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IMPLEMENTATION OF THE RIGHT TO HOUSING OF PERSONS WITH DISABILITIES IN ADDIS ABABA

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SCHOOL OF GRADUATE STUDIES
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**IMPLEMENTATION OF THE RIGHT TO HOUSING OF
PERSONS WITH DISABILITIES IN ADDIS ABABA**

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Declaration

I, FASIKA KENEA, declare that this thesis is my original work and it has never been presented in any other University. All source materials used in this work have been duly acknowledged. It is hereby presented in partial fulfillment of the requirements for the award of LL.M Degree in Human Rights Law.

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The thesis entitled “*Implementation of the Right to Housing of People with Disabilities in Addis Ababa*” By Mr. Fasika Kenea is approved for the Degree of Master of Laws (LL.M) in Human Rights Law

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Acronyms

ACHPR	African Charter on Human and People's Right
CEDAW	Convention on Elimination of All forms of Discrimination against Women
CERD	Convention on Elimination of All forms of Racial Discrimination
CRC	Convention on the Right of Child
CRPD	Convention on the Rights of Person with Disabilities
DFG	Disabled Facilities Grant
ESCR	Economic Social and Cultural Rights
FDRE	Federal Democratic Republic of Ethiopia
GTP	Growth and Transformation Plan
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
ICESCR	International Covenant on Economic Social and Cultural Rights
NGO	Non Governmental Organization
NPA	National Plan of Action
OAS	Organization of American States
PWDs	Persons with Disabilities
UDHR	Universal Declaration of Human Rights

1. Chapter One: Introduction

“There is no place like home”

L. Frank Baum

1.1. Background

Housing is one of the basic necessities of life and the right to housing and adequate shelter is a fundamental human right, which is necessary for the well being of all human beings. The right is guaranteed in a number of international and regional human rights instruments which among others include the Universal Declaration of Human Rights (herein after UDHR)¹, the International Covenant on Economic, Social and Cultural Rights (herein after ICESCR)², International Convention on Elimination of all forms of Discrimination Against Women (herein after CEDAW)³, International Convention on the Right of Children (herein after CRC)⁴, The African Charter on Human and Peoples Rights (herein after ACHPR) (even though it is not explicit) and the Convention on the Right of People with Disabilities (herein after CPRD).⁵ Ethiopia is a state party to all these treaties including CPRD.

The right to adequate housing is also a universal right, recognized in more than one hundred national constitutions throughout the world.⁶ In Ethiopian constitutional history, the right to

¹ See General Assembly resolution 217(III), Universal Declaration of Human Rights, 10 December 1948, Art. 25(1), available at: <http://www.refworld.org/docid/3ae6b3712c.html>. [accessed 21 April 2018].

² See General Assembly resolution 2200 A (XXI), International Covenant on Economic, Social and Cultural Rights, 16 December 1966 (entered into force on 23 March 1976), Art.11 (1); See also Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23, par.3 available at: <http://www.refworld.org/docid/47a7079a1.html>. [accessed 20 April 2018]

³ See General Assembly resolution 34/180, Convention on the Elimination of All forms of Discrimination against Women, 18 December 1979 (entered into force 3 September 1981), Art. 14(2) (h), available at: <http://www.refworld.org/docid/3ae6b3970.html>. [accessed 21 April 2018]

⁴ See General Assembly resolution 44/25, Convention on the Rights of the Child, 20 November 1989 (entered into force 2 September 1990), Art. 27(3), available at: <http://www.refworld.org/docid/3ae6b38f0.html>. [accessed 21 April 2018]

⁵ See General Assembly resolution 61/106, United Nations Convention on the Rights of Persons with Disabilities, 13 December 2006 (entered into force 3 May 2008), Art 28, available at: <http://www.refworld.org/docid/45f973632.html>. [accessed 21 April 2018]

⁶ C. Golay & M. Özden, The Right to Housing: A Fundamental Human Right Affirmed by the United Nations and Recognized in Regional Treaties and Numerous National Constitution, 2008, p.2

housing has never been explicitly recognized as human right.⁷ The 1995 Federal Democratic Republic of Ethiopia (herein after FDRE) Constitution guarantees to fulfill the fundamental rights of all Ethiopians to social justice, economic development, enjoying rights and opportunities and access to clean and safe water, health and decent shelter amongst others.⁸ Despite the legal recognition of the right to housing, millions of Ethiopians in general and People with Disabilities (herein after PWDs)⁹ in particular suffer from a terrible shortage of houses. The problem is more exacerbated in the capital city Addis Ababa. In light of the growing housing problem of PWDs in Addis Ababa, this paper assesses the implementation of the right to housing of PWDs in the city. It studies how the right to housing of PWDs is actually put into practice, or the degree to which the implementation of the right go parallel with the plan of the government.

1.2. Statement of the Problem

Housing is one of the basic needs of human kind. The importance of housing to man cannot be overemphasized; apart from giving protection from elements of nature and providing storehouse for personal possessions; housing in accordance with contemporary modern standards, must offer such infrastructure and services that would make dwellings conducive.¹⁰ Addis Ababa has a share of 40% of the total urban population in Ethiopia, which is over 3 million.¹¹ There is no reliable data on the numbers and living conditions of PWDs in Ethiopia. Even though it is difficult to show the exact numbers of PWDs in Ethiopia, based on the World Report on Disability jointly issued by the World Bank and World Health Organization¹², there are an estimated 15 million children, adults and elderly PWDs in Ethiopia, representing 17.6 per cent of the population.¹³

⁷Dejene Girma, The Realization of the Rights to Housing in Ethiopia, submitted in partial fulfillment of the requirement for the degree of LLM (Human Rights and Democratization in Africa), Centre for Human Rights, Faculty of Law, University of Pretoria, 2007, p.9

⁸The Constitution of the Federal Democratic Republic of Ethiopia: A Proclamation to Pronounce the Coming in to Effect of the Constitution of the Federal Democratic Republic of Ethiopia, 1995, Chapter 10, Proc. No.1/1995, Fed. Neg. Gaz., year 1, no.1

⁹ For the purpose of this research PWDs is defined as “those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with other barriers, may hinder their full and effective participation in society on an equal basis with others” as defined under Article 1 of the CRPD & the National Plan of Action of PWDs of Ethiopia (2012-2021).

¹⁰ A, Otubu, “Fundamental Right to Property and Right to Housing in Nigeria: a Discourse”, AUDJ, vol, VII, no.3, p.25, available at www.koreenterprisesllc.com/Housing_Market.ppt

¹¹Esayas Ayele, Policy Impact on the Housing Sector: The Case of Addis Ababa, 2001, p.2

¹²World Bank and World Health Organization: World Report on Disability, Washington D C 2011

¹³ ILO & Irish Aid, Fact Sheet, Inclusion of People with Disabilities in Ethiopia, 2013, .

Among this about 45,936 of PWDs are located in Addis Ababa.¹⁴ They experience several barriers to the enjoyment of their right to adequate housing, including accessibility, habitability, affordability, availability of services, material, facilities and infrastructure and discrimination and stigmatization.¹⁵ The right to housing of PWD in Ethiopia is recognized in different international and regional human rights treaties the country has ratified. The 1995 constitution of the country has also included this right however shelter still remain a series problem of PWD. Over tens of thousands of PWDs in Addis Ababa live in dirty and precarious conditions in slums and informal settlements threatening their health and even their survival. In addition, thousands of PWDs in Addis Ababa are homeless at all. Different studies shows that women and children with disabilities are particularly more exposed to different risks such as rape, pregnancy, HIV AIDS infection, battery and etc than the other homeless people. Large numbers of PWDs in Addis Ababa are estimated to live in poverty and many depend on family support and begging for their livelihoods let alone saving for housing. Furthermore, the government has been building thousands of condominium houses for residents of Addis Ababa; however PWDs are not included as vulnerable groups for the purpose of housing problem in the city. PWDs are discriminated, denied and excluded from using their right to housing unlike other vulnerable groups such as women and civil servants. What makes the issue adding an insult to an injury is that Ethiopian Building Proclamation provides that any public building shall have a means of access suitable for use by physically impaired persons, including those who are obliged to use wheelchairs and those who are able to walk but unable to negotiate steps.¹⁶ However up until this research has been conducted, no condominium houses have been built in Addis Ababa by taking into consideration PWDs. The minimum core of the right to housing of PWDs non discrimination, the obligation to provide reasonable accommodation and taking necessary legislative and policy measures are far from being effectively realized. Therefore, these facts show the gap between the law and the practice.

¹⁴. Dutch Coalition on Disability and Development, Ethiopia: definition, numbers and types of disabilities, <http://www.dccd.nl/lobby/definition-and-numbers-and-types/>

¹⁵ The Office of High Commissioner for Human Rights, UN- Habitat Fact Sheet Number 21, The Right to Adequate Housing, p, 23

¹⁶Ethiopian Building Proclamation, 2009, Art.36(1), Proc. 624, Fed. Neg. Gaz., 15th ye

1.3. Research questions

The main question this paper tries to answer is:

- Whether the right to housing of PWDs in Addis Ababa which is enshrined in international, regional and domestic laws entered by Ethiopia are effectively implemented or not?

The paper will also answer the following sub-questions:

- What has been done so far for the enjoyment of the right to housing of PWDs in Addis Ababa?
- What are the factors hindering implementation of the right to housing of PWDs in Addis Ababa?
- What are the obligations of the government in relation to the right to housing of PWDs?
- What must be done to enable PWDs to fully enjoy their right to housing?

1.4. Hypothesis

Ethiopia has not effectively implemented the right to housing of PWDs in Addis Ababa.

1.5. Objectives of the research

General objectives

The main objective of the study is to assess the implementation of the right to housing of PWDs in Addis Ababa.

Specific objectives

- To identify international and regional instruments as well domestic laws that governs right to housing of PWDs.
- To examine whether the right to housing of PWDs recognized by international, regional and domestic laws ratified and enacted by Ethiopia are effectively implemented or not.
- To identify and show barriers that hindered the implementation of the right to housing of PWDs.

- To assess what has been done so far to effectively realize the enjoyment of the right to housing of PWDs in Addis Ababa. It tries to find out whether the houses are accessible, habitable and affordable for PWDs.
- To identify and show areas where there is a gap between the law and the practice so that possible solutions will be recommended to fill the gap.

1.6. Methodology

To conduct this research, both primary and secondary data were collected in Addis Ababa. The primary source includes data collected through key informant interview from selected governmental and NGOs and policies, laws, programs and plans of the government on the housing sector. As secondary sources previously conducted related research papers and articles will also be used. In gathering the necessary information, six governmental organizations working on housing are contacted. Purposive sampling was applied to select representatives from each governmental organization, because it enables the researcher to select the respondents from the total study population depending on his own judgment.¹⁷ This method is also useful if a researcher wants to study a small subset of a larger population in which many members of the subset are easily identified but the enumeration of all is nearly impossible, and expected to provide reliable and sufficient evidence for the study.¹⁸ Among purposive sampling method, expert sampling was applied specifically to contact informants because they shall have the knowledge about activities done so far on the housing of PWDs in Addis Ababa. Expert in this context is defined as any person who is working on housing issue in the organization. The institutions contacted were Ministry of Urban Development, Housing and Construction, Ministry of Social and Labor Affairs, Addis Ababa Construction and Housing Bureau, Addis Ababa City Government Social and Labor Affairs Bureau, Addis Ababa City Government Land Bank and Management and Commercial Bank of Ethiopia Head Office. Accordingly, one representative from each governmental institution was chosen based on the knowledge they have about the right to housing of PWDs.

The researcher uses non-probable sampling techniques to gather data from the NGOs. Since it would be difficult to contact all NGOs working on disabilities, purposive or judgmental sampling

¹⁷M. D. C. Tongco, Purposive Sampling as a Tool for Informant Selection (2007), p.143

¹⁸E. Babbie, Survey Research Methods, (2nd ed. 1990), p. 33

is the appropriate sampling method to collect the data. Among types of purposive sampling, criterion sampling that involves searching for cases or individuals who meet a certain criterion suits best for the study.¹⁹ Among NGOs working on disability and registered in FDRE Charities and Societies Agency, five NGOs were eligible for the study. Accordingly, among NGOs working on disability only those who are currently functioning and who have good performance in the year 2017 were contacted. One society, one resident society, one Ethiopian Charity, one Ethiopian resident charity and one foreign charity working on disability were contacted. The information gathered through key informant interviews and data collected from documents are analyzed together with policy documents and regulations in the research thematically.

1.7. Literature review

There are some studies undertaken on the right to housing in general and on the right to housing in Ethiopia in particular. There are also some studies done on the right to adequate standard of living of people with disabilities in Ethiopia. However as far as the author's knowledge is concerned, there is no specific research yet done on the right to housing of PWDs. Most of the studies done on the right to housing are done focusing more on the theoretical aspect of it. The first literature was conducted by Dejene Girma entitled '*The Realization of the Right to Housing in Ethiopia*'.²⁰ His research has addressed one central question and two sub questions to answer. The central question is: Has Ethiopia adopted adequate measures to realize the right to housing? And the sub questions are: 1. what measures have been adopted to realize the right to housing? 2. If these measures are not adequate, why not and what other measures should be adopted to realize the right to housing in Ethiopia? To answer these questions, the author used library documented facts on the right to housing, laws, judicial decisions and internet resources. The finding of the research shows that Ethiopia has not adopted adequate measures to realize the right. Those measures which are in place and which address issues pertaining to the right to housing remain inadequate and finally makes some recommendations to problems of realization of the right. Armaye Assefa worked her LLM thesis on '*The Right to Adequate Standard of Living with Specific focus on the Right to Adequate Housing: the Institutional and Legal*

¹⁹ L. M. Given, The SAGE Encyclopedia of Qualitative Research Methods, (Ed. 2008) n 697

²⁰Dejene Girma, cited above at note 7

Framework in Ethiopia'.²¹ The research has examined the existing normative, institutional and procedural frame work on the right to adequate standard of living in Ethiopia with special emphasis on the right to adequate housing and the situation of Ethiopian population in the enjoyment of the right to adequate housing of Addis Ababa. The paper, in addition to understanding and analyzing the normative content of the right to adequate standard of living, components of right to adequate standard of living have been discussed. It also makes an assessment on how far the Ethiopian government went in realizing its obligation emanating from the ICESCR. In doing so, the author used a qualitative means of research and different data collection mechanisms such as critical examination of laws, prior studies and interviews were used. Finally, the paper found that, though the government of Ethiopia has made significant efforts for the realization of the right to adequate housing, there is still much left to be done including adoption of specific housing legislation for the country. Another work done on this issue is by Esayas Ayele entitled '*Policy Impacts on Housing Sector: the Case of Addis Ababa*'.²² His article is aimed at assessing the impact of policy measures implemented so far on the housing sector. It provides brief analysis of different strategies adopted by previous and current governments on the implementation process of housing policies. He tries to examine the policies in three different eras and analyses them accordingly. The first era was the pre 1975 situation that deals with controlling the land on a more feudalistic way of thinking. The second era from 1975 to 1991 was that housing was totally controlled by the central government. The FDRE government's is more likely considered to be a bureaucratically free market policy towards urban development. The author used desk research method to collect data to analyze the problem. The other work is done by Azeb Kelemework entitled '*Housing for the Poor in Addis Ababa*'.²³ The paper deals with analyzing the existing shelter situation of Addis Ababa to identify and analyze the main causes of housing problem. The author used different policies and literatures to come up with the conclusion of the research. The finding of the research shows the

²¹ Armaye Assefa, *The Right to Adequate Standard of Living with Specific Focus on the Right to Adequate Housing: The Institutional and Legal Framework in Ethiopia*, a thesis submitted to the school law at Addis Ababa University in partial fulfillment of the requirements for the award of the degree of LLM in Human rights, Addis Ababa, 2011

²² Esayas Ayele, cited above at note 11

²³ Azeb Kelemework Bihon, *Housing for the Poor in Addis Ababa*, https://www.google.com/search?ei=fpLYWpqDFMaMUdClu_AM&q=Azeb+kelemework+bihon&oq=Azeb+kelemework+bihon&gs_l=psy-ab..33i160k1.5810.24832.0.25228.146.35.0.0.0.0.620.3918.210j3j0j1.14.0....0...1.1.64.psy-ab..139.5.1486...35i39k1j33i21k1.0.ASen5cKc5_c [accessed 19 April 2018]

issue of successful housing supply for low income households of the city rests mainly on strategies applied to increase availability of financial resource and reduce construction cost. The other work in the area is the article written by Sisay Alemayehu entitled '*Approaches to the Justiciability of Economic, Social and Cultural Rights in the jurisprudence of the African Commission on Human and Peoples' Rights: Progress and Perspectives.*' The article reviews the jurisprudence of the African Commission to see whether it has developed or followed principled approaches in the application of the economic, social and cultural rights provisions of the African Charter to actual cases.²⁴ It measures the progress of the Commission's practice of adjudication of economic, social and cultural rights in comparison with approaches developed in other systems and provides perspectives for the further development of its jurisprudence.²⁵ It argues for the application of methods of adjudication leading to well reasoned decisions that ultimately increase the legitimacy, and hence compliance with the Commission's findings and recommendations.²⁶ The other is Takele Soboka's work entitled '*The Indirect Approach to Promote Justiciability of Socio-Economic Rights of the African Charter on Human and Peoples' Rights*'. The paper argues that the justiciability of socio-economic rights can greatly benefit from the use of the right to equality, the right to judicial protection and the right to due process and related jurisprudence of the African Commission on Human and People's Right as a means of establishing violations of socio-economic rights.²⁷ While direct justiciability of socio-economic rights of the Charter is beyond question, the indirect approach offers the added advantage of showing the violations of socio-economic rights through the violations of the more elaborated rights, hence indirect approach to justiciability.²⁸ The paper also explores in detail indirect approach justiciability of socio-economic rights. The other is the article of Mesenbet Assefa entitled '*Defining the Minimum Core Obligations-Conundrums in International Human Rights Law and Lessons from the Constitutional Court of South Africa*'. This article discusses the theoretical approaches as well as the puzzles involved in the judicial application of the concept

²⁴ Sisay Alemahu, "Approaches to the Justiciability of Economic, Social and Cultural Rights in the jurisprudence of the African Commission on Human and Peoples' Rights: Progress and perspectives," *African Human Rights Law Journal*, Vol. 11(2011) p.319

²⁵ Ibid.

²⁶ Ibid.

²⁷ Takele Soboka, *The Indirect Approach to Promote Justiciability of Socio Economic Rights of the African Charter on Human and Peoples' Rights*!. 2010, p.1

²⁸ Ibid.

of minimum core obligations.²⁹ In making such inquiry the writer has dealt with notable literatures and case laws on the notion of the minimum core.³⁰ Principally, the article focuses on analyzing the two landmark decisions of the Constitutional Court of South Africa and to a lesser extent that of the Supreme Court of India and the Constitutional Court of Columbia.³¹ The paper at hand is different from the above mentioned studies in such a way that it will attempt at analyzing the implementation aspect of the right to housing only and it will be examined from specific right holder perspective i.e. PWDs, and it is also limited in Addis Ababa.

1.8. Significance of the study

The study will help to bridge the huge gap between the law and practice on the right to housing of PWDs. It enables the duty bearers to know and take actions on the obstacles that hindered the proper implementation of the right to housing of PWDs. It will also contribute a lot in informing the right holders i.e., PWDs to know and claim their rights. It also serves as a source of insight for those who are interested to work on the rights of PWDs particularly on the right to housing. Therefore, the study adds value on the betterment of protection of human rights of PWDs in Ethiopia.

1.9. Organization of the Paper

The paper has five chapters, including the introductory chapter. The second chapter explores the legal basis of the right to housing of PWDs at international, regional and domestic level. It also illuminates the normative content of the right. Chapter three highlights the state's obligation in relation to the right to housing of PWDs. Chapter four assesses the implementation of the right to housing of PWDs in Addis Ababa. It also examines and critically analyses the measures taken by the Addis Ababa City Administration to realize the right to housing of PWDs in the city. The last chapter forwards recommendations in order to improve the implementation conditions aimed at ensuring better living conditions of PWDs and followed by concluding remarks.

²⁹ Mesenbet Assefa, "Defining the Minimum Core Obligations-Conundrums in International Human Rights Law and Lessons from the Constitutional Court of South Africa," *Mekelle University Law Journal* Vol. 1(2010), p.2

³⁰ Ibid.

³¹ Ibid.

2. Chapter Two: The Legal and Policy framework of the Right to Housing of PWDs

“Fair housing is not an option- It is the law”

Carl Harris

Introduction

These days, the right to housing has become one of the most fundamental socio, economic and cultural human rights of every human being. It is the duty of all states to ensure full realization this right for their citizens in general and for vulnerable groups such as PWDs in particular. Human rights instruments, such as the CRPD require state parties to take appropriate legislative, policy, administrative and other measures that conform to international and regional standards to realize the rights to housing of PWDs. States need to put in place disability-specific legislation that will ensure their right to housing. Therefore, this chapter is meant to discuss the laws and policies relating to the right to housing of PWDs at global, regional and domestic level. Furthermore, the chapter also discusses the contents or constituent elements of the right to housing of PWDs.

2.1. Global Human Rights Instruments

International human rights law recognizes everyone’s right to an adequate standard of living, including adequate housing.³²The right to housing was recognized globally for the first time in the UDHR.³³ After the adoption of the UDHR, many other international human rights treaties have recognized the right to housing as human right.³⁴ No less than 12 different texts adopted and proclaimed by the UN explicitly recognize the right to housing.³⁵It was brought into binding international law through Article 11 of the ICESCR.³⁶ The CRC under article 27(3) states that state parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right

³²The Office of High Commissioner for Human Rights, UN- Habitat Fact Sheet Number 21, The Right to Adequate Housing, p, 6.

³³ UDHR, cited above at note 1, Art. 25(1)

³⁴ Dejene Girma, cited above at note 7, p.13

³⁵Raoul Wallenberg Institute of Human Rights and Humanitarian Law, UN Fact Sheet Number 1-25, (4thEd 1996), pp 349-350

³⁶ United Nations Human Settlements Programme (UN-Habitat), The Right to Adequate Housing for Persons with Disabilities Living in Cities- Towards Inclusive Cities, 2015, p. 17

and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.³⁷

Article 14 of CEDAW also requires states to ensure to women in rural areas the right to enjoy adequate living conditions, particularly in relation to housing.³⁸ Moreover, the CERD under article 5(e) (iii) provides that discrimination on grounds listed is prohibited in relation to the right to housing. The CRPD further elaborates the meaning of the right to adequate housing as it pertains to PWDs.³⁹ Most directly the CRPD creates a new benchmark for the realization of the right of PWDs to adequate housing through Article 28 on adequate standard of living and social protection.⁴⁰ The Special Rapporteur on Adequate Housing has emphasized that the right to adequate housing is explained within the CRPD, with its emphasis on non-discrimination and substantive equality, as well as its “unique provisions regarding ‘access to justice’ and ‘national implementation and monitoring’ to ensure that principles of substantive equality are fully implemented through domestic law and policy.”⁴¹

2.2. Regional Human Rights Instruments

Many regional human rights instruments also guarantee the right to adequate housing. Under the Charter of the Organization of American States (OAS), article 31(k), "Member States agree to dedicate every effort to achieve adequate housing for all sectors of the population."⁴² The European Social Charter, the European Convention on Human Rights and Fundamental Freedoms, the European Convention on the Legal Status of Migrant Workers, the Resolution on Shelter for the Homeless in the European Community, and the Final Act of Helsinki all contain express provisions and references to the right to adequate housing.⁴³ The African human rights systems also guarantee to every individual the right to adequate housing. In this sub section more focus will be given to the African human rights system as Ethiopia is a member of it.

³⁷ Convention on the Rights of the Child, cited above at note 4, Art. 27(3)

³⁸ Dejene Girma, cited above at note at note 7, p.13

³⁹ The Right to Adequate Housing for PWDs Living in Cities - Towards Inclusive Cities, cited above at note 36, p. 1

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Circles of Rights, Economic, Social & Cultural Rights Activism: [A Training Resource, Module 13, The Right to Adequate Housing](http://hrlibrary.umn.edu/edumat/IHRIP/circle/modules/module13.htm), available at <http://hrlibrary.umn.edu/edumat/IHRIP/circle/modules/module13.htm>

⁴³ Ibid.

The African Charter on Human and Peoples Rights (herein after ACHPR) has no explicit provision on protection of the right to adequate housing. However, the African Commission in the case *Social and Economic Action Centre and the Centre for Economic and Social Rights v Nigeria* (herein after SERAC) based on the principle of interdependency of rights, interpreted other rights in the Charter to include a right to adequate housing. The Commission adopted the approach of generous and purposive interpretation which led to the development of the doctrine of implicitly guaranteed rights: reading rights which are not expressly recognized by the ACHPR “into” it.⁴⁴ The Commission stated that the right to housing or shelter forms a part of the rights to property, health, and protection of the family, read together, because property, health and family life are all adversely affected when housing is destroyed.⁴⁵ The right to adequate housing, as stated by the African Commission, refers to “the right of every person to gain and sustain a safe and secure home and community in which to live in peace and dignity”, which “includes access to natural and common resources, safe drinking water, energy for cooking, heating, cooling and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services”.⁴⁶

Other than ACHPR, there are various African human rights instruments that provide for the right to housing of all individuals in general and PWDs in particular. The African Children’s Charter provides for children with disabilities right to housing.⁴⁷ The Charter recognizes the need for “special measures of protection” for older persons and persons with disabilities, “in keeping with their physical or moral needs”.⁴⁸ The African Women’s Protocol under Article 16 guarantees women’s right to adequate housing.⁴⁹ It guarantees “equal access to housing and to acceptable living conditions in a healthy environment” for women, and requires that for this right to be

⁴⁴ See Dejene Girma cited above at note 7, p.14

⁴⁵ L. Chenwi, The right to adequate housing in the African regional human rights system: Convergence or Divergence between the African Commission and South African approaches, Law, Democracy and Development, (2013), vol.17, p. 345

⁴⁶ African Commission on Human and People’s Rights, Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples’ Rights (African Commission Principles and Guidelines), adopted in 2010 and formally launched in 2011; at par. 78, available at <http://www.escr-net.org/docs/i/1599552>. (accessed 22 March 2018)

⁴⁷ See L. Chenwi, cited above at note 45, p.346

⁴⁸ Organization of African Union, African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 1981 (entered into force 21 October 1986) Art 18(4)

⁴⁹ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 28 March 2003, (entered into force on 11 July 2003) Art 16 available at <http://www.refworld.org/docid/3f4b139d4.html>. [Accessed 19 April 2018]

effectively realized, states parties have to “grant to women, whatever their marital status, access to adequate housing”.⁵⁰The African Commission has adopted a draft protocol on the rights of PWDs in Africa, intended to complement the ACHPR and address continued exclusion, harmful practices, and discrimination affecting those with disabilities, especially women, children, and the elderly. The Protocol provides that “PWDs have the right to an adequate standard of living for themselves and their families, including adequate food, access to safe drinking water, housing, sanitation and clothing, to the continuous improvement of living conditions and to social protection.”⁵¹

2.3. Domestic Laws and Policies

Numerous national constitutions and ordinary laws of states around the world recognized the right to housing expressly or impliedly. The right to housing holds a central place within the domestic human rights system. It is an important basic human right, “of central importance for the enjoyment of all economic, social and cultural rights”.⁵²In Ethiopian constitutional history, the right to housing has never been explicitly recognized as human right.⁵³ Like its predecessors the 1995 FDRE Constitution does not explicitly recognized the right to housing.⁵⁴ However this does not mean that the right to housing does not exist in the constitution at all. It is recognized implicitly in the constitution and other laws enacted at other levels which impact upon housing. Article 41(3) of the constitution states that “*Every Ethiopian national has the right to equal access to publicly funded social services*” and Article 41 (4) states that “*The State has the obligation to allocate ever increasing resources to provide to the public health, education and other social services*”.

⁵⁰ Ibid

⁵¹ African Commission on Human and People’s Rights, Draft Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa, adopted February 2016 at the 19th Extra-Ordinary session, Art. 16(1), Art.10(2) (g) and Art. 11(2)(b)

⁵² Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23, par 1 & 4 available at: <http://www.refworld.org/docid/47a7079a1.html>. [accessed 20 April 2018]

⁵³ See Dejene Girma, cited above at note 7, p.9

⁵⁴ Ibid.

Dejene Girma tried to locate the right to housing in the constitution in the following manner:

*“ Under article 41(3) and (4), ‘the publicly funded social services’ to which all Ethiopian nationals have the right to equal access and which the government is obligated to provide can be interpreted to include housing services. Article 41(3) does not grant any independent right to housing in particular and to social services in general rather than simply guaranteeing equality of access if there are **publicly funded social services** including housing..”*⁵⁵ The Constitution also sets out the state’s responsibility for the provision of necessary rehabilitation and support services for PWDs.⁵⁶

Ethiopia does not have any specific legislation that recognizes the right to housing explicitly or imposes duty on the government to realize the right to housing or accords protection against violations of the right to housing.⁵⁷ Moreover, Ethiopia does not have specific national housing policy aiming at the realization of the right to housing.⁵⁸ Nevertheless, this does not mean that there are no laws or policies which respond to the housing needs in the country at all; nor does it mean that measures that can respond to the housing problems in the country do not exist at all.⁵⁹

There are very few national coordination policies regarding housing and urban development in Ethiopia.⁶⁰ In 2005 GC, the FDRE Council of Ministers formulated and approved a consolidated Urban Development Policy to link together the small-scale efforts made by regional governments and cities since 2000 GC.⁶¹ The other important policy in relation to housing is the Growth and Transformation Plan (herein after GTP II)⁶² which is the continuation of the GTP I and aimed at improving the overall development of the Ethiopian people. In GTP II, the government targeted to build 150, 000 housing units in Addis Ababa during the five years plan period.⁶³ The document also states that the overall performance of the housing program in GTP I was encouraging especially in benefitting the low and middle income citizens as well as women⁶⁴ but

⁵⁵ Id., p.20

⁵⁶ FDRE Constitution, cited above at note 8, Art. 41(5)

⁵⁷ Dejene Girma, cited above at note 7, p. 23

⁵⁸ Ibid and see also Azeb Kelemework, Housing for the poor in Addis Ababa, cited above at note 23, p. 6

⁵⁹ Dejene Girma, cited above at note 7, p. 23

⁶⁰ United Nations Human Settlements Programme (UN- HABITAT), Condominium Housing in Ethiopia, the Integrated Housing Development Programme, 2011, p. 16

⁶¹ Ibid.

⁶² FDRE National Planning Commission, Growth and Transformation Plan II (2015/16-2019/20), 2016, Preamble

⁶³ Id., p.46

⁶⁴ Ibid.

it does not say anything about PWDs. It also contains big promises that the existing policies and strategies including the housing will be sincerely implemented in line with urbanization direction of the country.⁶⁵ It seems that the plan provides for more effective participation of PWDs in Ethiopian society and embraces a disability perspective but very limited progress has been made on the ground.

There is also a National Plan of Actions for PWDs (hereafter the National Action Plan) which was introduced in 2012.⁶⁶ The plan has been designed in line with the provisions of the CRPD. It is structured with thirteen objectives (also referred to as priority sectors for action) that claim to help Ethiopia to create a fully inclusive society and attain its development needs. Even though it is not sincerely implemented, it was assumed that it will have a role to play in its implementation, promoting a better standard of living and the equal rights and full participation of PWDs in the society.

In relation to accessibility of buildings for PWDs, Ethiopian Building Proclamation No. 624/2009 provides that any public building including residential buildings shall have a means of access suitable for use by physically impaired persons, including those who are obliged to use wheelchairs and those who are able to walk but unable to negotiate steps.⁶⁷ It specifically requires that all new building constructions over four floors to have elevators, in addition to accessible toilets - a first step in the direction of greater accessibility.

2.4. Content of the right to housing of PWDs

In its general comment No. 5 (1994), the UN Committee on ESCRs reaffirmed that the right to adequate housing includes accessibility for PWDs.⁶⁸ It is also stated that housing must provide adequate shelter, which means adequate privacy, space, security, lighting and ventilation, basic infrastructure and location with regard to work and basic facilities, all at a reasonable cost.⁶⁹ The Special Rapporteur on Adequate Housing has emphasized that the right to adequate housing is explained within the CRPD, with its emphasis on non-discrimination and substantive equality, as

⁶⁵ Id., p.99

⁶⁶ Ministry of Labour and Social Affairs, National Plan of Action of Persons with Disabilities, 2012, p. 1

⁶⁷ Ethiopian Building Proclamation, cited above at note 16, Article 36(1)

⁶⁸ Committee on ESCR, General Comment No. 5: Persons with Disabilities, E/1995/22, 9 December 1994, par.1 & 7, available at: <http://www.refworld.org/docid/4538838f0.html>. [accessed 16 May 2018]

⁶⁹ General Comment 4, Cited above at note 52, par 7 & Australian Government, Attorney General Department, Right to an adequate standard of living, including Food, Water and Housing, Available at <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Righttoanadequatestandardoflivingincludi>

well as its “unique provisions regarding ‘access to justice’ and ‘national implementation and monitoring’ to ensure that principles of substantive equality are fully implemented through domestic law and policy.”⁷⁰ General comment No. 4 to the CRPD provides that PWDs must be accorded full and sustainable access to adequate housing resources, and that housing law and policy should take into account their special needs.

As opposed to merely having a roof over one’s head, the right to adequate shelter should be construed to include a place to live that is guaranteed peace, security and dignity.⁷¹ At least, PWDs should not be deprived of the minimum core content of the right to housing. The Committee on ESCRs has defined the minimum core obligations of SERs as at least the minimum essential levels of each of the rights.⁷² The obligation to realize the minimum core content of the right to housing means that the state should prioritize the realization of the right for the poorest and most vulnerable in society such as PWDs & it does not remove the obligation to progressively realize the rights for all individuals.⁷³ For example the obligation *to take steps* (legislative, policy, institutional or whatever) and treating PWDs equally and avoiding discrimination are minimum core obligations of the government. The minimum core of the right should always be fulfilled completely. If the state has failed to realize these minimum essential levels of the right to housing, it will immediately amounts to violation of the right and resource unavailability is not a justification for its infringement.

The Committee on ESCRs has also defined seven aspects of this right:⁷⁴ legal security of tenure, availability of services, materials, facilities, and infrastructure; affordability, habitability, accessibility, location and cultural adequacy.⁷⁵ Greater attention needs to be paid to ensure PWDs can access housing that is adequate in each of these aspects. The CRPD has given further depth

⁷⁰ L. Farha, “[Report of the Special Rapporteur on Adequate Housing](https://www.google.com/search?source=hp&ei=tbZWpuuFair6ATIjLqODQ&q=Farha%2C+L.+%282014%29.+%E2%80%9CReport+of+the+Special+Rapporteur+on+Adequate+Housing%E2%80%9D+A%2F69%2F274%2C++p+12%2C+para+46&oq=Farha%2C+L.+%282014%29.+%E2%80%9CReport+of+the+Special+Rapporteur+on+Adequate+Housing%E2%80%9D+A%2F69%2F274%2C++p+12%2C+para+46&gs_l=psy-ab.3...2640.0.3296.3.2.0.0.0.410.410.4-1.2.0...0...1c.2.64.psy-ab..1.1.500.6..35i39k1.500.wJows4dh5eE)” A/69/274, 2014, p 11-12, para. 46, available at https://www.google.com/search?source=hp&ei=tbZWpuuFair6ATIjLqODQ&q=Farha%2C+L.+%282014%29.+%E2%80%9CReport+of+the+Special+Rapporteur+on+Adequate+Housing%E2%80%9D+A%2F69%2F274%2C++p+12%2C+para+46&oq=Farha%2C+L.+%282014%29.+%E2%80%9CReport+of+the+Special+Rapporteur+on+Adequate+Housing%E2%80%9D+A%2F69%2F274%2C++p+12%2C+para+46&gs_l=psy-ab.3...2640.0.3296.3.2.0.0.0.410.410.4-1.2.0...0...1c.2.64.psy-ab..1.1.500.6..35i39k1.500.wJows4dh5eE. [Accessed 19 April 2018]

⁷¹ General Comment no. 4, cited above at note 52, par.7 & the Commission on Human Settlements and the Global Strategy for shelter for the year 2000 also stated that adequate shelter means, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work: and basic facilities all at a reasonable cost.

⁷² General Comment no. 3, cited below at note 100, par.7

⁷³ *Id.*, par. 11

⁷⁴ General Comment no. 4, cited above at note 52, par. 8

⁷⁵ *Ibid.*

to each of those seven aspects and articulated considerations that need to be addressed to ensure persons with disabilities can enjoy this right on an equal basis with others. The Special Rapporteur on adequate housing has also underlined not only that housing should be physically and economically accessible to PWDs, but that they should be able to effectively participate in the life of the community where they live.

There are eight founding general principles of the CRPD and are also components of the right to adequate housing.⁷⁶ They provide guidance to states and other actors in interpreting and implementing all rights in the convention including the right to housing.

i. Social welfare

The right to social protection is enshrined under Article 28 of the CRPD which recognizes the “right of PWDs to social protection and to the enjoyment of that right without discrimination on the basis of disability.”⁷⁷ Article 11 of the ICESCR recognizes the right to adequate housing as a component of the right to an adequate standard of living.⁷⁸ Both CRPD and ICESCR oblige states parties (1) to take appropriate safeguards; (2) to promote the realization of the right without discrimination on the basis of disability and (3) to take measures to promote the realization of this right. In particular, this includes ensuring access by PWDs to public housing programmes (Article 28 (2) (d)). Therefore, disability inclusive social protection programmes shall be designed to alleviate the additional cost of the barriers faced by PWDs.

ii. Principle of non-discrimination

Statements in the preamble of the CRPD address the type of discrimination that PWDs face, the importance of non-discrimination and the interrelatedness of all human rights.⁷⁹ Member states to the CRPD also recognized the importance of ensuring that PWDs, on the basis of equality and non discrimination with non disabled persons, fully enjoy the benefits of the rule of law. Article 5 reflects the fact that equality for PWDs requires more than prohibition of discrimination⁸⁰ and indicates that states parties have to “take all appropriate steps to ensure that reasonable accommodation is provided.” A reasonable accommodation is an adjustment made on a house to

⁷⁶ Convention on the Rights of Persons with Disabilities, cited above at note 5, Art. 3

⁷⁷ Id., Article 28.

⁷⁸ International Covenant on Economic, Social and Cultural Rights, cited above at note 2, Art. 11

⁷⁹ Convention on the Rights of Persons with Disabilities, cited above at note 5, Preamble (c) (h) and (n)

⁸⁰ L. Waddington & A. Broderick, Promoting equality and non discrimination for Perso

accommodate or make fair the house for PWDs.⁸¹Refusal to make reasonable accommodation constitutes discrimination under Article 2 and 5 of CRPD.⁸²The CRPD Committee noted that reasonable accommodation requests is not limited to residential houses and it could include access to essential buildings (banks, courts, voting venues), accessible information, or personal assistance.⁸³

iii. Equal recognition before the law

PWDs must be treated in an equal manner to others when taking part in a court case, and judges should not apply the law arbitrarily to PWDs.⁸⁴The requirements of “equality under the law” and “equal protection of the law” require states to ensure that national legislation does not contain discriminatory provisions with respect to PWDs – in other words, the same rules which allow access to court for persons without disabilities should apply to PWDs.⁸⁵The CRPD addressed equal recognition before the law in Article 5 (Equality and non-discrimination) and Article 12 (Equal recognition before the law).⁸⁶ Article 12 expands the statement on non-discrimination, first by establishing the legal personhood of PWDs⁸⁷ and by obliging states parties to recognize that “PWDs enjoy legal capacity on an equal basis with others in all aspects of life.”⁸⁸The enjoyment of legal capacity includes both the capacity to hold rights as well as the capacity to act on those rights.

iv. Principle of full and effective participation

It is necessary to ensure that PWDs are active participants at national level in the formulation and implementation of national development plans. The need to ensure meaningful participation is a recurring theme in the CRPD. In the preamble, states parties expressed the consideration that PWDs should have the opportunity to be actively involved in decision making processes regarding policies and programmes.⁸⁹ Meaningful and effective participation of PWDs must be a

⁸¹ Convention on the Rights of Persons with Disabilities, cited above at note 5, Art. 2 of CRPD and See also https://en.wikipedia.org/wiki/Reasonable_accommodation

⁸² Ibid.

⁸³ Committee on the Rights of Persons with Disabilities, General comment 1: Equal recognition before the Law, 11 April 2014, CRPD/C/GC/1, par. 34, available at: <http://www.refworld.org/docid/55d332b44.html>. [accessed 20 April 2018]

⁸⁴ L. Waddington & A. Broderick, cited above at note 80, p.9

⁸⁵ Ibid.

⁸⁶ Convention on the Rights of Persons with Disabilities, cited above at note 5, Art. 5(1) and Article 12

⁸⁷ Id., Article 12(1)

⁸⁸ Id., Article 12(2)

⁸⁹ Convention on the Rights of Persons with Disabilities, cited above at note 5, Preamb

key component of any social protection system. Further, states parties have an obligation to “closely consult with and actively involve” PWDs and their representative organizations in “the development and implementation of legislation and policies to implement the CRDP” and in other decision-making processes, including national implementation and monitoring.⁹⁰

v. Access to information

CRPD recognizes that civil and political rights, such as freedom of expression and the right to information are a vital precondition in order for PWDs to achieve their rights and overcome histories of exclusion. To make choices about housing, PWDs need access to information. While access to information usually refers to information already held by a public body, the CRPD goes further than this and makes statistical reporting on disability a human rights treaty obligation. Thus, under the CRPD, states are required to generate statistics on issues relevant to the implementation of laws on disability. The CRPD has recognized the right of access to information in several of its articles such as Article 2 and 21. Article 2 provides open-ended definitions of the terms “communication” and “language,” emphasizing a wide range of means and formats of communication (tactile, augmentative, and alternative modes) and language (spoken, signed and “other forms of non-spoken languages.”⁹¹ In addition, Article 21 establishes an obligation for states parties to ensure that PWDs “can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention.”⁹² To challenge their exclusion from housing, PWDs need to have information about the government policies and its implementation that contributes to exclusion.

vi. Principle of equality of opportunity

Ensuring equal opportunities for PWDs is an important facilitator of participation and inclusion in society. Equal opportunity connotes that PWDs shall be treated equally or similarly and not disadvantaged by prejudices or bias. It provides for equal chances, but not necessarily equal results. It is one of the principles of the CRPD.⁹³ It sits between access to information and

⁹⁰Id., Article 4 (3), Article 19(c), Article 29, Article 30, Article 32, and Article 33(3)

⁹¹ Id., Article 2

⁹² Id., Article 21

⁹³ Id., Article 3(e)

freedom to make choices. As stated in the preamble of the CRPD, access to information in appropriate formats is a prerequisite for ensuring that one has access to the same opportunities as everyone else to allow one to make choices.⁹⁴

vii. Right to live independently and in the community

The right to live independently and to be included in the community emanates from the core human rights principle that all humans are born equal in dignity and rights.⁹⁵ The right to live independently and be included in the community is guaranteed by Article 19 of the CRPD. PWDs must have the opportunity to live independently in the community and to make choices and to have control over their everyday lives, on an equal basis with others.”⁹⁶ Although various definitions of independent living have been developed by disabled people and their organizations, they encompass two common elements.⁹⁷ The first is the understanding of independent living as being able to make decisions about one’s life. The second is the link to inclusion in the community, which requires the provision of services and support to enable disabled people to participate in the community. The CRPD Committee determined that the community-based approach provides the best solution for supporting the exercising of legal capacity, supported decision-making and raising awareness about the right to adequate housing, including the right to different support services.⁹⁸

viii. Right to accessible housing

For PWDs accessible housing is very important. This is because these individuals generally spend more time in their homes and face challenges looking after and maintaining them. Houses that create barriers with structure, layout and even placement of furniture can put people with disability at risk of injury and result in premature loss of independence and associated health problems. Accessibility is a precondition for the enjoyment of all human rights,⁹⁹ and is one of the general principles guiding the CRPD.¹⁰⁰ Article 9 of the Convention sets forth binding obligations with respect to accessibility and explicitly links accessibility as a precondition to live

⁹⁴ Id., Article 55 (o)

⁹⁵ See Thematic study on the right of persons with disabilities to live independently and to be included in the community available at <http://www.ohchr.org/EN/Issues/Disability/Pages/LiveIndependently.aspx> [accessed on April 7, 2018]

⁹⁶ General comment 1, cited above at note 83, par.44

⁹⁷ See <http://enil.eu/news/european-disability-movement-agrees-definition-of-independent-living/> and <http://www.independentliving.org/indexen.html> 10 Consult [accessed on April 7, 2018]

⁹⁸ General comment 1, cited above at note 83, par.45

⁹⁹ Convention on the Rights of Persons with Disabilities, cited above at note 5, Preamble (v)

¹⁰⁰ Id., Article 3(f)

independently and participate in all aspects of life. States parties are thus obliged to take measures to ensure access to the physical environment, to transportation, to information and communications, and to other facilities open to or provided to the public, both in urban and in rural areas.

3. Chapter Three: The obligation of the government in relation to the right to housing of PWDs

“We should measure welfare’s success by how many people leave welfare, not by how many are added.”

Ronald Reagan

Introduction

States have four human rights obligations towards their citizens. These are the obligation to respect, protect, fulfil and promote which also apply to the right to housing. The obligation to **respect** requires states to refrain from *interfering* directly or indirectly with the enjoyment of the right to housing.¹⁰¹ The obligation to **protect** requires states to take measures that *prevent third parties* from interfering with the right to housing.¹⁰² The obligation to **fulfill** requires states to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to housing.¹⁰³ Each of the obligations contains elements of obligation of conduct and obligation of result.¹⁰⁴ The obligation of conduct requires action reasonably calculated to realize the enjoyment of a particular right.¹⁰⁵ In the case of the right to housing, for example, the obligation of conduct could involve the adoption and implementation of a plan of action to build accessible housing for PWDs. The obligation of result requires states to achieve specific targets to satisfy a detailed substantive standard.¹⁰⁶ With respect to the right to housing, for example, the obligation of result requires increasing the number of PWDs who become house owners. Therefore, this chapter tries to highlight state’s obligation in relation to housing with particular emphasis on PWDs. It explains the immediate obligation and progressive realization of the right to housing. Furthermore, it has also included best experiences of other countries in implementing the right to housing of PWDs.

¹⁰¹The Office of High Commissioner for Human Rights, UN- Habitat Fact Sheet Number 21. The Right to Adequate Housing, p, 33

¹⁰²Ibid.

¹⁰³Ibid.

¹⁰⁴Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, 22-26 January 1997, par. 7

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

3.1. Obligations of Immediate Effect

The essential elements of the state's obligation to implement all ESC rights (including the right to adequate housing) are encapsulated under article 2(1) of the ICESCR. It is noteworthy that SERs are subject to progressive realization in that the state is not obliged to fulfill them immediately.¹⁰⁷ The right to housing is one of the SERs and hence; it implies that states should work progressively in order to fully realize it. However this does not mean that there are no immediate obligations of states in relation to the right housing. In an effort to expeditiously realize SERs (including the right to housing), the standard of progressive realization requires the states to immediately take *deliberate, concrete and targeted* steps aimed at and capable of fully realizing SERs.¹⁰⁸ Regardless of the state development of any country, there are certain steps which must be taken immediately¹⁰⁹ such as non-discrimination;¹¹⁰ an obligation to take steps and an obligation to realize the minimum core content of substantive SERs.¹¹¹ The minimum core content implies a "floor" below which no government can go regardless of the economic situation in a country. The minimum core is a response to people's urgent need and it is a question of keeping people alive. It requires states to ensure the satisfaction of, at the very least, the bare minimum essential level of the right. For example, one element of the core content of the right to housing would be legal security of tenure. The minimum core content would provide that no one can be legally evicted from his or her home without due process of law or adequate compensation. Therefore, states are not allowed to justify their failure to fulfill the minimum core.

Many of the measures required to promote the right to housing would only require the abstention by the government from certain practices and a commitment to facilitating "self-help" by

¹⁰⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), E/1991/23, 14 December, par.9 available at: <http://www.refworld.org/docid/4538838e10.html>. [accessed 20 April 2018]

¹⁰⁸ *Id.*, par. 2& 4

¹⁰⁹ General Comment 4, cited above at note 52, par.10

¹¹⁰ Committee on Economic, Social and Cultural Rights, General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/20, 2 July 2009, par.7, which provides that "non discrimination is an immediate and cross-cutting obligation in the covenant", available at: <http://www.refworld.org/docid/4a60961f2.html>. [accessed 20 April 2018]

¹¹¹ Limburg Principles on the interpretation of the International Covenant on economic, social and cultural rights, 9 Human Rights Quarterly, UN Doc. E/CN.4/1987/17, 1987 p. 121- 135, principle 25, which provides that "State Parties are obligated, regardless of the level of economic development, to ensure respect for minimum subsistence rights for all."

affected groups.¹¹² States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.¹¹³ Avoiding discrimination and effective monitoring of the situation with respect to housing is another obligation of immediate effect.¹¹⁴ For a state party to satisfy its obligations under article 11 (1) it must demonstrate that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction.¹¹⁵ In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need to “provide detailed information about those groups within the society that are vulnerable and disadvantaged with regard to housing”.¹¹⁶ In relation to the right to housing of PWDs the obligation ‘to provide reasonable accommodation is immediately applicable and not subject to progressive realization’.¹¹⁷ A reasonable accommodation is a necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to PWDs the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms including the right to housing.¹¹⁸

3.2. Obligations of Progressive Realization

The standard of progressive realization was adopted as a flexibility device which acknowledges that the full realization of SERs cannot be achieved in a short period of time due to the realities of the world and the difficulties, in terms of human and financial resources, faced by most

¹¹² General Comment 4, cited above at note 52, par.10

¹¹³ Id., par.13

¹¹⁴ Ibid. & see also General Comment No 20, cited above at note 110

¹¹⁵ General Comment 4, cited above at note 52, par.13

¹¹⁶ Ibid.

¹¹⁷ European Disability Forum, EDF input to the UN CRPD Committee’s General Comment on Equality and Non-discrimination (Article 5 CRPD), p.4 available at https://www.google.com/search?source=hp&ei=IabxWra5Jsj-sQH_kofAAg&q=In+relation+to+the+right+to+housing+of+PWDs+the+obligation+%E2%80%98to+provide+reasonable+accommodation+is+immediately+applicable+and+not+subject+to+progressive+realization%E2%80%99.+&oeq=In+relation+to+the+right+to+housing+of+PWDs+the+obligation+%E2%80%98to+provide+reasonable+accommodation+is+immediately+applicable+and+not+subject+to+progressive+realization%E2%80%99.+&gs_l=psy-ab_3...8596.8596.0.9496.3.2.0.0.0.0.0.1.0....0...1.2.64.psy-ab..2.1.258.6..35i39k1.258.uHUholtj3yU. [Accessed on 08/05/2018]

¹¹⁸ Convention on the Rights of Persons with Disabilities, cited above at note 5, Art 2 of CRPD and See also https://en.wikipedia.org/wiki/Reasonable_accommodation

developing countries.¹¹⁹The word ‘progressive’ entails two complementary obligations: "the obligation to continuously improve conditions, and the obligation to abstain from taking deliberately retrogressive measures except under specific circumstances".¹²⁰This obligation is a central aspect of states’ obligations in connection with SERs under international human rights treaties. The right to adequate housing as a right contained within the ICESCR is subject to progressive realization. States parties are obliged “to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources” towards the realization of the right.¹²¹The CRPD notes that states parties are obliged to use “the maximum available resources” with a view to “achieving progressively” the full realization of “economic, social and cultural rights.”¹²²Retrogressive measures are not permissible, unless a state can demonstrate that it has made every effort to use all resources at its disposal to meet its obligation.¹²³

3.3. Best experiences of other countries in implementing the right to housing of PWDs

In Saudi Arabia PWDs are given preferential treatment in the allocation of housing grants.¹²⁴ They are exempted from the minimum age requirement (18 years) for housing grants and are accorded priority in the allocation of such grants.¹²⁵ The Kuwait government has established ‘*Housing Fund System*’ to support women with disabilities.¹²⁶ The funding system sets easy terms for women with disabilities to obtain housing so that no Kuwaiti woman with disability is denied the right to a home, regardless of domestic or social situation or age.¹²⁷ Several social services information including housing services is provided with priority for PWDs.¹²⁸ Similar to the funding system in Kuwait, in Great Britain several funding programmes are designed and

¹¹⁹ M. Sepulveda, The Nature of Obligations under the International Covenant on Economic, Social and Cultural Rights, 2003, p. 312

¹²⁰ Ibid.

¹²¹ See United Nations Human Settlements Programme (UN-Habitat), cited above at note 32, p. 3 and See also International Covenant on economic social Cultural Rights, cited above at note 2, Art. 2.1

¹²² Convention on the Rights of Persons with Disabilities, cited above at note 5, Art. 4(2)

¹²³ Office of the High Commissioner for Human Rights, Fact sheet 31, available at <http://www.ohchr.org/Documents/>

¹²⁴ Committee on the Rights of Persons with Disabilities, Consideration of reports submitted by States parties under article 35 of the Convention, Initial report: Saudi Arabia, CRPD/C/SAU/1, November 2015, p. 129. Par. 29

¹²⁵ Ibid.

¹²⁶ Committee on the Rights of Persons with Disabilities, Consideration of reports submitted by States parties under article 35 of the Convention, Initial report: Kuwait, CRPD/C/KWT/1, October 2017, p. 12. Par. 45

¹²⁷ Ibid.

¹²⁸ Id., p. 19. Par. 79

implemented to solve housing problem of PWDs. One among the programmes of housing-related support services is known as *Supporting People* – enable PWDs to live independently in their own homes.¹²⁹ These services work with individuals to help them gain the skills needed to live independently. The other programme is the Disabled Facilities Grant (herein after DFG) is a mandatory grant that helps to fund provision of adaptations that enable PWDs to live as comfortably and independently as possible.¹³⁰ The Welsh government has delivered continuous improvements through a system called ‘*Pathways to Adapted Housing*’. This scheme is one of the many operated by local authorities in Wales, and is a disability housing register that aims to match disabled people to existing vacant homes with suitable facilities.¹³¹

The Ethiopian government can draw inspiration from the experience of the above mentioned countries such as by facilitating special funding system, reduce the money saving for housing and arrange priority rights of kebele houses for PWDs in Addis Ababa. Since these experiences do not require big investments, poor countries like Ethiopia can take the experiences of these countries. The experience of *Housing Fund System* to support women with disabilities from Kuwait can be arranged in Addis Ababa by setting easy terms for women with disabilities so that they can get home faster than the other population. The *Supporting People System* from UK which is a system of helping PWDs to gain the skills to live independently can also be taken by Addis Ababa City Administration as a good experience. The experience of ‘*Pathways to Adapted Housing*’ which aims at matching PWDs to existing vacant comfortable homes can also be adapted in Addis Ababa. The later experience has been taken by the Addis Ababa Housing Administration and Development Agency since 2007 EC. As a result PWDs who won condominium house above the 2nd floor of the building were changed to vacant ground houses. It is also possible to arrange priority rights of kebele houses for PWDs.

¹²⁹Committee on the Rights of Persons with Disabilities, Consideration of reports submitted by States parties under article 35 of the Convention, Initial report: United Kingdom of Great Britain and Northern Ireland, [CRPD/C/GBR/1](#), July 2013, p. 31. Par. 181

¹³⁰ Ibid.

¹³¹Id., p. 9. Par. 35

4. Chapter Four: Implementation of the Right to Housing of PWDs in Addis Ababa

“No law can be better than its implementation, and can be no better than resources permit.”¹³²

Monrad Paulsen

Introduction

For PWDs, choosing where and with whom to live, being part of a community and having access to adequate and accessible housing are central to a life of dignity, autonomy, participation, inclusion, equality and respect for diversity.¹³³ They need proper housing and dwelling as most of them are housebound and better housing can promote rehabilitation for them. However it is one of the serious problems faced by PWDs in Ethiopia in general and in Addis Ababa in particular. The Ethiopian government has the obligation to respect, protect and fulfill the right to housing of its citizens including PWDs under international, regional and domestic laws.¹³⁴ In relation to this specific right, the government has the duty to prioritize housing allocation for the vulnerable and marginalized groups including PWDs and to ensure equality in “access to land, adequate housing or shelter and to acceptable living conditions in a healthy environment”, giving special attention to “ensuring fair and equitable inheritance of land and rights in housing”.¹³⁵ The obligation to ensure equal access to housing and land for PWDs includes the obligation to take measures to avoid factors that prevent PWDs from enjoying their right to housing.¹³⁶ Specifically under the CRPD, Ethiopia has a duty to ensure that PWDs right to adequate housing is respected, protected, promoted and fulfilled.¹³⁷ This chapter, will therefore, assess the measures taken and efforts made by the government to realize the right to adequate housing of PWDs in Addis Ababa in light of its duty under international, regional and domestic laws. Moreover factors that contributed for the weak implementation of the right and

¹³² See, “The Law and Abused Children” in *The Battered Child*, (University of Chicago Press, (1974), quoted in *The Ideologies of Children’s Rights*, M. Freeman and P. Vierman eds. (Martins Nig. Roff Publishers), 1992 at p.41.

¹³³ UN General Assembly, Adequate Housing as a component of the right to an adequate standard of living, and the right to non- discrimination in this context. P.4. 12 July 2017, A/72/128

¹³⁴ The Maastricht Guideline, cited above at note 96, par. 6 and See also S. Leckie, “The right to housing”, 1995, p. 107

¹³⁵ African Commission Principles and Guidelines, cited above at note 46, par. 79 (xiv-xviii), Even in the allocation of resources, the essential needs of vulnerable and marginalized groups must be prioritized, par. 14

¹³⁶ *Id.*, par. 55(viii)

¹³⁷ Convention on the Rights of Persons with Disabilities, cited above at note 5, Art. 28

the specific rights of PWDs violated within the right to housing will also be discussed in this chapter.

4.1. Assessment of the Implementation of the Right to Housing of PWDs in Addis Ababa

4.1.1. Policy and Legislative Measures

For the purposes of realizing the right to housing, the existence of legislation specifically meant to deal with housing issues is in many instances highly desirable and sometimes indispensable.¹³⁸ Such legislation creates conducive environment for the enjoyment of the right to housing such as by prohibiting arbitrary evictions by both the state and private persons.¹³⁹ To ensure adequate standard of living of PWDs, the government has taken some policy measures. Ethiopia has signed the CRPD on 30 March 2007 and ratified in July 2010¹⁴⁰ which is a significant step towards realizing the rights of PWDs in the country. The other essential tool adopted to improve the life of the communities in general and PWDs in particular is the GTP which is aimed at transforming of the entire society in all aspect of life.¹⁴¹ So far, the GTP has been implemented in two phases, each with five year plan. Both GTP I (2010/11-2014/15) and GTP II (2015/16-2019/20) have identified PWDs as a group that needs focus.¹⁴² In order to facilitate the implementation of the GTP, the government has developed the Ethiopian ten-year National Plan of Action (herein after NPA) of PWDs issued in 2012.¹⁴³ In this document, it is stated that “The NPA is based on a vision of a fully inclusive Ethiopian society, where children, youth and adults with disabilities, regardless of gender or kind of disability, as well as their parents and families, enjoy the same rights to participate in the same civil, political, economic, social and cultural spheres and to access the same medical, educational, social services, training, work and leisure opportunities enjoyed by other nationalities.¹⁴⁴ In such an inclusive society, PWDs are accepted, their abilities are valued, their diversity and independence are recognized, their human rights are

¹³⁸Dejene Girma, cited above at note 7, p. 24

¹³⁹ Ibid.

¹⁴⁰ N. Gloce, B. Murray & A. Kealy, Disabled Beggars in Addis Ababa: Current Situation and Prospects for Change, 2014, p.24

¹⁴¹ Committee on the Rights of Persons with Disabilities, Consideration of reports submitted by States parties under article 35 of the Convention, Initial report: Ethiopia, CRPD/C/ETH/1, March 2015, p. 35. Par. 121

¹⁴² Ministry of Finance and Economic Development, Growth and Transformation Plan I (GTP I) 2010/11-2014/15, September 2010, p.73 and National Planning Commission, Growth and Transformation Plan II (GTP II) 2015/16-2019/20, May 2016, p.70, 216 & 228

¹⁴³ See Initial report: Ethiopia, 2015, cited above at note 141, p.34, par.122

¹⁴⁴ Ibid.

protected, and they participate actively in the life and development of their communities and the nation”.¹⁴⁵The Addis Ababa City Administration Bureau of Labour & Social Affairs has been working to improve access to housing for PWDs in the city.¹⁴⁶ PWDs Development and Change Package was prepared in 2008 EC to facilitate proper implementations of all rights (including the right to housing) of PWDs in the city.¹⁴⁷ In the document, the task of each governmental organization in the city is provided and the mandate of following the implementation of the right to housing of PWDs is given for Addis Ababa Housing development and Administration Agency (herein after the Agency).¹⁴⁸Despite this effort, housing problem remains a challenge for PWDs in Addis Ababa.

4.1.2. Practical Implementation Measures

4.1.2.1. Condominium housing quota and rent of kebele housing for PWDs

The right to housing is a cross-cutting issue for PWDs.¹⁴⁹If PWDs do not have adequate housing, then their ability to enjoy other rights such as inclusive education, health care, employment, and social protection is significantly compromised.¹⁵⁰ Addis Ababa City Administration has launched the condominium housing project in 2003 GC and the city has transferred 172,000 houses since 2005 GC.¹⁵¹ The housing program is designed to address the rampant housing need within the city. By taking into consideration the challenges faced by PWDs, the agency has prepared a directive in which PWDs will get 5% from each round of house distribution starting from the 10th round in 2007 EC.¹⁵²In the directive vulnerable groups such women and civil servants are given 30% and 20% respectively.¹⁵³From total 100% houses distributed in each round, women with disabilities will get 5% from the 30% allotted for women, civil servants with disabilities

¹⁴⁵ Ibid.

¹⁴⁶ Interview with w/rit Ayehu Demeke, Vocational Training, Support & Monitoring Team Leader at Addis Ababa City Government Bureau of Labour& Social Affairs, March 16, 2018

¹⁴⁷ Ibid.

¹⁴⁸ Addis Ababa City Government Bureau of Labour& Social Affairs, PWDs Development and Change Package, 2008, p.56

¹⁴⁹The Right to Adequate Housing for PWDs Living in Cities - Towards Inclusive Cities, cited above at note 32, p. xii

¹⁵⁰ Ibid.

¹⁵¹Interview with Ato Beyene Melese, Residential Housing Study, Data and Administration Directorate Director at City Administration of Addis Ababa Housing Development Agency, March 22, 2018

¹⁵² Condominium houses transferring Directive in the Addis Ababa City Administration, Directive no 1/2008, Condominium houses transferring (amendment) Directive in the Addis Ababa City Administration, Directive No 2/2009

¹⁵³ Id., Article 16(i)

will get 5% from 20% allotted for civil servants and PWDs out of the two vulnerable groups will get 5% from the rest 50%.¹⁵⁴Based on this, around 2147 PWD beneficiaries applied for housing and among this 392 in the 10th round and 948 in the 11th round become house owners.¹⁵⁵ The following two tables show the details of PWDs who become house owners in the 10th and 11th round 20/80 condominium house distribution in 2007 EC and 2009 EC respectively.

No	House Type	Civil Servant	Employees in Private Organizations	NGO employees	Private Work	House Wife	Pension	others	Total
1	Studio	28	8	4	76	3	5	3	127
2	One bed room	59	13	14	51	4	4	7	152
3	Two bed rooms	35	1	4	26	1	3	1	71
4	Three bed rooms	4	0	7	25	0	5	1	42
5	Self design	0	0	0	0	0	0	0	0
Total		126	22	29	178	8	17	12	392

Source: Annual report of City Government of Addis Ababa Housing Administration Agency, 2007

In the 10th round 20/80 condominium house distribution, a total of 34,545 houses were transferred for the beneficiaries.¹⁵⁶5% of the total houses transferred in this round would be 1727 houses. However as it is shown in the above table, the number of PWDs beneficiaries covered by this round was 392. This figure shows that only 1.13% of the 5% houses were transferred for PWDs.

¹⁵⁴Ibid.

¹⁵⁵ Interview with Ato Kumsa Tola, Information Communication Technology Service Directorate Director at City Administration of Addis Ababa Housing Development Agency, March 22, 2018

¹⁵⁶ Interview with W/ro HanaMariam Damte, System Administrator Expert IV at City Administration of Addis Ababa Housing Development Agency, March 22, 2018

No	House Type	Civil Servant	Employees in Private Organizations	NGO employees	Private work	House wife	Pension	Others	Total
1	Studio	27	42	32	384	7	19	34	545
2	One bed room	45	30	33	117	6	17	3	251
3	Two bed rooms	31	13	26	50	4	8	8	140
4	Three bed rooms	1	3	1	5	1	1	0	12
5	Self design	0	0	0	0	0	0	0	0
Total		104	88	92	556	18	45	45	948

Source: Annual report of City Government of Addis Ababa Housing Administration Agency of 2009

In the 11th round 20/80 condominium house distribution, a total of 30, 725 houses were transferred for the beneficiaries.¹⁵⁷ 5% of the total houses transferred in this round that was supposed to be transferred for PWDs were 1536 houses. However as it is shown in the above table, only 948 houses were transferred for PWDs beneficiaries. This is only 3.08% out of the 5% total houses were transferred for PWDs. In the 10/90 and 40/60 condominium housing program PWDs were not considered at all.¹⁵⁸

The agency in addition to administering condominium houses, it has also a mandate of renting, controlling and administrating kebele houses in the city.¹⁵⁹ Kebele rental housing comprises nearly a quarter (23%) of the housing stock of the city.¹⁶⁰ These houses are inhabited by over 150,000 families and this translates into roughly 850,000 residents.¹⁶¹ The Kebele Housing Administration Directive, which provides about the conditions in which kebele houses can be rented, does not specifically mention PWDs but they are included through broad interpretation of Article 9 of the directive.¹⁶² Sub (c) of this article provides that city residents who are displaced

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ City Government of Addis Ababa Housing Development and Administration Bureau Governmental Housing Administration Directive no 4/2009

¹⁶⁰ Ashna S. Mathema, Housing in Addis, 2004, P.17 available at https://www.researchgate.net/publication/282860107_Ethiopia_-_Housing_in_Addis.

¹⁶¹ Ibid.

¹⁶² Interview with Ato Yidenekachew Walegn , Head of City Government of Addis Ababa Housing Development and Administration Bureau, April 24, 2018

from their home for developmental purposes and those who are victims of man-made or natural disasters shall have priority right to get free or open kebele houses in order of their application.¹⁶³The same article under sub (d) states that notwithstanding sub (c) of this provision, after providing the houses for priority right holders under sub (c), the rest of the houses shall be transferred to those who are homeless due to their health problem, elderly and lack of capacity by investigating through a Committee.¹⁶⁴ It is through broad interpretation of this sub- article that the agency is renting kebele houses for PWDs.¹⁶⁵It is not clear under which group (health problem or lack of capacity or both) PWDs can be categorized. The agency does not have a trend of recording the number of PWDs who are beneficiaries of kebele houses but on average 20-30 PWDs get these houses every year.¹⁶⁶

In addition to the provision of housing, United Nations Human Settlements Programme (UN-HABITAT) suggested indicators to monitor the realization of the human right to adequate housing.¹⁶⁷These indicators are adequacy of housing (seven aspects of the right to housing), scale and scope of forced evictions and homelessness, the right to non- discrimination and equality (See section 4.2.2); national legal protections and acceptance of international standards (See Chapter two).¹⁶⁸These indicators are important tools to evaluate implementation of the right to housing by states. The following part assesses the activities and omission of the City Administration in relation to PWDs housing in terms of these indicators in holistic manner as they are not mutually exclusive.

4.1.2.2. Adequacy of housing

a. Legal security of tenure

Security of tenure is a central component of the right to adequate housing¹⁶⁹ and one of the principal means by which the right can be effectively implemented. Human rights law mandates

¹⁶³Governmental Housing Administration Directive no 4/2009, cited at note 159, Article 9 (c)

¹⁶⁴Id., Article 9(d)

¹⁶⁵ Interview with Ato Yidenekachew Walelegn , Head of City Government of Addis Ababa Housing Development and Administration Bureau, April 24, 2018

¹⁶⁶ Ibid.

¹⁶⁷United Nations Human Settlements Program and the Office of the United Nations High Commission for Human Rights, Monitoring Human Rights; Developing a Set o f Indicators to monitor the full and progressive realization of the human right to adequate housing, <http://www.unhabitat.org/unlup/pub>>. [last accessed on 02/07/2018]

¹⁶⁸ Ibid.

¹⁶⁹ See <http://www.ohchr.org/EN/Issues/Housing/Pages/StudyOnSecurityOfTenure.asp>

that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.¹⁷⁰ States are required to ensure that all members of society, regardless of property or socio-economic status, enjoy security of tenure on the basis of nondiscrimination and equal protection of the law. Consequently, under the ICESCR, states parties should take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.¹⁷¹ In Addis Ababa, forced evictions are carried out in a variety of circumstances and for a number of reasons such as investment, to make way for development and infrastructure projects, urban redevelopment or city beautification projects and the like. In the name of these projects, many residential houses of low- income citizens have been demolished by the city administration. These projects tend disproportionately affect PWDs than the disabled population since they will loss relationships, support and are also more vulnerable to abuse. Thousands of citizens and hundreds of PWDs were evicted from their home and land in various areas in the city such as Bashwolde (Giorgis area) and Fiter (Sheraton area) without getting enough or no compensation at all.¹⁷² Sadly these places have been sitting idle without any development projects for more than ten years.¹⁷³ PWDs evicted from their home have been complaining for the Addis Ababa City Government Social and Labour Affairs Bureau, Ombudsman and Human Rights Commission repeatedly.¹⁷⁴ The city administration promised to give them condominium houses as a replacement for the demolished one but nothing has been done all this years. As a result almost 95% of PWDs evicted from these places has become homeless and forced to live on the streets of Addis. Women with disabilities evicted from their home faced harassment, physical attack and rape.

b. Availability of services, materials, facilities, and infrastructure

An adequate house must contain certain facilities essential for health, security, comfort and nutrition.¹⁷⁵ All beneficiaries of the right to adequate housing should have sustainable access to

¹⁷⁰General Comment No. 4, cited above at note 52, par. 8(a)

¹⁷¹ Ibid.

¹⁷² Interview with Ato Bizuayehu Beyene, Head of Abyssinia Disability Women and Children Association, March 14, 2018

¹⁷³ Ibid.

¹⁷⁴ Interview with w/rit Ayehu Demeke, Vocational Training, Support & Monitoring Team Leader at Addis Ababa City Government Bureau of Labour& Social Affairs, March.16, 2018

¹⁷⁵General Comment No. 4, cited above at note 52, par. 8(b)

natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.¹⁷⁶ Inadequate housing conditions have specific and wide ramifications for PWDs as they tend to spend more time at home than the non-disabled ones. Condominium houses which are completed and transferred for PWDs in Addis lack all the services, materials, facilities and infrastructures mentioned above. Let alone luxuries facilities, PWDs living in these buildings face difficulties with accessing basic service such as drinking and sanitation water and rest room.¹⁷⁷ PWDs need more water due to increased exposure to dirt from crawling, and increased vulnerability to the dangers of open defecation¹⁷⁸ but sadly water is not available and if available is not accessible due to physical limitation and inappropriate design. The toilets in the houses are not disability friendly and PWDs face difficulties in moving from other rooms to the toilet, in opening latrine door and in climbing toilet because there is no support structure.¹⁷⁹

c. Affordability

Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.¹⁸⁰ Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels of PWDs.¹⁸¹ States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs.¹⁸² In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases.¹⁸³ The current urban land lease hold market price in Addis Ababa is unaffordable; condominium house saving and house rent is also too expensive for PWDs.¹⁸⁴ The

¹⁷⁶ Ibid.

¹⁷⁷ Interview with W/rit Liya Solomon, Assistant Program Director at Ethiopian Center for Disabilities and Development, March 19, 2018

¹⁷⁸ Mahider Tesfu & Magrath. P, Equal access for all? Issues for people with HIV and with disabilities in Ethiopia, 2008, p.1, available at https://wedc-knowledge.lboro.ac.uk/resources/conference/33/Tesfu_M.pdf.

¹⁷⁹ Interview with W/rit Liya Solomon, Assistant Program Director at Ethiopian Center for Disabilities and Development, March 19, 2018

¹⁸⁰ General Comment No. 4, cited above at note 52, par.8 (c)

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Interview with W/rit Liya Solomon, Assistant Program Director at Ethiopian Center for Disabilities and Development, March 19, 2018

city administration has not made an effort to control the housing rent increase in the city. Majority of PWDs in Addis Ababa do not have an income to sustain their life and are dependent on their family or beggars on the street. As a result, let alone saving for housing, they do not have the capacity to fulfil their basic needs such as food and water.

As the experience of other countries shows (See section 3.3.) banks and financial institutions in cooperation with other concerned governmental organizations provide PWDs with special loans to help them fulfil their unique needs particularly housing. In Ethiopia the Commercial Bank of Ethiopia is an institution which provides loans in relation to condominium housing for the beneficiaries. However special financial loan and subsidy system has not been facilitated for PWDs and the city administration also does not have such kind of scheme.¹⁸⁵ PWDs like any other person use the loan system arranged for other citizens.¹⁸⁶ Therefore, housing programmes which are implemented at the city level, should improve housing ownership and rental affordability through lowering housing cost and improving access to housing finance for PWDs for whom housing would have otherwise been unaffordable.

d. Habitability and Location

Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.¹⁸⁷ The physical safety of occupants must be guaranteed as well. Standards of habitability vary considerably with different impairments and must respond to both the physical and the social dimensions of housing.¹⁸⁸ Majority of PWDs in Addis are homeless, who live on the street, slums and in an informal settlement.¹⁸⁹ Some also live in small kebele houses with families sharing space to cook, eat, sleep and defecate all in the same room.¹⁹⁰ In

¹⁸⁵ Interview with Ato Melaku Meseret, Senior Legal Expert at Commercial Bank of Ethiopia Head Office, April 25, 2018

¹⁸⁶ Ibid.

¹⁸⁷ General Comment No. 4, cited above at note 52, par.8 (d)

¹⁸⁸ UN General Assembly, Adequate Housing as a Component of the right to an Adequate Standard of Living and the right to non- discrimination in this context, [A/72/128](#), 12 July 2017, p.16

¹⁸⁹ Interview with Ato Yeterawork Wideneh , Vice-head at Task Force for Global Health Association, April 24, 2018

¹⁹⁰ Ibid.

these kebele houses ventilation, sanitation, degree of privacy and quality of cooking facilities are sorely deficient and are not better than slums.¹⁹¹

In terms of location, the law provides that adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centers, and be away from pollution as well as environmental hazards.¹⁹² Despite this, quit large number of PWDs in the city live in dirty areas such as in garbage which is highly dangerous for their health.¹⁹³ Therefore, the administration has not done anything to help these citizens to change their place of residence at least to safe areas.

e. Accessibility

Adequate housing must be accessible to those entitled to it.¹⁹⁴ Disadvantaged groups must be accorded full and sustainable access to adequate housing resources.¹⁹⁵ PWDs and other vulnerable groups should be ensured some degree of priority consideration in the housing sphere.¹⁹⁶ Both housing law and policy should take fully into account the special housing needs of these groups.¹⁹⁷ Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land.¹⁹⁸ The Ethiopian Building Proclamation No. 624/2009 has clearly stipulated that public buildings including residential buildings shall be made accessible to PWDs. However no condominium housing or residential buildings have been designed and built following accessibility or inclusive “universal design” principles from the initial stages of planning and design which bears almost no additional cost.¹⁹⁹

Access to land is a strategic prerequisite for the provision of adequate and affordable housing for all.²⁰⁰ Lack of access to land is also the cause of increased living costs; the proliferation of slums and informal settlements; environmental degradation; and the increased vulnerability of urban

¹⁹¹ Ibid.

¹⁹² General Comment No. 4, cited above at note 52, par.8(f)

¹⁹³ Interview with Ato Anteneh Alemu, Head of Bright Vision Disability Association, March 17, 2018

¹⁹⁴ General Comment No. 4, cited above at note 52, par.8(e)

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Interview with Ato Yidenekachew Walelegn, Head of City Government of Addis Ababa Housing Development and Administration Bureau, April 24, 2018

²⁰⁰ United Nations Human Settlements Programme, UN Habitat, [Affordable Land and F](#)

poor and women-headed households, and other marginalized and disadvantaged groups including PWDs.²⁰¹ Thus, allocation and distribution of land have an influence in realizing the right to housing of PWDs. The Addis Ababa city administration plays several roles in the land market for example as administrator, legislator, landholder, a direct provider and a financier of land and housing stock.²⁰² It has established the Addis Ababa City Government Land Banking and Management Bureau to control and manage the land in the city through land banking system. This system uses to guide urban development, contain land speculation, *redistribute land to the poor* {**emphasis added**}, and finance infrastructure investments.²⁰³ However, the practice on the ground shows unlike what is intended; the bureau failed to make land prices low for the poor and excluded vulnerable groups such as PWDs. In this regard, it would not be an exaggeration to say the city administration's function is not PWD inclusive at all.²⁰⁴ The urban land lease law and policies did not take into consideration the poor and the marginalized including PWDs.²⁰⁵ They are required to bid for land leasing like any resident in the city. So far, the only achievement made by the government as part of its effort to alleviate the housing problems of persons affected by leprosy is the distribution of plots of land for housing to 386 families in seven towns free of charge including Addis Ababa.²⁰⁶ The high land lease price is one among several factors that contributed for the high purchase cost of housing and house rent cost in the city. Therefore, generally although some progress has been made in implementing the right to housing of PWDs in the city both in terms of legislative and practical measures, there are still lots of work to be done.

4.1.2.3. The extent of homelessness of PWDs in Addis Ababa

The scale and scope of homelessness of PWDs shows how the state is working towards the realization of the right to housing of PWDs. The Special Rapporteur on adequate housing has called homelessness “perhaps the most visible and most severe symptom of the lack of respect

²⁰¹ Ibid.

²⁰² Interview with Ato Beyene Lambiso, Lease Enforcement and Monitoring Directorate Director at City Government of Addis Ababa Land Banking and Management Bureau, April 24, 2018

²⁰³ See Affordable Land and Housing in Asia, cited above at note 200, p.34

²⁰⁴ Interview with Ato Beyene Lambiso, Lease Enforcement and Monitoring Directorate Director at City Government of Addis Ababa Land Banking and Management Bureau, April 24, 2018

²⁰⁵ See Urban Lands Lease Holding Proclamation, 2011, Proc. 721, Fed. Neg. Gaz., Year 18, No. 4 and See also the Urban Land Lease-holding Regulation of Addis Ababa City Government, 2010, Reg. 29. Addis. Neg. Gaz., 2nd year, No. 29

²⁰⁶ See Initial report: Ethiopia, 2015, cited above at note 141, p.16, par.47

for the right to adequate housing.”²⁰⁷ Numerous studies have shown that a disproportionate number of persons who are homeless are PWDs. ²⁰⁸Homelessness creates additional risks for women and children with disabilities. They can be vulnerable to a range of emotional problems, including anxiety, sleeplessness, aggression and withdrawal. Even though it is very difficult to know the exact number of homeless PWDs in Addis, significant number of them live in slums and informal settlements such as in bus stations, verandas, churches and mosque compounds etc. The extent of homelessness of PWDs in the city can serve as a best indicator of weak implementation of the right to housing of PWDs as it can be noted by everyone. These people are denied the minimum core of the right to housing the state has assumed under the CRPD.

4.1.3. Factors hindering proper implementation of the right to housing of PWDs

This section moves on to discuss some of the practical challenges that hampered the implementation of the right to housing of PWDs. Several factors are contributing for the weak implementation such as stigma and discrimination, lack of monitoring the implementation of national law, lack of participation of PWDs and lack of awareness.

a. Negative attitude, stigma and discrimination

In terms of barriers to the implementation of the right to housing of PWDs, negative attitude, stigma and discrimination by their families, communities and the state is very challenging.²⁰⁹ For example, communities can be unwilling to accept PWDs, neighbor might hate or oppose having a child with mental disability in the same apartment, and professionals can limit the choices of certain groups of PWDs, because of their perceived lack of capacity to make choices for themselves. Negative attitudes and stereotypes can also be internalized by PWDs, influencing their self-perception and behavior, preventing them from claiming their rights. A key factor for negative public attitudes and the withdrawal of community support is the individual understanding of disability, which views PWDs through their impairments. Sometimes government laws and policies themselves are discriminatory. Even where the laws are not

²⁰⁷The Office of High Commissioner for Human Rights, UN- Habitat Fact Sheet Number 21, The Right to Adequate Housing, p, 21

²⁰⁸The Right to Adequate Housing for PWDs Living in Cities- Towards Inclusive Cities, cited at note 32, p. 16

²⁰⁹ Interview with Ato Simegnaw Abate, System and Administrator Head, City Administration of Addis Ababa Housing Development Agency, March 22, 2018

discriminatory, PWDs face higher discrimination than non-disabled person.²¹⁰ There is a need to work and change the mindset of the public and work more on the promotion of the rights of PWDs. Unless the idea of stigma and discrimination and its real impact are examined and addressed, the implementation of the right to housing of PWDs is likely to be much less successful than where such stigma & discrimination has been significantly weakened or eradicated.

b. Lack of controlling and monitoring implementation of the rights of PWDs

Monitoring the progress towards implementing the CRPD in general and the right to housing in particular for PWDs is very crucial. Through such monitoring, governmental and NGOs entities can track changes over time and develop or adjust reform strategies. The public can be informed and empowered to take action and hold governments to account. PWDs will have a stake in ensuring full and effective implementation and should invariably be involved in carrying out such monitoring. The Ministry of Labour and Social Affairs and Addis Ababa City Government Bureau of Labour and Social Affairs are organs mandated to control the development, implementation, and monitoring of legislation and policies in relation to PWDs throughout the country and in Addis Ababa respectively. However these offices are not working in accordance with the mandates entrusted to their institutions.²¹¹ The 5% housing quota for PWDs is not implemented sincerely. Several factors can be mentioned for the poor implementation of the quota allotted for PWDs such as lack of political will, absence of well organized data on PWDs in the city and charity based attitudes of government officials toward PWDs. The Addis Ababa Bureau of Labour and Social Affairs was supposed to check whether the condominium house quota of PWDs was implemented or not by the Addis Ababa Housing Development and Administration Bureau. But there has not been such kind of monitoring the implementation of laws of the country and policies by the bureau.²¹² Furthermore, the organizations of PWDs are not involved or fully involved in the monitoring of the implementation of CRPD in the city. Therefore, lack of controlling and monitoring implementation of laws is the main factor preventing PWDs from fully enjoying their right to adequate housing in the city.

²¹⁰ Ibid.

²¹¹ Interview with Ato Sime Tadelle, Housing Finance & Transfer Directorate Director at Ministry of Urban Development and Housing, March 14, 2018

²¹² Ibid.

c. Lack of participation of PWDs in matters affecting their interest

The Special Rapporteur on Adequate Housing noted that the failure to consult PWDs can lead to decisions that “disregard their opinions, choices and particular interest and in the worst cases, threats, intimidation or violence are used to coerce people into accepting resettlement terms.”²¹³ The CRPD Committee has urged the involvement of PWDs and their representative organizations in international cooperation programmes and in development of disability action plans.²¹⁴ PWDs and their representative organizations also need to be included in the review of the implementation of laws on accessibility.²¹⁵ In Ethiopia the culture of ensuring participation of PWDs on matters affecting their interest is not developed.²¹⁶ PWDs are not involved in the development, implementation and monitoring of laws and policies. There are numerous laws, programs and plans of the government on PWDs but they are adopted with a little or no participation of PWDs or their representative organizations.²¹⁷

d. Lack of awareness

The other challenge that prevented PWDs from equally enjoying the right to housing is lack of awareness of the entire public towards PWDs.²¹⁸ Lack of awareness about the rights of PWDs within the society has contributed for the wrong attitude of the society towards PWDs. Government officials also do not fully understand the rights of PWDs.²¹⁹ They adopted a charity approach to disability issues rather than a right based approach. What makes the issue more complicated is even PWDs themselves are not aware of their own rights.²²⁰ The persistence of obvious public awareness gaps have greatly limited the pace and quality of PWDs inclusive

²¹³ UN Human Rights Council, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context : Addendum, Mission to the World Bank, [A/HRC/22/46/Add.3](http://www.refworld.org/docid/512b40432.html), 15 February 2013, p.9, par. 30, available at: <http://www.refworld.org/docid/512b40432.html>. [accessed 20 April 2018]

²¹⁴ Committee on the Rights of Persons with Disabilities, Consideration of Initial Report Submitted by State Parties under Article 35 of the Convention, Concluding Observation: Belgium, [CRPD/C/BEL/CO/1](#), 28 October 2014, par. 33

²¹⁵ Committee on the Rights of Persons with Disabilities, Consideration of Initial Report Submitted by State Parties under Article 35 of the Convention, Concluding Observation: Tunisia, [CRPD/C/TUN/CO/1](#), 13 May 2011, par. 21

²¹⁶ Interview with Ato Bizuayehu Beyene, Head of Abyssinia Disability Women and Children Association, March 14, 2018

²¹⁷ Ibid.

²¹⁸ General Assembly, [Adequate Housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context](#), A/72/128, 12 July 2017, p.16

²¹⁹ Interview with Ato Admasu Arega, Head of Self Support Disabled Association, March 11 2018

²²⁰ Ibid

urban development in Addis Ababa. The government has been unable to spread or to promote the rights of PWDs among the masses. Therefore, lack of awareness towards PWDs also constitutes a serious hurdle to PWD's enjoyment of the right to adequate housing.

e. Affordability of housing and low income of PWDs

The inability to afford adequate housing is frequently the greatest obstacle facing PWDs in realizing their right housing.²²¹ They are more likely to live in poverty, and they have higher housing, equipment and health -care costs.²²² Inadequate levels of financial assistance and/or housing subsidies often make it impossible for PWDs to obtain adequate housing and significantly increase the risk of homelessness.²²³ In Addis Ababa the inability to obtain decent, affordable housing is one of the most significant barriers to an adequate standard of living for PWDs.²²⁴ Majority of PWDs in the city does not have their own income to sustain their life and most of them are dependent on their family and some of them beg on the street.²²⁵ The government have obligation to remove not only physical but also financial and legal barriers to access to adequate housing for PWDs.²²⁶ They must ensure the affordability of rents, utilities and other essential services, by providing the necessary financial assistance, such as through rental subsidies and addressing barriers relating to rental contracts and access to loans.²²⁷

4.2. Impaired Housing Rights of PWDs

4.2.1. The right to adequate housing of PWDs

Access to housing is a fundamental human need and a core element of the human right to an adequate standard of living of PWDs. It is an important basic human right which is implicitly recognized in the FDRE Constitution and under different international and regional human rights instruments. Article 28 of the CRPD and Article 11 of the ICESCR recognize the right to

²²¹ Adequate Housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context, cited above at note 188

²²² Ibid.

²²³ Ibid.

²²⁴ Interview with W/rit Liya Solomon, Assistant Program Director at Ethiopian Center for Disabilities and Development, March 19, 2018

²²⁵ Ibid.

²²⁶ Adequate Housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context, cited above at note 188

²²⁷ Ibid.

adequate housing as a component of the right to an adequate standard of living.²²⁸ These instruments oblige states parties to take reasonable legislative and other measures within its available resources to achieve the progressive realization of the right to adequate housing. The CRPD specifically notes that state parties are obliged to use “the maximum available resources with a view to “achieving progressively” the full realization of “economic, social and cultural rights.”²²⁹ Furthermore, Article 5(4) states that measures to accelerate or achieve de facto equality of PWDs shall not be considered discrimination. Despite this fact, although some encouraging moves had been made in the 10th and 11th round of condominium distribution but are not able to continue longer due to various reasons such as lack of political will and negative attitude and discrimination of PWDs. Retrogressively new programs and plans of condominium housing did not include PWDs. For example in the recent Sengatera and Crown site of condominium houses transferred for the beneficiaries, the 5% quota housing for PWDs was not considered. In addition the new buildings are also not accessible for PWDs as they do not have ramps, lifts, elevators and automatic door openers. This shows that the government is not taking deliberate, concrete and tangible measures to ensure the full realization of the right to housing of PWDs in the city. Therefore, the government has impaired the right to housing of PWDs recognized under Article 28 of the CRPD and different international and regional human rights instruments.

4.2.2. Non discrimination

The Special Rapporteur on Adequate Housing has recognized the correlation between discrimination in housing and discrimination in other realms, including for PWDs, who “are often subject to further stigmatization, discrimination and criminalization because of their socioeconomic and housing status, such as living on the streets, in informal settlements or in substandard housing.”²³⁰ Non-discrimination and equality are founding principles of the UDHR and are essential in all binding international human rights instruments.²³¹ Pursuant to Article 2 and 11 of the ICESCR, the right to adequate housing should be exercised without discrimination of any kind based on race, colour, sex, language, religion, political or other opinion, national or

²²⁸ Compare International Covenant on Economic Social and Cultural Rights, cited above at note 2, Art. 11 and Convention on the Rights of Person with Disabilities, cited above at note 5, Art. 28

²²⁹ Convention on the Rights of Person with Disabilities, cited above at note 5, Art. 4(2)

²³⁰ L. Farha, cited above at note 70, p. 12, par. 46

²³¹ The Right to Adequate Housing for PWDs Living in Cities - Towards Inclusive Citie

social origin, property, birth or other status.²³² Article 5 of the ICERD sets out the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality in the enjoyment of the rights enshrined in the convention.²³³ It also requires states to prohibit housing discrimination on the basis of disability. Furthermore, Article 2 of the ACHPR prohibits any discrimination in the enjoyment of the protected rights on the following non exhaustive grounds including race, ethnic group, colour, sex/gender, language, religion, political or any other opinion, national and social origin, economic status and birth.²³⁴ Thus any discrimination against individuals in their access to or enjoyment of economic, social and cultural rights on any of the prohibited grounds is an impairment of the African Charter.²³⁵ Discrimination includes any conduct or omission which has the purpose or effect of nullifying or impairing the equal access to and enjoyment of economic, social and cultural rights.²³⁶ In housing, discrimination can take the form of discriminatory laws, policies or measures; zoning regulations; exclusionary policy development; exclusion from housing benefits; denial of security of tenure; lack of access to credit; limited participation in decision-making; or lack of protection against discriminatory practices carried out by private actors.²³⁷ Non-discrimination represents a crosscutting obligation of immediate realisation which applies to all human rights, not just civil and political rights. It is not subject to progressive realisation.²³⁸

Despite the legal protection for PWDs, housing discrimination against PWDs is pervasive in Ethiopia.²³⁹ PWDs in Addis Ababa face discrimination in many aspects of housing on the basis of their disability. Existing housing is often inaccessible to PWDs and new affordable housing

²³² See Report of the Special Rapporteur on Adequate housing as a component of the right to an adequate standard of living, cited above at note 213, p.7

²³³ Ibid

²³⁴ African Commission on Human and Peoples' Rights, Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights, November 2010, p. 13

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ The Office of High Commissioner for Human Rights, UN- Habitat Fact Sheet Number 21, The Right to Adequate Housing, p, 10

²³⁸ Committee on Economic, Social and Cultural Rights, General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, par. 2, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/20, 2 July 2009, par.7, which provides that "non discrimination is an immediate and cross-cutting obligation in the covenant", available at: <http://www.refworld.org/docid/4a60961f2.html>. [accessed 20 April 2018]& See also Committee on Economic, Social and Cultural Rights, General Comment No. 3: The nature of States parties' obligations (art. 2, par. 1, of the International Covenant on Economic, Social and Cultural Rights), United Nations Doc. E/1991/23, 1990, Par. 1

²³⁹ Interview with Ato Sime Tadelle, Housing Finance & Transfer Directorate Director at Ministry of Urban Development and Housing, March 14, 2018

that is accessible for PWDs is not being built. Housing projects in the city are discriminatory since PWDs are not taken into consideration in the design of the projects from the beginning.²⁴⁰ For instance a disabled person on a wheelchair is still confronted with the challenges of accessing condominium houses which are already transferred to the beneficiaries. This is denial of reasonable accommodation²⁴¹ and which according to Article 2 of the CRPD constitutes discrimination since the necessary and appropriate modification and adjustments (that do not impose a disproportionate or undue burden) are denied and are needed to ensure the equal enjoyment or exercise of a human right or fundamental freedom.²⁴² Until the 10th round of condominium houses distribution in 2007 EC, PWDs were not included as a vulnerable group for the purpose housing unlike women and civil servants.²⁴³ The 10/90 and 40/60 housing programs do not include PWDs as beneficiaries and nothing has been done to ensure equal enjoyment of PWDs in these two programs.²⁴⁴ This shows that government laws and policies are discriminatory towards PWDs as they do not or sufficiently mainstream PWDs. Furthermore, the government failed to prohibit and prevent discrimination committed by private housing sectors which are engaged in building public buildings. Therefore, by commission and omission, the city government impaired Article 5 of the CRPD and other human rights instruments which prohibits discrimination.

4.2.3. Accessibility

Accessibility in a building including housing is very important.²⁴⁵ Article 4(1) (f) of the CRPD imposes a general obligation on parties to undertake or promote research and development of universally designed goods, services, equipment and facilities, and to promote their availability

²⁴⁰ Ibid.

²⁴¹ Reasonable accommodation is defined under Article 2 of the CRPD as necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

²⁴² Convention on the Rights of Persons with Disabilities, cited above at note 5, Art. 2

²⁴³ Interview with Ato Sime Tadelles, Housing Finance & Transfer Directorate Director at Ministry of Urban Development and Housing, March.14, 2018

²⁴⁴ Interview with W/ro HanaMariam Damte, System Administrator Expert IV at City Administration of Addis Ababa Housing Development Agency, March. 22, 2018

²⁴⁵ S. K. Shahrom and R. Zainol, Universal design in housing for people with disabilities: A review 35 *Journal of Design and Built Environment* Vol. 15 1, June 2015, p.4

and use. In Universal Design²⁴⁶ Index, there are six aspects to rate accessibility i.e. connectivity (15%), accessibility (25%), usability (20%), safety (20%), integrated design (10%) and operation and maintenance (10%) where the passing score is 65%.²⁴⁷The Ethiopia building proclamation has stated that public buildings should be made accessible for PWDs as per standards. It says “*Any public building shall have a means of access suitable for use by physically impaired persons, including those who are obliged to use wheelchairs and those who are able to walk but unable to negotiate steps*”.²⁴⁸Based on the proclamation, the Council of Ministers and Ministry of Urban Development and Constructing issued a regulation and directive respectively.²⁴⁹The building regulation provides in article 28 (2) that design of category “C” buildings shall have suitable access to staircases, parking lots, and lavatories accessible for people with disabilities.²⁵⁰ Article 33 (3) of the regulation also provides that lifts shall be suitable for all users including PWDs. Article 34 of the same regulation has set out essential facilities that a public building should have for PWDs.²⁵¹

Besides, the directive issued by the Ministry of Urban Development and Construction, deals with accessibility (both physical and informational) at great length.²⁵² Article 33 of directive no. 5/2011 is fully devoted to how buildings should be disability-friendly in several ways.²⁵³ This directive may be said the most comprehensive and specific in its essence and sets out a number of criteria of a building from a disability point of view.²⁵⁴ The directive contains detailed provisions on specific standards about the internal facilities of any building.²⁵⁵Despite all these mandatory laws providing to make any public buildings accessible for PWDs, the fact on the ground is totally different. Let alone any public buildings even residential housing do not take into consideration the issue of PWDs while designing buildings.²⁵⁶ Since 1998 EC the City

²⁴⁶ Universal design is defined under article 2 of the CRPD to mean the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

²⁴⁷ A. Dalilah, Perundangan mengenai orang kurang paya dan peranan DBKL. Paper presented at the seminar aksesibiliti OKU kepandabangunandankemudahanawam-PBT prihatin, OKU inklusif on 24-25 November 2011.

²⁴⁸ Ethiopian Building Proclamation, cited above at note 16, Article 36(1)

²⁴⁹ See Initial report: Ethiopia, 2015, cited above at note 141, p.23

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ Ibid.

²⁵⁵ Ibid.

²⁵⁶ Interview with Ato Anteneh Alemu, Head of Bright Vision Disability Association, N

Administration of Addis Ababa has been providing condominium housing for low-income residents of the city through long term saving.²⁵⁷ All condominium buildings which has been completed and transferred for the beneficiaries until 2009 EC are not accessible for PWDs.²⁵⁸ A PWD who won a condominium house has to apply to the Addis Ababa housing Development Agency to change his/her house to the first floor. The requirement for housing accessibility is not limited to the personal housing of PWDs. If PWDs are to maintain and develop their family and personal relationship networks, and participate in all aspects of community life, it is essential that they be able to at least visit the homes of their family members and friends. This requires government to regulate for the accessibility of all residential dwellings over time. Governmental construction organizations who are engaged in building public houses are not making buildings accessible for PWDs and also are not making necessary and appropriate modification and adjustments on the completed condominiums houses to ensure that PWDs enjoy their right to housing on an equal basis with others. Furthermore, the government failed to carry out its legal duty of controlling private organizations who are engaged in building public buildings and who are not considering accessibility of buildings for PWDs and failed to take measures on those who failed to consider their duty. Therefore, by omissions and commissions of its duty, the government has impaired Article 9 of the CRPD which provides about the right to accessibility of PWDs.

4.3. Remedies for impaired housing right of PWDs

To begin with, the debate on the justiciability of socio-economic rights is out of the scope of this research and the author for the purpose of this research assumes housing rights are justiciable. While states are given considerable discretion in the way they implement their housing rights obligations, the provision of effective remedies, that enable those without adequate housing to a remedy for the violation of their rights, is required.²⁵⁹ The Limburg Principles and Maastricht Guidelines also provide that any person or group who is a victim of a violation of SERs should have access to effective judicial or other appropriate remedies.²⁶⁰ In assessing Ethiopia's compliance with its obligation to provide effective remedy for violations of the right to housing

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ D. Nicholson, *the Human Right to Housing in Australia*, 2007, p, 4

²⁶⁰ Limburg Principles and Maastricht Guideline, cited above at note 104 and 97, Principle 19 & Guideline 22 respectively

of PWDs, it is important to research on what remedy has been provided by the state for violations of the right to housing of PWDs. Like any other human rights, courts can provide possible remedies for violation of housing rights of PWDs which among others include damages or compensation, reparation in kind, restitution, declaratory orders and mandatory orders.²⁶¹ As stated under General Comment CESCR General Comment 9 effective remedies under the ICESCR is not restricted to judicial remedies and administrative remedies are also considered as remedies as long as the remedies are accessible, affordable, timely and effective.²⁶² The General Comment also stressed that whenever a covenant right cannot be made fully effective without some role for the judiciary, judicial remedies are necessary.²⁶³ In Ethiopia context, other than the remedies provided by regular courts, the remedies given by House of Federation (on interpretation of the constitution), Labour and Social Affairs Bureau, Anti- Corruption Commission, the office of Ombudsman and Human Rights Commission may be considered as effective remedies given by administrative organs. In Ethiopia let alone taking housing cases of PWDs to administrative organs even the culture of approaching regular courts has not been well developed. But sometimes PWDs in Addis Ababa who are evicted from their house for various reasons approached the Addis Ababa City Administration Labour and Social Affairs to provide them remedy and some reinstated to their house and others left without a remedy.²⁶⁴ One glaring failure by the government is despite the existence of institutions that can provide a remedy; nothing has been done on awareness creation for PWDs. PWDs do not know which organs to approach when their right to housing is violated.

One thing that has to be noted here is that, up on exhaustion of local remedies, PWDs can also claim their right to housing against the state at international and regional levels. For example-claim of the right to housing of PWDs against the state could be taken to the Committee on Economic, Social and Cultural Rights upon the state's acceptance of the competency of committee in receiving complaints. Regionally the African Commission on Human and People's Right may also receive similar communications.

²⁶¹ UN Housing Programme (UN- Habitat and OHCR), Housing Rights Legislation, 2002, Report no. 1, p

²⁶² UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 9: The domestic application of the Covenant, 3 December 1998, par, 9, E/C.12/1998/24, available at: <http://www.refworld.org/docid/47a7079d6.html>. [accessed 10 April 2018]

²⁶³ Ibid.

²⁶⁴ Interview with w/rit Ayehu Demeke, Vocational Training, Support & Monitoring Team Leader at Addis Ababa City Government Bureau of Labour & Social Affairs, March.16, 2018

5. Chapter Five: Conclusion and Recommendations

5.1. Conclusion

To begin with the main aim of this paper is to examine the implementation of the human right to housing of PWDs in Addis Ababa. Addis Ababa is a rapidly growing city facing various development challenges with a population of more than 3 million and out of this 45,936 are PWDs. One of the key challenges faced by the city is to meet the increasing housing demands of the residents of the city in general and PWD's in particular. Access to housing and basic services remains a day to day struggle for PWDs in the city. Ethiopia has ratified several international human rights instruments including CRPD and took some legislative measures to facilitate the full enjoyment of the right to housing of PWDs. Some progress towards realizing the right to housing of PWDs in the city has been made which led to distribution of 1340 condominium houses for PWDs. Yet, the gap in the law and the practice are wide and apparent and the housing sector is still unable to produce the desired outcome. The research found that insufficient measures have been adopted to ensure the full enjoyment of the right to housing of PWDs in the city. Therefore, the government is in violation of its international human rights obligations relating to housing of PWDs. A number of factors contributed for the weak implementation of the right to housing of PWDs which among others include stigma and discrimination, lack of controlling and monitoring the implementation of the right, lack of participation of PWDs in matters affecting them and lack of awareness. The effectiveness of implementation of the right to housing of PWDs requires the understanding and application of the principles of CRPD by Government officials as well as all the public. There is a need to move from recognizing on the paper to practical implementation and this has to be properly controlled and monitored by the concerned organ.

5.2. Recommendations

The author has made the following recommendations on what has to be done to bridge this seemingly unbridgeable gap.

- ❖ It is necessary to take measures to ensure the full realization of the right to housing of PWDs as stated in different laws. For example provisions to protect housing rights of

PWDs need to be strengthened including in building codes, and existing provisions need to be implemented sincerely.

- ❖ Mechanisms to monitor the immediate as well as progressive realization of the right to housing of PWDs in Addis Ababa are absent. Appropriate controlling & monitoring mechanisms must be in place to ensure that the right to housing of PWDs provided under Article 28 of the CRPD and the directive of the government which provides for a 5% housing quota for PWDs are enforced and well achieved.
- ❖ Strengthening efforts to eliminate negative attitude, stigma & discrimination against PWDs. Discrimination against PWDs with regard to implementing their right to housing by government officials and private rental housing is prevalent. Therefore, efforts to eliminate discrimination against PWDs must continue by ensuring effective implementation of relevant laws and measures through proper and active coordination among bureaus in Addis Ababa City and also by increasing sensitization and reducing discrimination attitudes among the public through PWDs human rights education.
- ❖ The government should consider building capacities of key officials such as the ministries, department heads and agency leaders and other stakeholders working in relation to PWDs for effective implementation of their right to housing. The roles and responsibilities of partner ministries should be clearly outlined; inter-ministerial coordination in the area of disability should be improved. Furthermore, it is vital to train and strengthen the capacity of independent monitoring bodies, in particular national human rights institutions and civil society organizations on human rights based approach of PWDs to ensure that public institutions are properly accountable.
- ❖ It is necessary to strengthen PWDs' role and involvement in decision making. To make sure that the voices of the PWDs are heard and to empower PWDs and strengthen their capabilities to demand and use their rights through democratic political processes.
- ❖ Enhancing access to justice for PWDs. PWDs does not know which organ to approach when their rights are violated. To ensure that such core provision of the CRPD as the right of PWDs to equal access to justice as well as support and accommodation in the justice process are met, the following interventions can be implemented: teach PWDs which organ to approach during violation of a right, identify and address physical and communication barriers that PWDs face in accessing justice; legislate a right for free

legal aid for PWDs; develop a system that would provide support or assistance to enable them to make decisions for themselves.

- ❖ The institutions responsible for the implementation of disability legislation do not have sufficient institutional capacity, skills and budgets to ensure timely, consistent and effective implementation of the disability legislation. Therefore, it is vital to provide the necessary capital and human resource for fully realizing the right to housing of PWDs.

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INTERVIEW GUIDE ON IMPLEMENTATION OF THE RIGHT TO HOUSING OF PEOPLE WITH DISABILITIES IN ADDIS ABABA (FOR GOVERNMENTAL INSTITUTIONS)

NB

- a. The sole objective of this interview guide is to have access to precise information on the implementation of the right to housing of people with disabilities (herein after PWDs) in Addis Ababa.
- b. The identity of the person who provided the information could be made confidential (if necessary).
- c. Do not hesitate to attach additional sheets, if the space provided is not sufficient.

1. How many people are in need of housing in Addis Ababa?

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2. How many houses have been completed and transferred for the beneficiaries in Addis Ababa?

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3. How many people are PWDs in Ethiopia in general and in Addis Ababa city in particular?

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4. How many PWDs are in need of housing in Addis Ababa?

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5. Up until now how many PWDs become house owners in Addis Ababa?

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6. Are the completed condominiums suitable for PWDs? (In terms of accessibility, habitability, affordability etc). If your answer is negative how?

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7. What are the main problems of implementing the right to housing of PWDs?

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8. What has been done to overcome the problems or challenges of housing of PWDs in Addis Ababa?

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9. Please provide information on relevant legislation, policies or programmes that are intended to ensure equal access to and enjoyment of the right to adequate housing by PWDs and provide an assessment of their effectiveness and shortcomings.

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10. Please refer to any innovative initiatives that have been taken at the national or city level to promote and ensure the right to housing of PWDs and identify lessons learned from these.

INTERVIEW GUIDE ON IMPLEMENTATION OF THE RIGHT TO HOUSING OF PEOPLE WITH DISABILITIES IN ADDIS ABABA (FOR NON GOVERNMENTAL INSTITUTIONS)

NB

- a. The sole objective of this interview guide is to have access to precise information on the implementation of the right to housing of people with disabilities in Addis Ababa.
 - b. The identity of the persons who provided the information could be made confidential (if necessary).
 - c. Do not hesitate to attach additional sheets, if the space provided is not sufficient.
1. How many people are PWDs in Ethiopia in general and in Addis Ababa city in particular?
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 2. How many PWDs are in need of housing in Addis Ababa?
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 3. Up until now how many PWDs become house owners in Addis Ababa?
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 4. Are the completed condominiums suitable for PWDs? (In terms of accessibility, habitability, affordability etc)
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 5. What are the main problems of implementing the right to housing of PWDs?
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 6. What has been done to overcome the problems or challenges of housing of PWDs in Addis Ababa?

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7. Please provide information on relevant legislation, policies or programmes that are intended to ensure equal access to and enjoyment of the right to adequate housing by PWDs and provide an assessment of their effectiveness and shortcomings.

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8. Please refer to any innovative initiatives that have been taken at the national or city level to promote and ensure the right to housing of PWDs.

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