



The Right to Social Security of Persons with Disabilities in Ethiopia

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The Right to Social Security of Persons with Disabilities in Ethiopia

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Declaration

I hereby declare that the Research entitled “The Right to Social Security of Persons with Disabilities in Ethiopia” is my original work, and it has not been submitted to any other institution. Where other persons’ works are used, they are duly acknowledged.

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Abbreviations and Acronyms

AAU	Addis Ababa University
ACHPR	African Charter on Human and Peoples Rights
CBHI	Community Based Health Insurance
CCC	Community Care Coalition
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
DS	Direct Support
DSWP	Developmental Social Welfare Policy
EHRC	Ethiopian Human Rights Commission
ENAB	Ethiopian National Association of the Blind
FDRE	Federal Democratic Republic of Ethiopia
FENAPD	Federation of Ethiopian National Associations of Persons with Disabilities
GOE	Government of Ethiopia
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
MOLSA	Ministry of Labour and Social Affairs
NGO	Non-governmental Organization
NPA	National Plan of Action
NPAPWDs	National Plan of Action of Persons with Disabilities
NPPOs	
NSPP	National Social Protection Policy
NSPS	National Social Protection Strategy
PDS	Permanent Direct Support
POESSA	Private Organization Employees Social Security Agency
PMT	Proxy Means Test
PSNP	Productive Safety Net Program
PSSSA	Public Servants Social Security Agency
PWDs	Persons with Disabilities
PWD	Persons with Disability
SHI	Social Health Insurance
SPF	Social Protection Fund
TDS	Temporary Direct Support
UDHR	Universal Declaration of Human Rights
UPSNP	Urban Productive Safety Net Project
WHO	World Health Organization

Abstract

An impetus to conduct a research on this topic arose from a Radio Interview made with two PWDs - beggars, that struck my thought “I’m poor because I’m disabled – I’m disabled because I’m poor.”

This research examines to what extent Ethiopia responded toward realizing the right to social security of PWDs in compliance with the commitments stemming from ratifying the CRPD. The researcher argues that though credit is due to the establishment of the pension scheme, since ninety-five% of PWDs are excluded from the contributory pension and health scheme due to unemployment, the country still lacks a targeted strategy and a law guaranteeing a non-contributory social assistance scheme against disability-related poverty. Neither the social transfers under the UPSNP/PSNP match the legally established non-contributory social assistance scheme to PWDs. therefore, Ethiopia lags behind realizing the minimum essential levels of the right to social security to PWDs.

Chapter One

1. Introduction

1.1. Background

Disability and poverty are interrelated, usually each causing or being the consequence of the other.¹ This transpires in case the risk of disability is uninsured, leading to destitution due to the ensuing loss or reduction of income, as poor access to health service, education, shelter and malnutrition equally cause disability.² Moreover, though disability-related expenses are born by the social protection systems mainly through investment from the States, NGOs or the international community in developing countries, most of those costs are born by PWDs or their households, exasperating the vulnerability of PWDs and their families to intergenerational poverty.³

At the global level, one-fifth of the one billion PWDs having difficult functional limitation experience worse poverty than people without disabilities,⁴ and in Ethiopia, there are an estimated eighteen million PWDs, 95% of whom live in poverty.⁵ This is due to the multifarious disability-related additional expenses they face to access health, educational and employment opportunities. This calls for guaranteeing social security benefits, which ensures equal participation, reduce poverty and promote social and economic inclusion of these persons by formulating and enforcing laws and social protection policies.⁶ Accordingly, such international human rights instruments as

¹ Sophie Mitra and others, *Disability and Poverty in Developing Countries: A Snapshot From the World Health Survey* (OUP 2011) 1, Nora Groce 'Poverty and Disability- A Critical Review of the Literature in Low and Middle-income Countries' (2016) Working Paper Series No. 16, <<https://www.researchgate.net/publication/320757151>> Accessed on 29 October, 2020

² Marguerite Schneider and others, 'Reflections on Including Disability in Social Protection Programs' (2011) Blackwell Publishing Ltd *Institute of Development Studies bulletin*, vol. 42 No. 6 38

³ Andrew Shepherd, 'Policy Paper on Social Protection' (2004) Overseas Development Institute 15

⁴ World Health Organization, and World Bank, *World Report on Disability*, (OUP 2011)

⁵ *ibid.*

⁶ Michael Palmer 'Social Protection and Disability: A Call for Action' (2013) *Oxford Development Studies*, 41 (2) 139-154.

UDHR, ICESCR, CRC, CEDAW and CRPD guarantee the right to social security in reducing poverty and ensuring the right to an adequate standard of living to PWDs.

This right guarantees the right to access benefits, whether in cash or in kind, to secure protection from poverty associated with disability.⁷ It also ensures human dignity when PWDs are unable to realize other rights and reduces poverty and promotes their socioeconomic inclusion.⁸ The full realization of this right helps PWD realize other rights recognized under CRPD.⁹

CRPD, by particularly guaranteeing the right to social security, obliges State Parties to adopt laws, policies and strategies to ensure that PWDs can exercise their economic, social, civil and cultural rights on an equal basis with other persons.¹⁰ Upon ratifying the Convention, Ethiopia has undertaken to work toward the full realization of this right. nevertheless, the country has insufficiently recognized the right to social security in its domestic laws, policies, strategies and plan of actions.

1.2. Statement of the Problem

The right to social security requires the adoption of laws, social protection policy and strategy for its full realization.¹¹ Ethiopia has developed these measures as part of fulfilling its core obligation to guarantee social security protection to all in need including PWDs. However, it is not clear to what extent these laws, policies and strategies are reaching PWDs, to ensure the right to social security and other rights of PWDs.

However, the issue of finding adequate and sustainable financing lies with the extension of social security protection for all.¹² As Ethiopia's official development assistance continues to decline, Ethiopia needs to not only increase investing in social protection, but also commits itself to

⁷ International Covenant on Economic, Social and Cultural rights (ICESCR), Adopted and open for signature, ratification, and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force on 23 March 1976, article 9

⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), 4 February 2008, E/C.12/GC/19, para, 2-3 (General Comment No. 19)

⁹ Ibid, para, 40.

¹⁰ ibid.

¹¹ Ibid, para, 41

¹² Fabio Duran-Valverde and José Francisco Pacheco, 'Fiscal space and the Extension of Social Protection: Lessons Learned from Developing Countries Bolivia, Botswana, Brazil, Costa Rica, Lesotho, Namibia, Thailand and South Africa' International Labor Office Report, 1

financing it from domestic sources to guarantee available, adequate and sustainable social security benefits.¹³

In poor countries where introducing a comprehensive social development welfare program is inaccessible, safety nets play the role of social assistance schemes.¹⁴ In this regard, though the NSPP of Ethiopia adopts social insurance as part of contributory social security, it introduces PSNP as a social assistance program, which extends a minimalist and occasional protection and creates a limited access to social assistance schemes to all PWDs as of right.¹⁵

Therefore, Ethiopia has not yet introduced a legally established and periodically reviewed universal social security scheme,¹⁶ to reduce poverty and contribute to the socioeconomic inclusion of PWDs which, over and beyond realizing the right to social security, realizes the minimum essential levels of other rights.¹⁷

Social security mainly comprises of the contributory social insurance and the non-contributory social assistance schemes.¹⁸ Though the contributory social insurance scheme is legally established and relatively affordable in Ethiopia, it is almost only limited to pension schemes, necessitating the introduction of non-contributory schemes to cover those who cannot be covered by social insurance programs and protect against health risks, unemployment and disability. However, neither is sufficiently accessible to PWDs, 95% of whom are in poverty. Furthermore, the benefits under the UPSNP/PSNP is not legally established, has limited coverage, inadequate and lacks sustainability, not to thus be a substitute for sustainable social assistance benefits.

¹³ Kefyalew Endale et al. 'Financing Social Protection in Ethiopia: A Long-term Perspective' (2019) OECD Development Policy Papers, 1

¹⁴ Browne E. 'Social Protection: Topic Guide' (2015) University of Birmingham 1

¹⁵ Stephen Devereux and Rachel Sabates-Wheeler, 'Transformative Social Protection' (2004) IDS Working Paper 232 1

¹⁶ Committee on Economic, Social and Cultural Rights (CESCR), Concluding Observation on Ethiopia, 30 April-18 May 2012, CESCR/C/ETH/CO/1, para, 13 (CESCR, Concluding Observation on Ethiopia)

¹⁷ CESCR General Comment No. 19, para, 9

¹⁸ Universal Social Protection to Achieve the Sustainable Development Goals, 2017-2019, World Social Protection Report 2017-19,

1.3 Research Questions

This research mainly asks how did Ethiopia respond to its international commitment of realizing the right to social security of PWDs in its domestic legal and policy frameworks And particularly:

- I. What is the Nexus Between Poverty and Disability
- II. What is the normative content of the right to social security of PWDs under international human rights instruments?
- III. To what extent the current legal and policy frameworks in Ethiopia address the social security rights of PWDs?
- IV. How does the right of access to social security help realize other rights of PWDs in Ethiopia?
- V. What are the major challenges impeding the realization of the right to social security of PWDs in Ethiopia?

1.4. Research Objective

1.4.1 General Objective

The prime objective of this research is to assess the normative content of the right to social security of PWDs under Ethiopian laws in view of international human rights standards and explore whether Ethiopia has met its minimum core obligation by devising specific, deliberate and targeted policies, strategies and plan of actions.

1.4.2 Specific Objectives

The research has the following specific objectives-

- I. Examine the relationship of disability and poverty and the role of social security in reducing disability-related poverty
- II. Assess the normative discourse of the right to social security of PWDs under International Human Rights Instruments
- III. finding out to what extent, the legal and policy frameworks in Ethiopia address the right to social security of PWDs.
- IV. Examine how the right to social security helps realize other rights of PWDs in Ethiopia.
- V. Identify the main challenges impeding the realization of the right to social security of PWDs in Ethiopia

1.5 Literature Review

Though a thesis by Henok Messay, “The Right to Social Security of Public Servants in Ethiopia: Assessing the Challenges and Prospects”, examines the social insurance coverage, adequacy and

accessibility of this right to public servants by analyzing the legislative and policy responses of Ethiopia and recommends that Ethiopia should make increase in the social security benefits and constant review thereof as well as introduce social health insurance, his work does not dwell upon the right to social security of PWDs specially social assistance.

Apart from this, there is no specific study on the right to social security of PWDs in Ethiopia. However, there are various literatures relating to the title and which either generally explore the right to social security of PWDs or deal with the topic with reference to other countries. Yvette Wiid, “The Right to Social Security of PWDs in South Africa” analyzes the South African law and policy on social security and finds out that barriers in the implementation of this right is not unique, and adequacy of the social security benefits was identified to be a common problem which had impact on the realization of adequate standard of living of PWDs. Moreover, the thesis identifies that the eligibility criteria established under the Social Assistance Act (means test) creates barriers in accessing social security as it does not encourage seeking employment, saving and excludes PWDs who are working after receiving the financial assistance.

An article by Michael Palmer, “Social Protection and Disability: A Call For Action”, reviews the relationship between social protection and disability and emphasizes that PWDs need social protection due to their vulnerability to poverty. It underscores, though the coverage and benefit level is low, the social assistance schemes helps the social and economic inclusion of PWDs. Thus, it recommends that developing States to adopt measures to provide social assistance to improve the standard of living of PWDs.

Marguerite Schneider et al., “Reflections on Including Disability in Social Protection Programs”, finds out that in South Africa, Zambia and Uganda, including disability in such programs amounts to recognizing the vulnerability factor related to disability and recommends that the measure needs attention in assessment, targeting and monitoring, such as developing standard measurement tools and collection of data on disability. Plamanka Markova, “Emergence of Social Security Rights in the Bulgarian Constitutions” examines the inclusion of the right to social security in the three Bulgarian constitutions adopted at different times. He argues that the 1991 constitution provides the fundamental rights and duties of citizens in a manner conforming to international human rights obligation of Bulgaria. Moreover, the article finds out that the constitution extends social security protection to various degrees of disability.

This Research has however specifically examined Ethiopia's legislative and policy responses as well as the prospects and challenges towards realizing the right to social security of PWDs, specially sustainable social assistance, owing to their particular vulnerability to poverty/unemployment, and examine the level of compliance of those measures with the commitments stemming from ratifying the CRPD.

1.6. Research Method

To answer the research questions and achieve its objectives, the researcher employed a combination of qualitative doctrinal and non-doctrinal research method. A doctrinal research method is a kind of legal research method made to identify the stance of a law on a specific legal problem.¹⁹ Doctrinal legal research uses legislations and cases as primary sources of research,²⁰ while books, commentaries, and journal article can be used as secondary source of the study. The researcher used this method to identify what the laws say and assess the validity, enforcement and existing gap of those laws and policies about the right to social security of PWDs in Ethiopia.

Moreover, it scrutinized Ethiopian laws to find out whether those legislations have adequately guaranteed the human rights-based approach to the right to social security in general and that of PWDs in particular. This method has helped to have a close look at these laws and determine if the existing laws including the Constitution, is in compliance with the right to social protection of PWDs recognized under article 28 of the CRPD.

To this end, primary sources such as CRPD, ICESCR, FDRE Constitution, public servants and private employees pension proclamations and right to employment of PWDs proclamation has been analyzed to identify to what extent these legislations recognize the right to social security of PWDs. On the other hand, the researcher employed secondary sources such as books, journal articles and general comments to find out to what extent the aforesaid legislations and policies protect the right to social security of PWDs.

On the other hand, the research employed qualitative non-doctrinal research method, in which data are gathered through interviews and document analysis.²¹ Accordingly, the researcher used interviews and FGDs as a primary source which he conducted with such stakeholder institutions

¹⁹ Michael Salter and Julie Mason, 'Writing Law Dissertation' (2007) Pearson Education Limited Essics England 44

²⁰ Mike Mc Conville and Wing Hong Chui (eds), 'Research Method for Law' (2007) Edinburgh University Press 1

²¹ Peter Cane and Herbert Kritzer (eds) 'Qualitative Approaches to Empirical Legal Research' (2010) Oxford University Press 1058

as MOLSA, and CSOs such as ENAB, FENAPD, as well as PWDs included in the pension scheme and who are benefiting from the PSNP, which is close to, but does not amount to social security scheme or who should benefit but are excluded for various reasons with the aim of assessing the accessibility, adequacy, availability and key challenges facing in its implementation. Accordingly, the researcher selected 21 UPSNP and pension beneficiaries for interview from Addis Ababa, i.e., Akaki Kaliti, Arada and Addis Ketema Sub-cities (7 each) as Addis Ababa is the only city where the social protection and trust funds are established to adequately finance social protection from domestic sources, and since the availability, adequacy and accessibility of social security benefits in other parts of Ethiopia, where the SPF has not been established can be inferred therefrom. Moreover, since AAU and Sebbeta Special School for the Blind are few of the universities and primary schools receiving PWDs, the researcher interviewed eleven AAU students with disabilities and five Sebbeta Special School for the Blind students not benefiting both from the UPSNP/PSNP, to examine the reach of social protection programs in the university, primary and secondary schools. The NSPP, NSPS, NPAPWDs and the DSWP have also been analyzed to answer and achieve the questions and objectives of the research.

1.7. Scope

Although Ethiopia is yet to introduce a comprehensive social security scheme, this research is confined to scrutinizing the right to social security of PWDs due to the particular vulnerability factor associated with disability. It specifically examines the Ethiopian legislative and policy responses made toward fully realizing the right.

1.8. Significance

The right to social security of PWDs remains one among the shelved rights of PWDs owing to the absence of universal social security scheme in Ethiopia. Accordingly, this research will identify and analyze the legal and policy shortfalls in realizing the right to social security of PWDs in Ethiopia, will propose solutions which will improve the right to social security of PWDs in compliance with article 28 of the CRPD and suggest that appropriate measures be taken and improvements made for the effective realization of this right.

1.9. Organization

This Research has five chapters. Chapter one is the introductory part and thus contains background, statement of the problem, research questions and methodology of the research.

Chapter two examines the nexus between poverty and disability, the role of social security in poverty reduction, the normative content of the right to social security and State obligations emanating from international human rights instruments.

The third and fourth chapter will scrutinize the Ethiopian legislative and policy responses toward fully realizing the right to social security of PWDs and examine its roles in realizing other rights of PWDs and challenges facing in its realization. Chapter five will then conclude by presenting recommendations and concluding remarks.

Chapter Two

2. Disability, Poverty and Social Security

2.1. The Nexus Between Poverty and Disability

Poverty and disability are linked, usually each causing or resulting from the other.²² Accordingly, illiteracy, unemployment, underemployment, nutritional deficiency and health complications either cause or are consequences of poverty/disability.²³ PWDs are prone to extra costs associated with disability, such as accessing assistive devices or caregivers, leading to low earning capacity,²⁴ which limits their access to health care, education and employment,²⁵ and results in poor standard of living.²⁶

This vulnerability to poverty and its proportion is not alike as it remains high among persons with mental and multiple disabilities,²⁷ and PWDs in developing countries, most of whom are unemployed due to lack of access to health care, education and employment opportunities, making disability the major risk factor to cause poverty and vice versa²⁸

moreover, PWDs having the same income have lower standard of living than non-disabled due to additional costs arising from their differing needs, such as braille, wheelchair, medical expenses etc.²⁹ this creates considerable difference between PWDs and non-disabled persons in accessing

²² Michael Palmer, 'Disability and Poverty: A Conceptual Review' (2011) *Journal of Disability Policy Studies* 2011 21: 210-218

²³ Amartya Sen, *Development As Freedom*, (OUP 1999)

²⁴ Pinilla-Roncancio M. 'Disability and Poverty: Two Related Conditions, A Review of the Literature' (2015) *Rev. Fac. Med.* 2015;63 114.

²⁵ Nora Groce (n 1)

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Surajit Deb, 'The Nexus Between Disability and Poverty: Analysis Based on States Data in India' (34th IARIW General Conference, Dresden, Germany, August 21-27, 2016)

²⁹ Jeanine Braithwaite and Daniel Mont, 'Disability and Poverty: A Survey of World Bank Poverty Assessments and Implications' (2009) *ALTER European Journal of Disability* 228.

education, health, social and economic participation.³⁰ Compared to male PWDs, moreover, women with disabilities are in worse poverty and “the rural disabled have lower standard of living than their urban counterparts”.³¹

Accordingly, one-fifth of the one billion PWDs having functional limitation in the World experience worse poverty than people without disabilities, and in Ethiopia, there are an estimated eighteen million PWDs, 95% of whom live in poverty.³²

2.2. Social Security as a Poverty Reduction Strategy for PWDs

Before examining the role of social security in poverty reduction, it is important to tell the difference between social protection and social security. Accordingly, social protection is a wider concept and thus includes not only social security, but also comprises of financial assistance, the provision of goods and services to those in need.³³ It is a public or private measure to protect the poor from life contingencies, enhance the social status and promote the rights of the marginalized population.³⁴

This evinces that unlike the old conception of social protection, which is viewed as a social welfare or social safety net program, it is currently understood not only as an income and consumption transfers, but also as an empowering mechanism and as a tool to fulfill socioeconomic rights of those in risk of poverty.³⁵ It evolved from understanding it as an instrument of helping poor people cope with risks and vulnerabilities to a more nuanced approach of how those contingencies could be mitigated/prevented and help the recovery of those marginalized poor people.

³⁰ Arne H. Eide and Benedicte Ingstad, ‘Disability and Poverty- Reflections on Research Experience in Africa and Beyond’ (2013) *African Journal of Disability* 2(1)

³¹ *ibid.*

³² WHO, *World Report on Disability*, (n4)

³³ Yvette Wiid, ‘The Right to Social Security of Persons With Disabilities in South Africa’ (LL.D Thesis, University of the Western Cape, 2015) 24.

³⁴ Stephen Devereux and Rachel Sabates-Wheeler, (N 15)

³⁵ *ibid.*

Social security is on the other hand, a public and private measures of providing benefits in the form of social assistance, contributory and occupational pensions,³⁶ which improves access to basic facilities, increases employment opportunity,³⁷ and alleviate poverty.³⁸ In order to achieve this objective, it targets beneficiaries in the informal economy, the needy or those who receive reduced income or stoppage due to disability, unemployment and other contingencies.³⁹

Therefore, by providing income guarantee, social security improves PWDs' access to basic rights such as education, health and employment,⁴⁰ and achieve goal 1.3, 10.1, 10.2 and 10.4 of the SDGs of eradicating poverty and introducing social protection systems to the vulnerable, including PWDs and promote their socioeconomic inclusion.⁴¹ This accordingly, by widening their employment opportunity, extends the contributory social insurance schemes to them.⁴²

This necessitates to introduce social protection, by which social transfers are provided as a means to improve the access of the beneficiaries to socioeconomic rights and eradicate poverty.⁴³ In Bangladesh for example, the government provides stipends to enable PWDs attend their primary and university education,⁴⁴ “remove children with disabilities from the street”⁴⁵, and aims at

³⁶ Bea Cantillon, ‘Social Security and Poverty Reduction in Rich Welfare States: Cracks in the Post War Policy Paradigm, Avenues for the Future’ (2018) Working Papers 1817, Herman Deleeck Center for Social Policy, University of Antwerp. Handle: RePEc:hdl:wpaper:1817, accessed on Dec. 13 2020.

³⁷ Armando Barrientos and David Hulme, ‘Social Protection For the Poor and Poorest in Developing Countries: Reflections on a Quiet Revolution’ (2009) Oxford Development Studies 6.

³⁸ Armando Barrientos, ‘Social Protection and Poverty’ (2010) International Journal of Social Welfare, 20 (3) 240-249.

³⁹ Patricia Justino, ‘Social Security in Developing Countries: Myth or Necessity? Evidence from India’ (2003) Poverty Research Unit at Sussex, Working Paper No. 20.

⁴⁰ Ehtisham Ahmad, ‘Social Security and the Poor: Choices for Developing Countries’ (1991) The World Bank Research Observer, 6 (1) 105

⁴¹ Poverty and Disability: A Two Way Link, available at: < <http://www.suliver.org/poverty-and-disability-a-two-way-link/>> accessed on Jan. 14 2020, UN, SDGs, available at < https://www.undp.org/content/undp/en/library/corporate/brochure/SDGs_Booklet_Web_En.pdf&usg=AOvVaw1gJz7VYHrZc_cPzfEw4>Accessed on Oct. 11, 2021.

⁴² Patricia Justino, (n39)

⁴³ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The right to adequate food (Art. 11 of the Covenant), 26 April-14 May 1999, para 5 (CESCR General Comment No. 12).

⁴⁴ Freyja Oddstottir, ‘Social Protection Programs for People with Disabilities’ (2014) GSDRC Helpdesk Research Report 1137,.

providing cash transfers with the view to ensure the right to an adequate standard of living, and generally to promote the socioeconomic inclusion of PWDs.⁴⁶

The Kenyan social protection, on the other hand, comprising of the social assistance and the contributory social insurance,⁴⁷ aims at preventing individuals from chronic poverty and manage the contingencies which cause deprivation.⁴⁸ In addition to the policy, the Kenyan social assistance act and the Disability Act particularly provide for the right to non-contributory social security scheme of PWDs.⁴⁹ The social assistance act, recognizing disability as a qualifying condition for the social assistance benefits,⁵⁰ considers such benefits as a tool to mitigate or prevent poverty of PWDs.⁵¹

Similarly, the social spending in cash transfers in Morocco, Sudan and Egypt aim at averting extreme poverty, preventing asset depletion, reducing unemployment rate and protect against nutritional insecurity.⁵² In South Africa, the social protection system recognizes that PWDs are among the worthy recipients of the social security benefits.⁵³ It is meant to improve the living standard of PWDs by providing care dependency and disability grants, which aim at assisting the additional costs associated with disability.⁵⁴

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ Ministry of Labor and Social Protection State Department for Social Protection, The Kenya Social Protection Sector Review Report, 2017, available at < <https://openknowledge.worldbank.org/handle/10986/16974>> accessed on Oct. 27 2020.

⁴⁸ *ibid.*

⁴⁹ United Nations Office for South-South Cooperation, Social Protection Systems: The Case of Kenya, < https://www.southsouth-galaxy.org%2Fwp-content%2Fuploads%2F2019%2F03%2FUNOSSC-Kenya_web.pdf&usg=AOvVaw1IZOeilj6fD0BGWKHCsNut> accessed on Oct 27, 2020.

⁵⁰ Kenyan Social Assistance Act No. 24/2013, Art. 17 (F)

⁵¹ *ibid.*, Art. 17 (A), (B) and (C)

⁵² Food and Agriculture Organization, ‘Social Protection in Near East and North Africa Region’ available at < <http://www.fao.org/reduce-rural-poverty/resources/resources-detail/en/c/1045504/>> accessed on Jan. 6 2021.

⁵³ Stephen Kidd et al. ‘Social Protection and Disability in South Africa’ (2018) < <https://www.developmentpathways.co.uk/publications/social-protection-and-disability-in-south-africa/>> accessed on Jan. 26 2021.

⁵⁴ *ibid.*

The South African Constitution also expressly recognizes the right of everyone to social security, including social insurance and social assistance to those who are unable to support themselves or their households.⁵⁵ The social assistance is specially recognized as a main tool to reduce or alleviate poverty.⁵⁶ In addition to the Constitution, the South African Social Assistance Act identifies persons entitled to social grants, including PWDs, the types of grants and the eligibility criteria to access these grants.⁵⁷

Accordingly, the South African social assistance scheme guarantees disability and care dependency grant to PWDs.⁵⁸ The justification behind the grant-in-aid and the disability grant in general is to mitigate the additional expenses PWDs encounter to have a caregiver of their own or access assistive devices.⁵⁹ This indicates that by providing income or consumption transfers, social protection thus raises PWDs' income or encourages savings through the provision of school-feeding schemes,⁶⁰ and this makes it the main strategic tool to reduce or prevent the occurrence of poverty.⁶¹

To meet this objective of realizing other rights of PWDs and reduce poverty and inequality,⁶² however, social protection in developing countries “needs to be conceived of more broadly and creatively than in industrialized countries”,⁶³ as it calls for the involvement of not only government agencies, but also companies, financial institutions, NGOs and Community-based schemes.⁶⁴

2.3. Challenges to Social Security in Developing Countries

Though deprivation is not uncommon all over the world, unlike in developed countries where it just causes economic hardship, it causes death or destitution in developing countries. As has been

⁵⁵ Section 27 (1) (C) of the South African Constitution

⁵⁶ Yvette Wiid, (n 33).

⁵⁷ *ibid.*

⁵⁸ The South African Social Assistance Act, 2004, S. 12, The South African Social Assistance Act 13 of 2004.

⁵⁹ Yvette Wiid, (n 33)

⁶⁰ Stephen Devereux and Rachel Sabates-Wheeler, (n 15)

⁶¹ Andy Norton et als, ‘Social Protection Concepts and Approaches: Implications for Policy and Practice in International Development’ (2001) ODI, Working Paper No. 143

⁶² Laure-Helene Piron, ‘Rights-based Approaches to Social Protection’ (2004) ODI 1.

⁶³ Stephen Devereux and Rachel Sabates-Wheeler, (n15) 8.

⁶⁴ *ibid.*

vindicated earlier, then, social security is a tool to prevent such exigencies not only as a policy option, but also as a State duty to introduce such framework in the efforts made toward achieving this end. In most African States, this is done by introducing social protection interventions in the form of social transfers and market interventions to manage inflation.⁶⁵

However, financing social protection becomes a major challenge where the State resources decline in the face of diverse risks and contingencies,⁶⁶ as happened in Kenya between 2005-2010, owing to drought and the increase of investment in cash transfer programs.⁶⁷ The international influence that limits States' power to collect taxes and social contributions also diminishes their resources.⁶⁸

As the pension scheme only reach a small number of beneficiaries, and health and disability insurance are poorly provided, moreover,⁶⁹ realizing the right to social security to PWDs becomes difficult due to their exclusion from the formal economy.⁷⁰ this limited extension of social security in its "level, coverage and effectiveness",⁷¹ is attributed to scarce State resource.⁷²

Because, social security is either financed from international assistance, or provided in pilot projects, as is in middle-income countries in east, west and central Sub-Saharan Africa, which contributes to limited extension of these programs,⁷³ requiring to finance it from domestic

⁶⁵ Babatunde Omilola and Sheshangai Kaniki, 'Social Protection in Africa: A Review of Potential Contribution and Impact on Poverty Reduction' (2014) UNDPStudy Report, 1-3.

⁶⁶ Overseas Development Institute, *Delivering Social Protection in the Aftermath of a Shock: Lessons from Bangladesh, Kenya, Pakistan and Vietnam*, available at: <
<https://socialprotection.org/discover/publications/delivering-social-protection-aftermath-shock-lessons-bangladesh-kenya-pakistan>> accessed on Feb. 18 2021.

⁶⁷ *ibid.*

⁶⁸ ILO, International Labor Conference, 89th Session, (2001) Report vi, *Social Security: Issues, Challenges and Prospects* 60.

⁶⁹ Robin Burgess and Nicholas Stern, *Social Security in Developing Countries: What, Why, Who, and How?* (Ehtisham Ahmad Eds, OUP 1991)

⁷⁰ Nicola Smit and Letlhokwa George Mpedi, 'Social Protection for Developing Countries: Can Social Insurance be more Relevant for those Working in the Informal Economy?' (2010) *African Journal of Laws* 14 (19)

⁷¹ *ibid.*

⁷² *ibid.*

⁷³ Miguel Niño-Zarazúa et al. 'Social Protection in Sub-Saharan Africa: Getting the Politics Right' (2012) *World Development*, 40 (1) 167.

sources.⁷⁴ Unlike the institutional management, The community management of social protection in Malawi, Ethiopia and Zambia also constrains the effective provision of social security benefits,⁷⁵ where they “identify beneficiaries, collect and distribute benefits, and review and manage eligibility.”⁷⁶

Moreover, social security do not usually involve various institutions or exhibit poor coordination, which could work to extend such protection to the excluded, due to which the poor have limited access to social assistance.⁷⁷ This requires strengthening the informal social security schemes such as community-based schemes, self-help and religious organizations.⁷⁸ Due to administrative inefficiency, moreover, the social assistance usually excludes the women, who constitute a greater share of the poor.⁷⁹

Thus, since social protection is multidimensional, a platform to incorporate all stakeholders including, government, labor, private sector and civil societies is required to put in place policies and programs developed in this regard.⁸⁰ In conclusion, the successful extension of social security requires; political will of a State, civil societies to cooperate, sufficient financing that could meet its objective of alleviating poverty/inequality and improving technical issues as targeting beneficiaries and delivering the benefits timely⁸¹

2.4. The Normative Foundation of the Right to Social Security of PWDs under International Human Rights Instruments

Social security was first recognized in the 1944 ILO Declaration of Philadelphia,⁸² which provides that full employment and raising the standard of living as being a prime obligation of the

⁷⁴ *ibid.*

⁷⁵ *ibid.*

⁷⁶ Nicola Smit and Letlhokwa George Mpedi, (n 70), 29.

⁷⁷ Jean-Jacques Dethier, ‘Social Security: What Can Developing Countries Learn from Developed Countries’ (2007) 2020 vision briefs BB20 Special Edition, International Food Policy Research Institute (IFPRI). Handle: RePEc:fpr:2020br:bb20

⁷⁸ *ibid.*

⁷⁹ Babatunde Omilola and Sheshangai Kaniki, (n65) 27.

⁸⁰ *ibid.*, 28.

⁸¹ *ibid.*, 30.

⁸² International Labor Office, *Social Security: A New Consensus* (OUP 2001) (*Social Security: A new Consensus*)

ILO,⁸³ and requires it to extend social security measures to ensure basic income to all in need of such protection.⁸⁴ The aim and purpose of as well as the principle of the ILO to extend social security protection to all affirms the rights-based approach to social protection,⁸⁵ which conceptualizes social protection not only as a policy option of States, but also as an obligation of States and global governance.⁸⁶ Having this background, next will be an assessment of the normative discourse of social security under international human rights instruments.

Accordingly, UDHR provides that “Everyone, as a member of society, has the right to social security and is entitled to realization, through national and international efforts in accordance with the resource of a State.”⁸⁷ Furthermore, the UDHR recognizes the right of everyone to a standard of living, adequate for the health and well-being of himself and his family including the security against disability or unemployment,⁸⁸ and this guarantees not only the realization of the right to social security to PWDs, but also the fulfillment of the right to adequate food, health and the right to education.⁸⁹

CEDAW also requires States to provide social security to women in cases of unemployment, invalidity or incapacity to earn a living.⁹⁰ Thus, it recognizes social security as a tool to reduce poverty and promote the socioeconomic inclusion of women with disabilities. Because, such contingencies as “invalidity, unemployment or incapacity to work” indirectly refer to disability-related loss/reduction of income.⁹¹

The Convention also stipulates the State to ensure the right to equally benefit from social security programs and the right to adequate standard of living, to enhance the access of women with

⁸³ ILO Declaration of Philadelphia, 1944, art. 3 (A)

⁸⁴ *ibid.*, art. 3 (F)

⁸⁵ Armando Barrientos and David Hulme, (n 37) 7

⁸⁶ *ibid.*

⁸⁷ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (3), article 22, Available at: < <https://www.refworld.org/docid/3ae6b3712c.html> > accessed 12 February 2021.

⁸⁸ *ibid.*, article 25 (1)

⁸⁹ United Nations Research Institute for Social Development, ‘The Human Rights-based Approach to Social Protection’ Issue Brief, (2016) Available at: www.unrisd.org/ib2 accessed on, Nov. 21 2020.

⁹⁰ Convention on the Elimination of All Forms of Discriminations Against Women (CEDAW), Adopted and open for signature, ratification, and accession in 1979, Entry into force: 3 September 1981, United Nations, Treaty Series, vol. 1249, p. 13 art. 11 (E) (CEDAW)

⁹¹ *ibid.*

disabilities in poverty to education, health, food and employment,⁹² which accordingly expands the inclusion of women with disabilities in the social security schemes.

The CRC requires States to provide assistance and adopt support programs,⁹³ such as for example ensuring basic income guarantee, necessary for their care, education and nutritional needs.⁹⁴ similar to CEDAW, though CRC does not directly make reference to disability, the term “every child” under article 27 (1) is inclusive of children with disabilities.

The ICESCR, by stipulating States parties to recognize the right of everyone to social security, including social insurance,⁹⁵ provides robust protection to the right. In Africa, though the ACHPR does not expressly provide for the right to social security,⁹⁶ it is implicit in the right to life, to the respect of dignity, the right to property, to work and the right to enjoy the best attainable state of physical and mental health.⁹⁷

As to the rights of women in African context, the right to social security of women in general and that of women with disabilities in particular is guaranteed under the Maputo Protocol.⁹⁸ The Protocol requires States to establish a system of protection and social insurance to women in the informal economy, thus accords a special protection to women with disabilities. On the other hand, the full realization of the rights recognized in the Protocol call for the introduction of appropriate legislative and social protection policy measures.

Moreover, Protocol to the ACHPR on the Rights of PWDs vividly recognize the right of PWDs to an adequate standard of living and social protection, including the right to food, housing and water.⁹⁹ The Protocol obliges States to adopt effective measures to ensure, the access of, services

⁹² CEDAW, article 14 (C), (D) and (H)

⁹³ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, article 27 available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 28 February 2021], (CRC)

⁹⁴ *ibid.*

⁹⁵ ICESCR, (n7)

⁹⁶ Frans Viljoen, *International Human Rights Law in Africa*, (OUP 2012) 215

⁹⁷ *ibid.*

⁹⁸ Protocol to the ACHPR on the Rights of Women in Africa, Art. 13 (F)

⁹⁹ Protocol to the African Charter on Human and Peoples Rights on the Rights of Persons With Disabilities in Africa, adopted and opened for signature, ratification and accession, 2018, entry in to force June 2020 article 16 (1)

and disability-related devices,¹⁰⁰ social protection programs,¹⁰¹ introducing financial measures to defray the additional costs associated with disability; via for example, tax exemptions, duty waiver, concessions or financial assistance in the form of cash-transfers and facilitating the provision of assisters such as caregivers, guides, interpreters and augmentative supporters.¹⁰²

2.4.1. The Right to Social Security of PWDs under CRPD

The right to social security has been broadly construed to include both contributory schemes and non-contributory schemes, albeit universal or targeted social assistance benefits to those in situation of poverty.¹⁰³ This broad understanding of social security is consistent with the right to an adequate standard of living and the right to social protection formulated under the CRPD.¹⁰⁴

Accordingly, “The right to social protection is no more than a combination of the right to social security and the right to an adequate standard of living. Nevertheless, the packaging of those two rights in to a single concept is important, both because it highlights the synergy between them and facilitates the development of a package of measures to achieve their shared objectives.”¹⁰⁵ Thus, the obligation to recognize the right to an adequate standard of living and to social protection under the CRPD have to be appreciated in this context.¹⁰⁶

Accordingly, CRPD stipulates States Parties to ensure the right to an adequate standard of living, which includes the right to food and to housing, to PWDs and their families,¹⁰⁷ and access to such basic necessities could be ensured either from income earned from employment or social insurance, while social transfers are the means to ensure the right to adequate food and housing to PWDs in poverty, requiring the allocation of sufficient financial assistance and consumption

¹⁰⁰ *ibid*, article 16 (2) (A)

¹⁰¹ *ibid*, article 16 (2) (B)

¹⁰² *ibid*, article 16 (2) (C and D)

¹⁰³ Alejandro Morlachetti, ‘The Rights to Social Protection and Adequate Food: Human Rights-based Frameworks for Social Protection in the Context of Realizing the Right to Food and the Need for Legal Underpinnings’ (2016) FAO Legal Papers No. 97 10

¹⁰⁴ Convention on the Rights of Persons with Disabilities, article 28, GA Res. 61/106 (2007) (CRPD).

¹⁰⁵ UN Human Rights Council, Report of the Special Rapporteur on extreme poverty and human rights, 2017, A/HRC/35/26, A/HRC/44/40 (advance unedited version) available at: <https://www.refworld.org/docid/593a8e784.html> [accessed 13 March 2021]

¹⁰⁶ CRPD, Art. 28 (1 and 2)

¹⁰⁷ CRPD, article 28

transfers to realize the right to food and to housing, and so as not other basic necessities of PWDs are threatened due to additional disability-related expenses.¹⁰⁸

As regards the right to housing, particularly, States Parties to the CRPD are obligated to provide housing subsidies for PWDs who cannot afford housing by themselves.¹⁰⁹ Moreover, States are required to establish systems of financing housing schemes to satisfy the needs of PWDs.¹¹⁰ PWDs must, furthermore, have full and sustainable access to adequate housing which have to ensure the physical access of PWDs to employment, education, health and transportation.¹¹¹

Furthermore, States shall ensure PWDs access to appropriate and affordable services, devices and other assistance for disability-related needs. This refers to ensuring that PWDs have access to assistive devices and services as mobility aids, hearing aids and health care services. CRPD also provides enumerative lists of other measures State Parties are required to take, such as to ensure access by PWDs, in particular children and women with disabilities and older PWDs, to social protection and poverty reduction programs.¹¹²

The CRPD also requires States to ensure access by PWDs and their families living in situations of poverty, to assistance, including financial support, aimed at covering disability-related expenses and to ensure access by PWDs to public housing schemes and retirement programs.¹¹³ The ultimate aim behind these measures is to promote the socioeconomic inclusion of and ensure the minimum level of the right to social protection of PWDs.¹¹⁴

2.5. Elements of the Right to Social Security

2.5.1. Availability

Availability requires States to adopt social security schemes, albeit targeted social assistance programs or universal, to extend social security protection in the event of such vulnerability

¹⁰⁸ CESCR General Comment No. 12, para, 6

¹⁰⁹ CRPD, Art. (2 D)

¹¹⁰ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The right to adequate housing, (Art. 11 (1) of the Covenant), 6th session, para, 8, E/1992/23 (CESCR General Comment No. 4)

¹¹¹ *ibid*, para, 9

¹¹² CRPD, article 28 (2) (A and B)

¹¹³ *ibid*, article 28 (2) (C, D and E)

¹¹⁴ Yvette Wiid, (n 33) 139

factors as health care, sickness, old age, unemployment or disability.¹¹⁵ Such systems have to be legally established and institutions in charge of its administration has to effectively monitor its implementation. Moreover, the social security system should be sustainable to ensure the benefits not only for the present, but also to the future generations.¹¹⁶

The availability also obliges States to develop policies and strategies as well as laws for the effective and efficient administration of the schemes. However, owing to financial constraints, it may not always be feasible to extend social security for all.¹¹⁷ In such event, priority should be given to the most vulnerable group of the population.¹¹⁸ As regards PWDs, for example, the schemes should include disability insurance or financial support targeting expenses related to disability needs. These measures have to, in addition to ultimately aiming at transforming the lives of PWDs, guarantee protection from disability-related income insecurity.¹¹⁹

In this context, States may, for example devise mechanisms by which PWDs benefit from tax exemptions, specially, those levied on assistive devices. Moreover, the income support to PWDs who are income insecure, unemployed or have lost income due to permanent disability should aim at covering the additional expenses associated with disability. Such support must not be limited to PWDs, but also include members of a family and caregivers.¹²⁰

2.5.2. Adequacy

Social security benefits must be adequate in amount to meet its objective of realizing other rights such as the right to an adequate standard of living, the right to health and to dignity of PWDs.¹²¹ Adequacy also requires the periodical reviewing of the benefits, to ensure that PWDs can sustainably afford not only disability-related needs, but also to have access to other basic goods

¹¹⁵ Social Security: A New Consensus, CESCR General Comment No. 19, para, 11-12

¹¹⁶ The Right to Social Security, Available at: < <https://www.escri-net.org/rights/social-security>>Accessed on March 15 2021.

¹¹⁷ Social Security: A New Consensus, (n 82)

¹¹⁸ *ibid.*

¹¹⁹ Steven Devereux and Rachel Sabates-Wheeler, (n 15) 4

¹²⁰ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 5: Persons with disabilities, 11th session, E/1995/22, para, 28.

¹²¹ CESCR General Comment No. 19, para, 22

and services. In case of the social insurance benefits, the contributions should be on the basis of the amount of earning.¹²²

Similarly, the social assistance benefits to PWDs must be sufficient to ensure their socioeconomic inclusion. In case the financial assistance is the only source of income for PWDs in chronic poverty, the amount and duration of such assistance must be provided taking in to account the special needs of each recipient.¹²³ The assistance should serve two purposes; being a source of income for the unemployed and providing income support to cover the additional costs required to afford assistive devices or realize other rights of PWDs.¹²⁴

In particular, the financial assistance should be adequate to satisfy the disability-related needs including, but not limited to, mobility aids, hearing aids, reading aids; albeit automated screen reader or manual service for the blind, health-related expenses to those with mental disability and cash benefits to those who are unable to work due to illness or facilitating a caregiver for those in need of assisted living.

2.5.3. Accessibility

The social security system needs to be accessible to all, with particular attention to the marginalized group of the population, including PWDs without discrimination on the basis of such disability. The universal extension of the system requires not only contributory schemes, but also noncontributory social assistance programs to ensure access of such systems to those who cannot contribute due to loss of income/unemployment associated with disability.¹²⁵

accessibility also requires ensuring administrative efficiency and the provision of the benefits transparently in order not to exclude/prevent Persons with disabilities from accessing the benefits due to defective eligibility determination procedure or lack of the awareness on the availability of the systems.¹²⁶ Moreover, the benefits needs to be provided timely and in a manner that ensures physical access to persons with disabilities, both to make contributions and receive the benefits.¹²⁷

¹²² *ibid.*

¹²³ Yvette Wiid, (n 33) 141

¹²⁴ *ibid.*

¹²⁵ CESCR General Comment No. 19, para 23

¹²⁶ *ibid.*, para, 24

¹²⁷ Lena Morgan Banks et al. 'Access to Social Protection among People With Disabilities, Mixed Method Research from Tanahun, Nepal' (2019) *The European Journal of Development Research* 31:929-956.

2.6. States Obligation

The right to social security requires States Parties to develop policies and strategies as well as laws and allocate sufficient fiscal resources. Doing so presupposes both immediate implementation and the progressive full realization. The adequacy, accessibility and the availability of the provision of social security benefits should not, for example, discriminate on the basis of disability and thus calls for immediate State action. On the other hand, the interpretation of the right to social security of PWDs guaranteed under the CRPD could be appreciated in light of the States obligation provided under the ICESCR, that entails the progressive full realization of the rights recognized in the Covenant.¹²⁸

Similarly, CRPD reinforces both immediate and progressive obligation of States in the realization of socioeconomic rights, including the right to social security.¹²⁹ Moreover, the fact that States are required to implement social protection systems by setting targets and time frame indicates the obligation to progressively realize this right.¹³⁰ Accordingly, though the right to an adequate standard of living and social protection to PWDs under the CRPD does not directly employ the principle of progressive achievement,¹³¹ such obligation can be implied in to its full realization,¹³² as financing social protection is a major challenge to require “States Parties to move as expeditiously as possible towards the full realization of the right.”¹³³

On the other hand, States Parties to the CRPD have an immediate obligation to realize the minimum essential levels of the right to social security benefits to PWDs, which will enable them to access health care, food, house and basic education. In this regard, the State Parties, to the maximum of their available resources, should provide the social security schemes to the most vulnerable group, such as PWDs, in case they are unable to extend the coverage to all risks and contingencies.¹³⁴

¹²⁸ ICESCR, (N7) Art. 2.

¹²⁹ CRPD, Art. 4 (2)

¹³⁰ International Labour Organization (ILO), Recommendation Concerning National Floors of Social Protection, 14 June 2012, R202, available at: <https://www.refworld.org/docid/5c77a49f7.html> [accessed 28 February 2021] Art. 1 (3) (G) (Recommendation Concerning National Floors of Social Protection)

¹³¹ CRPD, ART. 28.

¹³² CESCR General Comment No. 19, , para, 40

¹³³ The Limburg Principles, para, 21.

¹³⁴ CESCR General Comment No. 19, para, 59.

This emanates from States Parties obligation to ensure respect for the minimum subsistence rights of all, without having regard to the economic development of the States.¹³⁵ Moreover, the States are required to respect the social security schemes in place and should not take retrogressive measures unless justified by a more favorable schemes, adopt a social protection policy, strategies and plan of actions and evaluate the extent of the implementation of the schemes.¹³⁶

Having committed itself to comply with the requirements under the CRPD and realize the rights of PWDs, the GOE ratified the Convention in 2010.¹³⁷ The convention has been an integral part of the law of the country as of this measure.¹³⁸ This does not only refine the crudely formulated right to social security under the Constitution to the rights-based approach, but also requires taking the appropriate legislative and administrative measures to ensure the adequate standard of living and reduce poverty of PWDs, and thereby comply with its obligation to fully realize the right progressively and take immediate measures as examined above.

Thus, in the event of resource constraint, Ethiopia's obligation has to be thus seen in the context of striving to progressively achieve the full realization of the right to social security. Failure to realize the minimum requirements of the right to social protection should not, however, be attributed to inadequate resource.

Accordingly, Ethiopia is immediately required to refrain from interfering, and expand the traditional social security options such as Idir or Mahber. Moreover, it is obligated to protect the right to social security of PWDs by adopting a law guaranteeing a targeted social assistance benefits in the face of inadequate resource to introduce a universal social security scheme.

As a State party to most of the international human rights instruments, including CRPD, moreover, Ethiopia is obligated to introduce and administer the social security system to ensure the adequacy and accessibility of the system either by adopting laws or establishing regulatory institutions.¹³⁹ Furthermore, protecting the most marginalized PWDs who are unable to contribute predominantly requires States to allocate adequate resources to satisfy the basic essential level of

¹³⁵ The Limburg Principles, Para, 25.

¹³⁶ *ibid.*

¹³⁷ CRPD Ratification Proclamation, 2010, article 2, Convention on the Rights of Persons with Disability Ratification Proclamation No. 676/2010, Fed. Neg. Gaz. 16th Year, No. 32.

¹³⁸ FDRE Constitution, 1995, Art. 9 (4) FDRE Constitution, Proclamation No. 1, Year No. 1. (FDRE Constitution)

¹³⁹ CESCR General Comment No. 19, para 49

the right to social security, and ensuring the non-contributory scheme should be given a prime attention even in the face of insufficient resources.¹⁴⁰

In this regard, though States Parties to the CRPD undertake to ensure the realization of the right to social security of PWDs to the maximum of their available resources, primarily through domestic resource-allocation,¹⁴¹ since international cooperation is pivotal for the betterment of the standard of living of PWDs, States are required to seek and facilitate international economic and technical assistance to finance social security program and thereby solve the acute resource constraint facing developing countries like Ethiopia.¹⁴²

This international cooperation is also important to support the national efforts in ensuring and promoting the rights of PWDs enshrined in the Convention.¹⁴³ States are in this regard required to take such measures as ensuring the cooperation to be inclusive of and accessible to PWDs,¹⁴⁴ and share accessible and assistive technologies including mobility aids, hearing aids and other assistive devices.¹⁴⁵ The other obligations include preparing and submitting reports on the progress made to implement the Convention to the Committee on the Rights of PWDs.¹⁴⁶

¹⁴⁰ Ibid, para 51

¹⁴¹ CRPD, article 4 (2)

¹⁴² *ibid*, Preamble, para, (L)

¹⁴³ *ibid*, article 31 (1)

¹⁴⁴ *ibid*, article 31 (1) (A)

¹⁴⁵ *ibid*, article 31 (1) (D)

¹⁴⁶ *ibid*, article 35 (1 and 2)

Chapter Three

3. The Right to Social Security of Persons with Disabilities in Ethiopia-A Legal and Policy Frameworks

Under this Chapter, relevant Ethiopian laws, policies and strategies are analyzed to know to what extent those laws and policies guarantee the right to social security in general and that of the PWDs in particular and, determine the level of compliance of those measures with the requirements underscored under the CRPD.

3.1. Legal Frameworks

3.1.1. FDRE Constitution

Though most constitutions directly or implicitly provide for the social and economic rights, the content of those constitutional provisions are declaratory than guaranteeing them as consumable commodities.¹⁴⁷ Similarly, the economic and social right provisions under the FDRE Constitution are vaguely formulated, making it difficult to translate in to reality. As regards PWDs, the State obligation to care for and rehabilitate the mentally and physically handicap Provided in the Constitution does not follow the rights-based approach to social security.¹⁴⁸ Rather, it tends to perceive disability as an individual problem or object of charity.¹⁴⁹

This tells us that the recognition of the right to social security under the FDRE Constitution is, unlike article 43 and 27 of the Kenyan and South African constitutions respectively, vaguely fashioned and is difficult to discern its content as well as claim for its realization. However, noting that social security is a cross-cutting issue, and since the full enjoyment of the right to social security cannot be dissociated from the economic, social, civil and political rights guaranteed therein, including, but not limited to, the right to life,¹⁵⁰ the right to property and to

¹⁴⁷ Alexandre Egorov and Marcin Wujczyk, (Eds) *The Right to Social Security in the Constitutions of the World: Broadening the Moral and Legal Space for Social Justice*, (OUP 2016) 3-4.

¹⁴⁸ Dawit Oticho, 'The Place of the Rights of Persons With Disabilities under the 1995 FDRE Constitution' LL.M thesis, Addis Ababa University, 2019.

¹⁴⁹ *ibid.*

¹⁵⁰ FDRE Constitution, Art. 15.

work,¹⁵¹ the right to engage freely in economic activity and to pursue a livelihood of one's choice,¹⁵² the perception toward and the attention given to social security as a human right , needs to be seen in this line in Ethiopia.

On the other hand, the Constitution stipulates any government organ to follow the NPPOs, in the implementation of the constitution, laws, policies and strategies.¹⁵³ This elucidates that all Federal or State organs shall be guided by the economic and social objectives in giving effect to, for example, pension laws, NSPP(S)as well as the DSWP of the country. In this respect, the government shall have a duty to facilitate equal opportunity to all Ethiopians to improve their economic conditions and promote fair distribution of resources.¹⁵⁴

Because, the social and economic objective of the Constitution, recognizing social security as a tool to promote fair distribution of wealth and alleviate chronic poverty, require the policies to prioritize its provision to all Ethiopians, to the maximum of the country's available resources.¹⁵⁵ Had this indirect restatement of the right to social security not been provided under the social objective provision of the constitution, but in human rights chapter, one might have confidently argued that the right is accorded manifest constitutional protection in Ethiopia.

3.1.2. Public Servants' Pension Proclamation No. 714/2011.

In Ethiopia, the need to strengthen the public servant's' pension scheme and consolidate law in this regard is meant to achieve the progressive full extension of social security protection to all.¹⁵⁶ To this effect, proclamation No. 714/2011 was reenacted to realize social justice and reduce old age/unemployment/related poverty.¹⁵⁷ It introduces a diverse range of benefits, including, retirement benefits,¹⁵⁸ invalidity pension,¹⁵⁹ incapacity pension,¹⁶⁰ survivors pension, gratuity and

¹⁵¹ id, Art. 40 and 41.

¹⁵² id, Art. 41 (1)

¹⁵³ id, Art. 85 (1)

¹⁵⁴ id, Art. 89 (2 and 3)

¹⁵⁵ id, Art. 90 (1)

¹⁵⁶ Public Servants' Pension Proclamation, 2011, Preamble, para, 1, Public Servants' Pension Proclamation No. 714/2011, Fed. Neg. Gaz. 17th Year No. 78 (Public Servants' Pension Proclamation)

¹⁵⁷ id, preamble, para, 2.

¹⁵⁸ id, article 19.

¹⁵⁹ id, article 23.

¹⁶⁰ id, article 35.

refundable pension contribution.¹⁶¹ However, in 2013, only 1% of the population were covered by the contributory scheme and households in the informal sector and those self-employed depended on their own coping mechanisms.

The proclamation evinces that the invalidity and incapacity pensions are paid to public servants who sustain loss of income due to being unable to take on the remunerated work, and to those who quit a paid job owing to employment injury, while the invalidity and incapacity gratuity is available for the public servants who receive reduced income due to health problem or employment injury respectively. On the other hand, survivors' pension and gratuity are in place for incapacitated or children with mental health problem who survive the beneficiaries and to the deceased's dependent parents.¹⁶²

As to incapacitated children or with mental health problem, unlike children without functional limitation, though it can be taken as a proactive step that the proclamation extends the provision of survivors benefit until they attain the age of twenty-one, it is/should not be the age of those with functional limitation that matters in such cases, but the unemployment/poverty associated with disability, calling for the future revision of the proclamation to ensure the provision of such pension for life, save future economic or health status changes of the beneficiaries.

Although the proclamation terminates the payment of survivors benefit to widows or widowers if such beneficiaries are less than the age of 45 and 50 and are re-married respectively,¹⁶³ the benefit will not be discontinued in case the disabled widow or widower is less than the age of 45/50 and re-married.¹⁶⁴ The possible rationale behind this exception is to reduce the impending income insecurity due to disability-related unemployment and extra costs.

The invalidity, old age, incapacity and survivor pensions introduced by the proclamation echo the risks and contingencies identified by the ILO, and to which social security protection needs to be extended.¹⁶⁵ It endeavors to broaden the availability and accessibility of the contributory social security scheme to PWDs, when it incorporates social security options for disability-related income loss/poverty.

¹⁶¹ *id.*, article 21, 25, 36, 38 and 40.

¹⁶² *id.*, Art. 40 (1) (B and C)

¹⁶³ *id.*, Art. 41 (2)

¹⁶⁴ *id.*, Art. 41 (4)

¹⁶⁵ ILO Social Security (Minimum Standards) Convention, 1952, article 19,25 and 32.

In Ethiopia, however, due to their particular vulnerability to poverty and unemployment associated with disability, the retirement, invalidity and incapacity benefits introduced by the proclamation could not adequately reach PWDs. This calls for the introduction of social assistance benefits as part of expanding social security coverage to PWDs who could not thus be protected by the pension scheme.

3.1.3. Private Employees Pension Proclamation No. 715/2011.

Unlike the public servants' pension laws, the law governing private organization employees pension scheme is a recent phenomenon in Ethiopia. The need to extend pension scheme to private organization employees and reduce poverty originated the adoption of this proclamation.¹⁶⁶

In addition to employees of the private organizations, the proclamation endeavors to include workers in the religious institutions and those in the informal sector in the pension scheme based on the beneficiaries consent.¹⁶⁷ Though the proclamation does not contain particular mechanism of extending such protection to these people, nor specifically adopts a special amount of contribution that takes in to consideration the meagre income of such beneficiaries, it can be seen as a positive measure to protect PWDs in the informal economy.

The proclamation also extends pension coverage to employees of private organizations who are incapable of fulfilling the medical requirement of the service due to health problem, if s/he voluntarily resigns after serving 20 or 25 years before the retirement age.¹⁶⁸ This indicates the employees of private organizations who due to disability or disability-related causes resign from their service, are entitled to be covered by pension scheme. Akin to the conditions discussed under the public servants' pension proclamation, the invalidity and incapacity benefits are available to persons who sustain disability or disability-related health problems or disabling injury lose or receive reduced income respectively.¹⁶⁹

Moreover, the proclamation guarantees the payment of survivor benefit to his survivors, in case an employee of a private organization dies while receiving retirement, invalidity or incapacity

¹⁶⁶ Private Organization Employees Pension Proclamation, 2011, preamble, para, 1-3, A Proclamation to Provide for Pensions of Private Organization Employees, Proclamation No. 715/2011, Fed. Neg. Gaz. 17th year, No. 79.

¹⁶⁷ id, Art. 3 (2) (B)

¹⁶⁸ id, article 18 (5)

¹⁶⁹ id, article 22, 24,35 and 37.

benefits, or while in service before or upon completing at least ten years of service or due to employment injury.¹⁷⁰ Accordingly, it enunciates that widows, widowers, children under the age of eighteen and dependent parents as beneficiaries of survivor pensions. Particularly as to the survivor pension paid to children, the proclamation enunciates that the survivors pension will exceptionally be provided to disabled or children with mental health problem under the age of twenty-one.¹⁷¹

As opposed to children without disability, the extension of the provision of the survivors pension to children with disabilities up until the age of twenty-one seems to have considered the disability-related unemployment and extra expenses they face to access assistive devices of health care service. Akin to the public servants' pension proclamation, moreover, the survivors pension to disabled widows or widowers provided under the private organization employees pension proclamation to those under the age of forty-five and fifty will be untouched if they are re-married. This too, is important to protect widows or widowers with disabilities from income insecurity and additional costs associated with disability.

Regrettably, however, while extending the provision of survivors pension to incapacitated children or those with mental health problem, in the language of the proclamation, up until the age of twenty-one can be appreciated as a positive development, it would have been more reasonable had the provision of such pension not been discontinued, as is the case for re-married disabled widows or widowers. Because, though the proclamation uses terms like “incapacitated children” or “children with mental health problem”, as such refers to PWDs having functional limitation to engage in remunerated work, the continuous provision of the survivors pension in that case could help reduce disability-related loss of income and promote their socioeconomic inclusion.

3.1.4. Right to Employment of Persons with Disability Proclamation No. 568/2008

The right to employment of persons with disability proclamation No. 568/2008, unlike its prior proclamation that reserves quota for vacancies, failed to ensure reasonable accommodation to PWDs and established the view that PWDs are incapable of performing their jobs based on

¹⁷⁰ Id, Art. 39 (1)

¹⁷¹ id, article 39 (3) (A, B and C)

merit,¹⁷² introduced an affirmative measure when it entitles PWDs to a vacant post, through preference, during recruitment, placement, transfer or promotion in case they are qualified and have equal or close score to other candidates.¹⁷³ The proclamation recognizes the absence of reasonable accommodation as amounting to discrimination if PWDs having the necessary qualification are unable to exercise their equal right of employment opportunity due to unaccommodative work environment, absence of supportive equipment or the non-assignment of assistant to PWDs.¹⁷⁴

Consequently, the proclamation introduces the principle of reasonable accommodation almost as a panacea to high unemployment rate of PWDs, thus governs the employment relationship between qualified or job seeker with disability and employer, with the aim of enhancing the employment rate of these elements of a society and mitigate disability-related loss of income. To this end, it expands the coverage of the pension scheme to PWDs, who are excluded from the labor industry due to their disability.

In a similar vein, the Federal Civil Servants Proclamation provides for the additional supportive measures in employment, promotion, transfer, education and training.¹⁷⁵ It also requires the government to facilitate a conducive work environment and provide materials and equipment necessary for PWDs to effectively perform their responsibilities.¹⁷⁶ The government is also obligated to hire assistant to PWDs under the proclamation. this elucidates that it recognizes reasonable accommodation as a guiding principle in ensuring equal access to employment opportunity to PWDs.¹⁷⁷

Regarding employees in the private sector, the labor proclamation prohibits disability-based discrimination in the recruitment, employment, promotion, transfer and education or training between workers.¹⁷⁸ Moreover, far beyond obliging the employer to protect the worker against

¹⁷² Right to Employment of Persons with Disabilities Proclamation, 2008, Preamble, Para 2, Right to Employment of Persons with Disabilities Proclamation No. 568/2008, Fed. Neg. Gaz. 14th Year No. 20.

¹⁷³ id, article 4 (2)

¹⁷⁴ id, article 5 (3) and 6.

¹⁷⁵ Federal Civil Servants Proclamation, 2018, art. 49, Federal Civil Servants Proclamation No. 1064/2018, Fed. Neg. Gaz. 24th Year No. 20.

¹⁷⁶ Id, Art. 49 (2)

¹⁷⁷ Id, Art. 49 (3)

¹⁷⁸ Labor Proclamation, 2019, art. 14 (1) (F), Labor Proclamation No. 1156/2019, Fed. Neg. Gaz. 25th year, No. 89.

employment injury,¹⁷⁹ it entitles workers to occupational pensions in the form of periodical payment for temporary injury, disablement benefits for permanent injury and survivor benefits to his dependents in case of death.¹⁸⁰ As to the survivor benefit, the widow, widower, children under the age of eighteen and dependent parents are entitled to dependent benefits.¹⁸¹ In case the worker is not covered by the pension scheme, The proclamation provides the dependent benefit to be five times greater than the annual salary of the worker.¹⁸²

Unlike the Private employees pension proclamation, which entitles disabled widows/widowers to the continuous provision of the survivor pension in case of remarriage before the age of 45/50, the labor proclamation is silent, except entitling such widows/widowers to dependent pension and gratuity.¹⁸³ This contradiction has significant effect during interpretation, as the labor proclamation is the latter law. Moreover, the labor proclamation does not, unlike the private organization employees pension proclamation, extend survivor pension to incapacitated children or children with mental health problem up until the age of twenty-one, causing the same effect.

3.2. Policy Frameworks

3.2.1. National Social Protection Policy

The Ethiopian constitutional promise to ensure economic and social rights and formulate policies prioritizing public health, education, food, clean water and social security initiated the adoption of the NSPP in 2014.¹⁸⁴ It is part of the progressive realization of the social and economic rights enshrined therein and has ever since been part of a social policy framework to reduce vulnerability to poverty, alleviate economic exclusion and protect segments of a society which require special attention including PWDs.¹⁸⁵

As safety nets play the role of social assistance schemes in poor countries where a comprehensive social security scheme has not been introduced, though the NSPP of Ethiopia adopts social insurance and social health insurance as part of the contributory social security, it introduces

¹⁷⁹ *id.*, art. 92.

¹⁸⁰ *id.*, Art. 107.

¹⁸¹ *id.*, Art. 110 (3)

¹⁸² *ibid.*

¹⁸³ *ibid.*

¹⁸⁴ FDRE Constitution, Art. 41 and 90.

¹⁸⁵ Ministry of Labor and Social Affairs, National Social Protection Policy of Ethiopia, (2014) 1.

PSNP and CBHI as a social assistance program, which extends a minimalist and occasional protection and creates a limited access to social assistance schemes to all PWDs as of right.

Accordingly, the policy intends to promote PSNP, which endeavors to provide unconditional/conditional social transfers and ensure food security and facilitate asset creation to vulnerable PWDs. It also aims at expanding employment opportunity, extending the third party vehicle insurance scheme, promoting the informal social saving and strengthening CBHI.¹⁸⁶ By focusing on improving social insurance, increasing equitable access to basic social services, and providing legal protection and support to those vulnerable to abuse and violence,¹⁸⁷ the policy tailors PWDs within its each focus areas and purports to realize the right to social security to them.¹⁸⁸

The policy, in addition to aiming at expanding the existing coverage of the contributory pension and health insurance to employees of public and private organizations, purports to extend such scheme to those engaged in other gainful employment. However, since the inclusion of those engaged in the informal economy depends on their consent, it is not yet implemented either due to lack of awareness or unwillingness of the beneficiaries. Though not yet legally established, moreover, the policy aims at expanding social assistance coverage and, devises a CBHI, a scheme in place to expand health insurance to those who cannot be covered by the employment-based social security scheme, including PWDs.

3.2.2. National Social Protection Strategy (NSPS)

Akin to the NSPP, the NSPS promotes the provision of conditional/unconditional cash or food transfers to protect against hunger.¹⁸⁹ It also prevents poor people from engaging in unwanted coping strategies such as withdrawing children from school or selling household assets through those social transfers and fulfill their socioeconomic rights, including social security.¹⁹⁰ Furthermore, the strategy has the aim of economically empowering PWDs, by promoting employment opportunity and asset accumulation.¹⁹¹

¹⁸⁶ *id.*, 8.

¹⁸⁷ *ibid.*

¹⁸⁸ *id.*, 4.

¹⁸⁹ MOLSA, *The National Social Protection Strategy* (2016)

¹⁹⁰ *ibid.*, 6.

¹⁹¹ *ibid.*

The strategy, besides encouraging the informal social protection mechanisms as Idir, Ikub, Debo and Mahber, which promotes the socioeconomic inclusion of PWDs,¹⁹² reinvigorated the PSNP, a social protection measure underway since 2005 and purports to ensure food consumption, prevent asset depletion, and enhance access to services through conditional/unconditional cash transfers to reach PWDs, the vast majority of whom are in rural areas.¹⁹³ Though this can be appreciated as a proactive step in alleviating the multidimensional poverty the rural population faces, it is not adequate, sustainable and accessible in its amount, duration and coverage due to which they have limited access to such program. In addition, the strategy reaffirms the urban Productive Safety Net project, that contains public works and direct support, to reach PWDs in urban centers.¹⁹⁴

It also revitalizes SHI, to improve formal sector employees' access to health service and CBHI, a scheme to enhance access to health to poor and those in the informal economy which will help to extend health insurance to PWDs.¹⁹⁵ With the view to expanding access to education of PWDs, the strategy affirms the importance of school feeding program both as educational and nutritional significance.¹⁹⁶ The NSPS thus reiterates the protective, preventive, promotive and transformative role of social protection interventions through those measures.

3.2.3. The Developmental Social Welfare Policy (DSWP)

The DSWP was introduced to control, and finally to eliminate, social problems that limit society's access to common needs, and jeopardize healthy economic and social living conditions.¹⁹⁷ To this effect, it conceives disability as a social problem, targets PWDs as a group requiring prime attention and views Disability as being a consequence of poverty, inadequate nutrition, poor access to health, education, employment, shelter and etc.¹⁹⁸ To improve PWDs' access to employment, education and independent living, the policy promotes conditions that will increase

¹⁹² id, 12.

¹⁹³ id, 13.

¹⁹⁴ ibid.

¹⁹⁵ id, 15.

¹⁹⁶ ibid.

¹⁹⁷ Ministry of Labor and Social Affairs, The Developmental Social Welfare Policy, 1996 51.

¹⁹⁸ id, 60.

their participation in social, economic and political activities, including taking the appropriate legislative measures.¹⁹⁹

Moreover, the DSWP promotes mechanisms which improve PWDs' access to health service and assistive devices. In this regard, the policy serves as a guideline to formulate mechanisms which help to understand the causes of disability and adopt measures preventing/mitigating its prevalence.²⁰⁰ It thus, by improving access to health, education, employment and supportive devices to PWDs, enhances their socioeconomic inclusion, alleviates disability-related loss/reduction of income and expands social security coverage to them.

As the policy conceives disability as a social problem and revolves around curing, reforming and providing special care, and adopts institutionalization of PWDs as a coping strategy, however, it devalues the social inclusion of and marginalizes PWDs, and is tantamount to authenticating a medical and charity-based approach on disability, which is a noncompliance with the rights-based approach introduced by the CRPD, and which Ethiopia committed itself to revise such policies as part of meeting its immediate obligation under the Convention.

3.2.4. The National Plan of Action of PWDs

Ninety-five% of PWDs in Ethiopia are unemployed and subsist on begging, which is not only degrading source of income, but also unsustainable and inadequate means of livelihood.²⁰¹ To this effect, the NPA aims at expanding the coverage of social security system to PWDs, through providing policy guidance and technical support to social protection services and improving the reach of conditional/unconditional social transfers under the PSNP to poor PWDs.²⁰² However, nowhere in the NPA it is aimed for transforming the social transfers under the PSNP TO sustainable social assistance schemes, which its future re-formulation is expected to answer.

Moreover, the NPA introduces the provision of tax incentives to employers hiring PWDs, the provision of business skill training to self-help organizations of PWDs and strengthening the establishment of enterprises that have as a mission to employ PWDs through, for example, formulating laws providing tax incentives to organizations employing PWDs, and adopting a

¹⁹⁹ id, 73.

²⁰⁰ id, 74.

²⁰¹ MOLSA, NPAPWDs 2012-2021 (2012) 1-3.

²⁰² id, 7.

system in which the government procures goods and services from organizations wherein PWDs take the majority of its employees.²⁰³

Furthermore, as the NPA promotes the employment of PWDs by advocating for the formulation of antidiscrimination law in the banking and microfinance service, provision of training for these institutions on service delivery to clients with disabilities and eliminating discrimination on the basis of disability during the provision of credits,²⁰⁴ it reduces unemployment/poverty associated with disability and expands PWDs inclusion in the contributory social security scheme.

These policy options, then, by widening the employment opportunity for PWDs, could expand their inclusion in the contributory social insurance schemes. Regrettably, however, Ethiopia has not yet introduced a framework law aimed at providing such tax incentives to organizations employing PWDs, or a law making disability-based discrimination in the microfinance service illegal, owing to which the promises have remained a sheer wish list so far.

On the other hand, to reduce the illiteracy associated with disability and promote the right to education, and finally to enhance the employment opportunity of PWDs, the NPA aims at increasing the primary, secondary, TVET and higher education enrollment of PWDs.²⁰⁵ Moreover, it advocates the expansion of SNE and inclusive education for PWDs through its recognition in the national and regional education sector development plan, budget and reports.²⁰⁶ This measure will accordingly extend the coverage of the contributory social security system to PWDs who are employed due to the education or training they received.

Unfortunately, though the MOLSA Disability Affairs Directorate and associations of PWDs appreciate the NPA for introducing the above approaches to realize the right to social security of PWDs and for being a strategic tool toward its progressive full realization as of its adoption in 2012,²⁰⁷ its prospects are now helpless, as it is by now to end its term in 2021. Even worse, MOLSA has neither conducted a study or assessment on the achievements, failures and challenges producing the non-performances nor committed to redevelop the action plan,²⁰⁸ and

²⁰³ *id.*, 43.

²⁰⁴ *ibid.*

²⁰⁵ *id.*, 28-29.

²⁰⁶ *ibid.*

²⁰⁷ Interview with Ato Sisay Tilahun, Awareness Raising and Community Mobilization Unit Leader at Ministry of Women and Social Affairs Disability Affairs Directorate, Oct. 13, 2021.

²⁰⁸ *ibid.*

this basically diminishes a hope of using the plan as a strategy to fully implement the rights recognized under the CRPD, including the right to social security that principally requires State interventions.

Chapter Four

4. The Role of the Right to Social Security toward Realizing other Rights of PWDs and its Challenges in Ethiopia

Under this section, the role of the right to social security in realizing other rights of PWDs in Ethiopia, challenges relating to availability, adequacy, accessibility and eligibility determination procedure will be analyzed. Accordingly, absent the legally established non-contributory social security scheme, the Addis Ababa City UPSNP and pension beneficiaries, AAU students who should have potentially benefited from the UPSNP/PSNP and social security experts of stakeholders have been interviewed to assess the adequacy and coverage of the project/program and analyze if that measure could be a substitute for the non-contributory social security benefits in Ethiopia.

4.1. The Role of the Right to Social Security in Realizing other Rights of PWDs in Ethiopia

4.1.1. The Right to Adequate Standard of Living

Ninety-five% of PWDs in Ethiopia are unemployed, and the vast majority of them have consequent poor access to food, clean water, housing and health care service. They have poor access to such human necessities due to their vulnerability to such poverty, and the resulting asset depletion they face to cover the extra costs associated with disability.²⁰⁹

in the absence of adequate and sustainable social assistance scheme in this regard, the pension scheme and the cash or in-kind direct support and the livelihood program under the UPSNP/PSNP are adopted to improve access to clean water, food, housing, health service and improve the standard of living of PWDs, most of whom survive on begging.²¹⁰ Nonetheless, the legally established social assistance scheme, by satisfying the nutritional needs and serving as an asset protection mechanism, maintains the income security of the beneficiaries, which potentially reduces poverty and improve the standard of living of PWDs if provided as of right.²¹¹

²⁰⁹ MOLSA, NPAPWDs, (n201) 1-3.

²¹⁰ Interview with Ato Damte Alemu, MOLSA old age and PWD Social Security Directorate Director, Nov. 17, 2020.

²¹¹ *ibid.*

On the other hand, the continuous provision of the survivors pension and gratuity to disabled widows or widowers, or incapacitated children or children with mental health problem even after remarriage and up until the age of twenty-one, helps fulfill the minimum level of the right to adequate standard of living enshrined under the CRPD.²¹²

Thus, as the availability and the sustainable provision of the conditional/unconditional cash transfers under the UPSNP/PSNP could protect unemployed food insecure PWDs from resorting to unwanted coping strategies to access assistive devices, food, housing, water and clothing and ensures their right to adequate standard of living,²¹³ it requires to go beyond providing those benefits via these projects and programs and introduce a sustainable non-contributory social security scheme.

4.1.2. The Right to Education

Illiteracy and disability are closely related. PWVI, for example, have poor access to quality education due to no or insufficient, inaccessible or available support in assistive devices or braille books.²¹⁴ Owing to the absence of reasonable accommodation at schools, PWDs either resort to indecent works, such as begging or engage in activities generating meagre income, which will limit their access to education.²¹⁵ Moreover, the inadequate human power trained with SNE impedes the realization of inclusive education.²¹⁶

Furthermore, PWVI are vulnerable to additional expenses, as they have to expend costs to have their classmates read books, reference materials or read and write down the exam questions and answers for them at school or universities.²¹⁷ Though some students can afford Laptop Computer and access the electronic copy of some books, articles or handouts, they will not have access to basic Computer training both at primary, high or schools or universities.²¹⁸ Moreover, most of the electronic copy of the materials in the local languages are not available in accessible format.²¹⁹

²¹² Interview with Ato Fekadu Regasa, MOLSA Disability Affairs Directorate Unit Leader, Nov. 17, 2020.

²¹³ Interview with Ato Damtew Alemu (n210)

²¹⁴ Interview with Shimelis Taye and others, AAU Students with Visual impairment, April 12, 2021.

²¹⁵ *ibid.*

²¹⁶ Interview with Umar Sultan and others, AAU Students with Hearing Impairment, April 12, 2021.

²¹⁷ Interview with Shimellis Taye and others (n214)

²¹⁸ Interview with Umar Sultan and others (n216)

²¹⁹ Interview with Shimellis Taye and others (n214)

This situation leads to poor academic record, causes low employment opportunity, reduces their competitiveness in the labor market and limits their access to pension scheme.²²⁰

That being the case, social security benefits, albeit cash or in-kind, by enabling PWDs to individually afford mobility aids, hearing-aids, braille materials, rent houses close to schools, ensure adequate food or other basic services, improves the access of PWDs to education,²²¹ expands their employment opportunity and inclusion in the contributory pension and health insurance schemes. However, the role of the right to social security in the realization of the right to education has remained incomplete so far, due to the non-availability of a legally introduced, sustainable and universal contributory social security scheme and non-contributory social assistance schemes.²²²

4.1.3. The Right to Live Independently and to be Included in the Community

Ensuring the right to personal mobility and independence of PWDs enhances their social inclusion.²²³ In this context, CRPD requires State Parties to adopt measures ensuring the personal mobility and the maximum possible independence of PWDs, such as facilitating the access of quality mobility aids, devices, assistive technologies, and live assistance by making them available them at affordable costs.²²⁴ CRPD, moreover, obliges States to ensure access to disability-related needs and financial assistance for disability-related expenses.²²⁵

Realizing this right first requires legally introducing a sustainable non-contributory social assistance scheme, by which PWDs will have access to financial or in-kind assistance, which will accordingly improve their economic access to assistive devices, technologies and reduce the disability-related expenses they face.²²⁶ Second, legally incentivizing firms engaged in the

²²⁰ *ibid.*

²²¹ Interview with Ato Derese Tadesse, Senior Expert at Communication Department of the Federation of Ethiopian National Association of People with Disabilities, May 5, 2021.

²²² *ibid.*

²²³ Interview with Ato Gebre Teshome, Public Relations and Branch Offices Head of the Ethiopian National Association of the Blind, May 11, 2021.

²²⁴ CRPD, Art. 20.

²²⁵ *ibid.*, Art. 28.

²²⁶ Interview with Ato Damtew Alemu (n210)

production, development and import of assistive devices and technologies, through tax holidays or exemptions, to ensure the availability of those disability-related needs at affordable costs.²²⁷

In this regard, Ethiopia has attempted to ensure the social participation, personal mobility and independence of PWDs and enable them perform their daily activities on an equal basis with others by enacting Directive No. 41/2015, which entitles PWDs to have access to private vehicles free from excise tax,²²⁸ on condition that the beneficiaries present a disability certificate from a hospital established and certified by the MOH.²²⁹ This measure facilitates the availability and access of assistive devices and mobility aids at affordable costs.

Though this could be appreciated in realizing the right to independent living and social inclusion, the full enjoyment of the right necessitates the introduction of both contributory and non-contributory social security system, which will reduce disability-related extra costs, unemployment and poverty.²³⁰ Because, the availability of such scheme, by providing income guarantee for PWDs, not only improves their independent living and social inclusion, but also ensures their access to food, education, health care and employment.²³¹

Because, the cash or in-kind benefits under the social assistance scheme, or the benefits under the social insurance system enables PWDs, to by, such supportive devices as mobility aids (wheelchair, crutch and white cane) educational materials (braille papers or books, voice recording devices, computers with screen reader machine, hearing aids) and afford food, thereby creating equal employment and educational opportunity, which also promotes their social inclusion.²³²

4.1.4. The Right to Work and Employment

Promoting employment opportunity is a strategic tool to create income generating opportunity for unemployed PWDs, which the NSPP aims to realize by providing loans, skill training and business plan preparation.²³³ On the other hand, the NPAPWDs, recognizing that low standard of

²²⁷ Interview with Ato Gebre Teshome (n223)

²²⁸ *ibid.*

²²⁹ Ministry of Finance and Economic Cooperation Directive, 2015, preamble, art. 4 and 5, Directive No. 41/2015, Fed. Neg. Gaz. 21th year, No. (Directive No. 41/2015)

²³⁰ Interview with Ato Derese Tadesse (n221)

²³¹ *ibid.*

²³² *ibid.*

²³³ MOLSA, NSPS (n189)

living of PWDs is attributed to low employment rate, requires the government to incentivize organizations employing PWDs either by providing tax exemption or holiday, as such will create a wide job opportunity and expand social security coverage to them.²³⁴

As the social transfers and pension benefits encourages savings and protect the asset depletion PWDs face to cover their disability-related expenses, and enhances their opportunity for self-employment,²³⁵ incentivizing organizations to employ PWDs and providing business skills and preparing business plan as an employment broadening tool helps extend the employment-based contributory social security scheme.²³⁶

In Ethiopia, However, though PWDs could benefit from the unconditional cash or in-kind assistance and conditional transfers under the UPSNP/PSNP,²³⁷ such benefits are not adequate and sustainable, requiring the introduction of non-contributory social assistance benefits through which cash transfers will be provided with the aim of empowering and transforming the lives of PWDs.²³⁸

4.1.5. The Right to Health

There exists a disability-related need for social health insurance for PWDs, owing to the fact that such forms of disabilities as mental or multiple disability require continuous medical treatment.²³⁹ moreover, social assistance through its conditional/unconditional cash transfers could enable PWDs to have economic access to health care service.²⁴⁰ On the other hand, the expansion of the contributory social security scheme becomes income guarantee for disability-related loss or reduction of income due to occupational injury, thereby improving their access to health service.²⁴¹

The NSPP(S) of Ethiopia, accordingly, under focus area three, adopts SHI as a mechanism of extending contributory social insurance schemes to improve the right of access to health to all,

²³⁴ MOLSA, NPAPWDs (n201)

²³⁵ Interview with Ato Damtew Alemu (n210)

²³⁶ MOLSA, NPAPWDs (n201) 43

²³⁷ Interview with Ato Fanuel Abera, MOLSA Social Protection Extension Directorate Productive Safety Net Program Expert, June 18, 2021.

²³⁸ *ibid.*

²³⁹ Interview with Ato Derese Tadesse (n221)

²⁴⁰ Interview with Ato Fekadu Regasa (n212)

²⁴¹ *ibid.*

including PWDs.²⁴² it also devises CBHI to improve access to health to those who are in the informal economy including PWDs.²⁴³ Though a proclamation that endeavors to expand a contributory medical insurance for both employees and pensioners has been introduced, it couldn't extend such health insurance coverage to PWDs, since it is not being implemented due to inadequate human resource of the agency, weak administrative organization, unresolved objections from the potential beneficiaries of the contributory health insurance scheme and inadequate awareness about the scheme.²⁴⁴ The proclamation does not even reach nearly all PWDs due to disability-related unemployment.

However, inasmuch as the realization of the right to employment extends the coverage of the social security schemes and vice versa, expanding social security protection enhances the inclusion of employed PWDs in the mandatory social health insurance.²⁴⁵ As it currently stands moreover, noting that the PSNP is the better implemented target area of the NSPP, the cash transfers under such program do not, in and of itself realize the right to access to health, necessitating strong commitment to legally establish the non-contributory health insurance schemes.²⁴⁶ Moreover, expanding the existing contributory health insurance requires to respond to complaint coming from the employees by organizing awareness about the scheme.²⁴⁷

4.2. Challenges toward Realizing the Right to Social Security of PWDs in Ethiopia

PWDs and their households are prone to additional costs and asset depletion or income loss, as they resort to unwanted coping strategy, such as selling household asset to access assistive devices or quitting a paid job to care for them. This leads to poor standard of living of the family, and limits PWDs access to the contributory social security benefits.²⁴⁸ Against such backdrop,

²⁴² MOLSA, NSPP (n185) 8.

²⁴³ *id.*, 9.

²⁴⁴ Interview with Ato Muluken Argaw, Deputy Director General of the Ethiopian Health Insurance Agency Program Section, September 10, 2021.

²⁴⁵ MOLSA, NSPP (n185) 8.

²⁴⁶ Interview with Ato Fekadu Regasa (n212)

²⁴⁷ Employees resist about the contribution from each spouses, its amount and the contribution from gross income.

²⁴⁸ Interview with Solomon Tammeru and others, former Students of Sebbeta Special School for the Blind, Nov. 5, 2020.

sustainable social security benefits, by enhancing PWD's access to health care service, decreases prevalence of disability.²⁴⁹ Because, the right to social protection of PWDs not only improves the adequate standard of living, but also realizes other rights recognized under the CRPD.²⁵⁰ Nonetheless, main challenges assessed below loom ahead of the efforts toward realizing this right in Ethiopia.

4.2.1. Availability

Upon ratifying the CRPD, Ethiopia committed itself to adopt policies and laws to ensure the availability of the right to social security of PWDs. Accordingly, it has established the pension and health insurance scheme for all including PWDs, and follows up the implementation of the right to employment of PWDs proclamation, Directive No. 41/2015, social protection programs and the NPAPWDs to promote their inclusion in such pension and health insurance coverage, which consequently enhances their economic access to disability-related mobility aids, ensures their personal independence and promote their socioeconomic inclusion.²⁵¹

Though the existing public and private pension laws and the SHI Proclamation have been enacted to extend contributory pension scheme and health insurance to both Employees and pensioners, which may also expand such scheme to employed PWDs, the health insurance and pension proclamations could only reach few PWDs, ninety-five% of whom are unemployed. Regrettably, moreover, as the SHI proclamation did not come into force yet,²⁵² it has not been able to extend health care coverage to PWDs and guarantee against disability-related health expenses.

Moreover, the SHI proclamation is not formulated to extend health care coverage to employees of a private organization. This stands to reason that Ethiopia did not develop a private organization employees pension law during the enactment of the former. To sum up, the Labor, FCSP and Right to Employment of PWDs Proclamation have attempted to extend the contributory pension scheme to employed PWDs by recognizing reasonable accommodation as amounting to discrimination. Directive No. 41/2015 also exempts disability-related mobility aids from tax and excise duties to enable PWDs have adequate access to assistive devices.

²⁴⁹ Interview with Ato Fekadu Regasa (n212)

²⁵⁰ Interview with Ato Derese Tadesse (n221)

²⁵¹ Interview with Ato Fekadu Regasa (n212)

²⁵² Interview with Ato Muluken Argaw, (n244)

It has to also be noted that the pension and SHI proclamations extend coverage to disability and poverty in the course of employment and health care coverage to employed PWDs respectively. Due to the limited coverage of the employment-based pension and health insurance scheme, however, the contributory social security scheme is not available to the vast majority of PWDs, ninety-five% of whom are unemployed and live in poverty.²⁵³ Accordingly, the retirement, invalidity, survivor and incapacity benefits introduced by the pension proclamations is not available to PWDs, owing to which they do not have access to adequate benefits to satisfy the minimum essential level of the right in Ethiopia. Moreover, the fact that the FDRE Constitution and the DSWP do not adopt the rights-based approach to disability and social security has hindered the realization of the right.²⁵⁴

Though credit is due to the existing protections, moreover, the country still lacks a social assistance act ensuring a periodically reviewed non-contributory social security benefits to vulnerable elements of a society, by which PWDs would have been lifted out of poverty.²⁵⁵ However, ensuring PWDs' access to other assistive devices and technologies such as Computers with screen reader machine and hearing-aids and realizing their right to adequate standard of living, health, education and personal independence necessitates the introduction of a legally established and targeted non-contributory social security scheme. Because, such scheme not only guarantees the right to social assistance to PWDs, but also transcends the UPSNP/PSNP and CBHI measures to a legal and moral entitlements.

In addition to the governmental efforts, on the other hand, the CSOs such as the FENAPD pressurizes stakeholders to revise the NPAPWDs, the DSWP and takes measures of reducing the unemployment rate of PWDs and accordingly expand social security coverage by facilitating the management of public toilets and providing shops which has for example been successful in cooperation with the Addis Ababa City Administration.²⁵⁶ However, PWDs are in chronic poverty and still subsist on begging.²⁵⁷ This has limited their access to the right to food, work, education, health and the right to social security. This necessitates the expansion of the contributory and the

²⁵³ Interview with Ato Derese Tadesse (n221)

²⁵⁴ *ibid.*

²⁵⁵ *ibid.*

²⁵⁶ *ibid.*

²⁵⁷ *ibid.*

introduction of non-contributory social security system which will reduce disability-related extra costs, unemployment and poverty.²⁵⁸

In a similar vein, ENAB administers some primary schools and provides in-kind food assistance and educational materials such as braille prints to poor PWDs in public schools or to those under its own administration.²⁵⁹ Though these will accordingly enhance PWDs' literacy and expand the employment opportunity and facilitate their inclusion in the contributory social security scheme, ensuring the availability of social security benefits to all PWDs is not going to be achieved by such occasional provisions.²⁶⁰ Though few of them are employed to be covered by the existing contributory pension scheme in Ethiopia,²⁶¹ moreover, more than ninety-five% of PWDs are unemployed and live in chronic poverty.

Moreover, ENAB presses the tax authorities to reformulate the incentives in a way that could enhance PWDs' employment opportunity as introduced by the VAT proclamation, which exempts the supply of goods and services of business organizations where their PWDs employees constitute sixty%.²⁶² Nonetheless, leave alone that extent, as most employers do not hire PWDs either due to negative attitude or absence of reasonable accommodation, the law is far behind incentivizing organizations to promote the employment opportunity of PWDs and expand social security coverage to them.

When it comes to the measures being taken to ensure the availability of the Non-contributory social assistance benefits that particularly requires large investment,²⁶³ the unconditional-benefit under the UPSNP/PSNP is projected to ensure income security by providing cash transfer to those in risk of vulnerability to poverty, including PWDs.²⁶⁴ However, unlike the social assistance schemes, it only reaches small number of PWDs and provides a minimalist protection due to inadequate resource.²⁶⁵

²⁵⁸ *ibid.*

²⁵⁹ Interview with Ato Gebre Teshome (n223)

²⁶⁰ *ibid.*

²⁶¹ *ibid.*

²⁶² *ibid.*

²⁶³ Interview with Ato Damtew Alemu (n210)

²⁶⁴ *ibid.*

²⁶⁵ *ibid.*

Accordingly, only one million two hundred eighty five thousand one hundred thirty four are benefitting from the direct support under the UPSNP/PSNP in general, ninety three thousand one hundred twenty of which are under the UPSNP.²⁶⁶ Though the absence of disaggregated data of the beneficiaries could make it difficult to know to what extent both UPSNP and the PSNP in general is reaching PWDs,²⁶⁷ the support is not sufficiently available to all PWDs in poverty. Furthermore, the social transfers under the UPSNP/PSNP is not tantamount to the legally established non-contributory social assistance benefits. This indicates that social security benefits are not sufficiently available to PWDs.

On the other hand, the direct support provided by the PSNP under the NSPP only reaches one million one hundred ninety two thousand fourteen beneficiaries, and the UPSNP, which is meant to provide social transfers to PWDs in urban areas is on its pilot phase and currently limited to eleven cities, only projected to cover eighty-three cities and does not reach all poor PWDs in cities which are not included in the project.²⁶⁸ Even in case the social transfers under the UPSNP/PSNP is available to all PWDs, it could not be a substitute for the legally established and periodically reviewed social assistance benefits.

In conclusion, though the non-availability of a universal social security scheme could be attributed to resource constraint in Ethiopia, the adoption of a targeted strategy as well as the formulation of a social assistance legislation as part of introducing the non-contributory scheme, and expanding PWDs' inclusion in the pension and health insurance coverage via broadening their employment opportunity by adopting a law incentivizing organizations to employ PWDs is a minimum obligation required to ensure the availability of social security systems to PWDs.

Moreover, while the government's and CSOs efforts to extend social security for PWDs could be taken as a proactive step in guaranteeing the availability of social security schemes, the absence of a targeted non-contributory social security scheme to the excluded, including PWDs, amounts to the violation of such minimum State obligation in Ethiopia even in the face of insufficient resource, since the adoption of a targeted strategy, social assistance legislation or a law incentivizing organizations to employ PWDs is an immediate State obligation to be achieved with small investment and which could not be attributed to resource constraint.

²⁶⁶ Interview with Ato Fanuel Abera (n237)

²⁶⁷ *ibid.*

²⁶⁸ *ibid.*

4.2.2. Adequacy

As can be understood from the above assessments, neither the social transfers under the PSNP nor those under the UPSNP is adequate to cover disability-related extra expenses and realize PWDs' right to food, health, education and other socioeconomic rights. Due to resource constraint, The cash transfers under the UPSNP, for example, could not provide sustainable benefits to all PWDs in need Even in cities covered by the project.²⁶⁹ In Addis Ababa City Administration where a SPF is established to address the resource inadequacy and provide financial assistance to PWDs who depend on their family and friends, receive meagre income from self-employment, survive on pension benefit, have no means of income or engage in begging, for example,²⁷⁰ the financial assistance is neither adequate to satisfy the basic necessities, ensure the right to education, to housing, health and the right to food nor transform the economic conditions of PWDs.²⁷¹

Even worse, the beneficiaries of such project still depend on friends or family, remain on streets or continue begging.²⁷² School-aged children of the beneficiaries, moreover, get it difficult to attend their education or drop out from schools due to the fact that their parents with disabilities lose or receive reduced income, lack of means to have access to transport service, inadequate access to assistive devices or food.²⁷³ This evinces that the Addis Ababa's social protection measures is yet to achieve the goal of reducing poverty and ensure the personal independence and socioeconomic inclusion of PWDs.

Moreover, though the cash benefits the beneficiaries receive depends on the number of the households,²⁷⁴ and slight increase has been made on the financial assistance,²⁷⁵ there are instances where the financial assistance is not provided to the dependent families in case the beneficiary

²⁶⁹ *ibid.*

²⁷⁰ Interview with Wouneshet Beteley and seven others, Addis Ababa, Akaki Kaliti Sub-city UPSNP and Pension beneficiaries, May 17, 2021.

²⁷¹ *ibid.*

²⁷² Interview with Hamza Usman and seven others, Addis Ababa, Arada Sub-city UPSNP and Pension beneficiaries, May 9, 2021.

²⁷³ *ibid.*

²⁷⁴ Interview with Dinkinesh Debela and seven others, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiaries, may 25, 2021.

²⁷⁵ *ibid.*

dies,²⁷⁶ or the amount of the benefits are not reviewed in view of price inflation²⁷⁷ Similarly, the support provided to PWDs in rural areas under the PSNP is not adequate, owing to which they either resort to indecent works, such as begging or engage in activities generating meagre income,²⁷⁸ and, this limits PWDs' access to adequate food, education, employment, housing and jeopardize their independent living and socioeconomic inclusion.²⁷⁹

As regards the access to education, particularly, PWDs have no or insufficient access to assistive devices such as braille materials.²⁸⁰ In universities, for example, as most PWDs do not have no or sufficient family support, both the financial and material support provided by the universities is not adequate to have access to educational and other supplementary materials, causing poor academic record and thereby limiting their competitiveness in the labor market and limits their access to pension scheme.²⁸¹

On the other hand, the pension benefits and the health insurance benefits under the pension and health insurance proclamations are not adequate to cover disability-related extra expenses.²⁸² This is exacerbated by the low wages of the beneficiaries, since the amount of contribution to such scheme is dependent upon the amount of their wage, and ensuring the adequacy in this regard calls for the introduction of periodically reviewed minimum wage, which will accordingly increases the minimum pension benefits to all including PWDs.

This establishes that the social transfers beneficiaries under the UPSNP/PSNP in other parts of Ethiopia have much poorer access to adequate and sustainable benefits, where unlike the social protection program beneficiaries in Addis Ababa, a social protection fund has not been established and its fiscal source is mainly dependent upon the finance from the World Bank in those areas, and cannot be taken as a substitute for social assistance schemes.

This obliges Ethiopia to not only establish the contributory and non-contributory social security scheme, but also to adequately finance it from domestic sources.²⁸³ Currently, however, seventy%

²⁷⁶ Interview with Wouneshet Beteley and seven others, (n270)

²⁷⁷ *ibid.*

²⁷⁸ Interview with Ato Fanuel Abera (n237)

²⁷⁹ Interview with Shimellis Taye and others (n214)

²⁸⁰ Interview with Umar Sultan and others (n216)

²⁸¹ *ibid.*

²⁸² Interview with Wouneshet Beteley and seven others, (n270)

²⁸³ Interview with Ato Fanuel Abera (n237)

of the UPSNP/PSNP, which unlike the non-contributory social assistance benefits provides limited protection, is financed by the World Bank.²⁸⁴ Though the social protection policy envisages the establishment of a council which will administer the social protection fund and trust funds which may be established, it has not yet come true.²⁸⁵ Although MOLSA has prepared a manual to include private companies in financing social protection measures, it is not put to practice due to the absence of memorandum of understanding among them.²⁸⁶

Moreover, though a legislation establishing SPF, and ensure the domestic financing and realize adequate and sustainable social security benefits is drafted, it has not been able to legally establish the social protection interventions in Ethiopia.²⁸⁷ While the limited coverage of the contributory and the non-availability of legally established and periodically reviewed universal non-contributory social security scheme could be attributed to inadequate resource, Ethiopia lags behind realizing the minimum essential levels of the right to social security by specially giving priority to vulnerable groups, including PWDs.

4.2.3. Accessibility

The employment-based pension and health insurance benefits introduced by the pension and SHI proclamations is not accessible to the vast majority of PWDs, ninety-five% of whom are unemployed. Even worse, since the SHI proclamation did not come in to force yet, the health insurance under such law is not reaching PWDs at all, though they are vulnerable to disability-related health expenses, since such forms of disabilities as mental or multiple disability need continuous medical treatment. moreover, the social transfers under the UPSNP/PSNP, that could not be a substitute for sustainable social assistance benefits is not even reaching all PWDs in chronic poverty.

Regarding physical accessibility, the pension beneficiaries used to receive the benefits via postal codes and Credit and Saving institutions,²⁸⁸ which couldn't ensure the accessibility of those

²⁸⁴ *ibid.*

²⁸⁵ Interview with Ato Damtew Alemu (n210)

²⁸⁶ Interview with Ato Fanuel Abera (n237)

²⁸⁷ Interview with Ato Damtew Alemu (n210)

²⁸⁸ Interview with Ato Abdulkarim Jamal, Senior Expert of the Public Relations and Communication Directorate of the Ethiopian Public Servants Social Security Agency, April 23, 2021, Interview with Ato Girma Sisay, Ethiopian Private Organization Employees Social Security Agency Legal Services Directorate Director, March 22, 2021.

benefits.²⁸⁹ Consequently, the social security agencies have now facilitated conditions by which they credit the benefits in the Banks' saving account of the beneficiaries.²⁹⁰ However, due to the fact that absence of reasonable accommodation in the banking service has not been recognized as amounting to discrimination, and administrative inefficiency of the banks, not all banking services such as the ATM Account, are available to, for example, PWVI, requiring close intersectoral coordination to remedy those hindrances.²⁹¹

As regards the conditional/unconditional social transfers, though the cash benefits under the UPSNP is provided via the beneficiaries bank account as examined above, it is not still accessible due to the limited banking service to PWDs. Moreover, the in-kind benefits under the PSNP, usually provided from warehouses located in towns, is not accessible to PWDs in rural areas, who have to often travel distances or receive by representation.²⁹²

4.2.4. Eligibility Challenge

Just as the social security benefits to PWDs are insufficiently recognized and those which extend limited protection are found scattered in various proclamations, directives and programs, the eligibility conditions for those benefits are also indicated in various policies, laws, internal rules and manuals. The conditional/unconditional cash transfer schemes under the UPSNP/PSNP, for example, uses PMT, a criteria developed to identify poor from non-poor people.²⁹³

This method identifies the potential beneficiaries of the program, through household survey to be conducted by the Ketena committee, or on-demand survey, where applicants seeking the benefit appear before the offices.²⁹⁴ However, it is still criticized for its inclusion and exclusion errors. Under the household visit, for example, PWDs are excluded in case they are not at home during the visit.²⁹⁵ On the other hand, PWDs do not demand the benefits either due to lack of awareness about the availability of the benefits, due to not knowing where to register, or the registration centers are not physically accessible to them.²⁹⁶

²⁸⁹ *ibid.*

²⁹⁰ *ibid.*

²⁹¹ Interview with Hamza Usman and seven others, (n272)

²⁹² Interview with Shimallis Taye Et als, (n214)

²⁹³ Interview with Ato Fanuel Abera (n237)

²⁹⁴ *ibid.*

²⁹⁵ *ibid.*

²⁹⁶ *ibid.*

On the other hand, the fact that beneficiaries provide false information about their income, productive and durable assets during household visit affect the efficiency of these identification procedure.²⁹⁷ As a response to these conundrums, it is suggested that community verification, (ensuring the participation of the community in the identification procedure) and keeping record of the economic situation of the beneficiaries will address inclusion and exclusion errors.²⁹⁸ Moreover, as most of PWDs benefiting from the PSNP and UPSNP are pension beneficiaries or could benefit via old age assistance, it requires to extend the cash transfers to unemployed poor work-age PWDs.²⁹⁹ However, this calls for revising the eligibility criteria and its determination procedures.

The Directive that ensures the independent living of PWDs by exempting vehicles and mobility aids from excise tax and other sales tax also enumerates conditions for those benefits.³⁰⁰ However, the Directive does not entitle PWDs to access such assistive devices by representation.³⁰¹ Moreover, the Directive restricts the right to access such private vehicle to one of the spouses with disabilities.³⁰² This may however limit each spouses right to mobility, socioeconomic inclusion and the effective performance of their daily activities.³⁰³

Coming to the pension proclamations, the retirement pension and gratuity are available to public servants who retire upon or before completing ten years of service respectively, while the invalidity benefits are for those who due to health problem lose or receive reduced income upon or before completing ten years of service. On the other hand, the incapacity benefits are available for public servants who lose income due to more than ten% permanent occupational disablement and to those with same degree of injury but without loss of capacity to work.³⁰⁴ However, as the proclamations do not provide incapacity benefits to less than ten% occupational injury, the

²⁹⁷ *ibid.*

²⁹⁸ *ibid.*

²⁹⁹ Interview with Wouneshet Beteley and seven others, (n270)

³⁰⁰ Directive No. 41/2015, Art. 6 (1) (A-L)

³⁰¹ *id.*, Art. (1) (K)

³⁰² *id.*, Art. 6 (1 L)

³⁰³ Interview with Solomon Tameru et als. (n248)

³⁰⁴ Public Servants Pension Proclamation, (n156) Art. 19, 21, 23, 25, 36 and 38, Private Organization Employees Pension Proclamation (n166) Art. 18, 20, 22, 24, 35 and 37.

invalidity and incapacity benefits seems to have been dichotomized on the basis of functional limitation, which does not comply with the Rights-based approach to disability under the CRPD.

4.2.5. Absence of Coordinated Approach

Improving PWDs' access to education, health, adequate standard of living and social security requires interoffice coordination of all administrative units.³⁰⁵ However, the efforts of the governmental offices in this regard is mainly limited to awareness creation.³⁰⁶ Moreover, the designation of focal persons within each offices did not institutionalize the issue of disability.³⁰⁷ Even worse, it is entrusted to the Women and Children's Affairs Department of the offices. Therefore, two menu of option are tabled to alleviate this lack of institutional harmonization.³⁰⁸ First, enacting a binding coordination law applicable to all executing organs and second, establishing a department in charge of disability affairs within and at all levels of each institutions.³⁰⁹ Though these alternatives could reduce the issue of disability from being taken as a subsidiary matter, the establishment of disability affairs department at all levels of each governmental offices could combine the fragmented efforts and include disability affairs in education, employment, food and social security protection programs.

³⁰⁵ Interview with Ato Damtew Alemu (n210)

³⁰⁶ *ibid.*

³⁰⁷ Interview with Ato Fekadu Regasa (n212)

³⁰⁸ Interview with Ato Damtew Alemu (n210)

³⁰⁹ *ibid.*

Chapter Five

5. Conclusion and Recommendations

5.1. Conclusion

Illiteracy, unemployment, underemployment, nutritional deficiency and health complications either cause or are consequences of disability, leaving PWD in a chronic poverty. Furthermore, PWDs are susceptible to disability-related extra costs and social marginalization. In this context, realizing the right to social security, far beyond promoting the social and economic inclusion of PWDs, helps fulfill their right to education, health and adequate standard of living. It is in view of this notion that the CRC, CEDAW, ICESCR, UDHR and the CRPD ensure this right to PWD. In particular, CRPD has tailored this right to PWDs under its article 28. Realizing this right, on the other hand, requires States Parties to develop policies and strategies as well as laws and allocate sufficient fiscal resources to fulfill both their immediate and progressive obligations.

Coming to Ethiopian context, the FDRE Constitution does not guarantee the rights-based approach to social security. Though the country has adopted the public servants and private organization employees pension proclamation along with the social protection policy and strategy that ensures a contributory social security benefits, such scheme is only confined to guaranteeing against income insecurity due to old age and occupational injury, and inaccessible to unemployed PWD. Furthermore, the conditional/unconditional social transfers under the PSNP/UPSNP is short of providing universal and sustainable non-contributory social security protection to PWD in risk of poverty. Thus, as Ethiopia did not yet adopt a targeted strategy and social assistance legislation ensuring the non-contributory social security scheme, nor revised the Constitution to adhere to the CRPD, it violates realizing its minimum obligation of ensuring the right to social security of PWDs.

Indirectly speaking, however, the Civil Servants Proclamation, Labor Proclamation, Proclamation No. 568/2010, Higher Education Proclamation and Directive No. 41/2015 introduce reasonable accommodation as part of enhancing employment opportunity to PWD, which accordingly expands the contributory social security to them, and improve their access to disability-related needs and promote their socioeconomic inclusion. Though extending sustainable social security benefits could help realize the right to an adequate standard of living, to education, the right to

independent living, employment and to the right to health of PWD, the protection is not fully available, inadequate and not accessible to all PWDs. Even worse, poor eligibility determination procedure, absence of social assistance legislation and interoffice coordination loom ahead of both adopting laws and policies in this regard or implementing the existing once.

5.2. Recommendations

The researcher proposes the following recommendations against the problems facing Ethiopia in realizing the right to social security of PWDs.

- As absence of a universal and legally reviewed social security system that guarantees both contributory and sustainable non-contributory benefits hinder the realization of the right to social security, Ethiopia needs to introduce such scheme by specially adopting social assistance act to provide social transfers to poor PWDs.
- Though the contributory social health insurance scheme that reaches only those who are employed is legally established,³¹⁰ it did not come in to force yet. Thus, achieving a universal health care coverage requires not only the implementation of the Proclamation, but also legally establishing a CBHI, that ensures a health insurance to PWDs in the informal economy.
- As the vast majority of PWDs are excluded from the social security scheme due to their unemployment, the GOE should introduce a targeted program and a law incentivizing organizations to employ PWDs, which will in turn reduce poverty and extend the contributory social security scheme to PWDs.
- Though the PSNP and UPSNP under the social protection policy and strategy can be taken as a proactive measure to extend the non-contributory social assistance benefits in Ethiopia, as such program only provides a minimal protection and official development assistance to such program continues to decline, Ethiopia needs to not only increase investing in social protection, but also commits itself to financing it from domestic sources by establishing a social protection and trust fund, in addition to seeking international assistance, to provide available, accessible and sustainable benefits to PWD.

³¹⁰ Social Health Insurance Proclamation, 2010, Art. 3, Social Health Insurance Proclamation No. 690/2010, 16th year, No. 50.

- The government has to revise such policies as the DSWP, which adopts curing, reforming and institutionalization of PWDs (medical approach) as a coping strategy. Regrettably, moreover, the FDRE Constitution does not follow the rights-based approach to social security, calling for the future revision of the same as is the case for the Kenyan and South African Constitutions.
- As lack of coordinated approach among implementing agencies and exclusionary provisions in the existing legislations impede the implementation of the existing laws, programs and policies and cause the inclusion-exclusion errors respectively, such alternatives proposed by MOLSA as adopting a coordination and cooperation legislation should be operational hand in hand with the establishment of a special department in charge of disability affairs within and at all level of the institutions. A memorandum of understanding among the MOE, MOLSA and MOUDH should be adopted to tailor disability in each policie and enhance coordination among them.
- The CSOs representing PWDs and Human Rights Institutions should supervise the implementation of the existing laws, programs, policies and provide recommendation on the need to adopt a social security law and revise the existing ones such as the NPAPWDs in compliance with the CRPD.

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J. Interviews

- ✓ Interview with Ato Damtew Alemu, MOLSA old age and PWD Social Security Directorate Director, Nov. 17, 2020.
- ✓ Interview with Ato Abdulkerim Jamal, Senior Expert of the Public Relations and Communication Directorate of Public Servants Social Security Agency, April 23, 2021.
- ✓ Interview with Ato Derese Tadesse, Senior Expert at Communication Department of the Federation of Ethiopian National Association of People with Disabilities, May 5, 2021.
- ✓ Interview with Ato Fanuel Abera, MOLSA Social Security Extension Directorate Productive Safety Net Program Expert, June 18, 2021.
- ✓ Interview with Ato Fekadu Regasa, MOLSA Disability Affairs Directorate coordinator, Nov. 17, 2020.
- ✓ Interview with Ato Gebre Teshome, Public Relations and Branch Offices Head of the Ethiopian National Association of the Blind, May 3, 2021.
- ✓ Interview with Ato Girma Sisay, Private Organization Employees Social Security Agency Legal Services Directorate Director, September, 9, 2021
- ✓ Interview with Ato Muluken Argaw, Ethiopian Health Insurance Agency Program Section Deputy Director General, September 9, 2021..
- ✓ Interview with Shimelis Taye and others, AAU Students with Visual impairment, April 12, 2021.
- ✓ Interview with Umar Sultan and others, AAU Students with Hearing Impairment, April 12, 2021.
- ✓ Interview with Solomon Tammeru and others, former Students of Sebbeta Special School for the Blind, Nov. 5, 2020.
- ✓ Interview with Wouneshet Beteley, Addis Ababa, Akaki Kaliti Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Belaynesh Yimer, Addis Ababa, Akaki Kaliti Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Jemanesh Gebre, Addis Ababa, Akaki Kaliti Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Sintayehu Berhanu, Addis Ababa, Akaki Kaliti Sub-city Deceased UPSNP beneficiary's former dependent, May 17, 2021.
- ✓ Interview with Elfinesh Aweke, Addis Ababa, Akaki Kaliti Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Hailu Negash, Addis Ababa, Akaki Kaliti Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Erkiyihun Nur, Addis Ababa, Akaki Kaliti Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Hamza Usman, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 9, 2021.
- ✓ Interview with Radiyat Imam Abdallah, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Mitselal Ara'aya, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 17, 2021.

- ✓ Interview with Thomas Negash, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Nefis Reta, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Leul Girma, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Mohammad Yimer, Addis Ababa, Arada Sub-city UPSNP beneficiary, May 17, 2021.
- ✓ Interview with Dinkinesh Debela, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiary, may 25, 2021.
- ✓ Interview with Alemitu W/yohannes, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiary, may 25, 2021.
- ✓ Interview with Mekiya Mohammad, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiary, may 25, 2021.
- ✓ Interview with Zakir Muradu, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiary, may 25, 2021.
- ✓ Interview with Workinesh G/Amanuel, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiary, may 25, 2021.
- ✓ Interview with T/giorgis W/Tsadik, Addis Ababa, Addis Ketema Sub-city UPSNP beneficiary, may 25, 2021.
- ✓ Interview with Ato Sisay Tilahun, Awareness Raising and Community Mobilization Unit Leader at MOWSA Disability Affairs Directorate, Oct. 13, 2021.

Interview Guide on the Place of The Right to Social Security of PWDs under Ethiopian Legal and Policy frameworks (for Stakeholder institutions and selected informants).

MOLSA

1. How does the Ministry understand the interlinkage between disability and poverty in Ethiopia and take appropriate measures accordingly?
2. Are the social protection measures being undertaken by the Ministry, albeit the contributory pension scheme or the temporary/permanent assistance under the UPSNP/PSNP adequate to address the increasing need for those measures?
3. If the measures being taken by the Ministry is believed to be inadequate, what looks like your national efforts in addition to international cooperation to sustainably finance the social protection interventions from domestic sources and reach all PWDs in need?
4. Are there definite eligibility criteria set to determine beneficiaries in the UPSNP/PSNP, and that could avoid unnecessary inclusion and exclusion errors?
5. What are the current administrative, financial, legislative and practical barriers impeding the realization of the right to social security benefits in general and to PWDs in particular in Ethiopia?
6. How many of persons with disability in need of sustainable social assistance are currently receiving the cash or in-kind benefits under the UPSNP/PSNP in Ethiopia?
7. What is the role of the NPAPWDs in realizing the right to social security of PWDs recognized under the CRPD?
8. As the NPAPWDs is about to expire, did the MOWSA (The Disability Affairs Directorate) conduct assessments on its impacts and on the need to redevelop the plan?

ENAB

1. How does the Association understand the interlinkage between disability and poverty in Ethiopia and take appropriate measures accordingly?
2. Do you believe that persons with visual impairment have sufficient access to the right to social protection, (cash or in kind benefits) which will promote the socioeconomic inclusion, enhance the social participation and help realize the right to adequate standard of living, to health, the right to food, education and the right to live independently of persons with visual impairment?
3. What do you think are the main causes for persons with visual impairment to have limited access to food, clothing, housing, education and health? And do you think that such limited access to these basic necessities could be alleviated by providing cash or in kind benefits to these people as part of realizing the right to social security?
4. What eligibility criteria are in use to select beneficiaries of cash or in kind benefits being provided by the Association, if any?
5. What is the role of the Association to realize the right to social security of persons with visual impairment?
6. What are the major challenges facing the Association in providing cash or in kind benefits to persons with visual impairment in poverty to help them satisfy the minimum essential levels of the rights recognized under the CRPD?
7. Did the Association participate in the design and adoption of the 2014 and 2016 social protection policy and social protection strategy respectively?

For Federation of Ethiopian National Associations of Persons with Disabilities

1. How does the Federation understand the interlinkage between disability and poverty in Ethiopia and take appropriate measures accordingly?
2. Do you believe that persons with disabilities have sufficient access to the right to social protection, (cash or in kind benefits) which will promote the socioeconomic inclusion, enhance the social participation and help realize their right to adequate standard of living, to health, the right to food, education and the right to live independently?
3. What do you think are the main causes for persons with disabilities to have limited access to food, clothing, housing, education and health? And do you think that such limited access to these basic necessities could be alleviated by providing cash or in kind benefits to these people as part of realizing the right to social security?
4. What is the role of the Federation to realize the right to social security of persons with disabilities?
5. Did the Federation participate in the adoption of the CRPD and the 2014 and 2016 social protection policy and social protection strategy respectively?
6. What are the issues identified by the Federation, and that require special attention to progressively realize the right to social security of PWDs?

Selected individual informants

1. Do you believe that social security benefits (cash or in kind benefits to persons with disabilities in situation of poverty) is available to enable these people to have access to food, housing, health, education and assistive devices?
2. What do you think are the causes for the non-realization of the right to social security benefits (both contributory and non-contributory schemes)to persons with disabilities? And what measure must be taken to realize this right?
3. What are the main challenges you face in having access to adequate housing and food, health, education and assistive devices and do you think that those challenges could be alleviated through the provision of social security benefits?
4. Have you ever applied for the cash or in-kind benefits under the UPSNP/PSNP to any Authority? And what remedy were you given? Or on what basis your application got rejected?
5. Have you ever applied for the increase in the cash or in-kind benefits under such programs, if any, to tackle price inflation?
6. Do you think that incentivizing employers, (both private and public) to employ persons with disabilities could create a wide employment opportunity and thereby enhance the extension of contributory social security schemes to these people?
7. Do you think that exempting persons with disabilities from paying tax would relieve them from the extra costs associated with disability and improve their access to food, health service, assistive devices, housing and education?
8. Do you believe that exempting persons with disabilities from tuition fee could increase their access to food, housing, health and education?

For Ethiopian Health Insurance Agency

1. What are the roles of the Agency in expanding health insurance coverage to PWDs and ensure its accessibility as part of realizing the right to social security of these vulnerable group?
2. What looks like the current enforcement of the Social Health Insurance proclamation that could extend a contributory health insurance to employed PWDs?
3. Does the Agency believe that PWDs particularly face disability-related health expenses?

4. What challenges impeded the enforcement of the SHI proclamation? and what measures are being taken to address those challenges?

For Private Organization Employees Social Security Agency

1. What are the roles of the Agency in expanding the contributory social insurance packages guaranteed under the proclamation and ensure the physical accessibility of the benefits to PWDs?
2. Having in mind that the Private Organization Employees Pension Proclamation has attempted to extend the pension scheme to those in religious institutions and informal economy, what measures have been taken to extend such protection to these group, in order to reach PWDs in these sector?
3. What are the challenges impeding the full realization of the right to social security of PWDs in Ethiopia?
4. Bearing in mind that the proclamation empowers the Agency to conduct studies and submit its finding to the Council of Ministers for the review of the minimum pension, did the Agency conduct such study?

For Public Servants Social Security Agency

1. What are the roles of the Agency in expanding the contributory social insurance packages guaranteed under the proclamation and ensure the physical accessibility of the benefits to PWDs?
2. What are the challenges impeding the full realization of the right to social security of PWDs in Ethiopia?
3. Bearing in mind that the proclamation empowers the Agency to conduct studies and submit its finding to the Council of Ministers for the review of the minimum pension, did the Agency ever conduct such study?