



**Ethiopian National
Association of
the Blind**



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POLICY BRIEF

On the Suitability of Banking Services in Ethiopia for the Visually Impaired Persons (VIPs)

Feteh (Justice) Activity

I N E T H I O P I A

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Acronyms

FDRE - Federal Democratic Republic of Ethiopia

HoF - House of the Federation

NBE - national bank of Ethiopia

PWD - Persons with Disability

UNCRPD - United Nations convention on the rights of persons with disabilities

VIPs - visually impaired persons

1. Introduction

This policy brief focuses mainly on identifying the major legal and practical gaps concerning the inclusiveness of banking services in Ethiopia for Persons with Disability (PWD) in general but with major emphasis on Visually Impaired Persons (VIPs).

PWDs in general VIPs in particular face multitude exclusion and discrimination in major live activities including access to banking service. In several countries, persons with different disabilities are not allowed to independently open and operate bank accounts, access loans, or use electronic and online banking facilities.¹ Depriving accessible and inclusive of banking service for these groups is undermining their human dignity, autonomy and worthiness.

Like any other countries, Ethiopia's banking service is inaccessible and non-inclusive preventing PWDs/VIPs not to exercise their fundamental human rights. Although services that are open or provided to the public are required to be accessible and inclusive, opening of bank account, Cheque facilities, loan facilities, cash withdrawal, filling out bank forms, mobile and internet banking, and Automated Teller Machine (ATM) machines are still inaccessible for PWDs in the country. This could be also attributable to: unavailability of accessibility mainstreaming guidelines, absence of accessibility monitoring, poorly trained bank staffs and other related issues.

Therefore, this policy brief is prepared to analyze the existing laws that are applicable on banking services and assess practical challenges that PWDs in general and VIPs in particular face in accessing suitable banking service.

To achieve the purpose, the policy brief first discusses accessibility guidelines of the banking sector. Second, it identifies major policy and legislative frameworks that govern banking service then, the policy brief addresses barriers/challenges of persons with disabilities within the banking services. Finally, the policy brief forwards possible recommendations for further policy, legal and implementation measures.

¹ Inclusive Financial Services for Seniors and Persons with Disabilities: Global Trends in Accessibility Requirements, A G3ict Best Practices White Paper Series Researched in Cooperation with the Center for Internet and Society February 2015.

2. Accessibility Guideline of Banking Service

Accessibility is one of the principles expressly provided under article 3 (F) of the United Nations Convention on the rights of Persons with Disability (UNCRPD). It is also incorporated as obligation of states under Article 9 of the same convention. The committee which interprets the UNCRPD has emphasized that “Accessibility is a precondition for persons with disabilities to live independently and participate fully and equally in society”.² Moreover, in magnifying the role of accessibility, a toolkit for Africa reads as “Accessibility is at the heart of the UNCRPD, which enshrines the rights of persons with disabilities to have full access and fully enjoy and participate in social, economic, cultural, civil and political life, on an equal basis with others.”³ Institutional, physical, informational, communication, attitudinal, and cultural barriers are some of the identified major barriers to accessibility. Therefore, given the vitality of accessibility for PWDs/VIPs to utilize other right, governments are obligated to supervising and ensure that public facilities are capable of removing accessibility barriers.

Article 9 of the UNCRPD, which substantiates the contents of accessibility, imposes a duty upon government to ensure that even private entities providing public facilities and services comply with the accessibility features outlined under Article 9. These private entities include “restaurants, shops, banks, supermarkets, private universities, professional associations, sports stadiums and other private entities offering facilities and services to the public.”⁴

The UNCRPD committee, in an individual communication submitted to it has also recommended that, States are duty bound to establish minimum standards for the accessibility of banking services coupled with concrete, enforceable and time-bound legislative framework and called for the new procured ATMs and other banking services to be accessible for persons with disabilities.⁵ As the world report on disability shows, ‘voluntary efforts on accessibility are not sufficient to remove barriers. Instead, mandatory minimum standards are necessary’.⁶ Therefore, governments should continually strive to set mandatory accessibility standards and procedures and follow up their implementation.

² United Nations UNCRPD/C/GC/2/2014 Para. 1.

³ Division for Social Policy and Development (DSPD), Toolkit on Disability for Africa, November 2016. Available at <https://www.un.org/esa/socdev/documents/disability/Toolkit/Accessibility.pdf> last visited 20/06/2021.

⁴ ID.

⁵ UNCRPD Committee, Szilvia Nyusti & Péter Takács v Hungary, UNCRPD/C/9/D/1/2010, Communication no 1/2010, (2013).

⁶ World Health Organization and World Bank Group, World Report on Disability 2011, P173.

3. Existing Policies and Laws Applicable to Banking Services in Ethiopia

I. The UNCRPD – it is among the major specific instruments which recognize the rights of PWDs. The UNCRPD was ratified by Ethiopia in 2010 pursuant to Proclamation No. 676/2010. Thus, the UNCRPD is part of the law of the land and should also be mainly used to interpret the laws in relation to the rights of PWDs in Ethiopia.⁷ Therefore, the UNCRPD is binding, although it needs other domestic actions including legislations for its implementation on the ground. States should take legislative, administrative, policy and other measures to implement the rights recognized in the UNCRPD as stated under Article 4 of the Convention.

Article 12 (5) of the convention has direct implication on banking services. It provides that States shall take all appropriate and effective measures to ensure the equal right of PWDs to own or inherit property, to control their own financial affairs, to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that PWDs are not arbitrarily deprived of their property. Article 12 of the UNCRPD is mainly dedicated towards legal capacity and recognition before the law. Article 5 of the UNCRPD provides about equality and non-discrimination, which is also indispensable for the inclusiveness of banking services. Article 9 of the UNCRPD provides that States should take effective measures to make services open to the public, including by the private actors to ensure they are accessible for PWDs. The provision includes physical, information and communication accessibility for PWDs. The UNCRPD imposes direct obligation on States rather than private actors. However, the convention provided that States should set laws, standards and guidelines binding on private actors too.

II. The FDRE Constitution – Article 25 of the FDRE Constitution states: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” This is a very important provision for PWDs, despite its failure to cite disability expressly. However, disability is recognized by the FDRE House of Federation as one ground of prohibited ground of discrimination.⁸ Its importance emanates from the existence of domestic laws which make PWDs incapable of performing juridical act such as the Civil Code of Ethiopia which labels persons with mental disabilities as incapable of performing any juridical act if they are judicially interdicted. The code is not in line with Article 12 (4) of the UNCRPD which requires States to ensure that they design safeguard measures including those relating to the exercise of

⁷ See Arts. 9(4) and 13(2) of the Constitution of the Federal Democratic Republic of Ethiopia, 1995

⁸ See for instance Wosen Alemu and Dawit Oticho vs Amhara National Regional State (ANRS) justice professionals training and legal research institute and the ANRS judicial council, HoF/F/No. 019/08.

legal capacity respect the rights, will and preferences of the person, free of conflict of interest and undue influence.

III. The civil code of Ethiopia – Article 1728 (3) read in conjunction with article 1727 of the Civil Code of Ethiopia provides that those contracts, which are legally required to be in writing, should be authenticated by a notary, judge, or registrar in the discharge of his duties. Article 1728 (3) of the Civil Code is interpreted by many, in particular institutions that provide banking services, to require blind persons to come with their witness. These provisions are limiting the freedom of VIPs and persons with mental disabilities from exercising their rights independently.

IV. The Commercial Code of Ethiopia – Article 734 of the old Commercial code (part of which is not repealed by Proclamation No. 1243/new commercial code) provides that (1) Declarations made by commercial instruments shall bear the signature of the person making them. (2) Nevertheless, signature may be apposed by a handwritten mark or by mechanical process such as a stamp. (3) When a physical person is unable to sign, his consent shall be evidenced by an authentic declaration on the instrument.”⁹

Although the commercial code seems to have a leeway to allow VIPs to draw cheque by virtue of sub-article 2, banks do however fail to appreciate the distinction between sub-article 2 and sub-article 3; hence, erroneously impose the requirement of authenticated consent declaration under sub-art. 3 on VIPs and due to its impracticability currently banks prefer to totally deny them the right to access banking services through opening and operating checking account.¹⁰

V. Banking business (amendment) Proclamation 1159/2019 – one article is reserved for the rights of PWDs under the newly issued banking business Proclamation No. 1159/2019.¹¹ Article 56 (1) of the Proclamation provides that the services provided by banks should be accessible for PWDs. Article 56 (2) of the Proclamation provides that the national Bank of Ethiopia (NBE), as the case may be, may issue directives on the conditions in which the services provided by banks can become accessible for PWDs. However, NBE has not yet issued any directive in this regard. Three (3) limitations could be identified in connection to the article of the proclamation: 1. the first sub-article does not put in clear terms that all of the banking services should be fully

⁹ The Commercial Code of Ethiopia 1960 Art. 734 1-3.

¹⁰ Yohannes Takele, Inclusive Banking Service for the Visually Impaired in Ethiopia, A Thesis submitted to Addis Ababa University, School of Law for Partial fulfillment of the Requirements for the Degree of Master of Laws (LL.M) in Business Law, Addis Ababa University, (2018).

¹¹ Amendment Proclamation to Banking Business, Proclamation No. 1159/2019

enjoyed by PWDs. For instance, it does not prohibit discrimination nor does it recognize that all of the services should be equally provided to PWDs.

Second, the proclamation does not clearly indicate as to who should define, evaluate, and determine levels of suitability of banking services. To its detriment, sub-article 2 does not clearly impose duty on the NBE.

Third, the proclamation employs the term suitability which is not familiarized in the disability jurisprudence. Accessibility should have been used in the proclamation. As provided in the Ethiopian financial inclusion strategy,¹² Suitability is more concerned about affordability, safety and quality while accessibility is about “the complete and seamless interaction with an environment, good or service, on an equal basis with others”.¹³

VI. Financial consumer protection directive No. FCP/01/2020 – The NBE issued directive (Directive No. FCP/01/2020) to regulate matters related to the protection of financial consumers. This directive can be considered as a positive initiative taken by the NBE towards financial inclusion and equitable treatment of PWDs and security of consumers’ information.

VII. The national bank of Ethiopia establishment (as amended) Proclamation No. 591/2008 – The NBE serves as the central bank of Ethiopia pursuant to the proclamation amending the establishment of NBE, Proclamation No. 591/2008. Ensuring respect of the rights of PWDs cannot be clearly found in the purpose, powers and functions of NBE, according to this proclamation, although Article 5 (19) of Proclamation No. 591/2008 provides that NBE shall exercise other powers and functions that Central Banks customarily perform.

VIII. the Financial Inclusion Strategy and the National Plan of Action – financial inclusion of strategy does not have any explicit statement about accessibility and inclusiveness of banking service to PWDs/VIPs. The National Plan of Action on the other hand provides living environment or accessibility as the seventh priority of the policy. But no clear direction is mentioned regarding accessibility of banking service. However, under the fifth priority, which is about employment, it is stated that discrimination in the provision of banking service will be

¹² National Bank of Ethiopia, Financial Inclusion Strategy, April 2017.

¹³ United Nations Economic and Social Commission for Asia and the Pacific Social Development Policy Papers, Disability-Inclusive Public Procurement: Promoting Universal Design and Accessibility, 2019

made illegal.¹⁴ However, the implementation of the policy is going to cease soon without realizing this vision.

4. Practical challenges to access Banking Services for VIPs

Assessment report on the Suitability of Banking Services in Ethiopia for Persons with Visual Impairment conducted by ENAB upon which this policy brief is based summarizes the following practical challenges of VIPs in accessing banking services.

1. Availability of disaggregated data on disability: Banks do not have disaggregated data regarding PWDS/VIPs. Disaggregated data is very important for:

- Enabling banks to take measures which can enhance the services provided for persons with disabilities.
- Enabling banks to take immediate corrective measures when persons with disabilities face problems.

2. Opening of Bank Accounts: Factors related to distance, costs, aspects of convenience and suitability of banking services with the needs of the VIPs on the banking services to open or not to open bank account. However, no major problem is observed regarding opening bank accounts by VIPs.

3. Cash Withdrawals: VIPs are required to bring someone as witness when they need to withdraw cash. This requirement is against the privacy of the customers.

4. Cheque Book Facility: PWDs/VIPs face challenges when they need issuing cheque. Banks are not permitting VIPs to issue cheque for third parties. Because, thumb signatures cannot easily be identified with a specific customer and are difficult to verify upon presentation of cheques to the banks for payment. Moreover, VIPs will more likely sign the cheque without knowing the amount put on the it.

5. Loan Facilities: banking service providers claim that VIPs have the right to access loan facilities but customers with VIP claim that banks are not interested to loan facilities for VIPs.

6. ATM, Mobile Banking, Internet Banking, POS Banking Services: ATMs are not accessible for the VIPs as information feedback is largely visual through the ATM display and/or touch screen displays. While these provide more functions to sighted users, they are inaccessible to the visually impaired.

¹⁴ Federal Republic of Ethiopia, Ministry of Labor and Social Affair, National Plan of Action on Persons with Disabilities (2012-2021).

7. Forms, Document, and Information & Communication: in relation to completing forms or signing legal documents, the best practices are to have an alternative format available that meets their needs. However, these alternative formats are not provided to the VIPs by banks in Ethiopia. The VIPs receive bank information and statements either in ordinary print forms or online, neither of which are convenient to them. As part of enhancing the suitability of banking services, banks should provide information and bank statements to VIPs in alternative forms such as in Braille, large print, audio or accessible Portable Document Format (PDF)

8. Staff Support to the VIPs: Staff support to the VIPs is necessary when they appear to get service. However, no specific trainings tailored to the needs of VIPs was delivered. None of the banks recruited staff with skills in special needs such as Braille. This puts the VIPs at the risk of not being served suitably by the banks.

5. Recommendations

- The directive which was expected from NBE pursuant to Article 56 (2) of Proclamation No. 1159/2019 should be issued and be made operational at all banks. The model directive developed by ENAB can be used.
- Coordinated effort of NBE and commercial banks needs to be made to enhance the inclusiveness of banking services to VIPs. Moreover, they should cooperate with other relevant government organs to find out the disaggregated data of PWDs.
- Banks should learn from other countries' experiences which provided suitable banking services to PWDs in general and VIPs in particular.
- Banks should create awareness to their staff that VIPs are their customers who deserve equal banking services like other persons. New incumbents and existing staff of banks should receive adequate training related to serving PWDs including VIPs.
- Banks should develop procedural guidelines for banking facilities to VIPs in line with the UNCRPD and accepted international standards.
- Banks should have alternative formats such as Braille, audio and large print, and others to allow VIPs to maintain their independence.
- Banks should introduce accessible banking service technologies including electronic banking and electronic signatures and put in place standard requirements when they begin to adopt and use the banking technologies. Banks should also consider accessibility requirement in their procurement policy.

- The NBE shall prepare accessibility mainstreaming guideline/standard and conduct accessibility audit to realize accessibility of all the private and public banks for persons with disabilities.
- The NBE shall develop and enforce national financial inclusion strategy specifically for the inclusion of persons with disabilities, or, alternatively, revise the existing financial inclusion strategy to incorporate the needs of persons with disabilities.