

A Glimpse of Normative Framework of Physical Accessibility for Persons with Disability in Ethiopia and the Key Advocacy Areas by CSOs: The Case of Addis Ababa

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Abstract

The main objective of this article is to make an overview of the existing normative standards and norms on the right to physical accessibility of Persons with disability (PWD) and the practical challenges faced by them in the built environment in Addis Ababa. Besides, the article identifies key advocacy areas by civil society organizations (CSOs) to address both the legal and practical challenges which PWDs encounter in their day to day lives. Desk review, key informant interviews, and observations were employed for data collection. The findings show that the majority of public buildings, hospitals, schools, workplaces, and the transport system including pavements and sidewalks of Addis Ababa are inaccessible for PWDs, which is mainly attributed to the absence of exclusively enacted accessibility legislation. The existing building laws neither are insufficient to comprehensively address accessibility issues nor are they properly implemented. To mitigate the challenges, the article suggested revision of laws, commitment to their implementation, and the advocacy role of CSOs in general and organizations of peoples with disabilities (OPDs) in particular. The changes are also required in the areas of budget allocation, access to justice and new institutional setup for disability affairs.

Keywords: *disability, physical accessibility, CSOs/OPDs, advocacy interventions*

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Introduction

The right to accessibility for PWDs is a novel right that had never been stated or recognized in the international human rights instruments prior to the Convention on Rights of Persons with Disability (CRPD). The right to accessibility becomes part of the convention on the rights of PWDs taking into account the barriers that this group of people face as a result of a lack of adjustments in the physical environment, transportation, information and communication, and public facilities and services. It also imposes a duty upon State parties to “adopt action plans and strategies to identify existing barriers to accessibility, set time frames with specific deadlines and provide both the human and material resources necessary to remove the barriers.”²³⁹ On the other hand, inaccessibility of the physical environment, among others, is one of the serious challenges that PWDs face even to enjoy any other disability rights.

This study purposively focused on the capital Addis Ababa because the problem is worse in the city. It is common to see buildings rendering public services in Addis Ababa that do not comply with the guidelines set out in the Building Directive No. 01/2005, which came into effect in 2005. Despite Ethiopia taking a few legislative measures to comply with the duties demanded by CRPD, such as incorporating provisions within the building proclamation to ensure physical accessibility, these measure remains insufficient.

The study assessed the existing international, regional and national normative frameworks towards the right to physical accessibility of PWD along with the practical challenges faced in the built environment in Addis Ababa. It also explored the role of CSOs in advocating for physical accessibility, and suggested possible general and specific advocacy intervention areas to overcome the challenges of an inaccessible built environment.

²³⁹ CRPD Committee. 2014. *General Comment No. 2 to Article 9 of the CRPD*, Para. 33.

Concept of Key Terms: Disability and Physical Accessibility

The recent and most significant UN convention on the rights of PWDs does not define the word “disability”. Indeed, the Preamble acknowledges that “disability” is an evolving concept.²⁴⁰ This may be because any definition would necessarily include some people and not others, and that over time, the definition may change in a way that would exclude people who may not now be considered as members of the group of PWDs which complies with the dynamic and evolving nature of disability.²⁴¹ Moreover, by not including a specific definition of disability, the CRPD recognizes that a person may be considered as having a disability in one society, but not in another, depending on the role the person is assumed to take in their community and the barriers that limited them from participating in a given society.²⁴²

The CRPD rather prefers to state that “PWDs 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.”²⁴³ This evidences that no rigid view of the notion is imposed, which rather assumes a dynamic approach that allows for adaptations over time and within different socioeconomic settings.²⁴⁴ Hence, this is not an exhaustive definition of the subjects of the protection under the Convention; nor does this definition exclude broader categories of PWDs found in national law, including persons with short-term disabilities or persons who had disabilities in the past. When we come to the concept of “physical accessibility”, the term ‘access’ could be understood as “a freedom to enter, to approach, to communicate with, to pass to or from, or make use of physical,

²⁴⁰ United Nations General Assembly. 2006. *Convention on the Rights of Persons with Disabilities (CRPD)*. Adopted December 13. Preamble, Para. (e).

²⁴¹ Kanter, Arlene S. 2007. “The Promise and Challenge of the CRPD.” *Syracuse Journal of International Law* 34: 287-288.

²⁴² Ibid

²⁴³ CRPD, Article 1.

²⁴⁴ Andrew, B., and B. Len, eds. 1995. *Disability and Society: Emerging Issues and Insights*. Longman. Ingstad, B., and S. Whyte, eds. 1995. *Disability and Culture*. Berkeley, CA: University of California Press.

environmental and societal structures, goods and services, systems and processes regardless of type and degree of disability, gender or age.”²⁴⁵ The concept of accessibility stated under article 9 of the CRPD has 4 aspects namely: physical, transportation, public facilities and services and information and technology accessibility. The physical environment may encompass both the built environment and natural or recreational places.²⁴⁶

Having this in mind, most urban and rural areas are often filled with barriers in public spaces, transportation systems, and buildings, particularly for PWDs denying their fundamental right to movement when they want to go freely from one place to another.²⁴⁷ By contrast, accessibility right to the built environments is a key factor in PWDs achieving autonomy, inclusion and participation.²⁴⁸

The term accessibility right in general means “the right to use and obtain an equal benefit from the provisions of goods, services, facilities, and accommodations generally available to the public without discrimination by PWDs”.²⁴⁹ Accessibility differs from personal mobility as it deals specifically with access to the built environments, public services, and facilities, while personal mobility deals with the individual support services a person needs to be able to move such as personal assistance, assistive devices, interpreter services, and rehabilitation.²⁵⁰ Making built environments accessible is not therefore just a question of building access ramps. Instead, it is about facilitating movement with a vision of the whole chain

²⁴⁵ Lawson, Anna. 2018. “Article 9: Accessibility.” In *The UN Convention on the Rights of Persons with Disabilities: A Commentary*, edited by Ilias Bantekas et al., 258-286. Oxford: Oxford University Press.

²⁴⁶ Ibid

²⁴⁷ Jarlegan, Eric. 2008. *How to Build an Accessible Environment in Developing Countries*. Handicap International France, Cambodia, 6.

²⁴⁸ National Disability Authority. 2011. *Built Environment Accessibility: The Irish Experience*.

²⁴⁹ Hosking, David L. 1994. *Accessibility Rights for Disabled People*. LLM thesis, British Columbia University.

²⁵⁰ Disability Monitor Initiative. 2009. “Unbreakable Chain of Movement.” *Journal for South East Europe*.

of movement.²⁵¹ Hence, PWDs, regardless of their impairments, should be able to move freely inside any housing units, collective residential buildings, from housing or residential building exits to the facilities and buildings, and across various modes of transport systems.²⁵²

In general, the built environments with their respective indoor and outdoor spaces include: roads and streets, administration offices, schools, places for worshipping, workplaces, health centers, recreational areas, marketplaces, different modes of transport systems, and the like.²⁵³ Since these areas form a major part of the living environment, it is crucial to significantly improve to ensure that PWDs have the opportunities to act independently or naturally in society.²⁵⁴

International Human Rights Normative Framework towards the Right to Physical Accessibility

The right to physical accessibility was not explicitly mentioned in the core human rights instruments that had been in place before the CRPD. Rather, it was elaborated by the jurisprudence developed by the ICESCR committee. The CRPD is the first legally binding international human rights instrument, which sets out the rights of PWDs aiming to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all PWDs and to promote respect for their inherent dignity”²⁵⁵

Accessibility is a key aspect of the CRPD which aims to remove barriers and ensure access to and equal opportunities for the realization of other rights. In the CRPD, Article 9 is linked to all other provisions and acts both to ensure equal opportunities to the realization of those rights as well as being a right in itself. The

²⁵¹ Royon Plantier, E. 2008. *How to Design and Promote an Environment Accessible to All?* Handicap International.

²⁵² Ibid

²⁵³ Council of Europe. 2004. *Accessibility: Principles and Guidelines*. Council of Europe Publishing, 9-13.

²⁵⁴ Ibid

²⁵⁵ Supra note 9.

interconnectedness of rights that are fundamental to the CRPD is hence critical for the free movement of PWDs thereby allowing them having the proper support services, an accessible home, accessible transport, and accessible environments to create an unbreakable chain of movement in which they can move seamlessly to any destination.

In addition to Article 9, Article 20 deals with the more personal and specific situation of each person with a disability. This provision acknowledges the need to ensure accessibility and reasonable accommodation for PWDs in their daily and ordinary activities. Thus, the CRPD requires State Parties to take effective measures to ensure personal mobility with the greatest possible independence for PWDs, as well as providing some guidelines on how this obligation should be achieved.

According to this provision, state parties are required to “facilitate the personal mobility of PWDs in the manner and at the time of their choice and affordable cost; to facilitate access to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries; to provide training in mobility skills to both PWDs and staff working with them and to encourage entities producing mobility aids, devices, and assistive technologies to take into account all aspects of mobility for PWDs.”²⁵⁶ Therefore, State Parties must review their existing laws and practices in matters such as adapted modes of transport systems, wheelchairs, personal assistance, and other mobility devices.

State Parties are also obliged to adopt all appropriate legislative, administrative, and other measures complying with the accessibility provision.²⁵⁷ Crucially, Article 4 of the CRDP requires state parties to consult with and involve PWDs in developing and implementing laws, policies, in decision-making processes and formulation of accessibility standards.²⁵⁸ By the same token, the CRPD imposes

²⁵⁶ Id, Article 20.

²⁵⁷ Id, Article 4(1) (A).

²⁵⁸ Id, Article 4(3).

upon States, unique of all other core human rights instruments, duties regarding implementing, promoting and monitoring disability rights. State parties are obliged to establish focal points or coordination mechanisms for implementing CRPD rights, including compliance with Article 9 of the CRPD. They must also set up independent mechanisms for National Human Rights Institutions to promote, implement and monitor CRPD rights. Additionally, Civil Society Organizations (CSOs) particularly those representing PWDs should be enabled to monitor the proper implementation of the CRPD rights.²⁵⁹ The monitoring should assess both the steps taken and the results achieved in eliminating barriers to effective access. National strategies, policies, and plans should use appropriate indicators and benchmarks in operationalizing the accessibility obligations.²⁶⁰

African Human Rights Normative Framework towards the Right to Physical Accessibility

The African Charter on Human and Peoples' Rights which is the basic instrument of the African human rights system specifically guarantees special measures of protection for the aged and PWDs to keep their physical or moral needs.²⁶¹ Furthermore, the African Charter on the Rights and Welfare of the Child (ACRWC) "entitles every child who is mentally or physically disabled the right to special measures of protection in keeping with his physical and moral needs and under conditions that ensure his dignity, promote his self-reliance and active participation in the community".²⁶² States Parties are required "to ensure, subject to available resources, to a disabled child and to those responsible for his care, assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment

²⁵⁹ Id, Art.33.

²⁶⁰ Id, Article 33.

²⁶¹ Organization of African Unity. 1981. African Charter on Human and Peoples' Rights, Article 18 (4).

²⁶² African Union. 2007. African Youth Charter, Article 13 (1)

and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development".²⁶³

In addition to the above human rights instruments, in July 1999, the Organization of African Unity (OAU) Assembly of Heads of State and Government proclaimed the epoch 1999-2009 to be the Decade of African Disabled Persons.²⁶⁴ The goal of the Decade is full participation, equality and empowerment of PWDs²⁶⁵ to attain this goal, a Continental Plan of Action was adopted with objectives that cover a wide range of themes that are of critical importance to improvement in the lives of PWDs.

In due course, looking at the human rights instruments of Africa, it is possible to say that there is a degree of progress from initial silence about disability to eventual inclusion.²⁶⁶ However much has remained to be done to ensure the inclusion of the human rights of PWDs in the human rights system of the region. At heart, determined action is required to develop accessibility laws, policies, and guidelines to create a continent accessible to all.

The Right to Physical Accessibility of PWDs in Ethiopia and the Practical Challenges in Addis Ababa

The FDRE Constitution

The 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE), stipulates the issue of PWDs to some extent. As provided under Article 41 (5), the state must allocate resources to provide rehabilitation and assistance to the physically and mentally disabled within its available means. The phrase 'within its available

²⁶³ Id, Article 13 (2).

²⁶⁴ African Union. 2002. *Continental Plan of Action for the African Decade of Persons with Disabilities: 1999–2009*. African Union, Pretoria, South Africa, Preamble, Paragraph 1.

²⁶⁵ Id, Preface.

²⁶⁶ Combrinck, Helene, et al. 2011. "The UN Convention on the Rights of Persons with Disabilities in Africa: Progress after 5 Years." *Sur International Journal on Human Rights* 8 (14): 132.

means’ also seems to be a pretext for authorities not to do what they are expected in rehabilitating and supporting PWDs. In addition to the constitution, both currently amended 1064 Civil Servant and 1156 labor proclamations lay down little coverage towards the right of PWD.

Proclamation No.568/2008 on the Right to Employment of PWD

Apart from these scattered constitutional and subsidiary laws’ provisions, the right to employment of PWDs is protected and specified under Proclamation No. 568/2008. This proclamation is fully devoted to complying with the country’s policy of equal employment opportunity, providing reasonable accommodation for PWDs and laying down simple procedural rules that enable them to prove before any judicial organ discrimination encountered in the employment field.²⁶⁷ The proclamation also outlaws any law, practice, custom, attitude or other discriminatory situations that impair the equal employment opportunities of PWDs in workplaces.²⁶⁸

Notably, this proclamation seeks to address the issue of accessibility by incorporating the concept of reasonable accommodation. It defines reasonable accommodation as “an adjustment or modification related to workplace equipment, job requirements, working hours, business structure, and work environment to enable persons with disabilities (PWDs) to gain employment.”²⁶⁹ Additionally, it considers the refusal to provide reasonable accommodation as a form of discrimination, similar to the provisions in the CRPD.²⁷⁰

Furthermore, the Proclamation is significantly applicable to an employer in which it has been defined as any federal or regional government office or an undertaking governed by the Labor Proclamation.²⁷¹ This shows that the proclamation is vertically

²⁶⁷ Federal Democratic Republic of Ethiopia. 2008. *The Right to Employment of Persons with Disabilities Proclamation No. 568*, Preamble, Paragraph 3

²⁶⁸ Id, Article 5 (1).

²⁶⁹ Id, Article 2(5).

²⁷⁰ Id, Article 5 (3).

²⁷¹ Id, Article 2 (3).

and horizontally applicable to the public and private sectors. In circumstances where such protection does not extend beyond the public domain, the ability of PWDs to participate in their community activities and to realize their full potential as active members of the society will be severely constrained. In general, except for the rights of PWDs to employment as outlined in the Proclamation, the legal protection of this section of the society in Ethiopia is limited to a few legal provisions that are incorporated into general-purpose laws. Consequently, one cannot find a comprehensive legal instrument specific to PWDs. This also results in poor implementation of the rights of PWDs.

The Building Proclamation No.624/2009

The 2009 Building Proclamation No. 624 is the first national legal instrument to address the issue of accessibility. “In any public buildings there shall be a means of access suitable for use by physically impaired persons, including those who are obliged to use a wheelchair or who can walk but who are unable to negotiate steps”. In addition, “where toilet facilities are required in any building, as an adequate number of such facilities shall be made suitable for use by physically impaired persons and shall be accessible to them”.²⁷²

Though the issue of accessibility has been included slightly in this proclamation, the article that talks about it is too vague and lacking detail compared with Article 9 of the CRPD. Furthermore, the proclamation discriminates PWDs since it gives emphasis only to those with physical impairments. It overlooks other types of disabilities such as visual and hearing impairments which also require specific accommodations. On the other hand, the proclamation does not apply to any building completed on or before its effective date, or any building under construction with a building permit issued before that date.²⁷³ In this case, the scope of the application fails to be in line with the concept of initial accessibility at early stages reflected

²⁷² Federal Democratic Republic of Ethiopia. 2009. *Ethiopian Building Proclamation No. 624*, Article 36 (1 and 2)

²⁷³ *Id* Article 3 (2) (A and B)

in Article 9 (2)(H) of the CRPD. This issue can also contradict Article 4 (F) of the same convention on universal design, which states that environments, facilities, products, and services should be designed to make them usable by all persons, to the greatest extent possible, minimizing the need for particular adaptations or special designs. If such contradiction persists, it is difficult to consider accessibility in the existing buildings when their modifications are undertaken. In addition to the above limitations, there is no regular system to reject plans that do not comply with accessibility standards in their construction works, either with criminal or civil sanctions. Following the proclamation, the 2011 building Regulation No.243 has addressed accessibility issues in its few Articles. Under Article 2 of the building regulation and directive, a public building has been defined as any building such as a theatre hall, public library, conference hall, recreational place, academic institution, medical center, market, or any other similar building serving the public. In this definition, private buildings, roads, and transport are not included even if their purpose is to serve the public at large.²⁷⁴ Because of this, the essence of public buildings established under the regulation and directive differs from that of Article 9 (1)(A) and (2)(B) of the CRPD. In both of these sub-articles, state parties are required, firstly, to ensure that PWDs access on an equal basis with others to the buildings, roads, transportation, and other indoor and outdoor facilities. Secondly, they must ensure that private entities offering facilities and services to the public take into account all aspects of accessibility for PWDs.

Overall, the provisions outlined in the proclamation, regulation, and directive are inadequate to fully address the accessibility concerns as outlined in the CRPD. As a result, the principle of designing built environments that are suitable for persons with disabilities (PWDs) is in conflict with the current practices in construction. In this regard, the authors' observation reveals that the built environments are full of uncertainties, anxieties, and dangers for persons with impairments. These persons daily encounter many obstacles

²⁷⁴ Council of Ministers. 2011. *Building Regulation No. 243*, Article 2.

that prevent them from moving freely and safely everywhere they choose. Therefore, such barriers to the built environments have a great impact on the realization of the basic constitutional rights and fundamental freedoms of PWDs recognized under many international human rights instruments ratified by the country.²⁷⁵ The Ministry of Urban Development and Construction demonstrated that it is underway to revise the building laws of the country. It has also released a draft of the new building proclamation that would repeal the existing building proclamation No. 624/2009. The draft proclamation has come up with a few changes that would be beneficial to ensure accessibility. For instance, it has expanded the scope of the proclamation to apply to buildings that require renovation for access by PWDs, even if they are built before the entry into force of the proclamation.²⁷⁶

Addis Ababa City Government Building Regulation No. 17/2004

There are few legal provisions considering accessibility in the construction sphere at the Addis Ababa level. According to the Addis Ababa City Government building regulations no. 17/2004, constructions for public services shall be undertaken in a manner accessible to PWDs.²⁷⁷ Nonetheless, this regulation is not detailed in addressing the issue of accessibility. Rather, the details have been left to be determined in a directive issued by the government infrastructure development and civil works authority. However, the expected Directive No. 1, which was supposed to address the access needs of PWDs in detail, was issued in 2005 without adequately addressing the issue as a whole. The directive simply tries to measure accessibility in terms of ramp stairs in public buildings to be accessible for wheelchair users.²⁷⁸ In this respect, compared

²⁷⁵ Sisay, Amare. 2012. 'Towards Ensuring Accessibility Right to the Built Environment for Persons with Disabilities in Ethiopia', Master's Thesis, Addis Ababa University 50-51.

²⁷⁶ Draft Building Proclamation, Art. 3/4/a/.

²⁷⁷ Addis Ababa City Government. 2004. Addis Ababa City Government Building Regulations No. 17. Article 10.

²⁷⁸ Addis Ababa City Government Infrastructure Development and Civil Works Authority. 2005. Directive no. 1, Article 3.3.5.5

to the regulation, the directive's role in advancing the accessibility of built environments is minimal. Thus, both the regulations and the directive should be amended to be inclusive of all accessibility issues, further enhancing the access needs of PWDs.

To further understand more about the problem of accessibility, it is also crucial to look into the road and transport systems of Addis Ababa. In both of these systems, PWDs experience numerous barriers daily to moving freely. The authors' observation noted that the Addis Ababa City transport system is the most inaccessible and has remained unfriendly for PWDs. Most of the taxis, buses, bus stops, and stations do not accommodate the access needs of people with impairments. But the recent transport buses have tried to install lifts for wheelchairs and crunch users to step up the stairs with ease.²⁷⁹ Correspondingly, bridges built on the ring roads for pedestrians are constructed without alternative crossing lines for wheelchair users. Sidewalks that are unpaved, poorly maintained, crowded by vendors and final construction residues are common across the city to limit the free movement of pedestrians with disabilities. Traffic lights and zebra crossings have still no special signal for visually impaired persons.²⁸⁰

The authors' observations revealed that, in most cases, the majority of public buildings, hospitals, schools, and workplaces are inaccessible to PWDs. Most of the buildings do not have elevators with braille signs, ramps, and lifts reaching all floors for wheelchair users, signage for the deaf, or any other support systems. The corridors, toilets, and bathrooms are often too narrow or tiny to be inaccessible to PWDs. The pavements, sidewalks, traffic lights, and the condition, and width of the city roads as well are not conducive for PWDs, especially for people using wheelchairs, crutches, and white canes.²⁸¹ The transport system is also unquestionably inaccessible. It is almost impossible for people in wheelchairs and people walking

²⁷⁹ Supra note 38

²⁸⁰ Ibid.

²⁸¹ Interview with Mr. Ayele Kassa Abreham and Ms. Seada Nuru Hussen, visually impaired persons (November 22, 2023)

with crutches to get on any mode of transportation.²⁸² With this daily experience, the Addis Ababa city dwellers with disabilities are denied their right to access services and opportunities provided to everyone else.

The Advocacy Role of CSOs

The role of CSOs is diverse depending on the purpose or objectives they are established. Literature generally identifies the roles of CSOs such as service provision, advocating or campaigning for human rights, monitoring government activities and building active citizenship.²⁸³ The reading of these roles of CSOs reveals that the promotion of human rights is one of the major purposes of CSOs which enables them to advocate for human rights-friendly legislations and practices be established by the government. It follows that human rights activists, through the CSO arrangements, serve as the voice for the oppressed and the underprivileged, organizing them, taking collective action on their behalf, and fighting for their rights.²⁸⁴

The CSOs/OPDs Mandate under the CRPD

Organizations for people with disability (OPDs) are also specific types of CSOs that are predominantly established to defend or advocate for disability rights. Having this in mind, it is worthwhile discussing the mandate of OPDs and other CSOs under the CRPD concerning advocating and monitoring disability rights. Several articles of the CRPD emphasize the need and relevance of consulting disabled persons' organizations whenever States are developing and implementing disability rights. Article 4(3) of the CRPD reads "in the development and implementation of legislation and policies to implement the present Convention, and in other decision-making

²⁸² Ibid

²⁸³ Cooper, Rachel. 2018. What is Civil Society, Its Role and Value in 2018? University of Birmingham.

²⁸⁴ Zafarullah, Habib, and Mohammad Habibur Rahman. 2002. "Human Rights, Civil Society and Nongovernmental Organizations: The nexus in Bangladesh: *Human Rights Quarterly* 24.

processes concerning issues relating to PWDs, States Parties shall closely consult with and actively involve PWDs, including children with disabilities, through their representative organizations.” Article 29(b) (ii) also requires States Parties to promote actively an environment in which PWDs can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and to encourage their participation in public affairs, including in the formation and joining of organizations of PWDs to represent PWDs at international, national, regional and local levels. Another relevant provision of the CRPD in this respect is also article 33 headed as national implementation and monitoring. Article 33(3) reads “civil society, in particular PWDs and their representative organizations, shall be involved and participate fully in the monitoring process.” Not only State Parties required to consult and actively involve PWDs through their representative organizations in Article 4, “General Obligations”, but Article 33, “National Implementation and Monitoring”, specifically mandates that “Civil society, in particular PWDs and their representative organizations, shall be involved and participate fully in the monitoring process” of their human rights. Additionally, Articles 29, 34, and 40 also refer to the role of disabled persons organizations (OPDs) in the interpretation, implementation, and monitoring of their rights. In short, a rights advocacy role for civil society organizations made up of or representing PWDs is written into the Convention itself.

The intended effect of the inclusion of PWDs and their representative organizations in a monitoring role in the CRPD is to ensure that there is both bottom-up (as well as top-down) pressure upon states to not only ratify the CRPD but to actively implement it.²⁸⁵ As a result, after the adoption of the CRPD, multilateral organizations and international NGOs have started promoting the CRPD by partnering with grassroots OPDs around the world and supporting

²⁸⁵ Meyers, Stephen. 2016. NGO-Ization and Human Rights Law: The CRPD’s Civil Society Mandate.” *Law, Societies & Justice Program*, University of Washington, 5.

their human rights advocacy activities.²⁸⁶ However, two challenges are postulated. First, local OPDs in developing countries are supposed to have prioritized self-help and social service provision over and above human rights advocacy. Second, “many PWDs view human rights with suspicion, associating its ideology with the legacy of Western intervention in the Global South.”²⁸⁷

These challenges could be redressed by creating local networking among CSOs exclusively working on human rights and local OPDs mainly by extending technical and professional support to the latter. The CSOs exclusively working on human rights could have exposure to understanding the context of the implementation level of disability rights and best intervene in the advocacy activities of disability rights owing to their professional and technical capacities. This would be true if such CSOs exclusively working on human rights could delve into the disability rights discourse and collaborate with OPDs in their advocacy efforts.

CSOs Legal Regime in Ethiopia

Ethiopia has undergone in repressive and curtailing CSO law, particularly for those who want to contribute to the advocacy of human rights. In this regard, the most criticized aspect of the Charity and Society’s Proclamation No. 621/2009 is its inhibition of the role of CSOs in advocating for human rights. It does this by forcing them to register as Ethiopian associations and prohibiting them from generating funds from foreign sources. The Organizations of Civil Societies Proclamation No.113/2019 is an outcome of this law reform.

Unlike its predecessor, Article 62(4) of the new CSO proclamation, under the heading of “operational freedom”, empowers every organization of the civil society to “...propose recommendations for the change or amendment of existing laws, policies or practices, or issuance of new laws and policies of those which have a relationship

²⁸⁶
Ibid ²⁸⁷
Ibid

with the activities they are performing.” On the other hand, any CSO duly registered and seeking to promote human rights could also advocate for the realization of disability rights and the legislative reform on disability rights as well. It can be understood that this article seeks to widen the democratic space of CSOs in their effort to advocate for human rights. However, recalling the principle of representation set out in the CRPD, governments are obliged to consult OPDs on policies and legislations that may directly or indirectly affect disability rights.²⁸⁸ Besides, CSOs exclusively working on human rights should collaborate with OPDs and voice the voice of OPDs together. Hence, the following section addresses key focus areas for advocacy in the right to physical accessibility for PWDs that CSOs could potentially work with OPDs.

Focus Areas for Advocacy in the Right to Physical Accessibility for PWDs

The concept of advocacy generally encompasses a range of activities aimed at influencing policies and decision-making of the government to ensure the true implementation of human rights. With this in mind, advocacy issues emanate from the gaps in the legal and institutional frameworks including the poor implementation thereof. The same is true for advocating for disability rights in general and the right to physical accessibility in particular. Accordingly, it is possible to recommend advocacy issues that CSOs could potentially embark regarding the right to the physical accessibility of PWDs. This involves closely examining the gaps identified in the preceding section on the realization of the right to accessible built environment for PWDs. These advocacy issues are categorized into two. The first is generally interventional but related to physical accessibility in one or another way. The second type is advocacy issues specific to the right physical accessibility. In the following sections, these advocacy intervention areas are discussed.

²⁸⁸ See mainly the CRPD Committee, General Comment No. 7, Para. 18.

Advocate for Constitutional Amendment and Comprehensive Disability Law

The FDRE Constitution has incorporated one provision referring to PWDs. Article 41(5) provides assigning resources, within available means, to provide rehabilitation and assistance for the physically and mentally disabled among other disadvantaged groups such as the aged and children left without parents or guardians. It is mostly argued that the language of this constitutional provision which is found within the socio-economic rights section is charity-based and does not fully and effectively address the needs of PWDs including the right to the physical accessibility for constitutional protections. Comparatively speaking, other constitutions mostly incorporate an article solely for the protection of disability rights.²⁸⁹ It is also the recommendation of various researchers that the constitutional guarantees are inadequate concerning PWDs and the FDRE constitution should be amended in this respect to incorporate an article on disability rights and to mainstream disability rights appropriately.²⁹⁰

On the other hand, Ethiopia has already ratified and made the CRPD part of its laws.²⁹¹ The CRPD requires Member States to take legislative and policy reforms to realize that they comply with their duties of the CRPD.²⁹² However, Ethiopia has not yet taken comprehensive legislative measures by conducting legal audit on disability and by adopting comprehensive laws on the rights of persons with disabilities pursuant to the requirements of Article 4 (general obligations of States). Even the recent law reform council established within the General Attorney did not touch the disability area to comprehensively respond to the CRPD. Rather, the council is simply focusing on minor and trivial disability mainstreaming provisions in the reformed laws of the country. As a result, except

²⁸⁹ See for instance Kenyan constitution Art. 54.

²⁹⁰ Oticho Oro, Dawit. 2019. *The Place of the Rights of Persons with Disabilities under the 1995 FDRE Constitution*. Thesis submitted in partial fulfilment of the degree of Master of Laws (LLM) in Human Rights Law to the School of Law, Addis Ababa University.

²⁹¹ See the CRPD Ratification Pro. No. 676/2010.

²⁹² See the CRPD, art. 4.

few considerations of the needs of PWDs in the general purpose laws, no comprehensive disability law is yet available. The only disability-specific legislation in Ethiopia is the right to employment of persons with disability Proclamation No. 568/2008 with only 14 articles. Consequently, there are no laws fully addressing the issue of physical accessibility for PWDs. Therefore, CSOs could potentially intervene to advocate for a comprehensive disability law for the true realization of disability rights in Ethiopia in general.

Advocate for Access to Justice

Another intervention area for CSOs to ensure physical accessibility is advocating for the accessibility of the justice sector. The rationale why this advocacy area comes into the picture is access to justice facilitates possibilities for victims of inaccessible physical environments to seek justice and be redressed. In this respect, Ethiopia has not yet taken measures to ensure the accessibility of the justice sector for PWDs. The issue of access to justice encompasses, among others, the physical accessibility (buildings, entrances, streets, etc. of the justice sectors), assignment of assistants for clients and employees with disabilities, using appropriate means of communication tailored to the specific needs of PWDs, and raising the awareness of experts within the justice sector on disability rights. The feedback of the CRPD committee to the State Report of Ethiopia also indicates that Ethiopia is far from ensuring the right to access justice for PWDs. As a result, the CRPD committee has recommended that Ethiopia provide appropriate training on disability for the law professionals in the justice sector. Additionally, they should provide reasonable and procedural accommodations in the law enforcement and justice sectors to ensure that PWDs have the right to access justice.. However, though the recommendation was made in the year 2016, Ethiopia has not yet taken significant steps. Therefore, CSOs could potentially advocate for the rights of PWDs to the right of access to justice. The intervention could vary from giving training on disability rights for the justice sector to lobbying the justice sector to take appropriate measures for the realization of the right to access to justice for PWDs.

Advocate for Budget Allocation

The true inclusion of PWDs happens with the commitment and actions during planning and budgeting. Under Article 10(1)(e) of Proclamation no.1097/2018, each minister has the power of planning, budgeting and implementing same upon ratification. Article 10(2) also restates the powers of each minister to investigate the budgets and programs of other government institutions made accountable to it by law and send them for approval. Above all, each minister has to ensure that PWDs are beneficiaries of equal opportunities within its mandate. At the top of all, under article 16(1)(e) of the Proclamation No. 1097/2018, the Ministry of Finance prepares the budget of the federal government and follows up on the implementation of the same upon approval. Throughout these processes, the issue of PWDs should be focused and a budget should be allocated to finance the needs of PWDs.

To achieve the effective inclusion of PWDs in the budgeting processes, some requirements shall be met based on well-researched findings. The first understanding of disability is the economic case for equality.²⁹³ This would be relevant to show why inclusion and equality of disability are fundamental rights from the perspective of finance. It also overcomes the biases around the costs of disability support services. The second relates to the inclusive decision-making processes thereby calling for substantive and meaningful participation of PWDs represented by their OPDs. The third and still very important is the identification of disability services to be fulfilled by the government budget. The last would be identifying the existing data and information including the lived experiences of PWDs for budgeting.

However, the current trend of budgeting both by each ministry and the minister of finance does not fit the requirements mentioned above. PWDs are not also benefiting from equitable budgeting concerning

²⁹³ See Inclusion Counts: The Economic Case for Disability Inclusive Development. Available at https://www.unisdr.org/conference/2019/globalplatform/programme/platform/assets/pdf/5cd579c1277c0Economic_case_Disability_Inclusive_Development_cbm2016_accessible.pdf, accessed on 04/06/2024.

public services and other government policies and programs. Here, it is worthwhile to recall that the renovation of existing buildings and streets to create conducive physical environment for PWDs requires huge budgeting. Without a separate line of budgeting for this purpose, it is hard to realize the physical accessibility for PWDs given the fact that the existing building Proclamation No. 624/2009 does not apply to buildings before it and there are no laws at all setting standards for the accessibility of streets and other related issues. Therefore, SCOs could advocate for equal and disability-inclusive budgeting with the strict follow-up of the requirements mentioned above.

Advocate for New Institutional Setup Responsible for Disability Affairs

The CRPD ratification proclamation no.676/2010 entrusts the power to undertake all acts necessary for the implementation of the CRPD to the Ministry of Labor and Social Affairs (MoLSA) which is now restructured as the Ministry of Women and Social Affairs (MoWSA). It could be deduced that the phrase “all acts necessary for the implementation of the CRPD” denotes the power to take measures whenever the CRPD provisions are violated or are not well respected. Nonetheless, the international organizational structure and the power listed for MoLSA under the proclamation to define the powers and responsibilities of the executive organs did not explicitly reflect the power of MoLSA to undertake all acts necessary for the implementation of the CRPD. Rather, even the newly promulgated Proclamation No. 1097/2018 to define the powers and responsibilities of the executive organs defines the power of MoLSA, to the rights of PWDs, only under the social protection section and to enable PWDs to benefit from equal opportunity and full participation.

Understanding this fact, OPDs used to struggle for the establishment of a separate organ that is solely responsible for ensuring the full protection of the rights of PWDs. This struggle brought the establishment of a new directorate within MoLSA directly and solely responsible for disability. However, the duties and responsibilities entrusted to the new directorate by its establishment

document still concentrate on raising awareness of disability among governmental organs. It does not have the power to take measures in cases when governmental organs fail to mainstream disability or violate disability rights. Foreign practices show that such kind of governmental arrangements do have the power to take actions to ensure disability mainstreaming. For instance, the US Department of Justice enforces the American Disability Act through lawsuit and settlement agreements to achieve greater access, inclusion and equal opportunity for PWDs.²⁹⁴ The National Council for Persons with Disabilities in Kenya is entrusted with the power of taking adjustment orders and issuing summons requiring the attendance of everyone to enforce disability rights in the Persons with Disabilities Act of 2023.²⁹⁵ Therefore, it is believed that there is a need for a robust institutional setup within the government apparatus with the power to effectively ensure the implementation of the CRPD including the power of hearing and administering complaints. It could be either by establishing a new ministry or an independent government organ of different structure solely on disability or by strengthening the power of the new directorate within MoLSA to that effect. Therefore, CSOs could join OPDs in the advocacy efforts to call for an institutional measure that would ensure the effective implementation of the CRPD.

Specific Advocacy Intervention Areas

Advocate for the Inclusion of Robust Provisions within the Draft Building Proclamation

It is explicit from the discussion in the preceding section that the existing building proclamation carries only one article concerning accessibility rights of PWDs for public buildings. Though there are standards set out in the building directive issued right after the proclamation, they are not complete enough to address the needs of different types of disabilities. On the other hand, it is clear from

²⁹⁴ See the United States Department of Justice, enforcement. Available at .Cases | ADA.gov Accessed on July 04, 2024.

²⁹⁵ The Persons with Disabilities Bill, Kenya Gazette Supplement, National Assembly Bills. 2023. Section 36(1)(b)(d).

the provisions of the building laws that the focus is only on physical disability, overlooking the needs of other types of disabilities. Moreover, there are no laws that establish standards for accessibility regarding streets, installations, parking, pavements, sidewalks, and signs, among others. Meanwhile, the Ministry of Urban Development and Construction which is now restructured as the Ministry of Urban and Infrastructure was underway to amend the building proclamation and released the draft in 2019.²⁹⁶ Therefore, there is a potential intervention area to elaborate the draft building proclamation in such a way that it incorporates disability-friendly provisions. Issues to be considered in the new draft building proclamation include:

1. Provisions for the enforcement of the proclamation on the public buildings that are already built in an inaccessible way for PWDs. It is to be noted that the building Proclamation No. 621/2009 did not apply to buildings completed or are under construction during the adoption of the proclamation. Given the fact that most public services are being delivered in facilities built a long time ago and the fact that the scope of the proclamation is countrywide²⁹⁷, the inapplicability of the building proclamation on buildings constructed before its enactment and to those for which permit license has been obtained prior to its enactment, undermines the purpose of article 36 of the building proclamation that addresses accessibility of public buildings.

2. Consideration of the needs of various types of disabilities in the development of provisions that would warrant accessibility of public buildings: Note that the building proclamation No.621/2009 focuses only on physical disability. Nonetheless, public buildings should be accessible for those who have visual and hearing impairments as well as those with intellectual disability. For instance, public buildings should have clear visual signs for those with hearing impairments and appropriate signs

²⁹⁶ See the Draft Building Proclamation.

²⁹⁷ See Ethiopian Building Proclamation, Proc. No. 624/2009, Fed. Neg. Gaz., year 15, No. 31 Art. 3.

and braille and physical indicators of directions for the visually impaired. The new building proclamation should explicitly mention the needs of different types of disabilities.

3. Putting a clear and precise definition for the term public buildings so that the proclamation applies to any kind of building that provides public service: note that Building Proclamation No.621/2009 did not define the term public buildings. Instead, it classifies buildings into three categories 'A', 'B', and 'C'. The definition of these categories shows that the term building refers to those that have two or more floors. Unfortunately, challenges faced by PWDs are not limited only to buildings with two or more floors. Indeed, most buildings that are provide public services in Ethiopia do not have floors. Hence, the new draft building proclamation should have provisions that apply to any public building regardless of the number of floors.

4. Expansion of the applicability of the building proclamation beyond buildings: It seems that the building proclamation applies to the physical features of a given building. Nonetheless, it should be noted that a building is not an isolated entity where people arrive and remain. Rather it is an extension of the roads heading to it. Therefore, the building proclamation should also include provisions to ensure accessibility measure on the pavements within the compound of a given public building and its connections to the main road around it.

Advocate for Proper Implementation of the Building Proclamation

Having accessibility standards in place does not suffice unless backed by appropriate enforcement mechanisms. According to the building Proclamation No. 624/2009 Art.57 and 2(2), the power to prepare codes, design of buildings, and follow up the proper implementation of the proclamation is vested in the Urban Development and Construction Ministry. However, the authority to issue building permits and to supervise their compliance is

entrusted to the building officer.²⁹⁸ However, it is hardly possible to conclude that building officers are properly enforcing even the existing building law concerning ensuring accessibility for PWDs. Personal observation of buildings built after the enactment of the building proclamation testifies that accessibility is not within the focus of the building officers. It is to be noted that a couple of months ago, a man with a visual impairment died after falling into an empty elevator shaft, allegedly due to the lack of proper supervision by the building officers.²⁹⁹ This reveals a clear problem associated with the poor implementation of the building proclamation, even up to its current standard and the impact thereof.

The building directive tries to put minimum standards on the general features of a public building: steps, ramps, elevators, entrances, doors, toilets, and parking. For instance, concerning elevators, the directive requires a public building to have sound to announce the door opening and closing as well as the number of floors and braille sign on the buttons for persons with visual impairment.³⁰⁰ Similarly, the directive requires an elevator of a public building to start from the ground floor and provide access to each floor.³⁰¹ The researchers' observations, however, show that most public buildings do not meet these requirements in place. This might be attributed to low attention accorded to the accessibility measures by the building officers and lack of appropriate expertise in accessibility measures as well as lack of proper supervision.³⁰² Therefore, CSOs/OPDs could intervene in filling the gap with the following measures:

1. Providing training for building officers and contractors on the building laws and the impact on disability rights;
2. Providing training for those who manage or administer public

²⁹⁸ See Building Proclamation, Arts.2(3) and 11

²⁹⁹ Interview with Gebre Teshome, Public Relation Head, Ethiopian National Association of the Blind (24 March 2024).

³⁰⁰ See Building Directive Number 5/2011, Art. 33(4)(6).

³⁰¹ See the building proclamation, Art. 33(4) (3).

³⁰² Note that the building officer has a responsibility to supervise whether buildings comply with the building and other relevant laws under the building proclamation, Art. 11(3).

buildings on their legal responsibilities to comply with the building laws and the impact on disability rights;

3. Communicating with and lobbying the Ministry of Urban Development and Construction to properly enforce the building proclamation, at least up to its current standards, by assigning appropriate accessibility experts and by employing accessibility audits.

Development of Accessibility Standards

The building directive incorporates Article 33, which provides several accessibility standards, including the general features, steps, ramps, elevators, entrances, doors, toilets, and parking. However, these standards are not complete enough to ensure the accessibility of public buildings for PWDs. For instance, as mentioned above, the directive does not have any standard on the pavements within the compound of a given public building. Therefore, the Ministry shall develop sufficient and comprehensive accessibility standards according to the overall power entrusted to it under Article 57(2) of the proclamation. This power should also be clearly stated in the proclamation that the Ministry prepares national accessibility standards.

Concluding Remarks

Accessibility is one of the eight general principles of the CRPD. The CRPD has also a stand-alone article dedicated to PWDs' rights to accessibility. More than that, accessibility is something that crosscuts other disability rights. The physical accessibility concerns the built environment that includes; but is not limited to, roads, pavements, installations, and buildings.

Ethiopia has ratified the CRPD and made part of its law. Nonetheless, the country has not yet taken effective and comprehensive legislative measures to realize the full implementation of the CRPD. It issued building Proclamation No. 624/2009 one year before the ratification of the CRPD. As discussed hitherto, this proclamation lacks several elements to ensure physical accessibility. First, it does not apply to

buildings that had been completed before its adoption. Second, it applies only to buildings with two or above floors. Third, it focuses only on physical disability and does not give sufficient attention to the needs of people with other types of disabilities. Fourth, it lacks a proper enforcement mechanism, particularly concerning accessibility. Fifth, the accessibility standard set out under the building directive is not comprehensive enough to include various issues such as pavements within and around compounds of public buildings.

The assessment and personal observations revealed that there are serious physical barriers in Addis Ababa for PWDs. Needless to mention, the city is the capital of Ethiopia as well as the seat of AU and a variety of regional and international organizations. It is the city where thousands of nationals with disabilities live as well as where a large number of foreigners visit for various reasons. However, the majority of public buildings, hospitals, schools, workplaces, and the transport system including pavements and sidewalks are inaccessible for PWDs. Inaccessible built environment often undermines the equitability of opportunities and the full participation of PWDs. It is an agreed fact that the CRPD has come up with the mandate of CSOs in general and OPDs, in particular, to participate in the development of disability legislation and to monitor the effective implementation of disability rights in their States. Nonetheless, given the current status of OPDs, local OPDs in Ethiopia may not have the technical and professional capacities to effectively advocate for disability rights. In addition, networking among CSOs working on human rights makes the advocacy effort more effective. Therefore, CSOs with technical and professional expertise could collaborate with OPDs and make advocacy efforts for disability rights. However, it is important to consider the role of mass-based societies representing PWDs in Ethiopia, as well as other CSOs working on disability. Though it requires deep research work to identify how these two stakeholders could collaborate in the advocacy processes, it seems clear that the issue identification and investigation of the extent of their concern should be reserved for the mass-based societies of PWDs. Nevertheless, other CSOs

could establish partnerships with them. As these CSOs often possess the required expertise, they can complement the gaps of the OPDs in this regard. CSOs could also collaborate with OPDs in Ethiopia to build their technical capacities and organizational structures, enabling them to become the best advocates for disability rights.

Specific to the right to physical accessibility of PWDs, CSOs can give a voice to PWDs by calling the government to undertake general and specific measures. The general measures relate to the revision of the constitution and taking legal and institutional measures to address disability rights. Specific measures also relate to the revision of building laws in Ethiopia so that they become disability friendly. Whatever the case, CSOs should recognize the mandate of OPDs entrusted to them under the CRPD and should collaborate with OPDs in their disability rights advocacy efforts.

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