds for the publisher, the court shall make an order rescinding any such orders, sanctions, or fine imposed on the publisher, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit. Otherwise, where the court finds against the publisher, the court shall order the publisher to pay a fine of N250,000 only to the Board and to deliver to the National Library the mandatory number of copies of the publication, book, or published work, and may make such consequential orders as, in the opinion of the court, are appropriate in the suit;

provided always that the Board shall not rely on its right under this subsection without exhausting the remedies available to the Board under this Act, except if the suit is instituted at the instance of the publisher.

(10) The President may, by order in the Federal Gazette, exclude any publisher or book, or any class of publishers or books, from the operations of subsections (1) and (2) of this section.

(11) The obligations imposed by this section are additional to any similar obligations which may be imposed by any laws or regulations in force in Nigeria other than this Act.

(12) In this Section –

“accessible format copy” means a copy of a published work in an alternative manner or form which gives a person with a print disability access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disability. The accessible format copy is used exclusively by persons with print disabilities and it must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the print disabled;

“book” include:

(a) all literary works such as books, pamphlets, sheets of music, maps, charts, plans, tables, and compilations;

- (b) dramatic works;
- (c) all works in accessible format copies;
- (d) all electronic or softcopy publications;
- (e) collective works such as encyclopaedias, dictionaries, yearbooks, or similar works, newspapers, magazines, and similar periodicals;
- (f) any work written in distant parts by different authors or in which a part or parts of work of different authors is or are incorporated, and every part or division of such a work; and
- (g) all forms in which documentary or oral records are published;

“publisher,” in relation to a book means any person authorising or causing the book to be printed, or produced in electronic or softcopy, or produced in accessible format copy, or otherwise produced in any other form in which documentary or oral records are published, and distributed in Nigeria, excluding the Federal Government and the Governor of a State (or any person acting on its or his behalf), a public officer acting in his capacity as such and any person distributing in Nigeria a book published elsewhere”.

6. Amendment of Section 13

Section 13 of the Principal Act is amended by deleting the existing section and substituting it with a new Section 13:

“In this Act, unless the context otherwise requires –

“accessible format copies” means copies of a published work in an alternative manner or form which gives persons with print disabilities access to the work, including to permit the persons to have access as feasibly and comfortably as persons without visual impairments or other print disabilities. The accessible format copies are used exclusively by persons with print disabilities and they must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the print disabled;

"chairman" means the chairman of the Board;

"Director" means the Director of the National Library;

“Legal Deposit Receipt” means a receipt, bearing the stamp or seal of the Board, issued to a publisher in respect of a book or published work deposited (or as the case may be shared) with the National Library;

"Minister" means the Minister charged with responsibility for Education;

"National Library" means the National Library of Nigeria, established and maintained by the Board;

“persons with print disabilities” means persons who:

(a) are blind;

(b) have visual impairments or perceptual or reading disabilities, which cannot be improved to give visual function substantially equivalent to that of persons who have no such impairments or disabilities and so are unable to read printed works to substantially the same degree as persons without impairments or disabilities; or

(c) are otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading, regardless of any other disabilities;

“persons with disabilities” means persons with disabilities as defined under the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018;

“print disabled” means persons with print disabilities;

"State" means a State of the Federation”.

7. Citation

This Bill may be cited as the Proposed Draft National Library (Amendment) Bill, 2021.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the National Library Act Cap N56 Laws of the Federation of Nigeria, 2004; to make provisions geared towards ensuring that the National Library of Nigeria is disability diverse and inclusive, and maintains or holds resources, gadgets, or materials that are accessible to persons who are blind, visually impaired, or otherwise print disabled; and to mandate the National Library Board to establish and maintain a Section for Persons with Print Disabilities, especially persons who are blind or visually impaired, in its Headquarters and all its branches. And to consolidate the powers of the Board to enforce the deposit obligations under the Act to engender equal and inclusive access to qualitative information and education.