



A Case Comment Vis-à-vis the Convention on the Rights of Persons with Disabilities (CRPD):

House of Federation's Decision on Dawit Otocho and Wossen Alemu Versus Amhara National Regional Government Judicial Training and Legal Research Institute and Amhara National Regional Government Judges Administration Council

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Introduction

Discrimination in employment remains one of the most persistent barriers faced by persons with disabilities in accessing professional roles on an equal basis with others.¹ Despite formal legal guarantees, exclusion often occurs through institutional practices and failure to provide reasonable accommodation.² The right to work is not merely an economic entitlement but a fundamental human right closely linked to dignity and equality.³

Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD) obliges States Parties to prohibit disability-based discrimination in all forms of employment and to ensure reasonable accommodation in the workplace.

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¹ Ruilin Sun, 'Discrimination Against Persons with Disabilities in Life and Work' (2024) 27 J Educ Humanit Soc Sci <https://doi.org/10.54097/at3q8e69> accessed 11 April 2026

² *ibid*

³ *ibid*

The government of Ethiopia has taken several legislative and policy steps that indicate a commitment to advancing the rights of persons with disabilities.⁴ In terms of international instruments, these steps include: Signing and ratifying (in 2010) the United Nations Convention on the Rights of Persons with Disabilities (CRPD), the first international, legally binding treaty aimed at protecting the human rights of persons with disabilities.⁵ In terms of national laws and policies, the following have the most direct bearing on the rights of persons with disabilities: Article 41(5) of the 1995 Constitution sets out the state's responsibility for the provision of necessary rehabilitation and support services to 'the physically and mentally disabled'.⁶ However, under Article 9(4) and Article 13(2) of the Constitution, all international agreements ratified by the Ethiopian government automatically become part of the law of the land.⁷ The state is therefore obliged to ensure the rights of persons with disabilities as prescribed in the CRPD.⁸

Although Ethiopia formally commits to disability rights, actual enforcement in judicial appointments and management is debated. A key example is the case of Mr Dawit Otocho and Mr Wossen Alemu against the Amhara Regional Government Judicial Training and Legal Research Institute and the Judges Administration Council. This case highlights important issues regarding how the House of Federation interprets and enforces constitutional guarantees and obligations of equality under the CRPD.

A notable case on which this commentary is based is Fe/M/D/No. 019/08, in which Mr Wesen Alemu and Mr David Otcho challenged the Amhara National Regional Government Judicial Training Institute and the Judges' Administration Council.⁹ They proposed that the exclusion of blind trainees from judicial roles violated Articles 41/2 and 25 of the Ethiopian Constitution, which guarantee economic rights and equality.¹⁰ On April 16, 2015, the applicants claimed their right to

⁴ Swedish International Development Cooperation Agency (SIDA), *Disability Rights in Ethiopia* (September 2014), <http://cdn.sida.se/app/uploads/2021/05/07125813/rights-of-persons-with-disabilities-ethiopia.pdf> accessed on 4 October 2025.

⁵ *ibid*

⁶ *ibid*

⁷ *ibid*

⁸ *ibid*

⁹ Alemu and Mr David Otcho v Amhara National Regional Government Judicial Training and Legal Research Institute and Amhara National Regional Government Judges' Administration Conference (2009) House of Federation, Fe/M/D/No 019/08 (decision of 2 October 2009).

¹⁰ *ibid*

work was violated by a lottery system that excluded blind individuals from judicial positions.¹¹ Although they had completed the same academic and professional training as their peers, they were assigned to prosecutorial positions. The Institute justified this decision not on job constraints but on a long-standing judicial practice with no precedent for appointing blind law trainees to judicial positions.

The petitioners argued this exclusion breached Article 41/2 of the Constitution.¹² The Constitutional Inquiry Council ruled that excluding blind individuals lacked a legal foundation and was based on legal necessity, violating constitutional and international standards.¹³ The decision mandated the inclusion of blind individuals in judicial roles with reasonable accommodations, aligning with Proclamation No. 568/2000 against employment discrimination.¹⁴

Summary of the Facts and Holding of the House of Federation

The case concerns a constitutional interpretation issue brought by Ato Wossen Alemu and Ato Dawit Otocho against the Amhara National Regional State Judicial Training and Legal Research Institute and the Amhara Regional Judges Administration Council. The respondents maintained that judicial functions require the visual observation of evidence and witness demeanour, that there was no prior experience of appointing blind individuals to judicial positions, and that such appointments could undermine the effective administration of justice. These considerations, rather than any assessment of the applicants' individual competence, formed the basis of their exclusion from judicial placement. The applicant states that they sought placement in the judicial service through the standard assignment system known as “ፅግ” (lot), in which newly trained legal professionals are allocated either as judges or as public prosecutors.

From the facts of the case, both applicants had undergone the same academic curriculum and professional training as their peers at the institute, and there was no assertion that they lacked the required legal knowledge or competence. Their elimination was based on the unwritten administrative practice which supposed that individuals who could not visually inspect witnesses and documents could not serve as judges. The applicants, after being denied judicial placement,

¹¹ *ibid*

¹² *ibid*

¹³ *ibid*

¹⁴ *ibid*

brought their grievance to several regional bodies, including the training institute board, the regional Supreme Court, the judge's administrative council, the legal affairs standing committee of the regional council, and the regional public grievances office. The applicants' institutions' applications to these bodies are declined or referred to another organ, leaving the applicants with no effective remedy. Thus, they petitioned the House of Federation, asserting that the established practice violated their constitutional right to choose and train for their profession under Article 41(2) of the FDRE Constitution as well as their right to equality and non-discrimination under Article 25. They also argued that the administrative practice was inconsistent with Ethiopia's international obligations under the Convention on the Rights of Persons with Disabilities and with Ethiopia's domestic disability rights legislation, Proclamation No. 568/2008, which safeguards equal employment rights for persons with disabilities.

The respondents maintained that the nature of judicial work required the visual observation of evidence, the demeanour of witnesses and the review of documents. And they emphasised that the inability to observe these elements visually would hinder the proper administration of justice and render the applicants unsuitable for judicial posts. They asserted that this practice had existed for years and served a practical purpose rather than being motivated by discriminatory intent.

Upon examining the record, the Council of Constitutional Inquiry held that the exclusion of the applicants from judicial placement was based on a long-standing administrative practice that was "not supported by any binding legal provision." The Council observed that the respondents relied on a generalised assumption that the inability to visually observe evidence and witness demeanour rendered blind trainees incapable of performing judicial functions, without conducting any individualised or objective assessment of competence. It emphasised that such a blanket approach, founded on institutional habit rather than legal necessity, was incompatible with the constitutional guarantees of equality and the right to choose and train for one's profession. On this basis, the Council concluded that the applicants' constitutional rights had been restricted without adequate and lawful justification.

The Council asserted that Article 41(2) of the FDRE Constitution guarantees every Ethiopian the right to choose and train for their profession. In this case, the respondents had not shown the impossibility of performing judicial duties on the basis of objective evidence or through an individualised assessment of the applicants. The Council also stressed that Article 25 of the

Constitution guarantees equality before the law, and that differential treatment based solely on disability constitutes discrimination. The Council reasoned that the respondents' practice amounts to discrimination because it denies them equal access to opportunities available to others with similar qualifications.

The Council also referred to Ethiopia's obligations under the CRPD, which the country has ratified and which forms part of domestic law. The Convention permits differential treatment only where the essential functions of a particular occupation cannot be performed even with reasonable accommodation. Such inherent limitations are narrowly construed and apply only where the core duties of the position objectively and unavoidably require capacities that cannot be substituted, assisted, or accommodated. The Council concluded that the respondents' practice directly violated these principles by categorically excluding visually impaired trainees. The Council similarly found that the practice against the applicants is incompatible with Proclamation No. 568/2008, which requires that persons with disabilities who meet the minimum professional qualifications be given equal opportunity to be recruited and placed in positions, unless a specific impairment renders the core judicial functions impossible in practice.

After considering the Council's findings, the House of Federation unanimously adopted its recommendations and issued a final constitutional ruling. The House held that the respondents' practice of excluding visually impaired trainees from judicial placement based on eyesight assessments violated Article 41(2) of the FDRE Constitution. The House affirmed that the respondents did not establish the existence of any binding law that authorised them to impose such an exclusionary rule. The House also emphasised that such practices violated Article 25 of the Constitution; this is because it constituted unequal treatment that singled out a particular group of trainees and denied them opportunities solely based on disability.

Accordingly, the House of Federation adopted the findings of the Council of Constitutional Inquiry and declared the respondents' decision and long-standing administrative practice unconstitutional and without legal effect. The House ordered that the applicants be recognised as having the right to train for and to serve in judicial positions on an equal basis with other trainees. It further directed the respondents to discontinue the impugned practice and to ensure that future assignment processes are conducted in conformity with the FDRE Constitution, Ethiopia's obligations under the Convention on the Rights of Persons with Disabilities, and the relevant disability rights

legislation. In doing so, the House emphasised that constitutional rights, including equality before the law and the right to choose and train for one's profession, cannot be curtailed by administrative practice or institutional tradition without a lawful and objectively justified basis.

Legal Framework

CRPD

Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD) establishes binding obligations concerning equality and employment of persons with disabilities.¹⁵ States parties to the Convention are duty-bound to prohibit discrimination on the basis of disability in all matters concerning employment and to protect the rights of PWDs on an equal basis with others.¹⁶

The CRPD, being binding on member States, imposes three sets of obligations on them.¹⁷ The first is the obligation to respect: This obligation entails refraining from engaging in any act, custom, or practice that is inconsistent with the principles of equality and non-discrimination.¹⁸ The second obligation is the duty to protect. States must take all appropriate measures to eliminate discrimination and violations of equality by any non- state actors like private individuals and enterprises.¹⁹ And thirdly, States have the obligation to fulfil, which means that States should adopt and implement measures that give effect to the right to equality and non-discrimination.²⁰

The right to access justice is applied in the context of disability under the Convention on the Rights of Persons with Disabilities. Access to justice is specifically addressed in Article 13 of the Convention, which directs States parties to ensure that people with disabilities have effective access to justice on an equal basis with others, including by providing certain accommodations, to facilitate their effective role as direct and indirect participants (art. 13(1)). It also specifies the rightful actions that must be taken to fulfil the legal rights of persons with disabilities. For instance,

¹⁵ Yohannes Teressa, 'Ensuring the Right to Equal Employment Opportunities of Persons with Disabilities: Critical Examination of the Ethiopian Legal Framework' (Masters thesis, Addis Ababa University 2012).

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ *ibid*

according to Article 13(2), states must encourage the proper training of those working in the field of administration of justice, such as police officers and prison staff (art. 13(2)).

Domestic Legal Framework (Ethiopia)

Ethiopia ratified the Convention through Ratification Proclamation No. 676/2010. As clearly enshrined under Article 9(4) of the FDRE Constitution, all international agreements, once ratified, become an integral part of the law of the land. Therefore, since Ethiopia ratified the CRPD, it has become an integral part of the law of the land. Article 25 guarantees equality before the law and prohibits discrimination, and this provision protects disabled persons against any infringement of that protection. The second is that “disability” appeared under Article 41(5) of the Constitution as one of the grounds on which the State is obliged to allocate resources for rehabilitation and assistance to materialise their right to equal enjoyment of the economic, social and cultural rights. The cumulative reading of the two provisions squarely puts disability among the prohibited grounds of discrimination.

Proclamation Number 568/2008, depicted in its preamble, has as its main objective the prevention of unequal treatment (discrimination) in employment based on the status of a person’s disability. It is based on the assumption that discrimination is wrongful and a major problem for disabled persons’ enjoyment of equal employment opportunity. Article 7 of Proclamation 568/2008 clearly stipulates that a PWD, without the burden of proof, may institute a suit before the competent court if he is discriminated against by the defendant [employer] in any condition of employment. Hence, the defendant bears the burden of proving that there was no discrimination. The shifting of the burden of proof from the PWD employee or job applicant (claimant) to the employer (defendant) is one of the basic features of proclamation 568/2008.

The proclamation also enshrines the Right to Employment of Persons with Disabilities, which is pertinent to the defence of PWDs' rights and their right of access to justice. By incorporating the core principles of the CRPD, this proclamation directly addresses the employment rights of people with disabilities. The Proclamation affirms human rights and social models of that condition. To make it easier for PWDs to exercise their right of access to justice, two significant procedural provisions have been incorporated into the declaration on the employment rights of PWDs. These clauses address the burden of proof in discrimination cases and the ability of disability associations

to file legal claims when their members' rights are violated. Article 7 of the proclamation stipulates that any person with a disability who alleges that discrimination on the ground of his disability occurred with respect to recruitment, promotion, placement, transfer, or other conditions of employment may institute a suit before the competent court without the burden of proof. Additionally, the proclamation's Article 10 affirms disability associations' authority to file lawsuits on behalf of their members.

Analysis of the House of Federation's Decision

The constitutional dispute before the House of the Federation (HoF) was framed as a question of whether the exclusion of visually impaired law graduates from participation in the lottery system for judicial appointment was based on an uncodified administrative practice that violated the FDRE Constitution. The House answered this based on grounding its reasoning primarily in Articles 25 and 41(2) of the Constitution and drawing interpretive support from the Convention on the Rights of Persons with Disabilities (CRPD) and domestic disability employment legislation. While the outcome is normatively compelling, a deeper analysis reveals both the strengths and important limitations of the HoF's constitutional reasoning.

The HoF's most significant contribution lies in its rejection of disability-based exclusion, which is justified by generalised assumptions about professional incapacity. The respondents' argument is based on the fact that judicial functions inherently require visual observation and that visually impaired individuals are therefore unsuitable. Crucially, the House emphasised the absence of any binding legal provision prohibiting visually impaired persons from serving as judges. By characterising the exclusion as an "unacceptable traditional practice," the HoF affirmed a foundational constitutional principle that administrative convenience cannot override constitutionally guaranteed rights.

This reasoning reflects a sound application of Article 25 of the FDRE Constitution. Equality before the law requires that differential treatment be based on objective and legally relevant criteria. In this case, the respondents failed to demonstrate that visual ability constitutes an essential and non-substitutable requirement of judicial office. The HoF's insistence on legality and objective justification marks an important shift from assumption-driven governance toward rights-based constitutionalism.

The HoF also correctly linked equality with Article 41(2), which guarantees the right to choose and pursue a profession. By excluding the petitioners from the lottery system solely on the basis of disability, the respondents effectively denied them access to a professional pathway available to others with identical qualifications. The House's reasoning here is factually and doctrinally coherent, reinforcing the interdependence between equality and occupational freedom.

However, the analytical scope of the HoF's reasoning remains limited in a critical respect: it treats the case primarily as one of employment discrimination, without fully engaging with its implications for access to justice under Article 13 of the CRPD. This omission is significant. Article 13 does not merely guarantee the right of persons with disabilities to access courts as litigants; it also affirms their right to participate in the administration of justice, including as judges, prosecutors, and other justice sector actors.

Viewed through this lens, the exclusion of the petitioners is not only a violation of equality in employment but also a restriction on the inclusivity and legitimacy of the justice system. The absence of persons with disabilities within judicial institutions perpetuates systemic barriers and undermines the representativeness of the judiciary. The HoF's failure to articulate this dimension narrows the case's constitutional significance and overlooks its broader institutional implications.

This limitation is reflected in the HoF's lack of engagement with international standards, especially the International Principles and Guidelines on Access to Justice for Persons with Disabilities. These set out a comprehensive view of inclusion. Principle 7 affirms that persons with disabilities have the right to participate equally in justice processes, which includes serving as judges and justice sector actors. This links to Principle 1, which recognises full legal capacity and prohibits the denial of access to justice based on disability, and to Principle 2, which mandates universally accessible justice systems. Together, these principles go beyond non-discrimination, urging proactive reform of legal institutions to ensure meaningful participation. The HoF's failure to adopt these standards confines its approach to formal equality and ignores the broader need to create an inclusive justice system.

Similarly, the decision does not engage with CRPD Committee General Comment No. 8 (2022) on the right of persons with disabilities to work and employment. This General Comment clarifies that state obligations extend beyond formal equality and require the removal of structural barriers,

the provision of reasonable accommodation and the transformation of workplace norms. Employment in this framework is not merely an individual entitlement but a site of social inclusion and dignity. By not incorporating this interpretive guidance, the HoF's reasoning remains confined within a traditional anti-discrimination paradigm.

The HoF's approach to reasonable accommodation shows a clear limitation in its analysis. Although the House correctly observed that the respondents did not prove that visually impaired individuals could not perform judicial duties with reasonable accommodation, it did not treat accommodation as a core constitutional obligation linked to equality. Instead of requiring institutions to adapt and become inclusive, the ruling risks promoting a more limited, formal approach to equality that merely removes overt exclusions without addressing deeper structural barriers.

Moreover, the HoF's reasoning remains largely case-specific and remedial. While it successfully invalidates the exclusionary practice and vindicates the petitioners' rights, it does not articulate broader standards for assessing similar claims in the future. In particular, it does not provide guidance on how to evaluate claims that certain professional roles inherently do not require specific physical capacities, nor does it establish a structured test for determining when such requirements are legitimately essential. This limits the precedential value of the decision and leaves unresolved the structural issues that give rise to such disputes.

In sum, the HoF's decision is constitutionally sound and normatively progressive in outcome. It effectively dismantles an exclusionary administrative practice and affirms the rights of persons with disabilities under Articles 25 and 41(2), interpreted in light of Ethiopia's international obligations. However, its analytical framework remains comparatively narrow. By not fully engaging with Article 13 of the CRPD, the International Principles on Access to Justice, and General Comment No. 8, the decision fails to capture the transformative vision of disability rights law.

A more expansive approach would have framed the case not only as one of equal employment opportunity but also as a question of inclusive justice and institutional transformation. Such an approach would strengthen Ethiopian constitutional jurisprudence by aligning it more closely with

contemporary international human rights standards, which view persons with disabilities not as passive beneficiaries of protection, but as active participants in public and institutional life.

Conclusion

The House of the Federation's decision to nullify the exclusion of visually impaired trainees from the judicial appointment process marks a significant advance in Ethiopian constitutional jurisprudence on disability-based discrimination. By declaring the respondents' uncodified administrative practice unconstitutional, the House affirmed that exclusion from public employment cannot be justified by generalised assumptions or institutional convenience. The ruling thus reinforces the constitutional guarantees of equality under Article 25 and of the freedom to choose one's profession under Article 41(2) of the FDRE Constitution.

The HoF based its reasoning on Ethiopia's international obligations and domestic laws, affirming ratified treaties as binding in constitutional cases. It adopted a cautious, mainly remedial stance, recognising that exclusion is unjustified if performance is possible with reasonable accommodation, though it did not define this concept. The judgment focused narrowly on invalidating the specific practice, limiting its broader legal impact.

More importantly, the long-term impact of the decision remains uncertain. Despite its normative significance, there is limited publicly available evidence on whether the ruling has translated into consistent institutional practice, particularly regarding the actual appointment of visually impaired judges. This raises a broader concern regarding the gap between constitutional interpretation and administrative implementation.

A brief look at legal frameworks reveals this limitation. Proclamation No. 1233/2021 on Federal Judicial Administration does not explicitly recognise disability as a ground for exclusion or include disability-inclusive criteria for judges. Although Article 8(11) allows directives on judicial selection, none have been developed. This regulatory gap indicates that the transformative potential of its decision remains unimplemented in the law. Similarly, although the HoF relied on Article 27 of the CRPD to affirm the petitioners' right to compete for judicial positions on an equal basis, it did not develop the implications of this right beyond the immediate facts of the case. The ruling restores access to the judicial selection process but leaves unresolved how equality in public employment should be operationalised where traditional professional assumptions intersect with

disability rights. As a result, the decision corrects a clear constitutional violation without fully engaging the transformative potential of international disability rights norms in the Ethiopian legal system.

Therefore, the HoF's decision represents a decisive step towards dismantling discriminatory practices in judicial recruitment. Its constitutional reasoning is sound and firmly grounded in both domestic and international law. However, its analytical restraint and the absence of clear legislative and regulatory follow-through highlight the need for further legal and institutional development.

Conflict of Interest

The author declares no conflict of interest.