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ADDIS ABABA UNIVERSITY

POST GRADUATE STUDIES SCHOOL OF LAW

ETHIOPIA'S IMPLEMENTATION OF THE PRINCIPLE OF REASONABLE
ACCOMMODATION IN LIGHT OF THE CONVENTION ON THE RIGHTS
OF PERSONS WITH DISABILITIES: A CASE STUDY ON ADDIS ABABA
UNIVERSITY

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OCTOBER, 2021
ADDIS ABABA

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LAW

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ADDIS ABABA

Declaration

I, Abenezer Hizkeal, hereby declare that this work “Ethiopia’s Implementation of The Principle of Reasonable Accommodation in Light of the Convention on The Rights of Persons with Disabilities: A Case Study on Addis Ababa University” is my original work and has not been presented in any other university or academic institution for any degree or examination. I also declare that all referred materials are duly acknowledged in this thesis.

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Table of Contents

Acknowledgement.....	i
Acronyms	iv
Abstract.....	vi
CHAPTER ONE.....	1
INTRODUCTION.....	1
1.1. Background of the Study	1
1.2. Statement of the Problem.....	5
1.3. Objectives of the Study	9
1.3.1. General Objective	9
1.3.2 Specific Objectives	9
1.4. Research Questions.....	9
1.5. Significances of the Study	10
1.6. Scope	10
1.7. Methodology.....	11
1.8. Structure of the Study.....	12
CHAPTER TWO.....	13
REVIEWS OF RELATED LITERATURES	13
2.1. General Concepts Regarding the Principle of Reasonable Accommodation.....	13
2.2. International Human Rights Principles that Apply to the Human Right to Education.....	14
2.2.1. United Nations Charter (1945)	14
2.2.2.The Right to Education under Universal Declaration of Human Rights (UDHR)	14
2.2.3. The Right to Education in the International Covenant on Economic, Social and Cultural Rights (ICESCR).....	16
2.2.3.1. Minimum Core Obligations Resulting from the Right to Education under ICESCR20	

2.2.4. UNESCO's Convention against Discrimination in Education (1960)	21
2.2.5. International Covenant on Civil and Political Rights (1966)	22
2.2.6. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)	22
2.3. Models of Disabilities: A Brief overview	26
2.3.1. The charity Model of Disability	26
2.3.2. Religious/Moral Model of Disability	27
2.3.3. Medical Model of Disability	27
2.3.4. The social Model of Disability	28
2.3.5. Rights-Based Model of Disability	29
2.4. Universal Design and Reasonable Accommodation	29
2.5. Universal Design in Learning	33
2.6. The Duty of Reasonable Accommodation	35
2.6.1. Disproportionate and Undue Burden	38
2.7. The Accessibility Obligation and Reasonable Accommodation	38
2.8. Experience of Makerere University Regarding Implementation of Reasonable Accommodation	39
2.8.1. Reasonable Accommodation for Student with Disabilities at Makerere University	39
2.8.2. Good Practices	41
2.8.3. Disability Supportive Interventions	41
2.8.4. Reasonable Accommodation	41
2.8.5. Disability Sensitization	42
CHAPTER THREE	43
ETHIOPIA'S IMPLEMENTATION OF THE PRINCIPLE OF REASONABLE ACCOMMODATION IN LIGHT OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES: CASE STUDY ON ADDIS ABEBE UNIVERSITY	43
3.1. The National Legal Frame Works on Reasonable Accommodation	43

3.1.1. The FDRE Constitution on the Principle of Reasonable Accommodation for Students with Disabilities	43
3.1.2. The Higher Education Proclamation No. 1152/2019.....	48
3.2. Perceived Inclusive Educational Needs of Learners with Disabilities in Institutions of Higher Education of Addis Ababa University.....	51
3.2.1. Assessment of Reasonable Accommodation for Student with Visual Impairments at Addis Ababa University	52
3.2.2. Assessment of Reasonable Accommodation for Student with Physical Disabilities at Addis Ababa University	61
3.2.3. Assessment of Reasonable Accommodation for Student Who Are Deaf or Have Hard Hearing Impairments at Addis Ababa University.....	68
CHAPTER FOUR.....	74
CONCLUSION	74
BIBLIOGRAPHY.....	75

Acronyms

AAU	Addis Ababa University
ADA	Americans with Disabilities Act
CAST	Center for Applied Special Technology
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the right of child
CRPD	Convention on the Rights of Persons with Disabilities,
DLRC	Disability Law and Rights Center
FBE	Faculty of Business and Economics
FDRE	Federal Democratic Republic of Ethiopia,
HEI	Higher education institution
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information communication technology
IHE	Institutions of Higher Education
IT	Information technology
JAWS	Job Access with Speech
NGOS	None governmental organization
NVDA	Non Visual Desktop Access
PWD	Persons with disabilities
UCAA	University College of Addis Ababa
UD	Universal Design
UDE	Universal design in education
UDHR	Under Universal Declaration of Human rights
UDL	Universal design for learning
UN	United Nation
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNESCO	United Nations Educational, Scientific and Cultural Organization

Abstract

Ethiopia is among the first countries to ratify the CRPD.¹ However, although there are some positive aspects, the CRPD is not being implemented adequately with regard to the right to inclusive higher education in the Ethiopia. There are virtually no laws aimed at enforcing the right of people with disabilities to inclusive higher education. Students with disabilities at Addis Ababa University face so many challenges in their teaching learning process. In this regard, student with visual impairment have limited access to choose their areas of study and without availability of accessible educational materials, accommodated examinations, without modification of academic requirements, and without sufficient assistive technology, to name a few challenges. Moreover, Students with physical and hearing impairments also face challenges because of lack of reasonable accommodation. Although there are some efforts, none of these issues have been addressed by the concerned bodies adequately.

¹ See at https://treaties.un.org/.../src-TREATY-mtdsg_no-IV~15-chapter-4-lang-_en-PageVie (accessed on July. 16, 2021; 10:43 PM).

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

The inception of higher education in Ethiopia began with the establishment of the then University College of Addis Ababa (UCAA), today's Addis Ababa University (AAU), in 1950.² Addis Ababa University is a HEI that has rendered a priceless service to Ethiopia for more than half a century. The university's features like the many education programs it teaches the number of academicians it has from several academic backgrounds with the highest level of academic qualification and experience places it in the honor of being the mostly highly reputed HEI in the country.³

In recent times, higher education providers have attempted to offer structures to improve the learning opportunities of students with disabilities. There are numerous examples from tertiary Education providers world-wide that acknowledge a change in the way the academic community views disability and the disabled student. Many of these changes are continuing to evolve.⁴ Students with disabilities have the right to an accessible education as mandated by both state and federal law. In order to obtain an accessible education, students with disabilities may require certain accommodations. It is the responsibility of this University to abide by all applicable state and federal laws, as well as its own policy of non-discrimination, which includes individuals with disabilities.⁵

² Yared Nigussie, Quality Of Education In Selected Colleges Of Addis Ababa University, Lecturer Addis Ababa University p.1

³ Ibid

⁴ Yared Gebreegziabher Arefaine, 'Policy and Provision for Students with Disabilities in Higher Education: The Ethiopian Case' [2008] Master of Philosophy in Special Needs Education, Faculty of Education Department of Special Needs Education, University of Oslo p.23

⁵ Faculty Guide to Accommodating Students with Disabilities, *with information specific to faculty teaching in the Department of Online Education and Extended Programs*, Campbell University p.5

Persons with disabilities (hereinafter PWDs) are among the most vulnerable groups to social, economic and political problems.⁶ They face segregation, prejudice and discrimination in their day-to-day activity. Their human rights are violated by individuals and social institutions intentionally or unintentionally. Many persons with disabilities are stripped of most of basic individual life involvements such as going to school, employment, owning and managing property, establishing family and raising children, voting and other social life activities.⁷

Activists who lead the movement of rights of PWDs argue that it is the right of everyone to decide whether s/he is PWDs or not, rather than imposing definition.⁸ The definition of PWDs is very debatable area because definitions can entail exclusion of some persons who want to be identified as PWDs and inclusion of some persons who do not want to be identified as such.⁹

Disability is a complex and multi-faceted concept, and approaches to defining and measuring disability have evolved during the last few decades.¹⁰

Disability is not a new phenomenon for human world that can/could face at some point of life.¹¹ Disability is part of the human condition that can or could have temporarily, permanently impaired at some point of life. Disability should not be considered as a challenge for self-enhancement, making important contributions to society and holding significant positions on all walks of life. It becomes a handicap largely when societal discriminatory attitudes are widespread and lack of opportunities for self-growth and development is non-existent.¹²

⁶ Aschalew Ashagre, 'Access to Justice for PWDs In Civil proceedings Before The Federal Courts In Ethiopia: The Law And Practice' (September 2020) Vol.14 Mizan Law Review P.1

⁷ United Nations, ((2007) From Exclusion to Equality – Realizing the rights of persons with disabilities' Handbook for Parliamentarians, on the conventions on the right of persons with disabilities and its optional protocol, No.14 - 2007,Switzerland, Geneva p.1

⁸ Disabled People South Africa, (December 2000) Pocket Guide On Disability Equity An Empowerment Tool, 1st Ed. Available at <http://www.dpsa.org.za/documents/> (accessed on March 15, 2015)

⁹ Ibid

¹⁰ Briefing note, situation and Accesses to services of persons with disabilities in Addis abeba,p.2

¹¹ Zinabie Seyoum, 'Employment Opportunities and Challenges of People with Disabilities in Dire-Dawa, Ethiopia: Policy and Practice' (2017) 22 (4) Journal of Education, Society and Behavioral Science p.1

¹² Ibid at, p.2

People with disability are stigmatized, discriminated in their day to day life through human made or nature.¹³ People with disability are often denied chances to work, go to school, and participate in full society¹⁴

The exact number of the population of those who live with disability is not known precisely. There are estimations nationwide and internationally. One of the estimations is the report of World Bank. According to the recent estimation, fifteen percent of the world is suffering from some sort of disability. From this, developing countries take the lion's share. Eighty percent of persons with disabilities live in developing countries.¹⁵ There are no reliable, up-to-date national statistics available on disability in Ethiopia.¹⁶ But few international studies indicate that above 17.3 million (17%) people live with some form of disability. Even though they have different forms of disability, the way they experience discrimination from the society makes them similar. Discriminations against disabled person are worldwide problem.¹⁷

There are different human right treaties provides the protection of the rights of persons with disability. More specifically the UN adopted a convention for the protection of the right of persons with disabilities. The UN convention on the right of persons with disabilities was adopted on 30 March 2006.¹⁸ The convention is intended as a human right instrument with an explicit, social development dimensions.¹⁹ It adopts a broad categorization of persons with

¹³ Ibid at, p.2

¹⁴ WHO, why is the convention on the right of persons with disability important?, available at www.who.int, accessed at 25/05/2020

¹⁵ Dawet Oticho, 'the place of the right of persons with disabilities under the 1995 FDRE constitution' [2019] Addis Ababa university (unpublished) p.1

¹⁶ Supra Note 4,p.4

¹⁷ Pamela S. Karlan and George Ruherglen, 'disablity, discrimination, and reasonable accommodation'(1996) 46 Duke Law Journal p.1

¹⁸ Convention on the right of persons with disabilities, available at www.en.m.wikipedia.org, accessed at 25/05/2020

¹⁹ UN department of economic and social affairs, convention on the right of persons with disabilities, available at [www. Un.org](http://www.Un.org), accessed on 25/05/2020

disabilities and reaffirms that all persons with all types of disabilities must enjoy all rights and fundamental freedoms.²⁰

State parties to the Convention have the obligation to respect, protect and fulfill those rights provided in the Convention through their agents. This implies that signatory states have the obligation to refrain from doing acts that can hinder enjoyment of those rights (negative obligation), and should do some acts that are helpful for enjoyment of those rights (positive obligation).²¹ Therefore, states are no more justified in violating human rights of PWDs such as inclusion, social participation; autonomy and the right to equal recognition before the law. This model is more of the continuation of social model of disability as it takes into account most of what the proponents of the social model proposes.

The CPRD provides that:

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.²²

Provided that the above-stated definition by the CPRD is labeled as the most progressive and comprehensive one from among the definitions on persons with disabilities, it remains a working definition throughout this study.

The right to equality is one of the fundamental and cherished rights of human beings guaranteed in many international human rights Instruments²³ and national laws. Article 5(3) CRPD provides that, in order to promote equality and eliminate discrimination, States Parties are required to take all appropriate steps to ensure that reasonable accommodation is provided. Reasonable accommodation' is defined in Article 2 CRPD as comprising of:

²⁰ Ibid

²¹ Serges Kamga, *Forgotten or Included? Disabled Children's Access To Primary Education In Cameroon*, chapter 2, 1 African Disability Rights Yearbook (2013) p. 44

²² Article 1 of CRPD

²³ For instance article 7 of the Universal Declaration of Human Rights (UDHR), and article 16 of the international Covenant on Civil and Political Rights (ICCPR) provides for equality of everyone before the law

Necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a 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. Besides, the same article (i.e. article 2 of the same convention) alleged that an unjustified denial of reasonable accommodation (i.e. where it cannot be shown by the duty-bearer that the modification or adjustment requested by an individual amounts to a disproportionate or undue burden) constitutes a form of discrimination, according to Article 2 of the Convention.²⁴ In light of this, as expressed in the article, what a reasonable accommodation for students with disabilities supposed to be seems contrary with the practice on the ground in Addis Ababa University. Therefore, this study aims to shed some light on the situation of students with disabilities in the Addis Ababa University and give brief analyses with regard to Ethiopia's implementation of the principle of reasonable accommodation in higher education in light of UNCRPD.

1.2. Statement of the Problem

Persons with disabilities are marginalized members of society who do not fully and effectively participate in socio-economic activities on an equal basis with others due to various barriers in the environment.²⁵ The community of persons with disabilities requires high protection not only in legislation, but also constitutionally. Unless otherwise constitutionally their right is guaranteed, there may be a high level of violation in such kind of vulnerable groups. Furthermore to change and break the backward perception of the society over persons with disabilities, to remove barriers socially constructed and to expand the equal opportunity of persons with disabilities to make them participate in the socioeconomic activities of their life and the country at large, laws have to be framed strictly. Predominantly, constitutions shall integrate the right of persons with disability. In the world, various constitutions have included the right of persons with disability as core principles.²⁶

²⁴ Andrea Broderick, 'Of rights and obligations: the birth of accessibility' (2020) 24:4 *The International Journal of Human Rights* P.393

²⁵ Belayneh Admasu, 'Legal Protections Accorded to Persons with Disabilities under Ethiopian Law' (2013) *Vol.3, Bahir Dar University Journal of Law* p.298

²⁶ *Supra* Note 11, p.2

The non-discrimination principle is deemed a fundamental principle of the international protection of human rights and covers direct and indirect discrimination (Art. 3). In addition to this principle, this equality right is explained in an article of its own, which obligates the States Parties to undertake specific protection measures (Art. 5). The State Party shall not only prohibit “all discrimination on the basis of disability” and guarantee “equal and effective legal protection against discrimination” (Art. 5 Para. 2), but “in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided” (Art. 5 Para. 3). Reasonable accommodation in individual cases has to take a form specific to the person with disability concerned²⁷

Article 5(3) of the CRPD also links the equality and non-discrimination norms with the duty to accommodate. In order to promote equality and eliminate discrimination, States Parties are required to take all appropriate steps to *ensure* that reasonable accommodation is provided. In the context of the CRPD, ‘this will require that States oversee the implementation of the duty to accommodate by public and private entities, and the entities should engage in a constructive dialogue with the disabled individual in order to determine the most appropriate accommodation in the circumstances of a particular case.’ States Parties will also be required to undertake education and awareness-raising duties, particularly with regard to all those involved in the implementation of the duty to accommodate, as well as the judiciary and state officials. In addition, national authorities will be required to ensure that their legislative frameworks comply with the obligations engendered by the CRPD, ensuring ‘that the unjustified denial of reasonable accommodation is included as a distinct form of discrimination in national legislation and that national policy documents give express recognition to this new form of discrimination under international human rights law.’²⁸

The UN Convention on the Rights of Persons with Disabilities (CRPD) explicitly embeds the concept of reasonable accommodation within the principle of non-discrimination. Article 2 of the CRPD unambiguously recognizes that reasonable accommodation is vital in enabling persons

²⁷ Marianne Hirschberg and Christian Papadopoulos, ‘Reasonable Accommodation’ and “Accessibility”:
Human Rights Instruments Relating to Inclusion and Exclusion in the Labor Market’ [2016] p.8

²⁸ Andrea Broderick, Working Report on Reasonable Accommodation under the CRPD: The Georgian Context [2017] p.16

with disabilities to enjoy and exercise their rights on an equal basis with others.²⁹In order to meet the needs of these students, the provisions of the Convention on the Rights of Persons with Disabilities on reasonable accommodation measures should be taken by states members. Ethiopia is a member of this Convention and the higher education institutions have to work towards the accommodation of these students so that they could compete on an equal basis with other students.³⁰

When we come to Ethiopia's system of ensuring the principle of reasonable accommodation faces so many constraints. Today many students with disabilities in Ethiopia are managing to get admitted to higher education, passing all the hurdles through elementary and secondary education levels. A good number of students have managed to be admitted to higher education, the universities' facilities are mainly designed for students who have no disabilities. The teaching methodology, the curriculum, the design of class rooms and dormitories, the roads in campus, the reader materials and the books, internet access and computers and many other academic and physical facilities are designed based on ableism. This will inevitably limit the effectiveness of these students to become academically competitive on an equal basis with other students.³¹ This study, however, focuses on students with hearing, visual and physical impairments in the Addis Abeba University. This is due to the fact that these are the group of students with disabilities admitted in the Ethiopian universities with the visible disabilities.³²

When it comes to the education of persons with disabilities especially in Addis Ababa University, barriers and difficulties are numerous. Students with disabilities often faced additional challenges in their educational environment. With regard to accessibility for students with disabilities, barriers are sufficiently documented. These barriers include physical, architectural, service deliveries, provisions of learning materials and equipment, attitudinal and

²⁹ Delia Ferri, 'Reasonable Accommodation as a Gateway to the Equal Enjoyment of Human Rights: From New York to Strasbourg' (2018) 6 p.40

³⁰ *Aytenew debebe*, 'An Assessment On The Reasonable Accommodation Of Students With Disabilities In Jimma University' (2015) 7 Jimma U JL 30

³¹ *Ibid* at p.31

³² Research Team 'Assessment Of The Situation Of Students With Disabilities In The Ethiopian Universities' [2014] Department of Special Needs Education College of Education and Behavioral Studies, Addis Ababa University p.5

cultural influences. Apart from the multitude of barriers that affect the education of students with disabilities, physical barriers are visibly challenging these students. Free movement in the university campuses is assumed to be the right. Accessible classrooms, dormitories, halls, dining rooms, recreational areas, library, service delivery units, dormitories, exit passageways in emergency situations are all elements of physical accessibility, however these basic conditions are not adequately met. Students with disabilities also face educational challenges such as lack of adequate educational background, shortage of instructional materials, text and reference books (written in Braille or recorded cassettes) in the university environment. Failure to fulfill those provisions hinders their success.

Even though there are many researches and reports done on the principle of reasonable accommodation at International and domestic level, for instance at International level a working report is done in Georgia entitled as ‘Working Report on Reasonable Accommodation under the CRPD: The Georgian Context’ and domestically also researches are done with regard to the principle of reasonable accommodation for example in Jimma University a research done on the principle of reasonable accommodation entitled as ‘An Assessment on the Reasonable Accommodation of Students with Disabilities in Jimma University’. As compared to other universities in the country AAU is considered as a big institution among HEI in Ethiopia by accepting many students with disabilities and by delivering the required services for Students with disabilities. But, students with visual disabilities, physical disabilities, and hearing impairments as the researcher tried to mentioned above face serious challenges academically and to access different services in the campuses of AAU due to lack of the implementation of the principle of reasonable accommodation under the CRPD and higher education proclamation. Moreover, there is no research done addressing this problem. Hence, it is with the intention to fill the mentioned gap that this study has tried to assess Ethiopia’s implementations of the principle of reasonable accommodation in HEI in light of the international standard set in CRPD, higher education proclamation and other relevant laws by taking Addis Ababa University as a case.

1.3. Objectives of the Study

1.3.1. General Objective

This research aims at explicating the implementation of the UNCRPD in Ethiopia, particularly the implementation of right of the principle of reasonable accommodation in Addis Ababa University. This paper is also intended to provide recommendations on relevant issues that must be considered regarding to implementation of the reasonable accommodation duty in Addis Ababa university.

1.3.2 Specific Objectives

- Examine the meaning, scope and content of the principle of reasonable accommodation
- Identify the accessibility of physical environment of Addis Ababa University
- Identify the challenges and barriers that faced by student with disabilities regarding reasonable accommodations in Addis Ababa University
- Identify the strategies that have been employed to overcome barriers and challenges faced by student with disabilities regarding to reasonable accommodation in Addis Ababa University
- Assessing whether reasonable accommodation is being fully implemented and targets all persons with disabilities in higher education of Ethiopia
- Assess legal documents on the rights of persons with disabilities

1.4. Research Questions

The major issue that this research wrestles with is to analyze and provide an interpretation of the concept of reasonable accommodation contained in the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and Ethiopia's implementation of the principle of reasonable accommodation in Addis Ababa University. Therefore, the following questions will be addressed in the thesis:

- What are the meaning, scope and content of the principle of reasonable accommodation?
- To examine whether or not the nature of the physical features of Addis Ababa University is accessible to students with disabilities?
- What are the challenges and barriers that faced by student with disabilities regarding reasonable accommodations in Addis Ababa University?

- What strategies have been employed to overcome barriers and challenges faced by student with disabilities regarding to reasonable accommodation in Addis Ababa University?
- Assessing as to whether reasonable accommodation is being fully implemented and targets all students with disabilities in Addis Ababa University?
- To assess as to what the domestic legal documents say on the rights of student with disabilities?

1.5. Significances of the Study

This study is significant in bringing to the fore the issue of students with disabilities as a public agenda that needs a particular concern in the whole effort of realizing their all over rights in Ethiopia in general. The study also shows the overall situation of students with disabilities in the Ethiopian higher education institutions for policy makers, researchers, educators and the students themselves.

And it will sensitize Ethiopian institutions and encourage them to take action to accommodate students with disabilities.

The research will focus on only Ethiopia's implementation of the principle of reasonable accommodation under the UNCRPD convention in higher education in the interest of time. The finding of this research might serve as a reference or disability literature to courses relating the discourse. It might be also a source of inspiration for future researchers to conduct further research on the area. The research will contribute to the development of jurisprudence of student with disabilities. Besides, it will be an important input for students, researchers, human rights activists and policy makers who are interested in disability study.

1.6. Scope

This paper focuses on the normative framework of the right of PWDs to the principle of reasonable accommodation in Ethiopia. It will explore the country's laws and the CPRD, whether the country is implementing the principle of reasonable accommodation according to the Convention. The paper will make doctrinal comparison between international human rights instruments with particular emphasis on CPRD and the pertinent Ethiopian National laws. Thus,

it will be exploring national laws such as the Constitution of Federal Democratic Republic of Ethiopia (FDRE Constitution), higher education proclamation and other laws which are relevant. Consequently, this research does only make a case-based, or empirically informed, analysis of the right of student with disability that is limited to students with disabilities in Addis Ababa University. Any reference to cases, if any, will be only tangential and is meant for the purpose of illustration to human rights activists and policy makers who are interested in disability study.

1.7. Methodology

The paper is based on mixed approach (doctrinal and empirical). It is doctrinal in that it analyzes legal instruments about what various laws states on the issue under study. By this it examines a variety of legal instruments like International Covenant on Civil and Political Rights (ICCPR), the CRPD, FDRE's constitution and higher education proclamation, International Declaration and Conventions. In addition to that, it explores books, magazines, academic journals, dissertations, policy papers, and policy practices, articles, and related secondary sources are used to discuss, explain, interpret, and analyze what the laws say and what they should say on the area of the study.

It is also empirical in that it makes use of interviews to find out what the law ought to be in action. To this end, the researcher gathered the relevant information via interviewing the relevant participants in this regard. It is conducted with higher officials of the university's disability center from where students with disabilities receive services under their leadership. Special needs support officers were interviewed about accommodating students with disabilities, university legislation and related policies, service provisions, environmental accessibility, instructional modifications, barriers to accommodation and challenges students with disabilities have faced. They were also interviewed about what has been done and what has been planned to accommodate students with disabilities in their respective universities. In short, the major points discussed were revolved on the issue of accommodation, legislation, barriers, challenges and opportunities with regard to the education of students with disabilities.

Focus group discussion were held among students with disabilities on accommodation in their universities, challenges they have experienced during their stay in their universities and measures taken by their respective universities in order to minimize the problems they have faced, and their suggestion of measures to be taken by their respective universities.

1.8. Structure of the Study

The thesis is divided into four chapters including conclusion and recommendations. Hence, it is organized as:

Chapter one is an introductory part of the thesis and deals with background of the study, statement of the problem, objectives, significance, scope, methodology and introduction of the subject of study.

Chapter two deals with reviews of related literatures and general concepts regarding the principle of reasonable accommodation. This chapter will also specifically, explain the meaning, scope and content of the principle of reasonable accommodation in the international human rights laws and it gives a brief background to UNCRPD and best experience of other universities regarding implementation of reasonable accommodation.

Chapter three is on the other hand dedicated to analyzing Ethiopian laws that are related with right of student with disabilities. The chapter will deal with appraisal of Ethiopian laws such as the Constitution, higher education proclamation and other relevant laws. Chapter four is a place of conclusion.

CHAPTER TWO

REVIEWS OF RELATED LITERATURES

This chapter reviews related literatures on the implementation of the principle of reasonable accommodation vis-à-vis the convention on the rights of persons with disabilities. With this, general concepts regarding the principle of reasonable accommodation, International Conventions on the right to educations, UNCRPD, models of disabilities, universal design, universal design in learning, accessibility obligation, the duty of reasonable accommodation and experience of Makerere University are explained and discussed in the subsequent way.

2.1. General Concepts Regarding the Principle of Reasonable Accommodation

HEIs receive students from diverse backgrounds. They also include students with disabilities in mainstream classrooms. This poses a big challenge for educators who have to be aware of their students' individual differences and ensure that no one is left behind. Such challenge of accommodating diversity is accentuated by the term 'inclusion'.³³

Reasonable accommodation has become a central pillar in the architecture of anti-discrimination law, both domestically and internationally. Its roots lie in North American legal developments, and, in relation to disability discrimination, the Americans with Disabilities Act (ADA) 1990 has been identified as a turning point in the global diffusion of this concept. It was incorporated into EU legislation in 2000. Critically, its normative status was placed beyond doubt in the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), which defined denial of reasonable accommodation as a form of discrimination.³⁴

With this in mind, the notion of the principles of reasonable accommodation has got a great acceptance in the recent years. In this regard, this Chapter deals the right to education in

³³ Wondwossen Mulualem Beyene, Abraham Tulu Mekonnen & George Anthony Giannoumis, 'Inclusion, access, and accessibility of educational resources in higher education institutions: exploring the Ethiopian context' [2020] *International Journal of Inclusive Education* P.1

³⁴ Mark Bell, 'Pitfalls and Progress: Reasonable Accommodation for Workers with Disabilities in Ireland' [2018] Forthcoming *Dublin University Law Journal* P.1

international conventions, provides brief background of the convention on the rights of persons with disabilities, models of disabilities, universal design, reasonable accommodation, accessibility and experience Makerere University in the context of disability in detail in the following subsequent sections.

2.2. International Human Rights Principles that Apply to the Human Right to Education

2.2.1. United Nations Charter (1945)

The United Nations will promote educational cooperation among nations to create stability and well-being. In its preamble, the U.N. Charter states a universal principle of fundamental human rights, the dignity and worth of the human person, and the equal rights of men and women. In order to create the conditions of stability and well-being based on respect for the principle of equal rights and self-determination of peoples, the members of the United Nations will universally respect and observe human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, for which members of the United Nations committed to take joint and separate action.³⁵

2.2.2. The Right to Education under Universal Declaration of Human Rights (UDHR)

The International Bill of Human Rights is composed of the UDHR, ICESCR, and the ICCPR. The UDHR is "a milestone document in the history of human rights."³⁶The Universal Declaration of Human Rights (UDHR) is arguably the international project of the twentieth century³⁷Universal Declaration of Human Rights was unanimously adopted by the UN General Assembly on 10 Dec 1948 to give content to the human rights provisions of Article 55 of the United Nations Charter and to provide in its words, "*a common standard of achievement for all peoples and nations*". It consists of a preamble and 30 articles which have been elaborated in subsequent treaties, regional human rights instruments, national constitutions and laws. A general right to education was directly and specifically articulated for the first time in this

³⁵ Jootaek Lee, 'The Human Right to Education: Definition, Research and Annotated Bibliography' (2020) 34 Emory Int'l L Rev 757

³⁶ Ibid

³⁷ Thomas S. Wermuth, 'The Hudson River Valley Review' (2009) Vol. 26 A Journal of Regional Studies P.53

Declaration under Article 26(1). It states that:³⁸ *Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit*".³⁹ Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Parents have a prior right to choose the kind of education that shall be given to their children.⁴⁰

The right to education is both a human right in itself and an indispensable means of realizing other human rights. Education empowers individuals to raise themselves out of poverty and advance their socio-economic status. Politically and socially, education offers people the necessary skills to identify common goals, assume a full and active place in community life, recognize manipulative media practices, and resist oppression. Despite its vital importance in securing human rights and advancing socio-economic development, education commands too little media attention. There is a stubborn and unacceptable gap between education needs and available resources.⁴¹ The right to education is articulated in Article 26 of the UDHR, which emphasizes universality, equal access, and the role of education in promoting respect for human rights and tolerance among nations and social groups.⁴²

³⁸ Hiwot Abebe, 'The Right TO Education Of Children With Intellectual Disability And Its Implementation In Addis Ababa' [2011] Addis Ababa University School Of Graduate Studies Faculty Of Law, A Thesis Submitted In The Partial Fulfillment Of The Requirement For The Degree Of Masters Of Laws In Human Rights Law, Faculty Of Law P.42

³⁹ Ibid at P.43

⁴⁰ Supra Note 37 at P.54

⁴¹ Gordon Brown, 'The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World' [2016] A report by the Global Citizenship Commission P.88

⁴² Ibid

2.2.3. The Right to Education in the International Covenant on Economic, Social and Cultural Rights (ICESCR)

The Covenant is a multilateral treaty adopted by the United Nation General Assembly on December 16, 1966, and come into force, ten years later, on January 3, 1976 same year with the International Covenant on Civil and Political Rights. It consists of a preamble and 31 articles divided into five parts. It imposes a legally binding obligation on those nations which ratify or accede to it to work toward the granting of economic, social, and cultural rights to individuals.⁴³ The educational provisions of UDHR have been reaffirmed, amplified and made more detailed by this Covenant. Article 13 of ICESCR expands upon the content attributed to the right to education by Article 26(1) of the UDHR. It is devoted to the right to education and, in its day, contained the most extensive and detailed provisions on this subject to be incorporated in an international instrument.⁴⁴ The concept of education can be variously defined. Education occurs in its widest sense in the interaction of the individual with the social and natural environment to which he or she belongs. Education can be defined in the broad sense to encompass “all activities by which a human group transmits to its descendants a body of knowledge and skills and a moral code which enable that group to subsist”. In this sense, then, education is primarily concerned with the transmission to the younger generation of the skills necessary to effectively undertake the tasks of daily living and with the inculcation of the social, cultural, religious and philosophical values held by the particular community.⁴⁵ Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make. But the

⁴³ Supra Note 38 at P.44

⁴⁴ Ibid

⁴⁵ Douglas Charles Hodgson, ‘The Role and Purposes of Public Schools and Religious Fundamentalism: An International Human Rights Law Perspective’ Professor of International and Obligations Law, Faculty of Law, The University Of Western Australia p.1

importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.⁴⁶

Although the right to education is little known as a human right, it has a solid basis in the international law on human rights. It has been laid down in several universal and regional human rights instruments. Examples are the Universal Declaration on Human Rights (Art. 26), the European Convention on Human Rights and Fundamental Freedoms (Art. 2 of the First Protocol), the UNESCO Convention against Discrimination in Education and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Articles 13 and 14)⁴⁷ The International Covenant on Economic, Social and Cultural Rights (ICESCR) devotes two articles to the right to education, articles 13 and 14.⁴⁸ These articles impose differing obligations for each level— primary, secondary, and tertiary—of education. Article 13 recognizes that “primary education shall be compulsory and available free to all.” States parties that have not secured compulsory, free primary education at the time of treaty ratification must develop a plan within two years and must implement it within a reasonable number of years after ratification.⁴⁹ Secondary education must be made generally available and accessible to all, and tertiary education must be made “equally accessible to all on the basis of capacity.” In addition, states parties must progressively achieve free secondary and tertiary education. Also with regard to secondary and tertiary education, states must immediately take steps toward full realization under Article 13(2)(b)–(c). These steps must include adopting and implementing a national education strategy, which should provide mechanisms, such as indicators and benchmarks, to measure progress toward the full realization of the right to education.⁵⁰

⁴⁶ Committee On Economic, Social And Cultural Rights, Implementation Of The International Covenant on Economic, Social And Cultural Rights [1999] General Comment No. 13

⁴⁷ Fons Coomans, ‘Exploring The Normative Content Of The Right To Education As A Human Right: Recent Approaches’ P.61

⁴⁸ Supra Note 46, p.1

⁴⁹ Sital Kalantry, Jocelyn E. Getgen & Steven Arrigg Koh ‘Enhancing Enforcement of Economic, Social and Cultural Rights Using Indicators: A Focus on the Right to Education in the ICESCR’ (2010) Vol. 32 Human Rights Quarterly p.269

⁵⁰ Ibid at P.260

In order to measure a State's compliance with a treaty, we must first carefully analyze the treaty language. Malhotra and Fasel stress that in giving meaning to the concept sought to be measured, the concept itself must be grounded in relevant human rights treaties. In addition to focusing on the specific treaty language, it is also important to analyze how that language has been interpreted by relevant bodies. To interpret the meaning of the ICESCR, we look at the language of the treaty and the General Comments of the Committee on Economic, Social and Cultural Rights (CESCR or Committee), the treaty body responsible for monitoring and evaluating States parties' compliance with the ICESCR, including the right to education.⁵¹ The CESCR has defined the scope and attributes of the right to education broadly under the ICESCR through the 4-A Right to education framework—availability, accessibility, acceptability, and adaptability.⁵² This framework more comprehensively captures the many facets of the right to education. Consequently, we propose using the 4-A Framework in elaborating on the right to education as set forth in the ICESCR. Although the CESCR has adopted the 4-A Framework, it has not explained how it is linked directly to the language of the ICESCR. In the analysis that follows, we attempt to clearly tie indicators to the ICESCR treaty language.⁵³

A) availability: functioning educational institutions and programs have to be available in sufficient numbers in a country, through a public educational system and allowing private parties to establish non-public schools;⁵⁴ What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology;⁵⁵ The

⁵¹ Sita Kalantry, Jocelyn Getgen, and Steven A. Koh 'Measuring State Compliance with the Right to Education Using Indicators: a Case Study of Colombia's Obligations Under the ICESCR' [2009] Cornell Law Faculty Working Papers p.18, http://scholarship.law.cornell.edu/clsoops_papers/52

⁵² Supra Note 49, at P.274

⁵³ Supra Note 41, at P.31

⁵⁴ Fons Coomans (Prof.), 'Identifying the Key Elements of the Right to Education: A Focus on Its Core Content' [2007] P.3

⁵⁵ UNCESCR General Comment no. 13(2)

concept of availability is explicitly protected by the ICESCR, but differs depending on the level of education. Specifically, primary education shall be “available free to all” and secondary education “shall be made generally available.” Higher education must be “equally accessible to all, on the basis of capacity, by every appropriate means.” This provision indicates that higher education need only be made available to those who qualify by some uniform standard—presumably set by the state or institution—that measures whether individuals are adequately prepared to study at the tertiary level. At all levels, education must be available to minorities on an equal basis with other students.⁵⁶

- B) Accessibility: educational institutions and programs have to be accessible to everyone, without discrimination on any ground, also including physical and economic accessibility;⁵⁷ first, the essence of the right to education means that no one shall be denied a right to education. In practice, this means an individual right of access to the education available, or in more concrete terms, the right of access to the existing public educational institutions on a nondiscriminatory basis.⁵⁸
- C) Acceptability: Acceptability addresses the form and substance of the education with regard to both quality and appropriateness. This is a duty based on principles of basic human dignity, and it requires that education be of a quality that has meaning to the individual students, to the community, and to society at large. Instruction should involve non-discriminatory subject matter and should incorporate content appropriate to the students’ cultural, language and social backgrounds. More broadly, acceptability describes the government’s duty to ensure that schools have certain minimum standards for teachers, students, building facilities and curricula.⁵⁹ Article 13(2) of the ICESCR addresses the concept of acceptability by stating that the material conditions of teaching staff shall be continuously improved. The Committee has also noted that “the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g., relevant, culturally appropriate and of good quality) to students.”⁶⁰

⁵⁶ Supra Note 49, at P.275

⁵⁷ Supra Note 54, at P.3

⁵⁸ Ibid

⁵⁹ Supra Note 41, at P.34

⁶⁰ Ibid

D) Adaptability: Finally, adaptability addresses the need for education to be flexible and able to respond to the needs of students within their diverse social and cultural settings. In achieving adaptability in education, the government should provide resources that enable schools to develop individualized education plans that meet the needs of the communities served by the schools.⁶¹ Article 13(1) of the ICESCR states that: education shall be directed to the full development of the human personality and the sense of its dignity, . . . strengthen the respect for human rights and fundamental freedoms . . . [and] enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups. In order for education to achieve these goals, it must be adaptable.⁶²

2.2.3.1. Minimum Core Obligations Resulting from the Right to Education under ICESCR

Although the ICESCR unequivocally recognizes the right of everyone to education, it only places an obligation on the state parties to “undertake to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” (Article 2) (emphasis added)⁶³ These obligations may be characterized as minimum core obligations, as defined by the UNCESCR in its General Comment on the nature of States parties obligations. Such obligations are not limited to cost-free (negative) obligations to respect, but also include positive obligations to protect and to fulfill. Minimum core obligations resulting from the core content of the right to education apply irrespective of the availability of resources.⁶⁴ While the realization of the full right to education is subject to progressive achievement, the state nonetheless has certain immediate obligations: (i) states must immediately take steps towards realization of the right to education to the maximum of its

⁶¹ Supra Note 49, at P.279

⁶² Ibid

⁶³ Angelina Fisher(Prof.), “Minimum Core” and the “Right to Education” [2017] Commissioned by the Nordic Trust Fund The World Bank, Research Paper P.9

⁶⁴ Supra Note 54, at P.9

available resources (i.e., inaction cannot be justified by lack of resources) and (ii) states must not adopt retrogressive measures (i.e., states cannot repeal existing guarantees or take backward steps that will minimize realization of rights).⁶⁵ It is interesting to note that the UNCESCR also briefly refers to the core content concept in its General Comment on Article 13, but framed in terms of core obligations for the state, echoing the wording of General Comment no. 3 on the nature of states' obligations. According to the Committee, the minimum core obligation with respect to the right to education includes an obligation: 'to ensure the right of access to public educational institutions and programs on a non-discriminatory basis; to ensure that education conforms to the objectives set out in Article 13(1); to provide primary education for all in accordance with article 13(2)(a); to adopt and implement a national educational strategy which includes provision for secondary higher and fundamental education; and to ensure free choice of education without interference from the State or third parties, subject to conformity with "minimum educational standards" (article 13(3) and (4))'.⁶⁶

2.2.4. UNESCO's Convention against Discrimination in Education (1960)

This Convention prohibits discrimination in terms of access to education, the standard and quality of education and condition under which education is given. Regarding the purpose of education, Article 5(1)(a) provides that: [e]ducation shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.⁶⁷

Moreover, this convention urges states to eliminate any discriminatory laws or administrative acts which result in educational segregation based on race, color, sex, religion, disability, etc. Not only abrogating the discriminatory provisions, but also the states are obligated to formulate, develop and apply a national policy which, by method appropriate to the circumstances and to the national usage, will tend to promote equality of opportunity and of treatment in the matter of education. This non-discriminatory convention on education, according to articles 1, 13, 56 of

⁶⁵ Supra Note 63, at P.9

⁶⁶ Supra Note 54, at P.9

⁶⁷ Supra Note 35, at P.777

the UN Charter and Articles 2 and 26 of the UDHR and other instruments of UN in the field, requests the cooperation of all states on the world to strengthen to respect the human rights to education of all individuals.⁶⁸

2.2.5. International Covenant on Civil and Political Rights (1966)

The ICCPR is one of the International Bill of Human Rights. ' The ICCPR imposes detailed duties on states relating to civil and political rights based on the UDHR, negatively prohibiting states from violating individual's civil and political rights. Specifically, Article 18 of the ICCPR protects the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions. The ICCPR established a Human Rights Committee which can enforce this treaty.⁶⁹

2.2.6. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

The UN Convention on the Rights of Persons with Disabilities (CRPD) is one of the nine core international human rights treaties and, it is the first legally binding instrument on the issue of disability and its purpose is to 'promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with⁷⁰ disabilities, and to promote respect for their inherent dignity'. The CRPD applies to all persons with disabilities, including those with mental, or psychosocial, disabilities.⁷¹The CRPD is modeled after recent United Nations human rights conventions, and especially the CRC, in two significant substantive ways. Adhering to the central objective of the human right to development, the Convention

⁶⁸Eshetu Alene Muluneh, 'The Protection of Human Rights of Persons with Disabilities in Higher Educational Institutions of Ethiopia' (2008) A thesis submitted to the School of Graduate Studies of Addis Ababa University, Faculty of Law, in partial fulfillment of the requirements for the Master of Laws, (LLM), for the Human Rights Law Specialization, Addis Ababa University School of Graduate Studies Faculty of Law, Human Rights Specialization P.69

⁶⁹ Supra Note 35 at P.779

⁷⁰ katerina kazoo, 'Analyzing The Definition Of Disability In The Un Convention On The Rights Of Persons With Disabilities Is It Really Based On a 'Social Model' Approach?'[2017] International Journal of Mental Health and Capacity Law p.25

⁷¹ Ibid at P.26

holistically⁷² melds civil and political rights with economic, social, and cultural rights. Put another way, the CRPD aspires to manifest the mandate that human rights are “indivisible, interrelated and interconnected.” It also emulates the CRC by articulating a comprehensive catalog of human rights obligations within the circumstances of a particular group, here, persons with disabilities.⁷³ The adoption of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) by the United Nation General Assembly on 13 December 2006 marked global recognition of the rights of persons with disabilities. The CRPD as a human rights treaty was opened to signatories on 30th March 2007 and came into force on 3rd May 2008.⁷⁴ The Convention, as is appropriate for a human rights instrument, strongly reflects the social model of disability. Explicit recognition is made of the fact that ‘disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.’ The Convention therefore reflects the reality that disability stems primarily from the failure of the social environment to meet the needs and aspirations of people with impairments, and is the highest legal manifestation and confirmation of the social model of disability on the international stage.⁷⁵ This conventional human orientation is reinforced both by the preamble, which catalogues the rights treaties from which the CRPD is said to grow, and the general contained in Article 3, which include autonomy, non-discrimination, human rights values. At the same time, the CRPD is clearly not a mere repetition come before. Key to its structure and animus are issues of discrimination reasonable accommodation to ensure that rights may be enjoyed basis with others. The differences that flow from disability are thus not with the limitation of the right in question, but with the suitable supports so that the right may be enjoyed. This is reflected in a general requirement to provide reasonable accommodation in Article 5(3), but also in the

⁷² Oddný Mjöll Arnardóttir and Gerard Quinn (ed), *The UN Convention on the Rights of Persons with Disabilities European and Scandinavian Perspectives*, Martinus Nijhoff 2009 P.23

⁷³ Ibid at P.24

⁷⁴ Donruedee Srisuppaphonl, Arnon Sriboonroj, Wachara Riewpaiboon and Viroj Tangcharoensathien, ‘Effective implementation of the UNCRPD by Thailand State Party: challenges and potential remedies’ (2017) 17 BMC International Health and Human Rights P.1

⁷⁵ Supra Note 34, at P.115

drafting of many of substantive provisions.⁷⁶ Moreover, the scope of the Convention is extremely broad. The Convention does not simply prohibit disability discrimination, nor does it only cover civil or political rights or economic, cultural or social rights. Instead the Convention is underpinned by the principles of non-discrimination and equality, which embrace the right to a reasonable accommodation, and these are linked to a broad group of rights. These rights are civil and political, such as the right to liberty, as well as more substantive, such as the right to education. It is, in fact, truly a human rights convention for the 21st century.⁷⁷

Art. 24 of CRPD enshrine the right to education for persons with disabilities. The right to education is one of the most important human rights. This right is an indispensable means in achieving other human rights. The CESCR points out that education is the primary vehicle by which adults and children can lift themselves out of poverty and to be fully involved in community life. The right to education is definitely of importance for people with disability, since they are inadequately represented in the workplace and disproportionately overrepresented among the poorest and uneducated citizens in the world.⁷⁸ The intention behind the drafting of the CRPD was to not create new human rights, but to build upon the existing human rights in the context of persons with disabilities. The right to education is already incorporated in other comprehensive human rights treaties, such as art. 18 (4) ICCPR, art. 13 and 14 ICESCR, art. 26 (1) UDHR, art. 23 and 29 of CRC.⁷⁹ The CRPD still provides for great added normative value. In relation to art. 24 the Convention reaffirmed and expanded the right to education in international human rights law. The great added value of article 24 CRPD is the first legal enshrinement of the right to inclusive education for persons with disabilities at all levels. The right to inclusive education was not recognised explicitly by other international human right treaties, only by soft

⁷⁶ Peter Bartlett, 'The United Nations Convention on the Rights of Persons with Disabilities and Mental Health Law' (2012) Vol. 75 Wiley on behalf of the Modern Law Review P.755

⁷⁷ Supra Note 34, at p.115

⁷⁸ Pim Toonders, 'Measures that need to be taken by the Netherlands to comply with its obligations under Article 24 of the Convention on the Rights of Persons with Disabilities with regard to higher education by looking at the best practices of Italy' [2019] The Hague University of Applied sciences P.13

⁷⁹ Ibid

law. The legal enshrinement of inclusive education also accords with the social model approach, since it focuses on adaptation of schools for their full inclusion.⁸⁰

Article 24 of the UN Convention on the Rights of Persons with Disabilities (CRPD) protects the right to education of persons with disabilities. It proclaims the right to inclusive education and prescribes the steps that have to be taken to this end. Article 24 of the CRPD provides not only that children with disabilities should not be discriminated against but also that they should be able to participate in the general education system.⁸¹ Article 24 (2) (c) of the CRPD provides that States shall ensure that ‘reasonable accommodation of the individual’s requirements is provided’. While this obligation is already provided for in Article 5 (3), it is repeated in relation to education, which shows its importance for inclusive education.⁸² The duty to provide reasonable accommodation means, for example, that buildings and classrooms must be accessible, transportation to schools is available and communication technology is used, as also provided for in Article 9 (1) of the CRPD. This obligation also applies to higher education, as well as to pre-school and adult education, since Article 24 (1) guarantees ‘an inclusive education system at all levels and lifelong learning’ and since reasonable accommodation have to be provided to all persons with disabilities.⁸³

The CRPD, signed in 2007, was ratified by the Ethiopian government in 2010, and so became the law of the land. It brought hopes that soon were dashed. The convention recognized disability not merely as a medical fact or stigma but, like the multiple ethnicities in the country, an identity that deserved human rights protection. This monumental win for Ethiopia’s disabled would transform disability rights.⁸⁴

⁸⁰ Ibid at p.14

⁸¹ Gauthier De Beco, ‘The Right to Inclusive Education according to Article 24 of the UN Convention on the Rights of Persons with Disabilities: Background, Requirements And Remaining Questions’ 32 (2014) Netherlands Quarterly Of Human Rights P.264

⁸² Ibid at P.278

⁸³ Ibid at P.279

⁸⁴ Sirak Akalu Iyassu, ‘Disability Rights are Human Rights: Pushing Ethiopia Towards a Rights-based Movement’(2020) Volume 19 Northwestern Journal of Human Rights P.57

2.3. Models of Disabilities: A Brief overview

Since time immemorial, societies have been viewing the phenomenon of disability from different perspectives. As a result, several models emerged to explain it.⁸⁵ These models have been coined based on societal beliefs and cultures, and applied as frameworks to tackle the phenomenon of disability. In addition the same author explains that these models have had a powerful influence on setting the parameters on how people with impairments are treated by society. In other words models of disability are a useful framework that depicts the reality of disability and help gain an understanding of disability issues. The wholesome adoption of these perspectives have given rise to the creation of policies that are ineffective as they do not fit the context they exist in, and so have no positive influence on the lives of disabled people.⁸⁶ Models of disability are important tools for defining impairment and ultimately for providing a basis upon which government and society can devise strategy for addressing the needs of disabled people.⁸⁷ The major models of disabilities are the charity model, the moral model, the medical model, the social model and the right-based model.⁸⁸

2.3.1. The charity Model of Disability

The charity model views PWDs as the problem and considers them as dependant on the sympathy of others who provide assistance in charity or welfare mode. “Driven largely by emotive appeals of charity,” this model is known for treating PWDs “as helpless victims of needing care and protection.” This model largely relies on “the goodwill of benevolent for custodial care of the PWDs rather than justice and equality.” The central tenet of this model is its perception of disability as a disqualification for claiming the right social resources which is a cause for the exclusion of PWDs from social arrangements and public services. Because of this, this model is seriously criticized and not influential.⁸⁹

⁸⁵ Barbara Z. Podzo and Charles G. Chipika, ‘Curriculum Reform: A Key Driver to the Inclusion of Students with Disabilities in Higher Education’ (2019) Vol.10 Journal of Education and Practice Faculty of Education, Reformed Church University, Masvingo, Zimbabwe p.60

⁸⁶ Ibid

⁸⁷ Supra Note 6, at p.3

⁸⁸ Ibid

⁸⁹ Ibid at p.4

2.3.2. Religious/Moral Model of Disability

The moral/religious model of disability is the oldest model of disability and is found in a number of religious traditions, including the Judeo-Christian tradition. According to one of the primary forms of moral and/or religious models of disability, disability should be regarded as a punishment from God for a particular sin or sins that may have been committed by the person with disability.⁹⁰ The Religious Model views disability as a punishment inflicted upon an individual or family by an external force. It can be due to misdemeanors by the disabled person, someone in the family or community group, or forebears. Birth conditions can be due to actions committed in a previous reincarnation. Sometimes the presence of “evil spirits” is used to explain differences in behavior, especially in conditions such as schizophrenia. Acts of exorcism or sacrifice may be performed to expel or placate the negative influence or recourse made to persecution or even death of the individual who is “different”.⁹¹

2.3.3. Medical Model of Disability

The medical model holds that disability results from an individual person’s physical or mental limitations and is largely unconnected to the social or geographical environments. It is sometimes referred to as the biological inferiority or functional limitation model.⁹² Olkin outlines the basic characteristics of the medical model of disability:

Disability is seen as a medical problem that resides in the individual. It is a defect in or failure of a bodily system and as such is inherently abnormal and pathological. The goals of intervention are cure, amelioration of the physical condition to the greatest extent possible, and rehabilitation (i.e., the adjustment of the person with the disability to the condition and to the environment). Persons with disabilities are expected to avail themselves of the variety of services offered to them and to spend time in the role of patient or learner being helped by trained professionals.⁹³

⁹⁰ Marno Retief and Rantsoa Letšosa, ‘Models of disability: A brief overview’ (2018) Vol.74 *HTS Teologiese Studies/Theological Studies* P.2, a 4738. <https://doi.org/10.4102/hts.v74i1.4738>

⁹¹ Kofi Amponsah Bediako, ‘Relevance of disability models from the perspective of a developing country: An analysis’ (2013) Vol.3 ISSN P.121

⁹² Ibid at P.122

⁹³ Supra Note 35, P.3

This model of disability locates the “problem” within the individual rather than in society. It also places responsibility on the individual to change or to be “rehabilitated” or “cured” in order to fit into society, since it sees the problem of the individual “stemming from the functional limitations or psychological losses which are assumed to arise from disability.”⁹⁴ The emphasis, in this model was towards providing individual services such as rehabilitation and medical facilities (social welfare program). The shift towards the ‘social model’ has stepped up the approach into creating conducive physical, social and policy environment (right based approach).⁹⁵ The model has been criticized for being aligned to the medical problem only and totally relegates the sociological and psychological aspects of disability. It does not reflect wholesomely on an individual’s life and also does not consider disabled people’s views.⁹⁶

2.3.4. The social Model of Disability

The social model was created by disabled people themselves. It was primarily a result of society’s response to them but also of their experience of the health and welfare system which made them feel socially isolated and oppressed. The denial of opportunities, the restriction of choice and self-determination and the lack of control over the support systems in their lives led them to question the assumptions underlying the traditional dominance of the medical model.⁹⁷ This model assumes disability is socially constructed; it gives an active role to society in the creation of disability. Under this model, social changes should occur in order to guarantee the full participation of people with disabilities. Indeed, legislation and social policies on disability aim to guarantee equal access to basic opportunities and services and to reduce discrimination. The social model is based on a rights-based approach that considers that social policies should guarantee human rights to all members of a society.⁹⁸ The model has become the cornerstone of

⁹⁴ Addisu Gulilat, ‘Advancing Rights of Persons with Disabilities through Universities: Exploring the Practice of Addis Ababa and Mekelle Universities Human Rights Centers’ [2016] Addisu Gulilat (LLB, LLM, Lecturer) School of Law, Dire Dawa University p.6

⁹⁵ Ibid

⁹⁶ Supra Note 49 at p.61

⁹⁷ Grant Carson, ‘The Social Model of Disability’ [2009] SAIF P.9, www.tsoshop.co.uk

⁹⁸ Mónica Pinilla Roncancio, ‘Disability and poverty: two related conditions. A review of the literature’ (2015) 63 P. 113

the Human Rights approach to disability leading to progressive policies and legislations. In this regard curriculum reviewed under this lens entails the modification and adaptation of the curriculum to accommodate the needs of learners with disabilities. The social model draws more attention to the physical and environmental rights to access and participation for disabled people. This model is more beneficial to those with physical impairments than all others with varying health conditions. Brunton & Gibson in their study argue that the problems associated with disability cannot be entirely eliminated by any imaginable form of social arrangements only. This is an indication that the social model is not the panacea to all conceivable barriers that PWDs face but, in the absence of a better model the social model of disability stands supreme for now.⁹⁹

2.3.5. Rights-Based Model of Disability

In more recent times, however, the notions of ‘disability’ have come to be conceptualized as a socio political construct within a rights-based discourse. The emphasis has shifted from dependence to independence as people with disability have sought a political voice and become politically active against social forces of able-ism. Disability activists, in engaging in identity politics, have adopted the strategies used by other social movements commanding human and civil rights, against such phenomena as sexism and racism.¹⁰⁰

2.4. Universal Design and Reasonable Accommodation

There is a clear link between the obligation to universally design goods and services etc. and the duty to provide a reasonable accommodation, although they are distinct concepts. As pointed out above, the reasonable accommodation duty requires the adaptation of structures in an individualized manner at the request of a person with a disability.¹⁰¹

The Universal Design arose from a movement in the field of architecture in United States. It emerged because of the problems encountered when retrofitting buildings for access of persons with disabilities, and it gained prominence in the 1990s. It involves designing space, objects, and

⁹⁹ Supra Note 49 at p.61

¹⁰⁰ Supra Note 35, P.126

¹⁰¹Supra Note 27, P.24

technological devices for accessibility and use by individuals with and without disabilities¹⁰² It therefore seeks the inclusion of all from the outset, and could be viewed as seeking total inclusivity because all people's access is considered, and not only those with disabilities.¹⁰³ Universal Design is guided by seven principles, developed by the Centre for Universal Design. They can, it is proposed, also be used "to evaluate the existing or new design". In essence, the principles could be used not only to inform and guide new designs, but also be used to evaluate and improve existing ones.¹⁰⁴ Seven principles of UD have developed by a working group of architects, product designers, engineers and environmental design researchers by the Center for Universal Design to provide a guideline to design practices. Each principle has its guidelines which are dependent to the principle.¹⁰⁵

Principle One: Equitable Use means the design is useful and marketable to people with diverse abilities. It is obtained by providing the same means of use for all users, enabling provisions for privacy, security, and safety equally available to all users and making the design appealing to all users.

Principle Two: Flexibility in Use means the design accommodates a wide range of individual preferences and abilities. It is obtained by providing choice in methods of use, facilitating the user's accuracy and precision and providing adaptability to the user's pace.

Principle Three: Simple and Intuitive Use means the use of design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level. It is obtained by eliminating unnecessary complexity, being consistent with user expectations and intuition, accommodating a wide range of literacy and language skills, arranging information

¹⁰² Sibonokuhle Ndlovu, 'Obstacles and opportunities for students with disabilities in entering and in preparation to graduate into professions in higher learning: The case of a university in South Africa' [2016] Supervised By Professor Elizabeth Walton, Wits School Of Education Faculty Of Humanities P.54

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Elif Helvacioğlu and Nazlı Nazende Karamanoğlu, 'Awareness of the concept of universal design in design education' [2012] Department of Interior Architecture and Environmental Design P.99, Available online at www.sciencedirect.com

consistent with its importance, providing effective prompting and feedback during and after task completion.¹⁰⁶

Principle Four: Perceptible Information means the design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory ability. It is obtained by using different modes for redundant presentation of essential information, legibility of essential information, differentiating elements in ways that can be described and providing compatibility with a variety of techniques or devices used by people with sensory limitations.

Principle Five: Tolerance for Error means the design minimizes hazards and the adverse consequences of accidental or unintended actions. It is obtained by arranging elements to minimize hazards and errors, providing fail safe features and discouraging unconscious action in tasks that require vigilance.

Principle Six: Low Physical Effort means the design can be used efficiently and comfortably and with minimum fatigue. It is obtained by allowing user to maintain a neutral body position, using reasonable operating forces and minimizing repetitive actions.¹⁰⁷

Principle Seven: Size and Space for Approach and Use means appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility. It is obtained by providing a clear line of sight to important elements and making reach of all components comfortable for any seated or standing user, accommodating variations in hand and grip size.¹⁰⁸

The unjust nature of unequal access to, and lack of usability of, much of the designed environment, has not gone unchallenged, and viewpoints have emerged that promote the possibility of designed environments sensitized to the manifold complexities of the body. The most significant is universal design (UD), defined by Ron Mace as promoting 'the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design'. Since Mace's formative pronouncement, UD has become increasingly prominent and it is advocated by some national and international

¹⁰⁶ Ibid at P.100

¹⁰⁷ Ibid

¹⁰⁸ Ibid at P.101

government, and non-governmental, organizations, including private corporations. Not only is UD seen as a solution to the problems posed to disabled people by poor design, it is also presented as ‘design for all’ and responsive, potentially, to any person’s needs, irrespective of their bodily comportment and performance.¹⁰⁹ Universal design is to ensure maximum accessibility for all individuals (persons with disabilities and non-disabled individuals), regardless of their type of impairment, age, etc. Universal design evolved from accessible design features and is based on the idea that structures should ‘benefit all, not merely accommodate the few.’ Universal design should result in a reduction for the need for individualized measures, such as reasonable accommodations. However, Article 2 CPRD also states that the concept of universal design ‘does not exclude assistive devices’ for particular groups of persons with disabilities, where this is needed.¹¹⁰

While courses, technology, and student services are typically designed for the narrow range of characteristics of the average student, the practice of universal design in education (UDE) considers people with a wide range of characteristics in the design of all educational products and environments. UDE goes beyond accessible design for people with disabilities to make all aspects of the educational experience more inclusive for students, parents, staff, instructors, administrators, and visitors with a great variety of characteristics.¹¹¹ UD has been applied to many educational products (computers, websites, and software, textbooks, and lab equipment) and environments (dormitories, classrooms, student union buildings, libraries, and distance learning courses). Unlike an accommodation for a specific person with a disability, the practice of UDE benefits all students, including those who are not receiving disability related accommodations from the school.¹¹² When UD principles are applied to the classroom, content is presented in multiple methods—providing learners with different ways to acquire information and knowledge. In these settings, students have many ways to express themselves, demonstrate what they know, and engage with material. This can help tap into students' interests, offer

¹⁰⁹ Rob Imrie, ‘Designing Inclusive Environments and the Significance of Universal Design’ [2020] Looking to the Future for disabled people, gold smith, universityoflondonp287 <https://www.researchgate.net/publication/257536232>

¹¹⁰ Supra Note 27,P.25

¹¹¹ Sheryl Burgstahler, ‘Universal Design in Education: Principles and Applications’ An approach to ensure that educational programs serve all students P.1

¹¹² Ibid at P.2

appropriate challenges, and increase motivation.¹¹³ UD can be applied to physical spaces to ensure that they are welcoming, comfortable, accessible, attractive, and functional.¹¹⁴ When UD is applied, individuals with and without disabilities can use the same entrances and of travel routes. The climate is welcoming and accessible for everyone.¹¹⁵ For example, in a universally designed classroom furniture is adjustable in height and can be easily arranged for different learning activities and groupings. A universally designed facility includes clear directional signs in large, high-contrast print.¹¹⁶ UD can be applied to student services to make them accessible to and usable by all students. These services include computer labs, libraries, admissions, registration, financial aid, advising, career services, housing, tutoring and learning centers, and student organizations. When universal design is applied, everyone feels welcome, is able to get to the facility and maneuver within it, access materials and electronic resources, and participate in events and other activities.¹¹⁷

2.5. Universal Design in Learning

Universal design for learning (UDL) is one part of the overall movement toward universal design. The term emphasizes the special purpose of learning environments—they are not created only to transmit information or to shelter, but are created to support and foster the changes in knowledge and skills that we call learning. While providing access to information or to materials is often essential to learning, it is not sufficient.¹¹⁸ Universal design for learning (UDL) is defined as a framework for designing curricula that enable all individuals to gain knowledge, skills and enthusiasm for learning. UDL provides rich support for learning and reduces barriers to the curriculum, while facilitating optimal achievement standards for all. UDL enables the integration of multiple means of representation, action and expression, and promotes engagement with the

¹¹³ Alan Colburn, ‘The Prepared Practitioner: Universal Design’ (2010) Vol. 77 National Science Teachers Association p.8

¹¹⁴ Supra Note 111 at p.2

¹¹⁵ Ibid

¹¹⁶ Ibid

¹¹⁷ Ibid at P.5

¹¹⁸ David H. Rose, ‘Universal Design for Learning in Postsecondary Education: Reflections on Principles and their Application’ V. 19, Center for Applied Special Technology (CAST), and Harvard University p.136

course curriculum.¹¹⁹ UDL is de-signed to serve *all* learners, regardless of ability, disability, age, gender, or cultural and linguistic back-ground. UDL provides a blueprint for designing goals, methods, materials, and assessments to reach *all* students including those with diverse needs.¹²⁰UDL is an approach to learning that addresses and redresses the primary barrier to learning: inflexible, one-size-fits-all curricula that raise unintentional barriers. Learners with disabilities are the most vulnerable to such barriers, but many students without disabilities also find that curricula are poorly designed to meet their learning needs. UDL helps meet the challenges of diversity by recommending the use of flexible instructional materials, techniques, and strategies that empower educators to meet students' diverse needs.¹²¹

The UDL framework is grounded in three principles

- Multiple means of representation– using a variety of methods to present information, provide a range of means to support
- Multiple means of action and expression – providing learners with alternative ways to act skillfully and demonstrate what they know
- Multiple means of engagement – tapping into learners’ interests by offering choices of content and tools; motivating learners by offering adjustable levels of challenge.¹²²

Universal Design for Learning (UDL) has the potential not only to increase access but transform the learning process.¹²³ If the goal of UD is the removal of barriers from the physical environment, the goal of UDL is the elimination barriers from the learning environment. As David Rose, one of UDL’s founders, has stated, “UDL puts the tag ‘disabled’ where it belongs— on the curriculum, not the learner. The curriculum is disabled when it does not meet the needs of diverse learners”¹²⁴ The obstacles faced by students with disabilities (for example, study materials that are not in electronic formats, uncaptioned video, PDF files that do not contain any real text and therefore cannot be searched or read aloud by text-to-speech software) are often the

¹¹⁹ Disability Access Policy, Univesiteit Stellen Bosch University, p.7

¹²⁰ TEAL Center staff, ‘TEAL Center Fact Sheet No. 2: Universal Design for Learning’ [2010] P.1

¹²¹ Ibid

¹²² Ibid

¹²³ David Rose, ‘Universal Design for Learning ‘Center for Applied Special Technology p.45

¹²⁴ Universal Design for Learning: A Concise Introduction [2011] ACCESS Project, Colorado State University p.2

same obstacles encountered by students who possess different learning styles, use the latest computer technologies, or whose native language is not English. UDL benefits many students—hence the “universal” in Universal Design for Learning.¹²⁵ UDL is about providing options. In the words of David Gordon, a director at the Center for Applied Special Technology (CAST), “Options are essential to learning, because no single way of presenting information, no single way of responding to information, and no single way of engaging students will work across the diversity of students that populate our classrooms. Alternatives reduce barriers to learning for students with disabilities while enhancing learning opportunities for everyone”¹²⁶ UDL does not advocate any single teaching practice; rather, it combines today’s best approaches for engaging students and challenging them to think critically. It helps instructors meet the learning needs of a diverse student body through a combination of instructional modalities, formats, and technologies. To many people, UDL is simply good teaching!¹²⁷

2.6. The Duty of Reasonable Accommodation

The legal concept of “reasonable accommodation” (or its synonym “reasonable adjustment”) first appeared in the United States. It was introduced in the US Equal Employment Opportunity Act of 1972, which amended the Civil Rights Act 1964 and, shortly thereafter, in Canadian law. Originally, it defined specific solutions that the employer was obliged to adopt in order to accommodate specific needs related to religious practices. In 1973, the US Rehabilitation Act extended the concept of reasonable accommodation to the disability context. As noted by Waddington: The obligation to make a reasonable accommodation on the grounds of disability is based on the recognition that, on occasions, the interaction between an individual’s impairment and the physical or social environment can result in the inability to perform a particular function, job or activity in the conventional manner.¹²⁸

The CRPD endorses the shift from the out-dated medical model of disability (which views functional limitations as a consequence flowing from impairment) to the social model. Under the CRPD’s version of the social model, disability is viewed as an interaction between persons with

¹²⁵ Ibid at p.3

¹²⁶ Ibid

¹²⁷ Ibid

¹²⁸ Supra Note 28, P.40

impairments and widespread barriers in society (physical barriers, as well as legal and attitudinal barriers, among others). The social model of disability, combined with the human rights-based approach endorsed by the CRPD, ensures that persons with disabilities ‘are viewed as holders of rights, entitled to exercise all human rights and fundamental freedoms on an equal basis with others, entailing the provision of material support where necessary.’¹²⁹

The concept of reasonable accommodation is a core of feature of the CRPD, and is unequivocally incorporated into the non-discrimination and equality principles. Article 5(2) of the CRPD requires States Parties to prohibit discrimination on the basis of disability. The latter is defined in Article 2 of the CRPD as:

Any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation. Article 5(3) of the CRPD explicitly requires States Parties to take all appropriate steps to ensure that reasonable accommodation is provided.¹³⁰

Accordingly, reasonable accommodation is defined under Article 2 of the UN convention on the rights of persons with disabilities (CRPD) as” a necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a 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.” The same Article as well defines discrimination on the basis of disability as “any distinction, exclusion or restriction on the basis of disability”¹³¹ Moreover, Article 2 makes clear that ‘denial of reasonable accommodation’ is a form of

¹²⁹ Supra Note 27, p.13

¹³⁰ Supra Note 28, P.42

¹³¹ Amare Sisay, ‘Towards Ensuring Accessibility Right To The Built Environment For Persons With Disabilities In Ethiopia: The Case Of Addis Ababa’ [2012] A Thesis Submitted to the Institute of Federalism and Legal Studies of Ethiopian Civil Service University in the Partial Fulfillment of the Requirements for the Degree of Master of Laws (LL.M) P.16

discrimination.¹³² Consequently, the provision of reasonable accommodation is an obligation which has to be fulfilled immediately.¹³³ According to the CRPD Committee, reasonable accommodation should be understood as an individualized measure.¹³⁴ Reasonable accommodation goes beyond formal equality to achieve substantive equality, in order to ensure that persons with disabilities can reach the same level of opportunities.¹³⁵ This obligation is applicable to the right to inclusive higher education as Article 24 (1) guarantees ‘an inclusive education system at all levels and as reasonable accommodation has to be provided to all persons with disabilities in so far as the person requires it.’¹³⁶ An accommodation is said to be reasonable, according to Article 2 of the CRPD, if it does not create a “disproportionate or undue burden.”¹³⁷ The way in which the reasonable accommodation is determined should be made in consultation with the beneficiary.¹³⁸ The beneficiaries should play as active role as others who must deal with provision of reasonable accommodation.

Art. 24 (2) (c) CRPD requires State Parties to provide for reasonable accommodation of the individual’s requirements. The concept of reasonable accommodation is already mentioned in art. 5(3) CRPD, in which is stated that reasonable accommodation should be provided by State Parties to promote equality and eliminate discrimination. The repeated obligation in art. 24 show the importance of the obligation in relation to inclusive education.¹³⁹ This duty applies to higher education, since art. 24(5) CRPD put forward that disabled students should have access to higher education without any discrimination. To ensure this right State Parties have the obligation to provide for reasonable accommodation.¹⁴⁰

¹³² United Nations, Committee on the Rights of Persons with Disabilities, General Comment No. 4 (2016) on The Right to Inclusive Education, 3,U.N. Doc. CRPD/C/GC/3 (Nov. 25, 2016) P.9

¹³³ Ibid

¹³⁴ Ibid at P.8

¹³⁵ Supra Note 81, P.263

¹³⁶ Ibid

¹³⁷ Ibid

¹³⁸ Ibid at P. 290

¹³⁹ Supra Note 131, at p.19

¹⁴⁰ Ibid at p.20

2.6.1. Disproportionate and Undue Burden

The duty to reasonably accommodate persons with disabilities under the CRPD is not absolute. It is subject to the limitation that a duty bearer is not required to make a reasonable accommodation where such an accommodation would result in a disproportionate or undue burden. It is important to note that the limitation contained in Article 2 CRPD does not always exempt the duty-bearer from the obligation to provide a reasonable accommodation. Rather, it simply limits the duty. In other words, if there are two (or more) accommodation options, both (each) of which can achieve the same result, the duty bearer is entitled to opt for the less burdensome accommodation. It is unlikely that no accommodation would be possible at all to enable a person with a disability to participate in a given environment/activity, but of course that depends on the circumstances of the case.¹⁴¹

2.7. The Accessibility Obligation and Reasonable Accommodation

The duty to provide reasonable accommodation must be carefully distinguished from legal obligations to achieve accessibility, contained in Article 9 of the CRPD (and elaborated on in many of the other substantive Convention articles).¹⁴² Accessibility refers to the inclusive practice of removing barriers to ensure equal access for persons with disabilities to, among others, built environments, goods and services, as well as facilities. The United Nations Convention on the Rights of Persons with Disabilities (CRPD or Convention) formulates ‘accessibility’ as a general principle and overarching obligation of the Convention, rather than as a human right per se.¹⁴³ Accessibility duties ‘are generalized and anticipatory (not triggered by an individual request).’ Moreover, accessibility duties usually require ‘compliance with set standards, e.g. installing ramps or providing certain information in Braille or large print.’¹⁴⁴ Without delving into the theoretical question on whether accessibility is a principle, a right, or a facilitator of rights, the main difference between accessibility and reasonable accommodation is that accessibility

¹⁴¹ Supra Note 27, at P.27

¹⁴² Ibid at P.20

¹⁴³ Andrea Broderick, ‘Of rights and obligations: the birth of accessibility’ (2020) VOL. 24 The International Journal Of Human Rights P.393

¹⁴⁴ Supra Note 27, at P.20

obligations laid down in the CRPD are group related, while, as discussed above, reasonable accommodation has an individualized nature.¹⁴⁵

In general, reasonable accommodation is an immediate obligation related to individual with impairment taking in to account specific situations and particular contexts whereas, accessibility is related with needs of a group and need to be realized without request of individuals.¹⁴⁶ Ethiopia needs to develop accessibility standard without which reasonable accommodation alone cannot adequately respond to the rights of PWDs to access work and employment. As temporary alternative, it is possible to imagine various types of reasonable accommodations even for environment which is not accessible. For instance, application by telephone, change of exam place and etc. The type of accommodation should also be as much as possible the most effective one.¹⁴⁷

2.8. Experience of Makerere University Regarding Implementation of Reasonable Accommodation

Makerere University is one of the largest institutions in Africa. This university is known as an academic institution for its academic services for students with disabilities. In addition, the country where the university is located is in the same economic condition as Ethiopia, and the situation of Makerere University is similar to that of Addis Ababa University. Therefore, this University's good experience in reasonable accommodation inspired the researcher to think that the lack of comfortable accommodation for Addis Ababa University disable students will be solved by bringing the good experience of Makerere University.

2.8.1. Reasonable Accommodation for Student with Disabilities at Makerere University

University education in Uganda began way back with Makerere University, initially established in 1922 as a technical school. By then the institution was known as the Uganda Technical

¹⁴⁵ Supra Note 28, at P.43

¹⁴⁶ Wesen Alemu Tekletsadik, 'The Right to Be Employed: The Case of Visually Impaired Persons in Ethiopia' A Thesis Submitted in Partial Fulfillment of the Requirements of Masters Degree of Law (LLM) in Human Rights Law [2019] P.29

¹⁴⁷ Ibid

College. It had begun with 14 students doing Carpentry, Building and Mechanics.¹⁴⁸ In 1937, it evolved into an institution of higher education, awarding post-school certificate courses. In 1949, it became a University College in special relationship with the College of London. Makerere was so treasured in the whole of Eastern Africa that it admitted students from as far away as Malawi and Zambia for General Degree courses of the University of London. In 1963 Makerere was established as the University of East Africa, marking the end of special relationship with the University of London, and starting the degrees of the University of East Africa. In 1970 Makerere became an independent national University of the Republic of Uganda.¹⁴⁹

Makerere University adopted a policy on Students with Disabilities in 2014.¹⁵⁰ Disability inclusion in Makerere University was examined from a twin-track model of mainstreaming and specific measures. This was undertaken within four main dimensions; political will, technical capacity, organizational culture and accountability.¹⁵¹ There is in place a policy on Students with Disabilities. This policy premises the principles of non-discrimination and equality in education for all at the university. Just by the fact of the policy's existence, it is clear that there is political will and interest to support disability inclusion at Makerere University. However, enactment of such a policy requires steps to be taken to implementation it, a task that falls to the University Council which is mandated to oversee its implementation. Additionally, the Vice Chancellor is assigned the role of providing leadership in the policy's promotion and implementation¹⁵².

Regarding disability infrastructure, section 7 (3) of the university policy on disability provides for the creation of a Disability Support Center as the mechanism to monitor progress of implementation of the same. However, to date this center is not yet established. Instead, its functions are being undertaken by the office of the Dean of Students which already has its own mandate in overseeing general student matters at the university. The lack of a specific

¹⁴⁸ Ndawula Stephen (PhD), Visiting Professor CICE, Access and Use of the Internet: A case of Undergraduate Students in Public Universities of Uganda, 138th Seminar on 16th June 2011, P.1

¹⁴⁹ Ibid at P.2

¹⁵⁰ Zahara Nampewo And Harriet Diana Musoke (PHD) 'Makerere University: Baseline Survey On Disability In Makerere University' [2019] Submitted To THE Disability Law And Rights Centre, School Of law, Makerere University P.27

¹⁵¹ Ibid

¹⁵² Ibid at P.28

convergence unit on matters of disability at the university infers that disability programming is more of a spontaneous reaction, than a systematized response within Makerere's structure.¹⁵³ On the aspect of healthcare for SWDs, the survey confirmed that the university hospital is well facilitated and free to students. It is guided by the principle of non-discrimination. The hospital's premises have been modified and are accessible to students with physical disabilities. The director of the hospital confirmed that its staff is sensitized about disability issues. As a result, the unit is receptive to SWDs.¹⁵⁴ Additionally; the hospital is outfitted to help those who may suffer disability during their course of study. In this regard, the unit is equipped with necessary human and other resources required to assess the extent of disability and advise the university administration accordingly. Additionally, where more specialized services are required, the hospital works through referrals and partnerships engineered through the College of Health Sciences which provides technical support to the unit.¹⁵⁵

2.8.2. Good Practices

A number of examples have been found across the university that has enhanced the welfare and performance of SWDs at Makerere. They include the following;

2.8.3. Disability Supportive Interventions

The university hospital's psychiatric clinic is very active with specially trained staff that supports students with mental illnesses to cope with their academic pressures. The unit provides regular counseling, therapy and follow-up, so as to ensure that students who need such services do not relapse.¹⁵⁶

2.8.4. Reasonable Accommodation

Whereas there are few modifications in the older buildings of the university to improve physical accessibility for SWDs, most of the Halls of residence reserve rooms on the ground floors for use by SWDs. In Mary Stuart for example, blocks A and D on the ground floor are prioritized for female SWDs. These have sitting toilets as well which are suitable for SWDS especially those

¹⁵³ Ibid at P.29

¹⁵⁴ Ibid at P.30

¹⁵⁵ Ibid

¹⁵⁶ Ibid at P.38

with physical infirmities. As a best practice, the School of Law has made several adjustments to its facilities aimed at enhancing access to infrastructure by students with disabilities. Out of the 5 major entrances to the school buildings, 3 of them now have ramp access although only one of the 3 ramps has a handrail.¹⁵⁷

2.8.5. Disability Sensitization

The Makerere Law School has undertaken efforts to mainstream disability into different parts of its taught curriculum and in some course units like Family law, Gender and the law and Health and the Law, among others. Furthermore, the Disability Law and Rights Center (DLRC) organizes an annual disability rights moot to promote awareness about disability rights amongst law students and the entire university community. Additionally, the DLRC also recently organized the first National Disability Rights Conference in 2018 which was a major step in promoting awareness about disability rights around the university.¹⁵⁸

¹⁵⁷ Ibid at P.39

¹⁵⁸ Ibid at P.39

CHAPTER THREE

ETHIOPIA’S IMPLEMENTATION OF THE PRINCIPLE OF REASONABLE ACCOMMODATION IN LIGHT OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES: CASE STUDY ON ADDIS ABEBA UNIVERSITY

Following expansion of the number of universities in Ethiopia, over past few years, the number of students who join university each year increased drastically. Similarly, universities, especially Addis Ababa University (AAU), have experienced a significant increase in the enrollment of students with disabilities, a trend that has resulted in more students with disabilities. Like many low income countries, disability in general and reasonable accommodation of students with disabilities in higher education is rarely discussed in Ethiopia. Yet, the number of students managing to be admitted to higher education is growing and now it poses a serious question for universities about whether they provide a reasonable accommodation for this group of students.

The discussion in this chapter is mainly concerned with the issue of implementation of the principle of reasonable accommodation in light of UN convention on the right of persons with disabilities in Addis Ababa University and it presents the findings of the research. I am going to discuss also domestic legal frame works under which FDRE constitutions, higher education proclamations, policy and directives are discussed.

3.1. The National Legal Frame Works on Reasonable Accommodation

In this part discussion has been made about the legal protections accorded to students with disabilities at national level. In so doing, the paper explores and scrutinize national legislations like the FDRE constitutions and higher education proclamations for protection of the rights of students with disabilities.

3.1.1. The FDRE Constitution on the Principle of Reasonable Accommodation for Students with Disabilities

The systematic ranking of constitutional norms at the top of the legal hierarchy, the methodological rule that laws have to be interpreted in conformity with the constitution and the language of the document characterizing its substantive content as consisting of inalienable

sacred and natural rights or ‘humble obligations’ and ‘lofty duties’ ascertain the pedestal position constitutions occupy in any legal system. In this accord,¹⁵⁹ Art. 9 (1) of the Constitution of the Federal Democratic Republic of Ethiopia, superimposes the document ‘on any law, customary practice, or a decision of an organ of a state or a public official’ and prohibits any form of discrimination under Art. 25.¹⁶⁰

Under the FDRE constitution there is no clear provision deals with the rights of persons with disabilities including primary education except that under article 41 which proclaims about Economic, Social and Cultural Rights: in sub article 5 putting some sort of obligation that caring for and rehabilitation to be made for the physically and mentally handicapped depending on the economic capability of the country. According to the researcher, the above sub article did not included in a manner which enables in order to force the government bodies and other administrative authorities to make different types of positive discrimination for the persons with disabilities.¹⁶¹ Article 41(5) of the Constitution sets out the State’s responsibility for the provision of necessary rehabilitation and support services for people with disabilities. The Constitution ascribes the charity model as can clearly understand by the perusal of Article 41 (5) which reads: “the State shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parents or guardian.”¹⁶² With respect to persons with disabilities, the stand the Constitution takes may be said philosophically wrong in today’s world. Nowadays, the international community is following the right-based approach. Ethiopia is falling behind the international community to constitutionally adopt right-based approach for persons with disabilities. If we strictly follow what is provided under Article 41 (5) of the Constitution, the right to inclusive higher education may be relegated from level of a right to that of charity.

¹⁵⁹ Shimeles Ashagre, ‘Appraising Employment Accommodation Rights for Visually Impaired Teachers in Ethiopia: Overview of Selected Cities’ (2014) Vol. 8 Mizan Law Review P.406

¹⁶⁰ Ibid at P.411

¹⁶¹ Yigezu Inaso, ‘Center for Federalism and Governance Studies State constitution and its Implementation on the Educational Rights of PWD: In case of Damot Woyede Woreda, Wolayeta-Zone, SNNPR, Ethiopia’[2019] A thesis submitted to center for federalism and governance studies in partial fulfillment of the requirement for Master of Art in Federalism and Governance P.30

¹⁶² FDRE Constitution at Art. 41 (5)

Claims related to inclusive higher education such as provision of reasonable accommodation will be regarded as matters of pity and sympathy. Therefore, subject to recommending the amendment of Article 41 (5) to adopt the human right-based approach, in the meantime, it is necessary to go beyond the wording of Article 41 (5) and interpret it in a manner consistent to the purpose of the CRPD.

As per Article 25 of the Constitution, discrimination on any ground is basically prohibited. Article 25 provides that “All persons are equal before the law and are entitled, without any discrimination, to equal protection of the law. In this respect, the law shall guarantee to all persons, equal and effective protection without discrimination on grounds of race, nation, nationality or other social origin, color, sex, language, religion, political or other opinion, property, birth, or other status.”¹⁶³ However, this provision fails to give an explicit prohibition of discrimination against persons with disability. Here, it may be argued that the failure of the Constitution to explicitly prohibit any form of discrimination against persons with disabilities while forbidding any form of discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth, needs to be rectified.¹⁶⁴ The rights of PWDs are not properly considered by the constitution while the rights of nations, nationalities and peoples, women and children attained due coverage. Disability is not clearly specified under the prohibited grounds of equality and this has been source of contention by¹⁶⁵ writers as to the inclusion of disability by virtue of the phrase, “other status”. The controversy culminated by the decision of house of federation at least until it reverses its position.¹⁶⁶ Article 25 of the constitution does not also mention disability from the list of discrimination. This is not intentional rather ignorance of the subject. The minute of the constitution proves this assertion. The discrimination of PWDs was raised by participants though no conclusion was suggested as to the inclusion of disability within the provision.¹⁶⁷ Conversely,

¹⁶³ FDRE Constitution, Art. 25

¹⁶⁴ Supra Note 159 at P.411

¹⁶⁵ Wesen Alemu Tekletsadik, ‘The Right to Be Employed: The Case of Visually Impaired Persons in Ethiopia’ [2019] A Thesis Submitted in Partial Fulfillment of the Requirements of Masters Degree of Law (LLM) in Human Rights Law p.15

¹⁶⁶ Ibid at p.16

¹⁶⁷ Supra note 118, at p.16

it is possible to argue that the catch-all phrase ‘other status’ comprises the clearly unmentioned grounds including disabled persons. It is not, however, completely clear what other grounds are covered by the term ‘other statuses. According to Thornberry, unmentioned grounds must logically be “materially similar with those listed, [i.e.,] distinctions unrelated to an individual’s merit, abilities or efforts”¹⁶⁸.

The other observable point, at this juncture, is that the catch-all phrase ‘other statuses should be interpreted narrowly; that is, the phrase should only apply to grounds that were not in existence at the time. In this vein, it is obvious that there existed discrimination on grounds of disability. So the application of the phrase to disabled persons is unconvincing. Therefore, it is the opinion of the author that the Constitution should be amended to include disability as one of the grounds against discrimination.¹⁶⁹

The FDRE Constitution under Art. 25 clearly provide that all human beings are equal before the law and entitled to equal protection. In addition to this, chapter three of the FDRE constitution, Article 13 (2) is also another cornerstone provision of the issue of persons with disabilities. Because, it opens the opportunity for these group of persons to have legal guarantee by way of interpretation of relevant international and domestic instruments, ... in the area of education.¹⁷⁰ Most significantly, the FDRE Constitution deals with the right of education for persons with disabilities under Article 41 (5) for it declares "the state shall, within its available means, allocate resources, to provide rehabilitation and assistance to physically and mentally disabled ... " sub article (7) of the same article also states that "the government has an obligation to allocate resources to provide to public health, education and special services. ,, Especially, the term'

¹⁶⁸ Supra Note 159, at p.411

¹⁶⁹ Ibid at p.112

¹⁷⁰ Eshetu Alene Muluneh, ‘The Protection of Human Rights of Persons with Disabilities in Higher Educational Institutions of Ethiopia’ [2008] A thesis submitted to the School of Graduate Studies of Addis Ababa University, Faculty of Law, in partial fulfillment of the requirements for the Master of Laws, (LLM), for the Human Rights Law specialization p.74

rehabilitation' indicates the issue of the right to education for there are no rehabilitation without any support in the area of education at all levels.¹⁷¹

The other important provision in the FDRE constitution which deals regarding education is Article 90. This provision declares that "education is to be provided in a manner that is free from any religious influence, political partisanship or for cultural prejudices., Also, although Article 41(5) seems to have been put to represent only the right of rehabilitation, it is possible to make it meaningful for educational right by way of interpretation pursuant to Article 13 (2) of the FDRE Constitution. Also, the other provisions of the FDRE constitution concerning the rights of the Ethiopian citizens are equally applicable for "persons with disabilities" in Ethiopia. This Constitutional right has also more or less been recognized by subordinate laws, policies and strategies of Ethiopia.¹⁷² Article 13 (2) of the Constitution states that “The fundamental rights and freedoms specified in this Chapter [chapter three] shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia.”¹⁷³ The right to education is a fundamental right specified in chapter three of the Constitution.¹⁷⁴ On the other hand, Ethiopia has ratified the CRPD, which is an international human rights instrument. Therefore, just because of Article 41 (5) of the Constitution which sets out the charity model, the right to inclusive higher education cannot be relegated from the status of right to that of charity. This is because, just as the domestic laws of the country are required to be consistent with the Constitution, the Constitution itself, in regards fundamental rights and freedoms, is required to be consistent with the international instruments ratified by Ethiopia. Therefore, although Article 41 (5) seems to have adopted charity model, it cannot be applicable as it brings the Constitution in conflict with the CRPD. This helps persons with impairment to claim, with full confidence, the right to inclusive higher education as constitutionally guaranteed fundamental right.

¹⁷¹ Ibid

¹⁷² Ibid

¹⁷³ FDRE Constitution Art. 13 (2)

¹⁷⁴ Ibid at Art. 13-44

In generally, when evaluated in accordance with models of disability we discussed in the previous chapter, the FDRE constitution only addresses the allocation of resources to provide rehabilitation and assistance to the physically and mentally disabled. This shows the constitution clearly reflects both a mixing of a charity and medical model. However, as it is indicated without ambiguity under the CRPD persons with disabilities are not objects, but subjects of rights. This fundamental recognition, persons with disabilities are holders of rights, is rarely addressed constitutionally.

Finally it is possible, based on the above arguments, to conclude that one could not find any provision under the FDRE constitution which clearly addresses the rights of persons with disabilities. Hence, it is the opinion of the writer that our constitution should be amended to expressly incorporate disability as one of the basis of discrimination as well as treat the issue with a specific provision.¹⁷⁵

3.1.2. The Higher Education Proclamation No. 1152/2019

This proclamation has incorporated the right to inclusive higher education for student with disabilities. Article 41 of the Proclamation reads, “1/ Institutions shall make, to the extent possible, their facilities and programs amenable to use with relative ease by physically challenged students. . 2/ Institutions shall, to the extent that situations and resources permit, relocate classes, develop alternative testing procedures, and provide different educational auxiliary aids in the interest of students with physical challenges. 3/ Building designs, campus physical landscape, computers and other infrastructures of institutions shall take into account the interests of physically disabled students. 4/ Institutions shall ensure that students with physical challenges get academic assistance, including tutorial sessions, exam time and submission date deadline extensions. 5/Based on the special decision of the Minister regarding the admission of the gifted student, the need to provide additional resources as necessary to maintain the speed

¹⁷⁵ Demoz Kassie, ‘Legislative Measures for Effective Implementation of CRPD-in Ethiopia: A critical assessment’ [2012] Submitted in partial fulfillment of requirement for Master’s Degree in Law (LLM), Addis Ababa University, School of Law LLM Programme P.44

and need of education, the allocation of additional resource, is necessary. The details shall be determined by a directive.”¹⁷⁶

According to Article 41 (1), higher education institutions are required to make their facilities and programs amenable to students with disabilities to the extent possible.¹⁷⁷ By qualifying this statement with the phrase, “to the extent possible”, we cannot say that this proclamation has fully acknowledge that student with disabilities have the right to inclusive higher education.” The inclusivity of the right is rather dependent on the will and whim of the institutions than on the law. The phrase ‘to the extent possible’ denotes legal likelihood that Universities may not at times make their programs and facilities amenable for persons with disabilities. Therefore, the proclamation, via Article 41 (1), cannot be read as imposing obligation on Universities so as to enforce the right to inclusive higher education for persons with disabilities.

In addition, according to Article 41 (2), “[Universities] shall, to the extent that situations and resources permit, relocate classes, develop alternative testing procedures, and provide different educational auxiliary aids in the interest of students with disabilities.”¹⁷⁸ This sub-article is also problematic. The phrase “to the extent . . . resources permit” makes the right to inclusive higher education dependant on will and whim of Universities; i.e. availability of sufficient resource is not enough on and of itself. Universities should be convinced that they have enough resource to meet the needs of students with disabilities. Unless they are convinced, although there is sufficient resource required to meet the needs of students with disabilities, they may reject requests for relocating classes, developing alternative testing procedures, and providing different educational auxiliary aid under the guise of resource insufficiency. Sufficiency of the resource required is measured by Universities themselves. The yardstick is their subjective belief that they have sufficient resource permissive to relocate classes, develop alternative testing procedures, and provide different educational auxiliary aids for students with disabilities. There is nothing that can make them accountable when they fail to meet the needs of students with disabilities while they have sufficient resource required to satisfy those needs.

¹⁷⁶ Higher Education Proclamation No. 1152/2019, Art. 41 (1), (2), (3) and (4)

¹⁷⁷ Ibid at Article 41(1)

¹⁷⁸ Ibid at Article 42(2)

Even worse, despite the presence of sufficient resource in Universities, accommodations may be denied with the qualification of “situations” the whatness of which is not clear under the law. What the law is to mean by the phrase “to the extent situations . . . permit” is not clear. If the required resource is available, what is the other thing called ‘situation’ that prevents Universities from satisfying the needs of students with disabilities? The ordinary meaning of “situation” refers to “a particular set of circumstances existing in a particular place or at a particular time”.¹⁷⁹ The meaning is so comprehensive and flexible that Universities claim any “particular set of circumstances in a particular place or at a particular time” in order to set aside their responsibility to satisfy the needs of students with disabilities.

Moreover, the phrase “to the extent that situations and resources permit” is in direct conflict with the obligation of providing reasonable accommodation under the CRPD, which is an Obligation that should be immediately discharged. For the reason that the qualification helps Universities hold off satisfying the needs of students with disabilities for unlimited period of time. In other words, despite the phrase “to the extent that situations and resources permit “, delay to discharge obligation of reasonable accommodation such as to relocate classes, develop alternative testing procedures, and provide different educational auxiliary aids for students with disabilities cannot be attributable to the rule of “progressive realization”. These two sub-articles relegate the right to inclusive higher education of persons with disabilities to a status of charity dependent upon generosity of Universities.

Article 41 (3) provides that “Building designs, campus physical landscape, computers and other infrastructures of institutions shall take into account the interests of students with disabilities.”¹⁸⁰ This sub-article is not less worse than the former two sub-articles. Unlike Article 9 (1) (a) of the CRPD, it provides for an outright exclusion of existing buildings from being accessible for persons with disabilities. It requires only future buildings to take an account of persons with disabilities. It does not even require alteration or modification of existing buildings to be accessible even with qualifications as in the case of its preceding sub-articles (1) and (2) of article 41.

¹⁷⁹ Microsoft Encarta Dictionary, https://microsoft_encarta.en.downloadastro.com/Result , (accessed on july. 4, 2021; 4:09 AM).

¹⁸⁰ Higher Education Proclamation, art. 41 (3).

Article 41 (4) can be enforceable. It requires universities to provide academic assistance, including tutorial sessions, exam time extensions and deadline extensions so as to permit students with disabilities to compete with others.¹⁸¹ Thus, it obliges the institutions to provide reasonable accommodation regarding to academic assistance, such as tutorial sessions, exam time extensions and deadline extensions in the form of accommodation based upon the need of students with disabilities.

3.2. Perceived Inclusive Educational Needs of Learners with Disabilities in Institutions of Higher Education of Addis Ababa University

Inclusive educational legislations and policies have led to a marked increase in the proportion of learners with disabilities participating in IHEs. Among this group of learners are different categories of impairments which include the following:

- Visual impaired
- Mobility impaired
- Hearing impaired¹⁸²

These categories of learners have health issues that cut across physical, cognitive, affective, social and psychological spectrum of special needs. Their presence in the learning environment requires their learning needs to be met in addition to their disability needs. Marriot and Gooding posit that these learners are not a¹⁸³ homogenous group, but have a wide range of needs, expectations, and interests and circumstance that impact on their quality of life. Different types of impairments dictate different needs in different educational settings, hence, their experiences and needs are invariably linked to the nature of their impairments.¹⁸⁴

¹⁸¹ Ibid at Article 41(4)

¹⁸² Augustine Kwame Tugli, 'Challenges And Needs Of Learners With Disabilities In An Inclusive Institution Of Higher Education In The Limpopo Province Of South Africa' (2013) submitted in accordance with the requirements for the degree of Doctor Of Literature And Philosophy in the subject Health Studies at the university Of South Africa P.38

¹⁸³ Ibid

¹⁸⁴ Ibid at P.39

3.2.1. Assessment of Reasonable Accommodation for Student with Visual Impairments at Addis Ababa University

Ensuring the accessibility of the curriculum requires an understanding of the learners 'needs and implementing all necessary adjustments in the curriculum so as to address those needs. In order to make the curriculum of any educational levels accessible to students with disabilities, many scholars argue, some modifications have to be made in the curriculum. Many universities of the¹⁸⁵western world have also developed institutional policies as well as explicit strategies for making reasonable adjustments in their curriculum so as to make it more accessible to diverse learners¹⁸⁶Addis Abeba University do not provide their students with vision impairment with full inclusive education. However, these students follow higher education with limited number of department choices, accessible educational materials, without accommodated examination, without clear rule dealing with course substitution requirement, without Assistive Technology which has completely lacked attention by government, insignificant support systems for learners with vision impairment, mobility training and so on. In the following sections, we will deal with some of these challenges and the role of the CRPD in the implementation of the right to inclusive higher education for the students with vision impairment.

A. Limited Number of Department Choices

Each University runs a number of undergraduate and graduate programs. For example, in its 14 campuses, Addis Ababa University runs 70 undergraduate and 293 graduate programs (72 PhD and 221 Masters), and various specializations in Health Sciences.¹⁸⁷ Students with vision impairment have access only to few of these programs. Two major factors may be mentioned for this.

¹⁸⁵ Yohannes Gebretsadik Gebrehiwot, 'Towards More Inclusive University Curricula: The Learning Experiences Of Visually Impaired Students In Higher Education Institutions Of Ethiopia' [2015] Submitted in accordance with the requirements for the degree of Doctor Of Education in the subject of Inclusive Education at the University Of South Africa P.41

¹⁸⁶ Ibid at P.42

¹⁸⁷ A Glance about AAU, ww.aau.edu.et/about/aau-at-glance/Result (accessed on July 30, 2021; 10:04 AM).

A school curriculum aimed at promoting inclusion plays a vital role for the effective implementation of inclusive education.¹⁸⁸ Conversely, a school curriculum that is not designed with determination to enforce inclusion indisputably hampers the right to inclusive education of persons with vision impairment.¹⁸⁹ In all primary and secondary schools of Ethiopia, the number of subjects for students with vision impairments are limited to those of social sciences. Student with vision impairment are not allowed to take subjects of natural science such as chemistry, physics and mathematics. They are even prohibited to take subject of Information Technology although the subject is of many-sided advantages for the visually impaired. They may take only biology with other subjects of social science such as history, geography, civics, economics, business and languages. If any of these students join universities, they cannot choose to study any natural science-related program, here, including biology, for the following reasons.

First, the rule prohibiting students with vision impairment from studying subjects of natural science becomes more stringent in Universities; i.e. in Universities, students with vision impairment are totally excluded from joining any natural science faculty.

Second, as shown before, students do not have background to subjects of natural science in their primary and secondary schools. Consequently, even if there could be opportunity, they may not have the audacity or be accepted to join Universities' natural science programs with no background at all.

Another reason is that their program choice to study social science-related courses becomes also restricted in Universities. Students with vision impairment who have got the opportunity to join Universities are even prohibited from choosing programs of social science to which they had background in their primary and secondary schools. For example, they do not have access to join business and economic programs. They cannot join programs of accounting, psychology, geography and etc.

This limitation on the subjects of study at the higher education level is clear discrimination on the basis of disability, which the CRPD has been intended to fight. The restriction of program

¹⁸⁸ Mohammad Hailat, *Visually Impaired Students in Inclusive Settings and in Segregation: A Study on Their Adjustment*, 8-10 <http://www.isrj.net> (accessed on Nov. 1, 2021; 2:12 PM).

¹⁸⁹ *Ibid*

choices prevents students with vision impairment from joining programs based on their interest or tendency. This hampers the use of their potential and development of their talent.

Moreover, programs are not mutually exclusive; i.e. they are interdependent. One borrows concepts from the other. The subject of economics makes use of concepts from the subject of mathematics. The subject of physical education borrows concepts from the subject of biology. Students with vision impairment with no background to mathematics in their primary and secondary schools may be in trouble to equally compete with sighted students in subject of statistics or tax in universities. Therefore, the prohibition of students with vision impairment from learning certain subjects or programs must be eliminated at the level of primary and secondary schools so that they could exercise the right to inclusive higher education on an equal basis with others in Universities.

In the meantime, alternative measure should be taken to alleviate the problem in Universities that may be caused by not taking subjects in primary and secondary schools. The legislature has not enacted legislation that makes students with vision impairment who attend institutions of higher education eligible for “reasonable substitution” of specific courses required for degree requirements. The law is by far necessary for students with vision impairment who attend institutions of higher education without having formal exposure to subjects such as mathematics, chemistry and physics. Students should be allowed substitutions for specific courses required for the completion of degree requirements, provided they show that the request is related to subjects to which they have no background and their vision impairment, and the substitution does not constitute a “fundamental alteration” in the nature of degree requirements.

The restriction of program choice also narrows employment opportunities of graduates with vision impairment. For example, the banking industry is recently booming in the country. It hires a large number of newly graduated students in programs of Economics, Business and Accounting. Graduates with vision impairment are not beneficiary of this opportunity for the reason that they cannot join and graduate in programs such as Economics, Business and Accounting.

B. Accessible Educational Materials

Accessible Educational Materials are print and technology-based educational materials that include “printed and electronic textbooks and related core materials that are designed or converted in a way that makes them usable across the widest range of student variability regardless of format (print, digital, graphical, audio, video).”¹⁹⁰ Print textbooks and hand-outs used in classrooms are not always accessible to students with vision impairment and can present barriers to their academic success.¹⁹¹ Students must be provided with materials in a format that they can access in order to participate and achieve in the general curriculum.¹⁹² Many students with vision impairments may require one or more specialized formats including braille, digital text readable by their screen-reader, large print and audio.¹⁹³

Students with vision impairment who are able to join Universities in Ethiopia do not fully access text books and hand-outs in accessible format. For example, providing text books and hand-outs in a larger font size for students who need to access them in large print is not even known as one way of making educational materials accessible. Furthermore, users do not claim it as one of specialized formats or accommodations.

Providing text books and hand-outs in brail format was common in the two previous regimes (H/selassie I, 1931-1974 and Derg regime 1974-1991). For example, the main library of Addis Ababa University comprises of a large number of brail books with 30 or more years of shelf life. After the coming into power of the current government, embossment and distribution of brail books became a task to no avail in the eyes of the concerned officials. Finding materials such as embossers and Perkins became unthinkable for persons and institutions who wish to provide for brail books. The ability of students with vision impairment to be fully familiar with brail writing is also disputable because of absence of qualified trainers in the country. Therefore, providing brail text books and hand-outs is currently either improbable or ineffective.

¹⁹⁰ Accessible Educational Materials, <https://www.teachingvisuallyimpaired.com/accessible-educational-materials.html> (accessed on Oct. 11, 2021; 3:10 PM).

¹⁹¹ Ibid

¹⁹² Ibid

¹⁹³ Ibid

Universities do not provide text books and hand-outs in audio format. However, some Universities such as Addis Ababa University and Hawasa University have recently began purchasing and distributing quality digital recorders for their students with vision impairment, which should be encouraged. Students with vision impairment in these Universities use these recorders and their volunteer sighted friends to have different books recorded with or without consideration. Then, they share the books to any student with vision impairment who needs them. They also record and listen to lectures whenever they find lecturers willing to be recorded.

The most usable format is providing text books and hand-outs in digital text. Universities may provide text books and hand-outs in digital text; but, students with vision impairment are required to make the digital copy compatible with their screen reader by themselves. Here, as previously discussed, the problem is that the students have no exposure to basic computer skill and assistive technologies such as JAWS, NVDA and Abby Fine Reader for the reason that they are prohibited from taking IT subject in their primary and secondary schools. As soon as they join University, they have to find either NGOs to get training of basic computer skill with assistive technologies or make friends with vision impairment who are familiar with the use of assistive technologies and lend them a hand. Another related problem is that Universities do not provide for sufficient number of accessible computers in libraries to be used by their students with vision impairment. Neither can the students purchase personal laptops because of serious financial problem they have.

Although it is easy to provide note-takers as an accommodation, it is neither known nor common in Universities. Students do not claim note-taker as an accommodation too. Of course, it is an important tool at least to minimize the effect of non-availability of accessible text books and hand-outs. It is also key alternative whenever students do not have permission to record lectures.

C. Physical Accessibility

Orientation and mobility is a very important skill which enhances independence to the visually impaired. It is pointed out that one of the most difficult tasks is independent travel which can only be achieved if a student is taught orientation and mobility. Failure to teach such skills makes students with vision impairment depend on other people for mobility.

Orientation and mobility training is given for students with vision impairment only in their primary schools in Ethiopia. A university neither gives Orientation and mobility training nor is aware of that it is part and parcel of reasonable accommodation for their students with vision impairment. Students count on their sighted friends or senior students with vision impairment for Orientation and mobility. Of course, white canes which are essential tool in their orientation and mobility are supplied, though not to the extent required, for new entries by few Universities in collaboration with some NGOs.

It is apparent that buildings in Universities in the country are not fully accessible to the visually impaired because of the presence of high steps, several curved stair cases to get a floor, and narrow walkways. Basic design factors are not being considered to assist students with vision impairment in their academic activities. No elevators are installed for buildings used for teaching-learning process. Some buildings designed to serve as office for administrative tasks may have elevators; but, these elevators do not have equivalent braille numbers in them. Class rooms and dormitory rooms are not numbered in brail at all; so are rooms used for administrative affairs. Labeling rooms in Braille is helpful for students with vision impairment not only to identify the room they wish to get but also to realize their location and to identify the correct direction, walkways and hallways. What is so miserable is that some dormitory floors may not have handrails to help students with vision impairment to keep their strait line direction when going upstairs and protect them from falling down.

D. Accommodated Examination

Students with vision impairments may require testing materials in regular print, large print, braille, audio formats, or some combination of these.¹⁹⁴ The provision of a test and related materials in specialized format should be made taking into account the medium used by the student who needs the accommodation and his ability to use such specialized format.¹⁹⁵

Universities in Ethiopia do not use braille format for exam accommodation at all. First, the Universities do not have expertise, embossers and other materials used to produce brail exam sheets. Second, majority of the students with vision impairment do not have the required skill to

¹⁹⁴ Making Tests Accessible for Students with Vision Impairment, <https://www.aph.org/wp-content//Test-Access-Making-Tests-Accessible-2009.pdf> (accessed on Oct. 1, 2021; 1:15 PM).

¹⁹⁵ Ibid

read and write in Brail. Third, brail as a tactile reading consumes more time than does vision reading thereby requiring skill to read plus a long-lived experience to read.

Some students with vision impairments may also require large print materials. However, Universities in Ethiopia do not use large print materials as a mode of exam accommodation. Indeed, this mode of accommodation is too easy to supply as it does not require any special technology to produce. The problem is that Universities do not have awareness as for this accommodation; nor the students who need large print materials do think of it as permissible by whom it may concern.

Although audio format as a test accommodation is not common, almost all Universities in Ethiopia offer a human reader as an exam accommodation. The person selected to read a test to a student should have the characteristics of good voice quality and appropriate speed and tone.¹⁹⁶ Voice inflection (regional dialect and pronunciation) familiarity should be taken into consideration.¹⁹⁷ Ethiopians speak over eighty languages as their mother tongue. People, depending on the type of language they used as mother tongue, learn and speak English in different dialects and pronunciations. So, do persons who read tests for students with vision impairment in Universities. Understanding these readers is task work for the test-taker at the time of the test.

Another problem is that the reading and writing skill of Readers is not tested before they are assigned to read a test for a student who needs the accommodation. Some readers are not good at reading and writing English words, thereby tasking the examinee with correcting or guessing misread words. Almost in all Universities, Readers are not supplied by the Universities themselves. Students who need the accommodation are required to search for and bring a reader for the test they take. Because of the fact that finding reader for no consideration tend to be so tough, nowadays, reading tests has changed into sellable service the student and the reader have to negotiate. The student is required to cover much of the cost to purchase the service. This is unbearable by students with vision impairment due to the critical financial problem they have. Owing to this difficulty, many students may be forced to miss exam; or they may be forced to

¹⁹⁶ Ibid

¹⁹⁷ Ibid

use volunteer but unqualified reader; or they may be forced to depend on their family members. Although Universities must in fact take the responsibility, the students themselves are held liable for missing a specific exam.

With intent to escape the consequence of missing exam due to absence of exam reader, some female students with vision impairment expose themselves to a worst danger. They do sexually negotiate with some immoral and wicked male exam readers as a last resort. Unwanted sexual intercourse is better, they believe, than failing to graduate. However, they may really face a more irremovable danger than failing to graduate.

A related problem to the provision of human reader as an exam accommodation is suspicion of few instructors on ability of students with vision impairment to effectively learn and do exams on their own. These instructors believe that the human exam readers help students with vision impairment in answering exam questions. Disappointed by such a wicked attitude, students with vision impairment wish they could read exams and write answers by themselves. For example, in 2013, Addis Ababa University fired a professor from linguistic department for the reason that the professor had used a separate but detrimental grading system for his students with vision impairment. If a student with vision impairment scored good, according to this professor, the student must have been assisted by his exam reader in getting the correct answers. Therefore, a student with vision impairment in his class had to score ninety (90) and above to get 'A' while a student without vision impairment in the same class had to score eighty (80) and above to get the same grade ('A').

Whenever using human reader is preferred as accommodation, two readers should be assigned for reading a test to a student who needs the accommodation.¹⁹⁸ This helps ensure accuracy of test presentation and provides the opportunity for readers to rest after 15-20 minutes of reading test material.¹⁹⁹

Computer-administered testing is another mode of testing accommodation. When the student uses a computer for daily classroom activities, then this accommodation may prove useful during

¹⁹⁸ Ibid

¹⁹⁹ Ibid

testing if the concepts being tested are not undermined.²⁰⁰ Screen readers such as JAWS and NVDA are widely used by students with vision impairment in Universities in Ethiopia. However, as the students are not allowed to take IT subject in their primary and secondary schools, and as Universities are usually the first place where students with vision impairment practice use of computer with assistive technologies for reading and writing, it may be disputable for these students to take computer-administered test for they may be too new to understand the intricate nature of screen readers. Nonetheless, computer-administered test should be facilitated for those who had earlier opportunity to learn and effectively use computers with assistive technologies.

The use of extended time for test completion is another mode of testing accommodation. Students with vision impairments will usually require extended time during testing because using braille, print, and human require more time than does reading print with acceptable vision acuity.²⁰¹ Almost in all Universities in Ethiopia, Students with vision impairment are allowed to use extended time for test completion. For example, students who joined Addis Ababa University are allowed to use additional twenty minutes per hour.

What makes all these problems even worse is that there are no well-equipped and organized ‘Offices of Disability Services’ in the Universities, as in the United States, for example. Some Ethiopian universities have established ‘Offices of Disability Services’ with intent to help students with disabilities. However, the offices are not familiar with or helping to implement the CRPD. First, they are not equipped with sufficient number of necessary staffs.

Their staffs are not also qualified professionals. They are not cognizant of what students with vision impairment require to pursue their higher education. Particularly, they do not have professionals who are aware of the nature and whatness of different assistive materials for persons with vision impairment. Second, they do not have enough allocation of budgets from their Universities. Third, they are unable to cut through the red tape and attitudinal problem posed by University officials against accommodating students with disabilities in general and those with vision impairment in particular. Hence, they are unable to provide with reasonable accommodations required. They are only in charge of doing certain trivial activities such as

²⁰⁰ Ibid

²⁰¹ Ibid

keeping lists of names of students with vision impairment in their Universities, distributing white canes, and brail papers, if any, among students. In order to go beyond these and conduct other activities discussed so far, they do lack man-power equipped with the necessary profession and budget for enforcement. Therefore, even if such offices exist to help Universities comply with the CRPD, the challenges facing students with vision impairment in Universities continue to grow.

3.2.2. Assessment of Reasonable Accommodation for Student with Physical Disabilities at Addis Ababa University

The term physical disability is broad and covers a range of disabilities and health issues, including both congenital and acquired disabilities.²⁰² People with mobility and movement impairments may find it difficult to participate when facing social and physical barriers. Quite often they are individuals of courage and²⁰³ independence who have a desire to contribute to the fullest level of their ability. Some are totally independent, while others may need part- or full-time assistance.²⁰⁴ physical disabled students pose particular challenges to higher education not only in terms of gaining physical access to buildings, but also in relation to much wider access issues concerning the curriculum, teaching, learning and assessment.²⁰⁵ The study traced infrastructure situations in contexts of availability, accessibility and condition to determine whether the situations support students with physical disabilities to study and live comfortably. The areas that the study examined included classrooms, dormitories, ICT laboratories/libraries, dining halls, administrative offices, wash rooms and play grounds.²⁰⁶ In the following sections, we will deal with the above situations of reasonable accommodation aspects of students with physical disabilities in their right to inclusive higher education in Addis Ababa University.

²⁰² Lydia G. Kabuta, 'Problems Facing Students With Physical Disabilities In Higher Learning Institutions In Tanzania' [2014] A Dissertation Submitted In Partial Fulfillment Of The Requirements For The Degree Of Master Of Education In Administration, Planning And Policy Studies Of The Open University Of Tanzania P.37

²⁰³ Ibid

²⁰⁴ Ibid at P.16

²⁰⁵ Ibid at P.17

²⁰⁶ Ibid at p.38

A. Class Room

One indicator for a successful inclusive school is an accessible environment for all, including learners with special needs.²⁰⁷ This is very important element of inclusive education. Infrastructural considerations in this case are concerned with the schools' environment and the buildings that are for both teaching and learning activities. Inclusive educations like any other dynamic teaching and learning or educational sector adheres to different infrastructural characteristics, equally inclusive education has its own preferences for infrastructures.²⁰⁸

Without any doubt, the physical environment of a school and a classroom is vital if teaching and learning are to take place effectively: A major consideration in an inclusive classroom is the physical layout of the room. It almost goes without saying that all students must be able to gain physical access to a classroom in order to be involved in learning activities with the rest of the class. Physical access is the most significant prerequisite to learning in an inclusive environment; without it, no other type of access—such as curricular or social—can occur.²⁰⁹ Therefore, the learning environment must be adapted or be accommodating to every kind of learner in terms physical capability. Apart from the design to the building and the general environment, Inclusive education must have the provision of a resource room to be sued for the benefit of the learners in terms of teaching and learning materials and aids.²¹⁰

The researcher asked physical disabled students some questions that were intended to obtain answers on the situations of classroom in Addis Ababa University campuses. The respondents were asked on whether they believe that there is well accessible classroom in Addis Ababa University campuses. In this regard, all the respondents from different campuses of Addis Ababa Universities replied that in one way or another they are facing similar difficulties due to inaccessibility of classroom. All students with mobility problems indicated that because of the building being old the classroom is not accessible as the result they face challenges. Classrooms which are accessible in FB, Arat kilo, Amist kilo are few in numbers. Because of lack of ramps

²⁰⁷ Frida D. Tungaraza, 'The Arduous March toward Inclusive Education in Tanzania: Head Teachers' and Teachers' Perspectives' (2014) Vol. 61 Indiana University Press p.109

²⁰⁸ Esmart Banda, 'An Analysis of the Implementation of Inclusive Education in Higher Learning Institutions: A Case of Kwame Nkrumah University' [2018] The International Journal of Multi-Disciplinary Research P.8

²⁰⁹ Supra Note 207 at P.116

²¹⁰ Supra Note 208 at P.8

many of the classes are inaccessible for students with physical disabilities. In addition to this when the classroom on the ground floor are occupied they are forced to go the floor above the ground floor. In such situations student who uses wheelchair and crutches due to the lack of lifts usually miss the class and this impacts their grade negatively.²¹¹

Apart from inaccessible classroom due to the lack of lifts and ramps the road to classroom is not comfortable for student who uses wheelchairs and crutches. This is a simple aspect to fix, yet remains a huge challenge in accessing information needed regarding accessibility. The inaccessibility of classroom is a physical barrier excluding students from academic participation unless other arrangements were made for them to access the classroom.

B. Accessibility to University Roads and Walkways

The study found out that PWDs find it difficult while walking around the University roads.²¹² For many people with disabilities, the built environment has a lot of architectural barriers which prevent them from independently moving around and gaining access to buildings. Inaccessible structures have been identified as the main cause of “social status alteration, isolation, limitations of economic opportunities, unhealthy lifestyle, dependence, choice restriction, discrimination and poor[er] quality of life”.²¹³ Inclusive education is an effort towards ‘schools for all’ – institutions ‘which include everybody, celebrate differences, support learning, and respond to individual needs’. Thus, inclusive education demands²¹⁴ a school environment where buildings,

²¹¹ Focus Group Discussion With Physical Disable Students Of Addis Abeba University

²¹² Kasiisa Eva, ‘Addis Ababa University School of Graduate Studies College of Business and Economics Department of Public Administration and Development Management’ [2015] Perception of Selected Individuals towards the Implementation of Affirmative Action in the Education Sector Kampala-Uganda, A Thesis Submitted to the Department of Public Administration and Development Management, Addis Ababa University, in Partial Fulfilment of the Requirement for Master Degree in Public Management and Policy P.87

²¹³ Lily C. Fidzani, Gertrude. R. Mafatlane, Ndiko Sechaba, Kemiso Gabaratane, Kenaleone Pontsho, Nkosinathi Gwatiwa, Tebogo Dintwa, Osego Onkgolotse, Anastacia Tjitunga, Kenanao Kgosisejo and Dorah Mothobi, ‘Accessibility of University of Botswana main campus bBuildings to wheelchair users’ (2013) Vol. 27 *PULA: Botswana Journal of African Studies* p.125

²¹⁴ Wondwossen Muluaem Beyene , Abraham Tulu Mekonnen & George Anthony Giannoumis, ‘Inclusion, access, and accessibility of educational resources in higher education institutions: exploring the Ethiopian context’ [2020] *International Journal Of Inclusive Education* p.1

curricula, educational resources and other facilities accommodate the needs of all students, including those with disabilities.²¹⁵ Indeed, as the quotes below illustrate, inclusive provision involves a web of services and staff with awareness, expertise and commitment to ensure not just access but ‘dignified’ access. “Ensuring that not only buildings and the physical environment are accessible to disabled learners but that the curriculum and whole school environment are accessible too. Also ensuring that support for and training for staff to enable them to support disabled students through inclusive curricula and assistive technology.” “An inclusive model of disability is multi-faceted, covering a range of considerations including promoting and valuing diversity, the development of an environment which is fully accessible to all, the design and delivery of curricula and assessment, and the delivery and monitoring of services through co-production.”²¹⁶

When we assess all the campuses of Addis Ababa University as to whether the roads and walkways are accessible for students with physical disability. In this regard, students who have mobility problems have asked if they have encountered any academic challenges related to infrastructure in the campuses replied that except the main campus the infrastructure of other campus is not comfortable for a student who uses wheelchair and crutches. However, the main campus (6 kilo) of Addis Ababa University is appreciated for being accessible as compared to other campuses. In other campuses the environment is not good like the main campus which can be model campus to other campuses in which the roads and walkways are safe for students with mobility problems. This does not mean that there is no problem. There are problems in some areas for instance if student who uses wheelchair and crutch get sicked wants to go clinic the road takes to clinic is not accessible. Except this problem the compound is good for student with physical disabilities to move around the campuses.²¹⁷

²¹⁵ Ibid

²¹⁶ Matthew Williams, Emma Pollard, Helena Takala, ‘Review of Support for Disabled Students in Higher Education in England’ [2019] Report to the Office for Students by the Institute for Employment Studies and Researching Equity, Access and Participation P.50

²¹⁷ Focus Group Discussion With Physical Disabled students Of Addis Abeba University

C. Dormitories

The accessibility of dormitories in the higher learning institutions is also required to be suitable for persons with disabilities.²¹⁸ With regard to dormitories, Arat and Amist kilo female dormitories are not accessible but dormitories in FB campus, main campus, Arat kilo only men, Amist kilo only men dormitories are accessible for a student who uses wheelchair and crutch. In Arat kilo campus the dorm is accessible for student who uses wheelchair and crutches. However, it is very difficult for student who uses crutches and wheelchair to access dorms because the road takes around to dorms is not comfortable which enables student with physical disabilities to easily access their dormitories.²¹⁹

D. ICT Laboratories/Libraries

Higher educational institutions are required to have libraries which are accessible for all including persons with disabilities.²²⁰ The proclamation and the policy which deal with the education sector require libraries to be accessible for all.²²¹ However, in Amist kilo campus both ICT laboratories and libraries is inaccessible for wheelchair and crutch users this is because the ICT laboratories is above the ground floor without lift and the libraries is also very difficult to enter and to get service due to lack of ramp. ICT laboratories in Arat kilo and in main campus especially in digital or Law libraries is completely inaccessible for wheelchair and crutch users this is because the ICT laboratories is above the ground floor. Whereas, libraries in FBE, Arat kilo, and main campuses are accessible students with physical disabilities can enter into libraries but the major problem here that student with physical disabilities face is they cannot get from the library the books they want to read this is because all the books in hardcopies are above the ground floor and the libraries has no lifts to enable students with physical disabilities to access the materials above the ground materials. The purpose student with disabilities goes to library like normal or able-bodied students are to read materials which are relevant to them. So, accessibility to enter into the libraries is not enough by itself there should be a means that enables physical disable students to access materials above the ground floor.

²¹⁸ Supra Note 68, at P.118

²¹⁹ Focus Group Discussion with Physical Disable Students Of Arat kilo Campus Of Addis Abeba University

²²⁰ Supra Note 68, at P.119

²²¹ Ibid

E. Dining halls/ Lounges

The cafeterias within the higher learning institutions have been set up to fulfill the personal needs of any student including students with disabilities.²²² However, the cafeteria and lounges in Amist kilo campus is completely inaccessible for student who uses wheelchair and crutches. This is because the cafeteria and lounges have no ramps at all. Due to inaccessibility of cafeteria and lounge physical disable students of Amist kilo students face high challenges in order to survive in the campus. This problem caused negative impact on their teaching and learning process. Furthermore, cafeterias in Arat kilo especially freshman cafeteria and students lounges in FBE campus are inaccessible. So, a student who uses wheelchair and crutch cannot get service there due to lack of ramps.

F. Administrative Offices

In new buildings, the principal entrance (or entrances) should be accessible. In existing buildings, where it is not possible for the main entrance (or entrances) to be accessible, an alternative entrance should be provided which is accessible for all potential users.²²³ Doors to the principal or alternative entrance should also be accessible to all, including wheelchair users and people with limited manual dexterity.²²⁴ With regard to administrative offices students with different types of disabilities from FBE, Arat kilo, Amist kilo and main campuses complains that all administrative offices in the campuses are inaccessible for disable students. Administrative offices in different campuses in different campuses are either in above the ground floor with no lift or in a building with no ramp at all. This is because the buildings are old and not constructed by taking into account students with disabilities. So, if a disable student who have complains regarding to his/her grade and wants to talk with his/her teacher it would be impossible for him/her this is because almost majority of offices of the teacher is above the ground floor. Moreover, those offices in the ground floor in different campuses are also inaccessible for wheelchair and crutch users due to the building being old and have no ramps to enter.

²²² Ibid at P.120

²²³ Andrew Lacey BA, 'Designing for Accessibility' [2004] An essential guide for public buildings P.26

²²⁴ Ibid at P.29

G. Wash rooms/ Toilets

Bath rooms are the other areas where there should be accessible environment for all. The situation of persons with disabilities is not exception to this condition.²²⁵ Existing schools have a designated number of toilet facilities according to the number of students. It is recommended that a proportional number of disabled toilet facilities should also be provided. At least one disabled toilet facility should be provided for students and one for staff.²²⁶ The pathway leading to the toilet should be smooth, firm, and level, and should not be located further away from the school buildings than other toilets. That is, a disabled student should not have to travel further to get to the toilet than a non-disabled student.²²⁷ As part of a regular maintenance programme, access to toilets for staff and students should be checked. In most cases a new toilet will need to be constructed as no standard squatting toilet will meet accessibility standards.²²⁸

With regard to wash rooms and toilets students with disabilities face similar challenges in all the campuses and they demanded this problems solved immediately. In FBE campus there is no wash rooms and toilets constructed at all for both male and women disable students of the campus. Students with disabilities of FBE campus due to lack of washroom and toilet facilities face big problems. In main campus and Arat kilo campuses also there are no washroom and toilet available for women student with disabilities at all. Apart from this there are wash rooms and toilets facilities in the main campus (male), Arat kilo (male), and Amist kilo campuses. But, the major problems regarding to wash rooms and toilets are disparity of the wash rooms and toilet facilities and the number of disable students in the campuses. All students with disabilities in each campus use a single toilet and wash rooms. This is because in the campus wash rooms and toilets are not constructed purposely for disable students. For non-disable students there are many options for toilet and wash room because there are toilets and wash rooms in each building in the campuses. Disable students in the campuses are many but there is only one wash room and toilet facility in each campuses except for FBE, Arat kilo(female toilet), and in main campus female wash room and toilets. This wash rooms and toilets are getting damaged sometimes. In

²²⁵ Supra Note 68, at P.120

²²⁶ Samantha Whybrow, 'Improving Accessibility Of Schools' [2006] P.12

²²⁷ Ibid

²²⁸ Ibid at P.15

addition to this the washrooms and toilets are not suitable for wheelchair users because the wash rooms and toilet rooms are very narrow that does not enable wheelchair users to move freely.

H. Play Grounds

Playgrounds are important to all students everywhere. In reality, however, many societies around the globe lack such spaces for play. This may be a result of a general lack of resources or it can be a lack of awareness and ability to utilize playgrounds when the choice stands between a building for a school on the one hand and a playground on the other.²²⁹ When a play space is designed with Universal Design principles in mind, the space offers something for everyone to participate in. The layout, equipment, and features are designed and selected with consideration given to the needs of caregivers and the diverse developmental needs of children. Therefore, opportunities for access and inclusion are natural outcomes of the design.²³⁰

In this regard, students with disabilities of Addis Ababa University asked on the accommodation of sports and games participation play grounds. But, all students with disabilities from different campus of Addis Ababa University have requested a sports and sports playground. All respondents expressed interest in participating in sports and sporting events, but their participation was hampered by the lack of adequate sports facilities for students with disabilities, the lack of adequate gymnasiums, lack of sports fields, and isolation.

3.2.3. Assessment of Reasonable Accommodation for Student Who Are Deaf or Have Hard Hearing Impairments at Addis Ababa University

Students who are d/Deaf or hard of hearing often receive accommodations that are intended to increase access to the educational environment.²³¹ Students who are d/Deaf or hard of hearing often receive accommodations that are unique to their communication characteristics, such as the availability of a sign language interpreter or captioning in the classroom. However, these students also receive accommodations used by other student groups, such as extended time for

²²⁹ Tusingwire Ruganzu Bruno, 'Making children-inspired playgrounds everywhere: A case study of the creation of the playground using recycled materials at Kampala School for Physically Handicapped, Uganda' [2016] Faculty Of Education And International Studies P.1

²³⁰ Rick Hansen, 'A Guide To Creating Accessible Play Spaces'[2020] P.11

²³¹ Stephanie W. Cawthon, Rachel Leppo and The pepnet 2 Research and Evidence Synthesis Team, 'Accommodations Quality for Students Who Are d/Deaf or Hard of Hearing'(2013) Vol. 158 American Annals of the Deaf P.438

assignments or test administration in a separate setting. In residential settings, accommodations may also include such features as a visual signaling device in a dorm room or interpreters for extracurricular activities.²³² Accommodations are often separated into two categories: those used in classroom instruction and those implemented during testing and assessment.²³³ Instructional accommodations are meant to increase access to classroom activities, and for students who are d/Deaf or hard of hearing who use sign language, may include the use of a sign language interpreter (e.g., in class- rooms where instruction is given in spoken English) or a note taker so that a student can watch the interpreter rather than look down to write notes.²³⁴ The accommodations students receive in the classroom become the foundation for the accommodations they receive during assessments. Assessment accommodations may include an interpreter or scribe during the test, a shortened assignment, or extra time for a standardized assessment such as the MCAT or other high- stakes exam. In some situations, accommodations may include the translation of test items into a sign system—for example, American Sign Language or Signed Exact English—or presentation of directions in the sign system.²³⁵

Being deaf or hard of hearing affects students in several ways. They may have difficulty following lectures in large halls particularly if the acoustics cause echoes or if the speaker talks quietly, rapidly or unclearly. Students with hearing impairments find it difficult to simultaneously watch demonstrations and also follow verbal descriptions, particularly if they are watching a sign language interpreter, a captioning screen or a speaker's lips.²³⁶

Commenting on sign language interpreters, Russell is of the opinion that sign language interpreters play a major role in mediating the process of classroom instruction. In a case study he carried out, he observes that there is a need for qualified interpreters to manage the process with accuracy. He confirmed that lack of qualified interpreters affected the quality of the

²³² Ibid

²³³ Ibid

²³⁴ Ibid at P.439

²³⁵ Ibid

²³⁶ Mary Maingi-Lore, 'Factors Influencing Academic Performance Of Students With Special Needs In Institutions Of Higher Learning. The Case Of Middle Level Colleges In Machakos County. Kenya' [2016] A Research Project Report Submitted In Partial Fulfillment Of The Requirements For The Award Of Masters Degree In Distance Education Of The University Of Nairobi P.18

instruction delivered to the deaf.²³⁷ For students who are hard of hearing, hearing aids are useful. Students who use hearing aids will benefit from amplification in other forms such as assistive listening devices (ALDs) like hearing and compatible telephones, personal neck loops and audio induction loop assistive listening systems. Some students use FM amplifications systems which require the instructor to wear a small microphone to transmit amplified sound to the student.²³⁸

However, in Addis Ababa University deaf students or students with hard hearing impairments are facing big problems. In this regard the researcher asked all deaf students from different campuses and the problem they are facing are similar. The major problems they are facing are as follows: the first and the major problem they are facing academically is lack of full sign language interpreter. There is no permanent full time sign language interpreter for deaf students. Due to lack of very limited number of sign language interpreter a single interpreter is expected to translate four courses for 3:00 hour per day and they most of the time go away in the middle of the class by saying that 'I am tired' and discouraging by the fact that they are not paid proportionate to their work. So, due to this problem they miss what the lecturer delivers to the class. Because of lack of sign language interpreter sometimes they just come to class and go back to their home without attending what their teacher delivers to the class. Students who are deaf are surviving academically and overcome the gap of sign language interpreter by making high efforts.²³⁹ With regard to this problem the researcher asked high disability experts from the office of the center of disability as to how they worked to overcome the above problems. She admitted in the first place the above problem that deaf and hard hearing impairment students are facing academically. She further noted that to solve the above problem we will post a notice in order to hire a sign language interpreter but we could not find enough interpreter due to lack of sign language interpreter in the market. She also noted that those hired as an interpreter work as part time and interprets the course which are only suitable for them. So, due to this problem all the subjects will not covered by them and most of the time deaf or hard hearing impairment students academically dismissed.²⁴⁰

²³⁷ Ibid at P.19

²³⁸ Ibid

²³⁹ Focus Group Discussion With Deaf And Hearing Impairment Students Of Addis Abeba University

²⁴⁰ Interview With A High Disability Expert Of The Office Of Disability Center Of Addis Abeba University

The other problem that student who are deaf raised as a complaint is that they feel that they are not equally participate in the teaching and learning process. For instance if they have compliant in their grade and they want to contact their teacher, the teacher says bring interpreter in such case interpreters are not easily available. So, even if there grade can be correctable due to barriers of communication their grade will be left as it is.²⁴¹ The other problem they mentioned is that there are students who came from countryside and who don't know sign language but there are a lot of training books in the disability center but they are not provided with in need of it. When they ask the center they are replied with to pay the price in order to use it. In this regard there is training given to students who are deaf and don't know sign language but it is very minimal. Moreover, in exam time they treated like other normal or able- bodied students there is no extension of time for them the teacher take away the exam paper while they are doing. There is also no interpreter appointed by their collage when they go out field for an academic purpose.²⁴²

Last but not least, students who are deaf while having a grade which enables them to study a department they want to study by mere fact that in the department he/she wants is no interpreter some of deaf students are obliged to change their mind to study a department they are not interested.²⁴³

In generally, among Ethiopian higher educational institutions, Addis Ababa University has a relatively large number of students with disabilities and the University has also a Special Needs Support Center, explains that the Special Needs Support Center is preparing to offer many services to students with disabilities, including educational assessment and intervention; student support service such as tutoring and counseling, administrative support, life centered career development, education knowledge support for college faculty to accommodate the need of students with disability.²⁴⁴

²⁴¹ Focus Group Discussion With Deaf And Hearing Impairment Students Of Addis Abeba University

²⁴² Ibid

²⁴³ Ibid

²⁴⁴ Muluken Tesfaye Kabtyimer, 'The Accessibility Of Higher Education Services: A Focus For Students With Disabilities In Arba Minch University, South Ethiopia' (2020) Vol. 6 European Journal of Special Education Research P.2

However, in Addis Ababa University Students with disabilities complained that the Center for Disability did not provide the required services from the center, despite the purpose of setting up a Disability Center office to address the above-mentioned problems that impede the learning and teaching process of students with disabilities. In this regard, almost all students with various disabilities believe that the Disability Center does not stand up for their rights on campus. The Office of the Disable Center is not solving the problems students with disabilities are facing due to inaccessibility to toilets, bathrooms, the campus, etc. For example the pocket money which started to paid per month for all disabled students has been stopped, copy has been reduced from 120 pages to 50 pages and a machine which has been given for the center in order to wash disable students cloth is not giving service yet. Despite the existence of the center of disability problems that can be easily solved are not solved quickly. A student with disabilities says even though they claimed to be they are expertise they are not. Because they do not know the needs of students with disabilities. For example, if the wheelchair user loses his wheels they say they will fix it instead of taking immediate action to fix the problems. Because this guy cannot move anywhere at all he cannot go school, cafeteria to have food etc... but the so called expertise in the center don't take immediate action in such situations. The other problem related to the disable center is that the experts appointed to operate the copy machine don't even know how to operate the copy machine.

The head of the office of disable center is not available usually but the center requires full time. She works like par time because she teaches on the one side and sometimes even she goes abroad. If a student with a disability wants to talk to her, she is not there, but she should always be there as the center's director.

Last but not least, when we see Ethiopia's implementation of the principle of reasonable accommodation under the CRPD. As it is known that the principle of reasonable accommodation is the most important legal concept under the CRPD. This Convention embodies rights for persons with disabilities, which have to be known to the bearers of these rights if they are to be of any use. They are the group of people that the Convention is meant for.

Article 5(2) of the convention requires signatory States to 'prohibit all discrimination on the basis of disability'. The concept of reasonable accommodation is mentioned in art. 5(3) CRPD, in which is stated that reasonable accommodation should be provided by State Parties to promote

equality and eliminate discrimination. This makes it clear that a duty to provide reasonable accommodation imposes positive obligations to identify barriers in the way of a disabled person's enjoyment of their human rights and to take appropriate steps to remove them. In respect of Art. 9 about accessibility, accessibility must encompass access to the physical environment, like buildings and all means of transportation, access to information and communication.

With regard to art. 24 (2) (c) CRPD requires State Parties to provide for reasonable accommodation of the individual's requirements. Art. 24 (5) CRPD put forward that disabled students should have access to higher education without any discrimination. Moreover, reasonable accommodation is also provided under higher education proclamation. Art. 41 of this proclamation provide that students with various disabilities should get reasonable accommodation.

Although both the international and national legal instruments provides a legal provisions for the protection of the rights of disable students of higher education, but students with disabilities of Addis Ababa University are suffering the above problems due to lack of the implementation of the CRPD. Thus, although to ensure this right Ethiopia as a party have the obligation to provide for reasonable accommodation for higher education's of Addis Ababa University but the Convention in Ethiopia is not being implementing in higher education institution of Addis Ababa University.

CHAPTER FOUR

CONCLUSION

Access to education is a fundamental right for all people, including students with disabilities. Providing all disabled students with an education will not only benefit students with disabilities, but also the entire communities in which they live. Education provides the means for disabled students to grow to become independent and meaningful citizens of their communities. Inclusive education requires more than physical inclusion of persons with disabilities in the compound. It requires addressing all forms of barriers that hamper equal access to education. Therefore, conscious decisions to design and provide accessible buildings and remove existing exterior and interior barriers at the University of Addis Ababa is important to promote a conducive academic and social environment for students with disabilities. This research provided an account of barriers to accessing educational resources in the context of an HEI in Ethiopia. Ethiopia is among the first countries in the world to ratify the CRPD. Despite its paper commitment to the CRPD, the right to inclusive education for students who are disabled in Ethiopia remains elusive. In the area of higher education in Ethiopia, the CRPD is not necessarily making a difference in increasing opportunities and access to inclusive higher education in the country. There are virtually no laws aimed at enforcing inclusive higher education. The government does not even know the number of students in higher education with disabilities in general, or those with vision impairment, in particular. Visually impaired students continue to have limited options regarding areas of study and many barriers in securing their education. Although Addis Ababa University has established 'Offices of Disability Services' in order to alleviate these problems, the offices lack staff, resources and support, generally, from University officials. Therefore, even if such offices exist to help the University to comply with the CRPD, the challenges facing students with impairment in University could not still ameliorate.

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