

Research Proposal

Disabilities with in International convention
& National Law

(A case Study of South Wollo & Dessie City Labour
& social Affair office)

A research Proposal Submitted to Department of
Law in partial fulfillment for the Award of LLB Degree

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CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND

BACKGROUND OF THE STUDY

Disability, though it has a world wide phenomenon and which have almost similar impact on the societies having persons with disabilities with in them It has been remained disregarded to take any measure forward against it by state in general & the society in particular to affirm & give social safeguard to persons with disabilities for centuries of years, persons with disabilities have suffered from the negative social attitudes & neglected all their human & democratic rights so that they were forced to have poor self image & not to participate in socio - economic & political activities of their society.

Every society in the world faces disability this is because that those societies perform different activities to attain their interests which may be of social, political, economical or cultural. During the time of social interaction they may fight each other because of their egoistic nature & that is why we are saying disabilities a live every where & due to this it affects every part of the world. Though the grave damage of disabilities relies on the persons with disabilities themselves, disabilities has a serious negative impact on the economic development of a state.

Over 650 million persons around the world live with disabilities add to that their extended families & a staggering 2 billion people daily live with disabilities. In every region of our country, person with disability often live in the margins of the society, deprived of some of life's fundamental experiences. They have little hope of going to school getting job having their own homes, creating family & raising their children enjoying social life of voting, for the vast majority of the world's person's with disability shops, public facilities and transport & even information are largely out of reach.

Persons with disability remain amongst the most marginalized in every society while the international human rights frame work has changed lives every where, persons with disabilities have not reaped the same benefits. Regardless of a country's human rights or economic situation they are generally the last in line to have their human rights respected being denied the opportunities that would enable them to be self-sufficient, most persons with disabilities resort to the kindness or charity of others.

Having this in mind, the international community United to reaffirm the dignity & worth of every person with disability and to provide state with an effective legal tool to end the injustice, discrimination and violation of rights that confront most persons with disabilities

MISSION OF THE STUDY

Though, human beings have taken care & protection to save themselves from danger in their day to day activities using laws and circumstantial management as means to this end, it is evident that disability occurred when ever & every where in the world, Hence my study and the laws are enacted purposely to

- Improve mental health- approximately 20 million women become disabled, each year as a result of complications during pregnancy or child birth abnormal prenatal events are a major cause of disability in children in the developing world. Especially in Ethiopia, such disabilities can often be prevented.
- Eradicate extreme poverty & hunger:- poverty as a cause of disability, well over 50% of disabilities are preventable and directly linked to poverty. This is particularly true for disabilities arising from malnutrition, material under nourishment and infectious diseases disability as a risk factor for poverty great percent of persons with disability live in poverty.
- Change the attitude of the society has towards the subjects of the disability problem. The society, especially in our country gives little attention to the potential labour force they do have and does not protect the disabled persons' reputation and Labour.

- Promote gender equality and Empower women it is widely recognized that women with disability are doubly disadvantages in society; they are excluded from various activities because of both their gender & their disabilities women with disabilities are twice to adhere times more likely victims of physical & sexual abuse than women with out disability.
- Provide the technical training & skills & education in order to acquire knowledge & then their ability will be balanced in addition to this providing them with man made assisting instruments like wheel chair makes the persons with disabilities to compete with other in every day to day activity.

1.2 STATEMENT OF THE PROBLEM

Disabilities is the most problem in Ethiopia and through out the world some research shows this, How ever, now a days the current government of Ethiopia gives deep concern for disabilities when we compare from other governments like Derge and Monachy regions there were accepting some articles and more talk about in the media rather than doing on practice.

Mean while, for the last 20/twenty/ years, here in our country the government has been done more efforts to solve their problems, renewable some Articles, accepting international laws to disabilities and providing a good situations. When I was preparing this research paper integrated participation with South Wollo Administration and Dessie city Labour and social affairs office, the most problems which I was identifying as follows:-

- i. In the ministry of labour and social affair office had been fulfilled more efforts to solve the problem of Non- disable worker in some sections of the office however, those who are disables did not have any opportunity to facilitate their obstacles rather than doing a union as well

- ii. In variety sectors offices, some disables are working on but, they have no interest to give interview with me, In my opinion, this implies that they have been more suffers during employment & now they become idle.
- iii. There is no more comfort in working area, and if they ask their rights to work in a good situation the government bodies did not give any right respond, expect simply some hope words.
- iv. South wollo Labour and social affair offices had not been done more works on disables to facilitate there obstacles in all opportunities, so that the union if disables could not have done more works on their members, which means they have no any supports from the governmental bodies.
- v. There is no research paper on disabilities in south wollo zone labour and social affair office so there is no even research on further study on disabilities this and other related materials such reasons makes difficult to write more about it

1.3 OBJECTIVES OF THE STUDY

GENERAL OBJECTIVE

To over view the international Agreements and our national laws in disabilities, how far other laws have been fulfilled and to provide ideas for a giving direction and solution of their problems.

SPECIFIC OBJECTIVE

- The obstacles of disabilities in international level
- To diseases & research on disabilities in domestic (National Law)
- Some effects and social contacts being disables during they have been employees.
- The solution have been taken in to measure fatherly as individually or governmentally

1.4 RESEARCH QUESTIONS

- I. You will have enough knowledge & understanding about disabilities.
- II. You will have some ideas and understanding about Ethiopia disabilities laws & their fulfillment.
- III. Ethiopia have been announce some laws and practical engagement on disabilities.
- IV. Like a citizen, what will have done practically to disables?

1.5 RESEARCH METHODOLOGY

1.5.1 DATA TYPE AND SOURCE PRIMARY SOURCES

It is distributed to the respondent who can contribute prudent information that can be an in put for the study. Interview is conducted that can not be clearly answered & can not accessed.

SECONDARY SOURCE

Secondary data will also be used like different international convention, treaties, proclamations, rules and Regulations of the disabilities and books, different magazines reports the disabilities 2011 and 2012 and recent rule & regulations.

1.5.2 STUDY DESIGN

This research paper have been written on two factories, some selected workers in civil service office and workers and labour and social affairs offices inside south Wollo zone Administration. In zone labour and social affair offices have been established 5/five/ varieties disabilities Association. Among 240 members workers, by selecting 24/Twnety four/ members workers, I have interviews & written question papers.

I could able to fulfill the basic question of the main points, in all type of disabilities in the south wollo zone. There were arising the problems and its solution in government & non-governmental organization but I could emphasize the fulfillment of the laws in all level and to provide a basic solution for their problems fatherly.

1.5.3 DATA COLLECTION METHOD

In this study, the intended data collection producer is mainly focused on interview questionnaire and organizational manuals. Among the methods of the research will use it interview as a primary source of data by interviewing South wollo zone Labour and social affair centre for rehabilitation and training of person with disabilities association head are takes place the researcher can collect enough information giving a great respect for the interview.

The other source of data by reading different international convention National law documents and by preserving constitution data the researcher can get information in this research the researcher can used judgment sampling techniques by judging the Age, Sex, Educational level, year of experience, the researcher selects the interview. Most hoply the researcher will keep the data will be given a serious attention because of that disclose the organization for various risk.

1.5.4 DATA PROCESSING AND ANALYSIS

The collected data was analyzed through elementary statistical tool like internet, table, and percentage. . . .

1.6 THE SCOPE AND LIMITATION OF THE STUDY

My research paper was concentrated with the general feature of disability such cases raised with the zonal & Woreda Labour & Social affairs Beuro gives different types of services. One of the services is to maintain the association of disabilities but the scope of my study is limited because of time & other constraints on the finding of different

disabilities workers and the direct skill full (Professional workers) in south Wollo zone in any sector offices.

1.7 SIGNIFICANCE OF THE STUDY

A disability of Ethiopia has been arisen form in variety type of problems but we can summarize in two types of reasons: one in naturally or biologically disabled and the other one will be occurred on incidentally after birth.

This research paper will have been covered on its basic obstacles and its solution up to detail conclusions.

CHAPTER TWO

PROTECTION ACCORDED TO PERSONS WITH DISABILITIES; AN OVERVIEW

Disability, though it has a worldwide phenomenon and which have almost similar impact on the societies having persons with disabilities with in them, it has been remains regarded to take any measure forward against it by states in general and the society in Particular to affirm and give social safeguard to persons with disabilities. For centuries of Years, persons with disabilities have suffered from the negative social attitudes and neglected all their human and democratic rights so that they were forced to have poor self image and not to participate in socio-economic and political activities of their society.

Despite the fact that a disability is found in every corner of the globe, it was not taken as an Issuance in the world until the middle of nineteenth century. It was only after the Second World War that the United Nations under the guise of the then most powerful states has come with conventions dealing with rights of persons with disabilities having International applicability. Now a days state are using approaches to break down the old rooted negatives social attitude and negligence of human and democratic rights of Persons with disabilities by enacting laws consistent with the international human rights Instruments dealing with disabilities rights.

Every society in the world faces disability. This is because that those societies perform different activities to attain their interests which may be of social, political, economical or cultural. During the time of social interaction they may fight each other because of their egoistic nature and that is why we are saying disability alive everywhere and due to this it affects every part of the world. Though the grave damage of disability relies on the persons with disabilities themselves, disability has a serous negatives impact on the economic development of a state. Over 650 million persons around the world live with disabilities. Add to that their extended families, and a staggering 2 billion people daily live with disabilities. In every region in the world, in every country in the world, persons with

disabilities often live on the margins of the society, deprived of some of life's fundamental experiences. They have little hope of going to school, getting jobs, having their own homes, creating family and raising their children, enjoying social life or voting for the vast majority of the world's persons with disabilities, shops, public facilities and transport and even information are largely out of reach. Persons with disabilities make up the world's largest and most disadvantaged group. The Numbers are damning, an estimated 20 percent of the world's poorest persons are those With disabilities, 98 percent of children with disabilities in developing countries do not Attend school, an estimated d 30 percent of world's street children live with disabilities and the literacy rate for adults with disabilities is as low as 3 percent and, in some Significantly more likely to acquire disabilities during their lifetimes, disability can result In poverty too, since persons with disabilities often face discrimination and Marginalization. Disability is associated with illiteracy, poor nutrition, lack of clean water, low rates of immunization against disease, and healthy and dangerous working conditions.

Persons with disabilities remain amongst the most marginalized in every society. While the international human rights frame work has changed lives every where, persons with disabilities have not reaped the same benefits. Regardless of a country s human rights or economic s situation, they are generally the last line to have their human rights respected. Being denied the opportunities that would enable them to be self-sufficient, most persons with disabilities resort to the kindness or charity of others. Having this in mind, the international community united to reaffirm the dignity and worth of every person with disability and to provide states with an effective legal tool to end the injustice, discrimination and violation of rights that confront most persons with disabilities.

2.1 HISTORICAL DEVELOPMENT OF DISABILITY

The historical development of disability law can be seen in to two. The international development of disability law which deals with the incorporation of provisions Materials and their commencement in to the present United Nations Convention on the Rights of

Persons with Disabilities On the other hand, topic will also try to show the development of disability law in the African context.

The United Nations addressed the issue of human rights and disability several times prior to negotiating and adopting this convention in 1982, the General Assembly adopted the World Programmed of Action Concerning Disabled Persons, which promotes the full Participation and equality of persons with disabilities in social life and development in all Countries, regardless of their level of development. The General Assembly proclaimed the decade from 1983 to 1992 “The United Decade of Disable Persons” and encouraged member state to implement the World Program of Action Concerning Disabled Persons during that period. In 1991, the General Assembly adopted the “Principles for the Protection of persons with Mental Illness and the Improvement of Mental Health Care, “known as the MI principles The MI principles established standards and procedural guarantees and provided Protection the most serious human right abuses that might occur in institutional settings disability, while innovative at the time. Today at the time of MI principles is disputed.

In 1993.the General assembly adopted the “Standard Rules on the Equalization of opportunities for Persons with Disabilities” (the standard rules). The standard rules intended to insure that “girls, boys, men and women with disabilities as members of their societies, may exercise the same rights and obligations as others”, and required states to remove obstacles to equal participation of persons with disability in the society. The standard rules become the principal United Nation instruments guiding state action obligations under existing human rights instruments. Many countries have based their national legislation on the standard rules. Although a special reporter monitors implementation of the standard rules at the international level, the standard rules are not legally binding and do not protect the rights of persons with disabilities as comprehensively as does the new convention.

International human rights instruments promote and protect the right of every human being with special rights to persons with disabilities. The Universal Declaration of Human rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) And the International Covenant on Civil and Political Rights (ICCPR) together form what is known as the International Bill of Human Rights. The three documents together recognize the civil, cultural, economic, political and social rights that are inalienable to every human being; Prohibit discrimination against children on the basis of disability. It also recognizes the right of children with disabilities to enjoy a full life and to have access to special care and assistance to achieve this end. Prior to the adoption of the new convention, existing human rights treaties had not comprehensively addressed the protection of the rights of persons with disabilities, and persons with disabilities had underutilized the various protection mechanisms under those treaties. The adoption of the convention and the establishment of new human rights protection and monitoring mechanisms should thus significantly improve the protection of the rights of persons with disabilities.

When we see the historical development of disability law in Africa, in developing countries most workers with disabilities are employed in the informal sector, where labor protection is limited and work is unsuitable. It is estimated that between half and three quarters of all non-agricultural workers in developing countries are employed in the informal sector. In Africa the percentage of informal workers ranges from 48 percent in North Africa to 78 percent in sub-Saharan Africa, Self-employment outside of agriculture accounts for 60 to 70 percent of informal work. Women with disabilities are less likely than men with disabilities to be employed and they earn less when they are employed.

The African Decade of Disabled Persons (1990-2009) was declared in July 2000 by Organization of African Union (OAU) heads of state and government. A continental Action Plan was adopted unanimously by participants at the pan-Africa conference on the African decade in February 2002.

The African Plan intended to provide guidance to member states and government of the OAU in achieving the I of the decade –the full participation, equality and empowerment of persons with disabilities in Africa. The Action plan includes a range of measures to be undertaken by member states in order to meet the objectives of promoting the participation of persons with disabilities in the process of economic and social development, and to ensure as well as to improve access to training and employment

2.2 SPECIAL PROTECTION FOR PERSONS WITH DISABILITIES

AS HUMAN RIGHTS

No one wants to be with disability as a result most of the disabilities occurs unfortunately against their will and against the care they do take. Here we conclude that a person with disability should not be subjected of his rights, especially Human rights, for a case which he has no fault.

Therefore, though persons may face with disabilities of any kind, they still remain with their special rights due to the disabilities they have faced with and these special rights are to be taken as human rights. These are broadly discussed in chapter two of this paper under the different human right instruments, conventions and national laws. Since this special right are accorded to persons with disabilities in general, we can easily infer that women with disabilities too enjoy those rights. In addition to this, the United Nation Convention on Rights of Persons with Disabilities has explicitly put women with disabilities as they are subject to multiple discriminations. The convention predicts that women with disabilities may face with two or more fold discriminations that is based on their sex and disability. Considering the discriminations they may face with, State shall give emphasis to take measures against the discriminations. Besides, CEDAW also provided special protection to women in their employment Relations.

These provisions are applicable for women with disabilities too. Ordinarily because it is obvious that such general rules are applicable to the women with disabilities having the special rights as an additional asset.

2.3 DISABILITY DEFINED

There is no universally agreed definition for the term disabilities in the world. This arises from the difficulty of the term to study and define it. No two countries or more organizations have come with the same definition of disabilities. Because there is a big difference among countries economic, social, and political objectives by which they could afford assistances to the persons with disabilities in different standards according to their Capacity. In addition to this, the legal administrative implication of the term has contributed to this effect.

Despite attempts by the World Health Organization (WHO) international Labor Organization (ILO). United Nation Rehabilitation and other agencies, the drafter's of those definitions have not reached a final same definition due to this, different definitions of certain human rights instrument. Ethiopian law and some exemplary Definitions given under some countries will be discussed below.

The world Health Organization defines as, "Disabilities is a condition of impairment, physical or mental having an objective aspect that can be usually described by a physician," The definition given by WHO, is exclusively with reference to the medical definition of the term. Moreover, the organization has provided classifications of disability in the Following manner.

Impairment –it means a permanent or transitory psychological, physiological or Anatomical loss or abnormality of structure or function. For example, an amputated limb, paralysis after polio, diabetes, mental retardation, impaired hearing...etc.

Disability this refers to the restriction on or prevention of carrying out activities because of impairment in the manner or within the range considered normal for a Human being,

Disability may last a long or short period of time be it permanent or Reversible and may vary in its impact from one situation to another. Handicap-this term is used to denote a disability, that interferes with what is Expected to a particular time on one's life.

When we see the connection between the three terms used by whom to classify persons with disabilities, we clearly understand that there is a strong tie among those terms disability results from an impairment of physical or mental body of the person. This is to Say that disability refers to any limitation experienced by the impaired individual in Comparison with the activity of an impaired person found at the same level. It can also be expressed that it is a limitation or incapacity to perform employment or job resulting from the danger held on the anatomy of the person with disability (here after PWD). The Term disability is defined with reference to the term impairment. When we see the Meaning of impairment it is a deviation from the normal which in defective function, Structure or development of the whole or any part of the individual s function. Handicap which the person with disability interposes between his maximum functional levels in other words, handicap is the effects faced by the PWD on his maximum functional level using all physical and mental talent, Having a look at the definition of both disability and handicap at once, we can say that every handicapped person will have a disability but not every disability will be a handicap. This can be seen from damage on an organ of a person which has no effect of hindering the maximum functional level of that person. This clearly implies that handicap is the limitations and hindering on the economic life of the PWD caused by the combined effect of physical, mental and environmental Barriers.

The international labor organization defines disabilities as, A condition an individual whose prospect of securing retaining and advantage In suitable employment are substantially reduced as a result of duly recognized Physical or mental impairment. The base of the definition under the ILO convention is the PWD to engage In work and ability to perform it on the impairment of the person which may physical or mental impairment. The convention has wisely provided a limitation to the term impairment. So in the sense of

the definition, impairment should be duly recognized. This implies that the recognition to the impairment will obviously be proved by certain medical evidence whether it is an impairment leading to disability or not. The definition provides protection to persons with condition causing impairment that has some but not substantial adverse effect on their employment to be PWD if the condition expected to produce at a later stage, substantial adverse effect on securing, retaining and advancing in suitable employment. It does not protect those who already have been impaired and are unable to secure retain and advance in employment but also those group of persons who are not yet substantially suffered but progressively become with disability. The phrase "an individual whose prospect of..." allows them to be included in the class of PWD under the definition and to enjoy all the protections given to the PWD in employment the standard rule of 1993 has adopted its own definition which states.

The term "disability" summarizes a great number of different functional limitations occurring in any population. Population may be disabled by physical, intellectual Impairment, medical conditions or mental illness. Such impairments, conditions, or illness may be permanent or transitory in nature. The definition uses the term "persons with disabilities" rather than the older term "disabled person." It has been suggested that the term might be misinterpreted to imply that the ability of the individual to function as a Person has been disabled, England's Disability Discrimination Act(DDA) 1995 has defined disability.

Disability is a physical or mental impairment which has substantial and long term adverse effect on one's ability to carry out normal day to day activities. The "adverse effect" must be long term that has lasted for at least period that it can be reasonably expected for twelve months or the rest of the person's life.

"Normal day today activities" includes mobility. Physical coordination and others which the person under normal course of things performs arches, transient epileptic fits, a sight lose in one eye, back strain with a continuing to carry out light duties, rheumatoid

arthritis in the absence of independent medical evidence, have all failed the test having a substantial adverse effect up on normal day today activities, "in contrast conditions causing pain from kidney stones a diagnosed cause and sciatica in conjunction a club foot, have pared the test. Each case is ultimately decided on its particular facts. Increasingly, it is the practice for tributes Hear medical evidences as to whether impairment objectively exists, also determining whether impairment substantially remains as a question of fact for the tribunal alone to determine. The DDA has provided a protection not only to these persons with disabilities suffering From an impairment causing an adverse effect on their day to day activities but also to those potentially persons with disabilities or persons with progressive conditions causing an impairment that have "some but not substantial adverse effect on normal day to day activities are deemed to be persons with disabilities, For the purpose of the act, if their conditions are expected to produce at a later stage substantial adverse effect suffer from multiple sclerosis, some forms of cancer and HIV/AIDS may come in to this category. Not included in this definition are those with asymptomatic condition those who are yet experiencing any impairment, and those who are genetically pre disposed to such Condition but who have not yet acquired them.

To some up, the act has provided a special protection not only to the currently persons with disabilities but also to those who are progressively facing substantial adverse effect but not yet.

The American Disability Act(ADA) also define the term disability as; A physical or mental impairment that substantially limits one or more of the major life activities of such individual. The record of such impairments should be included in the document which helps the law to differentiate whether a given person has suffered from disability or not, and if, the medical report of the persons fits with the requirement under the document, he is going to be privileged by the law. Employees who use illegal drugs are not protected under the act or alcoholics who use at the work place. Individuals who were formerly drug users or recovering drug users including those persons participating in a supervised

rehabilitation program and individuals erroneously regarded as using drugs but who do not use drugs are under the ADA's protection.

The definition of disabilities under ADA includes infectious or contagious diseases, unless the disease poses a direct threat to the health or safety of others and that threat cannot be eliminated by a reasonable accommodation. Temporary or short-term non-chronic conditions with little or no longer-term or permanent impact are usually not considered disabilities. The Act's protection does not apply to an individual who is a Transvitiante, nor are homo sexuality, bisexuality, or sexual behavior disorders such as exhibitionism or Transsexuals to be considered disabilities. Compulsive gambling, kleptomania, Pyromania, and psycho active substances use disorders resulting from illegal use of drugs are also within the definition of disability.

The United Nation Convention on the Rights of Persons with Disabilities (2006) does not explicitly define the word disability, indeed, the convention on its preamble acknowledges disabilities as an evolving concept by saying under paragraph Recognizing that disability is an evolving concept and that disability results from the interaction between persons with disabilities and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. Nor does the convention define the phrase "persons with disabilities." However, the treaty does state that the term includes persons who have long-term physical, mental, and sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Society and opinions within the society are not static. Consequently, the convention does not impose a rigid view of "disability", but rather assumes a dynamic approach that allows for adaptations over time and within different socio-economic settings. The Convention's approach to disability also emphasizes the significant impact that attitudinal and environmental barriers in society may have on the enjoyment of the human rights of persons with disabilities. In other words a person with a wheelchair might have difficulties taking public transport or gaining employment, not because of his condition, but because there are environmental obstacles, such as inaccessible buses or stairs in the workplace, that impede his access. It is thus vital to

change those attitudes and environments that make it difficult for persons with disabilities fully on the convention indicates, rather than defining who persons with disabilities are persons with disabilities include those persons with long term physical, mental, intellectual or Sensory impairments; in other words, the convention protects at least those individual Implicit in this indication is the understanding that states may broaden the range of Persons to include, for example, persons with short term disability.

In Ethiopian law with respect to persons with disabilities, there are three different definitions with different concepts adopted periods. The first definition I was given during Emperor Hailesilassie I in 1971 in the order that established the rehabilitation agency for disabled persons i.e.. Disabled shall mean any person who, because of limitations of a normal physical or mental health is unable to earn his livelihood and does not have one to support him and shall include any person who is unable to earn his livelihood because of young or old age.

According to this definition, a person is said to be with disability if the cumulative requirement of the following are fulfilled. These are;

- He must have limitation on his normal physical or mental health.
- Unable to earn his livelihood as a result of his impairment and,
- He has no one to support him.

This definition has tried to define the term persons with disabilities in line with the fulfillment of basic needs. It is to say that the definition bases on economic necessity of a person. This can be understood from the concept of the definition that persons with disabilities having enough to satisfy their economic necessity are not included under the

Definition: the second definition is provided under article 2(1) of proclamation no. 101/1994 adopted during the transitional period. It reads;

“A disabled person means a person who is unable to see, to hear, or speak or Suffering injuries to his limbs or from mental retardation due to natural or, man Made causes, provide, however, that the term does not include persons who are Alcoholics, drug addicts and those with psychological problems due to socially Behavior.” The definition has only considered persons with disabilities of they are currently facing Disability and the condition is permanent. In addition, the impairments leading to Disability are exhaustively listed under the definition. This means the proclamation does not consider progressive and temporary impairments. From this, we can conclude that Persons who are going to face disabilities would not be included under the definition; Finally Ethiopia has adopted a contemporary and wider definition in 2008 by expressly repealing the 1994 proclamation under the right to employment of persons with disabilities proclamation no. 568/2008. The definition given under this proclamation has developed after the two former definitions and is also modified and provide in consistence with the minimum requirements laid down in UN convention on the rights of persons of Persons with disabilities, which requires at least persons with long term effect of physical, mental or sensory impairments should be include or beneficiaries of the law as it is discussed under the definition provided UN convention on the Rights of persons with disabilities, the convention does not provided a clear definition of the term rather it State who shall be included under the definition. This is mainly because the convention only sets out the minimum requirements which such term should include and states Parties to the convention taking in to account the socio-economic development of there Country may adopt wider definition. By this we mean that countries are at freedom to Extend their protection to other persons which they deem should be fevered by such Protection.

Having understood the purpose of the definition provided by the convention and because Ethiopia is signatory to the convention, though it is not ratified by the parliament so that It will have a binding effect, it has adopted a new definition having a wider coverage 568/2008, according to this, persons with disabilities means, 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.

As to this definition disability may result from the physical, mental or sensory Impairment of a person cumulatively with the effect of social, economic and cultural Discrimination of the society towards those persons which hinders them not to actively participate in their society. According to the spirit of the law, disability may not occur Because of the rare impairment of the person, rather the total effect of the social attitude and the environmental barriers that hinders persons from performing their activity “this can be understood from the definition that such person with such type of impairment Deemed as person with disability, his equal opportunity should be reduced as a result the impairment and the socio-economic and cultural discriminations encountered by Them. In other words it it’s to mean that impairment alone does not enable us to say a Person has a disability problem. Because a person with some form of impairment may Still equally compete in employment with others.

Based on the definition, a person with temporary disablement is also included. The law does not say anything about this; it only requires the reduction of equal employment opportunity as a result of the causes discussed above. Thus, once a disability occurred is faced by an individual there is no question of temporaries or permanency of such Disability. There is no distinction among persons with temporary and permanent Disabilities. Unlike the convention which only includes persons who have “long term Impairment” which includes those persons with temporary impairment, the applicability or protection of the definition provided under the proclamation extends to persons with Temporary disability.

Taking the comparative analysis of definition adopted by this proclamation and definition Under ILO, we can observe one drawback of the definition given by the proclamation. This is about the extension of protections under the proclamation or the definition to Persons with ... “prospective or progressive “ disability. Relying on the

wording of the Definition provided by the by the proclamation, it has no room to include persons who have not yet faced disability, but it is sure that their impairment will let them to disability. Here the Strict message of the definition implies to persons who are currently suffering from Disability. Unlike this proclamation, the definition under ILO has expressly included Persons with potential disability by saying that “...an individual whose prospect of ... substantially reduced...”

2.4 KINDS OF DISABILITY

Person may be hindered by different types of impairment on their body to perform their Activities. These impairment which results disability on that person can be grouped into three. Physical disability-this kind of disability is impairment which mostly faces on the Person’s physical body like cutting of limbs, or paralysis after polio, absence of one part of body resulted from shortage of feeding in the mother’s womb and others. Such type of Disabilities is visible so that everybody can see them. Mental disability this is another kind of disability which mainly occurs on the mental part of the person. This kind of impairment of has an effect of mental problem or inability to Madness or other problems resulted from continuous bleeding from the person’s body Disability of sense organ-as we practically seen are the most essential to Understand our environment and perform our activities accordingly. However, if these Organs are impaired or damaged substantially, we lose control over the environment such kind disability occurs on our sense organs. Like blindness, deafness, serious danger on our skin and others. ⁱ

2.5 MAJOR INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS FOR PROTECTION OF THE RIGHTS OF PERSONS WITH DISABILITIES

2.5.1 THE BILL OF HUMAN RIGHTS

I. UNIVERSAL DECLARATION OF HUMAN RIGHTS

The UDHR, 1948 preamble states that for the realization of freedom, peace and justice in the world, the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is crucial. People with disability are also members forward to realize justice, peace and freedom in the world it even further puts that the recognition of the rights of all members of the human family is the foundation of justice in the world.

Then Article I declares “all human beings born free and equal in dignity and rights.” This endorses persons with disabilities to have rights and dignity. It does not oblige states to give them rights – rather entitles them rights that they have acquired by the mere facts of being born of the human family. In addition to this, the dignities and rights are equal among all human beings. Hence, there is no discrimination among in the enjoyment of their rights. It also comes with prohibiting clause of any discrimination of any type- which is against their enjoyment of equal protection before the law. It lists other ground of discrimination without clearly mentioning disability on the basis of disability. But, it does not exhaustively provide all the grounds of discrimination and therefore it ends with the phrase “discrimination” by ... other status” so that it is feasible to incorporate the prohibition on discrimination based on disability in this phrase.

The declaration has also lots to say about every one’s right to work, to free choice of Employment, to just and favorable conditions of work and protection against unemployment. “Everyone” in article 23(1) includes peoples with disabilities so that they too, are guaranteed these rights. Sub article 2 of the same provision provides for equal pay to equal work, to every one without discrimination. Hence, people with disabilities, if

are employed and working equally with others, have to enjoy the right to equal payment with no discrimination for their being impaired,

II. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

ICCPR recognizes the inherent dignity and equal as well as inalienable right of all members of the human family. All the rights provided in the covenant are derived from inherent dignity of human being and are to be enjoyed by every human being. Hence, persons with disabilities are human being and no doubt as to the applicability of the covenant to this vulnerable group of persons.

The covenant under its article 2(1) clearly specifies nondiscriminatory clause. It Prohibits any discrimination based on race, color, sex, language, religion, political or other opinion or social origin Property, birth or other status. Even though the provision does not prohibit discrimination based on disability expressly, it is right to analogize by putting the word disability under the phrase "other status"

III. INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS

The central importance of ICESCR in relation to human rights of persons with disabilities has frequently been underlined by the international community. Thus, the 1992 review by the Secretary General of the implementation of the world programme of action concerning, am disabled persons and the United Nation Decades of disabled persons with disability. Nevertheless, the "disability is closely linked to economic and social factors" and that, "condition of living in large parts of the world are so desperate that the provisions of basic needs for all must form the corner stone of national programs.

The covenant does not explicitly refer to persons with disability. Nevertheless, the Universal Declaration on Human Rights Recognizes that all human beings are born free and equal in dignity and rights and, since the covenant's provision applies fully to all members

of the society, persons with disabilities are clearly entitled to the full range of rights recognized in the international covenant on Economic Social and Cultural Rights. Besides, the covenant on its provisions mostly states the phrases “every one...” or All persons... “This implies that the right laid down their comfort to all human beings including persons with disabilities. Hence, it is feasible to say that under the justification given above, persons with disabilities under the convention are entitled to the right of Self-determination the equality of men and women among them, equality before the law and right to social security, including social insurance ...etc. State parties under this covenant are required to appropriate measure to the maximum extent of their available resource, to enable such persons to seek to overcome any disadvantages in terms of the enjoyment of their rights to specified in the convention following their disability. More over the requirements contained in article 2(2) of the covenant enunciates that “the right will be exercised without clearly applying to discrimination on the ground disability as to the Application of the provision.

2.5.2 THE UNITED NATION CONVENTION ON THE RIGHTS OF PERSON WITH DISABILITIES

The Convention on the Rights of Persons with Disabilities, adopted by the United Nations General Assembly is an addition to the human rights instrument. It is Supplementary instrument to the existing human right instruments. The convention does not provide any new human right to persons with disabilities. Rather it classifies them and imposes duties on states for the implementation of such rights of persons with disabilities.

Persons with disabilities are still primarily viewed as object of welfare or medical treatment rather than holders of rights. The decision to add universal human rights instrument specific to person with disabilities was born of the fact that, being theoretically entitled to all human right persons with disabilities are still in practice denied of those basic rights and fundamental freedoms that most people take for granted. At its core, the

convention ensures that persons with disabilities enjoy the same human rights or everyone else and are able to lead their lives as full citizens who can make valuable contribution to the society.

As it is provided in the preamble of this convention this is impairment to recall that the United Nations, Declaration on Human Rights and International Covenant on Human Rights has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein without any distinction because of the universality and independence to be all rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination. The convention has certain rights protecting persons with disabilities from discrimination made against them based on their disability. Among those rights, all persons with disabilities have inherent right to life on equal basis with others. In order to protect right to life of persons with disabilities, states should take measures not only to prevent and punish deprivation of life by criminal acts but also to prevent arbitrary killing by their security forces. They have also right to equal recognition before the law. Under this right, persons with disabilities are entitled to recognition everywhere as a person before the law, enjoying legal capacity on equal basis with others in all aspects of life. The convention also confers persons with disabilities right of liberty and security of the person. This protects persons with disabilities against the deprivation of their liberty and personal security. The right may also include the human right treatment and respect for the dignity of all persons with disabilities including their liberty. The convention, shares similarities with international human right instruments for the reason that it gives rights and protections which are also protected by the bill of human rights Article 15 of the convention protects them from torture or cruel inhumane or degrading treatments or punishments including protection against forced medical or scientific experimentation, protecting the integrity of the person (article 17), liberty and right to nationality, freedom of expression and opinion and access to information...etc.

2.5.3. EUROPEAN CHARTER OF HUMAN RIGHTS

This was founded in 1949 by the west European states. The council of European Union, devoted to upholding parliamentary democracy, the rule of law and the protections of human rights. From the disability perspective, it is open to criticism. Because the main “non-discrimination.” Provision does not include disability among the grounds on which discrimination is prohibited although it could be argued that even if it is implied in the phrase “or other status”.

2.5.4. AFRICAN CHARTER ON HUMAN AND PEOPLE’ RIGHTS

The Africa Charter was adopted by the Organization of Africa Union in Nairobi Kenya, in June 1981 and enters into force in October 1986. The Charter is pivotal human rights instrument of OAU/AU. It recognizes individual rights as well as people’s rights, rights and duties and some socio-economic rights in addition to civil and political rights. The Charter instituted the African Commission on Human and Peoples’ Rights as a supervising mechanism which is mandated with the view of periodic states reports on the implementation of the Charter by State Parties. The Commission in now being complemented with an Africa Human Rights Court unlike the international human rights material like UDHR, ICCPR which does not have an express provision for the special protection and equality of persons with disabilities with others.

The African Charter has ‘expressly stated the special protection of persons with disabilities. According to the Charter persons with disabilities have special rights which include the right to special measures of protection in keeping with their physical or mental needs. So, States Parties to the Charter are obliged under Article 1 of the charter to undertake and to adopt legislative and other policy measures which particularly Consists for the protection and rehabilitation of persons with disabilities. The Charter has laid down under its non-discriminatory clause grounds of discrimination in a similar fashion as Bill of Human Rights. And prohibited a distinction among persons Based on race, ethnic group,

color, sex, language, religion, political or any others opinion National origin, birth or other status. Based on this principle, all human beings are guaranteed without distinction of any kind to the enjoyment of rights and freedom recognized by the charter. Here, there is no express prohibition "...other status." Include disability is one ground for discrimination so that prohibited making distinction Based on it as per the provision. Hence, we can say that persons with disabilities are equally protected and guaranteed by the rights stated under the charter.

2.6 DOMESTIC LAWS FOR THE RIGHTS OF PERSONS WITH DISABILITIES

The constitution has come up with comprehensive group and individual rights without any difference among all persons. Within the category of human rights the constitution Guarantees right to life, liberty and security of the person. The "inviolable and inalienable Right to life, liberty insecurity of the person is guaranteed because of the "human Dignity" every person is endowed with. It is clear that even though the constitution does not express at state the endowment of persons with disabilities to those rights under the provision we can understand by impaction from the provisions that persons with disabilities are guaranteed to those rights with no discrimination. Most of the wordings of the provision imply the entitlement of the rights by persons without any distinction.

The constitution has provided one core right under article 25 the right to equality which guarantees that all persons have the right to equal and effective protection by the law this article does not state disability expressly as a ground of discrimination either Because it has not foreseen it or it deliberately includes by way of interpretation under the phrase "other status" Though this is the fact, what matters is whether the protection extends to persons with disabilities or not, As to this issue it is sound to say that the phrase includes persons with disabilities.

The Right to Employment of persons with Disabilities Proclamation provides special Protections for person with disabilities. It aims at preserving the welfare and good moral

of the persons with disabilities and changing the attitude of the society has towards the Persons with disabilities as well as to their labor force. Therefore, it provides general and special rights under its article 4(1) and (2) respectively to protect them as; 'unless The nature of the work dictates otherwise, a person with disability having the necessary Qualification and score more to that of other candidates shall have the right without any, Discrimination to occupy a vacant post in any office undertaking through recruitment. Promotion, placement or transfer procedure; or to participate in a training program to be Conducted either locally or abroad "And under the second sub paragraph "where a person with disabilities acquire the necessary qualification and having equal or close score of other candidates preference shall be given to him for a vacant post."

These are the core protection accorded o persons with disabilities under the proclamation in which the first protects them equally with others taking the equality Principle in to account, then they are also accorded special preference under the sub article 2 of the same article for the mere fact they are with disabilities. This can be easily understood from the phrase "...having equal or close score to that of other candidates preference shall be given..." The federal Civil Servants Proclamation also has a provision of equality which prohibits others. In addition, to this it provides special protection in recruitment, promotion and deployment of candidates with disabilities having equal or close scores to that of other candidates. This mandatory preference is accorded to them for the mere fact they are with disabilities.

The labor proclamation unlike the other above proclamation has provided a little special protection to the person with disabilities in their employment relation i.e. "wherever a reduction of work force take place, the employer in consultation with trade union representative shall give for persons with disabilities priority of being retained in their posts. This is in case of equal skill and productivity is observed among the workers to be reduced. It has also has a general sprit of protecting the employees from potential employment injuries by providing protective materials and procedures with their information. Finally, it gives compensation for the already injured (permanent and

temporary employees. Provides that the injury has a causal connection with the work they employed.

In general, the rights duties under the labor proclamation are applicable for persons with disabilities, since they included under the work employees and provided that these laws are consistent with the provisions under the rights of employment of persons with disabilities proclamation no 568/2008.

CHAPTER THREE

Rights of Persons with Disabilities Provided Under Different Laws

3.1 EMPLOYMENT RELATIONS

A PURPOSE OF LABOR LAW

Labor and employees and laws are mainly aimed to keep a smooth relationship between employers and employees and to bring a prosperous economic development by setting our compressive right and duties of employees and employers to fill unreachable gap existed between them. Despite the fact that this is the final goal that labor achieved. Prosperous economy can be attained and smooth relationship of employers with employees can be secured if the rights of employees are respected protected.

Labor law is also have purpose of keeping peace's, security and stability of industrial development by imposing obligations on the employer to provide safe and healthy working environment of protect employees from works affecting their dignity and health The unreachable gap that is the high bargaining power of the employer can only be compromised by imposing duties on employers and affording a bundle of rights to employees. Employers may violate human and democratic rights of their employees.

Hence, protecting of human democratic rights of employees comes within the purpose Labor law protecting the violations of these rights is one of purposes of labor for the reason that they are the base of lull other rights. In addition to this it provides mechanism to enable both employees and employers to solve their disputed peacefully and amicably. This assists them to them to avoid undue expense and to protect their smooth relation. Another important issue here is that labor law plays A great role in combating discrimination in recruitment and employment relations made Discrimination matters as their main issue and purposely acting to combat such problems.

Finally, there is one important idea that comes to the purpose of labor law. It has a lot of Things to do with the exploitation and participating in development activities the human Resource. It is to mean that labor law helps much to expect the maximum labor force.

B. PURPOSE OF DISABILITY LAW

Though, human beings have been taken care and protection to save themselves from danger in Their day to day activities using laws and circumstantial management as a means to this End, it is evident that disabilities occurred whenever and everywhere in the world. Hence, Those laws are enacted purposely to;

- Improve maternal health –approximately 20 million become disabled each year as a result of complications during pregnancy or child birth. Abnormal prenatal even are a major cause of disability in children in the developing world such disabilities can often be prevented.
- Eradicate extreme poverty and hunger –poverty as a cause of disability, well over 50% of disabilities are preventable and directly linked to poverty, this is particularly true for disabilities arising from malnutrition, material under Nourishment and infectious diseases. Disability as risk factor to poverty great percent, of persons with disabilities lives in poverty. Promote gender equality and empower women –it is widely recognized that women with disabilities are doubly disadvantaged in society; they are excluded from various activities because of both their gender and their disabilities. Women with disabilities are twice to adhere times more likely victims of physical and sexual abuse than women with out disability.
- Change the attitude of the society has towards the subjects of the disability problem. The society, especially in or country gives little attention to the potential labor force they do have and does not protect the disabled persons reputation and honor. Provide the technical training and skills and education in order to acquire Knowledge and then their ability will be balanced in addition to this providing those with manmade assisting instruments, like wheel chair, make the person with disabilities to complete with other in every day to day activity. Stop the discriminations and protect the right of persons

with disabilities to compete for and get employed on the basis of their qualifications since it has been realized that disabled persons have got less job opportunities. Shows the person with disabilities who are accorded a reasonable accommodation and with the above right can independently administrated themselves and play their own role in developing their country. Besides The law aims at witnessing the accommodation and related assistances are not donation rather they are rights of persons with disabilities an issues of the development of a given country. Since they would have come dependent on the government and society, had they had not protected accordingly. To sum up, it generally aimed at promoting protecting and ensuring the full and equal enjoyment of all human rights and fundamental rights by all persons with disabilities and to promote respect for their inherent dignity. This is to mean that the human rights and fundamental freedoms should be accorded to persons with disability for the main reason that such rights emanate from nature as a result no one should take away them from such vulnerable group of people.

3.2 RIGHTS PROVIDED UNDER INTERNATIONAL LEGAL INSTRUMENTS

3.2.1 THE BILL OF HUMAN RIGHTS

The universal declaration of human right, international covenant on civil and political rights, international covenant on economic, social and cultural rights together form what is known as the international bill of human rights. Those three documents together recognize the civil and political. Cultural, economic and social rights that is inalienable to every human being. That international bill of rights recognizes and protects the right of persons with disabilities. Even if, those persons are not explicitly mentioned on 10 December 1948, the UN General Assembly Adopted the Universal Declaration of Human Right (UDHR). The has been some criticism of the fact that the declaration ignores persons with disabilities tat disabled person were not included as a distinct group vulnerable to human rights violations that disability is not mentioned as a protected category. The

General Assembly does however, at the our set proclaim. The declaration "as a common standard of achievement for all persons ..." Art 1 states that "All human being born free and equal indignity and rights..." Art 2 states that "Every one is entitled to all the rights and freedoms sot out in the declaration with out distinctions of any kind, such as race, color, sex, language, religion, political or other opinion, national or social organization property, birth or other status. "There can be little doubt that persons with disabilities are covered by the declaration, even though not specifically mentioned. Special articles of the declaration relate to employment. Art 23 of the UDHR could have been more explicit provided that everyone has the rights to work, to free choice of employment. To just and favorable conditions of work and protection of work against an employment everyone without discrimination has the right to equal pay for equal work Everyone who works has the right of just and favorable remuneration, ensuring for himself and his family and existence worthy of human dignity and supplemented, if necessary other means of social protection, Art 22 elaborates on the right to social security, Art 25(1) on the right to a standard of living adequate for the health and well being of self and family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowed, old age or other lack of livelihood in circumstance beyond control. Art 26(1)on the right to education, including that technical and professional education shall be made generally available and higher education shall be made generally available and higher education shall be equally accessible it all on the basis of merits. The UDHR in fact clearly addresses the concern of persons with disabilities by guarantying their right to social security.

In December, 1966 the UN General assembly adopted two important covenants, on economic, social and cultural rights and on civil and political rights. The International Covenant on Economic, Social and Cultural Rights (ICESCR), which was drafted in Close collaboration with ILO containing a number of important provisions relating to Work and employment opportunity.

Art 6;

1. The state parties to the present covenant recognize the right to work, which includes the right of every one to the opportunity to gain his (sic) living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken... to achieve the full realization of their right shall include technical and vocational guidance and training program, policies and techniques to achieve steady economic, social and cultural development and full productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Art 7:

The state parties recognize the right of every one to the enjoyment of just and favorable conditions of work which ensure in particular:

A) REMUNERATION WHICH PROVIDED ALL WORKERS A MINIMUM WITH;

- I. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work no inferior to those enjoyed by men, with equal pay for equal work.
- II. A decent living for themselves and their families in accordance with the provisions of the present covenant,

B) SAFE AND HEALTHY WORKING CONDITION

- c)** Equal opportunity for everyone to be promoted in his employment to an appropriate higher level subject to no consideration other than those of sanitary and competence...: the covenant also guarantees the right to education.

Art 8

1. The state parties to the present covenant undertake to ensure

- A. The right of every one to form trade unions and join the trade unions of his choice, subject only to the rules of the organization concerned. For the promotion and

Promotion of his economic and social interest. No restriction may be placed on The exercise of this right other than those prescribed by law and which are Necessary a democratic society in the interest national security or public order for The protection of freedom of others. According to Art 2(2) of this covenant all the rights stated here I above are fully Enjoyable "without discrimination of any kind as to race, color, sex, language, religion, Political or other opinion, national or social origin property, birth or other status. "by Person with disabilities. The phrase "...other status" extends to protect person with Disabilities from discrimination on the exercise rights and freedoms recognized by the covenant. States are expected and requested to achieve the progressive realization Rights and freedoms recognized under a covenant.

3.2.2 THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (2006)

The convention on the rights of person with disabilities is mainly adopted to show the Emphasis given of the protection of rights of person with disabilities and to give special Protection under a comprehensive law. To this end the convention requested states to Emphasis the importance of lain streaming disability issues as an integral part of Relevant strategies and policies of sustainable development. In addition, to avoiding of discriminatory acts made based on the disability of persons Especially in employment area the convention doses help persons with disabilities to Satisfy their economic interest and to earn their livelihood by themselves. This helps the Country to increase to increase labor force and decrease economic burden ship of Persons with disabilities. Due to such reasons this convention has provided with Provisions dealing with the right of persons with disabilities to work and employment State parties recognize the fight of persons with disabilities to work, on an equal Basis with others; this includes the right to the opportunity to gain a living by work freely Chosen or accepted in a labor market and work environment that is open, inclusive and Accessible to persons with disabilities. State parties shall safeguard and promote the realizations of the right to work, including

For those who acquire a disability during the course of employment, by taking appropriate Steps, including through legislation.

According to this provision the rights and protection provided for persons with Disabilities are the right of work on equal basis with others and the right to opportunity to earn a living by work freely chosen or accepted. Those rights are mainly aimed against the discrimination made by different employers and based on the basic rights of persons with disabilities to gain a living by work or to earn their livelihood by engaging in suitable job. For many years employers have been using disability as a main reason to refuse employing of persons with such problems. This is emanated from the then social attitude the society does have towards the person with disabilities and from the absence of any legislative action prohibited such discriminations and the absence of any organizations whether governmental or non-governmental which try to change this negative attitude and persuade employers, that persons with disability can participate and compete in all activities of a given country and can surely contribute their role for the development of that country. The absence of any administrative and legislative actions to prohibit discriminatory acts made by public and private employers based on disability worsened the problem of persons with disabilities. In addition such vulnerable groups have complied to see themselves as below others and not able to participate and compete in every activities to attain their self-dependence.

The convention, strictly request for state parties to fight against this and to achieve the Realization of the rights of persons with disabilities to get job equal with others this Equality clause includes the right of persons with disabilities to equal payment of for work of equal value, equal opportunity of job, safe and healthy working environment Including protection from harassment and the redress of grievances. The other important right provided **under Art 27** is that the right to the opportunity to gain A living by work freely chosen and accepted. This right mainly aims on protecting the Basic needs of persons with disabilities I.e., right to life. Right to life can be achieved only If such person is provided with a work freely accepted by himself and thereby enabling Him to earn his livelihood

from the fruits of the job. This right recognizes the right to life as a base of all other rights, strictly requested for the realizations of opportunities to gain a living by work.

Persons with disabilities can be employed in private and public sectors equally with others and contribute to the economy of a country and at the same time achieve their independent economic life. The convention has beyond these requested private sectors to take an affirmative action programs, incentives and other measures to promote the employment of persons with disabilities. In the sense this provision private sectors can positively discriminate persons with disabilities by giving affirmative right as to those rights or affirmative action's other persons can say nothing and the convention internationally made this to promote the employment of persons with disabilities. Thus, governmental organizations whether business or charity organizations for instance NGO'S especially aimed at promoting employer of persons with disabilities, and no Opposition can be brought to this action by any administrative body.

The other rights raised under this convention are; the right to career advancement in labor market as well as maintaining finding and retaining employment and right to access to technical and vocational guidance programs access to technical and vocational guidance programs. These rights help persons with disabilities to cope with current technologies and to encourage the increment of their quality of professions and there by enable them to compete equally with others in the same basis. The convention have also tried to promote self-dependence of persons with disabilities by providing them a right to Self-employment, entrepreneurship, development of cooperatives, and running one's own business. persons with disabilities according to these have the right into run their own business by competing on the free market and actively participate in trade for profit Finally this convention has come with one indispensable right of persons with disabilities. This right is right to "reasonable accommodation in work place as the nature of the work requires. This right can be taken as the most important one. Because to say that persons with disabilities are employed, they should be provided with all reasonable assistances which are necessary to them taking into account the nature of the work to discharge their

responsibilities effectively. We cannot say that persons with disabilities are treated equally with others and get equal opportunity of work, if facilities necessary for that work are not provided. If persons with disabilities have been given equal opportunity of work with others in a certain position, the employer should provide that all reasonable accommodations are furnished. The convention under its article 2 paragraph defines reasonable accommodation as;

Necessary and appropriate modification and adjustments not imposing a disproportionate and under burden, where needed in particular case to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. Given this principle an individual with disability can argue that the state and through the state other actors including private sectors are obliged to take steps to accommodate his particular situation as long as those steps do not impose a heavy burden on the employer We can understand this from the provision of the convention. Art 4(1) cumulatively with Art 4 (2) which states that "states parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities..." and **Art 4(2)** imposes duty on states parties to take measures for the full enjoyment of economic, social and cultural right by persons with disabilities to the maximum of their available resources for the progressive realization of those rights Reading both provisions we can say that states for the realization of those rights by Persons with disabilities either directly or indirectly through private sectors The failure to make reasonable accommodation could prompt the individual to bring action or claim of discrimination to an appropriate judicial or quasi-judicial body.

However, the accommodations that the employer must undertake are not unlimited, they must only be reasonable. These disproportionately expensive reconfigurations of the work size would not be mandatory, particularly if the enterprise concerned is very small or if its facilities cannot be modified easily. Thus, unless such accommodation tends to impose undue burden on employee he has the duty to provide reasonable accommodation.

Therefore, states should accept and take all appropriate measures provided in the convention for the achievement and practicality of equal opportunity to work and Employment of persons with disabilities provided by this convention for two reasons. Because right to life is one of the fundamental rights and freedoms emanating from nature and the base of all other rights, this can only be achieved if persons with Disabilities are provided with economic satisfaction by facilitating their engagement in work.

So, long as, the final goal of all society is to achieve prosperous development it is necessary to use all available labor force and maximize economic function and production. Persons with disabilities constitute the labor force of a country if this labor force is not used for production purpose, it will remain idle and will become a burden on the government and society, to avoid this states should utilize all available labor force by giving legal protection as provided in the Convention in order to achieve economic development. The participation of persons with disabilities in economic production facilitates active development activities and enable them to be self-reliant who lead independently their Economic life. This can be done if they are employed this done if they are employed.

Ratification of the convention by state parties create legal obligation to undertake the legal rights and obligations contained in the instrument. Thus, immediately after ratification the state becomes legally bound by the convention. Many countries in the world do not ratify the convention for fearing of different Challenges. Governments do not ratify the convention arguing the number of person with disabilities is so small, that dealing with their particular challenges can wait until Society as whole becomes more prosperous, besides that they do not give emphasis and the protection of persons with disability as in the convention for economic limitation and the inconveniences that such country will be forced to modify all its policies and Legislations in line with the convention.

Our country, Ethiopia is a signatory to the present convention on the rights of persons with disabilities. But Ethiopia has not still ratified the convention. By this we meant that Ethiopia is not obliged by the terms of the convention. Ethiopia after becoming Signatory

to the convention, have been adjusting all her policies and enacted laws in the with the convention. It has also undertake a modification on previous laws and others which were prejudicial to persons with disabilities? This implies that Ethiopia is at Preparation to ratify the convention. Current information implies that ratification on is Pending. "the Ethiopian National Federation of Persons with Disabilities has held a Meeting of two days which all Ethiopian members of the parliament and members of Parliament of East Africa is participant for the initiation of ratification of the convention By states which were signatory.

3.2.2 RELEVANCE OF THE CONVENTION TO NON-PARTIES

Ideally states should ratify the convention to ensure the optimal protection of the right of Person with disabilities in their territory. But even if a state is not a party to the Convention, the provision of the convention may still be relevant. The adoption of the Convention without a vote by the UN G general Assembly indicates that the international Community acknowledges the need to promote and protect the right of person with Disabilities. At the very least the convention not so thus, carries moral authority and cane used to guide states and even prompt where there might not sufficient political will to do So. When government decides to undertake law reform, parliamentarian can employ the Conventions as internationally recognized standards against to which national legislation and policies can be reviewed. The convention can also be used as a model to follow when drafting new legislations. States still have obligation under other international human Rights treaties and under general international law promote and protect human rights, including the rights of persons with disabilities. For example, most states have ratified as least one human right treaty, which means that the prohibition of discriminatory acts including persons with disabilities is agreed by most states of the world because those Human rights treaties incorporate prohibition of discrimination.

3.2.3. ILO RECOMMENDATION VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS) (1983)

This convention was redacted by the vocational rehabilitation of persons with disabilities Recommendation of the 1955 that gave rise to significant developments in the protection Aspect of the rights of persons with disabilities. Ever since 1955, the rehabilitation needs of the disabled were too widely understood necessary. The scope and organization needs Exhibition services were widely understood. Many member states have set up Rehabilitation centers that provide services to persons with disabilities. This is a big step Forward I to the recognition of their rights and their protections. The recommendation has inspired lots of states to legislate laws that ensure persons with disabilities to be equally Beneficiaries with others.

Moreover, practical steps were taken with regard to employment the laws, and to organize rehabilitation services. Then the year 1981 was declared by the United Nations General Assembly as the year of persons with disabilities with the theme of full Participation of persons with disabilities in social, economic and political affairs. The Other concept in the theme was equality of persons with disabilities, with others. The Theme was meant to provide new and effective measures at the international and national Levels for the realization of the goals of full participation of persons with disabilities in Social life and development.

Persons with disabilities were not given wall chance of employment opportunity That the new understanding of ensuring equal employment opportunities for the persons with disabilities is a great development in such state of affairs, this new development is Not only on score of certain categories of persons with disabilities but to all categories. So That there would not exist discrimination among themselves.

The purpose of Vocational Rehabilitation Recommendation of 1983 is to enable the Disabled to secure their employment if they are already employed. It gives protection Employed persons with disabilities to remain in employment despite their disability, so Long as their disability will not substantially hider them from continuing on their work. It

Guarantees that the fact of being disabled while in employment does not result in losing the post, it further guarantees that persons with disabilities can advance in their Employment. They are given rights that other people without disabilities have, the right to get promotion that their ability merits, it prohibits any discriminatory act in the Employment that would be a stumbling block against people with disabilities in their Career development for the fact impairment. They shall get all the treatments and Professional benefits that they deserve by virtue of their carrier happen to come.

Discrimination against them because to their disability and in favor of other employment Times where promotion in their carrier happens to come. The final goal of these conventions is by enabling the disabled to secure, retain and advance In suitable employment. To further their integration or re-integration in to the community It is apparent that if a person becomes physically impaired, he would be negatively Discriminated all round. Therefore, protecting persons with disabilities right in their Society will no longer consider a person with disability as unworthy of getting employed as other people if he is provided with employment and security there to. The person with Disability himself will not consider him as unworthy of a job and this is a good Psychological stat for him to enjoy and interact ion the community he lives and this wail further help him to becomes part of the working productive human resource of his Country.

The family of a person with disability would not suffer from financial problems that Result in from loss of job due to disability if the goal of rehabilitation of the person with Disability is attained. The provisions of this convention should be applied by members through measures are appropriate to national conditions. This means the national economy and other factors matter as to the extent of rehabilitation service provides persons with disabilities. A poor member state is not obliged to provide rehabilitation services that it cannot afford owing to its weak economy. But this does not release a member state from doing all the best it can do to rehabilitate the persons with as the word

“should” in paragraph there says obligatory terms on member states but within the limit of national conditions and consistency with national practice.

A) VOCATIONAL REHABILITATION AND EMPLOYMENT OPPORTUNITIES

The Recommendation on one hand entitles persons with disabilities and on the other hand it puts duties on member states to respect its terms by implementing it to other maximum ability. As rights pertain to have reciprocal duties, states different organizations such as employee’s organization and the community are duty bound to respect the right of Persons with disabilities with respect to employment and rehabilitation.

Therefore, whenever this paper mentions the person with disabilities, it improperly envisages the obligations of states and the different national and international organization to respect and protect the rights. Paragraph 7 of the recommendation provides, Disabled persons should enjoy equality of opportunity and respect of access to, retention of and advancement in Employment which, wherever possible corresponds to their own choice and takes in account their individual suitability for such employment. In the first place, the right persons with disabilities seeking the post shall be given equal chance with other people this is because, if they are denied the access to employment, we cannot talk of the Protection of their rights in employment any more, for there exists no employment of People with disabilities.

Persons with disabilities shall not be discriminated against at times of vacancies owing to their disability. There should be no discrimination among the categories of persons with disabilities and the persons with disabilities and other people. This same thing applies when the persons with disabilities retain to their former jobs and in times of Advancement. However, the last wording of the recommendation paragraph 7 implies that the persons with disabilities will not be given fair shake with others if the nature of the work requires otherwise. This means, persons with disabilities enjoy quality of opportunity in respect of access to, retention and advancement in employment if they are Suitable for the job they are going to be employed. The phrase “individual suitability for such employment ” means the persons with disabilities impairment should not hamper his Effective work in

employee. A person with disability is required to be as suitable and effective as an able person in all respects. A person with disabilities carries all the responsibilities in the work as and able person in case he fails to discharge his duties he will not be exempted of being questioned because he has some impairment. This is why the recommendation gives the person with disability equal opportunity with other Person sat times of vacancies retention and advancement in employment for jobs that the Person's with disabilities are fit and their physical impairment does not have negative Impact on the effectiveness of the work.

But it also puts that persons with disabilities shall be given this equal right wherever Possible. At most efforts should be made to ensure their right to equal opportunity to employment and the "suitability for employment" clause should not be a pretext to hinder Persons with disability from being employed. It is evident that a certain employment Institution is required to do extra things if it employs a person with disability. For Instance, it might have to adjust the office in a way suitable for the employees with Disability to work, or it might have to buy facilities that enable the person with disabilities to function well in employment. This is an additional cost to the employer and therefore he may refuse to employ a person with disability in order to avoid those expenses. So, he uses the pretext that the job is not suitable for person with disability. It should be reiterated that the recommendation lays obligation on an employer to give the disabled Equal opportunity wherever possible. This means, whatever the cost is the disabled should be given equal footing with other people with no discrimination based on their Physical impairment so long as the nature of the work does not dictates otherwise.

Paragraph 9 of the recommendation allows special positive measures that discrimination worker with disability from other workers. This is because persons with disability are not fit all around as others and so they need some special positive measures to be taken by their employers in favor of them. These special positive measures should not be taken Reckoned as a negatively discrimination act against other workers because is aimed at Rendering the persons with disability to have fair opportunity of work with other people For instance, a certain employment institution may provide facilities that will

simplify work load or that would set the worker with disability task ease and those facilities might not be provided for other workers the purpose of these special positive measures is not discriminating against other workers. But it is meant to ensure equality of opportunity and treatment of the worker with disability and other people. It is a positive step design to enable workers with disabilities to be effective in work and so as to eliminate any kind of discrimination against persons with disability because of the opinion that they cannot handle work like others. Therefore, the employer has the duty to create systems and procedures that hit multiple purposes remedying discrimination practices against the worker with disability in hiring at work or promotion in career remedying the lingering effects of the discrimination that the worker with disability suffered in the past, eliminating the existing and continuing discrimination against them and finally giving them fair shakes in employment that ensures their equality with other workers. In providing vocational rehabilitation and employment assistance to worker with disability, the principles of equality of opportunity and treatment for men and women worker should be respected. Women workers with disability should be given all the opportunities and treatments that their counter partner enjoys. Both men and women workers with disability should be given equal opportunity in all respects in employment that is when hiring, promotion and retention of work as per paragraph 8 of the vocational rehabilitation and employment recommendation as reasonable adoption to work place, job design, tools, and machines and work organizations to facilitate such training and employment “ Employer may not be willing even to recruit persons with disability because they may incur additional expenses to adjust the working environment in a way that fits persons with disability or because persons with disability need special protection that they merit by virtue of their physical impairment. As a result, persons with disability will not have equal access to employment and this eventually result in adverse effect in the social integration an equal enjoyment of employment opportunities of the persons with disability therefore, government should grant financial incentives to employers so as to encourage them to take some positive steps towards equalizing opportunities for persons with disability in employment. these

positive steps towards persons with disability in employment include designing jobs that best suit persons with disability and keeping them only for persons with disability. Solving organizational and management questions so as to improve the employment situation of those workers, facilitating trainings...etc.

The other measures that governments are supposed to take are to support non-governmental organizations that engaged in services to the persons with disability. There are lots of non-governmental organizations that run services like vocational training, vocational guidance, sheltered employment and placement for persons with disability and those non-government organization needs least the diligent cooperation of governments in order to hit their desired effects as regards to persons with disability. Support and enable the NGO's provides services to persons with disability.

As the provisions of the VRE recommendation should be applied by member's states to the maximum extent that their national conditions permit, poor states are not under obligation to provide financial support that is not considerate of their wealth, to non-governmental organizations. But, still poor countries are obliged to do their best to Support and enable the NGO's to provide services to persons with disability.

The government should also support the establishment and development of small scale Industries cooperative and other types of production, workshops by persons with Disability. This opens doors for many persons with disability to employment and will finally enable them to get income for living there by avoiding their dependency on others. Therefore, establishing those businesses is of a great essence and since establishing those business by their own is less likely (especially in poor countries, government. This too part in establish business or at least give support in the establishment. This too depends on the national condition. That is on the economic development of the government.

The importation of materials that are used to by organ that provide service to the persons with disabilities must be exempted from internal taxes or any internal charges of any kind. Governments should levy no tax or any internal charges on the entry of in their territories of specified articles, training materials and equipment's required for

rehabilitation centers, workshops persons with disabilities in securing and retaining employment. This helps rehabilitation centers and persons with disabilities workshops to get materials at relatively lower expenses and it will have nice effect in getting services persons with disabilities with little difficulty.

B. VOCATIONAL REHABILITATION IN RURAL AREAS

Persons with disabilities in rural areas should also to get the same level of protection as those in urban areas. It is obvious that it is difficult to provide facilities to rural areas. Especially remote rural areas to the extent those facilities are provided to urban areas but paragraph twenty of the VRE recommendation states that, “particular efforts should be made to ensure that vocational rehabilitation services are provided for persons with disabilities in rural areas and remotes communities at the same level and the same terms as those provided for urban areas. The development of this service should be an integral part of general rural development polices”. Therefore, unless this right of the persons with disabilities in rural areas to be treated like those of those found in urban areas is not observed, the whole endeavor to rehabilitate the persons with disabilities in general will be in question as it creates disparity in treatment among persons with disabilities.

To ensure this equality of employment opportunity in rural areas governments should establish mobile vocational rehabilitation services, train rural development and community development workers in vocational rehabilitation techniques, provides loans grants, tools and materials to help persons with disabilities in rural community to establish and manage co-operatives or to work on their home to cottage industries facilitate their access and promotion in work etc.

As the persons with disabilities in rural areas are part of the community, it is their right to get all the fair jobs accorded to their same in urban areas and their puts reciprocal duty governments and organizations affiliated to aiding a person with disabilities, to strive in order to enable the work life of the community.

3.2.3 WOMEN WITH DISABILITIES

All human rights are universal; hence universality includes women and men with disabilities. All persons are equal and have the same right to life and welfare education and work living independently and active participation in all aspects of the society. Any direct or indirect discrimination against women with disability is violation of their rights. Women with disabilities are vulnerable in a special case even more than men with disabilities. The convention on the right of persons with disability under article 6 widens the protection to them. It says under the first sub-articles. "knowing the subjectively of women with disability to multiple discrimination, state parties shall take measures to ensure the full and equal enjoyment by women with disabilities of all human rights and fundamental freedoms. It is clear that women with disabilities experience at least two levels of discrimination on the basis of sex and disability. In order to eliminate the discrimination based on disability in their employment relation and there by promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms to women with disabilities, the special rights to given to all persons with disability regarding work and employment under article 27 of the convention are applicable. With relation to women with disability rights and freedoms laid down under the convention are applicable without discrimination. Article 6 of the convention in particular says;

State parties shall take all appropriate measures to ensure the full development advancement and empowerment of women for the purpose of guaranteeing them the exercise an enjoyment of the human right and fundamental freedom set out in the present convention. Here, the state duty bound to outline polices which encourages the engagement of women with disabilities in the labor market and measures should also be taken Implement those polices, according to the provision states may give to women with disabilities incentives, affirmative actions and other.

The convention of the elimination of all forms of discrimination against women have no clear provision that deal with women with disabilities rather it give right to women in general. Under article 1 part 1 it define discrimination on women with reference to

“exclusion or restriction based on sex”. It not takes in to consideration women with disabilities. Although this is the fact, the convention has in its preamble by accepting the principles set out in UDHR states “all human beings born free and equal in dignity and rights everyone is entitled to all the rights and freedoms set forth therein, with out distinction of any kind based on sex,” this implies that CEDAW has taken all the principles of UDHR implicitly by third paragraph and recognized women with disabilities to the enjoyment of rights under it. This is clear that it recognizes equal dignity of all human beings and with equal rights with no distinction. Arising from this argument we can say that women with disabilities are entitled to the right under article 11 of CEDAW.

Article 11;

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on a basis of equality of men and women the same right in particular
 - a. The right to works an inalienable right of all human being
 - b. The right to the same employment opportunity including the application or the same criteria for the selection in matters of employment.
 - c. The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training
 - d. The right to equal remuneration, including benefits and to equal treatment in respect of work of equal value as, well as equality of treatment in the evaluation of the equality of work.
 - e. The right to social security, particularly in case of retirement Unemployment, sickness invalidity and old age and other incapability to work as well as the right to paid leave. Women with disabilities being equality with others are entitled to the protections of this provision. So they do have the right to equal opportunity of employment, work and to enjoy free choice of profession, promotion, job security,

equal recommendation for equal work and other, rights not only against discrimination based on sex but also against the discrimination based on disability as compared as compared to women with no disabilities.

3.3 PROTECTION UNDER NATIONAL LAWS

3.3.1. THE FDRE CONSTITUTION

The FDRE constitution has declared in its article 25 all persons are equal before the law and are entitled without any discrimination to the equal protection of law. In this the law shall guarantee to all persons equal and effective protection with out discriminating on ground of race, nationality or other social origin, color, sex, language, religion, political or the opinion property, birth or other status.

Really this equality protection provision is also included in different laws, rules and regulation of our country. Like employment law, civil servant law and etc... it will be discusses later. Obviously putting and enforcing such laws significantly contributes towards the achievement of sustainable development and democracy building in a given country. Are persons with disabilities advantageous from those protection or not, and what a positive truck does FDRE constitute goes to protect them are going to be our point of discussion. To being **article 41(2)** reads;

Every Ethiopians has the right to choose his/her means of livelihood, occupation and profession. Here, the provision includes persons with disabilities as other. This can be taken from the Interpretation of the phrase ‘every Ethiopian ...’ More over it discourages discrimination by saying both the enactment and their employment of laws, rules and regulations have to be free from discrimination. By this law is saying that persons with disability are entitled to choose freely their means of livelihood, occupation and profession equally with others. Having in mind that the phrase “every Ethiopian ...” includes persons with disability to the entitlement of the right or engaging freely provision, persons with disability are guaranteed with the right or engaging freely economic activity and peruse a livelihood everywhere with national territory of Ethiopia **Article 41(5)** says about the duty of the state to provide rehabilitation assistance within the available means of resource of

persons with disability as a general. This Provision does clearly imply for the protection of persons with disability. Besides sub article (6) of the same provision stipulates, the state shall pursue policies which aim to expand job opportunities for the Unemployment and the poor and shall accordingly undertake programs and public Work projects.

This provision binds the state to pursue policies, public work projects and programs to Expand job opportunities for the unemployed and poor peoples. Person's with disability are included with in the scope of this protection by the reason that they are equally Protected by and guaranteed with the rights and freedom recognized by this constitution as per article 25. Hence, persons with disability who are unemployed because or unavailability of resources to do so, shall be advantageous us from the potential polices which aim to expand job opportunities and public work programs. However, article 42 of the FDRE constitution does remain silent about those special groups. Most of the Provisions of this article talks about who are the source of labor force and what rights should they enjoy? In the sense of the provision persons with disability who has already sought a job inclined under this law. Since they are equally treated and really they are Equal I from the very beginning an individual with disability has got what we call reasonable accommodation. Therefore, it is obvious that persons with disability who seek Job is at the same time advantageous of the rights and fruits of the given job. On the Other hand, article 42(2) has an intention to protect workers being suffering from Disability which could have emanated from their employment in a given work place. can be understood from the phrase that provides, "workers have the right to healthy and Safe work environment." Hence, the constitution has a spirit of keeping workers in Healthy and safe work environment which could be a big asset if implemented accordingly reduce the occurrences of occupational injuries resulting disability and Ensuring rehabilitation and job security.

Finally, we can dictate from the above discussion that affording a reasonable Accommodation to persons with disability in their employment relation is base for decreasing dependency of persons with disability, idle, labor force and reducing the

Burden of the government and the society at large. Because it is clear that if they do not get jobs according to their respective potential, they would be fail on the shoulder of the Government and the society.

Historically, Ethiopia laws and practices have been discriminating to the vulnerable Groups especially women, persons with disability and children in different perspective Transactions and social activities including socio-economic and political activates. Having this in mind the constitution as compensation to the discrimination by the historical Legacies has clearly addressed the rights and protections for children and to women by giving them an affirmative action to redress the effect of the previous attitudes in a distinct provision under article 35 and 36 especially. On the contrary the constitution has not any distinct provision dealing with the right of persons with disability. Hence, we researchers form out point of view, would like to say that the issue of persons with Disability is not a matter which can be disregarded and easily touched. International Human rights instruments like UDHR, ICCPR, and ICESCR have criticized that they distinct provision. The UN Convention on the Right of Persons with Disability has in the Contrary come with ample provisions protecting persons with disability. So, from this the FDRE constitution had had to take in to account these facts and protect persons with Disability by clearly giving an affirmative action.

3.3.2 POLICIES FRAME WORK REGARDING PERSONS WITH DISABILITY

Ethiopia faces social problems that have been generated by lack of good governance misguided public polices of previous regimes. The deep rooted social problems are particularly heavy burden on the marginalized sections of the society mainly persons with Disabilities. In order to prevent and control social problems in Ethiopian, rehabilitation victims and gradually eliminate them, the governments formulate a policy which stress the Need for societal participation in all activities of developmental social welfare policy Harmful traditional practices. The FDRE adopted the developmental social welfare policy In November 1996. This policy has laid three major objectives.

- a. To expand social welfare development programs and services with the Participation of the community.
- b. To study causes of social problems and development prevention measures. It is known that the customs, traditional practices, social attitudes inhabited in the society are the sources of social problems occurred. So, studying of the Attitudes and traditional practices of the society will help we too clearly Problems prevail. This in turn will help structural adjustments and modify the appropriate measures to be taken to prevent such problems and the way how it can be implemented.
- c. To rehabilitate the affected members of the society and these who need Special care and support. Affected members of the society are groups of person who are previously disadvantageous either because of Discrimination against them aroused from social, cultural and historical Attitudes or because of the cumulative effect of their physical, mental and Sensory impairments and the environmental barriers which takes them from Self-dependency. Because of such and other problems existed in the society such groups of people needs special care and support and the policy objectively aims to rehabilitee them. Rehabilitation may take place by making social policies and includes such groups as beneficiaries of such Policy in every sectors of the government. Although, the policy aims at promoting basic social welfare services to all Ethiopian with the principal of equality and justice in particularly targets on some vulnerable groups of the society which, among them are persons with physical, mental and emotional Problems. Persons with disability were subject of discrimination because of their Disability by the society. So, that, they need to be treated affirmatively in order to come Up with the social altitudes against them and to eliminate the social discriminations. Thus, the policy firmly strands in favor of persons with disability and strictly required all sectors. In planning their activities to take in to account the full participation of persons with Disability.

3.3.3 RIGHT TO EMPLOYMENT OF PERSONS WITH DISABILITIES

The negative perception that the society has against persons with disabilities is deep Rooted and has adversely affected the right of persons with disabilities to employment the existing legislation on the “the right of disabled persons to employment” created, by Providing for reservation of vacancies for persons with disabilities, an image that persons with disabilities to be considered as incapable of performing jobs. In addition to this it does not provide enough rights and protections of persons with disabilities that enable them to actively participate in the society. Due to this and other it has become necessary to enact a new law that complies with the countries policy of equal employment Opportunity and other international convention dealing with disabilities proclamation Disabilities. Thus, the right to employment of persons with disabilities proclamation 568/2008 comes with better rights and protections of persons with disabilities.

As it is stipulated under article 3 of the proclamation, it is applicable to the employment Relationships between a qualified or job seeker with disability and an employer. An employer for the purpose of the proclamation as defined there is under article 2(3) is “any Federal or regional government office or an undertaking governed by the labor Proclamation” so, accordingly, an, employer may be public-regional and federal or Private undertaking. By this the proclamation is applicable to the employers. The Already employed persons with disabilities are beneficiaries of the rights and protection that the proclamation affords. In addition, the potential workers who are with disable Are to be protected by this proclamation beginning from the time they become candidates of a give job. Emanated from the basic Principle of equality, the law has provided a general rule under Its **article 4(1) (a) (b)** by saying that; A person with disability having the necessary qualifications and scored more to That of other candidates shall have a right without any discrimination to occupy Vacancy post in any office or undertaking through recruitment, promotion, Placement or transfer procedure or to participate in a training program to be Conducted either locally or abroad.

Hence, there is no positive discrimination afforded to persons with disabilities. What the Law wants is avoiding the negative or little attention that the society specifically Employers do have towards the working ability of the person with disability. Since, it is known that practically and historically the society and the environment makes them disabled thought in fact are able to do equally with those who are presumed capable the mind of the society.

In addition, the law demands the avoidance of discriminatory selection criteria with Reference to the disabilities they have faced with even among those persons with a disability, saving the fact the nature of the work he is seeking does not dictates other wise it can be understood from article 4(3) of this proclamation the spirit of the law as to equality is deep. It goes beyond the general principle every human being is equal before the law up to protecting and realizing equality between and among those persons with Disabilities.

Besides article 5 provides a list of prohibited discriminatory acts which persons with disabilities abscond from by making illegal by the law. These are the followings; any law, practice, custom, attitudes or other discriminatory situations that impair the equal opportunity of employment of persons with disabilities is illegal the fact that the previous legislations were ignoring persons with disabilities may leave today with laws, customs, practices and attitudes which impair the equality of persons with disabilities in employment opportunities. Therefore, it is better to make them illegal as article 5(1) clearly does. According such discharging situation today is against the equality principle as results the law under this proclamation believes, as these actions are Negative discriminations. As it is provided under article11 (1) an employer who Contravenes the provisions of this proclamation or follows the laws, practices or customs which impairs the equality of employment of persons with disabilities is criminally liable The penalty shall be unless the provisions of the criminal code provisions more server, Fine not less than birr 2,000 or not exceeding birr 5,000.

Selection criteria which can impair the equal opportunity of persons with disabilities in Recruitment, promotion, placement, transfer or other employment conditions shall be regarded as discriminatory acts. The mere fact that a person is with disability shall be taken as requirement not to be selected for employment equality with others. Rather, the Qualifications he has and his scope. But the case of reasonable accommodation should not be ignored. The same is true for the promotion, placement and transfer of the person with Disability in his employment relations.

When a person with disability is not in a position to exercise his equal right of Employment opportunity as a result of absence of a reasonable accommodation indirect denial shall be regarded as discrimination. The law has taken a position of affording a reasonable accommodation to the persons with disabilities and let them equally complete in the labor market rather than leaving them with a simple right of equal opportunity which could have little significance. Hence the proclamation under article 5(3) has regarded a situation as discrimination if an employer does not give emphasis to afford a reasonable accommodation to persons with disabilities in order to get employed. However, there are two different exceptions provided under article 4(1) and 4(2) of this Proclamation, to the general rule of equality discussed above i.e., a person with disability having the necessary qualification and scored more than other candidates shall have the Right to vacant post without any discrimination. Though, it is sound, the first exception is against the candidate with disability and the second is a special protection accorded to the Candidate with disabilities. Both exceptions will be hereunder one by one.

An employer can refuse or discriminate to employ a person with disability on certain Condition related to the candidate's ability versus the job at hand. This exception is Stipulated under article 4(1) of this proclamation as; unless the nature of the work dictates otherwise, a person with disability having the necessary qualification and scored more to that of other candidates shall have Right to vacant without any discriminate and the phrase "unless the nature of the work dictates otherwise" is to mean that the Nature of the job may not permit the persons with disabilities to engage in. this always Arises from the need

to protect the public interest or to protect the greatest happiness that would be achieved as a result of the exclusion of these persons with disabilities from the Post at hand. For instance an employer would be justified in refusing to hire a person with Sight problem for a bus driving position.

Though how to determine the extent a given disability blocks or not a given job remains as an issue, which we will discuss below the experience of some countries and their laws For the purpose of acquiring know how, the proclamation under its article 2(8) provides what is meant by the phrase “unless the nature of work dictates otherwise” is a job that Could not be performed by a qualified person with disability even if a reasonable Accommodation is provided.

Under American disability act an employer can refuse employing persons with Disabilities legally based on the following conditions.

- Direct threat to safety or health of others-employers can refuse to hire or Accommodate and individual where that individual’s condition poses a direct Threat to the health or safety of others in the work place.
- Job related criteria-an employer could refuse to employ or promote individuals with disabilities unable to meet standards, criteria, tests or when performers of the jobs can be accomplished by reasonable accommodation.
- Food handler defenses-an employer in the food service industry may refuse to assign to a job involving food handling. If an individual has an infectious or Communicable disease that can be transmitted to others via the handling of food, An employer can refuse to employ such persons provided that the risk of infection Cannot be eliminated by reasonable accommodation.
- Religious entitles-employers of a religious corporations, associations, Educational institutions, societies from giving preference in employment Individuals of particular religious to perform work connected with carrying on by Such corporations, educational institutions or society of its activities Although the proclamation has not clearly stipulated under article 1 jobs which by their Nature dictates otherwise, we can

apply the experience of the America Disability Act for The protection of the public and the criteria's set for the completion for a particular job.

The second exception is stipulated **under article 4(2)** of the proclamation. It reads; ...where a person with disability acquires the necessary qualification and having Equal or close score to that of other candidates, preference shall be given to; Occupy a vacant post in any office or undertaking through recruitment, Promotion, placement or transfer or participate in a training program to be Conducted either locally or abroad. This provision gives a clear preferential right to the persons with disabilities who are Qualified but have equal or close score to that of other candidates. The aim of this owe Provision seems compensating the moral and material damage they incurred in the past and bringing a good social and economic integrity among the whole society. Having the above rights and get employed, persons with disabilities shall have the right to get the wage and other benefits of the position they occupy. Since the end of the rights with respect to employment discussed it to get the fruits of the work and then lead one's Own or family's economic life, it is evident emphasize on how payments of salary are Made to a given person with disability comparing with others. Because there was a Practice of supplying a lower salary in its base or other wise to the persons with Disabilities and know that practice should be made void. The other rights of the already employed persons with disability and which are also the Responsibilities of the employer as well as the reasonable accommodations stipulated under article 6 are;

- Any employer shall have the responsibility to take measures to provide appropriate working and training conditions and working and training materials for persons with disability. For an employee with disability, the employer should Create an initiative environment of a given work and training for an apprentice. All acts of the employer should be faithful and if possible to provide, then with Appropriate assistances. For instance, if an office has doors in both west and east One. However, for the employee with disability to go to hominy employee, this opened Door might consume his time substantially and to the other hand opening the Other side door does not affect the

normal business of the office. Here the Employer should open the Western door. In addition to this an employer shall provide material to the persons with disabilities by which they perform their Official duties. For example, it is obvious that an instructor with limited use of his Legs requires wheel chair to get around the campus and to get the classes as well as To the office of the university.

- Any employer shall have a responsibility to take all reasonable accommodation and measures of affirmative action to women with Disability taking in to account their multiple burdens that arise from their sex and Disability and shall assign an assistant to enable a person with disability to Perform his work or follow his training. However, the law in its articles 6 (2) of this proclamation has relieved the employer from Taking any measures stipulated above and other related measures where it creates an undue Burden to him, provided however, that the assignment of an assistance for a person with Disabilities shall, under no circumstance constitute undue burden to an employer. An undue burden means any Action that entails considerable difficulty or expense for the Employer in accommodating persons with disability when considered in light of the Nature and cost of the adjustments relative to the site and structure of employer's Business. Therefore, if in our example above installation of elevators or ramps to provide wheel chair access for the instructor is considered as an undue burden by the Court, and then the university will not be legally obliged to provide these measures. However, It is very unlikely that the court would ever consider the policy decision to change the Location of the instructor's classes to a place that is accessible to wheel chair as an undue Burden on the university, as it requires no additional real costs to the university. Despite this limitation on the right of the disabled employees to receive structural and Policy preferences, the provision of this proclamation explicitly states that there is no Limitation to the employee's right to be assigned an assistant. Therefore, the instructor maintains a minimum guarantee to be assigned an assistant to provide Constructive access to the university facilities necessary to perform his job and Administrative functions, if any A person

with disability may be dissatisfied with the measures and accommodations or May face with any discrimination on the ground of his disability. As a result he can Institute a suit to the competent court on the issue with the requirement of the burden of prove. Persons with disabilities are protected positively as a special right from the General re he who alleges shall prove his claim and the burden of prove divers to the Employer. This is clearly provided under article 7(1) and (2) of this proclamation.

This proclamation also under its article 10 provided as with person who can institute an action against any infringement of a right of any person with disability. These are the Persons with disabilities of which he is a member, the trade union of which he is a member or the concerned organ entrusted to implement this proclamation. It also Provided the period with in which the court should render a decision to this action i.e. with in 60 days, an employer's obligations to an employee with disabilities may also cease if the Employee fails in job performance or otherwise exhibits on other materials fault. Where an employee with disability does not appropriately perform a duty or commits a fault, the Employees shall not relive the employee of responsibility. Article 8 of this proclamation, therefore, when dealing with the issue of qualitative performance of job-related duties, an Employer does not have the duty to give preferential treatment to employee's failure Disability and the employee required to take responsibility for the employee's failure. Finally, the proclamation under article 11 stipulates against an employer who failed to observe the regular procedure and substantive duties he has under this proclamation. The House of People Representative, aiming at strengthening the justice system so as to

3.3.4 RIGHT OF PERSON WITH DISABILITIES UNDER FEDERAL CIVIL SERVANTS PROCLAMATION

Give civil servants better protection and with a view to incorporate in any law the changes occurring as a result of implementation of the human resource management programs among the others the federal civil servants proclamation number 515/1999. In addition to this it does not ignore the already disabled persons who suffered from the

employment injury when they were at work or before they become civil servants who there naturally or by some other reasons. This equal protection is clear from the working put them on equal status with the others. This proclamation under this **article 13 (1)** has of the article which reads as; there shall be no discrimination among job seekers or civil servants filling vacancy because of their sex, ethnic origin, religion political outlook, disability HIV/AIDS or any other ground.

This proclamation has a provision which protects workers from become disable under it **article 48(1) (a)**.It provided us as;

Any government institution shall have the responsibility to; ensure that the work Place does not cause hazard to the health and safety civil servants and provide Civil servants with protective devices and materials and give them instruction on fearing the negative impacts behind disability it puts a duty on the institutions to take care of the potential causes of hazard to health safety of the servants through different Means; like providing protective devices and material as well as instructions how these could be operated.

Moreover, the proclamation has provided different special treatments to the disabled Employees in its articles. Among those the following are discussed below;

- **Article 13 (3) (b)** "notwithstanding the provisions of sub (1) and sub (2) of this Article, in recruitment promotion and deployment preference shall be given to Candidates with disabilities having equal or close scores to that other candidates" Under this sub article persons with disabilities are made to be promoted and Employed some positive step than any other person can be. This preference is to be accorded to those persons with disabilities applying for promotion or to those who were employed in other government institution and then are in redeployment
- **Article 17**, though, it requires the candidate who has scored the highest mark from among the competitors and passed the examination shall submit medical Certification except HIV/AIDS test to prove his fitness for services, this article has A message of

making a person with disability free from or at least should not be prejudiced by this requirement. A medical certificate which discourages them from being employed has no effect, when it is for the mere fact of their disability

- The proclamation under its article 26(3) provides that "where it is proved by a Medical certification that a civil servant who has completed his probation is unable to carry out the functions of his position or to reside in his place of work due to his health condition, he shall be transferred to another suitable position or place of work." This provision plays a positive role in helping to continue the person with disability once as being employees of a given institution or its branch. Obviously this kind of treatment could not be given had they were not physically impaired.
- The proclamation in **article 42** has provided for sick leave by saying "any civil servant shall be entitled to sick leave where he is unable to work due to sickness." It is known that a person becomes sick and as a result could not be able to carry out the functions of his position is among the persons without pay under this servant is accorded with sick leave right with pay and without pay under this article with different situational durations of time which extends up to eight months in a year. According to sub article (3) of the same article such person is granted a sick leave for the first three months with full pay, for the next three months with half pay and to the last two months with no pay.
- It is clear that an employee may face with employment injury. This injury may be on the employee's working organs with respect to his given job. Those who become unable to carry out functions of their position might be provided with a reasonable adjustment to continue as employees as far as possible. In addition what the proclamation in article 54 (2) provides an assimilated person with disability. This is the one who is injured other parts of his body which does not have any relation with the working capacity of the person at issue and the law gives him a right to be regarded as a person with disability for compensation purpose. There are also other provisions under this proclamation

which deals with persons with Disabilities and their employment conditions. Articles 54 and 55 put protection for the Subjects of the employment injury to have pension payments free from tax. Such kind of Payment is to be given only to employees who are discharged from their jobs as a result Of the employment injuries. Finally, we can say that the Federal Civil Servant Proclamation, though it does not address the question of reasonable accommodation as in the rights to employment of Persons with disabilities proclamation and access to posts and advertisements of jobs, it has provided special rights. Special rights like priority in recruitment, promotion and Deployment in addition to all those provided under the proclamation are given to Persons with disabilities.

3.3.5. RIGHTS UNDER AMARA CIVIL SERVANTS PROCLAMATION

The Amara National Regional state civil servants proclamation number 74/2002 has provided rights and protections for persons with disabilities. The proclamation under **Article 13 (1)** has clearly prohibited discrimination among job seekers and states that; There shall be no discrimination among job seeker or civil servants in filling Vacancies because of their ethnic origin, sex, religion political outlook or any Other ground. This provision although it does not state clearly disability as a ground for discrimination and prohibited as so, it is possible to include disability as a ground of discrimination so far as there is a room to include it under the phrase "...any other ground." So, discrimination on grounds of disability according to the provision is prohibited. In Addition as it is clearly stipulated under provisions persons with disability are protected against discriminations based on their sex, religion political outlook, ethnic origin and other grounds. This article does neither provide a special protection enshrined under Persons with disabilities but only repeats the spirit of equality protection enshrined under The FDRE constitution.

Having this equality protection for job seekers including persons with disabilities, we can Say that persons with disabilities are entitled equally with others to the rights and Protections recognized by this proclamation. Hence, persons with disabilities have equal

Right for equal pay of equal work (art 6), right against attachment and deduction of salary (**Art 9**) equal right of allowance with others (**art 10**).

Persons with disabilities have also the right to get safety measures like protective devices, Health and safe work place this is the duty for the government office to his employees, they have also right of disability payment, pension and compensation free from tax Including medical benefits and injury leave. Generally, they are entitled to the ample Rights provided in the proclamation without any discrimination. This proclamation has given persons with disabilities a special right under **Art 13(4)**, which reads as? Notwithstanding the provisions of sub **articles (1), (2) and (3)** of this article, Priorities of appointment shall be given to candidates with disabilities who meet the minimum passing score. This provision entitles persons with disabilities to be given priority of appointment even by overriding the priority right of women's provided under Art.13 (3). A close reading of **Art 13(4)** implies that positive discrimination to be given to persons with disabilities than any other candidates provided that they meet the minimum passing score. So we say that the Amhara civil servant proclamation has more or less tried to treat persons with disabilities positively by endowing them preferential right employment.

3.3.6 RIGHTS PROVIDED UNDER LABOR LAW PROCLAMATION

This proclamation has provided different obligations of the employer related to the issue of safety and health of the worker. The law has set out two aspects of health and safety Rules i.e. preventing or at least minimizing employment injures that result in disability of persons. Designed to prevent accidents and diseases in employment relationships those rules prescribe certain obligations of both employers and workers that could play a great role in preventing or at least minimizing employment injures that result in disability of persons. Such preventive measures include; the prohibition of the employer from ordering any order is hazardous to his life for the reason that he may be damaged and suffers from injuries to his health which may result in the disability of such person. So, in this sense the law is trying to reduce the probability of facing disability.

An employer is duty bound to safeguard adequately the health and safety of the workers which includes taking appropriate steps to ensure that workers are properly instructed and notified concerning the hazards of their respective occupations and precautions necessary to avoid accidents and injury to health.

Besides, he shall provide workers with protective equipment's, clothing and materials and instruct them of their use. He is also required to take apt pre-executions to ensure that all the process of shall not because of physical, chemical, biological, economical and psychological hazards to the health and safety of the workers. These all are means to be taken by the employer to avoid the potential cause for disability In other ways, the law has also came with compensatory resolution in case when injury to a worker has occurred and resulted in disability either because of the non-compliance of the safety methods discussed above or by any other means resulting an injury to the workers body and the worker with disability is entitled to severance payment, compensation, medical benefits and other kinds of cash benefits. Such types of payment, to the worker with disabilities are free from any kind of tax and shall not be subject to attachments, assignment or deduction by way of setoff.

One more important right of persons with disability Is that in time of reduction of workers. On grounds relating to the organizational or operational requirements of an undertaking the right of priority to being retained in their posts should be given to persons with disability in case they have equal skill with others. Generally we can say that this proclamation has not said anything about the right of persons with disabilities to reasonable accommodation, access of advertisement of jobs to persons with disabilities, recruitment, promotion, advancement of persons with disabilities. It only deals with granting of persons who, as a result of employment injures become with disabilities and with their right to compensation there too. The labor proclamation as distinct materials for regulating employment relationship between employees and undertaking or private employers would have been addressed with the all rights and protections of persons with disabilities.

CHAPTER FOUR

Enforcement of Right to Employment of Persons with Disabilities in South Wollo

4.1 Introduction

Among the three government organs the executive body is vested with the enforcement of Laws and regulations. To this end the laws and regulations relating to employment of Persons with disabilities are in same fashion to be enforced by this organ. Ethiopian laws related to employment of persons with disabilities specifically and the laws Related to employment generally are applicable in every corner of the country. In addition to those, special laws consistent to general ones can be enacted by the Amhara Regional State council and then enforced in our focus area. The FDRE constitution of 1995, the labor Proclamation no. 377/2003, the right to employment of persons with disabilities proclamation no. 568/2008 and the Amhara Regional State Civil servant proclamation no. 74/2002 is applicable in South Wollo zone. Among the areas of enforcement of the right of persons with disabilities under those rights the public private employers are the main ones. Therefore to show the practical enforcement of those laws in south Wollo we conducted a survey through questionnaires and interviews. The methodology we use in conducting our survey is convenient sampling method. This sampling method is a kind of sampling which conducts on the areas where researcher get availability of his issue. Based on this methodology we conducted our survey on south Wollo. In addition to those we made an interview with the president of 'Mihwar' associations of Persons with disabilities found in south Wollo.

ACCESS TO LABOR MARKET INFORMATION

Equality in employment subsumes equality of opportunity to be employed as well as equality in treatment during employment. This can be assured if the person with disability has got on access to advertisements of vacancy posts. Access to advertisement of posts

includes the announcement of posts in institutions which such person with disability is getting training, advertisements through the office of their institution and through their association if they have. In short, it is to mean that the way of disclosing vacancies should take in to account persons with disabilities and so made by away which is most accessible to them.

The need to deal much with access to labor market information of persons with disabilities is because the existing system of announcing vacancies does not take in to account person with disabilities. As it is well known both public and private employer made vacancy announcement through different Media of which Radio, television and posting are the common once. Access to labor market information of persons with disabilities can be taken as the most important precondition to the equal opportunity of persons with disabilities to employment. This is due to that person in order to be competitive in the game first he should have an access to it. Similarly persons with disabilities too should have an access to labor market information to join there and competitive with in it. Persons with disabilities need special rights regarding to this. This is due to the reason that they can not have access to labor market information connecting to their physical limitations and the Environment barriers. The proclamation on the rights of employment of persons with disabilities under article 5(1) Says; any law, practice, custom, attitude or other discriminatory situation that impair the equal opportunities of employment of persons with disabilities are illegal. When we see this in line with the policy frame work of Ethiopia which particularly targets on the inclusion and favoring of persons with disabilities in every activities, it is sound that practices, custom, attitude and others affecting equal employment opportunity are prohibited. Practices impairing equal opportunities of employment according to this Therefore, they shall include in their rules and regulations the manses how to make vacancy announcements and their implement them accordingly in order to make the persons with disabilities informed.

EQUAL OPPORTUNITY OF EMPLOYEES WITH DISABILITIES

In the second chapter we have dealt that persons with disabilities are not unable rather it is the attitude and social transaction of the overall society creates them with bad environment and more over makes them to appear as unable in the eyes of the employers. But the fact is otherwise. Mainly those who impaired some part or parts of their body but able to perform activities with no limitation or those who can work with reasonable adjustments, still remain with their ample labor force resource. Having this in mind the law provided an equality clause between the persons with disabilities and others It says; "... a person with disability having the necessary Qualification and scored more to that of other candidates shall have the right without any Discrimination to occupy a vacant post in any office or undertaking through recruitment Promotion, placement or transfer procedures, or to participate in a training program to be Conducted either locally or broad." Where as the implementation of the equality right of The persons with disabilities with others in south Wollo public and private employers will be treated bellow;

4.3.1. RECRUITMENT AND SECURITY OF TENURE

Equal employment opportunity includes the opportunities of an individual to employment stating from the announcement of the job up on the equality in pension payment Keeping in mind the exception that favor some groups of persons like persons with disabilities, women and others, most laws include the principle equal opportunities of employment The federal civil servant proclamation, the proclamation on the right to employment of persons with disabilities and the Amhara regional state civil servant proclamation have clearly stated that; a vacant position shall be filled only by a person who meets qualifications required and scored higher than the others. Though, this is the principle which most laws have included; there are exceptions which gives preferential rights to persons with disabilities under their provisions. We can understand from the provisions under article 5(1) of the right to employment of persons with disabilities that makes Illegal discriminatory situations or any law, practices, customs, attitude that impair

the equal opportunity of employment of persons with disabilities. In recruitment opportunity the practices some private and public employers follow do not equally treat persons with disabilities. This can be understood from the static we got from those sample private and public employers in south Wollo for instance;

- BGI Brewery has employed only 0.8% persons with disabilities among the total employees.
- Moha Soft Drinks Factory has employed only 0.93% persons with disabilities from its total employees.
- Dashen Bank has employed 0.88% persons with disabilities among its total employees it hired.
- The Workers and Social Affairs office of South Wollo zone has employed no or 0% persons with disabilities among its employees.
- The South Wollo civil services office has employed only 0.3% persons with disabilities from its total employees.

The question arise and interviews we made reveals that for instance in BGI Brewery and Moha Soft Drinks Factory among the application for candidacy in time of vacancies in this year there were only 3% of the total applicants. This shows that a number of persons with disabilities who are informed of the vacancies are almost non-compared the others.

In addition to this, the interview we made with the persons with disabilities also tells us there is a bias in recruitment against them. In the statements of most persons with disabilities we get tat the problem is more sever in the private employers. The employers did not want to employ a person with disability at equal opportunity with the others even if he holds equal professional qualification. Their main reason behind is not that the person with disability is less productive than others rather they have a backward little attention to the working abilities of the persons with disabilities. Here, the employers clearly violate the fright of equal opportunity to recruitment of any vacant post of the person with disabilities. After a vacancy announcement is made and job seekers are registered always there is examination for recruitment. In this examination the employer has a baring power

in determining as to who is going to pass or fail. Most of the time the examinations are not open to the public in which it could be known whether one is failed or passed independently upon the scores are has scored. There may be examination in written examinations make the possibility of being recruited dependent on the employers' ambition. For example, if the employer does not want to employ him, he can give him less mark in the oral exam. As the persons with visual problem also told us, employers made a candidate with visual problem to fail by providing him a reader who is not qualified to the exam. Here, the employers allow them to take the exams only for procedure matters or for a defense of the potential claims that may be arise. Those and related problems has at least be made reduced and had there exist an organ which checks the implementation of their rights in the zone. It is the federation of persons with disabilities which seats in Addis Ababa act effectively in solving the claims of persons with disabilities. Though, this federation has expanded its protections to this zone there is a practical problem to inform each and every claim or problems the persons with disabilities have form here, Dessie to Addis Ababa as there in no branch of the federation at any level than the main one. As a rule, persons with disabilities can bring their claims to the persons with disabilities department of the workers and social affairs in South Wollo. But there is a weak link even between this department in he workers and social affairs, and the persons with disabilities as well as their associations. As a result of the weak link between the law and its enforcement, employers block the recruitment of the persons with disabilities Employers when, persons with disabilities come to compete in the recruitment of a given job, block them by the pretext that the object of the work has fields which could not be performed by persons with disabilities. But, in reality, it does not or can easily be adjusted by placing them in to other jobs with equal position.

On the other hand, the civil service office of South Wollo has a good rend in relating persons with, disabilities when they come as candidates to their office. It gives them special treatment in the way they take exams. Its detail will be discussed below under the topic of implementation of special rights of persons with disabilities. Equal employment

opportunity is nothing if persons with disabilities cannot retain jobs once they have secured. This security of tenure guarantees persons with disabilities from unlawful dismissal from their employment relationship. Individual type of termination may arise from grounds connected with the worker's conduct or from ability to perform his work. Collective termination of employment may arise from the organizational or operational requirements.

The factors of reduction of workers on grounds of organizational or operational requirements may be like direct and permanent cession of workers activities failing in demand for the products or services of the employer and decision to alter work methods or introduce new technology with a view to raise productivity. During this time persons with disabilities are given priority to retain their post as provided under article 29(3) (d) of the labor proclamation. In this regard our questionnaires show that except for the civil service office which gives priority to persons with disabilities in order to retain in their post in times of reduction of workers, persons with disabilities are the first to be affected by reduction of workers in private employers. The interviews made with the president of the associations of persons with disabilities in South Wollo indicates that specially private employers do not give priority to persons with disabilities to retain in their job in case when they tend to reduce workers. He has said that there is no means to control the acts of those employers. Because once a person with disability is dismissed from his employment due to reduction of workers, he does not apply to enforce his right to the concerned department. In addition to this, he told us that their association has no financial capacity to check such kinds of violations of the rights of persons with disabilities and bring them before the court.

In order to control this unlawful dismissal of employees with disabilities and respect their security of tenure, South Wollo administration should;

- Establish a separate organ to check the implementation of these rights and bring the claims of persons with disabilities before the court, if any; and

- Coordinate the associations of the persons with disabilities and give funds by Which they could realize their rights

4.3.2 PROMOTION, PLACEMENT, TRANSFER AND REMUNERATION

The issue of promotion seems to have been ignored in most of the South Wollo employment sectors. Their present statistic shows no promotion is given to persons with disabilities. In addition to the above, our interview with some public employer shows that beginning from the first months of this year they have totally ignored the issue of promotion. For example, in the South Wollo civil service office, there was no promotion given to both persons with disabilities and the others for the previous 9 months because every one's future position and salary is not certainly known. The system of Business Process Re-engineering resulted in changes of position, changes in salary and in the number of employees in one sector previous department. Therefore, it is difficult to determine who, in which position, or for how much salary (percent) is to be promoted. However, they told us that it will be solved after the re-arrangement comes to its end But, when we come to the law, it does not say anything about SC conditional limitation of promotion. And we also believe that for policy purpose, the right to promotion of persons with disabilities may be suspended or limited for unknown period of time however, we still have negative comments on the employer ignorance of the right to promotion before the implementation of the new policy (BPR) is emerged ability and There is also no promotion to teachers with disabilities in junior second d cycle for those who have problems on their legs. This totally ignored the right to promotion with no sound justification.

In the participation of the training to be conducted locally or abroad, both the public and private employers appreciate the right to equal access of persons with disabilities to a given training. They accordingly accord equal chance when there is training in our country. Whether it may be zonal, regional or national level as a result, the persons with disabilities employed in different offices of South Wollo are enjoying their equal rights to trainings.

On the other hand, there is no one who has got the chance of trainings abroad some of the employers do not have any employee with disability on the other hand those who have employees with disabilities do not get any chance to get trainings abroad there also only one governmental rehabilitation and training center in South Wollo i.e. disabilities in South Wollo. Under this center, there are about 200 persons with disabilities who train in different professions. The center includes persons with all types of disabilities. The questionnaire and the interview with the president of this center revealed that the aims of the center are;

- Making the person with disabilities qualified for work by providing them trainings.
- Providing man made materials with their full repayments and other related simple assistance; and
- Changing the bad attitudes the society does have towards the persons with disabilities and vice versa.

To realize the above lists aims it provides different trainings, rehabilitates the already trained once and provides simple assistance both materially and morally In addition to this, though it's not considered much, it makes reports the workers and Social affairs of South Wollo in case when the rights of those persons with disabilities are violated. Because there is a separate department in the workers and social affairs of South Wollo, which assigned to deal with the issues related to the persons with disabilities rights, i.e. persons with disabilities expert. The FDRE constitution under article 41(5) provides as “ the state shall with in available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled ...” therefore, the establishment of the South Wollo rehabilitation and training by government is a good beginning and we appreciates it. But it is better the government to look the link between the workers and social affairs in South Wollo and this rehabilitation and training centers.

In case of placement the practice shows a good enforcement. A person with a problems hold position is made to be replaced by the other related position. The law also encourages keeping persons with disabilities to stay employed. Rules and rehabilitation of South Wollo

civil servant office say that no blind person should be a teacher in first cycle. It is because that students found in those grades are infants so that they should get an access written letters and words on the black board. Due to this they cannot understand words by oral. On the other hand, as team manager of South Wollo rehabilitation and training center told us, teachers with cut legs are presumed incapable of teaching I high schools and colleges. The persons with disabilities strongly opposed this displacement of workers. Because teaching in high schools and cockeyes are possible through plasma. So, the need to write on the black board is somewhat meaningless. Therefore, teachers with limbs shall be placed as teachers of high schools and colleges. Now a day, this issue is coming to be solved positively. The associations of rehabilitation and training center made this practice remitted. The South Wollo civil servant office places the employees with disabilities in the offices. In the case of transfer procedure there are good practices by the civil services offices. Questioners made shows that the right of persons with disabilities to transfer is respected specially transfer which bases on health problems and some structural adjustment are respected. But, the trend of private employers still shows that employees with disability do his job at the place once he has assigned and no right of transfer is respected. In order to develop this attitude of both public and private employers towards the practice of the law we suggested that;

- The civil services office of South Wollo zone shall have an access to the new proclamation on rights of persons with disabilities in order to be familiar with the rights and principles enshrined there and to apply them.
- Effects should be made and controlling mechanism should be established to combat the illegal acts made by private employers particularly in relation to promotion, transfer, placement and others for their implementation of such preferential rights of persons with disabilities.
- The promotion committee an trade union established by workers for The enforcement of their rights particularly in relation to advancement promotion and transfer should

be advised to follow the right of persons with disabilities laid down in the new proclamation considering them

- Finally, creating a known how of persons with disabilities on their rights and protections can help them to take the problems made by employers persons with disabilities themselves can stand for their right if they know all especially the procedure difficulties on the by private employers they can bring their claim to competent authority.

The proclamation on the right of persons with disabilities to employment, the federal civil servant proclamation and the Amhara Regional State civil servant proclamation have accepted the principle of equal pay for equal work of every person without any distinction. Persons with disabilities have remained subject of attitudes of the society general and employers in particular. The society considered them as they are dependent on their families. Employers too have a negative perception persons with disabilities and their working capacities. They do not believe that qualified persons with disabilities can perform an equal work with others in his profession. In order to break down those attitudes endeavors have been made by domestic laws, fearing that their production may reduce if they employ persons with disabilities employers opt either to employ persons with disabilities with lower payments or even not, to employ them. The survey conducted on three private employer and two public employees in those public and private offices. They get the remuneration the job they employed could actually result. However, what a bias we come to observe in most balanced post when it is compared with the others.

4.4 IMPLEMENTATION OF SPECIAL PERSON WITH DISABILITIES

For the fact that person with disabilities have some physical or mental impairments they need the assistance of others or among each other. This assistance should make them equally compete in the employment relation. Accordingly the laws and regulations which governs their employment relations accorded them with special rights this can be for example easily found under article rights this can be for example easily found under article 4(2) (b) the right to employment of person with disability proclamation no 568/2008 and

article 13(3) (b) the Federal Civil Servants proclamation those cumulatively have a spirit of protecting person with disabilities some positive ward than the equilibrium point in the employment relations. In addition to this the right to employment of persons with disabilities proclamation article 6(1) also provides some reasonable accommodation to be accorded to the person with disabilities. For the realization of this special rights there are five sister association of person with disabilities in our focus area, they are established by the assistance of the workers and social affairs center for rehabilitation and training of person with disabilities in South Wollo. Those are;

- Association of person with sight problem
- Association of person with hearing problem
- Association of person with mental impairment
- Association of person with leprosy
- Association of person with impaired limbs

In addition to those there is another association which aim at checking the implementation of the right of the members of that association i.e. mihwar association of person with disabilities. It also tries to solve the problems that the members do faced within their employment relation. The founders and present members of his association are educated. The public and private employers also try to protect the special rights of the person with disabilities. But it is limited to some of the rights to be protected and those protected special rights are also limited in number. Detail of this will be discussed.

4.4.1 REASONABLE ACCOMMODATION

As we have tried to discuss reasonable accommodation under chapter 2 it is one of the special rights given to persons with disabilities in order to enable them fit with their jobs. Reasonable accommodation as defined under article 21(5) of the proclamation on the right to employment of persons with disabilities is an accommodation or adjustment made to a person taking in to account the nature of the work and the disability of a particular person. Such adjustment may be with respect to equipment at the work place, requirement of the job, working hours, structure of business and working enforcement the

right to equal opportunity of employment of persons with disabilities explicitly includes the right to reasonable accommodations. Giving a right of equal opportunity to employment without right to accommodation is simply providing a paradoxical way of affording rights, This is because to say a person with disabilities has got equal employment opportunity with others, shall have to be provided with equipment's and other modifications which help him to perform his activities according to his profession. The proclamation under article 5(3) has required employers to provide a reasonable accommodation to persons with disability if such persons are no in a position to exercise his equal right of employment opportunities. In such cases, employers shall positively discriminate employees with disabilities s. the failure to accommodation an employee with disability is regarded as discrimination and so that the employee can bring a claim to a competent authority.

On the other hand, article 5(4) of the same proclamation dictates us that affirmative Actions taken to create equal employment opportunity of persons with disabilities are not regarded as discriminations (negative discrimination) against others, in this respect the law is saying that other persons cannot claim same treatment as the persons with accommodation of persons with disabilities in one way by prohibiting such negative discrimination and on the other hand by encouraging the positive discrimination made by employers and it is not discrimination to others. The law wisely predicts that the right to equal employment opportunity will be meaningless there is a reasonable adjustment to persons with disabilities. Moreover, the right to reasonable adjustment leads persons with disabilities to the avoidances of the practical barriers of equal employment opportunities.

The law does provide a limitation to the right of reasonable accommodation. This is aimed at avoiding undue burden on employers. Employers are not obliged to accommodate a person if such accommodator results them undue expense or if it is Unreasonable burden. The proclamation under article 2(6) has defined under burden as "an action that entails considerable difficulty or expense on the employer. " the parameters to say an action entails undue burden or not are; nature and cost of the

adjustments the size and structure of the business, the cost of its operation and number and compensation of its employees. So if an adjustment tends to result undue burden to employer as compared in light to those parameter, he will not be obliged to do it. The sample survey made on this regard shows among the employees with disabilities found in a town as founders of the association of the persons with disabilities are employed as teachers in high schools. As the manager of the association said, most of them are blind and with impairments on their limbs and are currently accommodation with equipment with respect to their particular disabilities. One important issue to be raised here is that the activities by the institutions for the rehabilitation and training of persons with disabilities. The institutions have a great role in an accommodation and providing with necessary equipment to persons with disabilities the manager of those institutions have said that their institutions in coordination with government authorities have accommodated persons and make ready for work. In order to make practical right to reasonable accommodation of persons with disabilities, measures should be taken by;

- Creating a controlling mechanism that persons with disabilities are accommodated by employer.
- Protecting the principle of undue burden not to be a pretext by employers to refuse accommodating of persons with disabilities.
- Helping the institutions for the rehabilitation and vocational trainings to make ready persons with disabilities to work by giving

4.4.2 AFFIRMATIVE ACTIONS

Affirmative rights are given for those previously disadvantaged group of persons due to different factors. Such rights are guaranteed to persons with disabilities in order to enable them equally complete with others. Those rights are incorporated under different laws one of these affirmative rights is found under article 4(2) of the proclamation on the right to employment off persons with disabilities. This implies that, where a person with disability acquires the necessary qualifications and has equal or equal or close score with others,

preferential right shall be given to him. The preferable rights extend to there condition laid down under article 4(1) (a) and (b). Those sub articles show that right of recruitment, promotion, placement or transfer and the right to participate in training programs. So, according to these provisions persons with disabilities are preferentially treated- the equal or close score will enable them to priority right of those condition although, this is the principle, our questionnaires and interviews show that employers by using the room under the phrase "nature of the work" , they refuse to employ persons with disabilities. The phrase has been serving as a prevalent defense for refusing a job to a qualified person with disabilities. As well have been discussed in the previous topics, the sample survey shows that persons with cut limbs or leprosy on their body cannot be employed as teacher in high schools and colleges but this was solved by discussion between the employers and the manager of the association in coordination with the federal federation of persons with disabilities.

The federal civil servants proclamation also provides an affirmative right under article **13(3 (b))**. persons with disabilities have preferential rights in recruitment, promotion Placement and others. In addition to this, the Amhara Regional State civil servants Priority of appointment in employment should be given to persons with disabilities. As to these rights the experience South Wollo civil servants office have said specially in public employments, first an assessment is to be conducted whether there is an applicant person with disability. Then if he fulfills 50% of the passing mark he will be directly employed. This act is a good practice which encourages applicants with disabilities. We can also see other special right of persons with disabilities under **Art. 29(2) (d)** of the Labor proclamation which gives them right to retain their job in time of reduction of Workers.

To avoid the violating of the special right of persons with disabilities in South Wollo Zone; we advise that,

- a. A regulation to implement those special rights including a brief explanation to which type of work should be justified to refuse employment of a particular disability should be enacted by a competent authority of the zone.

- b. A clear understanding forum should be undertaken to those employers found in South Wollo zone regarding regards rights of persons with disabilities.
- c. The Ethiopian persons with disabilities federation, shall in coordination with the Institution modify a framework on how the persons with disabilities can enforce their rights and to whom they can submit their petitions.

CONCLUSION

This research paper has tried to examine the application of the Human RIGHTS and fundamental freedoms enshrined by the international human right instrument. Having a glance at the bill of human rights although they does not clearly state prohibition of discrimination based on disability, it is clear from the phrases "...other status." Those people with disabilities are entitled to the fundamental rights and freedoms recognize by such instrument with out any discrimination. In this study an attempt has made to find out the rights and protections endowed to person with disabilities under international and domestic laws in terms of employment, to ensure the economic freedom of person with disabilities based on their disability. The social attitude has contributed more for the negative perception by employers on person with disabilities.

As we have seen in chapter one the term person with disabilities has no uniform definition in the world. This, because that states turn back to see their socio-economic and political standard to define the term due to this persons with some form of disability have ignore from the protections given by such laws. The UN convention on the rights of person with disabilities has not provided a clear definition to the term rather only states who shall be incorporated under the definition. The convention has purposely done this. It does not want to adopt a rigged definition rather by stating the minimum conditions; states can extend end it taking in to consideration their economic capacity to give wider protection.

Ethiopia has also adopted a definition to the term person with disabilities under the rights of person with disabilities to employment proclamation no. 568/2008.

Under this study we have also tried to discuss the rights and protection of person with disabilities in employment relations. Person with disabilities have the implementation of the proclamation on the right to employment of person with disabilities is doubtful. The absence of directive which helps for the proper implementation of the proclamation has contributed to this effect. For the proper implementation of the proclamation the

responsible organ of Amhara Regional State may be the state council shall issue a directive with the details of the rights and protections consistent with the proclamation.

The other point we want to say here is that there should be controlling mechanism in this focus area to supervise the proper implementation of the right of person with disabilities. This may help to avert the discriminations made by employers and bring them to a court of justice. The physical, environmental and economical constrains of person with disabilities have a negative impact in enforcing their rights. For the purpose of is controlling ministration to avoid the aforementioned problems. Finally, laws, regulation and other prohibitive materials are nothing if the whole people which they will be applicable have no awareness about them. By this what we want to say is that the laws providing rights to person with disabilities should be understood by employers. An awareness creating should be made to employer about their duties and the fact that a qualified person with disabilities can perform an activity. At this point the South Wollo zone of Labor and Social office should give an awareness creating about rights of person with disabilities to employers found in the zone.

A preferential right of recruitment, promotion, transfer, and in time of training programs are also given to them under the proclamation. However, a problem arises in the labor proclamation no. 377/2003. It has failed to address the rights and protections that person with disabilities possess in employment opportunities. This proclamation as a legal material intended to regulate employment relationship between private and employees has no provision dealing with the preferential right of person with disabilities mentioned here above. This may deem as it has ignored that person with disabilities are part of the labor force of the country.

Coming to the focus area of my study South Wollo zone, we have tried to extract the current problems of person with disabilities starting from the announcement of vacancies up to treatment during their employment. The questionnaires and interviews reveals that person with disabilities have no access to the labor market information. The way of announcements of vacancies does not take in to account the physical and environmental

barrier that hinder person with disabilities from the labor market information which affects their equal employment opportunity with others. In this area we have proved that employers do not accommodate person with disabilities in order to equally compete with others. The Preferential rights during recruitment, advancement, transfer and training programmed are also not respected. Employers do not want to employ person with disabilities fearing that their profit may reduce. This mainly arises from the belief that person with disabilities can not perform activities.

Moreover, the sample survey implies that, employer opt to create procedure difficulties and tackles to refuse employment of a qualified person with disability. Besides, due to the reason that there is no regulation for the proper implementation of the proclamation on the right to employment of persons with disabilities by the council ministers or responsible regional organ of Amhara region, employers are using the phrase “nature of the work” UN opportunity to reject employment of a qualified person with disabilities. The absence of district organ established to control the employment and harassment made against Person with disabilities in employment in this area has worsened the problem.

RECOMMENDATION

Based on the aforementioned analysis and discussion we recommend on the following Points;

- The historical legacy by different regimes has disadvantaged person with disabilities. They have been remained subjects of the social attitudes. The cultures, traditional and practices have forced to them to see to their families. The past discriminatory acts against them have not still eradicated and the impacts still manifesting that Person with disabilities as unable. Women in a similar fashion were highly disadvantage and discriminated by the previous regimes and the social attitudes. The constitution as a compensation to this effect has clearly given an affirmative action to women under **art.35(3)**. But there is no provision giving them affirmative right. Hence, we suggest that the constitution should include such a right to person with person disabilities.
- The labor law proclamation has no provision dealing with the special rights accorded to person with disabilities. As the status of federal law regulates the relationship between private employers and employees, it is a must that the proclamation should incorporate all rights and protections that are recognized by the new Proclamation the right to employment of person with disabilities. So the labor Proclamation no.**377/2003** should be amended in consistence with those rights of Person with disabilities.
- For the appropriate implementation of the rights and protections under the Proclamation on the right to employment of persons with disabilities the council of Ministers is empowered to issue a regulation. But, so far there is no regulation issued. Due to this, the terms of the proclamation are wrongly perceived by employers to discriminate person with disabilities in employment. So the council of ministers shall issue a regulation.
- Person with disabilities have a deep know how more than any other person about the discriminations, harassments and negative social attitude suffered by them. So, solutions and other mechanisms intended to eradicate the problems will better only if

such mechanisms are made in coordination with them. To make this apparent they should be represented in the parliament. This has a great value to enact legislations which take in to account rights of persons with disabilities.

- Persons with disabilities are facing problems to enforce their rights by bringing their claim the competent authority. The physical, environmental and financial Constrains are most prevalent condition worsening this. To avoid this problem a Distinct organ should be established by the zone administration.
- Finally a know how creating about the rights and preferential protections off persons with disabilities should be made by S.W. To the employers found in the Zone. This will help to change the negative perception of employers against Persons with disabilities.

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