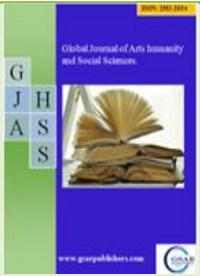
	<b>Global Journal of Arts Humanity and Social Sciences</b>					
	ISSN: 2583-2034					
	Abbreviated key title: Glob.J.Arts.Humanit.Soc.Sci					
	Frequency: Monthly					
	Published By GSAR Publishers					
Journal Homepage Link: <a href="https://gsarpublishers.com/journal-gjahss-home/">https://gsarpublishers.com/journal-gjahss-home/</a>						
Volume - 5		Issue - 10		October 2025	Total pages 928-931	DOI: 10.5281/zenodo.17381096

## CRITICAL EXAMINE THE LEGAL AND PRACTICAL ACCESS TO EDUCATION SERVICE FOR CHILDREN WITH DIS ABILITIES IN TANZANIA

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### Article History

Received: 07- 10- 2025

Accepted: 15- 10- 2025

Published: 17- 10- 2025

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### Abstract

The Article critically examine the legal and practical access to education service for children with disabilities in Tanzania. Tanzania has ratified international laws and domestic laws that protect and promote right for children with disability the laws include convention of the right of person with disability (CRPD2006) ,convention on the right of the child (CRC)2006, the law of the child CAP13R:E2019 ,person with dis ability act NO 9 R:E 2010act. But despite of these laws but still children with disability they gate challenges to acquire education. so this article it elaborate the instrument that protect children with disability to acquire education , challenges and conclude with recommendations to what should be done in order this children with disability to gate their right to education.

**Key words:** Right, Education, children, children with disabilities, accessibility to education for children with disabilities, Tanzania

### 1.1 Over view

Disability has been a medical matter for as long as human beings sought to escape the stigma of death, disease and injury in which a medical model defines disability as an individual defect lodged in the person, a defect that must be cured in for a person to achieve full capacity as a human being. 'The emerging field of disabilities studies defines disability not as an individual defect but as a product of social injustice, one that requires not the cure but significant changes in the social and built environment<sup>ii</sup>

Person with disabilities to include those persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others<sup>iii</sup>.

Education is recognized as a fundamental human right and a key instrument for personal and national development. International legal frameworks, such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the African Charter on the Rights and Welfare of the Child (ACRWC), it's an obligation to states parties to guarantee equal access to education for all children, including those with disabilities. Tanzania has

ratifying these instruments and enacted them through laws such as the Persons with Disabilities Act of 2010 and the Education and Training Policy of 2014. But Despite these commitments, children with disabilities in Tanzania continue to face significant challenges in accessing inclusive and equitable education.

This article it examines the practical accessibility of the right to education for children with disabilities in Tanzania, by discussion legal and social contexts. While education is recognized as a fundamental human right under international instruments but realization of this right in Tanzania remains limited for children with disabilities. The article acknowledges Tanzania's domestic legal instrument s, especially the Persons with Disabilities Act of 2010 and the Education and Training Policy of 2014, yet there is a gap between these provisions and the realities of children with disabilities. To acquire education.

The purpose of the study is dealing to ensure accessibility of education to children disabilities generally in which Tanzania shall take all appropriate measures to ensure children with disabilities access on equal basis with others by eliminating all barriers and obstacles to access education in public schools.



## 1.2 Legal. Frame work governing right to education. For children with disabilities in Tanzania

### 1.2.1 Accessibility Provisions under international Laws

There's different laws and treaties that aim of Protection the right for children with disabilities to enjoy their basic right including education services. the following are the laws that mandate state parties in order people in particular state

#### 1.2.1.1 convention on the Rights of Persons with Disabilities (CRPD), 2006

This is the main law which was established by UN to protect the rights of PWD's in the world. This convention on the protection of PWD's rights to accessibility it provides that state parties in order to ensure that persons with disabilities live independently and participate fully in all aspects of life, shall take all appropriate measures to ensure PWD's access on an equal basis with others, to the physical environment, communication, transportation and other facilities and services provided to the public both in urban and rural areas.<sup>iv</sup> The measures which shall be takes includes identification and elimination of all barriers and obstacles to accessibility in buildings, roads, transportation and indoor and outdoor facilities including schools, housing, medical facilities and workplaces, information and communication and other services<sup>v</sup> Also, CRPD provides that state party shall take appropriate measures to develop, promulgate and monitor the implementation of standard and guidelines for the accessibility of facilities open to the public and shall ensure that private entities that offer services to the public take into account all aspects of accessibility to CWD's <sup>vi</sup>.

#### 1.2.1.2 Convention on the right of the child CRC

Is the treaty that deals with children's rights It obliges States Parties, including Tanzania, to ensure that every child enjoys access to education without discrimination, including those with disabilities. Under Article 28<sup>vii</sup> as the General Right to Education it establishes the right of every child to education. It requires States to make primary education compulsory and free to all, and to ensure accessibility to secondary and higher education. For children with disabilities, this article means that governments must remove barriers, physical, financial, social in order to prevent their equal access to schooling. States are also required to take measures to encourage regular attendance and reduce dropout rates, which are often higher among children with disabilities due to exclusion and discrimination.

### 1.2.2 Accessibility provision under regional laws

There are different laws and treaties which have been entered and established in Africa for the aim of protecting the rights to the accessibility to the persons with disabilities in public schools and hospitals, these are as follows;

#### 1.2.2.1 African Charter on the Rights and Welfare of the Child

This charter was adopted by the 26th ordinary session of the Assembly of Heads of State and Government of the OAU Addis Ababa, Ethiopia, July 1990 and entered into force on 29

November, 1999. Tanzania is the party to this Charter and the it provides impliedly to the right to accessibility on schools by providing that every child shall have the right to education in which it includes even children with disabilities and it further provides that state parties shall take appropriate measures to ensure full realization of this right by make it free and accessible to all on the basis of capacity and ability by every appropriate means<sup>viii</sup>

#### 1.2.2.2 Protocol to the African Charter on Human and Peoples Rights on the Rights of Persons with Disabilities in Africa, 2018

This Protocol provides for the meaning of Persons with disabilities to include those people who have physical, mental, psycho-social, intellectual or other sensory impairments which in interaction with environmental, attitudinal or other barriers hinder their full and effective participation in society on equal basis with others<sup>ix</sup>. The Protocol has general principles and one of them is Accessibility<sup>x</sup>. Also, the Protocol has provided to the rights of accessibility to the persons with disabilities in it provides that every person with disability has the right to barrier free access to the physical environment, transportation, information, including communication technologies and systems and other facilities and services open or provided to the public<sup>xi</sup>. This includes the physical and communication accessibility to public schools and hospitals, as the protocol vested the obligation to the state parties as they shall take reasonable and progressive step measures to facilitate full enjoyment by persons with disabilities of this rights , such measures shall apply to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces and the information, communications, sign languages and tactile interpretation services, braille, audio and others services<sup>xii</sup>

### 1.2.3 Provision under national lever

Tanzania has ratified different laws that protect children with disabilities to acquire education right as follows

#### 1.2.3.1 Constitution of the United Republic of Tanzania, 1977

Under the Constitution the right to access education to the Children with disabilities has been provided impliedly in which under Article 11 provides the right of all person including children with disability to access education without any discrimination<sup>xiii</sup> . Also. It state about equality to all people and respect for the dignity, this means that all people even persons with disabilities are equal with others and they have to be recognized in which the accessible environment shall be prepared for them<sup>xiv</sup>

#### 1.2.3.2 The Person's with Disabilities Act

This is the principal law which deals with the issues of disability in Tanzania. This law is there to protect the rights of Children with disabilities in Tanzania. Under this law concerning the issues of accessibility of CWD's in public service. The law it provide that every child with disabilities had the right to access education<sup>xv</sup>

#### 1.2.3.3 The law of the child act

This is the main laws that protect and promote the right of children in Tanzania including. Children with disabilities .under this law



parents and guardian have the responsibilities to protect and give their children their basic need including education. The law state that every child shall have a right to life, dignity, responsibility, liberty, health, education and shelter from his parents. So due to this law it's bind parents to make sure that their children they gate education including those who having disabilities.<sup>xvi</sup> Also under provision of S(8) it provide the duty to maintain child. S8(6) it state that A child with disabilities shall have a right to special care, treatment, afforded facilities for his rehabilitation and equal opportunities to education and training wherever possible to develop his maximum potential and be self-reliance so due to this. There is a need to. Children with disabilities to gate education.

### 1.3 Challenges that faced by children with disabilities to access education

#### 1.3.1. Shortage of trained teachers and specialist support enshrined in practice

The law may require/encourage training, but in reality there are too few teachers trained in inclusive pedagogy, few sign-language interpreters, and limited special educators. A legal obligation without the human-resource backbone to fulfil it. Research across Tanzania documents teacher capacity as a major barrier. So this is the outcome of children with disabilities they fail to acquire education due to lack of the teachers who will assist them to acquire their education as the fundamental right

#### 1.3.2 .Discrimination, stigma and protection gaps despite anti-discrimination provisions

Anti-discrimination provisions exist, but social stigma, discriminatory admission practices, and sometimes school-level exclusion persist. Legal remedies are theoretically available but are rarely used (awareness, access to legal aid, and courts' responsiveness are limited). Children with dis ability they face discrimination when they need to acquire education. For example in 2018, the Ministry of Education, Science and Technology reported that, total 362,847 children with disabilities aged 4-14 years were refused entry to schools because of their disabilities.<sup>xvii</sup> This indicate that Tanzanian children with disabilities fail to access their basic rights to education as the result to violation educational right. So the action of refusing this children to be registered to schools is the symbolism of. How children with disabilities they gate discrimination despite of having different laws that protect children's right.

### 1.4. Recommendations

- i. School teachers should get in-service training on inclusive education, there is a need therefore for the Ministry of Education and Vocational Training, Local Government and other responsible authorities to locate funds to those institutions like Tanzania Institute of Education for training teachers in those schools.
- ii. The environment of public schools and hospitals in should be improved to accommodate children with disability there is a need of improving environment in schools like toilets, classes, laboratories in order to be accessible for all kind of people with different kind of impairment like visual impairment, hearing impairment and mobility impairment.
- iii. The government should establish awareness or sensitization programmers to the education stakeholders and the whole community to create the inclusive environment in schools and. Also, in collaboration with other development partners they can set aside enough funds for repairing buildings, training sign language interpreter, purchasing teaching and learning resources assistive devices for children with disabilities.
- iv. There should be a strong enforcement mechanism for disability rights in Tanzania. The rights of children with disabilities shall be enforced to the court. All who are not responsible for ensuring the right to accessibility in the institutions providing services to the public must be liable.

### CONCLUSION

As a result of many public schools having inaccessible physical and communication facilities including buildings and experts, the chances of ensuring children with dis abilities getting accessible services is minimal. Schools are facing challenges of experts this led the implementation of providing accessible services to children with dis abilities to fail. Also, the problem of accessible physical environment in buildings has become a common problem for the accessibility of children with disabilities in those institutions providing services to the public. Therefore, in order to ensure the accessible environment for children with disability, in public schools, teachers, parents and other would want to be trained on how to communicate with children with disabilities and provide them with inclusive services like inclusive classes

<sup>ii</sup> T. Siebers,(2008), Disability Theory, The University of Michigan Press, United States of America. available at, <http://www.press.umich.edu/> accessed on 5 June 2023, 07:50 am.

<sup>iii</sup> United Nations Convention on the Rights of Persons with Disabilities, Article 1.

<sup>iv</sup> Conversation on the Right of parson with disabilities Article9(1)

<sup>v</sup> Conversation on the Right of parson with disabilities Article9(1)(a)&(b)

<sup>vi</sup> Conversation on the Right of parson with disabilities Article9(2)(a)&(b)

<sup>vii</sup> CRC Of (2006)

<sup>viii</sup> African charter on the rights and welfare pof the child 1990 article 11(1)&3(c)

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- <sup>ix</sup> Protocol of African charter on human and peoples right on the right of person with Disabilities,2018 article1
- <sup>x</sup> Protocol of African charter on human and peoples right on the right of person with Disabilities,2018 article2(f)
- <sup>xi</sup> Protocol of African charter on human and peoples right on the right of person with Disabilities,2018 article15(1)
- <sup>xii</sup> Protocol of African charter on human and peoples right on the right of person with Disabilities,2018 article15(2)(b)(c)
- <sup>xiii</sup> CURT,1977 cap 2 Art 11
- <sup>xiv</sup> CURT ,1977 cap 2 Art12
- <sup>xv</sup> S27 , No.9.R.E2010
- <sup>xvi</sup> CAP ,13 R:E,2019
- <sup>xvii</sup> BRAUN, Alisha (2022), *Barriers to inclusive education in Tanzania' s policy environment: national policy actors' perspective*. [A Journal of Comparative and International Education, Vol](#)