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# Access to Justice for Persons with Disabilities in Ethiopia

## Legal, Institutional and Practical Barriers



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International Commission of Jurists
Rue des Buis 3
P.O. Box 1740
1211 Genève 1
Switzerland

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**GLOSSARY OF TERMS**

*__Charity model of disability:__ A traditional approach that views persons with disabilities primarily as objects of charity, welfare, care, or protection rather than as holders of rights. Under this model, disability is regarded as a personal tragedy requiring assistance and dependency, rather than the removal of barriers and the realization of equality, autonomy, and inclusion. This approach is inconsistent with the human rights model of disability adopted by the Convention on the Rights of Persons with Disabilities (CRPD).

*__Human rights model of disability:__ The model of disability adopted by the CRPD, which recognizes disability as a social construct arising from the interaction between impairments and attitudinal, environmental, legal, and other barriers. It affirms that persons with disabilities are rights holders entitled to equality, autonomy, non-discrimination, and full participation in society. Under this model, impairments cannot justify the denial or restriction of human rights, and States are required to remove barriers and ensure the equal enjoyment of rights by persons with disabilities.

*__Medical model of disability:__ A traditional approach that understands disability primarily as a consequence of an individual's impairment rather than the interaction between impairment and societal barriers. Under this model, persons with disabilities are viewed principally through the lens of their impairments rather than as rights holders, and differential treatment, exclusion, or restrictions on their rights may be regarded as legitimate on the basis of perceived incapacity. The CRPD rejected this approach in favour of the human rights model of disability.

****Intermediaries (also known as "facilitators")**: persons who work, as required, with justice system personnel and persons with disabilities to ensure effective communication during legal proceedings. They support persons with disabilities to understand and make informed choices, making sure that things are explained and talked about in ways that persons with disabilities can understand, and that appropriate accommodations and support are provided. Intermediaries are neutral and they do not speak for persons with disabilities or for the justice system, nor do they lead or influence decisions or outcomes.

****Legal capacity**: the capacity to be both a holder of rights and an actor under the law. Legal capacity to be a holder of rights entitles persons to full protection of their rights by the legal system. Legal capacity to act under the law recognizes a person as an agent with the power to engage in transactions and create, modify or end legal relationships.

*__Mental capacity:__ A person's decision-making abilities, which naturally vary from one individual to another and may also vary over time depending on environmental and social factors. The UN Committee on the Rights of Persons with Disabilities (CRPD Committee) has emphasized that mental capacity is distinct from legal capacity, and that actual or perceived deficits in mental capacity must never be used as a justification for denying legal capacity.

****Reasonable accommodation**: all necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

****Procedural accommodation**: all necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case, to ensure the participation of persons with disabilities on an equal basis with others. Unlike reasonable accommodations, procedural accommodations are not limited by the concept of "disproportionate or undue burden".

**Substituted decision-making**: when legal capacity is removed from persons, even if this is in respect of a single decision; or substitute decision-makers (i.e. guardians, guardians *ad litem*, attorneys or experts) are appointed by someone other than the persons concerned against their will; or decisions are made by substitute decision-makers based on the "best interests" of the persons concerned, as opposed to being based on the will and preferences of such persons as the CRPD requires.

***Supported decision-making:** A framework through which persons with disabilities receive the support they may require to exercise their legal capacity while retaining the right to make their own decisions in accordance with their will and preferences. The CRPD Committee has emphasized that supported decision-making must replace substitute decision-making regimes and must respect the autonomy, rights, will, and preferences of the person concerned.

****Universal design:** the design of products, environments, programmes, devices and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

* These definitions are drawn from the CRPD Committee's *General Comment No. 1 (2014) on Article 12: Equal Recognition before the Law*, CRPD/C/GC/1, 19 May 2014, §§ 12-14, 26-29; and *General Comment No. 6 (2018) on equality and non-discriminatio*n, CRPD/C/GC/6, 26 April 2018, §§ 8-9 (footnotes omitted).

** These are definitions reproduced from *The International Principles and Guidelines on Access to Justice for Persons with Disabilities*, by the UN Special Rapporteur on the Rights of Persons with Disabilities, 2020, pp.9-10, available at: https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities (footnotes omitted).

## EXECUTIVE SUMMARY

This report examines the extent to which Ethiopia has complied with its international law obligation to ensure access to justice for persons with disabilities in accordance with the Convention on the Rights of Persons with Disabilities (CRPD) which the country ratified in 2010, as well as with other pertinent legal obligations.

The report sets out Ethiopia's above-mentioned legal obligations under the CRPD and other international human rights law and standards. It then evaluates Ethiopia's implementation of and compliance with these obligations, and in so doing identifies a range of interrelated legal, institutional and practical barriers that continue to impede access to justice for persons with disabilities in Ethiopia.

The report highlights how, more than 15 years after becoming a party to the CRPD, and nearly a decade since the Committee on the Rights of Persons with Disabilities (CRPD Committee) – the body of independent experts that monitors States Parties' implementation of and compliance with their legal obligations under the CRPD – issued recommendations to Ethiopia on its compliance with these obligations, in general, Ethiopia's laws, policies and practices fall considerably short of the standard set by the CRPD, namely, that justice should be fully accessible to persons with disabilities on an equal basis with other persons.

The report concludes that it is unclear whether or not the Ethiopian authorities have made any significant efforts to implement the recommendations of the CRPD Committee. In addition, no structured, comprehensive or holistic approach has been adopted to ensuring the protection of the human rights of persons with disabilities in the justice context. The enactment in April 2026 of a new Criminal Procedure and Evidence Code that retains impairment-based approaches to fitness to stand trial and to the competence of witnesses, sixteen years after ratification of the CRPD and without giving effect to the Committee's recommendations, suggests that, in some respects, the direction of travel is potentially regressive.

As such, this research report has identified a number of key human rights concerns, including:

- **Inadequate constitutional recognition of the human rights of persons with disabilities:** The Constitution does not expressly prohibit discrimination on the basis of disability under its general equality clause.[1] In addition, the provision of the Constitution on the protection of persons with disabilities[2] reflects elements of a charity-model of disability, rather than the human rights model of disability underpinning the CRPD;
- **No comprehensive anti-discrimination law:** Ethiopia has not enacted a comprehensively applicable anti-discrimination law addressing the gaps in the constitutional equality framework and establishing effective remedies for discrimination on the basis of disability;
- **No disability-specific legislation:** Ethiopia has yet to enact a disability-specific legislation domesticating the CRPD;
- **Laws excluding the legal capacity of persons with disabilities:** The continued application of a wide range of laws restricting or excluding the legal capacity of persons with disabilities on the basis of their disabilities, which has a particularly negative effect on – especially but not limited to – persons with intellectual and/or psychosocial disabilities;
- **Institutionalization and forced treatment:** Laws and prevailing practices that, in their implementation, allow the forced institutionalization and/or treatment of persons with disabilities where it is determined that they lack legal capacity or are unfit to participate in criminal proceedings;

[1] Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution), 1995, Article 25.
[2] *Ibid*, Article 41 (5).

- **Lack of legal recognition and support for witnesses with disabilities:** The Civil Procedure Code (1965) does not expressly recognize the competence of persons with disabilities to testify on an equal basis with others and the new Criminal Procedure and Evidence Code (Proclamation No. 1410/2026), while presuming the competence of witnesses generally, allows courts to prevent a witness from testifying on grounds that include physical or mental illness. Neither establishes the procedural accommodations and support measures necessary to facilitate their effective participation in legal proceedings, thereby risking their exclusion from judicial processes and discriminatory treatment in practice;
- **Lack of procedural accommodations and support:** Procedural accommodations for persons with disabilities are not fully guaranteed in law and are typically unavailable in practice. The absence of intermediaries, personal assistants and other supports limits the ability of persons with disabilities to effectively interact with and participate in the justice system in various capacities.
- **Judicial decisions contrary to the CRPD:** in *Addis Ababa City Justice Bureau v. Mekonen Teklu* (Federal Supreme Court Cassation Division, 2012),[3] the Court held that the procedural guarantees under the Right to Employment of Persons with Disabilities Proclamation No.568 of 2008 do not apply to judges and prosecutors with disabilities, thereby excluding judicial appointees from the limited protections otherwise available to public employees with disabilities;
- **Inaccessibility of the justice infrastructure:** Despite the adoption of some accessibility standards for public buildings, including justice-sector infrastructure, many courts and other justice institutions in the country remain physically inaccessible to persons with disabilities due to inadequate implementation of accessibility standards, limited retrofitting of existing structures, and the absence of effective compliance monitoring mechanisms;
- **Inaccessibility of legal information and digital systems:** Legal information, court documents, and justice-related communications are often not available in formats accessible to persons with disabilities. In addition, digital justice initiatives and electronic platforms are generally not designed and implemented in accordance with accessibility standards, creating, in turn, additional barriers to accessing legal information, court services and judicial processes;
- **Inadequacy of legal aid framework and services:** Legal aid legislation, resourcing and service delivery mechanisms remain insufficient to ensure effective access to legal aid for persons with disabilities. Existing legal aid services are limited in scope and the reliance on organizations of persons with disabilities (OPDs) to provide legal aid services highlights significant gaps in the availability and accessibility of legal aid services for persons with disabilities;
- **Exclusion of lawyers who are blind or who are otherwise visually impaired from judicial appointments:** in *Wesen Alemu and Dawit Oticho v. Amhara National Regional State Justice Professionals Training and Legal Research Institute and the ANRS Judicial Administration* (House of Federation, 2016),[4] the House held that the exclusion of candidates who are blind or who are otherwise visually impaired from judicial appointment was discriminatory and contrary to domestic and international law. Despite this decision, lawyers who are blind or are partially sighted, in practice, continue to be excluded from appointment to judicial offices; and

[3] *Addis Ababa City Justice Bureau vs. Mekonen Teklu*, Federal Supreme Court Cassation Decision No.75034, Volume 14, 2013, pp.234-237, available at https://www.fsc.gov.et/Digital-Law-Library/Publications/Federal-Cassation-Decision-Series/volume-14 [Amharic text].

[4] *Wesen Alemu and Dawit Oticho vs ANRS Justice Professionals Training and Legal Research Institute and ANRS Judicial Administration,* the House of Federation, Case File No.019/08, 12 October 2016 [Amharic text]. The House of Federation is the upper chamber of the Federal Parliamentary Assembly composed of representatives of the nations, nationalities and peoples of Ethiopia. Among other things, the House has the mandate to interpret the Constitution and adjudication of constitutional disputes. So, in Ethiopia, ordinary courts do not have the power to entertain issues of interpretation of the Constitution or disputes involving constitutional interpretation. See the FDRE Constitution, Articles 61 and 83.

- **No reasonable accommodations for lawyers with disabilities:** despite a statutory right to specific accommodations, lawyers with disabilities working within the judiciary or in prosecutors' offices are in practice often excluded from the provision of such accommodations, including as a result of the failure to appoint qualified personal assistants; and

Building on the recommendations of the CRPD Committee in its concluding observations to Ethiopia in August 2016,[5] the report concludes by making a range of general and specific recommendations to the authorities concerned in Ethiopia on the measures they should put in place to ensure effective access to justice for persons with disabilities.

Ensuring effective access to justice for persons with disabilities in Ethiopia on an equal basis with other persons, the report concludes, will require more than existing *ad hoc,* intermittent, unconnected and incremental reforms here and there. Instead, it will require a comprehensive review, revision and transformation of the legal and institutional frameworks relating to access to justice for persons with disabilities.

## A. *International human rights law and standards*

Article 4 of the CRPD requires Ethiopia to adopt legislative, administrative and other measures to give effect to the rights recognized in the Convention. Such measures include: reviewing and repealing discriminatory laws; establishing support frameworks; and ensuring the effective participation of persons with disabilities in all areas of public life.

Article 13 of the CRPD guarantees the right of persons with disabilities to access to justice, including through the provision of procedural and age-appropriate accommodations and support measures. The obligation to provide such accommodations is immediate and non-compliance with it cannot be excused by reference to resource constraints – including human, financial and technological resource constraints. The obligation to provide procedural accommodation applies to all disabilities. For example, deaf persons may require qualified sign language interpreters; persons with psychosocial and/or intellectual disabilities may require support of justice intermediaries; persons who are blind or partially sighted may require the provision of Braille documents and/or accessible electronic format documents; and persons who are Deaf-Blind may require tactile reading support. Likewise, persons with multiple or intersecting disabilities may require a combination of procedural accommodations and support measures tailored to their individual circumstances, recognizing the diverse and evolving nature of disability. These essential disability-specific procedural accommodations and support are supposed to be available on the spot on a case-by-case basis.

The right to access to justice for persons with disabilities is closely linked with and reinforced by a range of other human rights guaranteed by the CRPD and that, in turn, give rise to corresponding obligations, including, but not limited to: the right to equal recognition before the law (Article 12), the right to equality and non-discrimination (Article 5), the right to liberty and security of the person (Article 14), and the right to accessibility (Article 9). Read together, these provisions require States not only to remove formal legal barriers to access to justice but also to establish enabling legal, procedural and institutional frameworks that ensure the full and effective participation of persons with disabilities in the justice system, in all capacities, at all stages, on an equal basis with other persons.

[5] The Committee on the Rights of Persons with Disabilities (CRPD Committee), 'Concluding Observations on the Initial Report of Ethiopia,' CRPD/C/ETH/CO/1, 31 August 2016.

Persons with disabilities have every right to participate in justice processes in a full range of capacities, including as: rights holders, complainants, accused persons, defendants, witnesses, or legal professionals.

The CRPD obligations outlined above apply in all criminal, civil and administrative proceedings.

These CRPD obligations are also reflected in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol or 'ADP'), which entered into force in 2024, and which Ethiopia has not yet ratified. The Protocol provides a regionally grounded framework reinforcing CRPD standards. While ratification and implementation of the Protocol could further consolidate the legal framework on the rights of persons with disabilities in the country, including in relation to access to justice, its effectiveness would, as with existing obligations under the CRPD, ultimately depend on sustained political will and robust implementation at the national level.

The CRPD Committee issued its concluding observations on Ethiopia in 2016, following its review of Ethiopia's initial periodic report under the Convention. With respect to access to justice, the Committee recommended that, Ethiopia should:

- Repeal or amend discriminatory laws and policies that restrict or deny the legal capacity of persons with disabilities, including provisions permitting declarations of unfitness to stand trial on the basis of disability;
- Legally recognize reasonable accommodations and support measures that apply to all rights and operationalize procedural accommodations at all stages of investigations and court processes;
- Implement laws, regulations and directives on infrastructural accessibility, which includes ensuring the accessibility of justice institutions and services; and
- Undertake systematic capacity-building and awareness-raising for justice sector actors to ensure the effective implementation of the rights of persons with disabilities.

*B. Ethiopia's legal framework and the main barriers to access to justice for persons with disabilities*

Despite express constitutional guarantees on the right to equality in the 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution) and on the right to access to justice, Ethiopia's domestic legal frameworks on the human rights of persons with disabilities remain fragmented and insufficient to give full effect to the CRPD.

The absence of an explicit prohibition of disability-based discrimination within the general equality clause contained in Article 25 of the FDRE Constitution constitutes a fundamental gap in the constitutional protection framework. However, this gap has been partially mitigated by the House of Federation, which has recognized that the residual category of "other status" under Article 25 of the Constitution prohibits discrimination on the basis of disability.[6]

Unlike the relatively comprehensive constitutional recognition afforded to historically disadvantaged groups, such as women (Article 35), the FDRE Constitution does not provide comparable and comprehensive protection against disability-based discrimination. This gap is significant given that persons with disabilities are estimated to constitute around 17.6 per cent of the country's population.[7] In addition, the absence of a comprehensive anti-discrimination law further limits the scope and enforceability of the human rights of persons with disabilities.

[6] *Alemu and Dawit Oticho vs ANRS Justice Professionals Training and Legal Research Institute and ANRS Judicial Administration,* the House of Federation, Case File No.019/08, 12 October 2016 (Amharic text).
[7] World Health Organization, the World Bank: World Report on Disability (Geneva, 2011). Available at http://www.who.int/disabilities/world_report/2011/report.pdf. p.207.

Moreover, the continued reliance – both in law and in practice, including within constitutional provisions, such as Article 41(5) – on a charity or welfare-based understanding of disability reflects a foundational misalignment with the human rights model of disability underpinning the CRPD.

### *i.* ***Absence of a disability-specific law***

Ethiopia is yet to enact a standalone disability law. The continued absence of a comprehensive disability law represents a critical legal gap in Ethiopia's recognition of the human rights of persons with disabilities, and in its domestication of the CRPD, including its obligations relating to equality before the law, legal capacity, and procedural accommodations necessary to ensure effective access to justice for persons with disabilities. It also leaves justice actors with inadequate legislative guidance about their responsibilities in this regard.

Although a process has been underway since 2021 for the drafting of comprehensive disability legislation, it is of serious concern that this process has not been completed yet. In addition, persons with disabilities indicate that the process has been undertaken with limited transparency and consultation of OPDs. As a result, the process itself already falls short of Article 4(3) of the CRPD, which requires active and meaningful participation of persons with disabilities and their representative organizations in the development of legislation and policies affecting them. It also calls into question whether, even if the law is ultimately enacted, it will fully address the obstacles faced by persons with disabilities in accessing justice effectively, let alone adequately guarantee their human rights.

### *ii.* ***The Right to Employment of Persons with Disabilities Proclamation***

Adopted in 2008, the Right to Employment of Persons with Disabilities Proclamation No. 568 remains the only disability and employment-specific law in force in Ethiopia.[8] To a certain extent, the Proclamation reflects a recognition of a human rights-based approach to disability and establishes an important procedural safeguard in employment disputes. It does so by allowing individuals to bring claims of disability-based discrimination in the employment context before a court without placing on them the burden of proof. With respect to this, it shifts the burden onto the employer to demonstrate that no discrimination occurred contrary to the complainant's allegation that they have been subjected to discrimination on the grounds of their disability. However, a restrictive interpretation by the Federal Supreme Court (Cassation Division) in the *Addis Ababa City Justice Bureau v. Mekonen Teklu* case has narrowed the protective scope of the Right to Employment of Persons with Disabilities Proclamation by excluding the application of its safeguard in employment disputes involving judges and prosecutors.[9] As a result, justice actors who are persons with disabilities and persons with disabilities seeking to be appointed as justice actors do not benefit from the protective scope of the abovementioned procedural safeguard and are thus at risk of discrimination on the basis of disability.

### *iii.* ***Restrictions on persons with disabilities' exercise of their legal capacity***

Ethiopia's legal system continues to be characterized by entrenched models of disability-based discrimination and ableism[10] by restricting and/or completely taking away the legal capacity of

[8] A "Proclamation" is the equivalent of an Act in Ethiopian legislative framework.

[9] See Section IV (b) of the report, under the sub-heading 'Employment of Persons with Disabilities Law'.

[10] The CRPD Committee defines ableism as "a value system that considers certain typical characteristics of body and mind as essential for living a life of value [...] [and, consequently] considers the disability experience as a misfortune that leads to suffering and disadvantage and invariably devalues human life." CRPD Committee, General Comment No.8 (2022) on the rights of persons with disabilities to work and employment,' CRPD/C/GC/8, 7 October 2022, § 3. More broadly, ableism refers to attitudes, assumptions, practices, laws, or social structures that privilege non-disabled ways of functioning as the norm or as inherently superior, while marginalizing or disadvantaging persons with disabilities. See Talia A. Lewis, 'Working Definition of Ableism",

persons with disabilities, and by reinforcing substitute decision-making regimes that deny persons with disabilities equal recognition before the law without discrimination. Legal codes continue to rely on impairment-based assessments that restrict autonomy and exclude persons with disabilities from exercising their right to legal capacity on an equal basis with others, which, in turn, is critical to their humanity and inherent dignity.[11]

Although Ethiopia's major codified law, i.e., the Civil Code (1960), presumes general legal capacity, it excludes persons with psychosocial and/or intellectual disabilities. It does so expressly, by identifying persons deemed "insane" or "infirm," as legally incapable, subjecting them to "interdiction", and thereby restricting their autonomy in civil, contractual and family matters.

The Civil Procedure Code (1965) similarly restricts the legal capacity of persons with disabilities by requiring persons classified as "under disability" to act through proxies and/or guardians. Where such representation is absent, judicial proceedings must be stayed until a representative is appointed, reflecting a system of substitute rather than supported decision-making.

The Revised Family Code (2000) similarly limits the legal capacity of persons with intellectual and/or psychosocial disabilities to marry, adopt or consent in the context of family-related decisions.

In the criminal law context, the 2004 Criminal Code adopts a predominantly medical and custodial approach, treating disability as a ground for exclusion or mitigation of criminal responsibility. Similarly, the provisions of the Criminal Procedure and Evidence Code (Proclamation No.1410), enacted in April 2026, concerned with determining the fitness or otherwise of an accused person to participate in criminal proceedings reproduce the impairment-based approach of the Criminal Code.[12] Article 7 of the Code, on equal protection of the law, likewise does not list disability among the prohibited grounds of discrimination.

These laws are fundamentally and directly incompatible with Articles 12, 13 and/or 14 of the CRPD. They undermine, among others, the rights of persons with disabilities to legal capacity, access to justice without discrimination, and above all, dignity. They thereby prevent persons with disabilities from effectively participating in legal proceedings on an equal basis with their non-disabled counterparts.

### *iv.* ***Deprivation of liberty of persons with disabilities***

In addition to constituting in and of themselves violations of the human rights of the persons with disabilities concerned, findings of legal incapacity under the 2004 Criminal Code, as well as findings of unfitness to participate in criminal proceedings under the Criminal Procedure and Evidence Code (Proclamation No.1410), give rise to further human rights violations because they may result in court orders of detention of persons with disabilities, such as, indefinite institutional confinement in hospitals or psychiatric facilities without any due process. Such confinements, which under the CRPD – and more broadly under international human rights law and standards – amount to

updated January 2021, https://www.talilalewis.com/blog/january-2021-working-definition-of-ableism. Within disability rights discourse, ableism is closely linked to the medical or charity model of disability, where disability is viewed primarily as a defect or personal tragedy rather than as part of human diversity.

[11] UN Convention on the Rights of Persons with Disabilities (CRPD), Articles 1, 3 (a), and 12; CRPD Committee, General Comment No.1 (2014), Article 12: Equal recognition before the law, CRPD/C/GC/1, 19 May 2014, paras 4 and 33.

[12] The Criminal Procedure and Evidence Code, Proclamation No.1410 of 2026, Article 228 (Amharic text). No official English translation of the Code had been published at the time of writing this report. The English quotations and descriptions of its provisions in this report are based on the ICJ's unofficial working translation, provided for reference only. The unofficial translations of the relevant provisions of the Code referenced in this report are also accessible at ICJ's website.

prohibited institutionalization and/or forced treatment, appear to be "justified" on the grounds of the purported need for "treatment" of the concerned individual, as well as their supposed need of "protection" and alleged considerations of "public safety". Such regimes may lead to persons with disabilities being arbitrarily deprived of their liberty for indefinite periods, subjected to forced institutionalization or treatment, and/or otherwise abused, and denied any meaningful participation in legal proceedings, often without being afforded effective due process guarantees or being convicted of any crime.

In practice, such detention and confinement orders are made without adequate procedural safeguards and may lead to indefinite detention, subject only to perfunctory rather than substantive periodic review by the courts. Under the Criminal Code, such reviews occur every two years and may lead to an end to detention only upon a court decision based on medical evidence that the purported grounds for confinement have ceased to exist. The Criminal Procedure and Evidence Code (Proclamation No.1410) additionally allows a court that has postponed the hearing of an accused person found unfit to participate in the proceedings, for a period of up to one year, and to order that the accused, where considered to pose a danger to themselves or the community, be kept in a relevant institution.[13] While this period is time-limited, the Code does not set standards or procedures for reviewing such detention, albeit, if, purportedly, there is no improvement after the period, the Code allows an alternative disposition and precautionary measures, the nature and duration of which are unspecified.[14]

Therefore, the Criminal Code and the Criminal Procedure and Evidence Code (Proclamation No.1410), as well as the prevailing practices informing their implementation, lead to forms of institutionalization and are inconsistent with the right to liberty and security of the person of persons with disabilities under international human rights law and standards, including under Article 14 of the CRPD.

### *v.* ***Exclusion of persons with disabilities as competent witnesses***

Neither the Criminal Procedure Code of 1961, repealed in 2026, nor the Civil Procedure Code of 1965 contains provisions expressly guaranteeing the right of witnesses with disabilities to participate in legal processes and affirming their competence to give evidence. Nor does either of these codes specify procedural accommodations and support measures necessary to enable their effective participation in legal proceedings. This normative gap creates a risk of indirect discrimination, as formally neutral procedural rules may in practice disadvantage witnesses with disabilities by failing to provide the accommodations and support necessary for them to participate and exercise their legal capacity on an equal basis with others, contrary to Articles 12 and 13 of the CRPD.

The Criminal Procedure and Evidence Code (Proclamation No.1410/2006) addresses the competence of witnesses in Article 247, which presumes that any witness who is not restricted by law is competent to testify. However, Article 247(4) allows a court to prevent a witness from testifying where, among other things, "by reason of senility or physical or mental illness", the witness is unable to understand the facts or the questions put to them. Because the provision makes no reference to procedural accommodation or support, it risks being used as a legal basis for exclusion of witnesses with disabilities, particularly persons with intellectual and/or psychosocial disabilities, contrary to the guarantees under Articles 12 and 13 of the CRPD.

[13] *Ibid*, Article 228 (6).

[14] The provisions on detention following determination of inability to participate in criminal proceedings are examined in more detail in Section VI.

### *vi.* ***Inaccessibility of key justice infrastructure***

Recent legal developments, particularly the Building Proclamation No.1356 of 2024 and related regulations, establish accessibility obligations for justice-sector buildings and infrastructures, including requirements for inclusive design and retrofitting of existing structures.[15] However, significant implementation gaps continue to limit the physical accessibility of justice institutions in Ethiopia, restricting the ability of persons with disabilities to access justice effectively, including by limiting the actual accessibility of courts and related services. These shortcomings undermine compliance with Article 9 of the CRPD, which requires States Parties to ensure accessibility to the physical environment and to facilities and services open to the public, including through the identification and elimination of barriers and the effective implementation of accessibility standards.[16]

### *vii.* ***Inaccessibility of legal information and services***

Barriers also remain in the accessibility of services, information, and communication systems within Ethiopia's justice system. Under the CRPD (Article 9), Ethiopia is required to ensure that legal and other public information be available in accessible formats, including alternative formats, such as Braille and screen-reader-compatible documents. Despite these clear obligations and requirements, courts in Ethiopia continue to rely predominantly on inaccessible formats, such as printed materials, scanned PDFs, and image-based electronic documents, thereby excluding persons who are blind or otherwise visually impaired from effective access to legal information and documents necessary for their meaningful participation in justice processes on an equal basis with others.

Recent digital innovations introduced by the Federal Supreme Court of Ethiopia, including electronic case management and e-filing systems, lack explicit accessibility standards or accommodations, risking the replication of existing barriers in digital form.

Similarly, while the Federal Supreme Court's initiative to publish audio versions of cassation decisions is a positive development, it remains insufficient to ensure accessible and user-friendly information systems for persons with disabilities.

Systemic gaps continue to constrain equal access to legal information and effective participation of persons with disabilities in the justice system and processes undermining the guarantees under Articles 9 and 13 of the CRPD.

### *viii.* ***Unavailability of necessary procedural accommodations***

Ethiopia lacks a comprehensive legal framework integrating reasonable and/or procedural accommodations into the justice system. The Civil Procedure Code (1965) does not envisage any disability-related accommodations, and the Criminal Procedure and Evidence Code (Proclamation No.1410) do not explicitly impose a duty to provide reasonable or procedural accommodations in criminal proceedings, apart from provision for legal representation and sign language interpretation. Despite the CRPD Committee's recommendations,[17] procedural accommodations remain largely unavailable to persons with disabilities in law and practice.

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[15] Ethiopian Building Proclamation No.1356/2024, Article 23 (1).
[16] Also see, CRPD Committee, General Comment No.2 (2014), Article 9: Accessibility, CRPD/C/GC/2, 22 May 2014; UN Human Rights Council, 'Disability-inclusive infrastructure, including transport and housing,' Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/61/32, 9 January 2026, available at https://docs.un.org/en/A/HRC/61/32.
[17] CRPD Committee, 'Concluding Observations on the Initial Report of Ethiopia,' § 30.

While certain measures—such as sign language interpretation— are legally recognized, their implementation is not institutionalized. There is no clear regulatory system for training, accreditation, and funding of qualified sign language interpreters. Courts often rely on *ad hoc* arrangements, such as by seeking sign language interpretation services from OPDs as interlocutors.

Similarly, there is no legal recognition or institutional framework for the provision of justice intermediaries or comparable communication-support mechanisms, despite their recognition under the CRPD as a key procedural accommodation to ensure effective participation of persons with disabilities in justice processes. While the Federal Courts Proclamation No. 1234 of 2021 refers generally to professional support in cases involving persons with disabilities, in practice, such support has been understood narrowly as mere legal representation rather than also as enabling the provision of communication facilitation support. In practice, the absence of intermediaries has produced a binary approach: individuals are either deemed incapable of participation and/or communication on the basis of medical evidence and replaced by a representative, or, alternatively, they are required to participate without the support they actually need to participate effectively on an equal basis with others. Such an approach entrenches substitute decision-making and fails to accommodate diverse communication needs, undermining meaningful participation of persons with disabilities in judicial proceedings.

More broadly, there are no binding guidelines and/or procedural rules clarifying when and how procedural accommodations should be provided to persons with disabilities. Although international human rights standards, including the Guidelines on Access to Justice for Persons with Disabilities by the UN Special Rapporteur on the Rights of Persons with Disabilities,[18] envisage a wide spectrum of accommodations – ranging from environmental and communication adjustments to intermediaries – they have not been translated into structured, contextualized, enforceable domestic procedural rules giving practical effect to Ethiopia's obligations under the CRPD.

### *ix.* ***Inadequacy and inaccessibility of legal aid***

Access to legal aid in Ethiopia remains fragmented and insufficiently regulated. The constitutional guarantee of legal aid is limited to criminal proceedings and does not establish a right to legal aid across civil and/or administrative proceedings. Although scattered statutory provisions provide partial bases for free legal representation, there is no dedicated comprehensive legal aid law clearly defining eligibility, scope, institutional responsibilities, oversight, and accountability.

In practice, the scale of State-provided legal aid remains limited, and much of the burden falls on OPDs, whose services, while significant, reach only an extremely small proportion of those in need and face regulatory constraints in relation to court representation. Examples of provision of such support to persons with disabilities, heralded by Ethiopia in its combined report to the CRPD Committee,[19] therefore, represent marginal exceptions in which inclusion occurs, while the norm remains exclusion.

In this regard, the draft Legal Aid Legislation currently under preparation presents a critical opportunity to establish a comprehensive, human rights-based framework that explicitly addresses disability-related barriers and formally recognizes the role of OPDs in ensuring equal access to justice.

[18] The UN Special Rapporteur on the Rights of Persons with Disabilities, 'International Principles and Guidelines on Access to Justice for Persons with Disabilities,' 2020, available at: https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities.

[19] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020,' CRPD/C/ETH/2-3, Date received: 9 January 2023], 29 October 2025, § 26.

### *x.* ***Exclusion of lawyers who are blind or otherwise visually impaired from becoming judges***

In Ethiopia, although legal frameworks governing the judiciary do not formally exclude lawyers who are blind or otherwise visually impaired from assuming judicial roles, entrenched practices have effectively limited their appointment to judicial office. In *Wesen Alemu and Dawit Oticho v. Amhara National Regional State Justice Professionals Training and Legal Research Institute and the ANRS Judicial Administration*,[20] the House of Federation[21] held in 2016 that the exclusion of lawyers who are blind or otherwise visually impaired from judicial office on the basis of their disabilities constituted discrimination and hence violated constitutional guarantees of equality and the right to work, as well as Ethiopia's obligations under the CRPD. Despite this landmark precedent, in practice, lawyers who are blind or otherwise visually impaired continue to be diverted into public defender roles within the judiciary rather than being appointed as judges, reflecting persistent structural and attitudinal barriers, contrary to Article 13 of the CRPD.

### *xi.* ***Barriers in working as a lawyer with a disability***

Beyond barriers faced by lawyers who are blind or otherwise visually impaired being appointed as judicial officers, lawyers with disabilities more generally face obstacles in performing their roles as legal practitioners.

In part, this is due to the lack of a coherent framework to ensure the provision of reasonable accommodations to and accessible working environments for lawyers with disabilities serving as attorneys, prosecutors or public defenders. Although the Right to Employment of Persons with Disabilities Proclamation No. 568 of 2008 and the Federal Civil Servants Proclamation No.1353 of 2025[22] establish a general duty to provide reasonable accommodation, the implementation within justice institutions remains limited and inconsistent.

In practice, essential support for lawyers with disabilities, such as personal assistants, assistive technologies, and accessible legal materials, are often unavailable to them or are arranged only informally by them instead of as a matter of institutional obligations. This leaves lawyers with disabilities dependent on discretionary goodwill, personal negotiations, and/or external donations. The absence of clearly defined safeguards, budgetary allocations, and institutional accountability mechanisms result in unequal working conditions and systemic disadvantages, contrary to Ethiopia's obligations under Article 13 of the CRPD to ensure non-discrimination and equal participation of persons with disabilities in the administration of justice on an equal basis with others.

[20] *Wesen Alemu and Dawit Oticho vs ANRS Justice Professionals Training and Legal Research Institute and ANRS Judicial Administration,* the House of Federation, Case File No.019/08, 12 October 2016 [Amharic text].
[21] The House of Federation is the upper chamber of the Federal Parliamentary Assembly with the mandate to interpret the Constitution and adjudication of constitutional disputes; see Footnote 4 above.
[22] Federal Civil Servants Proclamation No.1353 of 2025, Article 73.

## I. INTRODUCTION

Access to justice is a foundational human right and a precondition for the effective enjoyment of all other rights. For persons with disabilities, however, access to justice has historically been denied or severely constrained by legal, institutional, attitudinal, environmental and other barriers.[23]

The CRPD marks a paradigmatic shift in international human rights law by affirming that persons with disabilities are entitled to equal recognition before the law and equal enjoyment of all human rights on an equal basis with others. In particular, Article 13 of the CRPD obliges States parties to ensure effective access to justice for persons with disabilities at all stages of legal proceedings, including through the provision of procedural and age-appropriate accommodations and support measures. Article 13 of the CRPD reads:

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.[24]

The right to access to justice is intrinsically linked with, and reinforced by, other core provisions of the CRPD, including on equal recognition before the law (Article 12),[25] equality and non-

[23] Eilionóir Flynn, 'Access to Justice' in Ilias Bantekas, Michael Ashley Stein and Dimitris Anastasiou (eds), *The UN Convention on the Rights of Persons with Disabilities: A Commentary* (Oxford University Press 2018).

[24] Like the CRPD, the African Disability Protocol, Article 13 (Right to Access Justice), affirms the right of persons with disabilities to access to justice on an equal basis with others. It also requires States Parties to provide gender-appropriate accommodations. In addition, the Protocol places particular emphasis on ensuring customary law processes are inclusive, obligating States to guarantee that such processes are not applied in ways that restrict or undermine the right of persons with disabilities to seek and obtain justice.

[25] CRPD, Article 12 – Equal recognition before the law:

"1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. …"

discrimination (Article 5),[26] liberty and security of the person (Article 14),[27] and accessibility (Article 9).[28]

Taken together and understood in the context of the CRPD, these provisions impose positive duties on States parties to dismantle structural barriers to access to justice for persons with disabilities. Moreover, States must put in place legal, procedural, and institutional frameworks that enable persons with disabilities to participate effectively in the justice system in all capacities - as rights holders, litigants, accused persons, victims, witnesses, legal professionals, and decision-makers.

As a State party to the CRPD,[29] Ethiopia has a legal obligation to ensure effective access to justice for persons with disabilities on an equal basis with others. To fulfill this obligation, Ethiopia is required to:

- Repeal or reform discriminatory legislative and policy frameworks that directly or indirectly deny or restrict the exercise of legal capacity by persons with disabilities;
- Legally recognize and operationalize procedural and age-appropriate accommodations and support measures in criminal, civil, and administrative proceedings;
- Ensure the accessibility of justice institutions, services, information, and communication systems;

[26] CRPD, Article 5 - Equality and non-discrimination
"1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. …"

[27] CRPD, Article 14 - Liberty and security of person
"1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
(a) Enjoy the right to liberty and security of person;
(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation."

[28] CRPD, Article 9 – Accessibility
"1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
(b) Information, communications and other services, including electronic services and emergency services.
2. …"

[29] Ethiopia ratified the CRPD in 2010, https://indicators.ohchr.org/; also see, Convention on the Rights of Persons with Disabilities Ratification Proclamation No. 676 of 2010, available at https://justice.gov.et/en/law/convention-on-the-rights-of-persons-with-disability-ratification-proclamation-no-676-2010-2/.

- Guarantee the equal participation of persons with disabilities in the administration of justice, including as judges, prosecutors, lawyers, judicial officers, and other court staff; and
- Conduct capacity-building and awareness-raising among justice sector actors, including judicial officers, prosecutors, police, lawyers, and court personnel, to ensure that the human rights of persons with disabilities are understood and effectively implemented in practice.[30]

However, despite Ethiopia ratifying the CRPD in 2010, thereby undertaking to comply with and implement its obligations under the Convention, concrete progress towards the CRPD's implementation remains limited. In practice, persons with disabilities in Ethiopia continue to face pervasive legal and practical barriers that undermine their effective access to justice and their equal participation in justice processes on an equal basis with others. The CRPD Committee noted these barriers in its concluding observations following its review of initial report of Ethiopia in 2016.[31] On that occasion, the Committee specifically urged Ethiopia to:

- Strengthen legal protections for persons with disabilities;[32]
- Repeal discriminatory laws that deprive persons with disabilities of legal capacity;[33]
- Repeal laws that allow persons with intellectual or psychosocial disabilities to be declared unfit to stand trial;[34]
- Ensure the provision of procedural accommodations and other support measures in accessing justice;[35] and
- Provide capacity building trainings and awareness-raising for the judiciary.[36]

In 2026, the CRPD Committee adopted a list of Issues in relation to Ethiopia's combined second and third periodic reports, in which it raises similar concerns again.[37] In relation to legal capacity, the Committee asks Ethiopia to provide information on the review of its civil and family laws with a view to repealing guardianship and developing supported decision-making, and on measures taken to reinstate the legal capacity of persons with disabilities. In relation to access to justice, it asks about measures to ensure the accessibility of courts, the availability of sign language interpreters, Braile, Easy Read and other accessible modes of communication, the provision of procedural accommodations at all stages of investigations and court proceedings, and access to legal aid.[38]

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[30] CRPD, Article 13 (2).
[31] CRPD Committee, 'Concluding Observations on the Initial Report of Ethiopia.'
[32] *Ibid*, §§ 6, 10, 12, and 26.
[33] *Ibid*, § 26.
[34] *Ibid*, § 32.
[35] *Ibid*, § 30.
[36] *Ibid*, § 12.
[37] CRPD Committee, 'List of Issues in relation to the combined second and third periodic report of Ethiopia,' CRPD/C/ETH/Q/2-3, 4 November 2026, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FC%2FETH%2FQ%2F2-3&Lang=en.
[38] The ICJ was among the organizations that made submissions to the Committee ahead of the adoption of the List of Issues. Its submission, made in July 2026 and based on the research done for this report, addressed these same concerns. See ICJ, 'Submission to the CRPD Committee in view of the adoption of the List of Issues on the Combined 2nd and 3rd reports of Ethiopia,' 20 July 2026, available on the ICJ website https://www.icj.org/wp-content/uploads/2026/11/INT_CRPD_ICO_ETH_69940_E.pdf; Also see ICJ press statement 'Ethiopia: Authorities must act to improve access to justice for persons with disabilities,' 12

Against this backdrop, and in light of Ethiopia's obligations under the CRPD, this report examines the barriers that hinder access to justice for persons with disabilities in Ethiopia.

The report analyzes the extent to which Ethiopia's constitutional framework, legal codes, other legislation, and institutional arrangements comply with the country's CRPD obligations, with particular attention to the lack of recognition of legal capacity – most notably through legal rules denying persons with intellectual and/or psychosocial disabilities the legal capacity to stand trial and participate in criminal and civil proceedings, and as a result of the application of substitute decision-making regimes leading to arbitrary or otherwise unlawful detention, especially of persons with intellectual and psychosocial disabilities found to be "criminally irresponsible".[39]

This report further identifies and assesses various human rights concerns relating to: the physical, informational, and communicational accessibility of justice institutions; the absence of reasonable and procedural accommodations; the lack of supported and accessible communication and information; and gaps in legal aid services.

In addition, consistent with Article 13 of the CRPD, which guarantees not only access to justice as users of the justice system but also the effective participation of persons with disabilities in the administration of justice, this report examines barriers affecting their inclusion in the justice system. In particular, it analyzes structural and attitudinal barriers, including, specifically, the continued exclusion of lawyers with visual impairments from judicial office despite binding constitutional interpretation by the House of Federation[40] enabling their appointment to the judiciary. It further assesses the lack of reasonable accommodation, assistive technologies and institutional support for persons with disabilities working in the justice sector, highlighting how the absence of structured accommodation frameworks undermines equal participation and non-discrimination within justice institutions themselves.

The report is organized into eleven sections, including this introduction.

Following a brief country profile in Section II, Section III outlines the international human rights framework governing access to justice for persons with disabilities, with a focus on Ethiopia's CRPD obligations.

Section IV examines Ethiopia's legal frameworks that are supposed to guarantee the human rights of persons with disabilities, analyzing constitutional provisions, the treatment of disability in major legal codes, employment-related legislation, and ongoing efforts to draft a comprehensive disability law.

Section V provides an overview of the institutional frameworks relevant to the human rights of persons with disabilities, including their effective access to justice without discrimination and on the basis of equality with others.

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November 2026, available at: https://www.icj.org/ethiopia-authorities-must-act-to-improve-access-to-justice-for-persons-with-disabilities/.

[39] See Articles 48 and 129 of the Criminal Code of the Federal Democratic Republic of Ethiopia (The Criminal Code), Proclamation No.414 of 2004.

[40] The House of Federation is the upper chamber of the Federal Parliamentary Assembly with the mandate to interpret the Constitution and adjudication of constitutional disputes; see Footnote 4 above.

Section VI addresses equality before the law and legal capacity, examining Ethiopian law and practice in light of the country's CRPD obligations, including with respect to criminal responsibility and institutionalization on the basis of disability.

Section VII assesses the accessibility of the justice system, focusing on physical accessibility of courts as well as access to services, information, and communication systems.

Section VIII analyzes the legal and practical dimensions of reasonable and procedural accommodations, while Section IX focuses on legal aid services and their accessibility to persons with disabilities.

Section X addresses the participation of persons with disabilities in the administration of justice, highlighting the continued exclusion lawyers with visual impairments from judicial office and the lack of reasonable accommodation and inclusive working environments for lawyers with disabilities.

Finally, Section XI presents the report's key findings and recommendations.

**Methodology**

The report is based primarily on desk research, involving a review of key legislative frameworks relevant to the topic of persons with disabilities' effective access to justice in Ethiopia. The research also draws on Ethiopia's periodic reports to the CRPD Committee, the Committee's concluding observations, and other authoritative interpretative materials issued by the Committee, which serve as key benchmarks for assessing compliance with the CRPD, as well as other authoritative interpretations of pertinent international human rights law and standards issued by other human rights treaty bodies, such as the UN Human Rights Committee.

In addition, the report utilizes secondary sources, including reports and studies published by OPDs and other relevant stakeholders.

To ground the findings in the lived experience and practical realities, consultations were conducted with a small number of persons with disabilities working within the justice sector, including public prosecutors with disabilities, lawyers with disabilities, representatives of OPDs, and officials from relevant government institutions.

## II. COUNTRY PROFILE

The Federal Democratic Republic of Ethiopia, located in the Horn of Africa, has an estimated population of 130 million.[41] According to the 2007 national census, persons with disabilities constituted 1.1 percent of the then 74 million population.[42] However, this figure was widely

[41] World Population Review: Ethiopia, https://worldpopulationreview.com/countries/ethiopia, last visited on 28 September 2025.
[42] The 2007 Population and Housing Census of Ethiopia: Statistical Report for Country level, https://ess.gov.et/wp-content/uploads/2007/09/Population-and-Housing-Census-2007-National_Statistical.pdf.

contested by the disability community because the census did not use an internationally-recognized definition of disability.[43] The figure is also significantly lower than estimates on the prevalence of disability in the country made by international organizations. For example, according to the 2011 World Report on Disability, persons with disabilities represent about 15 percent of the global population.[44] Based on this global estimate, the World Report estimated that approximately 15 million persons with disabilities — around 17.6 percent of Ethiopia's population in 2011 — may be living in the country,[45] a significantly higher proportion than that identified by the 2007 census data.

Generally, there remains a lack of comprehensive and disaggregated disability data in Ethiopia,[46] a concern repeatedly raised by both the CRPD Committee[47] and the African Commission on Human and Peoples' Rights.[48] While Ethiopia has indicated that efforts to conduct national census have been constrained by "security challenges",[49] a recent national survey highlighted that disability prevalence estimates vary depending on methodology, while nonetheless estimating that at least 6.3 million individuals in Ethiopia have some form of disability based on 2019 population data[50]—underscoring both the scale of disability and the continuing limitations of available data.

Ethiopia is a federal State with two tiers of government: the federal (national) and regional (subnational). Both tiers have legislative, executive and judicial branches, each with constitutionally defined powers.[51] This federal arrangement has implications for lawmaking, including in respect of the human rights of persons with disabilities. While the federal government, may, for example, enact legislation bearing on the human rights of persons with disabilities, which may in principle apply at the federal level,[52] subnational governments may have to adopt regional legislation to give effect to those rights within their jurisdictions.

Similarly, judicial authority in Ethiopia is allocated between federal and regional courts.[53] Therefore, in addition to the federal courts, each of the current 11 regional governments has its own court system, exercising jurisdiction within its respective territory, administered in accordance with regional legislation. However, all courts in Ethiopia—both federal and regional—continue to apply civil and criminal procedural codes adopted at the national level. Federal courts sit in Addis Ababa, in Dire Dawa Town, and in any other locations determined by law.[54]

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[43] Dagnachew Wakene, Priscilla Yoon & Tsion Mengistu 'Country report: Ethiopia' (2021) 9 *African Disability Rights Yearbook* 212-230.
[44] World Health Organization and The World Bank, 'World Report on Disability", 2011, p.29.
[45] *Ibid*, p.272.
[46] Central Statistics Agency and UN Women, 'Representation of Persons with Disabilities in Ethiopian Labour Force: A Review of National Surveys on Disability Statistics,' 2020, https://africa.unwomen.org/en/digital-library/publications/2020/12/representation-of-persons-with-disabilities-in-ethiopian-labour-force.
[47] CRPD Committee, 'Concluding Observations on the Initial Report of Ethiopia,' §§ 65 and 66.
[48] African Commission on Human and Peoples' Rights, 'Concluding Observations on the 7th – 10th Periodic Report of the Federal Democratic Republic of Ethiopia under the African Charter on Human and Peoples' Rights (2015-2023), June 2025, § 72.
[49] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020,' § 61.
[50] Policy Studies Institute, 'National Survey on Persons with Disabilities in Ethiopia', 03 June 2025, available at https://psi.org.et/index.php/blog/497-national-survey-on-persons-with-disabilities-in-ethiopia, last accessed on 4 February 2026.
[51] FDRE Constitution, Articles 50, 51, and 52.
[52] *Ibid*, Article 78.
[53] *Ibid*, Article 78.
[54] Federal Courts Proclamation No.1234 of 2021, Article 30 (2).

In Ethiopia, the power to adjudicate constitutional disputes — including questions concerning the constitutionality of legislation — is not vested in the courts. Instead, it lies with the House of Federation, the upper chamber of the federal legislature, composed of representatives of the nations, nationalities, and peoples of Ethiopia.[55] The House of Federation is supported by the Council of Constitutional Inquiry, an expert body mandated to examine constitutional issues and submit recommendations to the House of Federation.[56] Therefore, procedurally, for example, when a question of constitutionality arises during court proceedings, the matter must be referred to the Council of Constitutional Inquiry and ultimately decided by the House of Federation rather than by the courts themselves.[57] Decisions of the House of Federation on constitutional matters constitute binding precedent and are enforceable.[58]

The vesting of constitutional interpretation powers in the House of Federation — which, although formally part of the legislative body, does not exercise primary law-making functions[59] — rather than in the courts, has long been the subject of scholarly and political debate in Ethiopia, particularly regarding its consistency with the principles of separation of powers and judicial review.[60] International human rights law and standards require that adjudication of human rights disputes should be undertaken by competent, independent, and impartial tribunals.[61] In addition, more broadly, concerns have been raised about the independence of the judiciary in Ethiopia,[62] including by the UN Human Rights Committee, which highlighted practical challenges affecting judicial independence in Ethiopia.[63] While these concerns form an important part of the broader access to justice landscape in the country, a detailed examination of these issues falls beyond the scope of the present report.

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[55] FDRE Constitution, Articles 61 and 83.
[56] *Ibid*, Article 84.
[57] *Ibid*, Article 84 (2).
[58] Consolidation of the House of the Federation and the Definition of its Powers and Responsibilities Proclamation No.251 of 2001, Article 11 (1).
[59] Unlike members of the House of Peoples' Representatives, members of the House of Federation are not directly elected but are elected by, or from among, regional state councils as representatives of the nations, nationalities and peoples of Ethiopia. Moreover, the House of Federation is not a conventional second legislative chamber as it does not exercise primary legislative functions. Rather, its constitutional mandate is largely confined to safeguarding the constitutional rights and interests of nations, nationalities and peoples, interpreting the Constitution, and resolving disputes concerning self-determination, federal-regional relations, and revenue allocation. While the allocation of constitutional adjudication to a political body rather than the judiciary differs from the model adopted in many constitutional systems, it forms part of Ethiopia's federal design and is intended to link constitutional interpretation to the representation of the nations, nationalities, and peoples because the FDRE Constitution is conceived as a pact among them.
[60] See, for instance, Yonatan Fessha 'Whose power is it anyway? The courts and constitutional interpretation in Ethiopia' (2008) 22 Journal of Ethiopian Law 128-144; Assefa Fiseha, 'The Relationship between the Legislature and the Judiciary in Ethiopia,' in Charles Fombad (ed.), *Separation of Powers in African Constitutionalism* (Oxford University Press, 2016); Gedion Hessebon and Abduletif, 'The Supreme Court of Ethiopia: Federalism's bystander' in Nicholas Aroney and John Kincaid (eds) *Courts in federal countries: Federalists or unitarists?* (University of Toronto Press, 2015); and Zemelak Ayele, 'Ethiopia's 'Unusual Constitutional Umpire': Revisiting the Role of the House of Federation,' *50 Shades of Federalism, 2020,* available at https://50shadesoffederalism.com/case-studies/ethiopias-unusual-constitutional-umpire-revisiting-the-role-of-the-house-of-federation/.
[61] For example, see the International Covenant on Civil and Political Rights (ICCP)R, Article 14 (2) and the African Charter on Human and Peoples' Rights (ACHPR), Article 7. Also see, UN Human Rights Committee, 'General Comment No.32 – Article 14: Right to equality before courts and tribunals and to a fair trial, CCPR/C/GC/32, 23 August 2007, §§ 15-29.
[62] 'Is there judicial independence in Ethiopia?' *The Reporter*, 2020, https://www.thereporterethiopia.com/10303/; Simeneh Kiros Assefa, 'Conspicuous Absence of Independent Judiciary and "Apolitical" Courts in Modern Ethiopia' (2021) 15 Mizan Law Review.
[63] UN Human Rights Committee, Concluding observations on the second periodic report of Ethiopia, CCPR/C/ETH/CO/2, 7 December 2022, §§ 37 and 38.

This report focuses mainly on legal frameworks and institutions related to access to justice for persons with disabilities at the federal (national) government level, both because they provide a broader national picture and because regional laws and institutions often mirror federal arrangements.

Ethiopia is a State party to various global (United Nations)[64] and African regional human rights treaties.

| Treaty | Year of Ratification |
|---|---|
| **United Nations** | |
| International Convention on the Elimination of All Forms of Racial Discrimination | 1976 |
| Convention on the Elimination of All Forms of Discrimination against Women | 1981 |
| Convention on the Rights of the Child | 1991 |
| International Covenant on Civil and Political Rights | 1993 |
| International Covenant on Economic, Social and Cultural Rights | 1993 |
| Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | 1994 |
| Convention on the Rights of Persons with Disabilities | 2010 |
| Optional Protocol to the CRC on the Involvement of Children in Armed Conflict | 2014 |
| Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Pornography | 2014 |
| **African** | |
| African Charter on Human and Peoples' Rights | 1998 |
| African Charter on the Rights and Welfare of the Child | 2002 |
| Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol) | 2018 |
| Protocol to the African Charter on the Rights of Older Persons | 2020 |

Ethiopia also ratified in 2020 the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.[65]

However, the country has not acceded to any of the optional protocols establishing individual complaints procedures under the UN human rights treaties, including the Optional Protocol to the

[64] For the ratification status of the UN human rights treaties by Ethiopia, see https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=59&Lang=EN.

[65] The Marrakesh Treaty was adopted on June 27, 2013, and entered into force on 30 September 2016, https://www.wipo.int/en/web/marrakesh-treaty. Adopted under the auspices of the World Intellectual Property Organization (WIPO), the treaty seeks to facilitate access to published works in accessible formats, such as Braille, e-text, and audio - for persons who are blind, with visual impairments, or otherwise print disabled by requiring States Parties to establish copyright exceptions and limitations permitting the creation and cross-border exchange of accessible format copies.

CRPD.[66] As a result, individuals and groups in Ethiopia lack access to the UN individual communications procedure to seek redress for alleged violations of their human rights guaranteed under the CRPD, limiting external accountability and the development of authoritative interpretive guidance on the Convention's domestic implementation.

Ethiopia is yet to ratify the African Disability Protocol.[67] The Protocol, which entered into force on 3 May 2024,[68] is the first regional human rights treaty in Africa devoted to the human rights of persons with disabilities. It builds on and reinforces the principles, obligations and guarantees of the CRPD, also addressing some issues specific to the region.[69] The Protocol also addresses gaps in existing regional human rights instruments – such as the African Charter on Human and Peoples' Rights, which reflect outdated medical or charity-based approaches and make only limited references to human rights of persons with disabilities.[70] In doing so, the African Disability Protocol establishes a long-missing, binding framework that firmly anchors the human rights of persons with disabilities within Africa's broader human rights system.

The FDRE Constitution provides that the human rights and freedoms it recognizes be interpreted in a manner consistent with international human rights principles, including those set out in the Universal Declaration of Human Rights, international human rights covenants and other international instruments ratified by Ethiopia.[71] In addition, the Constitution affirms that all international agreements ratified by Ethiopia — including human rights treaties — form an integral part of the law of the land.[72] As a result, once the House of Peoples' Representatives — the lower chamber of the federal legislature vested with the power to ratify treaties — ratifies an international treaty, the treaty becomes applicable within the domestic legal order. This means, for example, human rights treaties ratified by Ethiopia may be relied upon in the interpretation and implementation of constitutionally guaranteed rights, as well as in the application of other

[66] Optional Protocol to the Convention on the Rights of Persons with Disabilities, adopted on 5 December 2006 and entered into force on 3 May 2008, https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-persons-disabilities.
[67] Although reports indicate that the Protocol has been submitted to the Council of Ministers for approval, the Council has not yet endorsed it at the time of writing this report. Under Ethiopia's treaty-ratification process, a treaty must first be approved by the Council of Ministers before being forwarded to the House of Peoples' Representatives (the legislative council) for formal ratification. See Ethiopian Human Rights Commission (EHRC), 'Annual Ethiopia Human Rights Situation Report (from June 2024 to June 2025), 22 August 2025 [Amharic text], available at: https://ehrc.org/the-latest/4th-annual-ethiopia-human-rights-situation-report/, § 304.
[68] African Commission "Press Release on the entry into force of the Protocol to the African Charter on Human and Peoples' Rights relating to the Rights of Persons with Disabilities in Africa," 9 June 2024, available at: https://achpr.au.int/en/news/press-releases/2024-06-09/entry-force-protocol-persons-disabilities, accessed on 16 November 2025.
[69] Kwadwo Appiagyei-Atua, 'A Comparative Analysis of the United Nations Convention on the Rights of Persons with Disability and the African Draft Protocol on the Rights of Persons with Disabilities' (2018) 21 Law, Democracy & Development 153; Paul Ochieng Juma, 'Ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa: An Overview of the Implications' (2024) 12 African Disability Rights Yearbook.
[70] Dianah Msipa and Paul Juma, 'The African Disability Protocol: Toward a Social and Human Rights Approach to Disability in the African Human Rights System' *Handbook of Disability* (Springer Nature Singapore 2023).
[71] FDRE Constitution, Article 13 (2).
[72] *Ibid*, Article 9 (4).

legislation concerning human rights.[73] In recent years, courts[74] and the House of Federation [75] have drawn on human rights treaties, including the CRPD, as interpretive guides when construing and applying domestic law, reflecting a growing judicial practice of engagement with international human rights norms in adjudication.

Over the past several years, Ethiopia has experienced recurring armed conflicts and political instability in different parts of the country, most notably the armed conflict in the Tigray region between 2020 and 2022, as well as in other regions including Amhara, Oromia, Benishangul-Gumuz, and Afar.[76] Investigations conducted by the International Commission of Human Rights Experts on Ethiopia,[77] by the UN Office of the United Nations High Commissioner for Human Rights and the Ethiopian Human Rights Commission (EHRC),[78] and non-governmental organizations[79] documented widespread violations of international human rights law, international humanitarian law, and refugee law by parties to the conflicts, including unlawful killings, attacks against civilians and civilian objects, conflict-related sexual violence, torture and other ill-treatment, arbitrary detention, forced displacement, and restrictions on humanitarian access, some of which may amount to war crimes and crimes against humanity.[80] Despite the scale and gravity of these documented violations, accountability for serious abuses remains limited. UN bodies and independent experts have expressed concern about persistent gaps in effective investigations and prosecutions, as well as limited access to remedies for victims, contributing to ongoing concerns regarding impunity for alleged war crimes and crimes against humanity by all parties to the conflicts.[81]

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[73] Getachew Assefa, 'Is Publication of a Ratified Treaty a Requirement for its Enforcement in Ethiopia? A Comment based on W/t Tsedale Demissie v. Ato Kifle Demissies: Federal Cassation File No. 23632,' (2009), *Journal of Ethiopian Law* 23, pp. 162-170.

[74] *Tsedale Demissie v Kifle Demissies*, Federal Supreme Court, Cassation File No. 23632, 2007, Vol.5, pp.188-191; *Wondewosen Tadese and Others*, Federal Supreme Court, Cassation File No. 189201, 2020, Vol.24, pp.136-141; and *Oromia Insurance SC v World Vision Ethiopia and Awash Insurance SC*, Federal Supreme Court, Cassation File No. 219089, 2022, Vol.25, pp.137-152 [Amharic texts].

[75] For example, see *Wesen Alemu and Dawit Oticho vs ANRS Justice Professionals Training and Legal Research Institute and ANRS Judicial Administration,* the House of Federation, Case File No.019/08, 12 October 2016 [Amharic text].

[76] There is a renewed armed conflict in the Tigray region since September 2026. Reports also indicated the involvement of Eritrean armed forces in support of the rebel groups fighting against the Ethiopian government forces. Rachel Savage, 'Ethiopia launches drone strikes against Eritrean troops who crossed into Tigray,' 8 October 2026, available at: https://www.theguardian.com/world/2026/oct/08/ethiopia-drone-attack-against-eritrean-troops-in-tigray.

[77] International Commission of Human Rights Experts on Ethiopia, 'Comprehensive Investigative Findings and Legal Determinations,' A/HRC/54/CRP.3, 13 October 2023, https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/chreetiopia/a-hrc-54-crp-3.pdf.

[78] Report of the Ethiopian Human Rights Commission (EHRC)/Office of the United Nations High Commissioner for Human Rights (OHCHR) Joint Investigation into Alleged Violations of International Human Rights, Humanitarian and Refugee Law Committed by all Parties to the Conflict in the Tigray Region of the Federal Democratic Republic of Ethiopia, 12 October 2022, https://ehrc.org/download/ehrc-ohchr-joint-investigation-report-on-tigray-conflict/.

[79] See, for instance, Human Rights Watch and Amnesty International, 'We Will Erase You from this Land': Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone,' April 2022, https://www.amnesty.org/en/documents/afr25/5444/2022/en/.

[80] *Ibid*; and International Commission of Human Rights Experts on Ethiopia, 'Comprehensive Investigative Findings and Legal Determinations,' §§ 456-500.

[81] International Commission of Human Rights Experts on Ethiopia, 'The Acute Risk of Further Atrocity Crimes in Ethiopia: An Analysis,' A/HRC/54/CRP.2/ 3 October 2023, available at https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/chreetiopia/A-HRC-54-CRP-2.pdf; Human Rights Watch, 'World Report 2024: Ethiopia – Events of 2023,' 2023, available at: https://www.hrw.org/world-report/2024/country-chapters/ethiopia#7ef358; Amnesty International, 'The

These armed conflicts have had devastating humanitarian, human rights and socio-economic consequences for civilians, including persons with disabilities, who have been disproportionately affected both as victims of violence and as persons facing heightened barriers in accessing protection, humanitarian assistance, healthcare, rehabilitation services, education, livelihoods, and justice mechanisms.[82] Available reports indicate incidents of direct attacks and violence against persons with disabilities alongside the broader impact of conflict-related injuries, trauma, displacement and destruction of essential services.[83]

While these broader humanitarian and security dynamics form an important part of the context within which the protection and enforcement of the human rights of persons with disabilities must be understood, the present report focuses specifically on Ethiopia's obligations under the CRPD, particularly in relation to access to justice for persons with disabilities. Accordingly, the report does not seek to provide a detailed examination of the armed conflicts or conflict-related human rights violations.

## III. THE OBLIGATION TO ENSURE EQUAL ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES

Access to justice is not expressly articulated as a distinct human right in most international and regional human rights treaties. Rather, it is linked to and derived from other human rights guarantees – such as the right to an effective remedy, the right to a fair trial and, more generally, the right to equality before the law and to equal protection of the law without discrimination.[84] These rights are guaranteed by global and regional human rights treaties to which Ethiopia is a party, including:

- The International Covenant on Civil and Political Rights (Articles 2, 9, 14, 16, and 26);
- The International Convention on the Elimination of All Forms of Racial Discrimination (Articles 5 and 6);
- The Convention on the Elimination of All Forms of Discrimination against Women (Articles 2 and 15);
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Articles 13 and 14);
- The Convention on the Rights of the Child (Articles 12, 23, 37 and 40);
- African Charter on Human and Peoples' Rights (Articles 2, 3 and 7);
- African Charter on the Rights and Welfare of the Child (Articles 3 and 17);
- The Protocol to the African Charter on Human and Peoples Rights on the rights of Women in Africa (Articles 2, 3, 8, and 25); and

State of the World's Human Rights – Ethiopia,' April 2016, available at: https://www.amnesty.org/en/documents/pol10/0320/2026/en/.

[82] Kiros Demoz and others, 'War Related Civilian Disability in Tigray Region Ethiopia' [2026] Discover Social Science and Health, https://doi.org/10.1007/s44155-026-00412-8. 'Layers of Exclusion: How War Intensifies Discrimination in Tigray; Women with Disabilities hit hardest,'23 August 2025, https://addisstandard.com/layers-of-exclusion-how-war-intensifies-discrimination-in-tigray-women-with-disabilities-hit-hardest/; 'War in Ethiopia's Tigray region left many disabled veterans without care,' *AP News*, 14 April 2025, https://apnews.com/article/ethiopia-tigray-war-disabled-fighters-ea4c4dc9b5f7748321f046650f41ec6a?ref=disabilitydebrief.org.

[83] International Commission of Human Rights Experts on Ethiopia, 'Comprehensive Investigative Findings and Legal Determinations,' § 128; Report of the Ethiopian Human Rights Commission (EHRC)/Office of the United Nations High Commissioner for Human Rights (OHCHR), §§ 342-352.

[84] The International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020; Flynn (n 23) 384.

- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons (Articles 3 and 4).

Conversely, access to justice is recognized as a stand-alone right and articulated in Article 13 of the CRPD, placing direct obligations on Ethiopia to ensure access to justice for persons with disabilities on an equal basis with others. It explicitly requires States Parties to ensure that persons with disabilities can effectively access justice on an equal basis with others, including through procedural and age-appropriate accommodations and the training of personnel working in the administration of justice.

The CRPD imposes both substantive and procedural obligations on States regarding the right of access to justice of persons with disabilities. Substantively, States must ensure equal access to justice and enable the meaningful participation of persons with disabilities on an equal basis with others at all stages of legal proceedings. This obligation applies when persons with disabilities participate as complainants, defendants, witnesses, jury members or in any other capacity, thereby ensuring their human rights be respected whatever their role within the justice system.[85]

To ensure access to justice for persons with disabilities, States have an obligation to provide both reasonable accommodations and procedural accommodations that address the specific needs of persons with disabilities, ensuring that justice systems are accessible. The distinction between these obligations, which the CRPD Committee has clarified, is discussed further below (section VIII).[86]

In addition, States have a duty to train justice-sector and law-enforcement personnel, including police and prison staff, on how to ensure inclusive access to justice for persons with disabilities.[87] Such training may cover issues such as: the human rights of persons with disabilities; the human rights-based approach to disability; respect for the legal capacity and agency of persons with disabilities; identification and removal of systemic and procedural barriers; the provision of procedural and reasonable accommodations; and ensuring effective and accessible communication.[88]

The obligation of States to ensure access to justice for persons with disabilities is also closely interconnected with, and must be understood in conjunction with, other rights protected under the CRPD, including the rights to: equal recognition before the law, particularly, the right to legal capacity on an equal basis with others;[89] equality and non-discrimination;[90] and liberty and security of the person.[91] States must also adopt measures to ensure accessibility to enable persons with disabilities to exercise their right to access to justice effectively.[92]

[85] CRPD, Article 13 (1).
[86] CRPD Committee, General Comment No.6, §§ 23-27.
[87] CRPD, Article 13 (2).
[88] See the International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 10.
[89] CRPD, Article 12.
[90] *Ibid*, Article 5.
[91] *Ibid*, Article 14.
[92] *Ibid*, Article 9.

Given that this report pays particular attention to Ethiopia's legal frameworks' limitations on the rights of persons with disabilities to legal capacity to stand trial and to liberty and security, at least a brief explanation of the substance of these rights is therefore warranted.

Article 12 of the CRPD guarantees the right of persons with disabilities to equal recognition as persons before the law.[93] The relevant parts of the provision read as follows:

> "Equal recognition before the law
> 1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
> 2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
> 3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
> 4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests."

The right to enjoy legal capacity on an equal basis with others is a central component of the right to equal recognition as a person before the law. While the CRPD does not define the right to legal capacity, the African Disability Protocol defines it as "the ability to hold rights and duties and to exercise those rights and duties."[94]

Moreover, the CRPD Committee, in its General Comment No.1,[95] has clarified the two interrelated elements of the notion of legal capacity: the capacity to hold rights and duties (legal standing) and the capacity to exercise those rights and duties (legal agency).[96] On the one hand, legal standing allows an individual to be formally recognized as a person before the law with associated rights and obligations. On the other hand, legal agency enables the individual to act on those rights and have those actions legally recognized.[97]

The CRPD Committee has also clarified the distinction between legal capacity and mental capacity. While mental capacity refers to a person's ability to make decisions, which varies among individuals and may be influenced by environmental and social factors, legal capacity is an inherent, objective right to which all persons are entitled.[98] Put differently, mental capacity reflects how a person makes decisions, whereas legal capacity guarantees the legal recognition and authority to act on those decisions. The CRPD Committee has explicitly indicated that the Convention does not permit

[93] The 'right to recognition everywhere as a person before the law' is also recognized under the Universal Declaration of Human Rights (UDHR) - Article 6, and the ICCPR, Article 16.
[94] ADP, Article 1.
[95] CRPD Committee, General Comment No.1.
[96] *Ibid*, § 12.
[97] *Ibid*, § 14.
[98] *Ibid*, § 13.

laws, policies and processes to conflate mental and legal capacity, thereby stripping persons with disabilities of their rights.[99]

The CRPD therefore clearly requires that legal capacity (an objective right) cannot be denied or limited on the basis of mental capacity (a subjective condition). Accordingly, any restriction of the legal capacity of persons with disabilities – whether due to actual or perceived limitation in mental capacity – is inherently discriminatory and infringes their right to enjoy legal capacity on an equal basis with others, along with related human rights.

In General Comment No.1, the CRPD Committee has underscored the duty of States to repeal or reform discriminatory laws and practices that restrict the legal capacity of persons with disabilities and, as a result, impede their right to access to justice on an equal basis with others.[100] Consistent with this approach, the Committee has, in its concluding observations – including on Ethiopia – called on States to remove legal and procedural frameworks that exclude persons with intellectual or psychosocial disabilities from standing trial or participating fully in judicial and quasi-judicial processes and, instead, to ensure the provision of procedural accommodations and other support measures.[101] Central to these recommendations is the explicit legal recognition of the right of persons with disabilities to participate in all stages of legal proceedings on an equal basis with others.[102]

Moreover, as Article 12 (3) of the CRPD makes clear, States parties are obliged to ensure that persons with disabilities have access to the support they need to exercise their legal capacity. According to the CRPD Committee, this obligation requires States to put in place a range of support measures - formal or informal - that respect the person's human rights, will and preferences.[103] Such support may include assistance with communication, peer or advocacy support, and accessible information and communication formats, as well as reasonable accommodations and measures related to universal design and accessibility, provided by both public and private actors.[104] The CRPD Committee has further clarified that an individual's needs determine the type and level of support required to exercise their legal capacity.[105] Therefore, the type and intensity of support will vary among individuals, but in all cases, the person's autonomy and decision-making authority must be fully respected.[106] In the context of access to justice, this means that persons with disabilities must be provided with the specific forms of support necessary to exercise their legal capacity and participate fully and effectively in all legal processes.

Furthermore, Article 14 of the CRPD guarantees the right to liberty and security of the person of persons with disabilities. This right prohibits both unlawful and arbitrary deprivation of liberty,

[99] *Ibid*, § 15.
[100] *Ibid*, § 7.
[101] CRPD Committee, 'Concluding Observations on the Initial Report of Ethiopia,' §§ 6,10,12,26, 30 and 32. Also the Concluding observations on the initial report of Seychelles, CRPD/C/SYC/CO/1, 16 April 2018, §§ 26 and 27; Concluding observations on the initial report of South Africa, CRPD/C/ZAF/CO/1, 23 October 2018, § 25; Concluding observations on the initial report of Angola, CRPD/C/AGO/CO/1, 12 April 2023, § 22; and Concluding observations on the initial report of Mauritania, CRPD/C/MRT/CO/1, 4 October 2023, § 26.
[102] See the concluding observations cited in the preceding footnote; also see the CRPD Committee, Concluding observations on the combined initial and second periodic reports of Malawi, CRPD/MWI/CO/1-2, 5 October 2023, § 28.
[103] CRPD Committee, General Comment No.1, § 17.
[104] *Ibid*, § 17.
[105] *Ibid*, § 18.
[106] *Ibid*.

including deprivation of liberty based wholly or partly on disability, whether actual or perceived, including intellectual or psychosocial disabilities.[107] In its Guidelines on the Right to Liberty and Security of Persons with Disabilities, the CRPD Committee has clarified that Article 14 permits no exceptions and, therefore, does not allow for detention on the basis of disability, even where detention on such grounds is justified under domestic law on additional concurrent grounds, such as perceived dangerousness to oneself or others.[108] The Committee has held that such practices—commonly grounded in mental health legislation—are discriminatory and constitute arbitrary deprivation of liberty.[109]

The Committee has further emphasized that involuntary commitment of persons with disabilities on health care grounds is incompatible with the absolute prohibition of detention based on impairment and violates the principle of free and informed consent to health care.[110] In its Guidelines on deinstitutionalization, including in emergencies, the Committee has clarified that institutionalization constitutes a discriminatory practice contrary to Article 5 of the Convention, entails a *de facto* denial of legal capacity contrary to Article 12, and amounts to detention and deprivation of liberty on the basis of disability, prohibited under Article 14 of the CRPD.[111] Accordingly, legislation or practices that permit the involuntary detention and institutionalization of persons with disabilities, including in mental health facilities, without their free and informed consent, are inconsistent with the Convention.

The sections that follow examine Ethiopia's constitutional, legislative, and procedural frameworks in light of the specific recommendations of the CRPD Committee in its concluding observations to Ethiopia and of the country's international human rights law obligations to ensure equal access to justice for persons with disabilities.

## IV. ETHIOPIA: LEGAL FRAMEWORKS SUPPOSED TO GUARANTEE THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

### a. *The FDRE Constitution*

The FDRE Constitution guarantees a wide range of what it terms "fundamental rights and freedoms" under Chapter Three.[112] These include: the right to life;[113] the right to liberty and security of the person;[114] the right to recognition as a person before the law;[115] the right to equality and non-discrimination;[116] the right to human dignity;[117] the right to access to justice;[118] and the right to a fair trial of accused persons.[119] While these guarantees apply equally to persons with

[107] CRPD, Article 14 (1) (b).
[108] CRPD Committee, Guidelines on Article 14 of the Convention on the Rights of Persons with Disabilities: The Right to Liberty and Security of Persons with Disabilities, 2015, § 6.
[109] *Ibid*.
[110] *Ibid*, § 10.
[111] CRPD Committee, Guidelines on Deinstitutionalization, including in emergencies, CRPD/C/5, 10 October 2022, § 6.
[112] FDRE Constitution, Articles 13-44.
[113] *Ibid*, Article 15.
[114] *Ibid*, Articles 14 and 16.
[115] *Ibid*, Article 24 (3).
[116] *Ibid*, Article 25.
[117] *Ibid*, Article 24 (1).
[118] *Ibid*, Article 37.
[119] *Ibid*, Article 20.

disabilities, the Constitution does not contain a dedicated provision addressing the human rights of persons with disabilities or setting out specific guarantees for their protection.

The Constitution's guarantee of the right to equality is found in Article 25, which reads:

> "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status."

Although disability is not explicitly listed among the prohibited grounds of discrimination in this provision, the House of Federation has interpreted[120] disability-based discrimination to be prohibited through the residual category of "other status".[121] The CRPD Committee has urged States parties to amend their constitutions or other basic laws to explicitly prohibit discrimination on the basis of disability.[122]

Ethiopia's omission of disability-based discrimination among the prohibited discrimination grounds expressly listed in the Constitution is further compounded by the absence of a comprehensive anti-discrimination law. Such legislation could provide full and systematic protection against all forms of discrimination, filling the gaps left by constitutional or sectoral provisions. With respect to this, in its 2022 concluding observations on Ethiopia, the UN Human Rights Committee noted with concern the lack of a comprehensive anti-discrimination framework capable of offering effective remedies and protections against direct, indirect, and multiple forms of discrimination for all persons facing discrimination.[123]

Disability is mentioned only once in the FDRE Constitution, under Article 41 - a provision dedicated to economic, social and cultural rights. Article 41 (5) provides that:

> "The State shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parents or guardians."

This provision, which focuses on rehabilitation and assistance rather than equality and rights, adopts a charity- or welfare-based approach to disability.[124] This approach conceptualizes persons

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[120] The House of Federation is the upper chamber of the Federal Parliamentary Assembly with the mandate to interpret the Constitution and adjudication of constitutional disputes; see Footnote 4 above.

[121] *Wesen Alemu and Dawit Oticho vs ANRS Justice Professionals Training and Legal Research Institute and ANRS Judicial Administration,* the House of Federation, Case File No.019/08, 12 October 2016 [Amharic text].

[122] For example, see the CRPD Committee, Concluding observations on the initial report of India, CRPD/C/IND/CO/1, 29 October 2019, §§ 12-13; and Concluding observations on the initial report of Bangladesh, CRPD/C/BGD/CO/1, 11 October 2022, §§ 11-12. Also see the CRPD Committee, General Comment No.6 (2018) on equality and non-discrimination, CRPD/C/GC/G, 26 April 2018, § 73 – urging States parties to enact disability-inclusive anti-discriminations laws based on the human rights-based understanding of disability.

[123] UN Human Rights Committee, Concluding observations on the second periodic report of Ethiopia, CCPR/C/ETH/CO/2, 7 December 2022, § 11.

[124] Sirak Akalu Iyassu and Fiona McKinnon, 'Disability Rights Are Human Rights: Pushing Ethiopia Towards a Rights-Based Movement' (2021) 19 Northwestern Journal of Human Rights 51. Also see Dagnachew Wakene, Priscilla Yoon & Tsion Mengistu 'Country Report: Ethiopia' (2021) 9 *African Disability Rights Yearbook* 212-230.

with disabilities as beneficiaries of aid or assistance rather than as rights-holders entitled to full participation and inclusion. The charity- or welfare-based approach stands in contrast to the human rights-based approach to disability under the CRPD, which requires States parties to ensure the full recognition, protection, and enjoyment of all human rights to persons with disabilities on an equal basis with others.[125]

With respect to access to justice, Article 37 of the FDRE Constitution recognizes the right of every person to bring a justiciable matter before a court or other body vested with judicial power and to obtain justice.[126] However, while under Article 20 ("Rights of Persons Accused") the Constitution guarantees the right to a fair trial to the accused in the context of criminal proceedings, it does not expressly guarantee a broader fair trial right and attendant procedural guarantees applicable to civil or other non-criminal proceedings. In this context, the Constitution (Article 37, read together with Article 20) establishes a general right of access to justice but does not outline specific procedural guarantees or accommodations to ensure that persons with disabilities can effectively exercise these rights on an equal basis with others.

Beyond recognizing an individual right of access to justice, Article 37 of the FDRE Constitution also permits any association or group to institute proceedings in order to protect the collective or individual interests of their members. In practice, however, opportunities for strategic or impact litigation in Ethiopia remain limited, owing in part to the absence of an explicit statutory framework governing class actions or public-interest litigation. Against this backdrop, the Federal Courts Proclamation No. 1234, enacted in 2021, introduces a potentially significant procedural opening by vesting the Federal High Court with jurisdiction to hear cases brought by any person, including legal persons, with a "vested interest or sufficient reason" to institute proceedings seeking protection of justiciable human rights guaranteed in the FDRE Constitution.[127] Although Ethiopian courts lack direct authority to determine the constitutionality of legislation and must refer questions of constitutional interpretation to the House of Federation,[128] the Federal Courts Proclamation seems to enable litigants to invoke constitutional guarantees and seek judicial remedies. In the absence of a comprehensive legislative framework on strategic litigation, this offers an important opportunity for OPDs to pursue strategic cases aimed at protecting the human rights of persons with disabilities and advancing their access to justice.

### *b. Treatment of persons with disabilities in the legal codes*

Ethiopia has a long history of codified laws, dating back to the 15th century with the first compilation of canonical law known as *Fews Menfesawi* ("The Book of Spiritual Remedy").[129] In the mid-15th century, another legal code, the *Fetha Nagast* ("the Law of the Kings"), was introduced.[130] It is a

[125] CRPD Committee, General Comment No.6, §§ 8 and 9.
[126] FDRE Constitution, Article 37. This provision also allows associations, including OPDs, to institute legal suits on behalf of their members, either to protect collective or individual interests and, as such, it creates the opportunity for OPDs to bring suits in defense of the human rights and interests of their members.
[127] Federal Courts Proclamation No.1234/2021, Article 11 (3) and (4):
3. Notwithstanding the provisions of this proclamation and other relevant laws, the Federal High Court may render decision, judgement or order in order to protect justiciable human rights specified under chapter three of the Constitution.
4. Any person who has vested interest or sufficient reason may institute a suit before the Federal High Court to protect the rights of his own or others.
[128] The House of Federation is the upper chamber of the Federal Parliamentary Assembly with the mandate to interpret the Constitution and adjudication of constitutional disputes; see Footnote 4 above.
[129] Aberra Jembere, *An Introduction to the Legal History of Ethiopia: 1434-1974* (Shama Books 2019).
[130] *Ibid*, 182–183.

compendium of laws translated from Arabic into the Ethiopian *Ge'ez* language, and its principal source was the Roman-Byzantine law.[131] The *Fetha Nagast* remained a legal code in Ethiopia for centuries and influenced the development of a number of civil and criminal law principles later incorporated into the country's modern legal codes adopted in the 1960s.[132]

The *Fetha Nagast* presented disability through deeply stigmatizing lenses, portraying it variously as a curse, or a divine punishment, a disease, or more generally a state of impurity. These perceptions are reflected in its rules on guardianship, which describe those requiring guardianship as individuals whose mental faculties are deemed insufficient for discerning what is beneficial or appropriate:

> "Guardianship is necessary for the one who is unable to distinguish in his mind that which is suitable for the perfection of his nature and good for his will. This inability may arise either because of an evil spirit which seduces him – this is the mad person – or because his brain is wrecked by disease – this is the feeble minded person, who forgets his previous actions or because his brain is not mature – this is the boy who has not attained the age of eighteen years – or because his mental condition becomes more feeble than previously by nature, because of the use made of his brain – this is the case of any man when he grows old and approaches 100 years of age." [133]

In particular, the *Fetha Nagast* denied the legal capacity of persons who were deemed to be "insane" – those with intellectual and/or psychosocial disabilities.[134] Such persons could not conclude a valid marriage,[135] make wills (this limitation also applied to those who were deemed to be born "dumb and deaf"),[136] or give credible testimony on their own behalf or on behalf of others.[137] The Code required that such individuals be placed under guardianship.[138] Moreover, it prohibited them – as well as persons with speech or hearing disabilities – from serving as judges or witnesses before courts.[139]

The *Fetha Nagast* influenced the development of Ethiopia's modern legal codes, and, as a result, most of the above exclusionary rules were transplanted into the Ethiopian Civil Code of 1960,[140] which remains in force to this day.

*The Civil Code 1960*

The Civil Code incorporates both general and specific rules on the "capacity of persons," with provisions specifically applicable to persons with disabilities.[141] These provisions regulate key

[131] *Ibid*, 184–190.
[132] René David, 'Sources of the Ethiopian Civil Code' (1967) 4 *Journal of Ethiopian Law* 341.
[133] Paulos Tzadua, H. Scholler, "The Fetha Nagast", Faculty of Law, HSIU, (1968), Part-Two, Chapter XXXII. Also see, Sirak Akalu Iyassu and Fiona McKinnon, 'Disability Rights are Human Rights: Pushing Ethiopia Towards a Rights-Based Movement' (2021) 19 Northwestern Journal of Human Rights 51.
[134] Paulos Tzadua, H. Scholler, "The Fetha Nagast", Chapter XXXII.
[135] *Ibid*, Chapter XXIV, Section II, Part 8.
[136] *Ibid*, Chapter XXIV, Section XLI.
[137] *Ibid*, Chapter XXXII.
[138] *Ibid*.
[139] *Ibid*, Chapter XLIII, Sections I and III.
[140] The Civil Code of the Empire of Ethiopia (The Civil Code), Proclamation No.165 of 1960.
[141] *Ibid*, Articles 192-197.

aspects of the civil life of persons with disabilities - including marriage, divorce, adoption, wills, contracts, and other juridical acts.[142]

The general rule under the Civil Code is that all physical persons (*i.e.*, individuals, as opposed to legal persons, such as corporations and other business enterprises) have the capacity to perform acts of "civil life", "unless declared incapable by law".[143] This creates a presumption of legal capacity, until incapacity is expressly declared. The Code then sets out exceptions, explicitly identifying "disability" as a possible ground for "legal incapacity",[144] describing it as a category that encompasses both persons described as "insane" - due to mental health conditions such as "mental illness", "insufficient mental development", or "senility"[145] - and those considered as "infirm persons" due to other disabilities, such as being deaf-mute, blind or due to other physical conditions.[146]

Legal incapacity on grounds of "mental health conditions" may arise through two distinct regimes. The first concerns persons deemed to be "notoriously insane" due to the fact that the person is an "inmate of a hospital or of an institution for insane persons or of a nursing home" due to a mental health condition.[147] Also, in communities with fewer than two thousand inhabitants, "notorious insanity" may be presumed where family members or others exercise continuous supervision over the person concerned because of their mental health condition.[148] In these circumstances, deprivation of legal capacity intervenes by virtue of factual circumstances, rather than a formal judicial declaration, and generally subsists for as long as those circumstances persist. The Civil Code provides that juridical acts performed by persons deemed to be "notoriously insane" are voidable and may be annulled at the instance of the person concerned, their heirs or legal representatives.[149] However, such persons remain liable for damage caused to third parties acting in good faith as a result of the nullity of those acts and are subject to extra-contractual liability as though they were of "sound mind".[150]

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[142] *Ibid*, Articles 359-370.
[143] *Ibid*, Article 192.
[144] *Ibid*, Article 193.
[145] *Ibid*, Chapter 3: Insane Persons and Infirm Persons:
"Article 339 – Definition
(1) An insane person is one who, as a consequence of his being insufficiently developed or as a consequence of a mental disease or his senility, is not capable to understand the importance of his actions.
(2) Persons who are feeble-minded, drunkards or habitually intoxicated, and persons who are prodigals shall in appropriate cases be assimilated to insane persons."
[146] The Civil Code, "Art. 340 - Infirm persons:
Deaf-mute, blind persons, and other persons who, as a consequent of a permanent infirmity are not capable to take care of themselves or to administer their property may invoke in their favor the provisions of the law which afford protection to those who are insane."
[147] *Ibid*, Article 341.
[148] *Ibid*, Article 342.
[149] *Ibid*, Articles 343 and 344:
"Article 343 – Juridical acts of notoriously insane person. - 1. Principle
(1) Juridical acts performed by a person at the time and in a place in which his state of insanity was notorious, may be impugned by that person, by his representatives or by his heirs.
(2) The same shall apply to juridical acts performed by a person where the infirmity which renders such person unfit to take care of himself and to administer his property is apparent.
Article 344. - Practice
(1) Unless the contrary is proved, the consent of such [notoriously insane or infirm] person shall be deemed to be affected by a defect which brings about its nullity.
(2) …"
[150] *Ibid*, Articles 345 and 350.

The second regime under which legal incapacity on grounds of "mental health conditions" may arise involves "judicial interdiction", which applies to:

(i) Persons described in the Civil Code as "insane" whose "insanity" is not, however, presumed to be "notorious", where the interests of the person concerned, or their heirs so require; and

(ii) "Infirm persons", who are presumed to be unable to "govern themselves" or administer their property.[151]

In such cases, a court may, upon application by the individual concerned, a spouse, close relatives, or the public prosecutor, declare a person "legally incapable" after assessing the existence of "insanity" or infirmity and the necessity of interdiction.[152] Once a judgment of interdiction is issued, the individual is deprived of the legal capacity to perform juridical acts.[153]

In addition to the general restriction on legal capacity, the Civil Code also imposes limitations on the legal capacity of persons deemed "incapable" to enter into valid contracts or provide informed consent.[154] This includes those labelled "insane" or "infirm", who are presumed unable to give full and free consent; any contracts entered into by such individuals may be contested.[155]

Moreover, the Civil Code imposes a distinct formality requirement for written contracts by persons with visual impairments: their handwritten signature or thumb mark on a contract is valid only if approved by a notary, registrar or judge.[156] Without such approval, the contract does not legally bind the person with a disability. Although framed as a protective legal safeguard, this requirement is grounded in the assumption that persons with visual impairment lack the capacity for autonomous decision-making. The Federal Supreme Court (cassation division) has regrettably upheld this statutory requirement as a form of "special protection under the law",[157] while, in effect, it entrenches a discriminatory barrier to the exercise of legal capacity by persons with disabilities on an equal basis with others. Such a requirement constitutes indirect discrimination, as an ostensibly neutral rule disproportionately restricts the legal agency of persons with disabilities and produces unequal effects in the enjoyment of legal capacity, contrary to the principle of equal recognition before the law under Article 12 of the CRPD as interpreted by the CRPD Committee.[158]

Notably, the Civil Code employs terms such as "insane", "infirm", and "deaf-mute", language that is derogatory, discriminatory and in direct contravention of the CRPD. Article 12 of the CRPD, as interpreted by the CRPD Committee in its General Comment No. 1, rejects disability-based labels that perpetuate denial or restriction of legal capacity on the basis of disability.[159] The CRPD Committee, in its Concluding Observations on Ethiopia, specifically urged the State to eliminate such terms from its laws.[160]

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[151] *Ibid*, Articles 351-354.
[152] *Ibid*, Article 353.
[153] *Ibid*, Article 373.
[154] *Ibid*, Article 1678.
[155] *Ibid*.
[156] *Ibid*, Article 1728 (3): "The signature or thumbmark of a blind or illiterate person shall not bind him unless it is authenticated by a notary, registrar or judge acting in the discharge of his duties."
[157] *Etenesh Kasa vs. Haji Jemal Yimam*, Federal Supreme Court, Cassation File No. 83674, Volume 15, May 2013, Pp.65–68 [Amharic text].
[158] CRPD Committee, General Comment No.6, § 18 (b).
[159] CRPD Committee, General Comment No.1, § 13.
[160] CRPD Committee, 'Concluding Observation on the initial report of Ethiopia,' §§ 25 and 26.

***The Revised Family Code 2000***

The Revised Family Code of Ethiopia imposes restrictions on the legal capacity of persons with intellectual and/or psychosocial disabilities with respect to family life matters.[161] As noted above, the Civil Code subjects individuals deemed "insane" or "infirm" to a general incapacity to perform juridical acts, which includes the legal capacity to enter into a valid marriage, on the basis that their consent is presumed "defective".[162] The Family Code further provides that a marriage may be invalidated where consent was given in error, including "error on the state of health of the spouse" who is affected by "a disease that does not heal or that can be genetically transmitted to descendants".[163] In addition, in family and property management, persons declared incapable due to disability (those judicially interdicted) are deprived of the right to administer family affairs or manage property. This right is then transferred to their spouse or to a court-appointed tutor.[164] Moreover, the general legal "incapacity" of those deemed "notoriously insane" or "infirm" effectively prevents them from entering into valid adoption contracts or from providing legally valid consent regarding the adoption of their own children,[165] except in limited circumstances where a court, during or following a judicial interdiction, authorizes the interdicted person to undertake such acts.[166]

***The Criminal Code of 2004 and the Criminal Procedure and Evidence Code of 2026***

Ethiopia's criminal codes, across successive codifications, have consistently treated disability through a predominantly medical and custodial lens. From the earliest Penal Code (1930) to the current Criminal Code (2004), disability and, in particular, intellectual and/or psychosocial disabilities, have been framed primarily as a factor affecting criminal responsibility.

Under the Penal Code of 1930, individuals found to have lacked mental capacity due to mental illness at the time of committing a criminal act or omission would receive a reduced punishment.[167] The 1957 Penal Code expanded this framework, adopting more restrictive language and formally pioneering the system of compulsory institutionalization for persons found to lack the mental capacity to be criminally culpable on the basis of disability.[168] Where, due to "illness, abnormal

[161] The Revised Family Code, Proclamation No.213 of 2000.
[162] The Civil Code, Articles 344 (1) and 369.
[163] The Revised Family Code, Article 13(3)(b).
[164] *Ibid*, Article 66; and the Civil Code, Article 358, which partly reads "a person who has been judicially interdicted shall be subject in respect of his person and of his property to the same rules of protection as a minor." And, under Article 269 (1) of the Revised Family Code, a "minor shall be represented by his tutor concerning his property and his pecuniary interests."
[165] The Revised Family Code, Art.191 (2).
[166] The Civil Code, Article 371 (1).
[167] the Penal Code of 1930 [Amharic Text], Chapter 2, Sec.19, available at https://ethcln.com/system/files/Ethiopian%20Penal%20Code%20of%201930-%20Amharic.pdf.
[168] The Penal Code No.158 of 1957, available at https://www.legal-tools.org/doc/6eac47/pdf/.
"Art.48. - Criminal Responsibility and Irresponsibility.
(1) The offender who is responsible for his acts is alone liable to punishment under the provisions of criminal law.
A person is not responsible for his acts under the law when, owing to age, illness, abnormal delay in his development or deterioration of his mental faculties, he was incapable at the time of his act, of understanding the nature or consequences of his act, or of regulating his conduct according to such understanding.
(2) The Court may order in respect of an irresponsible persons such suitable measures of treatment or protection as are provided by law (Art.133-135)."
Art.134 – Confinement.

delay in … development or deterioration of his mental faculties", an individual is considered "incapable" at the time of an act to "understand the nature or consequences" of the act, the Code required courts to issue what Article 48 (1) of the Code described as "suitable measures of treatment or protection," which included confinement in an institution – a hospital or asylum – if the person was deemed a danger to public safety, public order, or to those living with them.[169]

The Criminal Code of 2004 largely reproduces the framework of the 1957 Code, explicitly enabling "disability" to operate both as a ground for complete exclusion of criminal responsibility and for partial responsibility with sentence mitigation.[170] Under Article 48 (2), a person is deemed not

(1) If the offender, by reasons of his condition, is a threat to public safety or order, or if he proves to be dangerous to the persons living with him, the Court shall order his confinement in a suitable institution.
(2) If he is in need of treatment, he shall either be treated in the institution in which he is confined or be transferred to an appropriate institution in accordance with Article 135. Proper provision may be made for his safe custody.

Art.135 - Treatment.
(1) Where an offender is suffering from a mental disease or deficiency, deaf and-dumbness, epilepsy, chronic alcoholism, intoxication due to the abuse of narcotics or any other pathological deficiency and requires to be treated or placed in a hospital or asylum the Court shall order his treatment in a suitable institution or department of an institution.
(2) …

[169] *Ibid,* Article 134.

[170] The Criminal Code of the Federal Democratic Republic of Ethiopia, Articles 48, 49 and 129-131:

"Article 48 – Criminal Responsibility and Irresponsibility
(1) The criminal who is responsible for his acts is alone liable to punishment under the provisions of criminal law.
(2) A person is not responsible for his acts under the law when, owing to age, illness, abnormal delay in his development, deterioration of his mental faculties, one of the causes specified under Article 49 sub-article 1 or any other similar biological cause, he was incapable at the time of his act, of understanding the nature or consequences of his act, or of regulating his conduct according to such understanding.
(3) The Court may order in respect of an irresponsible person such suitable measures of treatment or protection as are provided by law (Arts. 129-131)"

Article 49 – Partial Responsibility
(1) He who owing to one of the causes specified under Article 48 sub-article (2) above, or a derangement or an abnormal or deficient condition or any other similar biological cause was, at the time of his act, partially incapable of understanding the nature or consequences thereof or regulating his conduct according to such understanding shall be partially liable to the punishment specified, for the crime committed. The court shall determine the sentence in accordance with Article 180.
(2) In addition to a penalty the Court may order such appropriate measures of treatment, correction or protection as are provided by law (Arts. 129-131).

Article 129 – Principle
After ascertaining on the bases of normal enquiry and expert examination, (Art. 51) whether the criminal is irresponsible (Art.48) or whether he is of a limited responsibility (Art.49), the Court shall apply the following provisions having regard to the circumstances and requirements of the cases.

Article 130 – Confinement
(1) If the criminal, by reason of his condition, is a threat to public safety or order, or if he proves to be dangerous to the persons living with him, the Court shall order his confinement in a suitable institution.
(2) If he is in need of treatment, he shall either be treated in the institution in which he is confined or be transferred to an appropriate institution in accordance with Article 131. Proper provision may be made for his safe custody.

Article 131 - Treatment.
(1) Where a criminal is suffering from a mental disease or deficiency, deafness and dumbness, epilepsy, chronic alcoholism, narcotic and psychotropic substances, intoxication due to the abuse of narcotics

criminally responsible where, owing to illness, abnormal delay in development, deterioration of mental faculties, or another similar biological cause, they were incapable at the time of the act of understanding its nature or consequences or of regulating their conduct accordingly. In such cases, the court may order measures of treatment or protection pursuant to Articles 129–131. By contrast, Article 49 provides that, where the same conditions only partially impair understanding or self-regulation, the person remains criminally liable but benefits from a mitigated sentence under Article 180, and the court may additionally impose measures of treatment, correction, or protection.

The relevant provisions extend beyond intellectual and psychosocial disabilities to encompass a broader range of conditions, including deafness and dumbness, and epilepsy.[171] Depending on the court's assessment of an individual's dangerousness and treatment needs, these determinations may result in confinement in an institution or hospital, or, where the individual is not considered dangerous, compulsory outpatient treatment subject to supervision.

The Criminal Procedure and Evidence Code (Proclamation No.1410), enacted in April 2026, replaces the Criminal Procedure Code of 1961: it continues to treat disability in the criminal process through a predominantly medical and custodial lens. The Code expressly regulates the position of accused persons found "unfit to participate in the proceedings by reason of physical or mental illness".[172] Accordingly, under Article 228 of the Code,[173] a finding of unfitness leads to the postponement of the proceedings for up to one year, during which an accused considered "dangerous" may be detained in an institution.[174] The Code also allows a court to prevent a witness from testifying where – without any reference to accommodation or support – by reason of, among other things, "senility or physical or mental illness", the witness is purportedly unable to understand the facts or the questions put to them.[175] Moreover, Article 7 of the Code, which provides for equal protection of the law and for the application of the Code without distinction, does not list disability among the grounds on which discrimination is prohibited.[176] Disability can be brought within the scope of Article 7 only through its residual reference to "any other ground not permitted by law". The fact that a Code enacted 16 years after Ethiopia's ratification of the CRPD does not expressly name disability among the prohibited grounds of distinction is itself of real concern from a human rights perspective, as it leaves protection against disability-based discrimination in criminal proceedings entirely dependent on a progressive interpretation of its provisions.

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or any other pathological deficiency and requires to be treated or placed in a hospital or asylum the Court shall order his treatment in a suitable institution or department of an institution.

(2) Where the Court is satisfied that the criminal is not dangerous and can be treated as an out-patient, it shall order accordingly. The Court shall then order that the criminal be kept under proper supervision and control either by the medical expert in charge of the case or by some other competent authority. An order made under this Article may be revoked at any time where it is known that it is unreliable or cannot produce positive result. Before revoking the order or taking other appropriate measures, the Court may require from the medical experts or other competent authority such report as it considers necessary."

[171] *Ibid*.

[172] The provisions on unfitness and witnesses are examined in more detail in Section VI.

[173] Criminal Procedure and Evidence Code, Proclamation No.1410 of 2026, Article 228.

[174] *Ibid*.

[175] *Ibid*, Article 247.

[176] *Ibid*, "Article 7 - Equality before the law:
Persons who are arrested or accused are equal before the law; without any kind of distinction among them, they shall be given equal protection of the law. The Criminal Code and this Code shall apply without distinction on the ground of race, nation, nationality, colour, sex, language, religion, politics, social origin, wealth, birth, or any other ground not permitted by law."

Therefore, the Criminal Code of 2004 and the Criminal Procedure and Evidence Code (Proclamation No.1410) do not treat persons with disabilities as full and equal rights holders entitled to the support they require to exercise their legal capacity, nor do they incorporate provisions compatible with the CRPD, which requires the upholding of legal capacity and respect for the will and preferences of persons with disabilities. They also perpetuate the discriminatory idea of persons with disabilities as potentially dangerous and, indeed, more likely than others to be so.

Overall, Ethiopia's legal codes – both past and present – reflect a deeply entrenched notion of legal incapacity of persons with certain forms of disability, an approach rooted in the *Fetha Nagast* and carried forward into modern legal codes, including, into the recently enacted Criminal Procedure and Evidence Code (Proclamation No.1410). These laws also endorse a substitute decision-making system that deprives persons with disabilities of equal legal recognition and autonomy in all aspects of life, and are inconsistent with international human rights law and standards, particularly the CRPD, which guarantees the right to equal recognition before the law (Article 12) and liberty and security of the person (Article 14).

Although most of the legal codes were enacted before 2010 and, therefore, predate Ethiopia's ratification of the CRPD (the notable exception being the Criminal Procedure and Evidence Code enacted in 2026), by virtue of being a State party to the treaty, Ethiopia is legally bound to review and amend such provisions and to ensure that newly enacted laws comply with the Convention. Therefore, it is of concern that, nearly 16 years after becoming a State party to the CRPD, Ethiopia has made no credible effort to repeal discriminatory provisions featured in its legislation and to bring the latter into conformity with the country's legal obligations under the CRPD.

Moreover, in its 2016 Concluding Observations on Ethiopia's initial report,[177] the CRPD Committee explicitly called on the State to abolish the discriminatory provisions in the legal codes and to legally recognize the full legal capacity of persons with disabilities in all areas of life.[178] However, in its combined second and third periodic reports submitted to the CRPD Committee in 2023, which at the time of drafting this report the Committee had yet to review, Ethiopia acknowledges that the Civil Code and other legislation embedding disability-based discrimination have not been comprehensively revised.[179] With specific regard to the criminal law framework, the State expressly concedes that, "in this respect, no significant measure is taken to repeal the existing criminal law of Ethiopia."[180] The only progress the State highlighted is that the use of derogatory terms to refer to persons with disabilities is no longer used in official speeches, policy documents, or recently adopted laws;[181] a development that falls far short of the systemic legislative reform required. The discriminatory provisions in the legal codes therefore remain in force and must still be repealed or amended to bring them into conformity with the CRPD. The enactment in April 2026 of the Criminal Procedure and Evidence Code (Proclamation No.1410) – which retains an impairment-based approach to fitness to stand trial and to witness competence – without heeding the CRPD Committee's recommendations, reinforces this concern.

[177] CRPD Committee, 'Initial Reports of States parties due in 2012: Ethiopia,' CRPD/C/ETH/1, 19 March 2015.
[178] CRPD Committee, 'Concluding Observation on the initial report of Ethiopia,' §§ 26 and 32.
[179] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020,' § 7.
[180] *Ibid*, § 28.
[181] *Ibid*, § 6.

### *c. The Right to Employment of Persons with Disabilities Proclamation*

The Right to Employment of Persons with Disabilities Proclamation No. 568 of 2008 (Proclamation No. 568),[182] which applies to both public and private sector employment relationships, is currently the only disability-specific legislation in force in Ethiopia. It was adopted following the 1971 Imperial "Rehabilitation Agency for the Disabled Order"[183] and the 1994 Proclamation concerning "the Rights of Disabled Persons to Employment."[184] Both these earlier legislative frameworks were rooted in a medical understanding of disability.

Proclamation No. 568 does not differentiate between private-sector employees and public servants in its definition of beneficiaries or in its procedural guarantees. Unlike the Labour Proclamation No. 1156/2019 and the Civil Servants Proclamation No. 1353/2025 — which separately regulate the general private and public employment relationships respectively — the disability-specific Proclamation is framed specifically and is designed to secure the right to employment of persons with disabilities across sectors.

Ethiopia enacted Proclamation No. 568 in 2008, as part of the country's domestic preparatory steps to ratify the CRPD — that is, after Ethiopia signed the Convention in March 2007 but before its actual ratification in 2010. The Proclamation marked a notable step forward in recognizing the right of persons with disabilities to work.

According to the Proclamation, a "person with disability" is defined as:

> "an individual whose equal employment opportunity is reduced as a result of his physical, mental or sensory impairments in relation with social, economic and cultural discrimination."[185]

Although this definition is employment-centric and, as such, frames disability solely in terms of reduced employment opportunities due to disability, it nonetheless acknowledges that impairments interact with social, economic, and cultural barriers in reducing the opportunities of persons with disabilities to be able to work on an equal basis with others. This understanding of disability aligns to some extent with the social model of disability espoused under the CRPD[186] and is a significant improvement on the conceptualization of disability in various laws discussed above.

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[182] A Proclamation to Provide for the Right to Employment of Persons with Disability No.568/2008 (Proclamation No. 568), https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/11/Ethiopia_Right-to-Employment-of-Persons-with-Disability-Proclamation-2008.pdf.

[183] Rehabilitation Agency for the Disabled Order, Order No. 70 of 1971. The order defined a person with a disability as: "any person who because of limitations of normal physical or mental health, is unable to earn his livelihood and does not have anyone to support him; and shall include any person who is unable to earn his livelihood because of young or old age." (Article 2).

[184] A Proclamation Concerning the Rights of Disabled Persons to Employment, Proclamation No.101 of 26 August 1994 (Employment of Persons with Disabilities Proclamation), available at: https://ecommons.cornell.edu/server/api/core/bitstreams/d5058eca-5d8d-4a16-abdd-9bb6cee6f117/content. The Proclamation defined a "person with disability" as: "an individual whose equal employment opportunity is reduced as a result of his physical, mental or sensory impairments in relation with social, economic and cultural discrimination" (Article 2 (1).

[185] *Ibid*, Article 2 (1).

[186] According to the CRPD, preamble - para. e, disability "results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others." Likewise, the African Disability Protocol defines persons with disabilities as "those who have physical, mental, psycho-social, intellectual, neurological, developmental or other sensory

One of the primary objectives of Proclamation No. 568 is to address gaps in existing employment legislation that have contributed to the marginalization of persons with disabilities.[187] These gaps, as the Proclamation states, include: discriminatory assumptions that persons with disabilities are incapable of performing jobs on merit; a failure to guarantee the right to reasonable accommodation; and inadequate mechanisms to protect against employment-related discrimination.[188] To remedy these shortcomings, the Proclamation establishes:

(i) A legal framework aligned with the country's policy of equal employment opportunity;[189]
(ii) The duty to provide reasonable accommodation in the workplace;[190] and
(iii) Procedural rules enabling persons with disabilities or OPDs to seek redress before judicial bodies when discrimination occurs.[191]

The Proclamation also defines discrimination as:

> "differential treatment in employment opportunity as a result of disability; provided, however, that any inherent requirement of the job or measures of affirmative actions may not be considered as discrimination."[192]

It further defines reasonable accommodation broadly as:

> "an adjustment or accommodation with respect to equipment at the workplace, requirement of the job, working hours, structure of the business and working environment with a view to accommodate [sic] persons with disabilities to employment."[193]

The Proclamation recognizes the denial of reasonable accommodation as a form of discrimination. It specifically provides that, "when a disabled person is not in a position to exercise his equal right of employment opportunity, as a result of the absence of a reasonable accommodation, such an act shall be regarded as discrimination."[194]

The Proclamation also places an explicit responsibility on employers to take reasonable accommodation and affirmative action measures taking into account intersectional discrimination faced by women with disabilities.[195]

Although employers are safeguarded against provision of accommodations that constitute an "undue burden", they are required to provide employees with disabilities with "an assistant" to enable the performance of their work, and the Proclamation specifies that, "the assignment of an assistant for a person with disability shall, under no circumstance, constitute undue burden to an employee".

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impairments which in interaction with environmental, attitudinal or other barriers hinder their full and effective participation in society on an equal basis with others." See the ADP, Article 1.
[187] Employment of Persons with Disabilities Proclamation, preamble.
[188] *Ibid*.
[189] *Ibid*.
[190] *Ibid*, Article 6.
[191] *Ibid*, Articles 7 and 10.
[192] *Ibid*, Article 2 (4).
[193] *Ibid*, Article 2 (5).
[194] *Ibid*, Article 5(3).
[195] *Ibid*, Article 6(1)(b).

The Proclamation further stipulates that an employer's breach of its statutory duties, including the duty to provide reasonable accommodation, is punishable by a fine of up to 5,000 ETB (approximately 32 USD), or double that amount in cases of continued failure to rectify the breach.[196] This fine is arguably too modest an amount to function as an effective deterrent because reasonable accommodations will often cost more than the potential fines the employer may incur as a result of a breach of its statutory duties. The legal regime is thus open to being abused by unscrupulous employers who may prefer to save money by merely accepting the risk of paying low fines for their failure to provide reasonable accommodation.

The Proclamation also establishes an important and innovative procedural safeguard to ensure access to justice for persons with disabilities whose rights guaranteed under the Proclamation are infringed. It allows individuals to bring claims of disability discrimination before a court or an administrative tribunal without bearing the burden of proof; shifting the burden on to the employer in order to demonstrate that no discrimination occurred – a marked deviation from the usual "burden of proof" requirement that makes it obligatory on those alleging violations to prove their case, and not vice versa.[197] Moreover, the Proclamation allows any person with a disability, OPDs, trade unions of which the person with a disability is a member, or designated government enforcement bodies to institute legal action where rights are infringed due to non-observance of its provisions.[198] It also requires Courts to issue decisions within 60 days of filing such an action, providing an important procedural guarantee for timely remedies.[199]

However, in a 2014 decision in *Addis Ababa City Justice Bureau vs. Mekonen Teklu*, the Federal Supreme Court of Ethiopia (cassation division) issued a judgment that effectively narrowed the scope of application of the procedural guarantees under Proclamation No.568 by excluding judicial appointees from the protections afforded by the Proclamation.[200]

Initially in this case, the claimant, a person with a disability who was serving as a public prosecutor at the Addis Ababa City Prosecution Office, had petitioned the Federal First Instance Court, claiming that his transfer to a branch office, which also involved a salary cut, constituted discrimination based on disability. He then invoked the procedural guarantee under Proclamation No. 568, arguing that the burden of proof lay on the employer to prove that no discrimination had occurred, and requested that the Court decide on his reinstatement to the previous position, along with the provision of reasonable accommodations – specifically, the provision of a reading assistant.[201]

The Federal First Instance Court found that the Justice Bureau had failed to prove the absence of discrimination and, therefore, held the transfer unlawful and ordered the reinstatement of the then claimant to his previous position.[202] The Federal High Court upheld this decision.[203] On further appeal, however, the Federal Supreme Court held that employment disputes involving

[196] *Ibid*, Article 11.
[197] *Ibid*, Article 7.
[198] *Ibid*, Article 10 (1).
[199] *Ibid*, Article 10 (2).
[200] *Addis Ababa City Justice Bureau vs. Mekonen Teklu*, Federal Supreme Court Cassation Decision No.75034, Volume 14, pp.234-237, available at https://www.fsc.gov.et/Digital-Law-Library/Publications/Federal-Cassation-Decision-Series/volume-14 [Amharic text].
[201] *Ibid*.
[202] *Ibid*.
[203] *Ibid*.

government-appointed officials, including judges and public prosecutors with disabilities, fall outside the procedural frameworks of Proclamation 568.[204]

According to the Federal Supreme Court, employment disputes involving judges and prosecutors should not be brought directly before ordinary courts but rather be handled by respective administrative bodies.[205] The Court reasoned that, although Proclamation No.568 applies generally to public servants with disabilities, its procedural guarantees do not extend to those holding appointed positions, since employment disputes involving such employees must, by law, generally be handled by administrative bodies – such as judicial administration commissions – not by courts or quasi-judicial tribunals.[206]

This interpretation, however, creates a significant protection gap. The legal regimes governing judges[207] and prosecutors[208] do not provide comparable procedural safeguards against discrimination based on disability in the context of employment. While the claimant in *Mekonnen Teklu* also sought a form of reasonable accommodation – namely, the provision of a reading assistant – the core issue raised in the case concerns procedural access to justice guarantees in employment discrimination claims.

By excluding them from the procedural framework of the disability-specific Proclamation and redirecting them to administrative bodies lacking comparable safeguards, the Federal Supreme Court's interpretation weakens access to justice protection for judicial appointees with disabilities. Article 13 of the CRPD requires States to ensure effective access to justice and the provision of procedural accommodations to all persons with disabilities, which equally applies to judges or prosecutors with disabilities.

Although the Labour and Civil Servants Proclamations mentioned above prohibit disability-based discrimination within their respective domains,[209] they do not replicate the distinctive procedural safeguards contained in Proclamation No. 568, including the reversal of the burden of proof and the express right of direct access to courts in relation to employment disputes. The Federal Supreme Court's interpretation thus effectively undermines the protection regime provided under Proclamation No. 568 and limits the reach of the only disability-specific employment statute in force to prosecutors and judicial officers.

### *d. Drafting a comprehensive disability law*

Ethiopia is yet to enact disability-specific legislation, significantly constraining the domestication and effective enforcement of the human rights and guarantees set out in the CRPD.[210] With respect to this, in its combined second and third periodic report to the CRPD Committee submitted in 2023, Ethiopia stated that it was in the process of enacting a comprehensive disability law. However, the

[204] *Ibid*.
[205] *Ibid*.
[206] *Ibid*.
[207] Federal Judicial Administration Proclamation No.1223 of 2021.
[208] Federal Prosecutors' Administration Council of Ministers Regulation No.443 of 2018 (Also see the repealed Regulation No. 44 of 1998).
[209] Labour Proclamation No.1156 of 2019, Articles 14(1)(f) and 26(1)(d); Federal Civil Servants Proclamation No.1353 of 2025, Articles 5(2), 29 (3) and 73 (3) and (4).
[210] Addis Getachew, "Marginalized Multitudes: Accessibility and Inclusion for PWD - Will the Long-Awaited Disability Legislation be a Step Forward?" *The Reporter*, January 2025, available at https://thereportermagazines.com/3490/.

report itself referred to a government plan for the 2020-2021 period, under which the Ministry of Labour and Social Affairs had indicated that a draft comprehensive disability law was expected to be finalized by June 2021.[211] Nevertheless, no such legislation has been enacted to date.

The continued legislative gap has also been highlighted at both continental (African Commission) and the global (United Nations) level. In the 2024 Report of the Working Group on the Universal Periodic Review, Ethiopia received specific recommendations urging it to strengthen its legal framework for the protection of the human rights of persons with disabilities. In particular, recommendation 58.297 called on Ethiopia to "develop and adopt a comprehensive legal framework to strengthen and mainstream the protection of the rights of persons with disabilities," while recommendation 58.298 urged it to "expedite the adoption of the draft disability proclamation."[212] However, as of the time of writing this report, no such law has been enacted.

Civil society organizations and OPDs in Ethiopia have long advocated for the adoption of a comprehensive national disability law grounded in the CRPD.[213] As part of these advocacy efforts, particularly the Ethiopian Center for Disability and Development (ECDD) - a disability-focused local NGO[214] - went so far as to prepare a "draft disability legislation" in 2021, which served as an advocacy tool during engagements with government actors and other stakeholders.[215]

According to Yilkal Hassabie, a lawyer with disability who served as the expert responsible for preparing the draft, the drafting process was commissioned by ECDD, with the Ministry of Women and Social Affairs (MOWSA) and the Federation of Ethiopian Associations of Persons with Disabilities (FEAPD) participating as collaborating and oversight bodies.[216] He further noted that when the draft was presented to associations of persons with disabilities in 2021, they made a range of substantive suggestions to strengthen and further align the text with Ethiopia's legal obligations under the CRPD.[217]

Subsequently, and in response to sustained advocacy by OPDs, MOWSA assumed the responsibility and prepared an initial official draft of a disability legislation in or around 2021-2022.[218] However, according to OPDs, this draft was limited in scope and substance. It was widely perceived as resembling a declaratory policy statement rather than a legislative framework capable of guaranteeing and enforcing the full range of the human rights of persons with disabilities.[219]

Following consultations with the Ministry in 2022, OPDs took the initiative to establish a national steering committee to promote a more robust draft legislation.[220] Under this steering committee,

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[211] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020,' § 13.
[212] Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Ethiopia,' A/HRC/58/15, 18 December 2024, https://docs.un.org/en/A/HRC/58/15.
[213] Ethiopian Lawyers with Disabilities Association (ELDA), 'Press Statement on the Prolonged Delay in Enacting the National Disability Legislation and a Call for Urgent Action', December 2023 [Amharic text].
[214] Ethiopian Center for Disability and Development (ECDD), https://ecdd-ethiopia.org/about-us/.
[215] Interview with Yilkal Hassabie, lawyer with disability, 11 November 2025; Also see, ECDD, Recruitment of Legal Expert for Drafting of Comprehensive Disability Proclamation for Ministry of Labour and Social Affairs, 2021, available at https://www.hahu.jobs/jobs/60a24109d7fd441f3d42bcd3, last accessed on 13 February 2026.
[216] Interview with Yilkal Hassabie.
[217] *Ibid*.
[218] *Ibid*.
[219] Interview with Mussie Tilahun, Executive Director of the Ethiopian Lawyers with Disability Association (ELDA), 04 November 2025.
[220] *Ibid*; and Interview with Yilkal Hassabie.

a legal expert team was constituted, which undertook extensive research, including a review of comparative experiences from other jurisdictions.[221] This process culminated in the preparation of an alternative "draft of the legislation" that – according to persons with disabilities involved in the process and consulted for this report – reflected a human rights-based approach and aligned with international human rights law and standards, particularly the CRPD.[222]

The steering committee further organized a series of consultation sessions involving a broad range of OPDs, alongside representatives of MOWSA. Through these consultations, the draft was refined and consolidated. The resulting revised "draft legislation" was subsequently formally presented in 2022 to MOWSA for consideration as a comprehensive national disability law.[223]

The consolidated "draft legislation" sets out a catalogue of substantive and procedural guarantees. It adopts a human rights–based definition of disability compliant with the CRPD; prohibits discrimination on the basis of disability, including the denial of reasonable accommodation; and affirms the right to equality, providing that any distinction impairing the rights of persons with disabilities shall have no legal effect, while clarifying that affirmative action measures do not constitute discrimination. It further guarantees full legal capacity on an equal basis with others in all aspects of life.

In addition, the draft enshrines the right of access to justice—including the right to participate effectively in all legal proceedings, to receive procedural accommodations, to access documents in accessible formats, to benefit from State-funded sign language or tactile interpreters and personal assistance where required, and to receive age- and gender-responsive justice services—while mandating training for justice-sector personnel on the same.

The draft also protects the rights to independent living and community inclusion, political participation, accessibility (including universal design obligations) and equal access to financial services. It also provides for the registration and certification, and tax exemptions for persons with disabilities and disability associations.

Importantly, the draft also establishes the National Disability Council and a National Disability Development Fund, thereby creating an institutional and financial mechanism to support the implementation of the human rights and guarantees set out in the law.

MOWSA, however, has raised concerns regarding some provisions of the draft that have budgetary implications, particularly those requiring specific government institutions to allocate resources for: the promotion and protection of the human rights of persons with disabilities; tax exemption-related provisions; as well as provisions relating to the proposed institutional framework, including the establishment and resourcing of a National Disability Council.[224] According to Yilkal Hassabie, these concerns were addressed through further consultations between MOWSA, OPDs, and the steering committee, during which compromises were reached on several contested issues.[225]

However, without further public clarification regarding the final revisions undertaken, it is reported that MOWSA shared a draft legislation with the Ministry of Justice for review, following which the

[221] Interview with Mussie Tilahun.
[222] Copy of the draft legislation in Amharic is in file with the ICJ.
[223] Interview with Mussie Tilahun; and Interview with Yilkal Hassabie.
[224] Interview with Yilkal Hassabie.
[225] *Ibid*.

Ministry conveyed general comments to MOWSA.[226] According to Sisay Tilahun, the Executive Director of the Disability Executive Department at MOWSA, who was interviewed for this report, the feedback from the Ministry of Justice focused in part on questions concerning the relevance and applicability of national legislation in light of Ethiopia's federal governance dispensation and the context of subnational governments.[227]

The Director for Legal Study, Drafting and Consolidation Directorate General at the Ministry of Justice — the body responsible for the technical and legal review of draft federal legislation prior to its submission to the relevant authorities for consideration and approval — also emphasized this position.[228] He indicated that a clearer legislative approach and more thorough analysis would be required prior to the enactment of any national law, in order to ensure legal coherence and effective implementation.[229] The Director further noted that the Ministry of Justice's concerns included assessing whether a comprehensive, standalone national disability law was necessary, or whether the human rights of persons with disabilities could be more appropriately addressed through the revision and mainstreaming of disability-related provisions across existing legislation in various areas, such as education, employment, family law, and other relevant sectors.[230]

However, in the Ethiopian context, such an approach risks being time-consuming and fragmented, potentially delaying the effective protection of the human rights of persons with disabilities and falling short of Ethiopia's legal obligation to ensure comprehensive implementation of its commitments under the CRPD.

On the other hand, OPDs have expressed concern over the government's reluctance to proceed with the enactment of the law,[231] raising doubts about the Government's commitment to guaranteeing the human rights of persons with disabilities in line with its CRPD obligations. According to Mussie Tilahun, Executive Director of the Ethiopian Lawyers with Disability Association:

> "The continued reluctance to enact the draft disability legislation must be understood against the broader way in which disability issues are conceptualized in Ethiopia, which remains heavily skewed toward a charity-based—and at times medical—approach rather than a human right–based framework. This conceptual orientation has translated into limited political commitment to rights-based reform. Consequently, despite Ethiopia's ratification of the CRPD in 2010 and the CRPD Committee's 2016 Concluding Observations—including recommendations specifically aimed at strengthening the protection of the human rights of persons with disabilities—no meaningful measures have been taken to advance the protection of the human rights of persons with disabilities. The

[226] EHRC, 'Annual Human Rights Situation Report on Disability Rights and Rights of Older Persons,' January 2025 [Amharic text], available at: https://ehrc.org/the-latest/4th-annual-ethiopia-human-rights-situation-report/, p.13.
[227] Interview with Sisay Tilahun, Executive Director of the Disability Executive Department at MOWSA, 7 November 2025.
[228] Interview with Addis Getnet, Director General, Legal Study, Drafting and Consolidation Directorate General, Ministry of Justice, 12 November 2025.
[229] *Ibid*.
[230] *Ibid*.
[231] ELDA, 'Press Statement on the Prolonged Delay in Enacting the National Disability Legislation and a Call for Urgent Action', December 2023 [Amharic text].

ongoing delay in expediting the adoption of the draft disability legislation is therefore a continuation, and a clear manifestation, of that reluctance."[232]

At the time of writing this report, the drafting process had been temporarily stalled following the Government's decision that a national disability policy should first be developed to guide the formulation of the disability law.[233] The drafting of this policy has since been completed. A validation workshop was held in October 2025, and the Planning Commission, which is responsible for reviewing national policies, has finalized its review of the draft and recently transmitted it to the Council of Ministers for approval.[234]

Meanwhile, the final official draft legislation submitted by MOWSA for review to the Ministry of Justice has not been made public, undermining transparency in the legislative process. Similarly, while the drafting of a national disability policy has reportedly been completed, as noted by informants interviewed for this report, the draft policy - now awaiting approval by the Council of Ministers - has not been made available for public review, nor has the official draft policy text been shared with OPDs.[235] However, MOWSA and OPDs noted that public consultations on the draft policy were conducted through meetings organized by MOWSA with OPDs, during which the draft policy contents were presented, albeit without the text being shared.[236]

The trajectory and process in the development of both the draft disability law and the national disability policy give rise to significant concern about the approach of the Ethiopian authorities, which is marked by limited transparency and inadequate participation of OPDs and persons with disabilities. This approach falls short of Ethiopia's obligations under the CRPD, which requires States Parties to ensure the close and active involvement of persons with disabilities and OPDs in the development, implementation, and monitoring of legislation and policies that affect them. Under Article 4(3) of the CRPD, such participation must be meaningful, timely, and informed, including access to draft texts and opportunities to influence outcomes, rather than limited to consultations or the presentation of finalized proposals. These concerns have also been explicitly highlighted by the CRPD Committee in its 2016 Concluding Observations on Ethiopia, in which it urged the State to ensure systematic and meaningful consultation with OPDs in the development of all laws and policies and to guarantee their effective participation across sectors.[237] Research on the broader experiences of persons with disabilities in Ethiopia further points to broader participation deficit, extending beyond law and policy-making processes to patterns of marginalization and exclusion in civic and social life more generally.[238]

Beyond procedural requirements, the CRPD also imposes a substantive obligation on Ethiopia to adopt appropriate legislative, administrative, and policy measures to give effect to the human rights recognized in the Convention.[239] In this regard, the enactment of a comprehensive national

[232] Interview with Mussie Tilahun.
[233] Interview with Sisay Tilahun; EHRC, 'Annual Ethiopia Human Rights Situation Report (from June 2024 to June 2025), 22 August 2025 [Amharic text], available at: https://ehrc.org/the-latest/4th-annual-ethiopia-human-rights-situation-report/, § 303.
[234] Federation of Ethiopian Associations of Persons with Disabilities, Facebook post, 21 December 2025, available at https://web.facebook.com/share/p/1AqvE7E3wb/, last accessed on 6 July 2026.
[235] Interview with Mussie Tilahun and Interview with Yilkal Hassabie.
[236] Interview with Sisay Tilahun; and Interview with Mussie Tilahun.
[237] CRPD Committee, 'Concluding Observations on the Initial Report of Ethiopia,' § 8.
[238] Terry Krupa and others, 'Activity and Participation Experiences of People with Disabilities in Ethiopia' (2022) 11 A*frican Journal of Disability* 10.
[239] CRPD, Article 4.

disability law constitutes a key measure to harmonize domestic legislation with CRPD standards, address existing legal gaps and inconsistencies, and provide a coherent framework for the protection, promotion, and enforcement of the human rights of persons with disabilities. The absence of a transparent process in the formulation of such legislation and policy risks undermining its legitimacy, effectiveness, and compliance with Ethiopia's international obligations, and may result in legal and policy frameworks that fail to adequately reflect the lived experiences and priorities of persons with disabilities.

## V. OVERVIEW OF INSTITUTIONAL FRAMEWORKS

At the federal government level, MOWSA serves as the primary government body responsible for advancing the rights and well-being of persons with disabilities in Ethiopia.[240] The Ministry is mandated to develop and implement policies, strategies, and legislative measures that protect and promote the human rights of persons with disabilities and inclusion across government sectors.[241] It is also tasked with devising strategies to mainstream disability issues into national policies, programs, and projects, and with ensuring that federal institutions integrate disability perspectives into their work.[242] MOWSA is also responsible for conducting research and collecting data to better understand the lived realities of persons with disabilities in Ethiopia.

In addition, in line with its coordinating mandate on disability affairs, MOWSA is empowered to initiate and follow up on the ratification of international treaties relating to the human rights of persons with disabilities, to oversee their implementation, and submit periodic reports to the relevant global and regional human rights monitoring bodies. [243] This mandate is particularly relevant in the context of both the Optional Protocol to the CRPD and the African Disability Protocol, neither of which Ethiopia has ratified. Given its institutional role in promoting the human rights of persons with disabilities and coordinating international disability-related commitments, MOWSA should facilitate the ratification of these protocols, thereby strengthening the legal protection of the human rights of persons with disabilities in Ethiopia.

The focal point responsible for the human rights of persons with disabilities within MOWSA was upgraded from a Disability Directorate to an Executive Department in 2021.[244] The Department is structured into three functional desks (units): an Advocacy and Rights Protection Desk (responsible for promoting and safeguarding the human rights of persons with disabilities); an OPDs Capacity-Building and Monitoring Desk (tasked with strengthening OPDs and overseeing disability rehabilitation centers and organizations); and a Disability Inclusion Desk (which follows upon the participation, inclusion, and benefit of persons with disabilities across relevant government sectors and activities).[245]

Notwithstanding this institutional readjustment and structure, a leader of an OPD consulted for this report shared his observation that:

[240] Definition of Powers and Duties of the Executive Organs Proclamation No.1263 of 2021, Article 36.
[241] *Ibid*, Article 36 (1) (a).
[242] *Ibid*, Article 36 (1) (b).
[243] *Ibid*, Article 36 (1) (u).
[244] Interview with Sisay Tilahun.
[245] *Ibid*.

> "The existence of the Executive Department has not yet been matched by commensurate investment in human and technical capacity, including personnel with sufficient expertise in the human rights of persons with disabilities, which has, in practice, constrained its effectiveness as the national focal point for disability inclusion and rights protection."[246]

Significant concerns about the effectiveness, capacity and resourcing of the Executive Department to discharge its ample and wide-ranging mandate remain widespread among stakeholders consulted in the course of drafting the present report.

Another government body with a mandate relevant to the realization of access to justice for persons with disabilities is the Ministry of Justice. The Ministry is responsible, *inter alia*, for drafting federal legislation, reviewing draft legislation prepared by other federal agencies, conducting an examination of international agreements, including human rights treaties, to be signed or acceded to by Ethiopia, following up on the implementation of these treaties, and preparing or coordinating submission of periodic reports to relevant international human rights treaty monitoring bodies.[247] The Ministry is also tasked, for example, with providing free legal representation in civil matters before federal courts, including to persons with disabilities who lack the financial capacity to pursue litigation.[248] Beyond direct provision of legal aid services, the Ministry also oversees and regulates *pro bono* legal assistance provided by licensed advocates practising before federal courts.[249]

The Ethiopian Human Rights Commission (EHRC), Ethiopia's Paris Principles-accredited National Human Rights Institution,[250] identifies the human rights of persons with disabilities and older persons as one of its key thematic areas of work.[251] Unlike previous years of its existence, since 2018 the Commission has had a dedicated Commissioner for the rights of Persons with Disabilities and Older Persons.[252] Established under the FDRE Constitution[253] and the EHRC establishment Proclamation,[254] EHRC's mandate includes promoting and protecting human rights and fundamental freedoms; ensuring that laws, regulations and directives, and government decisions comply with constitutional and international human rights standards; and investigating alleged human rights violations; and is directly answerable to the Federal Parliament.[255] The Commission does not, however, have a legally defined mandate to initiate or participate in litigation. Since 2020, it has increasingly published reports addressing issues affecting persons with disabilities, including through thematic reports and its annual human rights reports.[256] In addition, the

[246] Interview with Mussie Tilahun.
[247] Federal Attorney General Establishment Proclamation No.943 of 2016, Article 6.
[248] *Ibid*, Article 6 (4) (e): the Ministry "conducts litigation by representing citizens who do not have financial capacity to institute civil action under federal courts specially women, children, disabled and the elderly."
[249] Federal Advocacy Service Licensing and Administration Proclamation No.1249 of 2021, Articles 9 and 32 (1).
[250] 'EHRC thanks its stakeholders for their support in its success in obtaining "A" status reaccreditation,' https://ehrc.org/ehrc-thanks-its-stakeholders-for-their-support-in-its-success-in-obtaining-a-status-reaccreditation/.
[251] Ethiopian Human Rights Commission Establishment Proclamation No. 210 of 2000 as amended by Proclamation No. 1224 of 2020, Article 2 (1).
[252] EHRC, https://ehrc.org/our-team/, last accessed on 20 May 2026.
[253] FDRE Constitution, Article 55 (14).
[254] Ethiopian Human Rights Commission Establishment Proclamation No. 210 of 2000 as amended by Proclamation No. 1224 of 2020.
[255] *Ibid*, Article 6.
[256] https://ehrc.org/thematic-areas/persons-with-disabilities-and-older-persons/.

Commission undertakes awareness-raising and capacity-building activities on the human rights of persons with disabilities.[257]

While the EHRC's broad human rights mandate, in principle, extends to monitoring the exercise by persons with disabilities of their human rights, the Statute establishing the Commission does not expressly designate it as the independent national monitoring mechanism envisaged under Article 33(2) of the CRPD, which calls upon States Parties to designate or establish independent frameworks – including, where appropriate, national human rights institutions – responsible to promote, protect and monitor the implementation of the Convention. Yet, the Commission is mandated to forward its opinions on "human rights reports to be submitted to international organs".[258] Still, the absence of an explicit statutory designation, as envisaged under Article 33(2) of the CRPD, raises the question as to whether the Commission formally fulfills that specific monitoring role in the disability context.

Ethiopia has yet to establish a dedicated statutory body, a National Council for Persons with Disabilities, envisaged, as indicated above, by the proposed draft National Disability Law. Such a body would be mandated to promote and monitor the enforcement of the human rights of persons with disabilities.

Comparable bodies in other jurisdictions – such as the Kenya National Council for Persons with Disabilities (KNCPWD), established under the 2025 Kenya Persons with Disability Act – have been established as autonomous entities with broad administrative and enforcement powers.[259] For example, the KNCPWD is led by a chairperson drawn from OPDs – thereby ensuring their representation among the Council's own members[260] – and is legally empowered, among other things, to oversee the implementation of the human rights of persons with disabilities, conduct accessibility audits, enforce accessibility and reasonable accommodation standards, prevent discrimination, and register persons with disabilities and issue disability identification cards.[261]In relation to access to justice, KNCPWD is mandated to work in collaboration with the Chief Justice and the Attorney General of Kenya to promote equal access to justice for persons with disabilities. This includes supporting the development of judicial rules and regulations that ensure the effective provision of accessible, inclusive legal services to persons with disabilities.[262]

## VI. EQUALITY BEFORE THE LAW: LEGAL CAPACITY TO PARTICIPATE IN JUDICIAL PROCEEDINGS

### *a.* The legal framework in Ethiopia

As discussed above, the legal codes in Ethiopia contain discriminatory provisions that restrict or deny the exercise of legal capacity by persons with disabilities. Besides the general restrictions, the Criminal Code and the Civil Procedure Code contain provisions that restrict the right to equal

[257] Interview with Tibebu Hailu, Director of the Directorate for the Rights of Persons with Disabilities and the Rights of Older Persons at Ethiopian Human rights Commission, 14 November 2025.
[258] Ethiopian Human Rights Commission Establishment Proclamation No. 210 of 2000 as amended by Proclamation No.1224 of 2020, Article 6(7).
[259] Kenya, Persons with Disabilities Act No.4 of 2025, Sec. 36.
[260] *Ibid*, Sec. 41 (1) (a).
[261] *Ibid*, Secs. 35 and 39.
[262] *Ibid*, Secs. 28 (2) and 38 (a).

recognition before the law of persons with disabilities and their legal capacity to participate in judicial proceedings on an equal basis with others.

***Legal capacity to participate in criminal trial***

Under Article 48 of the Criminal Code of 2004, a person is deemed to be incapable of being held criminally responsible if:

> "owing to … abnormal delays in his development [or] deterioration of his mental faculties … he was incapable at the time of his act, of understanding the nature or consequences of his act, or of regulating his conduct according to such understanding."[263]

While this provision concerns the question of one's capacity to be held criminally responsible in the first place, once a person with intellectual and/or psychosocial disabilities is found "incapable of understanding the nature or consequences of his act", the Criminal Code does not contemplate their continued participation in the criminal proceedings they face in any supported capacity, nor does it provide mechanisms for procedural accommodation. The Criminal Code does not clearly distinguish between the assessment of criminal responsibility and the accused's ability to participate effectively in the proceedings. Thus, in effect, as far as the Criminal Code is concerned, being declared incapable of being held criminally responsible under Article 48 also determines one's capacity to stand trial and participate meaningfully in the criminal process, rather than requiring the provision of support to enable such participation. As discussed below, while the Criminal Procedure and Evidence Code (Proclamation No.1410) now provides a new separate procedure for assessing fitness to stand trial, it does not remedy the underlying problem.

Article 49 of the Criminal Code addresses situations of partial criminal responsibility on substantially similar grounds. It provides that where, due to the conditions listed under Article 48—or owing to a "derangement, abnormal or deficient condition, or similar biological cause"—the accused was only partially incapable of understanding the nature or consequences of the act, or of regulating his conduct accordingly, he shall be held partially liable and subject to mitigated punishment.[264] Thus Article 49 reduces the degree of criminal liability on the basis of the same impairment-based approach featured in Article 48 and does not introduce any distinction between criminal responsibility and legal capacity, nor does it provide for supported participation in the proceedings.

The Criminal Procedure and Evidence Code (Proclamation No.1410) now addresses an accused person's ability to participate in the trial separately from the question of their criminal liability. Article 228 of the Code establishes a general presumption that every accused person is fit to participate in trial proceedings.[265] It then provides that, where by reason of physical or mental

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[263] The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 48 of 2004.
[264] *Ibid*, Article 49 (1).
[265] Criminal Procedure and Evidence Code, Article 228 (1).

"Article 228 – Inability to participate in the hearing of the charge because of illness

1. Every accused person is presumed to be fit to participate in the hearing of the charge and the argument.
2. Without prejudice to the general rule in sub-article (1), where, because of the accused's physical or mental illness, he or she:
    a) cannot give a plea;

illness the accused is unable to enter a plea, to understand the charge and its consequences or to provide instructions to their lawyer in that regard, to defend themselves against the charge, or otherwise to participate in the proceedings, the accused or their lawyer may apply for the hearing to be postponed.[266] Where the court considers the application warranted, it may order an expert examination of the accused's health, whose findings are then submitted to the court.[267] If the court considers the condition to be temporary, it may adjourn the hearing for a short period and then resume the proceedings, ordering a further expert examination if there has been no improvement by the date on which the adjourned proceedings are supposed to resume.[268]

Where the expert opinion concludes that the accused is not fit to participate in the proceedings, the court hears the prosecutor's position and, after considering it together with the expert opinion and, where necessary, hearing arguments, may postpone the hearing for a period not exceeding one year.[269] During that period, the court may order that an accused person considered to pose a danger to themselves or to the community be held in a relevant institution or may release them on bail.[270] If there is no improvement within the period set or after one year, the court may consider an alternative remedy, and the Code envisages that, whether the accused is subsequently acquitted or convicted, the court may order such precautionary measures as it considers

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b) cannot understand the charge brought against him or her and its consequence, or cannot assist his or her lawyer in this regard;
c) cannot defend against the charge brought against him or her; or
d) for any other similar reason cannot participate in the hearing process,

he or she may apply, himself or herself or through his or her lawyer, for the hearing to be postponed to another time.

3. When the court considers the accused's request appropriate, it orders that the accused's health be examined by an expert and that the result of the examination be submitted.
4. If the court believes that the accused's health problem is temporary, it continues the hearing process after giving a short adjournment. If the accused's health has not improved by the date given, it orders that the accused be examined by an expert and that the result of the examination be submitted.
5. If the expert opinion submitted indicates that the accused is not fit to participate in the proceeding, the court receives [accepts] the opinion of the public prosecutor. After examining the opinions of the public prosecutor and of the expert and, if it finds it necessary, after holding appropriate argument, it may adjourn the date on which the case is to be heard for a period not exceeding one (1) year.
6. Where the court has adjourned the date of hearing in accordance with sub-article (5), it may order that the accused, if he or she poses a danger to himself or herself or to the community, remain under a relevant institution, or be released on bail.
7. If the accused shows no improvement within the period set or after one year, the court may order that he or she receive an alternative remedy.
8. Where, in accordance with sub-article (7), the accused is acquitted of the charge or is found guilty, the court orders the carrying out of precautionary measures it considers appropriate. Penalties depriving liberty, as well as fines, may be imposed only when the recovery of the accused's health is confirmed and he or she has not requested that the case be heard again for him or her as it stands in that condition."

[266] *Ibid*, Article 228 (2).
[267] *Ibid*, Article 228 (3).
[268] *Ibid*, Article 228 (4).
[269] *Ibid*, Article 228 (5).
[270] *Ibid*, Article 228 (6).

appropriate.[271] Custodial sentences and fines upon conviction may be imposed only where the convicted person's recovery has been confirmed.[272]

Article 228 thus introduces a more developed procedural framework than the Criminal Code alone, and some of its features are positive, notably the presumption of fitness, the entitlement of the accused and their lawyer to raise the issue, the requirement of an expert examination, and the restriction on imposing custodial sentences or fines until recovery has been confirmed. However, the provisions remain difficult to reconcile with the CRPD in respects that are central to persons with disabilities' access to justice.

First, Article 228 is built on a presumption of fitness. Where questions of capacity arise, persons with disabilities are therefore entitled to be treated on an equal basis with others. Measured against the approach of the Civil Code, under which persons labelled "insane" or "infirm" are treated as legally incapable, a presumption of fitness is to an extent an improvement. However, any presumption is by definition rebuttable, and Article 228 sets out the circumstances and the process through which the fitness presumption may be displaced on the basis of the accused's "illness". A rebuttable presumption of this kind may be inconsistent with the CRPD, which requires that persons with disabilities be recognized as persons with legal capacity on an equal basis with others and which, as interpreted by the CRPD Committee, does not permit perceived or actual deficits in mental capacity to be used to justify denying legal capacity. The approach required by the Convention is not one of presuming capacity unless it is disproved, but of providing the support and accommodations needed to enable participation.

Second, the test is framed around the accused's "physical or mental illness" and is determined principally on the basis of "expert medical evidence", rather than asking what support or accommodation would enable the person to participate on an equal basis with others. The grounds on which a person may be treated as unable to participate are also open-ended. In addition to the specific situations listed in Article 228(2)(a) to (c), sub-article (2)(d) extends to any other similar reason for which the accused cannot participate in the hearing. Without criteria to guide its application, this residual limb confers a broad discretion on the deciding court and creates a risk that it will be applied expansively to persons with intellectual and psychosocial disabilities, with serious consequences for them, including the postponement of their case and their possible detention. Furthermore, the Code refers only to examination by an expert and does not specify the kind of expert whose opinion determines whether an accused is unfit. In practice, this is likely to be a medical practitioner, typically a psychiatrist, which reinforces a medical model of disability. As the Code is silent on this point, courts should, at the very least, ensure that the determination is not confined to medical evidence alone, but that it draws on all relevant expertise, and that the expert be asked specifically whether support or accommodations could be provided to enable the person to participate in the proceedings.

Third, the only response the provision makes to a finding of unfitness is the postponement of the proceedings. It does not refer to procedural accommodations, supported decision-making, intermediaries or other communication support aimed at enabling participation, and so it entrenches the approach under which recovery, rather than support, is treated as the route to participation.

[271] *Ibid*, Article 228 (7).
[272] *Ibid*, Article 228 (8).

Fourth, the provision links a finding of unfitness to the possibility of confinement in an institution on the basis of perceived dangerousness, an issue addressed further in the sub-section on institutionalization below.

Fifth, the suspension of proceedings for up to one year, with the possibility of further measures thereafter, may leave the accused in prolonged uncertainty as to the determination of the charges against them.

In light of the above, the ICJ considers that Article 228 of the Criminal Procedure and Evidence Code (Proclamation No.1410), in substance, is a provision permitting a declaration of unfitness to stand trial on the basis of disability, of the kind that the CRPD Committee urged Ethiopia to repeal or amend in its 2016 Concluding observations. The Code's enactment in 2026 attests to the fact that Ethiopia has failed to implement this recommendation. It also calls into question whether the Committee's recommendations are fully understood, or accepted, by lawmakers, and suggests that, in some respects, the direction of travel is potentially regressive: a Code adopted 16 years after ratification of the CRPD expressly provides for declarations of unfitness and for the exclusion of witnesses on grounds that include illness, rather than moving away from impairment-based approaches. The provision is inconsistent with the rights of persons with disabilities to equal recognition before the law and to access to justice on an equal basis with others under Articles 12 and 13 of the CRPD.

***Possibility of institutionalization***

As noted above, the measures that may be imposed under either Article 48 or 49 of the 2004 Criminal Code or Article 228 of the Criminal Procedure and Evidence Code (Proclamation No.1410) may be custodial in nature.

After determining, on the basis of the ordinary inquiry and expert examination, whether the accused is "criminally irresponsible" or only "partially responsible" under Articles 48 and 49 of the Criminal Code, respectively, the Court must then consider the measures provided under Articles 129-131 of the Code.[273] Where the Court finds that the individual, by reason of their "condition",

[273] The Criminal Code, Articles 129-131 provide what the Code regards as "Measures Applicable to Irresponsible Persons and Criminals with Limited Responsibility":

"Article 129 – Principle.

After ascertaining on the bases of normal enquiry and expert examination, (Art.51) whether the criminal is irresponsible (Art.48) or whether he is of a limited responsibility (Art.49), the Court shall apply the following provisions having regard to the circumstances and requirements of the case.

Article 130 – Confinement.

1. If the criminal, by reason of his condition, is a threat to public safety or order, or if he proves to be dangerous to the persons living with him, the Court shall order his confinement in a suitable institution.
2. If he is in need of treatment, he shall either be treated in the institution in which he is confined or be transferred to an appropriate institution in accordance with Article 131. Proper provision may be made for his safe custody.

Article 131-Treatment.

1. Where a criminal is suffering from a mental disease or deficiency, deafness and dumbness, epilepsy, chronic alcoholism, narcotic and psychotropic substances, intoxication due to the abuse of narcotics or any other pathological deficiency and requires to be treated or placed in

poses a threat to public safety or order, or is dangerous to persons living with them, Article 130 (1) requires the Court to order the person's confinement in a "suitable institution", such as a hospital, psychiatric institution, or similar facility. Where treatment is required, Article 130(2) provides that it shall be administered in the institution of confinement or, where appropriate, in another "suitable institution".

Article 228 of the Criminal Procedure and Evidence Code (Proclamation No.1410) too may result in the detention of accused persons deemed "unfit to participate in the proceedings". As highlighted above, where an expert opinion concludes that the accused is not fit to participate in the case and the court postpones the hearing for a period not exceeding one year, the court may order that the accused, where considered to pose a danger to themselves or to the community, be kept in a relevant institution, or may release the accused on bail.[274] If the accused purportedly shows no "improvement" within the period set or after one year, the court may order an alternative disposition and, if the accused is subsequently acquitted or convicted, it may order such precautionary measures as it considers appropriate.[275] As such, custodial measures are triggered not only by a finding of "criminal irresponsibility", under Articles 48 or 49 of the Criminal Code, but also by a finding of "unfitness to participate in the proceedings", under Article 228 of the Criminal Procedure and Evidence Code.

By comparison, the Criminal Procedure Code of 1961 authorized courts to issue a warrant for confinement or treatment, referring to the applicable provisions of the "Penal Code" (a reference to the then applicable Penal Code of 1957, which has since been replaced by the Criminal Code of 2004), which, in turn, provides that:

> "Where any person is found to be not fully responsible for his acts and the court decides that he be confined or treated in accordance with the provision of […] the Penal Code, the presiding judge shall by warrant […] order that the accused be remanded to a suitable institution for confinement or treatment."[276]

Article 228 of the Criminal Procedure and Evidence Code (Proclamation No.1410) thus introduces a further, earlier route to institutional detention, available while the proceedings are postponed, alongside the measures that may follow an eventual finding of "criminal irresponsibility". In contrast, the 1961 provision, on its terms, authorized a warrant for confinement or treatment only where a person had been found not fully responsible and the court had decided on such measures.

While the Criminal Code provides for the possibility of treatment outside institutional confinement in certain circumstances,[277] including forms of outpatient supervision, where risk is assessed as low, these alternatives appear exceptional. Institutional placement remains the predominant legal response following a finding of "criminal irresponsibility" or "partial responsibility".[278] Under Article

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a hospital or asylum the Court shall order his treatment in a suitable institution or department of an institution.

2. Where the Court is satisfied that the criminal is not dangerous and can be treated as an outpatient, it shall order accordingly. […]"

[274] Criminal Procedure and Evidence Code, Article 228 (6).
[275] *Ibid*, Article 228 (8).
[276] The Criminal Procedure Code of Ethiopia, Proclamation No.185 of 1961, Article 208.
[277] *Ibid*, Article 131.
[278] Wondwossen Wakene Frew, 'The Right to Mental Health: A Critical Look at the State of Human Rights of the Mentally Ill in Ethiopia' (2020) 31 International Studies in Human Rights.

228 of the Criminal Procedure and Evidence Code (Proclamation No.1410), release on bail is available as an alternative to detention when the hearing is postponed, but the provision does not indicate in what circumstances such an alternative is to be preferred.

In any event, the possibility of "confinement," including for "treatment", under Articles 48 and 49 of the Criminal Code amounts to deprivation of liberty based on disability and meets the CRPD Committee's definition of impermissible institutionalization where detention is linked to impairment and perceived dangerousness.[279] The same is true of detention in a relevant institution under Article 228 of the Criminal Procedure and Evidence Code (Proclamation No.1410), which is likewise linked to the accused's impairment and to a perception that the accused poses a danger to themselves or the community. Even when non-institutional treatment is ordered, the legal framework does not require the free and informed consent of the person concerned and fails to provide safeguards to ensure that treatment be based on their will and preferences, giving rise to concern regarding compliance with the CRPD's requirements on autonomy, legal capacity and freedom from forced treatment.[280]

Once ordered, under the Criminal Code, confinement is of indefinite duration in this context, subject only to a court review every two years, and continues until medical authorities certify that the grounds for the order have "disappeared".[281] Detention under Article 228(6) of the Criminal Procedure and Evidence Code (Proclamation No.1410) is, by contrast, tied to the postponement of the hearing, which may not exceed one year, and custodial sentences and fines may be imposed only once recovery has been confirmed. This is a limited improvement in terms of time limitation. However, the provision does not set out standards or procedures for reviewing the continued resort to detention during the postponement, and, at its expiry, it leaves open an unspecified alternative disposition and precautionary measures with no time limits.

At no stage does the Criminal Code or the Criminal Procedure and Evidence Code (Proclamation No.1410) require consideration of the person's consent, will, or preferences in decisions regarding institutionalization or treatment. Nor do they provide any avenue for the individual to challenge or seek review of the institutionalization order.

Also, the Criminal Code does not clearly regulate the interim measures applicable between the raising of a plea of criminal irresponsibility and the completion of the required medical examination.

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[279] CRPD Committee, General Comment No.1, § 40.

[280] CRPD Committee, 'Guidelines on Deinstitutionalization, including in Emergencies', CRPD/C/5, 10 October 2022, §§ 6, 15 and 58.

[281] The Criminal Code, "Article 132.- Duration of Confinement or Treatment.

(1) The competent administrative authority shall carry out the Court's decision concerning treatment and confinement.
Treatment and confinement shall be of indefinite duration, but the Court shall' review its decision every two years.
As soon as, according to expert opinion, the reason for the measure has disappeared the administrative authority shall, after having referred the matter to the Court and upon its decision, put an end to the measure ordered.

(2) Although the cause due to which the measure was ordered is not fully eliminated, the Court may, at any time during the enforcement of the treatment or confinement, order the temporary suspension of such a measure in accordance with the administrative authority's report where its propriety has been confirmed by expert opinion. …

(3) Any order made under this Article may at any time be revoked where public safety or the condition of the released person so requires. … "

The Criminal Procedure and Evidence Code (Proclamation No.1410) regulates interim measures only from the point at which an expert opinion has concluded that the accused is "unfit to participate in the proceedings".[282] On its face, it does not address the deprivation of liberty of the accused between the raising of the issue and the completion of the expert examination, nor does it set a time limit for completing the examination.

In practice, however, once a plea of criminal irresponsibility under Articles 48 and 49 of the Criminal Code is raised, courts routinely order a psychiatric assessment and, pending its completion, usually at Amanuel Mental Specialized Hospital in Addis Ababa—which historically has been the country's only specialized public psychiatric institution—the accused may be remanded either into police custody or prison.[283] Custody is particularly likely where the offence is non-bailable, or where bail is formally available but the accused is unable to meet the prescribed conditions.

The process of obtaining a medical examination and expert opinion at Amanuel Mental Specialized Hospital often takes a long time. One federal High Court judge consulted for this research acknowledged this concern, observing that judges are not always at ease entertaining a plea of criminal irresponsibility in cases where bail is unlikely to be granted, given the uncertainty surrounding the timing of the medical assessment and the likelihood that, in the interim, the accused will remain in detention.[284] In light of the above, the ICJ is concerned about the pervasiveness of custodial responses to disability. Deprivation of liberty in this context often raises serious concerns regarding arbitrariness, proportionality, and the absence of human rights safeguards, guaranteeing respect for the human rights, dignity and, ultimately, the liberty of persons with disabilities.

The concerns described above are not confined to Amanuel Mental Specialized Hospital but reflect broader structural deficiencies in Ethiopia's mental health system. Amanuel Hospital is discussed here because it remains the country's principal specialized public psychiatric hospital and the primary referral center for court-ordered forensic psychiatric assessments. There is a dearth of independent human rights reporting on the conditions of admission and treatment at mental health facilities, including Amanuel Hospital. However, available academic literature indicates that most psychiatric admissions at Amanuel have predominantly been involuntary, with limited, if any, consideration of patients' will and preferences.[285]

More generally, Ethiopia lacks an overarching legal framework governing admission, treatment, review, or discharge on mental health grounds. In practice, admissions are mostly administrative; they are initiated by family members, courts, or police, without clearly articulated, legally binding criteria. In addition, for example, Amanuel Hospital's limited forensic capacity, coupled with the nationwide referral of accused persons for psychiatric assessment, often results in prolonged waiting periods, sometimes extending to many months or even years.[286]

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[282] Criminal Procedure and Evidence Code, Article 228(6).
[283] Interview with a judge at the Federal High Court (Addis Ababa), 2 December 2025.
[284] *Ibid*.
[285] Atalay Alem, 'Human Rights and Psychiatric Care in Africa with Particular Reference to the Ethiopian Situation' (2000) 101 Acta Psychiatr Scand 93; Aytenew Debebe, 'Behind Closed Doors: The Human Rights Conditions of Persons with Mental Disabilities in Ethiopian Psychiatric Facilities' (2013) 5 Jimma University Journal of law 42; Wondwossen Wakene Frew, 'The Right to Mental Health: A Critical Look at the State of Human Rights of the Mentally Ill in Ethiopia' (2020) 31 International Studies in Human Rights.
[286] Frew (n 278).

Courts may therefore remand accused persons with disabilities to prison pending admission and diagnosis, raising concerns about arbitrary detention, inadequate procedural safeguards, and the absence of review mechanisms.[287] In the context of access to justice, these normative and structural deficiencies undermine the fairness and rights-compliance of criminal proceedings where the accused is a person with intellectual and/or psychosocial disabilities.

***Legal capacity in civil proceedings***

The Civil Procedure Code of 1965 similarly restricts the legal capacity of persons with disabilities in civil judicial proceedings.[288] Only persons deemed "legally capable" under the law may be parties to a suit,[289] and individuals considered "under disability" may sue or be sued only through a legal representative.[290]

> "Article 34 – Representation
>
> (1) A person under disability may sue or be sued through his legal representative.
> (2) Where a person under disability is not represented by his legal representative, the proceedings shall be stayed until a legal representative is appointed in accordance with the relevant provisions of the Civil Code.
> (3) […]"

Under the Civil Procedure Code, "a person under disability" includes anyone deemed "incapable" under the Civil Code.[291] In effect, this means that individuals categorized as "insane" or "infirm" under the Civil Code[292] - based on mental health conditions or other disabilities - are deprived of the right to act in court on their own behalf. Their rights are transferred to a legal representative - a clear case of substitute decision-making - who is empowered to sue, defend, or otherwise conduct litigation in their place. Where no such representative has been appointed, the court must suspend the proceeding until a representative is designated in accordance with the Civil Code.

This is not a system of ordinary appointment of a lawyer, because persons under disability are deemed "legally incapable" of appointing a lawyer to act on their behalf.[293] Rather, it is a procedure that mandates the appointment of a tutor (a substitute decision-maker) who will act on behalf of the person with a disability, including by having the power to engage a lawyer, if needed. In this regard, neither the Civil Procedure Code nor the Civil Code[294] requires the tutor to consult with the person concerned, to act in accordance with their will and preferences, or to demonstrate that decisions are taken in the person's best interests, thereby entrenching a model of full substitution rather than supported decision-making.

***Legal capacity of witnesses with disabilities***

Both the Civil Procedure Code of 1965, which remains in force and the Criminal Procedure Code of 1961, which was replaced in 2026 have lacked provisions regulating the competence and

[287] *Ibid*.
[288] Civil Procedure Code of the Empire of Ethiopia, Decree No.52 of 1965.
[289] *Ibid*, Article 33 (1).
[290] *Ibid*, Article 34 (1).
[291] *Ibid*, Article 3.
[292] The Civil Code, Articles 351-359.
[293] *Ibid*, Article 344.
[294] *Ibid*, Article 358.

compellability of witnesses with disabilities in a manner that affirms their legal capacity to participate in legal proceedings on the basis of equality with others. Under both Codes, the calling of witnesses is generally left to the parties on whose behalf the witness is going to give evidence,[295] but the Codes did not specify what forms of support, accommodation, or procedural adjustments would be available to witnesses with disabilities who are called to testify, if any. While the absence of an explicit exclusion of witnesses with disabilities may appear to entrench formal neutrality, the failure to affirm their competence to testify and to provide for necessary accommodation and support constitutes a significant normative gap, a gap that persists in the Civil Procedure Code and that characterized the 1961 Criminal Procedure Code. As a result, there is a risk that the provisions of the Civil Procedure Code will be applied in a discriminatory manner and with a discriminatory impact. Concretely, there is a risk that persons with disabilities will be indirectly excluded from participation in judicial proceedings by leaving unaddressed both their legal capacity as witnesses and the accommodation and support necessary to enable them to give evidence on an equal basis with others.

The Criminal Procedure and Evidence Code (Proclamation No.1410) addresses the competence of witnesses in Article 247.[296] Sub-article (1) establishes a general rule that any witness who is not restricted by law is presumed competent to testify. A presumption of competence of this kind is a positive step and, generally, is consistent with the recognition of the legal capacity of persons with disabilities. The presumption is, however, qualified by sub-article (4), which provides that, notwithstanding the general rule, where the court finds that a witness is unable to understand the fact on which they are to testify or the questions put to them, by reason of old age or senility, physical or mental illness or any other cause, the court may prevent the witness from testifying.

Sub-article (4) is, in effect, an exclusion that may be applied to persons with disabilities, including, notably, persons with intellectual and/or psychosocial disabilities. Although the power vested in the court is discretionary and framed around the witness's "inability to understand", it is nonetheless of concern from a CRPD perspective. First, it names "physical or mental illness" among the grounds for excluding the possibility that the person concerned may testify, thereby linking "inability to testify" to impairment, for all intents and purposes. Second, the provision (and the Code more generally) does not refer to the procedural accommodations and supports, such as intermediaries or communication assistance, that might enable the witness to understand and to testify. It therefore treats "inability to understand" as a fixed characteristic of the witness, rather than as a barrier that accommodation and support may help overcome. Third, it fails to set out any procedure or criteria for the court's assessment and does not require the court to consider

[295] The Criminal Procedure Code of 1961, Articles 136 and 142 (2); and the Civil Procedure Code, Article 111.
[296] Criminal Procedure and Evidence Code:
"Article 247 – Competence and obligation to testify
1. Any witness on whom no restriction has been imposed by law is presumed to be competent to testify.
2. Any witness called to testify must appear before the court and testify or explain the reason for not testifying.
3. Where the witness is an expert, the court, after examining the witness's level of education and occupation, work experience and other proof of qualification, decides whether the witness is competent to testify on the issue framed or on the relevant fact.
4. Notwithstanding what is provided in sub-article (1), where the court finds that a witness is unable to understand the fact on which he or she is to testify or the question put to him or her, by reason of tender [young] age or senility, physical or mental illness, or any other reason, it may cause the witness not to give testimony.
5. … "

whether the witness could testify with support before deciding to exclude that possibility. As a result, the outcome is left entirely to judicial discretion in a legal environment in which, as discussed above, such support is generally unavailable. Nonetheless, because the power under Sub-article (4) is permissive rather than mandatory, consistent with the CRPD, courts should interpret and apply the restriction as narrowly as possible, including by considering, before excluding the possibility of the witness testifying, whether support and accommodation would enable them to do so.

Overall, Ethiopia's legal framework addressing the legal capacity of persons with disabilities to participate in judicial proceedings falls short of the country's legal obligations under Articles 12, 13 and 14 of the CRPD discussed below.

### b. Legal capacity to stand trial and the CRPD

The CRPD, among other things, require Ethiopia to: (i) recognize the full legal capacity of persons with disabilities on an equal basis with others; (ii) ensure their equal access to justice; and (iii) prohibit deprivation of liberty based on disability.[297]

The right to legal capacity – as recognized under the CRPD – requires that persons with disabilities be recognized as competent to participate fully in all stages of criminal and civil proceedings. This includes, where appropriate, the right of persons with disabilities to be held responsible for their own actions and decisions and face ordinary legal consequences thereof. Legal regimes that allow courts to declare an accused person with a disability "unfit to stand trial" or incapable to be held "criminally responsible", based on their disability, operate to restrict or deny their legal capacity entirely. Such declarations remove the individual from the judicial process by presuming that they lack the ability to understand or participate in the proceedings, thereby preventing them from defending themselves and exercising their right to a fair trial.

The UN Special Rapporteur on the Rights of Persons with Disabilities has underscored that such doctrines are incompatible with the right to equal recognition before the law of persons with disabilities and has called upon States to:

> "Repeal or amend all laws, regulations, policies, guidelines, and practices that establish and apply doctrines of 'unfitness to stand trial' and 'incapacity to plead', which prevent persons with disabilities from participating in legal processes based on questions about or determination of their capacity."[298]

With respect to this, the ICJ also notes that in those circumstances persons with disabilities are also subjected to violations of their rights to a fair trial, to liberty and security of person, and to equality before the law and equal protection of the law without discrimination, contrary to international human rights law and standards.[299]

The jurisprudence of the CRPD Committee makes it clear that declaring a person unfit to plead and placing them in custody without giving them the opportunity - and the support and

[297] CRPD, Articles 12, 13 and 14.
[298] The International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 1, 1.2 (e).
[299] See UN Human Rights Committee, General Comment No.32 – Article 14: Right to equality before courts and tribunals and to a fair trial, §§ 9, 13, and 31-41.

accommodations necessary - to plead and fully participate in all ordinary legal processes constitutes a violation of their right to legal capacity. In *Marlon James Noble v. Australia*, the CRPD Committee found that declaring an accused person unfit to plead on the basis of an intellectual and/or psychosocial disability, followed by detention, violated the individual's right to legal capacity.[300] In *Doolan v. Australia*, the Committee reaffirmed that disability cannot justify the denial of legal capacity.[301] In *Arturo Medina Vela v. Mexico*, the Committee further underscored that applying a special procedure that exempts persons with intellectual and/or psychosocial disabilities from criminal responsibility – without ensuring procedural accommodations – amounts to discrimination under Article 5 of the Convention.[302] The Committee also held that declaring a person "unfit to testify" solely on the basis of disability violates Articles 12 and 13 of the Convention.[303]

Taken together, the CRPD Committee's jurisprudence affirms that all persons with disabilities are entitled to equal recognition before the law. This requires States to provide the support and procedural accommodations necessary for persons with disabilities to exercise their rights to legal capacity, participate fully in criminal and civil proceedings, and access justice on an equal basis with others.[304] The Committee has reiterated these obligations in its Guidelines on the Right to Liberty and Security of Persons with Disabilities[305] and in its Guidelines on Deinstitutionalization, including in Emergencies,[306] in which it calls on States to abolish declarations of unfitness to stand trial or findings of incapacity to be held criminally responsible from their criminal justice systems.

Processes regarding declarations of unfitness to stand trial and the so-called insanity defence are often framed as protective measures for individuals with intellectual and/or psychosocial disabilities. Persons with disabilities may also, in some cases, invoke these procedures to avoid criminal punishment. This has led to some concern about the rationale behind the desirability of their abolition, particularly in the absence of stronger safeguards for persons with disabilities.[307] While such measures are frequently justified as safeguards against unfair convictions, the CRPD Committee has consistently emphasized that impairment-based exclusions from criminal responsibility or trial participation are incompatible with Articles 12 and 13 where they deny equal recognition before the law and fail to provide support for the exercise of legal capacity. In addition, in the absence of robust procedural accommodations and supported decision-making mechanisms, these regimes often risk replacing criminal punishment with indefinite deprivation of liberty and

[300] CRPD Committee, *Marlon James Noble v. Australia*, Communication No. 7/2012, CRPD/C/16/D/7/2012, 10 October 2016, §§ 8.5 and 8.6.
[301] CRPD Committee, *Doolan v. Australia*, Communication, No. 18/2013, CRPD/C/22/D/18/2013, 17 October 2019, § 8.6. Also see *Leo v. Australia*, Communication No. 17/2013, CRPD/C/22/D/17/2013, 18 October 2019, § 8.6.
[302] CRPD Committee, *Arturo Medina Vela v. Mexico,* Communication No. 32/2015, CRPD/C/22/D/32/2015, 15 October 2019, §§ 10.3-10.4
[303] *Ibid*, §§ 10.6–10.8.
[304] CRPD Committee, *Doolan v. Australia*, Communication, No. 18/2013, CRPD/C/22/D/18/2013, 17 October 2019, § 8.6; *Leo v. Australia*, Communication No. 17/2013, CRPD/C/22/D/17/2013, 18 October 2019, § 8.6; and *Arturo Medina Vela v. Mexico,* Communication No. 32/2015, CRPD/C/22/D/32/2015, 15 October 2019, §§ 10.4 and 10.6.
[305] CRP Committee, Guidelines on Article 14 of the Convention on the Rights of Persons with Disabilities: The Right to Liberty and Security of Persons with Disabilities, 2015, § 16.
[306] CRPD Committee, 'Guidelines on Deinstitutionalization, including in Emergencies', CRPD/C/5, 10 October 2022, § 56.
[307] Ilias Bantekas, Michael Ashley Stein and Dēmētrēs Anastasiou (eds), *The UN Convention on the Rights of Persons with Disabilities, a Commentary* (First edition, Oxford University Press 2018) 359.

substitute decision-making, thereby reinforcing rather than remedying discrimination against persons with disabilities.

The case for abolishing legislation that prescribe unfitness to stand trial procedures and the insanity defence are generally grounded in the right to equality, since such laws and procedures single out individuals with disabilities and may allow for their indefinite detention in the absence of a criminal conviction or even a fair hearing. The CRPD Committee has consistently found, including in individual communications decisions, that impairment-based exclusions from criminal responsibility and trial participation are discriminatory in so far as they target only persons with disabilities and restrict their procedural rights.[308] In its 2016 Concluding Observations on Ethiopia, the Committee similarly recommended that Ethiopia repeal laws allowing deprivation of liberty on the basis of impairment and abolish provisions enabling declarations of unfitness to stand trial.[309] However, in its 2023 combined 2nd and 3rd reports to the CRPD Committee, Ethiopia indicated that no significant legislative measures had been taken to repeal the relevant legal provisions, noting instead that further study was required "to balance due process guarantees for persons with disabilities with societal security interests".[310] In other words, the impairment-based unfitness and "security measures" remain in force, contrary to Ethiopia's legal obligations under Articles 12, 13 and 14 of the CRPD, and other provisions of international human rights law binding on the country.

Rooted in the medical model, "unfitness determinations" rely primarily on medical assessments of impairment, treating disability as a justification for restricting or denying rights.[311] By contrast, the human rights model of disability rejects using disability as a legitimate ground for limiting liberty or participation and, instead, requires the provision of accommodation and support to ensure equal recognition before the law and equal participation in the justice process.[312] Good practice in this regard involves an individualized assessment of the procedural accommodations and support measures required to enable effective participation in the proceedings, rather than an assessment of impairment for the purpose of exclusion.[313] Such an assessment should take into account the person's human rights, will and preferences, with a view to identifying appropriate supports that would facilitate participation without forgoing legal capacity.

### c. Prohibition of institutionalization under the CRPD

As noted above, both the Criminal Code[314] and the Criminal Procedure and Evidence Code (Proclamation No.1410)[315] empower courts to issue an order for detention in a hospital or other

[308] CRPD Committee, *Medina Vela v. Mexico*, Communication No. 32/2015, CRPD/C/22/D/32/2015, 15 October 2019, § 10.4; *Doolan v. Australia*, Communication No. 18/2013, CRPD/C/22/D/18/2013, 17 October 2019, §§ 8.2-8.5; and *Leo v. Australia*, Communication No. 17/2013, CRPD/C/22/D/17/2013, 18 October 2019, §§ 8.2-8.4.
[309] CRPD Committee, 'Concluding Observations on the Initial Reports of Ethiopia,' § 32.
[310] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020, § 28.
[311] CRPD Committee, General Comment No.6 (2018) on Equality and Non-Discrimination, CRPD/C/GC/4, 26 April 2018, § 9.
[312] *Ibid*, § 10.
[313] For comparative experience, see the procedural rules enacted by the Lesotho Judiciary - Chief Justice of Lesotho, Disability and Equity (Procedure) Rules (Procedure Rules), 2023, Legal Notice No.55 of 2023. For a detailed discussion in this regard, see ICJ, 'From Exclusion to Equality: Advancing Access to Justice for Persons with Disabilities in Lesotho,' September 2025, available at https://www.icj.org/wp-content/uploads/2025/09/Disability-Report.pdf.
[314] The Criminal Code, Articles 129-131.
[315] The Criminal Procedure and Evidence Code, Article 228.

relevant institution when an accused person – who is either declared "unfit to participate in the proceedings" by reason of physical or mental illness or who is found to be "criminally irresponsible" or "partially responsible" – is considered to pose "a threat to public safety, public order, or to those living with him". Such a power and its application in practice are contrary to the right to liberty and security of persons with disabilities guaranteed under Article 14 of the CRPD.

The CRPD Committee has also expressed concern regarding the imposition of compulsory psychiatric measures on persons with intellectual and/or psychosocial disabilities in the criminal justice system following findings concerning their mental health condition and criminal responsibility.

In *Mikkelsen v. Denmark*, for example, the Committee considered a complaint in which the author, having been found to have been "of unsound mind" at the time of the offence and, therefore, exempt from criminal punishment, was, instead, sentenced to compulsory psychiatric treatment in a hospital without a time limit.[316] The Committee found that sentencing individuals to be held in hospitals or psychiatric institutions constituted a "form of social control" and emphasized that such practices should be replaced by ordinary criminal sanctions where criminal responsibility has been established.[317] It further observed that, in the case at hand, the procedures leading to the imposition of treatment did not afford the safeguards required in criminal proceedings, notwithstanding that the measure entailed a deprivation of liberty. The Committee concluded that imposing involuntary psychiatric treatment in lieu of criminal punishment solely on the basis of impairment was incompatible with Article 14 of the CRPD.[318]

In *Medina Vela v. Mexico*, the Committee addressed a complaint in which the author, a person with an intellectual and psychosocial disability, was subjected to a "special procedure" applicable to persons exempt from criminal liability, including on the basis of a medical assessment of their mental health condition.[319] In this case, the medical assessment concluded that the author had "a permanent mental disability that prevents him from understanding the unlawfulness of his actions and from testifying before judicial authorities."[320] Consequently, the case was heard by a criminal court under a special procedure, but without the effective participation of the author: he was not invited to attend the hearings, appoint a lawyer of his choice, or afforded an opportunity to challenge the evidence against him.[321] The criminal court ultimately convicted the author of theft but, instead of imposing an ordinary criminal sentence, ordered his confinement in a psychosocial rehabilitation facility for period of four years, followed by continued custodial supervision.[322] The CRPD Committee found that the author had been denied any meaningful participation in the proceedings, as he was not given the opportunity to testify, challenge the evidence, designate a lawyer of his choice, or receive procedural accommodation and support necessary to exercise his legal capacity on an equal basis with others.[323] It concluded that declaring him unfit to testify and

[316] CRPD Committee, *Mikkelsen v. Denmark*, communication No. 61/2019, CRPD/C/D/61/2019, 4 October 2023.
[317] *Ibid*, § 9.2.
[318] *Ibid*, also see the CRPD Committee, Concluding observations on the initial report of Denmark, CRPD/C/DNK/CO/1, 30 October 2014, § 34.
[319] CRPD Committee, *Medina Vela v. Mexico,* Communication No.32/2015, CRPD/C/22/D/32/2015, 15 October 2019,
[320] *Ibid*, § 2.4.
[321] *Ibid*, §§ 2.4 and 10.6.
[322] *Ibid*, § 2.
[323] *Ibid*, § 10.6.

subjecting him to a special procedure without providing such support constituted discrimination and violated Articles 5 and 12 of the CRPD.[324]

The Committee further found that the detention order by the criminal court was based primarily on disability and perceived dangerousness, in violation of Article 14, reiterating that the existence of a disability can in no case justify deprivation of liberty.[325] Importantly, the Committee also recalled that States have an obligation to prevent and provide compensation for involuntary committals on grounds of disability:

> "The Committee recalls that article 14 (1) (b) of the Convention stipulates that the existence of a disability in no case justifies a deprivation of liberty. Similarly, under the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, committal on the basis of psychosocial or intellectual disability, whether real or perceived, is prohibited and States must take the necessary measures to prevent and provide compensation for involuntary committals and committals on grounds of disability."[326]

Overall, through its jurisprudence discussed above, the CRPD Committee has reaffirmed four interrelated principles: the prohibition of disability-based findings of unfitness to stand trial; the duty to provide procedural accommodation and support to enable equal participation; the absolute prohibition of detention on the basis of disability; and the obligation to ensure effective remedies, including compensation, where such violations occur.

For Ethiopia to align its legal framework with the CRPD, a shift from substitute decision-making to supported decision-making is required. This involves recognizing the full legal capacity of persons with disabilities in both civil and criminal proceedings and eliminating statutory provisions that restrict their legal capacity and their right to a fair trial and due process based on mental capacity assessments. Ethiopia must also ensure appropriate support and accommodations are available to assist persons with disabilities in understanding and effectively participating in judicial proceedings.[327]

Additionally, in criminal proceedings, persons with disabilities, particularly those with intellectual and/or psychosocial disabilities, must be afforded all "disability-neutral" defences and other grounds for excluding criminal liability available to other defendants, including mistake, necessity, duress, self-defence, and lack of *mens rea*. Ensuring the availability of these defences, alongside procedural accommodations and support measures, reinforces equal participation and ensures compliance with international human rights law obligations.[328]

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[324] *Ibid*.
[325] *Ibid*, § 10.8.
[326] *Ibid*, § 10.8; also see § 11 (a)(i).
[327] CRPD Committee, Guidelines on Article 14 of the Convention on the Rights of Persons with Disabilities: The Right to Liberty and Security of Persons with Disabilities, 2015, § 16.
[328] Bantekas, Stein and Anastasiou (n 307) 359. Also, see Access to Justice Knowledge Hub, Implementing the Convention on the Rights of Persons with Disabilities in Criminal Justice Systems: A Briefing Paper, July 2022, pp. 14-17.

## VII. ACCESSIBILITY OF THE JUSTICE SYSTEM

The CRPD obliges States Parties to ensure accessibility for persons with disabilities by identifying and eliminating barriers that hinder their participation in all areas of life, including in accessing justice systems processes, and practices.[329]

The CRPD identifies several dimensions of accessibility (physical environments, universal design, transportation, information and communication, including information and communication technologies and systems, and public services) that must be ensured.[330] States parties are required to identify the barriers that impede persons with disabilities in these areas and to take appropriate measures, including enacting or amending legislation, to remove such barriers.[331]

Within the justice system, accessibility forms a foundational condition for enabling persons with disabilities to participate in any and all legal processes and legal proceedings on an equal basis with others. The link between accessibility and access to justice is direct and essential. As the CRPD Committee has noted:

> "There can be no effective access to justice if the buildings in which law-enforcement agencies and the judiciary are located are not physically accessible, or if the services, information and communication they provide are not accessible to persons with disabilities."[332]

Accessibility is, therefore, a necessary condition for meaningful participation in justice systems, proceedings, processes, and practices. Importantly, the requirement to ensure accessibility, generally, is not contingent on the needs of specific individuals with disabilities interacting with the justice system and, therefore, is additional to (and precedes) obligations to provide individual procedural accommodations.

Two broad aspects of accessibility are particularly relevant within the justice system in Ethiopia: the infrastructural (physical) accessibility of justice-sector institutions (buildings and other facilities); and the accessibility of services, information, and communication systems. Removing barriers within these two spheres is critical to ensuring that persons with disabilities can engage effectively with justice institutions.

Against this background, the following sub-sections examine the accessibility of the justice system in Ethiopia for persons with disabilities.

[329] CRPD, Articles 3 (f) and 9.
[330] *Ibid*, Article 9 (1).
[331] CRPD Committee, General Comment No.2 (2014), § 28.
[332] *Ibid*, § 37.

### *a. Infrastructural accessibility of courts*

The recently revised Ethiopian Building Proclamation No.1356 of 2024[333] includes explicit obligations regarding ensuring the accessibility of all public buildings[334] for persons with disabilities.

Article 23 of the Proclamation requires that all newly designed public utility buildings adopt comprehensive and inclusive design features that ensure accessibility and ease of use for persons with disabilities and others requiring special attention.[335] The Proclamation further mandates that existing public utility buildings be retrofitted to meet these standards.[336]

Regulation No.243 of 2011, issued by the Council of Ministers,[337] reinforces these obligations, requiring that any public building or part thereof must not prevent or hinder the movement of persons with disabilities.[338] It requires, for example, the posting of internationally-recognized signage at building junctions to guide persons with disabilities away from obstacles and to clearly indicate designated accessible parking spaces.[339] It also makes accessibility a mandatory criterion for the issuance of occupancy permits for public utility buildings.[340]

In addition, Directive No.5 of 2011, issued by the Ministry of Urban Development and Construction,[341] elaborates on some detailed practical accessibility requirements, including the obligation that: all public utility buildings be constructed in an accessible manner; building entrances should be barrier-free for wheelchair users, persons with visual impairments, and persons with partial impairments; and meeting halls should provide adequate space accessible to wheelchair and crutch users.[342]

Together, these legal frameworks establish an important legal basis for requiring public utility buildings, including those used for the administration of justice, to be accessible to persons with disabilities. Despite these legal frameworks, significant gaps remain in both the law and its practical implementation.

At the normative level, although the current building legislation obliges the retrofitting of existing public utility buildings to ensure accessibility, it does not establish a timeframe for such retrofitting, nor does it specify the consequences (e.g., penalties) for non-compliance. The absence of clear

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[333] Ethiopian Building Proclamation No.1356 of 2024, https://ethiodata.et/wp-content/uploads/2026/05/Ethiopia-Building-Proclamation-No.1356_2024.pdf.
[334] "Public building" includes "any building such as a theatre hall, public library, conference hall, a recreational place, academic institution, a medical center, or a market or any other similar building serving the public," See Article 2 (2) of the Council of Ministers Building Regulation No. 243 of 2011, https://justice.gov.et/en/law/council-of-ministers-building-regulation-council-of-ministers-regulations-no-243-2011/.
[335] Ethiopian Building Proclamation No.1356 of 2024, Article 23 (1).
[336] *Ibid*, Article 23 (2). According to Article 2 (12), "Category 'D' Building" means any building of more than twelve stories above the ground or five or more floors above the ground, or a three-story building with a distance of more than 19 meters between two fixed-bearing concrete or steel or other structural configurations. It is also any public utility or institution-related building or workshop, factory and industrial building."
[337] Council of Ministers Building Regulation No. 243 of 2011.
[338] *Ibid*, Article 34.
[339] *Ibid*.
[340] *Ibid*.
[341] Building Directive No.5 of 2011, https://www.aahdab.gov.et/publications/detail/16 [Amharic text].
[342] *Ibid*, Article 33.

timelines and enforcement mechanisms weakens the effectiveness of the accessibility obligations and leaves compliance largely discretionary.

In practice, public buildings remain largely inaccessible to persons with disabilities. The implementation gap has been noted by the CRPD Committee in its 2016 Concluding Observations on Ethiopia, in which it has expressed concern about the lack of effective enforcement of existing laws, regulations and directives on infrastructure accessibility, limited compliance with the Building Code, and the failure to operationalize universal design in practice.[343] While in its 2023 (in its combined 2nd and 2rd reports to the CRPD Committee) Ethiopia highlighted progress in revising legislation and issuing directives to strengthen the normative framework on accessibility,[344] the Committee's earlier observations underscore that the central challenge has not necessarily been the absence of legal standards, but their implementation and enforcement.

In March 2024, the EHRC published a report assessing the accessibility of judicial organs and justice institutions in selected regions in Ethiopia as well as selected federal courts.[345] The assessment examined physical accessibility, informational and service accessibility, and attitudinal barriers affecting persons with disabilities in accessing justice. The report found barriers that significantly hinder the participation of persons with disabilities in the justice system.

Of the 41 courts surveyed for the EHRC March 2024 report, some key federal and regional courts — including the Federal Supreme Court in Addis Ababa and the Afar Regional Supreme Court — were housed in multi-story buildings without ramps for wheelchair users and without functioning elevators, making access to upper floors extremely difficult for persons with disabilities. Even single-story court buildings lacked essential accessibility features, such as ramps and accessible entrance doors. In addition, critical facilities including court halls, entrances, and restrooms were not designed to accommodate persons with physical disabilities, particularly wheelchair users.[346]

The EHRC recommended that courts and justice offices address the physical barriers, among others, by installing ramps at entrances, providing elevators for multi-story buildings, undertaking necessary structural retrofitting, and upgrading sanitary facilities.[347] It further emphasized the need for all courts and justice institutions across Ethiopia to implement the recommended measures to enable the meaningful participation of persons with disabilities in the justice process:

> "All courts and justice institutions in Ethiopia should act on the recommendations provided in this report to guarantee access to justice and the participation of persons with disabilities and other marginalized groups, ensuring that institutional, environmental, informational, and procedural barriers are addressed."[348]

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[343] CRPD Committee, 'Concluding Observations on the Initial Reports of Ethiopia,' § 32.
[344] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020, § 19.
[345] EHRC, "An Assessment on the Accessibility of Courts and Justice Organs for Persons with Disabilities and Older Persons" (a report), 7 March 2024 [Amharic text], available at https://ehrc.org/%E1%8D%8D%E1%88%AD%E1%8B%B5-%E1%89%A4%E1%89%B6%E1%89%BD-%E1%8A%A5%E1%8A%93-%E1%8D%8D%E1%89%B5%E1%88%95-%E1%8C%BD%E1%88%95%E1%8D%88%E1%89%B5-%E1%89%A4%E1%89%B6%E1%89%BD-%E1%88%88%E1%8A%A0%E1%8A%AB/.
[346] *Ibid*.
[347] *Ibid*.
[348] *Ibid*, p.v [unofficial, working translation by the ICJ from Amharic text for the purpose of this report].

To date, the EHRC has not conducted a follow-up assessment to determine whether its recommendations have been implemented.[349] However, over two years after the report's release in March 2024, persons consulted for this report have indicated that no significant remedial measures have been taken.

Lawyers with disabilities practising before federal courts in Addis Ababa and various regional courts confirm that barriers persist nationwide, citing the absence of accessibility features and the ongoing difficulties persons with disabilities face when navigating court environments.[350] One informant described, for example, that:

> "Although several federal courts in Addis Ababa have recently been relocated to newer buildings, these facilities remain largely inaccessible to persons with disabilities. Court buildings continue to rely predominantly on staircases and lack basic accessibility features, such as elevators, which, in practice, limits the ability of persons with disabilities — both court users and legal professionals — to enter court premises and participate effectively in proceedings."[351]

These structural barriers were further illustrated by the testimony of another informant, a lawyer visual impairment, who practices before federal courts in Addis Ababa. He explained that while he relies on the support of a personal assistant to navigate court buildings and access court services, the physical and informational environment of the courts remains so inaccessible that, in the absence of such assistance, independent navigation is effectively impossible:

> "If my personal assistant is not with me, even for a day, the situation of court facilities is such that I could never navigate by myself. For example, courtrooms often change, meaning that cases are not always heard in the same trial room, and in most instances, there is no court official available to provide real-time information or guidance."[352]

Some of those consulted for this report further noted that while, in some instances, judges have attempted to accommodate accessibility needs by relocating hearings to lower floors upon advance request,[353] such measures remain *ad hoc*, inconsistent and an unsustainable and inadequate solution as they depend on the discretion of specific judges and court staff. As a result, notwithstanding repeated engagement by OPDs with court leadership,[354] the courts have not treated ensuring the physical accessibility of court buildings and premises to persons with disabilities as a legal obligation yet.

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[349] Interview with Tibebu Hailu.
[350] Interview with Yilkal Hassabie; Interview with Singten Adare, Public Prosecutor with disability, Office of the Oromia Regional State Attorney General, 29 November 2025; Interview with Meselu Gobeze, lawyer with a disability in the South Ethiopia Regional State and Director of the Dilla University Free Legal Aid Center, 17 November 2025; Interview with Tsedeke Taye, Public Prosecutor with disability, at Wolaita Zone Public Prosecutor Office, Southern Ethiopia Region, 5 December 2025; Interview with Temam Shale, a lawyer with disability working in the Public Defender's Office of the Oromia Supreme Court, 12 December 2025; Also see, Akalu Iyassu and McKinnon (n 95); Aschalew Ashagre, 'Access to Justice for PWDs in Civil Proceedings before the Federal Courts of Ethiopia: The Law and Practice' (2020) 14 Mizan Law Review 1.
[351] Interview with Mussie Tilahun.
[352] Interview with Yilkal Hassabie.
[353] Ibid; Interview with a judge at the Federal High Court (Addis Ababa), 2 December 2025.
[354] Interview with Mussie Tilahun.

### *b. Accessibility of services, information and communication systems*

The CRPD, and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, oblige Ethiopia to ensure that persons with disabilities are able to obtain public and legal information in accessible formats - including, where appropriate, in Braille, easily-read text, e-text, audio - or through other alternative communication technologies. These should be made available in a timely manner and without extra cost to persons with disabilities.[355]

In the context of justice systems, such accessibility obligations extend to legal documents, court decisions, and all information relevant to accessing justice systems.[356] As is underscored in the Guidelines on Access to Justice for Persons with Disabilities by the UN Special Rapporteur, States must ensure the accessibility of information, communications, and other services, including information and communications technology and systems used in the justice system.[357]

Despite these international human rights law obligations, several significant barriers persist in Ethiopia, undermining the ability of persons with disabilities to access justice on an equal basis with others. In this regard, a lawyer with a disability consulted for this report stated that:

> "In many Ethiopian courts, information continues to be stored and disseminated primarily through traditional formats, such as printed documents, physical case files, notice boards, and paper-based leaflets. These formats remain largely inaccessible to lawyers who are blind and those with visual impairments."[358]

Moreover, while recent efforts to digitize certain aspects of court administration have introduced electronic dissemination of legal information, these measures have not resolved accessibility barriers. Instead, legal documents - including legislation, court decisions, and other judicial texts - are routinely released in electronic form as scanned PDFs or image-based files. These are formats that are rarely compatible with screen-reader software used by persons who are blind or otherwise visually impaired, particularly in the case of Amharic-language scanned PDF documents.[359] Court documents – whether physical or digital – are therefore seldom if ever accessible to persons with visual impairments.

These accessibility challenges extend beyond formal legal texts to other forms of court-related information and digital systems. As illustrated by an interviewee:

> "For example, information about courtrooms and trial rooms is provided only in written formats, without consideration for persons with visual impairments. In addition, federal courts have largely adopted computerized display (case tracker) systems where information about cases scheduled or adjourned for the day, as well as assigned trial rooms, can be accessed. However, these systems are not designed to allow their use by persons who are blind or with visual impairments. Also, the online systems through which

[355] CRPD, Article 21 (a) and (b).
[356] *Ibid*, Article 21 (b).
[357] The International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 2.
[358] Interview with Meselu Gobeze.
[359] *Ibid*; Interview with Singten Adare.

such information can be checked are mostly not compatible with screen-reader software and, therefore, remain inaccessible to persons with visual impairments."[360]

Similarly, the website of the Federal Supreme Court of Ethiopia,[361] although offering online information, has not been developed in a disability-friendly manner. As a result, for instance, volumes of Federal Supreme Court Cassation decisions - which serve as important binding precedents – as well as other legal material published on the platform remain inaccessible to users who are blind or otherwise visually impaired.[362]

Some steps, it should be noted, have been taken in this regard. For example, the Federal Supreme Court recently published audio versions of 17 out of the 27 volumes of decisions by the Cassation division published to date.[363] This commendable step is welcomed but remains insufficient in light of the scale of need and the State's human rights law obligations.

Moreover, as persons with disabilities interviewed for this report noted, audio recordings are not always a practical or comfortable substitute for accessible electronic text. Given the need for lawyers, judges, researchers and litigants to frequently consult, cross-reference and cite judicial decisions, repeatedly navigating and replaying audio files can be cumbersome and inefficient.[364]

Additionally, while the Federal Supreme Court has recently introduced digital innovations - notably an electronic case filing and electronic litigation system in a bid to modernize court procedures[365] - there is little publicly available guidance or regulatory directions to ensure that these systems be accessible to users with disabilities. A Directive issued by the Federal Supreme Court in November 2025 on e-filing and e-litigation procedures and processes[366] provides no indication that accessibility standards or reasonable accommodations have been integrated into the design or operation of the system. As a result, there is no publicly available guidance or regulation to ensure that these new systems be accessible to users with disabilities.

Furthermore, it remains unclear whether and how assistive services — such as screen-reader compatibility, captioning, alternative input methods, or other reasonable accommodations — will be provided. The absence of explicit accessibility requirements is significant not only for the platform itself, but also for its users. Without clear guidance mandating accessible document formats and inclusive digital practices, lawyers and other court users are likely to continue submitting materials in formats that remain inaccessible to persons with disabilities. As a result, the shift to digital procedures risks replicating existing barriers, rather than eliminating them, and raises concern that persons with disabilities may not benefit equitably from the digital court infrastructure.

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[360] Interview with Yilkal Hassabie.
[361] Federal Supreme Court, https://www.fsc.gov.et/.
[362] Federal Supreme Court cassation-decisions are available at https://www.fsc.gov.et/Digital-Law-Library/Publications/Federal-Cassation-Decision-Series.
[363] The Federal Supreme Court, https://www.youtube.com/watch?v=IBDeW1Br_fw.
[364] Interview with Temam Shale.
[365] 'Federal Supreme Court Moves to Replace Courtrooms with Digital Platform,' *The Reporter*, 13 September 2025, https://www.thereporterethiopia.com/47015/?utm_source=chatgpt.com.
[366] The Federal Supreme Court, 'Electronic Filling and Litigation Directive No.25 of 2017,' September 2025 [Amharic text], https://www.fsc.gov.et/Digital-Law-Library/Archives%e1%88%99%e1%8c%8d%e1%89%b5-%e1%88%98%e1%88%98%e1%88%aa%e1%8b%ab-%e1%89%81%e1%8c%a5%e1%88%ad-252017.

## VIII. REASONABLE ACCOMMODATION AND PROCEDURAL ACCOMMODATIONS

The CRPD obliges States parties to provide both reasonable accommodations and procedural accommodations, where required, to ensure that persons with disabilities can access justice on an equal basis with others.[367]

Reasonable accommodation is defined in Article 2 of the CRPD as:

> "necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms."

According to the CRPD Committee, the obligation to provide reasonable accommodation is an *ex nunc* duty – that is, it arises from the moment a person with a disability encounters a non-accessible environment or situation that limits the exercise of their human rights.[368] Reasonable accommodation is therefore reactive and individualized: it requires tailored measures responding to the particular needs of the individual concerned and the specific barriers they face, for example, in seeking access to justice.[369] The obligation is immediate, and a failure to provide reasonable accommodation—where such accommodation does not impose a disproportionate or undue burden—may constitute discrimination on the basis of disability.[370]

Procedural accommodations arise specifically in the context of access to justice under Article 13 of the CRPD. As defined in the Guidelines on Access to Justice for Persons with Disabilities by the Special Rapporteur, procedural accommodations refer to:

> "all necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case, to ensure the participation of persons with disabilities on an equal basis with others."[371]

While they may also be individualized, procedural accommodations form part of the broader structural obligation to ensure equal participation of persons with disabilities in justice processes. The CRPD Committee has clarified that procedural accommodations, unlike reasonable accommodation, are not subject to assessments of burden or disproportionality on the duty-bearer.[372] In other words, their provision cannot be refused on the basis of cost or administrative inconvenience.

Procedural accommodations involve adjustments and support measures necessary to enable effective participation in legal procedures.[373] These may include adjustments to procedural and evidentiary rules, such as permitting alternative forms of presenting evidence (including pre-recorded statements), adapting questioning techniques, or allowing the use of intermediaries or

[367] CRPD, Article 2, 5 (3), and 13 (1).
[368] CRPD Committee, General Comment No.6, § 24 (b).
[369] *Ibid*.
[370] CRPD, Article 5 (3).
[371] The International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020.
[372] CRPD Committee, General Comment No.6, § 25 (d).
[373] The International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 5.

facilitators.[374] They also include individualized assistance – such as interpreters, support persons, or alternative and augmentative communication methods – to ensure that persons with disabilities can understand and engage meaningfully in judicial proceedings. [375]

### *a. Legislative and practical gaps in Ethiopia*

Ethiopia lacks specific national legal frameworks that systematically integrate the provision of reasonable accommodation and procedural accommodations for persons with disabilities in the justice system. The Civil Procedure Code was adopted in the 1960s,[376] at a time when the need for disability-related accommodations within justice systems was largely unrecognized. As a result, the Code does not envisage the provision of reasonable accommodation or procedural accommodations to enable the effective participation of persons with disabilities in civil proceedings. Despite its recent adoption, in April 2026, the Criminal Procedure and Evidence Code (Proclamation No.1410) likewise fails to explicitly impose a duty to provide reasonable accommodation or procedural accommodations in criminal proceedings, with the exception of legal representation and sign language interpretation.[377] On their own, however, these two measures do not amount to the comprehensive duty to provide accommodations that the CRPD requires.

This legislative gap is further compounded by the absence of a comprehensive disability-specific legislation that incorporates human rights standards and provides clear guidance on the implementation of accommodation measures in line with Ethiopia's obligations under the CRPD. The CRPD Committee, in its 2016 concluding observations on Ethiopia, noted that procedural accommodations were not effectively available in law or in practice and recommended that they be made available at all stages of investigations and court proceedings.[378] However, despite this recommendation, Ethiopia has hitherto failed to take adequate steps to remedy this failure.[379]

One of the only areas in which Ethiopian laws provide a degree of legal recognition to an accommodation measure relevant to access to justice for persons with disabilities concerns the use of sign language interpretation. The FDRE Constitution contains a general guarantee that accused persons have the right to request the assistance of an interpreter:

> "[accused persons] have the right to request for the assistance of an interpreter at State expense where the court proceedings are conducted in a language they do not understand."[380]

Although this provision does not explicitly refer to persons with hearing disabilities or to sign language interpretation, it may be interpreted as extending protection to deaf persons,[381] given that sign language constitutes their primary means of communication.

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[374] Bantekas, Stein and Anastasiou (n 307) 396.
[375] International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 3; Also see the CRPD Committee, General Comment No.6, § 51.
[376] The Civil Procedure Code of the Empire of Ethiopia, Decree No.52 of 1965.
[377] Criminal Procedure and Evidence Code, 2026, Articles 10, 14, 21, and 223.
[378] CRPD Committee, 'Concluding Observation on the initial report of Ethiopia,' §§ 29 and 30.
[379] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020,' §§ 25 and 26.
[380] FDRE Constitution, Article 20 (7).
[381] B Bekele, Y Mulugeta and H Girma, 'Women with Disabilities, Their Challenges in Laws and Administration of Justice: Cases from Addis Ababa' (2018) 3 Ethiopian Journal of Human Rights 137.

The Criminal Procedure and Evidence Code (Proclamation No.1410) refers to sign language expressly. Article 14 of the Code, on the use of language in criminal proceedings, provides that, where proceedings are conducted in a language the suspect or accused does not understand, an interpreter is to be assigned at State expense, including to interpret into sign language, and that this duty extends to the translation of the charge(s) and of documentary evidence.[382] Article 21 of the Code, which sets out the functions and responsibilities of the court, extends the duty to assign an interpreter to suspects, accused persons and witnesses brought before the court for whom communication in sign language is necessary.[383] Notably, this duty extends beyond accused persons to suspects and witnesses.

Nevertheless, the scope of the procedural accommodation in the FDRE Constitution and the Criminal Procedure and Evidence Code (Proclamation No.1410) is limited to criminal proceedings.

A broader recognition is found in the Federal Courts Proclamation No. 1234 of 2021, which explicitly obliges federal courts to "provide a sign language expert" to persons with disabilities, where necessary, in all proceedings.[384] In 2021, the Federal Supreme Court also issued a directive requiring courts, prior to conducting initial hearings or scheduling hearings for arguments and witness testimony, to verify whether sign language interpretation services are required.[385] Together, the Proclamation and the Directive represent positive developments in explicitly recognizing the duty to provide sign language interpretation across different types of cases.

However, significant limitations persist both in law and in practice. At the normative level, existing legal provisions do not establish a clear and enforceable duty on the judiciary to develop, regulate, and maintain a system for the training, accreditation, and appointment of qualified sign language interpreters. Although the Federal Courts Proclamation requires federal courts at all levels to establish interpreters' offices – covering both spoken-language and sign-language interpretation – information gathered for this report indicates that such offices have not been formally established. Instead, courts typically designate a focal person to facilitate the provision of interpretation services on an *ad hoc* basis when needed.

In practice, courts frequently require the parties themselves to arrange for sign language interpretation when needed,[386] or alternatively approach OPDs – most notably the Ethiopian National Association of the Deaf (ENAD) – to facilitate the provision of sign language interpreters.[387]

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[382] Criminal Procedure and Evidence Code, 2026: "Article 14 - Use of language:
1. Criminal proceedings shall be conducted in the working language of the court.
2. A person suspected or accused in a criminal matter shall be told, immediately and in detail, in a language he or she understands, the suspicion or charge and its grounds.
3. When the court proceedings are conducted in a language he or she does not understand, an interpreter shall be assigned, at government expense, to interpret for him or her into a language he or she understands or into sign language.
4. What is provided in sub-article (3) includes the translation/interpretation of the charge and of documentary evidence."

[383] *Ibid*, Article 21 (2).

[384] Federal Courts Proclamation No.1234 of 2021, Article 31 (3).

[385] Federal Supreme Court, 'Federal Courts Civil Case Flow Management,' Directive No.008 of 2021, Section 17(13)(2)(a) [Amharic text].

[386] Interview with Singten Adare.

[387] Director, Ethiopian National Association of the Deaf (ENAD), email correspondence for the purpose of this report, 8 January 2026.

Moreover, while judicial directives formally require courts to bear the costs associated with interpretation services,[388] this obligation is not consistently respected in practice. According to ENAD, courts—particularly federal courts in Addis Ababa—regularly request the Association's assistance but also expect ENAD to absorb the costs of engaging interpreters. As explained by the Director of ENAD:

> "Courts often contact ENAD when they encounter deaf persons in proceedings, but they also expect ENAD to cover the costs of interpretation. Because of our financial constraints, and to avoid issues with the courts, we are sometimes forced to send available volunteers, regardless of their skills or qualifications."[389]

This practice raises serious concern regarding the adequacy of interpretation services and highlights the consequences of the judiciary's failure to assume and operationalize its core responsibility for ensuring effective communication in judicial proceedings. While the contribution of OPDs remains essential in mitigating immediate barriers, the primary responsibility to institutionalize, regulate, and sustainably fund qualified sign language interpretation rests with the State. Within the justice system, the judiciary bears the responsibility of ensuring that effective communication and procedural accommodations are available in judicial proceedings, in line with the State's obligation to guarantee effective and equal access to justice for persons with disabilities.

While significant challenges remain in ensuring the availability of qualified sign language interpreters in judicial proceedings, the law provides that where court proceedings are conducted in a language the court user cannot hear or speak, and the proceedings nonetheless continue without the necessary interpretation, such proceedings are deemed to have been conducted improperly and are tantamount to proceedings conducted in the absence of the affected person.[390] This renders proceedings held without the required interpreter legally defective. In effect, this offers an important legal safeguard for deaf persons by affirming that sign language interpretation is not a discretionary service but a precondition for meaningful participation and for the effective enjoyment of the right to a fair trial and to due process.

Another procedural accommodation recognized under Ethiopian law for persons with disabilities is the prioritization of cases in which they are parties. The Federal Courts Proclamation No.1234 of 2021 requires federal courts to facilitate the expedited resolution of cases involving persons with disabilities.[391] In furtherance of this obligation, the Federal Supreme Court's "Federal Courts Civil Case Flow Management Directive No. 008 of 2021" provides that cases involving persons with disabilities should be treated as priority matters and resolved ahead of other cases.[392] The Directive does not, however, prescribe specific timelines for the expedited disposition of such cases, thereby limiting the clarity and practical enforceability of this procedural accommodation.

In practice, discussions with a judge of the Federal High Court indicate that, where a case involving a person with a disability is scheduled alongside other matters for hearing on a given date, priority is often accorded to the former case once this is brought to the court's attention, in order to

[388] See the Federal Supreme Court, 'Federal Courts Language Interpreters' Service Fee Determination and Payment Directive,' Directive No.6 of 2020 [Amharic text].
[389] *Ibid*.
[390] Federal Supreme Court, 'Federal Courts Language Interpreters' Service Fee Determination and Payment Directive,' Directive No.6 of 2020, Section 2 (2).
[391] Federal Courts Proclamation No.1234 of 2021, Article 19 (1)(g).
[392] Federal Supreme Court, 'Federal Courts Civil Case Flow Management,' Directive No.008 of 2021, Section 7.3 [Amharic text].

minimize prolonged waiting times for persons with disabilities in courtrooms or court compounds.[393] The judge further noted that, where a party's disability status is indicated in the case file—as required, for example, under the Civil Procedure Code—this may facilitate more expeditious handling of the case.[394] Nevertheless, no specific timeline is prescribed by law for such expedited disposition.

Overall, courts lack clear guidelines on when and how to provide procedural support and reasonable accommodations to persons with disabilities during judicial proceedings. In the absence of such guidance, accommodations are addressed on an *ad hoc* basis, relying on individual judges' discretion and practical judgement rather than a coherent, rights-based approach. This is illustrated by the experience shared during consultations for this report by a lawyer who is blind, who recounted an incident at court:

> "The courtroom did not have a table where I could place my computer, so I could not use my screen-reader while examining a witness. I asked the court to allow me to examine while seated. Because lawyers are usually required to stand, the judge was unsure how to proceed. In the end, I was told to sit while using my computer, but to stand up each time I asked a question."[395]

This incident illustrates that, even in situations where common sense might readily indicate what constitutes a procedural accommodation, the absence of procedural guidance can result in responses that prioritize customary courtroom practice over effective and dignified participation by persons with disabilities.

### *b. Absence of justice intermediary support system*

One of the key procedural accommodation mechanisms provided under the CRPD to support persons with disabilities in judicial proceedings is the use of justice intermediaries. The UN Special Rapporteur on the Rights of Persons with Disabilities defines justice intermediaries as:

> "Persons who work, as required, with justice system personnel and persons with disabilities to ensure effective communication during legal proceedings. They support persons with disabilities to understand and make informed choices, making sure that things are explained and talked about in ways that they can understand and that appropriate accommodations and support are provided."[396]

Justice intermediaries facilitate effective communication between persons with disabilities and justice system actors, enabling individuals to understand proceedings, express themselves, and participate meaningfully at all stages of the judicial process. They assist persons with disabilities in understanding information, making informed decisions, and communicating their views and evidence to the court in an accessible manner. They do not replace or speak on behalf of the person concerned but rather support and facilitate communication.[397]

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[393] Interview with a judge at the Federal High Court (Addis Ababa), 2 December 2025.
[394] *Ibid*.
[395] Interview with Yilkal Hassabie.
[396] International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, p.9.
[397] Access to Justice Knowledge Hub, Implementing the Convention on the Rights of Persons with Disabilities in Criminal Justice Systems: A Briefing Paper, July 2022, 12.

Where a person with a disability requires the support of a justice intermediary, the provision of such an intermediary amounts to a legally required procedural accommodation (in terms of the right to access to justice) and a necessary condition for their effective participation consistently with their human rights, will and preferences in a legal processes (thus a manner of giving effect to the right to legal capacity).

Persons with disabilities should not be compelled to accept the support of an intermediary, generally or specifically, and the participation of intermediaries must be based on the free and informed consent of the person with a disability. Intermediaries should be available, when needed, in all judicial and quasi-judicial proceedings, regardless of the person with a disability's role as complainant, witness, suspect, accused, or defendant.[398]

In Ethiopia, however, the concept of justice intermediaries—or comparable communication support mechanisms in judicial proceedings—is not recognized in law or established in practice. Neither the Criminal Procedure and Evidence Code (Proclamation No.1410), the Civil Procedure Code, nor other procedural laws contain provisions addressing the permissibility of the participation of intermediaries or other structured communication supports for persons with disabilities. This is a specific symptom of the more general failure of laws and practices to provide procedural accommodations as required by the CRPD.

While the Federal Courts Proclamation No.1234 of 2021 requires federal courts to facilitate the provision of professional support in cases involving persons with disabilities,[399] it does not specify the forms of support or assistance that should be made available. In practice, this has often been understood and interpreted to mean the provision of legal representation or access to legal aid services. There is therefore a need for a revised Proclamation or Directive that fully engages with the human rights of persons with disabilities and the manner in which courts and other justice actors should ensure compliance with the CRPD by ensuring equal access to justice.

In practice, the failure to make provision for justice intermediaries has resulted in a binary approach within court proceedings. Practically, persons with intellectual and/or psychosocial disabilities are either required to produce medical evidence demonstrating an alleged inability to communicate — often triggering substitution of their participation by a representative and never resulting in the provision of a procedural accommodation — or to simply participate in proceedings without any form of communication support. As noted during consultations with an advocate familiar with court practice:

> "Courts tend to rely on long-standing procedural practices, where a person with a disability is either deemed incapable and replaced on the basis of medical documentation, or required to proceed entirely on their own. The idea that a person may participate with appropriate communication support or through an intermediary is generally not understood or applied in practice."[400]

The absence of a recognized concept of supported communication or of justice intermediaries has thus led to procedural practices that fail to accommodate diverse communication needs.

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[398] Justice Intermediary Starter Kit, 'Report on Intermediaries for Justice around the Globe', 2020, available a: https://justiceintermediary.org/wp-content/uploads/report-on-intermediaries-for-justice.pdf, p.7.
[399] Proclamation No.1234 of 2021, Article 19 (1)(g).
[400] Interview with Mussie Tilahun.

### *c. The need for judicial rules on procedural accommodations and support*

As noted above and further elaborated in the Guidelines on Access to Justice for Persons with Disabilities by the UN Special Rapporteur, accommodations and support within the justice system encompass a wide spectrum of measures.[401] These may include:

- **Adjustments to the physical and procedural environment** — such as modifying the layout of courtrooms, providing appropriate waiting areas, pacing judicial proceedings appropriately, allowing breaks during proceedings, or adapting questioning techniques;
- **Communication-related supports** - including plain-language explanations, assistive listening devices, real-time captioning, screen-reader–compatible documents, note-takers, tactile interpreters, and using pre-recorded testimony where appropriate and consistent with the right to a fair trial and due process guarantees;
- **The use of independent intermediaries or facilitators** - trained to assess communication needs and provide support throughout proceedings, without substituting the person's participation; and
- **Accommodations at investigative stages** - ensuring that law enforcement and prosecutorial authorities are trained to recognize disability, adapt their responses accordingly, and that persons with disabilities are informed of and able to request accommodations at all stages of the process.

The breadth of these measures underscores the need for clear, enforceable procedural rules governing the identification, provision and regulation of accommodations and support within the justice system. Embedding certain accommodation obligations solely at the level of general legislative guarantees may be insufficient. What is required is a structured framework — whether through dedicated directives or court rules issued by the judiciary — that:

- Operationalize the duty to provide accommodations and support;
- Establish accessible procedures for requesting and determining accommodations;
- Clarifies institutional responsibilities; and
- Ensures sustainable funding and monitoring.

Ethiopia should therefore adopt such a framework and translate its obligations under the CRPD into practical, rights-based procedures. Notably, OPDs in Ethiopia in 2022 approached the Federal Supreme Court with a proposed "draft directive" on procedural accommodations and support.[402] While there appears to be no publicly available information on the progress of this initiative, the Supreme Court's active engagement in taking up this proposal and enacting court rules on accommodations and support with the meaningful participation of OPDs is a critical step toward ensuring the full and effective participation of persons with disabilities throughout the justice process.[403]

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[401] International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principles 3 and 5.

[402] Copy of the "draft directive" [Amharic text] in file with the ICJ.

[403] For comparative experience, see the procedural rules enacted by the Lesotho Judiciary - Chief Justice of Lesotho, Disability and Equity (Procedure) Rules (Procedure Rules), 2023, Legal Notice No.55 of 2023. For a detailed discussion of these Procedural Rules, including the process behind their development and adoption by the Chief Justice of Lesotho, see ICJ's report, 'From Exclusion to Equality: Advancing Access to Justice for Persons with Disabilities in Lesotho,' September 2025, available at https://www.icj.org/wp-content/uploads/2025/09/Disability-Report.pdf; The Executive Summary of the report is available at: https://www.icj.org/wp-content/uploads/2025/09/Executive-Summary-Disability-Report-Launch-Lesotho.pdf.

## IX. LEGAL AID

Article 13 of the CRPD obliges States parties to ensure effective access to justice, which includes access to legal aid where necessary. In its concluding observations, the CRPD Committee has consistently affirmed that persons with disabilities must have access to legal aid at all stages of legal proceedings, across all areas of law, and at all levels of the judicial system.[404] Beyond formal judicial proceedings, the Special Rapporteur on the Rights of Persons with Disabilities has further emphasized that States are required to provide free legal aid to persons with disabilities who cannot afford it, particularly in cases involving deprivation of liberty, such as institutionalization or involuntary hospitalization.[405]

In Ethiopia, the FDRE Constitution provides a limited guarantee of legal aid. Article 20(5) recognizes the right of accused persons in criminal proceedings to be represented by legal counsel of their choice and, where they lack sufficient means and a miscarriage of justice would result, to be provided with legal representation at State expense. The Criminal Procedure and Evidence Code (Proclamation No.1410) reaffirms this guarantee for detained and/or accused persons.[406] The guarantees in the Constitution and the Criminal Procedure and Evidence, however, are confined to criminal matters and do not establish a general right to legal aid in civil, administrative, or other proceedings, nor do they explicitly address the specific barriers faced by persons with disabilities.

Other statutory frameworks provide some additional bases for legal aid. As noted above, the Federal Courts Proclamation No. 1234/2021 envisages the duty of federal courts to facilitate the provision of professional support in cases involving persons with disabilities, which can be interpreted to include facilitating the provision of free legal aid services.[407] The Federal Attorney General Establishment Proclamation No. 943/2016 similarly mandates the Ministry of Justice to provide free legal representation in civil matters to persons with disabilities, who require legal assistance, and assigns to the Ministry of Justice a supervisory role over free legal aid services provided by licensed lawyers practising in federal courts.[408]

The Federal Advocacy Service Licensing and Administration Proclamation No. 1249/2021 obliges licensed advocates in federal courts to undertake a limited number of *pro bono* cases each year for individuals unable to afford legal services.[409] However, persons with disabilities are not explicitly identified as a beneficiary group under this Proclamation, and their inclusion is left implicit within broader eligibility criteria based on financial incapacity, reflecting a further legislative gap in explicit recognition of the needs and human rights of persons with disabilities.

Outside these scattered legal provisions, Ethiopia does not yet have a dedicated legal aid legislation governing the scope, eligibility criteria, and oversight of legal aid services. In its 2022 Concluding Observations on Ethiopia, the UN Human Rights Committee expressed concern about limitations and recommended that Ethiopia ensure, in law and in practice, that all persons without sufficient

[404] For example, see Concluding Observations on the Initial Report of Estonia, CRPD/C/EST/CO/1, 5 May 2021, § 26; and Concluding observations on the combined second and third periodic reports of Belgium, CRPD/C/BELL/CO/2-3, 30 September 2024, §§ 26-27.
[405] International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 6.
[406] Criminal Procedure and Evidence Code, 2026, Articles 10 and 223.
[407] Proclamation No.1234 (2021), Article 19 (1)(g).
[408] Federal Attorney General Establishment Proclamation No. 943/2016, Article 6(4)(e).
[409] Federal Advocacy Service Licensing and Administration Proclamation No. 1249 of 2021, Article 31 (1).

means have access to legal aid, underscoring the necessity of mandatory and comprehensive legal aid coverage across all types of proceedings.[410]

A draft legal aid law is currently under preparation by the Ministry of Justice. According to the Director of the Legal Study, Drafting, and Consolidation Directorate at the Ministry of Justice, who was consulted for this report, one of the central objectives of the draft legislation, which is currently at the finalization stage, is to establish a standardized legal aid framework, promote consistency and uniformity in the delivery of legal aid services, and better address the needs of "vulnerable groups", including persons with disabilities.[411]

However, as of the time of drafting this report, the text of the draft legislation has not yet been made publicly available for comment, although the Ministry of Justice reports having collected input from relevant stakeholders during its preparation.[412] As a result, it remains difficult to assess the extent to which the draft legislation adequately incorporates disability-specific concerns, including eligibility criteria tailored to disability-related barriers and mechanisms to ensure effective enforcement or monitoring of implementation.

In practice, as indicated in Ethiopia's combined 2nd and 3rd combined reports to the CRPD Committee, the Federal Attorney General delivered free legal aid services to 74 persons with disabilities through the Addis Ababa Bureau of Attorney General in 2018-2019.[413] The same report notes that, in the Benishangul-Gumuz Regional State, technical support was provided to three prison administrations through coordinated efforts involving the regional Attorney General, the Ethiopian Human Rights Commission, and the Ethiopian Ombudsman.[414] While these measures may indicate a degree of institutional commitment, the scale of services reported remains modest and does not suggest that legal aid is available to persons with disabilities on a sufficiently broad and systematic basis.

Some OPDs play an important role in providing legal aid services to persons with disabilities. The Ethiopian Lawyers with Disabilities Association (ELDA), for example, offers free legal aid service across the country through multiple modalities, including telephone-based legal consultations via a hotline and direct legal representation where necessary.[415] According to ELDA's Executive Director, the organization has a dedicated legal aid unit, has provided legal consultations and representation to more than 400 clients over the past four years, and offers sign language interpretation for deaf persons accessing its services.[416] While ELDA's efforts are laudable, the organization lacks the ability to provide legal services to all persons with disabilities requiring them.

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[410] UN Human Rights Committee, Concluding observations on the second periodic report of Ethiopia, CCPR/C/ETH/CO/2, 7 December 2022, § 38.
[411] Interview with Addis Getnet, Director General, Legal Study, Drafting and Consolidation Directorate General, Ministry of Justice, 12 November 2025.
[412] *Ibid*; Also see https://justice.gov.et/am/news/stakeholders-consultation-forum-held-on-draft-free-legal-aid-proclamation/; and https://justice.gov.et/am/news/draft-proclamation-on-free-legal-aid-service-expected-to-eliminate-fragmented-service-delivery-and-enable-integrated-service-provision/.
[413] CRPD Committee, 'Combined second and third reports submitted by Ethiopia under Article 35 of the Convention, due in 2020, § 26.
[414] *Ibid*.
[415] Interview with Mussie Tilahun.
[416] *Ibid*.

ELDA operates under a memorandum of understanding with the Ministry of Justice to improve access to justice for persons with disabilities.[417] Nevertheless, the organization faces operational challenges stemming from the existing legal framework. As the Executive Director explained:

> "Under the current federal legal advocacy service licensing law, legal aid is envisaged as a service provided by licensed lawyers or law firms, not by civil society organizations. As a result, whenever a case requires court representation, each individual client must issue a separate power of attorney to ELDA. In the absence of such a specific power of attorney, ELDA encounters difficulties in representing clients before the courts; while some courts demonstrate understanding and allow ELDA to proceed without this documentation, others strictly require it and decline to recognize the representation."[418]

These challenges underscore the significance of the draft legal aid legislation currently under preparation as a potential opportunity to strengthen legal framework governing access to legal aid for persons with disabilities in Ethiopia in line with its obligations under the CRPD. According to information provided by the Ministry of Justice,[419] the draft legislation is expected to be made publicly available for consultation, which would allow OPDs and other stakeholders to contribute to its development. The drafting process also provides an opportunity to clarify the legal basis for *pro bono* legal aid services provided by OPDs and other civil society organizations to persons with disabilities, including by considering the recognition of their role in supporting legal representation of persons with disabilities.

## X. THE PARTICIPATION OF PERSONS WITH DISABILITIES IN THE ADMINISTRATION OF JUSTICE

The CRPD obliges States Parties to ensure the meaningful participation of persons with disabilities in all areas, including in the administration of justice in whichever professional or other capacity in which they may participate.[420]

More specifically, the Guidelines on Access to Justice for Persons with Disabilities by the UN Special Rapporteur have reiterated this obligation, by stating that persons with disabilities have the right to participate in the administration of justice on an equal basis with others, including as judges, prosecutors, lawyers, jurors, experts, and court officials.[421] In this regard, States are obligated, *inter alia*, to:

- Remove barriers that prevent or discourage persons with disabilities from entering justice-sector professions, including by providing reasonable accommodations throughout legal education and training, during certification and licensing processes, and within the workplace;
- Repeal or amend laws and practices that exclude persons with disabilities from serving in judicial or prosecutorial roles or other justice-related positions; and

[417] *Ibid*.
[418] *Ibid*.
[419] Interview with Addis Getnet.
[420] CRPD, Article 3 (c); The International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, Principle 7.
[421] *Ibid*.

- Ensure that justice system facilities, structures, and working environments are universally accessible to workers with disabilities.[422]

In Ethiopia, at the federal level, the primary normative frameworks governing judicial and prosecutorial offices are the Federal Judicial Administration Proclamation No. 1233/2021 and the Council of Ministers Regulation to Provide for the Administration of Federal Public Prosecutors No.443/2018, respectively. These instruments regulate, *inter alia*, the recruitment, appointment, tenure, and administration within the judiciary and prosecution services.

The Federal Judicial Administration Proclamation does not contain specific provisions addressing the inclusion of persons with disabilities within the judiciary. However, a directive governing the placement of judges across the various benches of the federal courts requires that disability be taken into account in assignment decisions. In particular, it mandates consideration of factors, such as the distance between the court building and a judge's residence, as well as the accessibility and suitability of the judicial infrastructure for judges with disabilities.[423] While this reflects a degree of accommodation at the placement stage, the law does not address barriers at the point of recruitment or appointment.

By contrast, the law governing the recruitment of federal public prosecutors contains an explicit affirmative measure. It provides that, where candidates achieve equal or nearly equal results, preference shall be given to candidates with disabilities.[424] This constitutes a clear, albeit limited, attempt to promote the inclusion of persons with disabilities within the prosecution service.

### *a. The continued exclusion of lawyers with visual impairments from judicial office*

For many years, a long-established practice in Ethiopia effectively excluded lawyers who are blind or otherwise visually impaired from judicial appointments on the assumption that the role of a judge requires the ability to visually observe witnesses and examine physical evidence. This exclusion was not grounded in explicit legislation, but rather in customary and institutional practice within the country's judicial administration.

This long-standing exclusion was formally challenged in 2016 through a case brought by two law graduates who are blind, which ultimately reached the House of Federation.[425] In *Wesen Alemu and Dawit Oticho v. Amhara National Regional State Justice Professionals Training and Legal Research Institute and the ANRS Judicial Administration*, the applicants — both of whom had completed the standard pre-placement legal training required for prospective judges and prosecutors in the Amhara Region — were barred from participating in the lottery system used to assign graduates to either judicial or prosecutorial roles.[426]

The respondent institutions sought to justify the applicants' exclusion by invoking customary administrative practice, asserting that persons who are blind or otherwise visually impaired could

[422] *Ibid*.
[423] Federal Court Judges Bench Placement Directive No.21 of 2025, Article 5 (5) and 8 (d) [Amharic text].
[424] Council of Ministers Regulation to Provide for the Administration of Federal Public Prosecutors, Regulation No.443 of 2018, Articles 5 (7).
[425] The House of Federation is the upper chamber of the Federal Parliamentary Assembly with the mandate to interpret the Constitution and adjudication of constitutional disputes; see Footnote 4 above.
[426] *Wesen Alemu and Dawit Oticho vs ANRS Justice Professionals Training and Legal Research Institute and ANRS Judicial Administration,* the House of Federation, Case File No.019/08, 12 October 2016 [Amharic text].

be appointed only as prosecutors, not as judges. This argument was rejected by House of Federation, which found that the exclusion of qualified persons with disabilities from judicial appointment solely on the basis of disability constituted discrimination and violated the right to equality under Article 25 of the FDRE Constitution.[427] The House of Federation further held that the practice infringed the right to work and associated economic rights of persons with disabilities protected under Article 41 of the Constitution, contravened the Right to Employment of Persons with Disabilities Proclamation No. 568/2008, and was inconsistent with Ethiopia's obligations under the CRPD.[428] In articulating its reasoning, the House of Federation, at different points, emphasized that:

> "there is no legal framework in Ethiopia that explicitly restricts the right of the applicants from participating in judicial functions";
>
> "the decision of the respondents in the case at hand contradicts the Right to Employment of Persons with Disabilities Proclamation No. 568/2008, which guarantees the right of persons with disabilities to engage in any employment, unless the inherent nature of the work dictates otherwise;"
>
> "the decision of the respondents also contradicts the CRPD, in particular Article 27, which guarantees the right of persons with disabilities to work, including the right to engage in employment without discrimination"; and
>
> "the respondents did not establish that the applicants could not undertake the work even after the provision of reasonable accommodation."[429]

In terms of remedies, the House of Federation did not issue an individualized remedy concerning the applicants. Rather, it issued a general declaratory ruling, finding the customary administrative practice to be unlawful and affirming that the applicants have the right to engage in employment of their choice without discrimination.

Despite this authoritative decision by the House of Federation, information gathered for this report indicates that the exclusion of persons who are blind or otherwise visually impaired from judicial office has continued in practice. Consultations with lawyers with disabilities suggest that, as of the time of writing this report, no person who is blind or otherwise visually impaired is currently serving as a judge in Ethiopia at the federal courts or, to the knowledge of informants, in courts at regional state level.

Rather than resulting in meaningful inclusion, the practice in the aftermath of the House of Federation's decision appears to have shifted form: lawyers who are blind or otherwise visually impaired who complete judicial training and are nominally eligible for judgeship are, instead, assigned to public defenders' offices or equivalent roles, effectively preventing them from assuming judicial functions.

This pattern was illustrated by the experience of Temam Shale, a lawyer who is blind consulted for this report, who is currently working at the Public Defender's Office of the Oromia Supreme Court.[430] Temam Shale explained that, after completing his legal training at the Oromia Justice

[427] *Ibid*, p.6.
[428] *Ibid*, p.4.
[429] *Ibid*, pp.4-6 (translated from Amharic for the purpose of this report).
[430] Interview with Temam Shale.

Professionals Training Institution in 2010, i.e., prior to the House of Federation's decision, he was allowed to participate in the lottery system and was duly appointed to serve as a judge at a regional first instance court. However, after his appointment and after taking the oath of office, he was informed that he could not take up a judicial position and would instead be assigned to the public defenders' office. As he recounted:

> "I was told that I could only work as a public defender. The officials in the judicial administration believed that a person who is blind or with other visual impairments could not serve as a judge. They had unfounded concerns about confidentiality, the challenge of examining physical case files, and the conduct of courtroom proceedings, assuming — without any assessment or accommodation — that my disability would prevent me from performing these judicial functions. These assumptions were based on prejudice rather than my qualifications or actual ability to do the work. As a result, I was given no real choice but was directed to work as a public defender; if I refused, I risked losing the job altogether. Therefore, I was compelled to take up the position and have since been working in the same office."[431]

Beyond its discriminatory impact, this incident also raises concern with respect to judicial independence. The reassignment of a duly appointed and sworn-in judge, outside a transparent and legally prescribed removal or disciplinary process, appears inconsistent with principles of security of tenure and institutional independence of the judiciary, entrenched in international human rights law and standards guaranteeing the independence of the judiciary and the separation of powers; it also underscores the structural heightened risk faced by persons with disabilities appointed to judicial office of administrative interference in disregard of any legal safeguards.

Another lawyer consulted, Singten Adare, a public prosecutor, who is visually impaired, and who is currently working in the Oromia Regional State Attorney General's Office, raised a similar concern regarding structural barriers in judicial appointment processes. Singten Adare explained that, following the House of Federation's decision, the assignment procedure was revised to allow candidates to participate in the lottery system before undergoing the pre-placement professional training. However, he noted that the formal procedural change did not necessarily translate into equal opportunities in practice, as persons with visual impairments continue to be discouraged from pursuing judicial appointments. Reflecting on his own experience in 2016, he noted:

> "When I approached the institution [*i.e.*, the Oromia Judicial Administration Council] to express my interest in joining the judiciary, I was told that I could choose the judgeship track, but that, in the end, I would still be assigned to the public defender's office. Given this, I decided instead to join the prosecution department."[432]

Temam Shale further noted that, during his more than 15 years of service, he has repeatedly sought promotion to judicial positions and has applied for judgeship vacancies on several occasions. As he explained, in one instance, he was excluded at the screening stage without explanation, while on another occasion, the vacancy process was abruptly discontinued without notice.[433] According to Temam Shale, each time he raised his interest in judicial appointment with his superiors, the response — often implicit rather than explicit — was that his disability rendered

[431] *Ibid*.
[432] Interview with Singten Adare.
[433] Interview with Temam Shale.

him unsuitable for judicial office.[434] He also emphasized that this experience was shared by other lawyers who were blind or otherwise visually impaired who had undergone similar training and placement processes and who, in practice, had been channeled into public defender roles rather than judicial positions. As he explained:

> "Over the years, I have seen the same pattern repeat itself. No matter how much experience we gain or how well we perform, there is an unspoken assumption that lawyers who are blind or with visual impairments cannot be judges. Other lawyers who are blind or with visual impairments who go through the same training end up in public defenders' offices, not on the bench. The law may say we are equal, but the attitude within the system has not changed."[435]

In light of the above, the ICJ is concerned that there appears to be a significant gap between Ethiopia's formal legal commitments and the lived realities of persons with disabilities who work within the justice system; such a gap is inconsistent with Ethiopia's international human rights law obligations.

The continued exclusion of lawyers who are blind or otherwise visually impaired from judicial office, whether through overt or indirect practices, in particular, violates: Article 5 of the CRPD, which guarantees equality and non-discrimination; Article 13, which requires States to ensure effective access to justice and the participation of persons with disabilities in the administration of justice; and Article 27, which protects the right to work and employment on an equal basis with others.

The persistence of *de facto* barriers, despite a binding constitutional interpretation by the House of Federation, also suggests that legal recognition alone is insufficient without concrete implementation measures, institutional accountability, and efforts to address entrenched attitudinal barriers within judicial administration.

### *b. Lack of reasonable accommodation and accessible working environments*

As noted above, under the CRPD, States Parties have a clear obligation to ensure that justice sector working environments are universally accessible to workers with disabilities, and that reasonable accommodation is provided within the workplace. In the context of the administration of justice, this includes ensuring that lawyers with disabilities are provided with the accommodations, supports, and resources necessary to perform their professional duties on an equal basis with others.

In Ethiopia, the Right to Employment of Persons with Disabilities Proclamation No. 568/2008 obliges employers to provide appropriate working conditions, including reasonable accommodation and, where necessary, the assignment of an assistant to enable persons with disabilities to perform their work.[436]

Although the Proclamation is framed in general terms, its practical reach has been limited. In practice, its application is understood to be confined to some federal government institutions, and, according to consultations undertaken for this report, the Proclamation remains largely unknown

[434] *Ibid*.
[435] *Ibid*.
[436] The Right to Employment of Persons with Disabilities Proclamation No. 568 of 2008, Article 6.

and unimplemented within the justice sector and at regional state level.[437] This report also reveals that the decision of the House of Federation itself may not be well known to the vast majority of justice actors and decision-makers within the justice system.

Within the justice sector, there remains no specific statutory framework regulating the provision of reasonable accommodation or ensuring accessibility and suitable working environments for workers with disabilities, including lawyers employed as prosecutors or public defenders. This normative gap leaves obligations to provide accommodations largely unknown and undefined and contributes to inconsistent practices across institutions and regions. As a result, the effective enjoyment of the right to work on an equal basis with others is undermined.

Based on consultations conducted for this report, one recurring concern is the inconsistent and informal practice of providing personal assistants to lawyers who are blind or otherwise visually impaired. Informants explained that statutory rules governing judicial personnel and human resource structures often do not formally recognize a post for personal assistants, despite the Right to Employment of Persons with Disabilities Proclamation's explicit requirements to the contrary. As a result, lawyers who are blind or otherwise visually impaired face challenges in obtaining access to personal assistance as a reasonable accommodation measure.[438]

While recent civil service employment legislation has begun to guarantee the appointment of personal assistants for persons with disabilities,[439] consultations for this report revealed that the positions advertized often carry qualification requirements, job classifications, and (low) salary scales not aligned with the professional demands of the posts, making it difficult in practice to recruit suitable candidates.[440] In the Oromia Prosecutor's Office, for example, public prosecutors with visual impairments reportedly had to make a sustained effort to secure approval for a personal assistant. However, when, as a result of their effort and in line with their requests, a vacancy was eventually announced, the conditions attached to the post included unrealistic qualification requirements and inadequate remuneration, effectively preventing the recruitment of suitable assistants.[441]

In the absence of a statutory guarantee in legislation and/or guidelines specifically pertaining to the judiciary and justice actors, particularly at regional state level, personal assistance is, in some cases, arranged on an *ad hoc* basis,[442] typically through the informal assignment of a colleague — often a junior staff member already assigned to other duties — to take on the additional role of providing support. This arrangement depends largely on the goodwill of supervisors and human resource personnel, rather than on a rights-based entitlement. As Tsedeke Taye, a public prosecutor who is blind and has over 15 years of experience working in the Southern Ethiopia Region Public Prosecutor's Office, explained:

> "Because statutes do not recognize a position for a personal assistant, I usually had to plead with my supervisors to assign me someone from among my co-workers. Over time, I also developed my own strategy. Since I am committed to my work and have gained

[437] Interview with Singten Adare; Interview with Tsedeke Taye.
[438] Interview with Singten Adare; Interview with Temam Shale; and Interview with Tsedeke Taye.
[439] Federal Civil Servants Proclamation No. 1353 of 2025, Article 73 (3).
[440] Interview with Tsedeke Taye.
[441] Interview with Singten Adare.
[442] Interview with Singten Adare; Interview with Temam Shale; and Interview with Tsedeke Taye.

> experience over the years, I try to convince a colleague that working with me will benefit them, and that they can learn a lot. Without such personal effort, the system itself barely guarantees an assistant, and my working environment would otherwise be untenable."[443]

This testimony illustrates how, in the absence of formal accommodation mechanisms, lawyers with disabilities are compelled to rely on personal negotiation, informal arrangements, and individual goodwill to secure basic supports necessary for their work. Such reliance not only undermines dignity and autonomy but also exposes lawyers with disabilities to uncertainty and additional challenges within their professional environments. As Tsedeke Taye further explained, in the context of criminal prosecutions, the absence of a reliable personal assistant or accompanying support can also heighten security risks and may leave the individual more exposed than their non-disabled counterparts; as a lawyer who is blind may not always be able to independently identify and respond to potential threats to them that are inherent to their professional role.[444]

In addition to the absence of personal assistance, during consultations for this report, informants consistently highlighted the absence of other reasonable accommodation measures, particularly assistive devices, accessible technologies, and adapted materials. Almost all informants reported that the institutions they work for do not provide assistive devices or specialized software required for their work.[445] As a result, lawyers with disabilities are often forced to acquire these tools at their own expense or, in some cases, rely on donations from externally funded justice-sector projects. This places an additional financial burden on individuals and results in unequal working conditions within the same institutions. As one informant explained:

> "As a lawyer with a disability working in a government institution, the necessary software and assistive devices are not provided. You either buy them yourself or wait until they are obtained through donations. That means you are doing the same work as others, but under completely unequal conditions."[446]

Moreover, prosecutors and public defenders with disabilities who are blind or otherwise visually impaired face challenges similar to those experienced by court users and private practitioners in accessing legislation, case law, and other legal documents in accessible formats. Informants explained that official copies of laws, directives, and court documents are rarely available in formats compatible with screen-readers or other assistive technologies.[447] As one informant noted:

> "Most of the time, we do not receive laws or court documents in accessible formats from our institutions. We rely on colleagues or social media groups to share accessible versions. This helps sometimes, but it is not reliable and cannot replace an official, institutional responsibility."[448]

Taken together, the challenges above point to a systemic failure to operationalize reasonable accommodation and support within the justice-sector workplace. Without such measures, workers with disabilities in the justice sector will continue to face structural disadvantages that undermine

[443] Interview with Tsedeke Taye.
[444] *Ibid*.
[445] Interview with Temam Shale.
[446] Interview with Singten Adare.
[447] *Ibid*; Interview with Temam Shale; and Interview with Tsedeke Taye.
[448] Interview with Singten Adare.

their ability to work on an equal basis with others, contrary to Ethiopia's obligations under the CRPD, and under the ICCPR, the ICESCR and the ACHPR.

## XI. FINDINGS AND RECOMMENDATIONS

As a State party to the CRPD since 2010, Ethiopia is legally bound to ensure effective access to justice for persons with disabilities on an equal basis with others.

Despite a range of binding obligations under the CRPD, and notwithstanding recommendations issued by the CRPD Committee in its 2016 Concluding Observations, Ethiopia has not yet undertaken the comprehensive legislative and institutional reforms necessary to bring its legal framework and practice into conformity with the CRPD. While single measures, such as the Right to Employment of Persons with Disabilities Proclamation No. 568 of 2008 and the recently enacted Building Proclamation No.1356 of 2024, represent partial progress, the overall legal framework governing the human rights of persons with disabilities, including their right to access to justice, remains fragmented, outdated and inconsistent with international human rights law and standards.

Ensuring equal access to justice for persons with disabilities in Ethiopia, therefore, requires more than incremental reform. It necessitates comprehensive review, revision and transformation of the legal and institutional frameworks.

Therefore, based on the following findings in key areas, the ICJ makes the recommendations below.

### a. Legal protection of the human rights of persons with disabilities

Findings*:*

- Ethiopia has not yet enacted comprehensive legislation on the human rights of persons with disabilities incorporating CRPD obligations and standards into domestic legislation.
- The Right to Employment of Persons with Disabilities Proclamation No. 568 of 2008 remains the only disability-specific legislation. While it reflects elements of a human rights-based approach, including recognition of reasonable accommodation and burden-shifting in discrimination claims, its scope is limited to the context of employment.
- The FDRE Constitution does not explicitly list disability as a prohibited ground of discrimination.
- Neither the FDRE Constitution nor applicable legislation expressly guarantees the provision of procedural accommodations to persons with disabilities who interact with the justice system, apart from limited provision of sign language interpretation and legal representation in judicial proceedings.
- The Civil Code, Criminal Code, Revised Family Code, and Civil Procedure Code retain impairment-based and substitute decision-making regimes that undermine the exercise of legal capacity.
- The Criminal Procedure and Evidence Code (Proclamation No.1410), enacted in April 2026, retains impairment-based approaches to fitness to stand trial and to the competence of witnesses, and fails to make provision for accommodation and support needed to enable participation.
- The enactment of the Criminal Procedure and Evidence Code in 2026, 16 years after Ethiopia's ratification of the CRPD, combined with Ethiopia's failure to give proper effect to

the CRPD Committee's 2016 recommendations on legal capacity and access to justice, indicates that those recommendations have not been implemented. Consequently, in some respects, the direction of travel is regressive and, thus, it is legitimate to ask whether lawmakers have fully understood, let alone accepted, the 2016 recommendations.

- No comprehensive anti-discrimination legislation exists to address disability-based discrimination across all sectors.

**Recommendations**:

*To the Legislature (House of Peoples' Representatives):*

- Enact comprehensive legislation on the rights of persons with disabilities fully incorporating CRPD obligations and standards, including explicit recognition of the rights to full legal capacity (including supported decision-making) and access to justice (including provision of procedural accommodations).
- Amend the FDRE Constitution, or adopt interpretive legislation, to explicitly recognize disability-based discrimination as a prohibited ground of discrimination.
- Undertake a systematic review and amendment of the following laws, in order to remove impairment-based restrictions on legal capacity and substitute decision-making regimes, and replace these regimes with supported decision-making frameworks consistent with Article 12 of the CRPD:
    - Civil Code (including Articles 192-197, 339-379, 1678, and 1728);
    - Criminal Code (including Articles 48, 49, and 129-132);
    - Revised Family Code (including Articles 13 (3)(b), 66, 191(2));
    - Criminal Procedure and Evidence Code (including Articles 228 and 247 (4)); and
    - Civil Procedure Code (including Articles 33 and 34).
- Adopt comprehensive anti-discrimination legislation covering disability across all areas of life, including access to justice.

*To the Executive (Council of Ministers, Ministry of Justice, and Ministry of Women and Social Affairs):*

- Take immediate steps to sign and ratify or accede to:
    - the African Disability Protocol; and
    - the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- Expedite the drafting and adoption of comprehensive legislation on the rights of persons with disabilities:
    - fully incorporating CRPD and ADP obligations and standards, including explicit recognition of legal capacity, access to justice, reasonable and procedural accommodation, and supported decision-making frameworks; and
    - ensuring that the drafting process is transparent, inclusive and participatory, guaranteeing the full, effective and meaningful participation of persons with disabilities and their representative organizations at all stages.
- Take coordinated and time-bound measures to implement the recommendations issued by the CRPD Committee in its Concluding Observations on Ethiopia, including through legislative and policy reform, and institutional strengthening across the justice sector.

**b. Legal standing to participate in judicial proceedings**

Findings:

- The Criminal Code (Articles 48 and 49) permits findings by courts of "not criminally responsible" and the Criminal Procedure and Evidence Code, Proclamation No.1410, (Article 228) permits findings of "unfitness to participate in criminal proceedings" on the basis of disability, resulting in exclusion of persons with disabilities from legal proceedings and potential institutional confinement.
- Individuals declared "unfit to stand trial" may be subjected to detention in psychiatric institutions, including facilities such as Amanuel Mental Specialized Hospital, with limited procedural safeguards and insufficient regard for their rights, will and preferences.
- The Civil Procedure Code (Article 34) requires persons classified as "under disability" to act through representatives, entrenching substitute rather than supported decision-making.
- The Civil Procedure Code (1965) does not explicitly affirm the competence of persons with disabilities as witnesses or provide structured procedural accommodations, and the Criminal Procedure and Evidence Code (Proclamation No.1410) (Article 247), while presuming the competence of witnesses generally, allows courts to prevent a witness from testifying where the witness is "deemed unable to understand the facts or questions put to them by reason of, among other things, senility or physical or mental illness", without provision for accommodation and support.

**Recommendations**:

*To the Legislature:*

- Repeal or amend the provisions of the Criminal Code (Articles 48 and 49) and the Criminal Procedure and Evidence Code (Article 228) permitting declarations of "unfitness to stand trial" or "incapacity of being held criminally responsible" on the basis of disability.
- Amend civil and criminal procedure laws, including Article 247(4) of the Criminal Procedure and Evidence Code, to explicitly affirm the full legal capacity and competence of persons with disabilities to participate in proceedings in all capacities.
- Replace substitute decision-making regimes with supported decision-making frameworks consistent with Article 12 of the CRPD.

*To the Judiciary – the Federal Supreme Court and regional courts:*

- Issue binding practice directions or procedural rules, developed in full consultation with persons with disabilities and OPDs, requiring judicial officers to:
    - interpret existing provisions consistently with the CRPD,
    - recognize and respect the legal capacity of persons with disabilities;
    - proactively and on a case-by-case basis identify and make provision for procedural accommodations for persons with disabilities;
    - refrain, as far as possible, from issuing orders and decisions that result in the forced treatment and/or institutionalization of persons with disabilities.
- Ensure periodic and effective judicial review of any deprivation of liberty linked to disability as ordered by courts under Articles 129-132 of the Criminal Code and Article 228 of the Criminal Procedure and Evidence Code.

### c. Accessibility of justice institutions, services and information

Findings:

- Despite the enactment of the Building Proclamation No. 1356 of 2024 establishing accessibility obligations, implementation gaps remain widespread in justice sector infrastructure, including in respect of court buildings.
- Justice sector and court information systems continue to rely on inaccessible formats, including scanned PDFs and image-based documents.
- Digital systems introduced by the Federal Supreme Court, including e-filing and electronic case management, do not make provision for accessibility standards for persons with disabilities.
- Accessible communication formats, including Braille, screen-reader compatible documents, and plain-language materials, are not systematically available and are, in practice, commonly unavailable.

**Recommendations**

*To the Legislature:*

- Allocate sufficient and sustained budgetary resources to ensure full implementation of accessibility standards across all justice institutions.

*To the Executive (Ministry of Justice and relevant infrastructure authorities):*

- Ensure retrofitting of existing court buildings (e.g., through the installation of ramps, lifts, accessible courtrooms, accessible toilets, tactile signage, accessible parking and other accessibility features) and establish effective mechanisms to monitor compliance by justice institutions.
- Develop national accessibility standards for digital justice systems aligned with international web accessibility guidelines.

*To the Judiciary – the Federal Supreme Court and regional courts:*

- Ensure the availability and use of accessible courtrooms and make alternative arrangements, where necessary, to facilitate the effective participation of persons with disabilities.
- Ensure that all court information and documents, including judgments and procedural guidance, are available in accessible formats.
- Ensure that electronic versions of the Federal Supreme Court Cassation decisions be made available in accessible formats on which lawyers who are blind or otherwise visually impaired commonly rely in their professional work.
- Conduct accessibility audits of all digital systems and initiatives and adopt corrective measures to ensure their accessibility to persons with disabilities.

### d. Provision of procedural accommodations and reasonable accommodation

Findings:

- Ethiopia lacks comprehensive legal framework institutionalizing the duty to provide procedural and reasonable accommodations across criminal, civil and administrative proceedings.

- Sign language interpretation service is not supported by a structured system of accreditation, funding and deployment. Courts often rely heavily on *ad hoc* arrangements and support from OPDs.
- There is no legal recognition or regulatory framework for justice intermediaries or other communication-support mechanisms.

**Recommendations**:

*To the Legislature:*

- Amend procedural codes – including the Criminal Procedure and Evidence Code, and the Civil Procedure Code - to codify a right to procedural accommodations in all legal proceedings and justice processes.
- Legally recognize and regulate justice intermediaries and communication-support mechanisms.

*To the Executive:*

- Establish accreditation, training and funding frameworks for sign language interpreters and intermediaries.
- Allocate specific budget lines for procedural accommodations, including for the creation of posts for necessary support persons, within the justice sector.

*To the Judiciary – the Federal Supreme Court and regional courts:*

- Adopt procedural rules and/or directives detailing when and how procedural accommodations and support must be provided.
- Ensure the establishment of an interpreters' office, covering sign-language interpretation service, as mandated under the Federal Courts Proclamation.
- Operationalize justice intermediary and other communication support systems in judicial proceedings.

### e. Legal aid

Findings:

- There is no comprehensive legal aid legislation guaranteeing access to legal aid services across criminal, civil and administrative matters.
- Eligibility criteria for legal aid services are unclear and mandatory free legal aid services are limited to criminal matters.
- OPDs shoulder a disproportionate share of the provision of legal aid services to persons with disabilities, despite limited resources and regulatory constraints.

Recommendations:

*To the Legislature:*

- Enact comprehensive legal aid legislation guaranteeing accessible legal aid in all criminal, civil, or administrative proceedings, including clear eligibility criteria based on appropriate criteria that take account of disability-related barriers, while guaranteeing effective access to legal aid for persons with disabilities, particularly those deprived of their liberty, those living in institutions, and those at risk of deprivation of their liberty.

*To the Executive:*

- Provide sustainable funding for legal aid services and review the regulatory framework governing legal aid service by OPDs, including by addressing procedural barriers that require individual powers of attorney for each client seeking court representation.

*Tothe Judiciary:*

- Pending legal reform, exercise inherent judicial powers to order the provision of legal aid where necessary to secure equality and fair trial rights for persons with disabilities.

**f. Participation of persons with disabilities in the administration of justice**

Findings:

- Despite a binding decision of the House of Federation in 2016 affirming the right of lawyers who are blind or otherwise visually impaired to judicial appointment, discriminatory practices persist in reality resulting in their consistent exclusion from appointment.
- Justice institutions do not provide for accessible working environments for lawyers with disabilities, and structured and effective measures for providing reasonable accommodations are not available.
- Knowledge, understanding and implementation of the Right to Employment of Persons with Disabilities Proclamation No. 568 of 2008 within the justice sector is inconsistent and, therefore, it is not applied consistently.

**Recommendations:**

*To the federal and regional state judicial administration councils:*

- Ensure transparent and non-discriminatory judicial recruitment processes consistent with constitutional and CRPD obligations and standards.
- Ensure compliance with and enforcement of the 2016 House of Federation decision and address the long-standing discriminatory practice of excluding lawyers who are blind or otherwise visually impaired from appointment to the bench.

*To the Executive and Judiciary:*

- Establish clear institutional policies and budgetary allocations for reasonable accommodation for judges, prosecutors and lawyers with disabilities.
- Ensure the provision of assistive technologies, personal assistants and accessible materials to justice sector employees with disabilities as of right rather than discretion.

**g. Institutional framework**

Finding:

- Institutional responsibility for the human rights of persons with disabilities remains fragmented:
    - The Disability Executive Department at the Ministry of Women and Social Affairs is not equipped with adequate human and technical resources to effectively implement its statutory mandate;
    - The Ethiopian Human Rights Commission does not have a formal statutory mandate to monitor the implementation of the CRPD nationally pursuant to Article 33 of the Convention; and

- Ethiopia does not yet have a dedicated, independent national disability council or coordination body.

**Recommendations**

*To the Legislature:*

- Formally mandate the Ethiopian Human Rights Commission as the independent national mechanism to monitor the implementation of the human rights of persons with disabilities in line with the CRPD (Article 33(2)) and ADP (Article 34 (2)); and
- Ensure that the Commission be adequately resourced and accessible to persons with disabilities to allow it to perform its full mandate in this regard effectively.

*To the Executive:*

- **The Council of Ministers:** Formally designate the Ministry of Women and Social Affairs as the governmental focal point for the implementation of CRPD obligations, in accordance with Article 33 (1) of the CRPD.
- **The Ministry of Women and Social Affairs:** Allocate sufficient financial and human resources to strengthen the institutional capacity and technical expertise of the Disability Executive Department, enabling it to effectively coordinate, monitor and implement CRPD obligations across government sectors consistently with Article 33 of the CRPD.
- **The Ministry of Women and Social Affairs:** Develop and implement a comprehensive, human rights-based, disability-disaggregated data collection and monitoring framework.

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April 2026

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International
Commission
of Jurists

P.O. Box 1740
Rue des Bains 3
CH 1211 Geneva 1
Switzerland

**t** +41 22 979 38 00
**f** +41 22 979 38 01
www.icj.org