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Exposing the protected: Ghana's disability laws and the rights of disabled people

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ABSTRACT
Disabled people in Ghana continue to experience various forms of discrimination and social exclusion. These occur despite the fact that there are several anti-discriminatory laws that are meant to protect the rights of disabled people and facilitate their participation in mainstream social, political and economic activities. As it is, the laws have not completely eroded the discrimination and in some instances appear to even institutionalise the discrimination that disabled people experience. It is important that the state pays more attention to amending aspects of these laws and putting them into practice.

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Disability in Ghana

Disabled people are one of the largest oppressed groups in Ghana, making up an estimated 3% of Ghana's population of 25 million[1] (Ghana Statistical Service 2012; Picton 2011). As is the case elsewhere, disability in Ghana is often explained and understood through the individual model of disability. In addition, traditional and religious beliefs and deleterious stereotypes which often characterise interpretations of disability lead to the creation and reinforcement of repressive conceptualisations of disability (Kassah 2008). Within such a context, it becomes difficult, if not impossible, for people, disabled and non-disabled, to acquire open-minded awareness, knowledge and understanding of disabilities. Disabled people, therefore, continue to experience social stigma, social exclusion and discrimination.

Arguably, the most significant contributory factor to the continuous marginalisation of disabled people in Ghana now is the weakness in aspects of the legal and regulatory structures meant to protect them. The laws have been designed to challenge the stereotypes and traditional beliefs but, as it stands, the stereotypes and traditional beliefs appear to be holding out very

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well against the anti-discrimination legal regime. These add to the already deep-seated paternalism which disabled people have to live with.

Legal and policy environment

Ghana has several legal and constitutional provisions that are meant to protect socially disadvantaged people. Ghana signed the UN Convention on the Rights of People with Disabilities in 2007 and ratified it in 2012 to become the 119th country in the world to do so and the 32nd in Africa. This was a sign of the country's commitment to protecting the rights of disabled people and empowering them for full social participation. In 2006, the Persons with Disability Act 2006 (Act 715) was passed by Parliament to usher disability rights in Ghana into a new dawn. Among other things, the Act provides for rights such as unrestricted access to public places and buildings, free health care, employment, education and transportation. The law allowed for a 10-year moratorium, within which all public buildings were supposed to be made accessible to disabled people.

In addition to the Disability Act, Article 29 of the 1992 Constitution of Ghana spells out the rights of disabled people. Also, there are sections of the Children's Act 1998 (Act 560), the National Health Insurance Act 2012 (Act 852), the Education Act 2008 (Act 778) and the Labour Act 2003 (Act 651), all of which are meant to protect the rights of disabled people and eliminate social exclusion and discrimination (Republic of Ghana, 2006; 1998; 2012; 2008; 2003).

Weaknesses in the legal, regulatory and policy structures

Ghana's laws largely define disability from the biomedical perspective (Lamptey et al. 2015). The Disability Act defines a disabled person in Article 59 as 'an individual with a physical, mental or sensory impairment including a visual, hearing or speech functional disability which gives rise to physical, cultural or social barriers that substantially limits one or more of the major life activities of that individual' (Persons with Disability Act 2006, 17). This is problematic because the definition affects the nature of the provisions in the laws and even what rights are conferred on disabled people or otherwise. As posited by Oliver and Barnes (2012), the biomedical perspective leans away from cultural beliefs and attitudes as elements that add to disability.

Beyond this, Articles 14(2) and 19 of the Act provide for alternative livelihood with the offer of guidance, counselling and 'appropriate' training for disabled people in the event that they are unable to enter into mainstream of social life. Furthermore, Articles 15, 22, 38 and 39, which spell out how disabled people may be integrated into full social participation, contain phrases such as 'as far as practicable', in ways that open up opportunities for people to subject the meaning of ‘practicability’ to an elastic meaning to the detriment of disabled people. Laws that define disability along these biomedical lines and the wording of some of the articles in the Act are an implicit endorsement of disability discrimination because they tend to institutionalise the individual model of disability by providing legal foundation for its existence. Inadvertently, the offer to train and educate disabled people away from the mainstream of social life is an institutionalisation of their marginalisation by the same law which ought to integrate disabled people into society. Such legal provisions render the Disability Act weak against strong social currents in traditional beliefs, discrimination, social exclusion and stigma.

Even with this, the job training and employment opportunities that are supposed to be provided by the state under the law are almost non-existent (Sackey 2015). The Disability Act requires that the state sets up rehabilitation centres in each of the 10 administrative regions in the country to train disabled people and also facilitate their employment. These initiatives have yet to be actively pursued, despite the fact that many disabled people have had to resort to begging to make a living (Kassah 2008; Naami, Hayashi, and Liese 2012). It becomes difficult for disabled people to dispel the notions of ‘cap-in-hand’ when their economic opportunities are limited by seeming inactivity on the part of the state. Efforts on the part of the state in setting up institutions and structures for implementing provisions of the Act have also been very slow, and the processes very tedious (Picton 2011). In effect, the unmet needs of disabled people in Ghana are enormous, despite the fact that the Act makes provision for them.

The enforcement of the laws in their current form sometimes requires disabled people to depend on the magnanimity of officials, who by their own discretion, rather than on the basis of the law, may decide to assist disabled people in their pursuit of remedial action. Disabled people who decide to challenge the discrimination they face by advocating for themselves are sometimes compelled to submit themselves to corrupt practices by making several official and unofficial payments at so many levels even with officialdom in the justice system, insurance and healthcare before getting what is due them (Grischow 2015). Failure to do this can mean unnecessary prolonged delays in the quest for justice and services or an outright forfeiture of whatever remediation that is being sought by the disabled person. Either way, the protection that the Disability Act is meant to provide becomes only marginally useful. Disabled people seem not to have the power, except that which the authorities decide that they should have. This is in spite of the law. The Act has also been faulted for not having specific provisions for the rights of women and children with disabilities, and also makes no provisions for housing needs of disabled people (Asante and Sasu 2015; Gyamfi 2013;

Srem-Sai 2015). The major public housing initiatives of successive governments in recent years have been done without particular focus on the residential needs of disabled people.

Adding to these challenges is the fact that many disabled people are either not aware of the full extent of the pro-inclusion laws or do not find the current pro-inclusion efforts to be rigorous and beneficial enough. Sometimes, some disabled people perceive themselves to be unworthy of respect and social recognition (Picton 2011) as they internalise the oppression they experience. This is because there appears to be no sustained and concerted effort on the part of the state aimed at empowering disabled people for them to know their rights or educating non-disabled people for them to desist from stigmatising disabled people or even taking punitive actions against people who discriminate against disabled people.

Twelve years after the Disability Act was passed, the Legislative Instrument that is needed to activate and operationalise aspects of the Act is yet to be passed (Sackey 2015; Srem-sai 2015; Tudzi, Bugri, and Danso 2017). What this simply means is that the Act meant to protect the rights of disabled people in Ghana has been passed but remains unenforceable in some respects. This situation has persisted under four different Presidential regimes. This, in a country that has such huge democratic and human rights credentials, is inexcusable, unacceptable and awkward, to say the least.

The state and some of its constitutional bodies, such as the Commission on Human Rights and Administrative Justice and the National Commission on Civic Education, which are supposed to be the vanguards of the rights of its citizens are either looking on while disabled people continue to suffer from a disabling society or ignoring the oppression of disabled people despite numerous calls for attention towards that. The limited activity on their part has perennially, but not justifiably, been blamed on the ubiquitous issue of resource constraints. However, if these matters of disability rights were considered to be of prime importance, appropriate remedies would have been sought. Considering how long it is taking without an end in sight, it is fair to question the commitment of the constitutional bodies in the same way as the political will of the government is questioned in the protection of the rights of disabled people.

Conclusion: the way forward

The Disability Act needs serious amendment. The imperfections are very profound and present significant challenges to disabled people in Ghana. In simple terms, disabled people in Ghana are not equal citizens under the law as it stands, because their rights are not fully recognised and actively protected. As long as the Act remains in its present state, disabled people will continue to suffer many forms of hardship in their social lives, and what ought to be considered as a matter of protecting the social rights of disabled people will be seen as social welfare provision.

The definition of disability as contained in Ghana's laws ought to be amended for it to incorporate the realisation that society and the environment play an active role in disabling disabled people. The state cannot and should not allow negative stereotypes – specious beliefs about the functional incapacity of disabled people, repressive traditional beliefs and supposed financial constraints – to get in the way of the rights of disabled people.

What has happened between 2006 when the Disability Act was passed and the present is an unfortunate testament that the existence of the Act should not necessarily be a cause for celebration by politicians, disabled people's organisations and activists. There should be no celebrations when disabled people continue to live lives of exclusion, marginalisation and deprivation. The political arms of the Executive and the Legislature are individually and collectively responsible for the current state of affairs with their continuous patronage of disabled people. It ought to be understood that discussions on disability rights in Ghana are not romantic forays into advocacy and activism. Rather, they are about the fundamental, indivisible and inalienable dignity and appropriate standards and conditions necessary for disabled people to live decent and equal lives. In the face of the deep-seated cultural barriers, as obstacles offering strong resistance through traditional and religious currents despite efforts being made, educating the general public against stigmatising and discriminating against disabled people will be as important a complementary action as passing and implementing the comprehensively amended, improved and thoroughly anti-discriminatory pro-inclusion legislation. For Ghana, the state and its significant political actors have to act in the supreme interest of humanity, and disabled people in particular.

Disclosure statement

No potential conflict of interest was reported by the author.

Note

1. The population figures are from the most recent Population and Housing Census conducted in 2010. The population estimate for 2018 is 29.5 million. The next Population and Housing Census is scheduled to take place in 2020.

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References

Asante, Lewis A., and Alexander Sasu. 2015. "The Persons with Disability Act, 2006 (Act 715) of the Republic of Ghana: The Law, Omissions and Recommendations." *Journal of Law, Policy and Globalization* 36:62–8.

Ghana Statistical Service. 2012. *"2010 Population and Housing Census. "*. Accra: Ghana Statistical Service.

Grischow, Jeff D. 2015. "I Nearly Lost My Work': Chance Encounters, Legal Empowerment and the Struggle for Disability Rights in Ghana." *Disability & Society* 30 (1):101–13. doi: 10.1080/09687599.2014.982786.

Gyamfi, Esther. 2013. "Ghana". In *1 African Disability Rights Yearbook*., 221–43. Pretoria: Pretoria University Law Press (PULP).

Kassah, Alexander K. 2008. "Begging as Work: a Study of People with Mobility Difficulties in Accra, Ghana." *Disability & Society* 23 (2):163–70. doi:10.1080/09687590701841208.

Lamptey, De-Lawrence, Michelle Villeneuve, Patricia Minnes, and Mary A. McColl. 2015. "Republic of Ghana's Policy on Inclusive Education and Definitions of Disability." *Journal of Policy and Practice in Intellectual Disabilities* 12 (2):108–11. doi:10.1111/jppi.12114.

Naami, Augustina, Reiko Hayashi, and Hank Liese. 2012. "The Unemployment of Women with Physical Disabilities in Ghana: Issues and Recommendations." *Disability & Society* 27 (2):191–204. doi:10.1080/09687599.2011.644930.

Oliver, Michael, and Colin Barnes. 2012. *"The New Politics of Disablement"*. New York, NY: Palgrave Macmillan.

Picton, Alison. 2011. "Denying Ghana's Disabled Their Rights. The Disability Act: 5 Years on". Accra, Ghana: CHRI Africa. Retrieved August 1, 2016, from http://chriafrica.blogspot.no/2011/06/denying-ghanas-disabled-their-right

Republic of Ghana. 1992. 1992 Constitution of the Republic of Ghana. Accra, Ghana: Republic of Ghana.

Republic of Ghana. 1998. Children's Act (Act 560). Accra, Ghana: Republic of Ghana.

Republic of Ghana. 2003. Labour Act (Act 651). Accra, Ghana: Republic of Ghana.

Republic of Ghana. 2006. Persons with Disability Act (Act 715). Accra: Republic of Ghana.

Republic of Ghana. 2008. Education Act (Act 778). Accra, Ghana: Republic of Ghana.

Republic of Ghana. 2012. National Health Insurance Act (Act 852). Accra, Ghana: Republic of Ghana.

Sackey, Emmanuel. 2015. "Disability and Political Participation in Ghana: an Alternative Perspective." *Scandinavian Journal of Disability Research* 17 (4):366–81. doi:10.1080/15017419.2014.941925.

Srem-Sai, Justice. 2015. "The Hugger-Mugger of Enforcing Socio-Economic Rights in Ghana: A Threat to The Rights of Persons with Disabilities." In *3 African Disability Rights Yearbook*., 135–59. Pretoria: Pretoria University Law Press (PULP).

Tudzi, Eric P., John T. Bugri, and Anthony K. Danso. 2017. "Human Rights of Students with Disabilities in Ghana: Accessibility of the University Built Environment." *Nordic Journal of Human Rights* 35 (3):275–94. doi:10.1080/18918131.2017.1348678.