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ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
FACULTY OF LAW

**The Right to Education for children with Autism in Ethiopia: The
Legal and Policy Framework and its Implementation in Addis
Ababa**

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Acronyms

ACHPR- African Charter on Human and Peoples' Rights

ASD- Autism Spectrum Disorder

CESCR- Committee on Economic, Social and Cultural Rights

CRC- Convention on the Rights of the Child

CRPD- Convention on the Rights of Persons with Disabilities

FDRE- Federal Democratic Republic of Ethiopia

ICESCR- International Covenant on Economic, Social and Cultural Rights

UDHR- Universal Declaration of Human Rights

ICCPR- International Convention on Civil and Political Rights

UN- United Nations

Abstract

The right to education is recognized under major international human rights instruments including the UDHR, ICESCR, CRC, CRPD and regional instruments ratified by Ethiopia. According to the instruments, the right to education encompasses four essential features: availability, accessibility, acceptability, and adaptability. It also involves inclusive education, prohibit discrimination, and require states to provide accessible, quality education tailored to individual needs, ensuring that children with disabilities are not excluded from educational opportunities.

This study explores the legal and policy and framework of the right to education of children with Autism Spectrum Disorder (ASD) and its implementation in Addis Ababa. Even if the framing of the right to education under the FDRE Constitution is in the form obligation to the state as one of the social services, and hence making it difficult to understand the content and scope of the right, it can be understood from the international instruments ratified by Ethiopia by virtue of Article 9(4) and 13(2) of the Constitution. Moreover, the educational policies and strategies adopted by the Ministry of Education explicitly recognize education as a right.

The right to education of children with ASD faces legal and policy gaps as well as implementation gaps. The data of the Ministry of Education from last indicates that the national gross enrollment ratio of special needs education is 3.4% while that of Addis Ababa is 26.8%. The data reveals the remaining students who should have enrolled to the special need education are either not enrolled or not recorded as such. The data collected under this study also indicate that parents of children with ASD face numerous challenges in sending their children to school and make them obtain quality education. The support services are also underfunded and entangled by lack of experts, high class size, lack proper monitoring of schools by regulatory bodies, lack awareness among the teachers, school leaders and parents, etc. As a way out, the study recommends legal and policy reforms which consider the learning difficulties of children with ASD. The study employed both doctrinal and empirical methods to explore the right to education of children with ASD. In doing so, it has used primary data such as interviews and questionnaire to collect data and used both qualitative and quantitative methods.

CHAPTER 1

INTRODUCTION

1.1 Background of the study

Education is the process of imparting or acquiring general knowledge, developing the powers of reasoning and judgment, and of preparing oneself or others intellectually for mature life.¹ It is the means of knowing what is right and what is wrong. It is with education that one could change the world into better place to live and have a reasonable mind. Nelson Mandela once strongly remarked that “Education is the most powerful weapon which you can use to change the world”².

Looking in to the different definitions of the term education, one can understand that education may be defined in its wider or narrower sense. Education, in a wider sense, refers to “the whole process whereby, in any society, adults endeavor to transmit their beliefs, culture and other values to the young”³. In its narrow sense, education refers in particular to the transmission of knowledge and to intellectual development.⁴

Education, defined either way, contributes to the development of the human personality and that it constitutes a source of knowledge.⁵ One can’t validly argue to the opposite as to the advantage of educating oneself and any children. More importantly, education is one of the basic human rights recognized by the international community.

Countries have adopted the right to education on their constitution as one of human right, one can say that education has been accorded the status of a human right in many national constitutions.⁶ The international community adopted treaties which protect education as a human right, typically in the ICESCR. Several institutions have also been put in place to monitor and support the enforcement of the rights. When it comes to the right to education of children, it is

¹ See Adesemowo, P. Oluremi (Ph.D) and Sotonade, Olufunmilayo A. T. (Ph.D), the Meaning and Scope of Education, in P. O. Adesemowo (ed) *Basic of Education*, (Gaskiya Corporation, 2002),p. 1-9.

² Speech Made by Nelson Mandela, Johannesburg, July 16, 2003, available at <https://www.youtube.com/watch?v=e6X5rCyQqn0>

³ *Campbell and Cosans v. United Kingdom*, Judgement of 25 February 1982, Publications of the European Court of Human Rights, Series A, Vol. 48, para. 33

⁴ Ibid.

⁵ Klaus Dieter Beiter, *International Studies in Human Rights*, Martin Nijhoff Publishers, International Studies, Human Rights Series, Leiden, 2006, p. 2

⁶ Id.p.4

one of the right that the government and the international society should protect and grant to a child. This right has been recognized by international human rights instruments including the Universal Declaration of Human Rights (UDHR), Convention on the Rights of the Child (CRC), International Covenant on Economic, Social and Cultural Rights (ICESCR), The UN Convention on the Right of person with Disabilities (2007) which Ethiopia is a signatory state.⁷ Regional instruments such as the African Charter on the Rights and Welfare of the Child also duly recognize the rights. These instruments protect the right to education of children without any discrimination.

Children as one of the vulnerable groups on the society have different human right that the society and government must keep and also protect. The international community have also agreed on protecting the right of disabled person by these international agreements. Article 1 of the CRPD define person with disabilities as 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. Base on this definition we can say Autism is one type of disability.

The Autism Spectrum Disorder, otherwise referred as Autism⁸ (hereinafter referred to as ‘ASD’) is one of the most common neurological and genetic conditions found among both genders and people of all backgrounds and socioeconomic levels. It is a complex developmental disorder characterized by restrictions on verbal and nonverbal communication, repetitive activities, and social interaction.⁹ It is one type of disability that nowadays we witness on children of different age. An Autistic child have the right to education like child.

Ethiopia, as a signatory state to the international instruments that protect the right to education of child and agreement on the protection of different on disabled right, the government is obligated to take legislative, administrative and other measures to ensure protection, promotion and fulfilment of the rights of children with disabilities among which the right to education is one. In

⁷ Article 26 of the UDHR, Article 13 and 14 of the ICESCR, Article 18 of the ICCPR, Article 24 of the CRPD.

⁸ Considering the sensitivity, the paper refers to such children as “children with autism” or “children in the spectrum” interchangeably to refer to children with ASD.

⁹⁹ Shreeya Gyawali and Bichitra Nanda Patra, 'Trends in Concept and Nosology of Autism Spectrum Disorder: A Review' (2019) 40 *Asian Journal of Psychiatry* 92.

fact, the interdependence of the rights as well necessitate such actions for the betterment of the rights of children in Ethiopia.

In light of this, the FDRE Constitution doesn't specifically state about the right to education of a child, one can firmly establish the right to education is recognized in the Constitution. Article 41 states that every Ethiopian have an equal right to publicly funded services and education is one of such services. This same article obliges government to provide support for disabled persons. Article 36 gives protection for child who are attending school. On top all these, the Constitution, under article 9(4) stipulates that all the international agreements ratified by Ethiopia are parts of laws of the land which means the government have the obligation to protect right that are included on the international human right instruments. Article 13 (2) of the Constitution also obligates interpretation of rights recognized under Chapter Three of the Constitution shall be in line with the international human rights instruments ratified by Ethiopia.

The Ministry of Education attempts to address the right to education of disabled children, through the Special Needs/Inclusive Education Strategy adopted in 2022.¹⁰ This strategy states the right to education of an Autistic children merely by adopting inclusive education. Even if there are legal and policy frameworks that recognize the right to education of children in general and of children with autism in particular, a closer look at these frameworks reveals that they are insufficient both in terms of protecting and fulfilling the right. This paper delves in to the legal and practical gaps in the protection of the right to education of children in the spectrum with a focus in Addis Ababa along with potential solutions.

Though the background could still be improved in terms of improving the coherence of the discussion and citing more sources, it is in good shape.

1.2 Statement of the problem

The number of children with ASD is increasing in alarming rate¹¹ which demand the government to enact law and policy that guarantee the right to education of an Autistic child. World Health

¹⁰ FDRE Ministry of Education, Special Needs/Inclusive Education Strategy (Addis Ababa, [2022])

¹¹ World Health Organization, *Autism Spectrum Disorders* (WHO, September 2021), <https://www.who.int/news-room/fact-sheets/detail/autism-spectrum-disorders> accessed 5 September 2024.

Organization estimates that one in 100 children has autism.¹² And in Ethiopia, studies estimate that there are around 500,000 children with ASD making it the second mental health case after epilepsy.¹³ This does not include the number of undiagnosed children due to lack of awareness and cultural barriers which indeed signifies that the number of children with ASD is significant.

Given the recognition of the universal right to education, it's important to question how these children obtain pre-school, elementary and secondary school education in a way that brings meaningful benefits of education. However, various researches and reports of non-governmental organizations indicate that children with ASD face challenges in enrolling to schools as well as in-class learning process.¹⁴ Individuals with ASD are often subject to stigma and discrimination, including unjust deprivation of health care, education and opportunities to engage and participate in their communities.¹⁵ The personal experience of the author, as a mother of a son with ASD, has triggered the need to explore the issue from rights perspective.

The FDRE Constitution deals with socioeconomic rights under article 41. There are critics which validly argue that the Constitution does not sufficiently recognize socioeconomic rights. Article 41(1) puts some of these rights as public services and in the form of an obligation on the government to allocate an ever-increasing resource to public services. In addition, article 89-91 provides for economic, social and cultural objectives. With respect to education, article 90 (1) stipulates that “to the extent the country's resources permit, policies shall aim to provide all Ethiopians access to ... education...”.¹⁶ However, the issue of whether it's possible to enforce this through the judiciary remains questionable. In summary, the Constitution crudely recognize

¹² Ibid. WHO disclaims that this estimate represents an average figure, and reported prevalence varies substantially across studies. The prevalence of autism in many low- and middle-income countries is unknown.

¹³ Sebiha M. Abdullahi, Ethiopia and Autism, in Fred R. Volkmar (ed.), *Encyclopedia of Autism Spectrum Disorders*, Springer Nature Switzerland, 2021, p. 1865.

¹⁴ See for instance B Tekola *et al*, ‘Challenges and opportunities to improve autism services in low-income countries: lessons from a situational analysis in Ethiopia’, *Global Mental Health (Cambridge Prisms)*, Volume 1 Issue 3, 2016, Available at <https://www.cambridge.org/core/journals/global-mental-health/article/challenges-and-opportunities-to-improve-autism-services-in-low-income-countries-lessons-from-a-situational-analysis-in-ethiopia/2CB31D9AAC4151DE9FA71E471AD4B9CE> ; ‘Shaping Hope: Charting the Path of Autism Support in Ethiopia’, Available at <https://awibethiopia.org/focus/shaping-hope-charting-the-path-of-autism-support-in-ethiopia/> ; Getaneh Abera, ‘Autism is becoming a big piece of social and economic crises’, *The Ethiopian Reporter*, April 6, 2019, available at <https://www.thereporterethiopia.com/7787/>, last visited January 24, 2025.

¹⁵ WHO, Definition of Autism, <https://www.who.int/news-room/fact-sheets/detail/autism-spectrum-disorders>; 15 Nov, 2023.

¹⁶ Article 90(1) of the FDRE Constitution.

the right to education just like other socioeconomic rights.¹⁷ The manner these rights are crafted in the Constitution makes the scope and limitations of these rights undefined.

Though the Ministry of Education has a strategy that attempts to protect the right to education of children with disability, which states inclusive education as a means of educating special need students, it's critical to question that whether the generic approach of inclusive education duly responds to the needs of children with ASD. Recently, the Draft Education Proclamation has also been tabled for the House of Peoples Representatives.

Comparative experiences indicate that a different curriculum, method of teaching, a teaching materials and books is needed to effectively educate children with ASD. Education encompasses a range of services, both publicly and privately funded, that help individuals learn and develop. This includes traditional schooling (elementary, secondary), early childhood programs (for infants, toddlers, and preschoolers), and other educational services provided by various organizations.¹⁸ Contrary to this, several researches indicate that families of children with ASD often face challenges in educating their children. Some of the challenges include lack of awareness and understanding of autism among educators; shortage of specialized teachers, therapists, and support services; inadequate infrastructure and resources in schools; and stigma and discrimination faced by children with autism and their families.

The issues of whether the laws and policies sufficiently guarantee the right to education of children with ASD and whether the existing laws and policies are effectively implemented are explored in this paper.

1.3. Objective of the study

The paper has the general objective of exploring the legal and practical gaps on the right to education of children with autism. This study has the following specific objectives:

- Explore the scope of the right to education of children in general of children with disabilities in particular including children with ASD;

¹⁷ See for instance, Sisay Alemahu Yeshanew (PhD), 'The justiciability of human rights in the Federal Democratic Republic of Ethiopia', *African Human rights Law Journal*, Volume 8, 2008, pp.273-293.

¹⁸ Catherine Lord and James P. McGee, (eds.), *Educating Children with Autism*, National Research Council, National Academy Press, Washington, DC, 2001, Available at <https://nap.nationalacademies.org/read/10017/chapter/1>, p. 12.

- Describe and analyze the laws, policies and strategy of Ethiopia that recognize the right to education for Autistic children and assess their adequacy;
- Analyze the implementations of these laws in Addis Ababa and forward recommendations to address the gaps;

1.4. Research question

This research tries to address the following research questions:

- What is the scope of the right to education of children with ASD under the international instruments ratified by Ethiopia?
- To what extent does Ethiopia's existing policy and legislative frameworks protect the right to education of children with ASD?
- What are the practical gaps and difficulties in protecting the right to education for children with ASD in Addis Ababa and what are potential solutions to improve the situation?

1.5 Scope of the Study

This paper intends to explore the legal and practical gaps on the right to education of children with autism in Addis Ababa. In doing so, it will discuss international and domestic normative frameworks pertaining to the right to education in general and of children with disabilities in particular along with the practical realities in Addis Ababa. However, the paper is limited to make critical analysis from the perspective of the rights of children with autism in particular and hence may not cover all types of disabilities when it comes to detailed laws and policies. Geographic wise, the paper is limited to Addis Ababa.

1.6 Significant of the study

The research will contribute it share in clearly identifying and pointing out gaps the laws and policy frame works that discuss on the right to education of children with autism along with practical problems and recommending possible solutions so that right to education of children with Autism will be effectively realized. The findings and recommendations of this study will

serve as a stepping stone for policy makers and implementers in indicating solutions for the betterment of the right to education of children with autism.

1.7. Research methodology

In order to address the research questions, the author will employ a multimethod with a mix of both doctrinal and empirical methods. Both qualitative and quantitative data have also been used.

Literature Review- The literature review of this study consists of reading and analyzing library and online resources. In reading references, the author will attempt to find information specific to the research topic in order to give a frame of reference for its effective evaluation of the topic.

Document Analysis- the author will analyze primary and secondary documents relevant to the topic. Some of them include the FDRE Constitution, relevant international human rights instruments ratified by Ethiopia, education policies and strategies of Ministry of Education and Addis Ababa City Administration, schools' directives, etc.

1.7.1. Research Method and Design

The nature of the research objectives and questions logically demand both doctrinal types of legal research and practical inquiries to examine the legal and practical gaps on the right to education of children with autism in Addis Ababa.

1.1.Study Areas

This study covers schools selected in Addis Ababa. It will, therefore, confine to the situation of the right to education of children with autism in Addis Ababa specifically in schools covered under the study.

1.2.Sample Data Size Determination

Adequate and representative amount of data, from primary, secondary and tertiary sources, will be collected. Accordingly, any conclusions and implications reached for and under each research question and objective will be quantified and qualified by reasonable amount and quality of data.

1.3.Methods of Data Collections and Analysis

To achieve the first and second objectives, primary sources such as the FDRE Constitution, pertinent International and Regional Treaties to which Ethiopia is signatory party, and relevant domestic legislation and policies will be consulted and analyzed. Besides, secondary sources of data like articles written by Ethiopian scholars on the area will also be consulted. Relevant foreign jurisprudences and literatures on the areas will also be consulted and examined to search for worthwhile ideas that used to answer the question. To adequately answer the third and fourth research questions, the author will undertake practical explorations, via employing qualitative research tools to collect data from primary sources, like case studies, interviews, applicable observations and examinations of relevant documents Textual, graphic, and tabular methods of data interpretations and logical analysis are may be employed for analyzing data collected from the above sources.

1.8. Limitation of the study

The likelihood of lack of sufficient cooperation from relevant organs may put limitations on the study. Besides, there may not be well organized documented data on the topic in the relevant government authorities. The lack of adequate national literatures on the areas, for it's a recent subject, could be other challenges.

1.9. Organization

This study is composed of five chapters. This first chapter introduces the problem statement, objectives and research questions as well as methodological issues, significance and limitations of the study. The second chapter explores the right to education as recognized under the international and regional human rights instruments. Specifically, this chapter discusses the UDHR, ICESCR, ICCPR, CRC, CRPD, and regional instruments like the African Charter on Human and Peoples Rights, African Charter on the Welfare and Rights of Children, etc. The third chapter examines the legal and policy framework of the right to education in Ethiopia with special focus on the right to education of children with ASD. The fourth chapter explores the practical implementation of the right to education in selected schools of Addis Ababa vis-à-vis the scope of the right to education under international human rights instruments ratified by Ethiopia. The final chapter is devoted to conclusions and recommendations of the stud

Chapter 2

International and Regional Normative Frameworks on the Right to Education for children with Autism

2.1. Introduction

This chapter discusses the normative frameworks pertaining to the right to education at the international, regional and domestic level with the ultimate goal of identifying the obligations of state parties, including Ethiopia, in the protection, promotion and fulfillment of the right education of children with autism spectrum disorder. In doing so, it first defines what Autism is, then discuss what the right to education means, and goes on to discuss the specific international and regional instruments.

2.2. Understanding Autism Spectrum Disorders

Autism Spectrum Disorders (ASD) refers to diverse group of conditions.¹⁹ It is the condition of having or being composed of differing elements, with no defined type of character. It is a spectrum condition, which means that, while all people with autism share certain difficulties, their condition will affect them in different ways.²⁰ In other words, the conditions in the spectrum ‘vary in severity of symptoms, age of onset, and associations with other disorders’.²¹

Owing to their varying conditions, there are some difficulties that people with ASD share and in some other cases, the difficulties may affect them differently. People with Autism are characterized by ‘some degree of difficulty with social interaction and communication.’²²

¹⁹ WHO, Definition of Autism, *supra* note 15.

²⁰ Autism and Related Developmental Disabilities in health and Education Policies in Ethiopia, Policy Brief, Nia Foundation | Joy Center for Autism review made by Mengistu Wolde, December 2022.

²¹ Catherine Lord and James P. McGee, (eds.), *Educating Children with Autism*, National Research Council, National Academy Press, Washington, DC, 2001, Available at <https://nap.nationalacademies.org/read/10017/chapter/1>, p. 11. These authors rightly argue that the manifestations of autism vary considerably across children and within an individual child over time. There is no single behavior that is always typical of autism and no behavior that would automatically exclude an individual child from a diagnosis of autism, even though there are strong and consistent commonalities, especially in social deficits.

²² WHO definition of Autism, *supra* note 15.

Perhaps, the difficulty with social interaction seem to be the prevalent common difficulty most of the share. This does not, however, mean that they equally share this challenge across the spectrum. Other characteristics are atypical patterns of activities and behaviors, such as difficulty with transition from one activity to another, a focus on details and unusual reactions to sensations.²³ The difficulties they share may relate the way they ‘behave, communicate, interact, and learn in ways that are different from most other people’.²⁴ ASD These difficulties directly affect the way they learn impacting their education.

Despite the fact that people in the spectrum may share similar difficulties, their abilities may vary significantly. Some can engage in complex and sophisticated conversations, while others may have difficulty with verbal communication and primarily rely on non-verbal forms of expression.²⁵ Similarly, the level of support required by people with ASD varies significantly. Some may need extensive assistance in their daily routines, while others can function independently with minimal or no support, often achieving success in their careers and personal lives.²⁶ These differences imply that the kind of support that individuals with ASD should be tailored in accordance with individual cases and characters.

As it has been highlighted in Chapter one, Autism spectrum disorder (ASD) is a developmental disorder that affects approximately 1 in 100 children worldwide.²⁷ Prevalence estimates increased over time and varied greatly within and across socio demographic groups.

ASD is often classified as a disability,²⁸ as it is mentioned above it has an impact on education, social skill and employment opportunities. In addition, the demands on families providing care

²³ Id

²⁴ Definition of Autism, Center for Disease Control (CDC), United States, available at <https://www.cdc.gov/autism/about/index.html>. Researches identify that in diagnosing autism, “Autism Behavior Inventory” is commonly used. According to this method, two core ASD domains are *Social Communication* (comprised of Reciprocity and Verbal and Nonverbal communication subdomains) and *Restrictive Behavior* (comprised of Resistance to Change, Restricted Interests, Stereotypical Behavior, Hypersensitivity subdomains). See Abigail Bangerter *et al.*, ‘Autism Behavior Inventory (ABI)’, in Fred R. Volkmar, *Encyclopedia of Autism Spectrum Disorders*, *supra* note 14.

²⁵ WHO definition of Autism, *supra* note 15.

²⁶ *Ibid.*

²⁷ Zeidan J *et al.*, ‘Global Prevalence of Autism: A Systematic Review Update,’ *Autism Research*, March 2022, Available at <https://pubmed.ncbi.nlm.nih.gov/35238171/>

²⁸ UN General Assembly, 'Addressing the Socioeconomic Needs of Individuals, Families and Societies Affected by Autism Spectrum Disorders, Developmental Disorders and Associated Disabilities' (2012) UN Doc A/RES/67/82; Available at <https://digitallibrary.un.org/record/740103?v=pdf>.

and support can be significant. Societal attitudes and the level of support provided by local and national authorities are important factors determining the quality of life of people with autism²⁹.

Characteristics of autism may be detected in early childhood, but autism is often not diagnosed until much later.³⁰ People with autism often have co-occurring conditions, including epilepsy, depression, anxiety and attention deficit hyperactivity disorder as well as challenging behaviors such as difficulty sleeping and self-injury.³¹ The level of intellectual functioning among autistic people varies widely, extending from profound impairment to superior levels.³²

Available scientific evidence suggests that there are probably many factors that make a child more likely to have autism, including environmental, biological and genetic factors.³³ According to the United States Center for Disease Control, little is known about the causes, but factors such as ‘having a sibling with ASD, having certain genetic or chromosomal conditions, such as fragile X syndrome or tuberous sclerosis, experiencing complications at birth, being born to older parents’ may put children with greater risks of having autism.³⁴

The World Health Organization (WHO) strongly suggests that a ‘broad range of interventions, from early childhood and across the life span, can optimize the development, health, well-being and quality of life of autistic people.’³⁵ The interventions include ‘access to early evidence-based psychosocial interventions’ and ‘monitoring of child development as part of routine maternal and child health care’.³⁶ It is also suggested that interventions shall be designed and delivered with the participation of people living with these conditions along with community participation.³⁷

All people, including people with autism, have the right to the enjoyment of the highest attainable standard of physical and mental health.³⁸ General Comment No. 14 of the ICESCR

²⁹ WHO, Definition of Autism, *supra* note 15.

³⁰ *Ibid*

³¹ *Id.*

³² *Id.*

³³ *Id.* See also the definition of CDC, *supra* note 24.

³⁴ *Ibid.*

³⁵ WHO, Definition of Autism, *supra* note 15.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Article 25(1) of the UDHR; Article 12 of the ICESCR.

emphasizes that the right to health is closely related to other rights such as the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement.³⁹ And yet, autistic people are often subject to stigma and discrimination, including unjust deprivation of health care, education and opportunities to engage and participate in their communities.⁴⁰ These challenges necessitate the need to explore the content and scope of the right to education of children with ASD under international and regional human rights instruments.

2.3. The Right to Education: An Overview

Is there a universally accepted definition on the right to education? Is education a right? If so, in which group of right do we categorize this right? This sub-section attempts to answer these issues.

It is important to discuss by what education means along with its sociological and psychological aspect before delving in to the discussion on scope and content of the right education. The term “education” can be defined in a narrower and wider sense.⁴¹ In a wider sense, education means “all activities by which a human group transmits to its descendants a body of know transitions, no and a moral code which enable that group to subsist”.⁴² From this definition, one can discern education is a means that one can learn to survive life. It has no defined means of transitions, no defined type of knowledge; it is all kind of knowledge.

In a narrower sense, education means “instructions imparted within a national, provincial or local education system, whether public or private.”⁴³ From this definition, one can understand that education refers the teaching and learning process which could be attended at school, and under the control of a government entity.

³⁹ CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (article 12), available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Health/GC14.pdf>

⁴⁰ WHO, Definition of Autism, *supra* note 15.

⁴¹ Klaus Dieter Beiter, *The Protection of the Right to Education by International Law, Including a Systematic Analysis of Art 13 of the ICESCR*, Martinus Nijhoff publisher, Leiden/Boston, 2006, p.11

⁴² M’Bow, A., “Introduction”, in: Mialaret, 1979, p. 11

⁴³ *Ibid.*

From these two definitions, one can say that education involves learning. Merely attending educational institutions, without learning any-thing, does not amount to education⁴⁴. There are two parties on the proses of education one that teaches and one that learn.

Education, as described in the Max Weber Dictionary, “[education] is central in modern society, and it has increasingly come to divide the population into different status groups (as opposed to different classes, which are related to the distribution of economic means.”⁴⁵ According to Weber, education affects status groups within the society which even may relate to economic means solidifying the critical roles education plays in the society.

Other authors also define Education in different way. One writer defines education as “the total process of human learning by which knowledge is imparted, faculties are trained, and different skills are developed”.⁴⁶ This definition seems wide as it includes both regular teaching at schools and skill development outside schools. These are some of the definitions of education which have been used by different writers. There are also other definitions which are used by the international community in different writings. For instance, the United States National Academy of Science defines education as ‘the fostering of acquisition of skills or knowledge—including not only academic learning, but also socialization, adaptive skills, language and communication, and reduction of behavior problems—to assist a child to develop independence and personal responsibility.’⁴⁷

For the purpose of this paper, the author prefers to use the narrower definition of education as “the process of learning in formal teaching or instruction, comprising primary, secondary school.” This is because the scope of the study is confined to the right to education of children with ASD in schools.

Since education is a means to enlighten an individual within a given society, one can say that individuals and society benefit from the right to education. It is “fundamental for human, social, and economic development and a key element to Lasting peace and sustainable development.”⁴⁸

⁴⁴ Lonbay, 1988, pp. 17–18.

⁴⁵ Richard Swedberg and Ola Agevall, ‘The Max Weber Dictionary: Key Words and Central Concepts’, Stanford Social Sciences, second ed. 2016, p. 112.

⁴⁶ Adesemowo, P. Oluremi (Ph.D) and Sotonade, Olufunmilayo A. T. (Ph.D), the Meaning and Scope of Education, in P. O. Adesemowo (ed) *Basic of Education*, (Gaskiya Corporation, 2002)1-9.

⁴⁷ Catherine Lord and James P. McGee, *supra* note 20, p. 12.

⁴⁸ <https://www.right-to-education.org/page/understanding-education-right>

Literature⁴⁹ suggests that there is a strong nexus between education and development. One writer argues that the ‘the poor access and poor completion of basic education remain a major challenge’ in African countries contributing to the underdevelopment of the continent.⁵⁰

‘The right to education is a fundamental human right whose legitimacy is universal: the right to learn cannot be confined to one section of humanity; it must not be the exclusive privilege of men, or of the industrialized countries, or the wealthy classes, or those young people fortunate enough to receive schooling.’⁵¹ While it is universal just like other fundamental rights, the right to education is beyond social obligations of governments as its fulfillment contributes to the protection of other rights. One writer rightly argues that ‘denial of the right to education is a denial of the full enjoyment of other rights that enable an individual to develop to his or her full potential and participate meaningfully in the society’.⁵²

In other words, ‘education is a powerful tool in developing the full potential of everyone and ensuring human dignity, and in promoting individual and collective wellbeing.’⁵³ One can discern the interdependent and indivisible nature of fundamental rights from the fact that the fulfillment of the right to education largely contributes for the protection of others. The enjoyment of many civil and political as well as economic, social and cultural rights is greatly facilitated by the protection of the right to education.

Therefore, education is both a human right and an indispensable means of realizing other human rights. As an empowerment right,⁵⁴ ‘education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means

⁴⁹ See for instance Ukaeju Mbagwu et al, ‘Philosophy of Education and National Development: The Nexus’, *International Journal of Scientific Research in Education*, JULY 2019, Vol. 12(3), 306-316, Available at [https://ijsre.com.ng/assets/vol.%2C-12\(3\)-mbagwu---igbegiri.pdf](https://ijsre.com.ng/assets/vol.%2C-12(3)-mbagwu---igbegiri.pdf); Iryna Kushnir and Ana Nunes, ‘Education and the UN Development Goals Projects (MDGs and SDGs): Definitions, Links, Operationalizations’, *Journal of Research in International Education*, 2022, Vol. 21(1) 3–21 Available at <https://journals.sagepub.com/doi/epub/10.1177/14752409221088942>.

⁵⁰ A. C. Onuora-Oguno, *Development and the Right to Education in Africa*, Palgrave Macmillan, Switzerland, 2019, p.2

⁵¹ Recommendations of the Fourth International Conference on Adult Education, held at Paris, France from 19–29 March 1985. See UNESCO Doc. ED/MD/81, p. 67

⁵² Faranaz Veriava and Fons Coomans, “The right to education,” in Danny Brand and Christof Heyns (eds), *Socio-economic rights in South Africa* (Pretoria: PULP, 2005), 60.

⁵³ Klaus Dieter Beiter, *supra* note 6, p.30

⁵⁴ On the nature of the right to education as an empowerment right, See Lonbay, 1988, pp. 34–35 (who speaks of education as a “core” human right), Coomans, 1992, pp. 270–272, Coomans, 1995, pp. 11–12, Nowak, 1995b, p. 189, Mehedi, 1999b, paras. 1–4 (UN Doc.E/CN.4/Sub.2/1999/10) and Toma“evski, 2001a, paras. 11–14 (UN Doc. E/CN.4/2001/52).

to participate fully in their communities.⁵⁵ One writer rightly asserts that '[e]ducation is a multiplier right. Without education, other rights and freedoms cannot be fully enjoyed. Freedom of speech, rights to democratic participation, and rights to employment are enhanced by the right to education. Education is also an accelerator right: it equips people to enter the labour force, to participate in public life, and to be productive members of society.'⁵⁶ However, care should also be taken in instrumentalizing education solely for development as it may be critical for some, like children with profound learning difficulties, who need education for personal development as well.⁵⁷ Education is also considered as a multifaceted right, that bring together the socio-economic rights and civil and political rights: it is a social right, a freedom right, and an equality right.⁵⁸

From gender perspectives, 'education has a vital role in empowering women, safeguarding children from exploitative and hazardous labor and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth.'⁵⁹ Increasingly, education is recognized as one of the best financial investments States can make. But the 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.⁶⁰

There are two distinct facets of the right to education as outlined in international agreements. On the one hand, the state must work to make education available and accessible in order to realize the right to education. It implies positive state obligations. This is the social aspect. On the other side, there is the personal freedom of individuals to choose between state-organized and private education, which can be translated, for example, in parents' freedom to secure their children's moral and religious education according to their own convictions.⁶¹

⁵⁵ CESCR, General Comment No. 13 (Twenty-First Session, 1999) [UN Doc. E/2000/22] The right to education (art. 13 ICESCR) [Compilation, 2004, pp. 71–86].

⁵⁶ Sandra Fredman, *Comparative Human Rights Law*, Oxford University Press, UK, 2018, p.355.

⁵⁷ *Ibid.*

⁵⁸ *Id.* 356. As a social right, it entitles individuals to free and compulsory primary education provided by the State. As a freedom right, it protects individuals against the risk that the State might use education to promote State propaganda or to impose the dominant culture, language, or religion. The freedom dimension of the right also involves parental choice as to schooling for their children, especially respect for parents' rights to educate their children in accordance with their religious beliefs

⁵⁹ *Ibid.*

⁶⁰ *Id.*

⁶¹ A. C. Onuora-Oguno, *supra* note 50, p. 9

Based on the international agreements and the normative practice and the custom we can see that education is recognized as fundamental human right and a responsibility⁶² which make this right to be categorized as socio economic right. The right to education, as a socio-economic right, is subject to the very nature of this category of rights, which will be discussed later. At this juncture, it's important to delve in to the specific international human rights instruments that duly recognize the right.

2.4. The Right to Education in International and Regional Human Rights Instruments

The right to education at the international level, were protected, for the first time, in a series of minority treaties, concluded after the First World War under the auspices of the League of Nations⁶³ by this treaty state make an agreement to safeguard the religious, linguistic and educational rights first such treaty was the Treaty between the Principal Allied and Associated Powers and Poland signed on 28 June 1919.⁶⁴ We can see from this treaty that state parties agreed to protect the right to education of minorities. Subsequent to the end of World War II and the establishment of the United Nations with its Charter, major international human rights instruments were adopted by the international community.

2.4.1. Right to Education in UN Instruments

Even if the right to education is recognized under the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR), the scope and content of the right is elaborated under the International Covenant on Economic, Political and Cultural Rights (ICESCR).

The ICESCR is a foundational international agreement adopted in 1966 and entered into force on 3 January 1976 that provides for social, economic and cultural rights. Initially recognizing periodic reports of State Parties states as enforcement mechanisms, the Optional Protocol added

⁶² E Zendeli, The Right to Education as a Fundamental Human Right, *Contemporary Educational Researches Journal*, Volume 7 Issue 4, 2017, pp. 158-166.

⁶³ Hodgson, 1998, p. 10. For a thorough treatment of the post-World War I minority treaties and their protection of educational rights, see Lonbay, 1988, pp. 75–134

⁶⁴ Klaus Dieter Beiter, 'International Studies in Human Rights, The Protection of the Right To education by international law ,p.25

three more mechanisms i.e., individual complaints procedure, inter-State complaints procedure, and inquiry procedure. However, only 30 countries ratified the Optional Protocol by November 2024.⁶⁵

Regarding the obligations of State Parties, owing to the very nature of the rights, the ICESCR imposes the obligation to allocate maximum of their available resources ‘towards fully realizing the provisions of the Covenant’.⁶⁶ The Committee on Economic, Social and Cultural Rights (CESCR) elaborated state obligations, in General Comment No. 3, ‘a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights’⁶⁷ further clarifying the parameters in which whether State Parties are fulfilling the rights or not.

States must refrain from discrimination in providing educational and vocational opportunities as well as give parents the discretion to decide the sort of education (public, private, religious, etc.) their children receive. States must also undertake to provide free, universal primary education and to improve access to higher education and vocational training this convention imposes legally binding obligations on states parties.

The fact the nature of obligations imposed on the state parties for the protection and fulfillment of the right to education is stipulated as ‘progressive realization’ does not mean that the obligations are not definite and subjective. Both positive and negative obligations are imposed on the state parties. For instance, prohibition against discrimination, as enshrined under article 2(2), requires state parties not to discriminate individuals based their identity, etc. Such obligations are not contingent on the availability of resources, but rather immediate. ‘Progressive realization means that States parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of article 13.’⁶⁸

The General Comment No. 13 emphasizes that ‘the right to education, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil.’⁶⁹ The obligation to respect requires States parties to avoid measures that hinder or

⁶⁵ The list of countries is available at <https://indicators.ohchr.org/> last visited on November 10, 2024.

⁶⁶ Article 2(1) of the ICESCR

⁶⁷ See CESCR General Comment No. 13

⁶⁸ Para. 44 of the General Comment No. 13 of the Committee on Economic, Social and Cultural Rights.

⁶⁹ Para. 46 of the General Comment 13.

prevent the enjoyment of the right to education.⁷⁰ This may relate to refraining from regressive measures that encroach upon the right to education. The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to education.⁷¹ Taking positive measures such as legislative, policy or institutional measures in recognizing the right to education may be cited to illustrate the obligation to protect. The obligation to fulfil (facilitate) requires States to take positive measures that enable and assist individuals and communities to enjoy the right to education.⁷²

With respect to the specific socioeconomic right on which this research focuses, Article 13 and 14 of the ICESCR stipulate the aspects of the right to education and the obligations of the State Parties. Apart from recognizing the general right to education, Article 13(1) clearly stipulates that education shall be ‘directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms’ and further provide that education shall 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, and further the activities of the United Nations for the maintenance of peace.⁷³ The Convention, under article 13(2) makes primary education free and mandatory while secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means.

In terms of the normative content of the right to education, General Comment No. 13 stipulates four ‘interrelated and essential features’ of the right which are seldom referred to as 4 ‘A’s: availability, accessibility, acceptability and adaptability.⁷⁴ Owing to the importance of these features to define the content and scope of the right to education, it is important to devote few paragraphs to describe each feature.

Availability– Within the State party's jurisdiction, there must be an adequate number of operational educational institutions and programs.⁷⁵ ‘What they require to function depends upon numerous factors, including the developmental context within which they operate; for example,

⁷⁰ Ibid.

⁷¹ Id.

⁷² Id.

⁷³ Article 13(1) of the ICESCR.

⁷⁴ Paragraph 6 of General Comment No. 13 of the Committee on Economic, Social and Cultural Rights.

⁷⁵ Ibid.

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’;⁷⁶

Accessibility – Every person within the State party's authority must have equal access to educational programs and institutions.⁷⁷ General Comment No. 13 elaborates that accessibility has three overlapping dimensions: non-discrimination, physical accessibility and economic accessibility. “Education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds.”⁷⁸ Hence, education shall be accessible to children with ASD as part of the vulnerable groups. Another aspect of accessibility is the physical one which means that “education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location.”⁷⁹ The economic dimension of accessibility is also key in defining the right to education and is relevant in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”.

The accessibility of education should also be assessed in terms of ‘learning outcomes and engagement in educational processes’ which should include the inputs, process and outcomes altogether.⁸⁰ This can also be discerned from the nature of education as stipulated by article 26 of the ICESCR which states that education aims at the full development of the human personality, strengthening of respect for human rights and fundamental freedoms, promoting understanding, tolerance and friendship among all nations, racial or religious groups, and furthering the activities of the United Nations for the maintenance of peace.

Acceptability – ‘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 and, in appropriate cases, parents; this is subject to the educational objectives required

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Tristan McCowan, *Education as a Human Right: Principles for a Universal Entitlement to Learning*, Bloomsbury Publishing, UK, 2013, p. 67.

by article 13 (1) and such minimum educational standards as may be approved by the State.⁸¹ In terms of curriculum, three models has been identified: *content, product and process*.⁸²

d) Adaptability – ‘Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.’⁸³

In addition, the Convention provides that ‘the development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.’⁸⁴

2.4.2. The Right to Education in African Human Rights Instruments

The right to education is not only recognized at the international level, but also in varying regional human rights instruments.⁸⁵ One of this instruments that protect and recognize the right to education is the African Charter on Human and Peoples’ Rights (ACHPR) (otherwise known as the “Banjul Charter”) which was adopted in 1981 by the former OAU.⁸⁶

Article 17 and 25 of the Charter duly recognize the right to education for everyone along with the duties of the State Parties. The Charter tries to provide a means on how to check these rights have been protected by obliging parties to submit reports on the measures taken to give effect to the rights of the Charter. This is done through the supervision by the ACHPR which is entrusted to the African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights.⁸⁷

⁸¹ Paragraph 6 of General Comment No. 13 of the CESCR.

⁸² Tristan McCowan, *supra* note 88, p. 74.

⁸³ Paragraph 6 of General Comment No. 13 of the CESCR.

⁸⁴ Article 13(2)(e) of the ICESCR

⁸⁵ These Instruments include the African Charter on Human and Peoples’ Rights (ACHPR), the African Charter on Rights and Welfare of the Child,

⁸⁶ African Charter on Human and Peoples’ Rights (1981) OAU Doc. CAB/LEG/67/3Rev.5, entered into force on 21 October 1986

⁸⁷ The Court is established by the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (1998) OAU Doc. OAU/LEG/EXP/AFCHPR/PROT(III), entered into force on 25 January 2004. The Court is composed of judges who must be jurists and who must possess competence and experience in the field of human and peoples’ rights. They serve in an individual capacity. See art. 11(1) Protocol.

These are the major international instrument that guarantee and protect the right to education in general. From the reading of these instruments, one can understand that education is a protected right and state parties have the obligation to protect and fulfil the right to education.

Apart from the ACHPR, there are other regional instruments which provide for the right to education. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, otherwise called the Maputo Protocol, incorporates provisions on the right to education of girls and women. Article 12 of the Maputo Protocol imposes obligation on the states parties to eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training. The Protocol also provides for the need to create enabling environment where girls and women can fully access, participate in, and benefit from quality education.⁸⁸

2.5. The Right to Education of Children with Disabilities under International and Regional Legal Instruments

In the above sections, the study attempted to explore the major international and regional instruments that recognize the right to education in general. This subsection is devoted to specifically uncover the right to education of children in general and children with disabilities in particular.

From the above sections, one can discern that the right of education is a granted and protected right by international and regional instruments. These instruments don't provide age limit on protection the right to education below one can observe the international instruments that discuss the right to education of a child.

The UN has adopted the Declaration of the Rights of the Child in 1959 and the Convention on the Rights of the Child in 1989. Both the Declaration and Convention contain provisions on the right to education.⁸⁹ The following sub-sections are devoted to the explore these instruments.

⁸⁸ See article 12 (1)(d) of the Maputo Protocol.

⁸⁹ Generally, on the educational rights of children, see Van Bueren, 1995, pp. 232–26

2.5.1. The Convention on the Rights of the Child (Articles 23,28 & 29 of the CRC)

The Convention on the Rights of the Child (CRC) was adopted in 1989.⁹⁰ The CRC purports to set out the rights of the child in a comprehensive manner.

Article 1 of the CRC defines a child as “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier”.⁹¹ When it comes to the right to education, the Convention devotes two provisions, articles 28 and 29. Accordingly, the CRC makes primary education compulsory and free, while state parties should encourage the development of various types of secondary education, including general and vocational training.⁹² State parties are also under obligation to take measures to encourage regular attendance at schools and the reduction of drop-out rates.⁹³ In addition, state parties shall also make sure that any disciplinary actions taken in schools respect the child's inherent worth and dignity. These actions must also align with the principles outlined in this international agreement on children's rights.

Article 29 provides as follows:

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

⁹⁰ Convention on the Rights of the Child (1989) 1577 UNTS 3, entered into force on 2 September 1990. On the protection of the right to education by the CRC, see Lonbay, 1988, pp. 312–347, Coomans, 1992, pp. 152–157, Dorsch, 1992, pp. 179–189, Hodgson, 1992, pp. 276–278, Hodgson, 1996, pp. 243–245, Gomez del Prado, 1998, paras. 23–28 (UN Doc. E/C.12/1998/23) and Hodgson, 1998, pp. 44–47.

⁹¹ The Committee on the Rights of the Child, which supervises the CRC, has emphasized in General Comment No. 4 (Thirty-Third Session, 2003) Adolescent health and development in the context of the Convention on the Rights of the Child [Compilation, 2004, pp. 321–332], para. 1, that art. 1

⁹² Article 28 (1) 'a' and 'b' of the CRC.

⁹³ Article 28 (1) e of the CRC.

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

These two provisions are not the only provisions which discuss about the right to education of children under the CRC. Article 23(3) obligates states parties to ensure that the disabled child has effective access to education and training.

The provisions of the CRC "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status" positive terms, states parties should take positive steps to ensure formal and substantive equality in the enjoyment of the right to education.⁹⁴

When it comes to the rights to education of children with disabilities, the CRC, under article 23(3) stipulates that:

*'Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development'.*⁹⁵

⁹⁴ ibid

⁹⁵ Article 23 (3) of the CRC.

Hence, the support states parties recognize the special and assistance needed for children with disabilities so that the child has access to and receives education and other basic services.

2.6.2. The Convention on the Rights of Persons with Disabilities (CRPD)

The Convention on the Rights Persons with Disabilities (CRPD) was adopted on 13 December 2006 and entered into force on 3 May 2008⁹⁶. It is the first legally binding international instrument to deal with the rights of person with Disability and the first international human rights treaty of the 21st century.⁹⁷ The convention tries to recognize those right that are recognized by other human right instruments, it tries to elaborate in detail the rights of persons with disabilities and set out a code of implementation.⁹⁸

The Convention defines disability as follows: 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.⁹⁹ When we see the definition part of the Convention, it is not limited on physical disability only. it also includes mental, intellectual and sensory impairments as a form of disability it is not a strict definition.

From this definition, one can say that ASD is one form of disability since from the previous sub chapter we defend Autism as neurodevelopmental disorder that affect how people communicate, interact and behave.

The Convention views disability as a result of the interaction between an inaccessible environment and a person, rather than an inherent attribute of an individual. It replaces the old “medical model” of disability by a social and human rights model based on the fact that it is society that “disables” persons with disabilities from exercising their human rights as citizens.¹⁰⁰

The Convention marks a major shift in the way societies view persons with disabilities, with the person being the key decision-maker in his or her own life. It makes persons with disabilities

⁹⁶ Convention on the Rights of Persons with Disabilities (CRPD), GA Res. 61/106 (2007).

⁹⁷ UN News Centre (2006).

⁹⁸ The convention in brief, *DPI/2507B — May 2008*

⁹⁹ Convention on the Rights of Persons with Disabilities (CRPD), GA Res. 61/106 (2007).

¹⁰⁰ The Convention in brief, *DPI/2507B — May 2008*

“rights holders” and “subjects of law”, with full participation in formulating and implementing plans and policies affecting them.¹⁰¹ The Convention ensure the full and equal enjoyment of all human right and fundamental freedom one of this right is the right to education of a person with disability.

Article 24 state that: States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, the CRPD imposes obligations on the States Parties to “*ensure an inclusive education system at all levels and lifelong learning....*” Sub-article 2 also imposes that States Parties shall ensure that “*Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability*”.¹⁰² According to Article 24(2)(b), persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live. The concept of reasonable accommodation is also recognized under Article 24(2)(b) of the CRPD.

From the reading of Article 24 of the CRPD, one can say that the Convention clearly prohibits exclusion, and inclusion in the mainstream school is the principle as clearly provided under the CRPD, and segregation and integration may be exceptionally allowed as implicitly inferred from the provision; but it should be done carefully and such as recognition of individual needs, temporary and conditional segregation and integration, quality of education, supportive measures, and a pathway to inclusion.

General Comment No. 4 on Article 24 of the CRPD duly elaborates the right to inclusive education of persons with disabilities.¹⁰³ According to the General Comment, inclusive education has the aims that ‘education should promote values of respect and tolerance towards all people, as well as respect for human rights; people with disabilities should be supported to reach their full potential through the development of their talents and creativity. Opportunities for this

¹⁰¹¹⁰¹ <https://www.un.org/development/desa/disabilities/backgrounder> disability treaty closes a gap in protecting human rights html

¹⁰² Article 24 Sub-article 2(a) of the CRPD.

¹⁰³ General Comment No. 4 of the CRPD. Available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-4-article-24-right-inclusive>

should not be denied or limited; and education should be a gateway to participation and inclusion in society and the realization of other human rights.¹⁰⁴ Taking this provision in to our context we can say that the government has obligation to make sure that children with Autism right to education is protected, promoted and inclusion on school should be provided.

2.6. Chapter Conclusions

The right to education is recognized under major international human rights instruments such as the UDHR, ICESCR, CRC, CRPD, etc. By virtue of article 13 and 14 of the ICESCR and General Comment No.13, states have specific obligations to provide adequate educational institutions, ensure non-discrimination, maintain quality standards, and adapt education to meet diverse societal needs. These requirements help ensure that education fulfills its intended purpose of developing human personality and dignity while promoting understanding among all groups.

¹⁰⁴ Ibid.

Chapter 3

The Legal and Policy Framework on the Right to Education of Children with Autism under the Ethiopian Legal System

3.1. Introduction

In the previous chapter, we have seen international instruments that deal with the right to education of children in general and the right to education of the disabled persons in particular and try to assess if there is an international instrument that deals with the right to education of children with Autism. This chapter aims to discuss the laws and policy on the right to education of a child with disability in general and the right to education of children with Autism in particular. Examination of laws and policies at the national level is a step closer to discover whether a country has enacted implementing laws that are detail and sufficient in compliance with international standards¹⁰⁵.

This chapter examines the extent to which the right to education of child with Autism is recognized under FDRE Constitution and relevant subsidiary legislation. Besides, the chapter will highlight the policy framework on education that can be a source of laws and rules governing the education of children with autism in the country. Reference will be made to the content and scope of the right to education as enshrined under the international and regional instruments ratified by Ethiopia.

3.2. The F.D.R.E Constitution

The FDRE Constitution being the highest law of the land has some provision on the rights of child. The Constitution devotes a provision, article 36, specifying rights pertaining to children solely.¹⁰⁶ Article 36 of the Constitution incorporates the rights of children in detail by listing the rights of a child which includes the rights to life, to name and nationality, and to know and be

¹⁰⁵ The African Child Policy Forum (ACPF) *Educating Children with Disabilities in Africa: Towards a policy of inclusion* (2011) 3, International Labour Organization (ILO) 'Inclusion of People with Disabilities in Ethiopia' (2009).

¹⁰⁶ Girmachew Alemu (Ph.D.) and Yonas Birmeta, *Handbook on the Rights of the Child in Ethiopia*, The Center for Human Rights (CHR) of Addis Ababa University, p 23

cared for by his or her parents. It also provides the right of children to live a life protected from violence, neglect, exploitation and abuse. In particular, the provision affirms the right of children to life and bans exploitative practices against children and their engagement in work which could be prejudicial to their health and well-being. However, the Constitution fails to explicitly recognize the right to education. In fact, the term ‘education’ is mentioned under sub-article 5 of article 35 in the context of protection to orphans.

Article 36 state that all action that the government takes should be in light of the best interest of a child, but what constitute the best interest of a child (BIC) is not well defined. The definitions and interpretations of the BIC has remained ‘inherently subjective’ and influenced by values and social norms.¹⁰⁷. The overall theme of the principle is that due focus and priority should be given to the political, economic and social interests of the child whenever policies, laws and decisions are made which directly or indirectly affect children.¹⁰⁸

Taking in to account the best interest of the child principle, the government should ensure that all the measures it takes relating to the right to education of child with Autism to be what is the best form of or as to what kind of education is best for the child with Autism. Schooling does not imply learning¹⁰⁹; and hence, the education program should be the one that meet the principle of best interest of the child.

With regard to provisions pertaining to the right to education within the Constitution, it makes no specific reference to the right to education of children with disabilities or indeed other persons. However, an indirect reference to the right can be found in Article 41 of the Constitution¹¹⁰. Article 41, which addresses economic, social and cultural rights, provides that all Ethiopians have the right to equal access to social services run with state funds.¹¹¹ The right to education, as one of the socioeconomic rights, falls under this domain.

¹⁰⁷ Aron Degol and Shimelis Dinku, Notes on The Principle: “BEST INTEREST OF THE CHILD”, Mizan Law Review vol.5. No.2, December 2011 p,320

¹⁰⁸ Id

¹⁰⁹ Ethiopia Education Country Brief prepared by UNESCO January 2024

¹¹⁰ Meseret Kifle Ande, THE RIGHT TO EDUCATION OF CHILDREN WITH DISABILITIES IN ETHIOPIA, 15 May 2013, p 37

¹¹¹ FDRE Constitution, 41 (3).

However, the Constitution does not specify the rights of children with disability to inclusive education or guarantee the right to free and compulsory primary education for anyone for that matter.

Article 41(3) of the Constitution also states that "every Ethiopian national has the right to equal access to publicly funded social services." This article together with article 25, implies child with Autism has the right to equal access with their non-disabled peers to publicly funded social services, in this case, educational services. The education service offered also for the best interest of them.

Furthermore, Article 41(4) of the Constitution also urges states to allocate ever-increasing resources to provide health, education, and other social services to the public. Likewise, Article 41(5) requires that the state, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, including children.

In addition, article 90 (1) provides that 'to the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security.'¹¹² Education, as one of the social policies, is listed here. Hence, this policy direction requires the government to formulate policies that ensure provision of these social services to the public. Sub-article 2 of this provision also requires that 'education shall be provided in a manner that is free from any religious influence, political partisanship or cultural prejudices.'¹¹³

In conclusion, the Constitution is not as explicit as the international instruments does in terms of recognizing the right to education and in defining the scope and the content. In order to understand the content and scope of the right to education in general and of children with autism in particular, it is important to refer to other constitutional provisions. By virtue of Article 9(4), international treaties ratified by Ethiopia are an integral part of the law of the land. And article 13(2) provides the human rights provisions of the Constitution under Chapter three shall be interpreted in light of the principles of international human rights instruments ratified by Ethiopia. Accordingly, Article 41 of the Constitution shall be interpreted in line with the ICESCR stipulations.

¹¹² Article 90(1) of the FDRE Constitution.

¹¹³ Article 90(2) of the FDRE Constitution.

Based on above discussions it is possible to conclude that the FDRE constitution guarantees the right of Ethiopian nationals to have access to publicly funded social service which among others includes access to education. The constitution imposes obligation on the Ethiopian government to provide public education by allocating ever increasing resource for this purpose. The Constitution also prohibited people from requiring or/and permitting children to do work which has hazardous or harmful effect on their education.

Regarding the rights of persons with disabilities, article 41(5) of the Constitution reads as ‘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’. The manner in which persons with disabilities are mentioned under this provision of the Constitution seem to be informed by the ‘medical model’ of approaching disability and it only state rehabilitation and assistance.

3.3. International Instruments Ratified by Ethiopia

As it has been discussed on the previous sub chapter the constitution states that the international agreements that the country ratified are an integral part of the law of the land.¹¹⁴ Based on this, international agreements that has dealt with the right to education of children with disability are parts of the law of the land.

Ethiopia has acceded to almost all the major international human rights instruments which promote the right to education of child with disability.¹¹⁵ Ethiopia ratified the Convention on the Right of the Child (CRC) in 1991 and Ethiopia ratified the CRPD through Proclamation No. 676/2008 in 2010. It has also ratified the UDHR, ICESCR, ICCPR, CRPD, and ACHPR, to mention some. The Constitution provides that international agreements ratified by Ethiopia are an integral part of the law of the land.¹¹⁶ Since these conventions are ratified they are parts of the law of the land which implies every obligation that the convention provided on the government should be properly applied.

¹¹⁴ Ibid

¹¹⁵ Meseret Kifle Ande, *The Right to Education of Children with Disabilities in Ethiopia*, LL.M. thesis submitted to the University of Pretoria, unpublished, 15 May 2013, p 37

¹¹⁶ FDRE Constitution (n 9).

But there is a continuous debate as to how to interpret this provision taking in to account the ratification process of this agreement. Though there exist a continuous argument the constitution state that if there exist a loophole on the stipulation of human right on the constitution these right must be interpreted in a manner conforming to the principles of the UDHR, international covenants on human rights and international instruments adopted by Ethiopia.¹¹⁷

Hence, the right to education as enshrined in the Constitution shall be interpreted to include the aspects of the right as recognized in the international instruments ratified by Ethiopia. By virtue of article 13 and 14 of the ICESCR and General Comment No.13, states have specific obligations to provide adequate educational institutions, ensure non-discrimination, maintain quality standards, and adapt education to meet diverse societal needs. These requirements help ensure that education fulfills its intended purpose of developing human personality and dignity while promoting understanding among all groups.

The right to education is characterized by four essential features: availability, accessibility, acceptability, and adaptability. Availability requires adequate number of functioning educational institutions and programs and must include essential facilities like buildings, sanitation, trained teachers, and teaching materials. The accessibility aspect requires that education must be accessible to all without discrimination and includes physical accessibility (reasonable geographic location) and economic accessibility. Acceptable education means the content and teaching methods must be relevant, culturally appropriate, and of good quality and must align with educational objectives and state standards. Adaptability requires education must be flexible to adapt to changing societal needs and must respond to diverse social and cultural settings

The right to education is framed as a fundamental human right essential for individual development and societal participation, supported by instruments like the ICESCR and the CRPD. These frameworks mandate inclusive education, prohibit discrimination, and require states to provide accessible, quality education tailored to individual needs, ensuring that children with disabilities are not excluded from educational opportunities.

The CRPD emphasizes inclusion in mainstream schools as the primary principle, with segregation and integration allowed only as exceptional measures. It also stipulates that

¹¹⁷ The FDFRE Constitution, article 13(2).

education shall aim at achieving the full development of human potential, dignity, self-worth, and respect for human rights and diversity which includes developing personality, talents, and creativity to their fullest potential.

3.4. The Draft Education Proclamation

Ethiopia has no education law till recently the ministry of education prepares a draft education proclamation and submitted it for the house of people representative for ratification. The Education Proclamation which is a draft at the time of the writing has 16 sections and 99 articles. The proclamation states its objective on Article 6. It divided the objectives in two : general objective and specific objectives .The general objective is empowering students to acquire basic knowledge and skills to become good citizens and responsible members of society¹¹⁸,it have also specific purpose which is ensuring that every student is prepared for their future life and the next level of education, receiving education based on their inclinations, needs, and national educational direction; promoting reading, writing, and numeracy skills, especially for women, rural residents, herdsmen, the disabled and those with special needs, and other sections of society who have not received appropriate development due to historical opportunities; as well as improving educational provision for students with special needs; making quality pre-primary education, primary, and middle level education more accessible, and indicating that middle level education lays the foundation for middle and higher career preparation; instilling in every student's attitude the spirit of social responsibility, dignity of work, patriotism, respect for differences, rule of law, human rights, human dignity, and democratic thinking; developing students' ability to understand, create, appreciate, and influence their environment; ensuring that education is provided equitably to all ethnic groups, religious groups, language speakers, and all sections of society in the country; and reserving the historical and cultural heritage of all the nations, nationalities, and peoples of the country; social values; and implementing an education system

Having these objectives, the draft education proclamation state that the government of Ethiopia has the obligation to provide education to all citizens.¹¹⁹This is not the only obligation that is provided on the proclamation; it also states that government is obliged to provide appropriate

¹¹⁸ Article 6 of The Draft Education Proclamation. 6

¹¹⁹ The draft education proclamation Article 7b

support to students with special needs in all levels of general education institutions. The draft proclamation does not however define, who special needs student are.

The proclamation state that the ministry of education will issue specific instructions on the curriculum it implement, the measurement of students with special needs' reception in the educational process, the environment where they attend the class and other things.

The draft proclamation lacks the definition of special need, it says nothing about who special need students are, though it puts obligation on the Ministry of Education to issue a specific instruction on special need students such as curriculum and the environment they will attend education.

3.5. The Policy Framework on the Right to Education of Children with Autism

In Ethiopia, there is policy and documents that deal with education in general and education of children with disability in particular but the writer could not find a document that specifically focus on the right to education of children with Autism in particular. Comparative experiences tell us that countries such as the United States,¹²⁰ United Kingdom,¹²¹ have enacted policies that address education for children with ASD. The UK policy is specific to this group of disability. Since Autism is one form of disability, we will look on those polices that deal with the right to education of child with disability, special needs and inclusive education.

3.5.1. The Education and Training Policy (ETP)

The government of Ethiopia taking in to consideration that there was no education policy direction and the previous educational system had acute and severe problems of both access and quality believe that it was necessary to seek solutions and to frame a policy that evaluate and accordingly shape the direction of education and training in Ethiopia.¹²²

¹²⁰ The United States enacted the Individuals with Disabilities Education Act (IDEA) and it makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children, supports early intervention services for infants and toddlers and their families, and awards competitive discretionary grants.

¹²¹ The National Strategy for Autistic Children, Young People and Adults: 2021 to 2026, Available at <https://www.gov.uk/government/publications/national-strategy-for-autistic-children-young-people-and-adults-2021-to-2026/the-national-strategy-for-autistic-children-young-people-and-adults-2021-to-2026>.

¹²² The Education and Training Policy and Its Implementation, ministry of education Feb 2002 .

The ETP (1994) Responding to the challenges of the education system of the late 1980s and early 1990s and based on the declarations of the Constitution, the government designed the ETP of 1994, which intends to systematically and gradually alleviate educational problems.¹²³ The ETP has focused on expanding access to educational opportunities and requires expansion of basic quality education and training for all, and the development of physical and mental potential and problem-solving capacity of individuals including those of children and youth with special needs.¹²⁴ when we see the preamble of the policy we can say it was designed as a systemic changes in political, economic, and social order in Ethiopia following the regime change in 1991.¹²⁵ The education policy of Ethiopia was developed as part of the impetus to replace past legacies with a new order and as a response to acute shortage in equitable access to education, inefficiency in using limited supply of resources due to high repetition and dropout rates, low quality, low relevance, and limitation in upholding democratic values.¹²⁶

This policy states its general objective and specific objective. One of the specific objectives as it is “to enable both the handicapped and the gifted learn in accordance with their potential and needs”¹²⁷ this statement is outdated statement describing disabled person which should be and also being improved now a time.

Though the policy doesn't specifically define what handicapped and gifted learner include It also doesn't state what method of will be followed.

3.5.2. Education Sector Development Program (ESDP) (1997, 2000, 2005, 2010, 2015)

The Educational Sector Development Program focused on education for children with disabilities. Over time, attention paid to this issue increased, and the agenda for the education of

¹²³ Prospects, Challenges and policy options of Ethiopian Educational System towards the Achievement of EFA Goals 7. <http://home.hiroshima-u.ac.jp/cice/e-forum/paper67.pdf> (accessed on 26 August 2012).

¹²⁴ Meseret Kifle Ande, THE RIGHT TO EDUCATION OF CHILDREN WITH DISABILITIES IN ETHIOPIA, 15 May 2013, p 37

¹²⁵ Demeke, Y. (2011). Ethiopian Education Policy Analysis: Using Foucault's Genealogy

¹²⁶ Challa Amdissa Jiru, Outcomes and Challenges of the 1994 Ethiopian Education and Training Policy Reform ,a book chapter on Public Administration in Ethiopia: Case Studies and Lessons for Sustainable Development. 2020

¹²⁷ Federal Democratic Republic Government of Ethiopia (FDRE) Education and Training Policy (1994) section 2.1.1.

children with disabilities began to take shape during ESDP III (2005-2010)¹²⁸. These development programs recognized that providing access to students with special needs would be necessary to achieve the goal of Education for All.

Education for children with disabilities received greater impetus during ESDP IV (2010-2015).¹²⁹ This sought to increase the number of students with disabilities, increase school capacity including the percentage of trained teachers to support the needs of these children and to increase the number of Inclusive Education Resource Centers to 500 by 2014/15. While many of these targets were missing, ESDP IV helped to consolidate focus on the issue of education for children with disabilities¹³⁰, the program was included as a cross-cutting issue, to ensure that it would become the joint responsibility of all implementing bodies.

3.5.3. National Early Childhood Development and Education Policy Framework, 2023

Early childhood is from pregnancy to 6 years.¹³¹ The government of Ethiopia have draft the national early childhood policy in 2022-2023 in line with current national and global early childhood development and education guidance and the current socio-economic development in the country.¹³² It includes new policy framework issues and the role of stakeholders in implementing integrated initiatives to ensure the holistic development of children through expanding access to quality Early Childhood Development services.

Based on the policy Early Childhood Education (4-6 years) is designed for children between 4 and 6 years old. Early childhood education is play-focused and its curriculum is fine-tuned with the local situation and provided in and outside schools¹³³.

The fundamental purpose of early childhood education is to prepare children for primary school education. The approach to early childhood education is play-focused. Its aim is to ensure the

¹²⁸ Yorke, L., Hailu, B.H., Rose, P. and Tefera, T. 2022. The Pathway to Inclusive Education in Ethiopia: Perspectives of System- And School-Level Stakeholders. RISE Working Paper Series. 22/115,p 11. https://doi.org/10.35489/BSG-RISEWP_2022/115

¹²⁹ Id

¹³⁰ Id

¹³¹ Federal Democratic Republic of Ethiopia National Early Childhood Development and Education Policy Framework 2022/23 Addis Ababa

¹³² Id

¹³³ Id

comprehensive development of children, i.e. their physical, mental, social, emotional, and ethical development so that children will have upright character development.¹³⁴

The Policy plans to have an early childhood education where children learn basic education skills (primaries on reading, writing, numerating, calculating), social skills (communication, self-expression, working together, mutual respect), emotional skills (self-control, concern for others, mutual respect), and skills to develop their body.¹³⁵ These skills are some of the skill that children with Autism lack due to their neurological development.

These basic education skills are interrelated and integrated with local situations and delivered through trained teachers in an appropriate, comfortable, and secure institution or set up. The Policy state that focus will be given to budget and resources allocation, curriculum design, training and assigning of teachers, caregivers, facilitators, and sector managers, participation of parents and the community at large, quality education, access and equity.¹³⁶

The main objective of the policy is that through pre-school education, children will be physically, mentally, emotionally, socially, ethically, and culturally nurtured to be ready for primary education.¹³⁷ The Policy designs access to equitable, inclusive and quality education which is related to the local objective situation.

The policy has specific objective relating to child with disability in general. It states that children with special needs will get adequate and quality education together with their peers in any pre-school in their locality with no discrimination.¹³⁸

It also aims on organized standard training and on job training for teachers so that they will have the required knowledge and skills to identify children with special needs, establish and strengthen teaching aid centers that help to identify and support children with special needs, include a training framework for sign language, brail, touch tile, and other communication formats in standard pre-school training and on job training programs.

¹³⁴ Id

¹³⁵ Id. P.

¹³⁶ Id.

¹³⁷ Id.

¹³⁸ Id

Though the policy state that children with special need will get quality education with their peers, it doesn't explain who these children are, what distinguish them from other children, and it also doesn't have a separate provision on the children with Autism.

3.5.5. Master Plan for Special Needs Education/Inclusive Education in Ethiopia (2016-2025)

The Ethiopian Government recognizes the significant role of education in reducing poverty and sustaining economic growth. The Ministry of Education's Master Plan for Special Needs Education/Inclusive Education in Ethiopia (2016-2025) outlines a plan to move away from special schools and develop an inclusive education system in which children with disabilities can live in their home communities and attend neighborhood schools. The strategic objective is to improve design and implementation of inclusive education policies and legal frameworks for students with disabilities by 2023.

The master plan has six pillars, which include: i) the creation of a policy framework; ii) ensuring an autonomous organizational structure; iii) developing human resources (such as experts, teachers & leaders); iv) providing access and quality education; v) creating dependable reporting mechanisms; and vi) allocating a budget to run the activities set out in the plan.

The Strategy sets the following principles:

- Ensuring the right to education so that, education and training should be accessible to all people with special educational needs.
- Ensuring that school facilities for learning are accessible for children with disabilities
- Making education and training equitable by providing support to all people with special educational needs based on their needs and abilities.
- Making education and training system and services inclusive in a way that accommodates all citizen together according to their needs and abilities, without creating differences based on ethnicity, color, gender, religion, disability, language, etc.
- Establishing an inclusive education system is the shared responsibility of all stakeholders and education development partners.

- Mainstreaming special needs\inclusive education as a main activity to be included at government policy, strategy, guidance, program, planning, monitoring and support activities at all levels of structures and departments (work units)¹³⁹

Considering the importance of the document for your thesis, the discussion in the above section is insufficient.

3.5.6. Ethiopian Education Development Roadmap (2018–2030)

The Education Development Roadmap began as a full-fledged sectorial project in January 2016 and was endorsed by stakeholders in 2018 as it proposed fundamental changes for the decade ahead.¹⁴⁰ It is a plan that was created to the 10 years making sure all the participant from all group of society are involved and have a distinguished task.

The roadmap may be regarded as one of only a few such attempts in the educational history of the country and a culmination of the country's urgent need to reform the education sector in line with the national vision and development goals set by the government and the growing dissatisfaction within societies about the system's outcomes.¹⁴¹

At the policy level, the Ethiopian Education Development Roadmap¹⁴² has been adopted with a view to making educational reform and quality education a reality, and it also strongly emphasizes inclusive education that showcases Ethiopian commitment to comply with the convention with the right of disabled person. The roadmap emphasizes the importance of ensuring access to quality education for all students, including those with disabilities and other marginalized groups. In so doing, the roadmap sorts strategies such as infrastructure improvements, curriculum development, teacher trainings, and community engagements to enhance inclusivity.

¹³⁹ Special Needs/Inclusive Education Strategy, Ministry of Education, 2022, available at <https://moe.gov.et/storage/Books/Special%20Needs%20Inclusive%20Education%20Strategy.pdf>

¹⁴⁰ Wondwosen Tamrat, 'Does Ethiopia's education roadmap need adjustments?', *University World News Global Window on Higher Education News Article*, Jan 2023, available at https://www.researchgate.net/publication/368164019_Does_Ethiopia%27s_education_roadmap_need_adjustments?enrichId=rgreq-4e8d960ef49bf9a3e688ae88a3fb62d8-XXX&enrichSource=Y292ZXJQYWdlOzM2ODE2NDAxOTtBUzozMTOzMTI4MTEzNzE3OTIzMkAxNjc1Mzk1NjA1ODAw&el=1_x_2&_esc=publicationCoverPdf

¹⁴¹ Id

¹⁴² Ethiopian Education Development Roadmap (2018-2030) (Federal Ministry of Education, Ethiopia 2018).

3.6. Chapter Conclusions

This Chapter looked at a glance the right to education of children with ASD in the Ethiopian legal system. From the discussions, one can discern that the scope of the right to education cannot be handpicked from the constitutional and legal frameworks, but it instead requires to go further.

The framing of the right to education of children in general and of children with disabilities under the FDRE Constitution is contentious. The FDRE Constitution frames socioeconomic right in general and the right to education in particular in the form of duty on the government to allocate an ever-increasing resource to provide social services including education. Hence, in order to understand the content and scope of the right to education, reference shall be made to other constitutional provisions. Article 9(4) and article 13(2) are important in this regard which makes international human rights instruments ratified by Ethiopia to be part of the law of the land and interpretations of human rights provisions of the Constitution shall be in line with international human rights instruments ratified by Ethiopia. Therefore, the right to education shall be defined in terms of content and scope in a manner stipulated under the UDHR, ICCPR, ICESCR, CRPD, CRC and ACHPR.

The cumulative reading of these instruments mandate inclusive education, prohibit discrimination, and require states to provide accessible, quality education tailored to individual needs, ensuring that children with disabilities are not excluded from educational opportunities. The four essential features of the right to education as stipulated by the General Comment No. 13 of the ICESCR, i.e., availability, accessibility, acceptability, and adaptability, shall guide governments in taking measures for the betterment of the right.

Chapter Four

The Right to Education for Children with ASD in Addis Ababa: Implementation and Challenges

4.1. Introduction

As discussed in the preceding Chapters, despite the lack of definite scope and content of the right to education under the FDRE Constitution, the Government of Ethiopia enacted policies and strategies and have been implementing the same across the country. This chapter explores the implementation of the right to education of children with ASD in Addis Ababa.

Under this section, the study looks in to the implementation of the right to education of children with ASD in Addis Ababa. Hence, the study examines the enrollment rate of children with ASD in to pre-primary and primary schools, teaching methodology, instructional materials, teaching aid materials, and curriculum. These are important analysis to make sure that whether education is available, accessible, acceptable and adaptable to children with ASD.

The discussions below may examine the situation of special needs education and the extent to which education is inclusive for children with disabilities in general and then, delve in to issues relating to children with ASD. Several reasons compelled the author to do so. The first is absence of a separate policy on education with ASD and the policies generally cover all types of disabilities despite their differences. Secondly, the data available are not usually disaggregated based on the type of disabilities.

4.2. Implementation of Inclusive Education in Addis Ababa

The Council of Ministers recently tabled the Draft Education Proclamation for the House Peoples Representatives with the aim of having a legal framework to improve educational quality, accessibility and equity, recognizing the obligation of the government to comply with international instruments ratified by the country and other more objectives.¹⁴³ Despite the efforts of the Government of Ethiopia in fulfilling its obligation by adopting policies and strategies, the

¹⁴³ Preamble of the Draft Education Proclamation. The Draft is available here: https://www.hopr.gov.et/web/guest/participate/-/message_boards/message/1143284

educational system has remained challenged by problems. The situation of inclusive education in no unique in this regard. Perhaps, it has remained tangled by multifarious problems ranging from absence of clear laws, to economic, social and cultural barriers. This section deals with the implementation of inclusive education in Addis Ababa with special focus on children with ASD.

4.1.1. Enrollment Ratio of Children with ASD

According to the report of the Ministry of Education, the Gross Enrolment Ratio (GER) for students with special educational needs in pre-primary education in 2022-23 budget year was much lesser than the target.¹⁴⁴ The following shows these figures.

ESDP VI Indicator	2018/19 Baseline	2022/23 Target	2022/23 Actual
Gross Enrolment rate of Students with SENs, Pre-Primary Female	1.2	6.8	3.1
Gross Enrolment rate of Students with SENs, Pre-Primary Male	1.5	7.0	3.8

Table 1 Gross Enrollment Ratio of students with special needs

Source: Education Statistics Annual Abstract for 2022-23, Ministry of Education¹⁴⁵

The target at the national level was to enroll 6.8% of the female children and 7.1% of the male children with special needs to pre-primary education at the national level. However, at the table indicates, only half of the target was enrolled.

With respect to the situation in Addis Ababa, gross enrollment rate is much higher than that of the total rate nationally. The gross enrollment rate of students with special educational needs in pre-primary education in 2022-23 budget year in Addis Ababa was 26.8% as indicated in the table below. Several factors contribute for the high number of enrollment rate in Addis Ababa relative to regions. Some of these includes a relatively better awareness about disability among

¹⁴⁴ Education Statistics Abstract, Ministry of Education, 2022-23: Available at <https://213.55.93.148/am/Publication>.

¹⁴⁵ Education Statistics Abstract, 2022-23, Ministry of Education, p. 64. The population figures in the calculation of Gross and Net Enrollment Ratios have been based on the same assumption used in ESDP VI that 15% of the population live with disabilities based on a World Health Organization estimate. Pre-Primary Education includes all the four modalities (KG, O-Class, C2C and ASR).

the public, availability of supports such as therapies, and relatively better regulation of schools by regulatory bodies.¹⁴⁶

While the situation in Addis Ababa with respect to the enrollment rate is higher than the national average, almost 74% of children with special needs either did not enroll at all or enrolled as regular student. The Special Needs Education Strategy has introduced a principle that a child is entitled to enroll to a nearby school close to his/her family in an inclusive education.

Region	Population with SENs (Ages 4-6)			Students with SENs			GER (%)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Afar	10,570	10,040	20,610	162	143	305	1.5	1.4	1.5
Amhara	122,941	117,686	240,626	2,120	1,687	3,807	1.7	1.4	1.6
Oromia	245,974	239,034	485,009	3,001	2,351	5,352	1.2	1.0	1.1
Somali	41,943	40,882	82,825	3	7	10	0.0	0.0	0.0
Benishangul-Gumz	7,117	6,855	13,971	150	113	263	2.1	1.6	1.9
SNNP	101,566	102,162	203,729	9,360	8,666	18,026	9.2	8.5	8.8
Gambella	2,601	2,535	5,135	75	58	133	2.9	2.3	2.6
Harari	1,299	1,235	2,534	212	141	353	16.3	11.4	13.9
Addis Ababa	17,001	16,839	33,839	5,786	3,267	9,053	34.0	19.4	26.8
Dire Dawa	2,355	2,279	4,634	196	108	304	8.3	4.7	6.6
Sidama	35,375	34,068	69,443	733	663	1,396	2.1	1.9	2.0
SWEP	24,914	24,690	49,604	1,430	1,376	2,806	5.7	5.6	5.7
National	613,655	598,303	1,211,958	23,228	18,580	41,808	3.8	3.1	3.4

Table 2. Gross Enrollment Rate of students with special needs disaggregated by gender and type of difficulties

Source: Education Statistics Annual Abstract for 2022-23, Ministry of Education¹⁴⁷

With respect to type of disability, “Learning Difficulty” is the highest figure with 22.7% of the total, followed by “Visual Impairment” and “Intellectual difficulty”.¹⁴⁸ Even if the report mentions ‘autism’ as one type of disability, it does not specify its indicators to identify whether the child is in the spectrum or not. In the budget year, the number of children with ASD who enrolled in the special need education was 509 (383 male and 126 female) students¹⁴⁹ showing improvement from the previous academic year which was 159 (126 male and 33 female)

¹⁴⁶ Interview with Mr. Fistum G/Yohannes, Ministry of Education, Pastoralist and Special Needs Desk Expert.

¹⁴⁷ Education Statistics Abstract, 2022-23, Ministry of Education, p. 64. The population figures in the calculation of Gross and Net Enrollment Ratios have been based on the same assumption used in ESDP VI that 15% of the population live with disabilities based on a World Health Organization estimate. Pre-Primary Education includes all the four modalities (KG, O-Class, C2C and ASR).

¹⁴⁸ Ibid. p. 65.

¹⁴⁹ Ibid.

students.¹⁵⁰ With respect to the enrolment ratio in the primary and middle school, the total number of students with special educational needs who are attending Primary and Middle schools (Grades 1-8) in 2022/23, 352,410, showing a significant increment from last year, by 13.7 percentage points.¹⁵¹ In the gross enrollment ratio for both pre-primary and primary and middle school of the children with special needs are much lesser than the target set in the Educational Sector Development Program (ESDP).

The absence of comprehensive data on the number of children with ASD nationwide or in Addis Ababa has made it difficult to grasp enrollment rate. However, data collected from centers which deliver therapeutic services for children with ASD indicate that the number of children a lot higher than indicated in the report. In one center, some 40 students receive therapies while close to 300 children are on the waiting list.¹⁵² A similar number of children with ASD can be found in the waiting list of several centers in Addis Ababa.¹⁵³

From the parents who responded to the questionnaire, 87% of them responded that they were challenged in getting schools enroll their children in pre-primary school because their children have ASD. This number indicates that schools refuse to enroll children with ASD contrary to the inclusive education policy of the country. Only 13 % of the replied that enrolling their children was not that challenging that schools did not refuse to do so.

Schools face challenges in identifying children within the spectrum, owing to the very nature of the disability, as it is a spectrum that may be identified by similar behaviors among children.¹⁵⁴ Lack of knowledge among teachers and parents in identifying such children has also contributed the low number of children with ASD in the inclusive education system.

4.1.2. Teaching Methods, Instructional materials and Curriculum: Remarks on Inputs and Process

Another important aspect worth considering in the fulfilment of the right to education of children with ASD relates to inputs of the education process which includes curriculum, teaching methods, and instructional materials and teaching aids. According to an interview with an expert

¹⁵⁰ Education Statistics Abstract, 2021-2, Ministry of Education, Available at [https://moe.gov.et/storage/Books/ESAA%202014%20EC%20\(2021-22%20G.C\)%20Final.pdf](https://moe.gov.et/storage/Books/ESAA%202014%20EC%20(2021-22%20G.C)%20Final.pdf)

¹⁵¹ Education Statistics Abstract, 2022-23, Ministry of Education, p.65.

¹⁵² Interview with Tehut Girma, Program Manager at Meleu Foundation.

¹⁵³ Ibid.

¹⁵⁴ Interview with Mr. Fistum G/Yohannes, Ministry of Education, Pastoralist and Special Needs Desk Expert.

of special needs education in the Ministry of Education, there are around 1400 inclusive education resource centers throughout Ethiopia among which 78 centers are in Addis Ababa.¹⁵⁵ The Ministry of Education adopted a Guideline for Establishing and Managing Inclusive Education Resource/Support Centers (RCs) in 2015.¹⁵⁶ The centers have the objectives of ‘provide necessary teaching expertise to support the learning of all children, including those with special needs in both special school and mainstream environments; provide support to enhance the guidance & counseling and medical needs of all children, including those with special needs, so that their learning capacities are enhanced; and Provide necessary equipment, materials and assistive devices (eye glasses, hearing aids, crutch, etc...) to enhance the learning capacities of children with special needs.’¹⁵⁷

These centers support three more satellite centers, shall include at least 35 students with special needs, and at least one special needs expert.¹⁵⁸ However, the annual budget for each center have remained ETB 700,000 to fulfil teaching inputs needed for all types of disabilities.¹⁵⁹ While the establishment of the resource centers is a significant stride in the fulfilment of the right to education of children with disabilities, their operation in the last couple of years has not shown improvement for reasons such as limited resources to effectively run the centers; lack of special needs experts as some universities shut down the programs; and complexity of diagnosing and identifying children in the spectrum.¹⁶⁰ In addition, problems associated with schools in considering mere schooling as teaching the students has made the efforts complex.¹⁶¹

With respect to the right to education of children with disabilities, it is important to look in to the policies and manuals of the Ministry of Education briefly. The Ministry of Education issued a manual Special Needs Identification and Support for Pre-school Children, in 2020. The Manual identifies nine types of disabilities, among which autism is one of them, and instructs how teachers can identify children with autism based on the behavior the pupils manifest and also

¹⁵⁵ Interview with Mr. Fistum G/Yohannes, Ministry of Education, Pastoralist and Special Needs Desk Expert.

¹⁵⁶ Available at <https://213.55.93.148/am/Publication>.

¹⁵⁷ Guideline for Establishing and Managing Inclusive Education Resource/Support Centers (RCs), Ministry of Education, 2015, p. 15.

¹⁵⁸ Interview with Mr. Fistum G/Yohannes, Ministry of Education, Pastoralist and Special Needs Desk Expert.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

recommends ways to support such students.¹⁶² However, the trainings available for teachers and parents to create awareness about ASD among them has remained scarce and weigh below the demand.¹⁶³ One of the centers support children with ASD in Addis Ababa, Meleu Foundation replied that it has trained 2200 participants about children with ASD including teacher, care givers, parents and children including those from public schools.¹⁶⁴

With respect to curriculum as one of the inputs for education, there is no separate curriculum developed to guide the learning process of children with ASD both at the pre-primary and primary and middle school. Nor is there a guideline on how to educate children with ASD for teachers which has exacerbated the lack of awareness among teachers about ASD. According to an expert, there are two types of curriculum which shall be applied to teach children with ASD: Evidence-based practice and Individualized education plan.¹⁶⁵ According to her, both methods require trained teacher and adequate teaching resources to effectively assist children with ASD receive education.¹⁶⁶

Regarding teaching methods, the Montessori teaching method is the preferred one in schools.¹⁶⁷ Montessori education is student-led and self-paced but guided, assessed, and enriched by knowledgeable and caring teachers, the leadership of their peers, and a nurturing environment.¹⁶⁸ It also defined as an ‘educational system characterized by self-directed activities and self-correcting materials, developed in Europe during the early 1900s by Italian physician and educator Maria Montessori.’¹⁶⁹ This teaching method has been proved to be among the best method to teach toddlers with disabilities. It has five components: trained Montessori teachers,

¹⁶² The Ministry of Education Manual on Special Needs Identification and Support for Pre-school Children, February 2020, pp.42-44.

¹⁶³ Interview with Mr. Fistum G/Yohannes, Ministry of Education, Pastoralist and Special Needs Desk Expert.

¹⁶⁴ Interview with Tehut Girma, Program Manager at Meleu Foundation.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Interview with Mr. Fitsum G/Yohannes, Ministry of Education, Pastoralist and Special Needs Desk Expert.

¹⁶⁸ See <https://amshq.org/About-Montessori/What-Is-Montessori>

¹⁶⁹ See the definition of Montessori School in <https://www.britannica.com/topic/Montessori-schools>. Dr. Maria Montessori published a handbook on her [teaching](#) methods and philosophies in 1914, laying the foundation for what became known as the Montessori method of [education](#). After working with children who were mentally disabled, Montessori adapted her methods for preschool-age children and then further adapted her approach for elementary and secondary students.

multi-age classroom, use of Montessori materials, child-directed work, and uninterrupted work period.¹⁷⁰

Evaluating the teaching methods in inclusive education being implemented in Addis Ababa, it falls short of addressing the needs and interests of children with ASD. There are no available resources to effectively use this method for teaching children with ASD. The high number of students per class, especially in public schools, has also contributed for the lack of effective teaching-process of children with ASD.¹⁷¹

4.1.3. The Right to Education as ‘Schooling’ v ‘Learning Outcomes/Impacts’ Approach

The aims of education as stipulated in the CRC, ICESCR, CRPD and other international instruments ratified by Ethiopia includes development of the child’s personality, talents and mental and physical abilities to their fullest potential; preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

In light of this, it’s crucial to inquire in to the outcomes of special needs education. Improved rate of enrollment of children with disabilities in general and those in the spectrum in particular does not necessarily mean that the right to education is fulfilled.

From the parents who responded to the questionnaire, 56% of them responded that their children do not get the appropriate education proving that the children are merely schooled. For an open-ended question, the respondents replied that reasons include the teaching method is not tailored to the needs of the children, the learning environment is not conducive for the children, the teachers have little or no awareness about autism, etc.

In responding to the question whether the curriculum and teaching method in the respective schools where their children enrolled suits the needs of children with autism, 50% of them replied in the negative.

With respect to the support services such as comprehensive therapies, 75% of the respondents responded that their children obtain the services. However, only 12% of these children obtain

¹⁷⁰ See <https://amshq.org/the-ams-difference/core-components-of-montessori/>

¹⁷¹ Ibid.

comprehensive therapy within their own school while the remaining 88% of them have to look for private centers which render comprehensive therapies.

4.2. Challenges of Inclusive Education in Addis Ababa: Specific Focus on Children with ASD

Studies conducted indicate that shortage of resources, institutional and socio-economic barriers, poor class management due to a lack of teachers' skills, a lack of teacher training, understanding and acceptance of children with disabilities in school.¹⁷²

The writer try to see the number of government schools that conducted inclusive education in Addis Ababa the following table show government schools the listed challenges is the challenge faced in this government school and some private schools.

Table3 “Inclusive” Primary Schools in Addis Ababa

S.N	Name of the Schools	Sub City
1	Akaki-Mengist Primary School	AkakiKaliti
2	Alpha Deaf Primary School	Bole
3	Bole-Arabsa Primary School	Lami Kura
4	Bole-Gerji Primary School	Bole
5	Dil-Betigil Primary School	Gulale/Arada
6	Hamle 19 Primary School	Gulale
7	Kaliti-Bulbula Primary School	Gulale/Arada
8	Keranio Primary School	Kolfekeranio
9	Kokebe-Tsibah Primary School	Yeka
10	KotebeBirhaneHiwot Primary School	Yeka
11	Minilik Primary School	Arada
12	Sefere-Selam Primary School	Addis Ketema/Keranio
13	Tsehay-Chora Primary School	Gulale/Arada
14	Tesfa-Kokeb Primary School	Lideta

Source : Annual report of MOE , 2021

Some of the challenges inclusive education faced in Ethiopia includes attitudinal barriers, skill/knowledge barrier, inflexibility of curriculum, policies barriers, economic barrier, and physical/ infrastructural barriers.¹⁷³ Even if the idea of inclusive education seems to be

¹⁷² Yoshiko Tonegawa, ‘Policy and Practice of “Inclusive Education” in Addis Ababa, Ethiopia: An Analysis from the Perspectives of Teachers and Parents of Children with Disabilities’, *Nilo-Ethiopian Studies* Volume 24, 2019. P.42.

¹⁷³ See for instance Getahun Solomon Sosango, ‘The Challenges of Inclusive Education in Ethiopia: The Reality on the Ground’, *Ethiopian Journal of Education Studies*, Volume I, Issue I 2021, available at <https://journals.hu.edu.et/hu-journals/index.php/ejes/issue/archive#article-411>

accommodative of the interests of children according to their needs, the practice indicates that it merely groups children with special needs together from the rest of the pupils and does not address the specific interests of each of the children in accordance with the type of support they need. Another research conducted in selected schools in the Sheger City Administration revealed similar result finding out that lack of awareness, inadequate services, insufficient attention, lack of sufficient skilled manpower in the field of special needs, and lack of commitment from the administrations.¹⁷⁴ This indicates that the implementation of inclusive education in Addis Ababa has not fully responded to the needs of children with disabilities and of children with ASD in particular. Even if it is generally accepted that inclusive education addresses the needs of children with disabilities, its implementation is far from the assumption. The way it's designed and the commitment of implementing it along with the resources and expertise it requires to make education accessible for all needs to be reconsidered.

According to an expert, inclusive education has been found to be not the best solution for children with ASD.¹⁷⁵ From the ten schools on which assessment was conducted on inclusive education, Kokebetsebah school has been found to be a model in effectively teaching children with ASD.¹⁷⁶

Parents also complain about the manners their children are handled in schools, but they have no knowledge of where to formally petition and get remedy.¹⁷⁷ This indicates that there are gaps among the relevant government bodies of creating awareness about the education policies in place along with the rights of children and parents.

From the responses of the parents who replied to the questionnaire, the following challenges are identified:

- Lack of awareness among teachers: there are teachers in the schools that has no awareness about ASD. This may be due to the complex nature of the spectrum or prior

¹⁷⁴ See Gudetu Amanuel, 'Practices and Challenges of Inclusive Education in Two Selected Government Secondary Schools of Sheger City Administration Sebeta sub-city', This Thesis is submitted to the Department of Special Needs and inclusive Education in the Partial Fulfillment of the Requirements for MA Degree in Special Needs Education, Addis Ababa University, June 2023.

¹⁷⁵ Interview with Tehut Girma, Program Manager at Meleu Foundation.

¹⁷⁶ Ibid. She mentioned that segregated classes for children with ASD along with vocational training has been successful in the school.

¹⁷⁷ Ibid.

pre-determined attitude about disability, which traditionally is confined to physical disability. As the teachers are not aware, it becomes difficult for them to understand the needs and interests of the children.

- Attitudinal and cultural barriers- some teachers think that ASD is a behavioral problem and consider the child as 'spoiled' while others consider it as a 'curse'. This causes the children to be expelled from class as they 'disturb classes' and stay outside.
- Challenges from other students: Often times, other students may mock and abuse the children with ASD. Creating awareness among the classroom as well is necessary.
- Discrimination-
- Absence of segregated support- children with ASD who have social anxiety find it difficult to sit in classes with more than 50 students which indeed requires to segregate them to effectively support them.

Chapter Five

Conclusions and Recommendations

5.1. Conclusions

This study has explored the legal and policy frameworks of the right education of children with disabilities with a focus on Addis Ababa. In doing it has described international and regional human rights instruments ratified by Ethiopia and domestic legal and policy frameworks. It has also looked in to the implementation of the laws and policies pertaining to the right to education of children with ASD in Addis Ababa.

As Nelson Mandela remarked ‘education is the most powerful weapon which you can use to change the world’. Education also contributes to the development of the human personality and that it constitutes a source of knowledge. Cognizant of this, the international community recognizes the right to education as one of the fundamental rights which are inalienable and inherent in human nature. Despite the fact that the international instruments and domestic legal systems recognize the right to education, violations of the right occur everywhere.

Children with ASD seldom face difficulties in receiving education in regular classes or regular methods. ASD is one of the most common neurological and genetic conditions found among both genders and people of all backgrounds and socioeconomic levels. The number of children in the spectrum is increasing in alarming rate. World Health Organization estimates that one in 100 children has autism.¹⁷⁸ And in Ethiopia, studies estimate that there are around 500,000 children with ASD making it the second mental health case after epilepsy. Various researches and reports of non-governmental organizations indicate that children with ASD face challenges in enrolling to schools as well as in-class learning process.

With respect to the international instruments, Article 26 of the UDHR, Article 13 and 14 of the ICESCR, Article 18 of the ICCPR, Article 24 of the CRPD recognize the right to education in general of persons with disabilities in particular with different levels of focus. Regional

¹⁷⁸ Ibid. WHO disclaims that this estimate represents an average figure, and reported prevalence varies substantially across studies. The prevalence of autism in many low- and middle-income countries is unknown.

instruments such as the African Charter on Human and Peoples Rights, African Charter on the Welfare and Rights of Children also recognize the right to education.

Even if the FDRE Constitution the framing of the right to education of children in general and of children with disabilities under the FDRE Constitution is contentious and unclear, the scope and content of the right to education can be drawn from the international instruments signed by Ethiopia by virtue of article 9(4) and article 13(2) of the FDRE Constitution which makes international human rights instruments ratified by Ethiopia to part of law of the country and interpretations of human rights provisions shall align with such instruments. Hence, the right to education as recognized under the UDHR, ICESCR, CRC, CRPD and ACHPR shall apply to Ethiopia as well.

These instruments mandate inclusive education, prohibit discrimination, and require states to provide accessible, quality education tailored to individual needs, ensuring that children with disabilities are not excluded from educational opportunities. The four essential features of the right to education as stipulated by the General Comment No. 13 of the ICESCR, i.e., availability, accessibility, acceptability, and adaptability, shall guide governments in taking measures for the betterment of the right.

It is only few months ago that the Draft Education Proclamation is tabled for the House Peoples Representatives. There are several policies and strategies targeted to improve the educational sector by the Ministry of Education. The Education Sector Development Program aspires to increase the number of students with disabilities, increase school capacity including the percentage of trained teachers to support the needs of these children and to increase the number of Inclusive Education Resource Centers. The National Early Childhood Development and Education Policy Framework (2023) adopted by the Ministry of Education provides for play-focused and its curriculum is fine-tuned with the local situation and provided in and outside schools. This Policy also provides for the different types of skills the education should enable children such as basic education skills, social skills, emotional skills and skills to develop their body. Such skills-based education is very crucial for children with ASD as it offers them opportunity nurture such skills in schools. However, the question of whether the implementation enables students to gain such skills remains calamitous.

The Special Needs Education/Inclusive Education Strategy (2022) also mandates inclusive education for children with different types of disabilities. The latest Strategy was prepared by taking lessons from the 2006 and 2012 strategy. One of the foundational principles of the Strategy is to ensure the right education by making education *accessible* to all people with special educational needs. It also aspires to make sure school facilities for learning are accessible for children with disabilities, providing support to make education equitable based on their needs and abilities, and making education inclusive which accommodates all citizens together according to their needs and abilities, without creating differences. Despite such promises, the implementation of these policies remains elusive for children with disabilities in particular for children with ASD.

The Education Development Roadmap (2018-2030) also emphasizes the importance of ensuring access to quality education for all students, including those with disabilities and other marginalized groups. In so doing, the roadmap sorts strategies such as infrastructure improvements, curriculum development, teacher trainings, and community engagements to enhance inclusivity.

With respect practical implementation, the study examined the implementation of inclusive education in Addis Ababa and looked in to rate of children with ASD in to pre-primary and primary schools, teaching methodology, instructional materials, teaching aid materials, and curriculum. According to the reports of the Ministry of Education, the gross enrollment ratio of students with special educational needs in pre-primary education in 2022-23 in Addis Ababa was 26.8%, which is higher than the national average. This number, however, tells us that from the total estimate of the number of children with special need, only 26.8% of them enrolled or recorded as such. In the 2022-23, 509 (383 male and 126 female) students with autism, in the words of the report, enrolled to the pre-primary school. There are evidences which indicate that the number of children with ASD is much higher than the number indicated in the report. From the report, it can be observed that the gross enrollment ratio for both pre-primary and primary and middle school of the children with special needs are much lesser than the target set in the Educational Sector Development Program.

The study examined the implementation of the right to education of children with ASD in Addis Ababa with respect to the enrollment rate of children with ASD in to pre-primary and primary

schools, teaching methodology, instructional materials, teaching aid materials, and curriculum with a view to make sure that whether education is available, accessible, acceptable and adaptable to children with ASD. Accordingly, despite the promises of the Educational Sector Development Program (ESDP) which planned to was to enroll 6.8% of the female children and 7.1% of the male children with special needs to pre-primary education at the national level in 2022-23, only 3.1% female and 3.8% male students with special needs enrolled to schools. The enrollment ratio in Addis Ababa was 26.8%, much higher than the national average. The reasons for this may include a relatively better awareness about disability among the public, availability of supports such as therapies, and relatively better regulation of schools by regulatory bodies. While the situation in Addis Ababa with respect to the enrollment rate is higher than the national average, almost 74% of children with special needs either did not enroll at all or enrolled as regular student. The number of children with ASD who enrolled in the special need education in pre-school was 509 (383 male and 126 female) students. This number is much lower than the annual target and tells us that many more children with ASD are not going to school. Lack of knowledge among teachers and parents in identifying such children has also contributed the low number of children with ASD in the inclusive education system.

Regarding the teaching methods, curriculum and instructional materials, the establishment of the 1400 resource centers by the Ministry of Education throughout the country and 74 in Addis Ababa is a positive measure to improve the education for children with disabilities. However, the centers are being challenged by underfunding, lack of experts of special needs education in general and of ASD in particular, complexity of diagnosing and identifying children in the spectrum, etc. Even if the preferred teaching method for children with ASD is the Montessori teaching method, lack of resources and experts and large class size have made it impossible to implement it. Parents of children with ASD who responded to the questionnaire responded that mere schooling is considered instead of whether the children are learning or not, and in many schools, no support such as therapies are available.

5.2. Recommendations

In order to protect, promote and fulfil the right to education of children with disabilities, the study recommends the following:

- The constitutional, legal and policy frameworks pertaining to the right to education shall be amended and revised to clearly stipulate the right to education in general and of persons with disabilities in particular. Specifically, the Ministry of Education shall enact a separate policy, guideline and curriculum for children with ASD. This shall be accompanied by the allocation of resources necessary to make educate available and accessible for children with ASD. The policies adapt flexible curriculum and implement individualized education programs.
- The government shall devise mechanisms to improve implementation of the existing policies;
- The government and other stakeholders also work to create awareness among the public about ASD, on the right to education and educational policies. Particularly, continuous and mandatory trainings comprehensive training for teachers and school leaders about ASD is crucial. Engaging the community to create awareness is also important.

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