

ST. MARY'S UNIVERSITY COLLEGE

FACULTY OF LAW

LL.B THESIS

THE RIGHTS OF PERSONS WITH DISABILITIES IN ETHIOPIA

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ADDIS ABABA, ETHIOPIA

JULY, 2008

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Submitted in partial fulfillment of the requirements for the Bachelors Degree of Law (LL.B) at the faculty of Law, St. Mary's University College.

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JULY, 2008

STATEMENT OF DECLARATION

I hereby declare that this paper is my original work and I take full responsibility for any failure to observe the conventional rules of citation.

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Signed:.....

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ACKNOWLEDGEMENTS

I would like to express my deepest sincerity and respectful gratitude to thank all peoples who have in some way contributed to this paper. But first and most I would to thank GOD who gave me strength and whom I fell his presence near me all time. Then my deepest and heartfelt gratitude goes To my adviser Ato Habtamu Muluneh for his unreserved and valuable advice and with out his guide and support my research would not have been realized or successes. my appreciation also goes to my be loved brother Ato Ejerssa Dulle for supported me morally and financially with out his support and unbreakable and be unconditional love I could not be successful.

I also appreciate To Ato MaazaHaymanot Worku from ministry of justice senior public prosecutor and head of legal training and education section that helps by giving for me valuable data resources material and ideas, concerning my thesis. To my whole family and relatives every one who has helped me in one way or another by contributing same thing for this success of mine.

I would like to appreciate same for my class mates for supporting me by providing relevant materials, moral and other supports with encouragement

I would like to express my gratitude also for the following institutions and associations for their diving me valuable data resources material concerning this research
These are to:

Hand-cup international

Hand-cup National

Ethiopian Federation of persons with disabilities.

Ethiopian national Association for the blind.

Ethiopian national Association for the deaf.

Ethiopian national Association for the physically disabilities

Ministry of labour and social Affairs

Ministry education

Ministry of transport and information communication

The Ethiopian Ombudsman.

ABBREVIATIONS

Art.	Article
Arts.	Articles
CEDAW	Convention on the elimination of all forms of discrimination against women.
CRC	Convention on the right of the child
FDRE	Federal Democratic Republic of Ethiopia
HR	Human Right
HRs	Human Rights
ICAT	International convention against torture and other cruel, inhuman or degrading treatment or punishment
ICCPR	International covenant on civil and political rights
ICERD	International convention on the elimination of all forms of racial discrimination
ICESCR	International covenant on economic, social and cultural rights
ILO	International Labour Organization
No.	Number
PWD	persons with disability
PWDs	persons with disabilities
UDHR	The universal declaration of human rights
UN	United Nations
WHO	World Health Organization
WWDs	Women with Disabilities

INTRODUCTION

This paper deal about the rights of PWDs in Ethiopia. Right is some thing that is entitled to all human being due to their humanity so they can exercise it up to the end of their life with out any limitation unless laws limit it. Then PWDs are also human beings and they are subject of human rights as their being of subject of human rights these persons are recognized on entitled to exercise their full range of human rights.

All human rights instruments apply equally to PWDs rights and others by virtue of their universal principle of non-discrimination. The guarantee of non-discrimination in all human rights instruments requires governments to ensure the full and effective enjoyments of human rights to all persons an equal base regardless of condition or other status by various international legal instruments. But this paper focused on the recent convention on rights of people with disability 2007.

Because this convention needs for PWDs the same reasons convention needed to guarantee the rights of women and children rights and it is the latest and the most important international instruments concerning PWDs it's cover a lot of the issue than all the other instruments on disability and has a binding nature and mandatory to all over the world states its implementation does not merely depend on the willingness of states.

However in Ethiopia in the past and current day there is not enough clearly stated special legislations related to disability right in Ethiopia. The writer of this paper will try to describe the rights of PWDs regarding to human rights and a few provision related to disability from FDRE constitution, revised criminal code, civil code and the recent new proclamation No. 568/2008 concerning employment opportunity rights for PWDs. Except this proclamation the others most of them contain a few provisions that intended to protect the rights of peoples with disabilities under them.

Finally this research paper organized by three chapters the first chapter is discusses the general over view of the disability definition, type and cause the second chapter discusses international convention on the rights of PWDs and some national laws regarding to PWDs rights the third chapter discusses about. Accessibility, education and employment opportunities rights for PWDs in Ethiopia. At the end of the paper conclusion, recommendation, endnote, bibliography and case annexed.

CHAPTER ONE

1. GENERAL OVERVIEW OF DISABILITY

1.1. DEFINITION

There is no universally accepted definition of the term disability. In this topic attempt to made review some of the definition. Under the Ethiopian laws the definition of disability is not defined comprehensively. The constitution, commercial, criminal code do not have a single article defining the term. The Ethiopia civil code under Art. 340 partially defined the term “*infirm persons*” “*deaf-mute, blind persons and other persons who as a consequence of a permanent infirmity are not capable to take care of themselves or to administer their property may invoke in their favor the provisions of the law which afford protection to those are insane*”. The other proclamation which tries to define the term disability in the context of employment opportunities is proclamation No. 568/2008. This new FDRE proclamation of the rights of persons with disability to employment defines as “*an individual whose equal employment opportunity is reduced as a result of his physical, mental or sensory impairments in interaction with social, economical and cultural barriers*”¹.

According to Art.1 UN 2007 convention the term Disability defines as “*Long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*”

According to Art.17 of the standard rules an equalization of opportunities for person with disabilities defines as “*the term disability summarizes a great number of different functional limitations occurring in any population ... people may be disabled by physical, intellectual or sensory impairment, condition or illness may be permanent or transitory in nature*”

The 1983 convention of **ILO** on vocational rehabilitation and employment of disabled person’s convention No 159 Art. 1 (1) the term disabled person means “*an individual whose prospects of substantially reduced as a result of a duly recognized physical or mental impairment*”

The **world book 2001** also defines as the term disabled “*Disabled are term uses to describe people who have a physical or mental impairment that interferes with their ability to lead a happy, productive life. Physical impairments include blindness, deafness deformity, muscular and nervous disorders, paralysis and loss of limbs. There are two general kinds of mental impairments: mental illness and mental retardation*”²

According to **black’s law dictionary** disability define as “*The inability to perform some function: esp. the inability of one person to alters a given relation with another persons and an objectively measurable condition of impairment physical or mental also termed incapacity.*”³

The term **impairment, disability & handicap** defines as by **WHO**⁴

Impairment: - in the context of health experience impairment is any loss or abnormality of psychological or anatomical structure or function.

Disability: - in the context of health experience a disability is any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or with in the range considered normal for a human being.

Handicap: - is a disadvantage for a given individual resulting from an impairment or disability that limits or prevents the fulfillment of a role that is normal, depending on age, sex, social and cultural factors for that individual. Handicap is therefore a functional limitation of the relation ship between disabled person and the environment.

The above reviews cast light on how the issue of disability has been viewed at different times by different organs.

1.2. THE MAIN CAUSES OF DISABILITY

There are multiple causes of disability. The major cause of disabilities is poverty. People live in low standard conditions most likely to become disabled and the least likely to receive treatment. Infectious disease, malnutrition, prenatal conditions, trauma and accidents, poor environmental sanitation, polluted water, poor diet, family ignorance, communicable disease, limited access to health facilities, high prevalence of harmful traditional beliefs and practices.⁵

Malnutrition:- most of Ethiopia mothers who can not afford to get balanced diet during pregnancy are more likely to give birth to physically or mentally stunted children.

Lack malnutrition cause for blindness, kwashiorkor, marasmus. Marksman disability may sustain as a result of accidents. Trauma and accidents are road accidents (car accident), work place accident (on working) at the moment of work, careless use and storage of drugs, acid and alcohol, child neglect, child buttering, open fire, attempted abortion, falls, poison burns...etc, and man made(war) and natural disasters contribute to the incidence of disability. Alcohol is rapidly becoming a more common cause of formal retardation.⁶

The ignorance and back ward harmful cultural practices like wrong dietary practices, traditional medical treatment given to children by quack doctors, superstition and absolute religious beliefs, cultural games...etc

In the absence of adequate health care easily disability committed such as prenatal condition and infectious diseases could enhance the incidence of disability. Some infection act with in the uterus on the developing fortes. For instance syphilis, poliomyelitis measles, leprosy, meningitis, tuberculosis and whooping cough and HIV/AIDS. These are easily deletion of impairment with out health care.⁷

However the attitude of society similar to with different type of impairment they beliefs are linked to the actual causes of disability that in turn produce psychologically and socially depressing events and feeling on the part of the person with disability.⁸

1.3. THE MAIN TYPES OF DISABILITIES

As described above the meaning of disability is understood as a restricted or absent ability to perform an activity in the manner or with in the range considered non disability for a human being. Different organ classify the types of disability according to their impairment as follow.

The UN convention 2007 Art. 1 States the types of disability

- Physical impairment
- Mental impairment
- Intellectual or sensory impairment.

The disability services commission categories the main types of disability.

They are physical, sensory, physiological and intellectual. A physical disability is the most common followed by mental/behavioral and sensory. Many people with disabilities have multiple disabilities.⁹

- Physical disabilities; generally relate to disorder of the musculoskeletal, circulatory, respiratory and nervous systems.
- Sensory disabilities; involve impairments in hearing and vision.
- Mental/behavioral disorders include intellectual and developmental disabilities; with relate to difficulties with thought process, learning, communicating, remembering information and using it appropriately, making judgments and problem solving. They also include anxiety disorders, phobias or depression

The black's law dictionary classifies types of disability with respect to employment in the following ways.¹⁰

1. Permanent disability: - a disability that will indefinitely prevent workers from performing some or all of the duties that he or she could do before on accident or illness.
2. Temporary disability: - types of disability that exist until on injured worker are as far restored as the nature of the injury will permit.
3. Temporary total disability: - total disability that is not permanent.
4. Partial disability: - workers inabilities to perform all the duties that he / she could do before an accident or illness even though the worker can still engage in some gainful activity on the job.
5. Total disability: - a worker inability to perform employment related duties because of a physical or mental impairment .incapacity in the eyes of the law termed incapacity.

Generally types of disability identified by their impairment of type. According to national children's commission 1984, Ministry of social affair and CARDOS) in

collaboration with action AID Ethiopia studies shows type of disability. The writer takes the basic of them.

- Physical disability
- Mental disability
- Visual disability
- Deaf

Those list of disability are mentioned by writer of paper are only the main type of disability. But there is various type of disability. May be type of disability depend on the statistic maker body based on type of disability criteria.

1.4. DISABILITY STATISTIC IN ETHIOPIA

In Ethiopia there are shortage and inaccuracy of statistical data on the prevalence of disability. One may, however, take the widely accepted prevalence rate of disability formulated by the World Bank and the WHO to assess the prevalence of disability. According to the World Bank and the WHO, the overall prevalence rate of disability in developing countries is 10%.based on this estimate, the number of PWDs in Ethiopia is about 7.5 million¹¹

CHAPTER TWO

2. INTERNATIONAL CONVENTION AND NATIONAL LAWS REGARDING TO DISABILITY RIGHTS.

2.1. INTERNATIONAL CONVENTION.

An international HRs treaty is a specialized multilateral agreement, negotiated by states within the framework of the UN or one of the regional HRs systems and governed by international law.¹² A HR treaty is different from other treaties, in that its primary purpose is not to establish the rights and obligations of a state vis-à-vis another state rather it is to insure respect for the fundamental rights of individuals within states.¹³ All HRs conventions apply equally to PWDs and others by virtue of their universal principle of non-discrimination. The guarantee of non-discrimination, enshrined in all human rights instruments, requires governments to ensure the full and effective enjoyment of HRs to all persons on an equal basis regardless of condition or status. Thus no human rights treaty exists that is not directly applicable to persons with disabilities rights.¹⁴

Thus international legal instruments are general human rights instruments and specific human rights instruments deal about.

The general human rights instruments in that the rights of PWDs provided generally.

They are

- The universal declaration of human rights (UDHR)
- International covenant on economic, social and cultural rights (ICESCR)
- International covenant on civil and political rights (ICCPR)
- Convention on the elimination of all forms of discrimination against women (CEDAW)
- Convention on the rights of the child (CRC)
- International convention on the elimination of all forms of racial discrimination (ICERD).
- International convention against torture and other cruel, inhuman or degrading treatment or punishment (ICAT).

Some other specific international human right instruments deals about PWDs rights put on equal ground with other persons non-disabilities they are

- Declaration on the rights of mentally related persons.
- Declaration on the rights of disabled persons.
- International labour organization recommendation and convention concerning vocational rehabilitation and employment opportunity (disabled person)
- The United Nations standard rules on the equalization of opportunities for persons with disabilities.
- International convention on the rights of persons with disabilities.

All the above human rights instruments are considered to apply for all human beings this means it include PWDs rights to protect their rights.

2.1.1. THE HISTORY OF THE UN 2007 CONVENTION ON THE RIGHTS OF PWDS

In 1987 and 1989 Italy and Sweden had put forward a proposal for a convention; which was rejected by the UN. Then the approval of a document at the UN world conference against racism in Durban (South Africa) in September 2001, Mexico presented a resolution, which was approved by the general assembly to form an Ad.Hoc committee that would verify the need to draw up a convention on the rights of PWDs.¹⁵

At the 3rd session of the Ad.Hoc June 2003 it was decided that the convention was needed and a working group was appointed to prepare a draft text February 2004. at the 6th session of the Ad.Hoc August 2005 the chair man under took to prepare a text summarizing the discussion so far October 2005. At the 7th and 8th session the text was negotiated and approved August 2006; then it was submitted to the general assembly which finally approved it on December 13/2006.¹⁶

Then this UN convention was approved in the shortest ever time and with the greatest participation of civil society .this convention and its optional protocol was signed on March 30/2007. on the opening day for signature of the UN convention on the rights of PWDs exceeded 81 states and European commission signed the convention and 44 states signed the optional protocol.¹⁷ This number was the highest number of the states ever to sign a human rights treaty on its opening for signature day .Jamaica was also deposited

this convention of ratification making and it was the first country to become a states party to this convention accepted.¹⁸ Ethiopia has also participated in the signing ceremony of the convention on March 30/2007. How ever the ratification of this convention, one of the agenda of the parliament in this working year, but the parliament has closed without any discussion on this issue.

2.1.2. THE INTERNATIONAL CONVENTION ON THE RIGHT OF PWDS UN 2007.

This convention needs for PWDs the same reason convention needed to guarantee the rights of women and the rights of children to full and effective enjoy the full range of HRs distinct groups of peoples require distinct measures.¹⁹ Such distinct measure is aimed at ensuring their equal protection under the law. This is not to say that any particular group of people has “special” or “more” rights rather, than it is a recognition of human diversity culturally, physically intellectually.²⁰ These special measures to overcome to put all persons on equal ground the rights given by all international HR instruments.²¹

This convention is the latest and probably the most important international instrument for it takes in a lot more of the issue than all the other instruments on disability and has a binding nature and it is mandatory and its implementation does not merely depend on the willingness of states.²² The preamble of its elaborates that the convention takes in to account among other things and focuses on the achievement of full and equal HRs of PWDs. In order to more comprehensive describe the fundamental shift in attitudes that are necessary for this convention to be effective.²³ the principle inherent dignity, worth and equal of PWDs set forth in many of the human rights instruments ; the need to mainstream disability issues in the sustainable development process; potential contributions of PWDs; the unremitting discrimination and violation of the rights of PWDs; the right of them to take part in the decision making process, including policies and programs that are concerned to them ;the vulnerability of participation of the PWDs.²⁴ The purpose of convention as explained in the Art.1. " *to promote , protect and insure the full and equal enjoyment of all human rights and fundamental freedoms by all PWDs*

and to promote respect for their inherent dignity”²⁵ to enable PWDs full enjoy their rights and to ensure participation in all rights, civil, cultural ,economical political and social life commonly with other peoples the convention address those rights used with out discrimination for all persons.

This convention has 50 articles which can be divided in to; general principle and obligations that apply to all the articles (Art.1--7) Art.2.specefically give comprehension definition on the purpose of the convention, specific obligation that concern particular areas(Art. 9-32), the national (Art.33) and international monitoring system, with the establishment and regulation of the international committee (Art.34-40); the procedures for entry in to force and the amendment system (Art.35-50); the principle of the convention respect for inherent dignity, individual autonomy and independence, non-discrimination, participation and inclusion in society, respect for acceptance and diversity of PWDs, equality of opportunity and accessibility. According to the document; Article 3. provides general principles: - equal protection before the law liberty and security of the person freedom from torture protection to the integrity of the persons full and effective participation equal opportunity accessibility right to life equality between men and women respect for home and the family respect for inherent dignity and difference full integration of PWDs with in the society, considered as equal citizens and participant.

2.1.2.1. THE CONVENTION OBLIGATION THAT APPLY TO STATE PARTIES.

The state obliged to give effective to the rights contained in the convention. these commitments make up an essential frame of reference to which each specific right must be linked the convention is to be applied progressively with regard to appropriate implementation of the convention take measure on the exiting laws in state and take account the protection and promotion and engaging in any act or practice of human rights participate the PWDs.

These are economic and social rights this does not prejudice recognized rights “*that are immediately applicable according to international law*” this means that individual must

in any case not be discriminated against and are protected by the convention. These general obligations of state parties of the convention are stipulated under Art.4.²⁶

2.1.2.2. EQUALITY AND NON- DISCRIMINATION.

Under Art. 5. The convention recognizes that “*all persons are equal before and under the law and are entitled with out any discrimination to the equal protection and equal benefit of the law*” states ratify the convention “*shall prohibit all discrimination on the basis of disability and guarantee to persons with disability equal and effective legal protection against discrimination on all grounds.*” “*Discrimination on the basis of disability*” means any distinction, exclusion or restriction on the basis of disability “*in order to promote equality and eliminate discrimination*” to exercise or enjoy with others in all HR and fundamental freedom.²⁷ Ratifying states “*shall take all appropriate steps to ensure the reasonable accommodation is provided*” to victims of violations of the HR recognized in the convention. “*Reasonable accommodation*” means according to Art. 2 definition “*necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all HR and fundamental freedoms*”

2.1.2.3. MULTIPLE DISCRIMINATION.

The convention dedicates particular protection to PWDs who are subject to greater risk of discrimination namely women and children with disability under Arts.6 and 7. These two articles must be used as legal instruments that reinforce the protection of women and children with disabilities in under these articles of the convention.

The convention recognizes that WWDs are exposed to multiple forms of discrimination under Art. 6 and the state shall take all necessary measures to ensure all human rights and fundamental freedoms for women and children with disability on an equal basis with other children and women.²⁸

Relate to the children with disabilities under Art. 23 subsection 3, 4, and 5 express special protections of the rights of them provided. These provisions have the effect as the right of children with disabilities under the 1989 CRC. Arts. 2 and 23. The 2007 convention is an affirmation of the existing child with disability rights under this new convention.

2.1.2.4. AWARENESS ARISING.

In order to transform society it is vital to arise awareness of the discrimination and equal opportunities forced by people with disabilities. Art.8 requires ratifying state to “*adopt immediate effective and appropriate measures... to arise awareness through out society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities...; to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life. And promote awareness of the capabilities and contributions of persons with disabilities*”

The mass media, public awareness campaigns and correct information for children play an essential role to promote awareness skill, work place and labour market, promoting awareness training programs regarding PWDs and the rights of PWDs.²⁹

2.1.2.5. THE RIGHTS PROVISION TAKEN FROM OTHER CONVENTION.

The following articles provisions are similar with other international HRs instrument. some of the provisions are :

The right to life Art.6 ICCPR, Art.10 under the rights of PWDs convention. Situations of risk and humanitarian emergency Art.4 ICCPR, Art.11 under the rights of PWDs convention.

Access to Justice Art.14 ICCPR, Art.13 under rights of PWDs convention Liberty and security of the person Art. 9 ICCPR, Art.9 ICESCR Art.14 under rights of PWDs convention.

The right to not be subjected to torture or to cruel, inhuman or degrading treatment or Art.5 UDHR, Art.2 CAT, Art.15 under the convention of PWDs .

The right to not be subjected to exploitation, violence and abuse Art.8 ICCPR, Art. 16 under the convention of PWDs .

The protection of the integrity of the person Arts.19 and 22 ICCPR, Art. 17 under the convention of PWDs.

Liberty of movement and nationality Arts.13 and 15 UDHR, Art.12 ICCPR, Art. 18 under the convention of PWDs.

Participation in political and public life Art.2 UDHR, Art.25 ICCPR, Art.29 under the convention of PWDs.

Participation in cultural life recreation, leisure and sport Art.15ICESCR, Art.24 UDHR, Art. 30 under the convention.

All those rights are similar with other convention mentioned under them but at last also attributed to people with disabilities. The point is that the other human right instruments do not specifically mentioned the specific right of disabilities. Unfortunately the human rights instruments do not even mention the term disabilities. They generally guarantee the rights of human beings.

2.1.2.6. NEW RIGHTS IDENTIFIED IN THIS CONVENTION FOR PWDS.

The convention introduces protection for rights that can only be recognized for PWDs specially

- “Accessibility” Art. 9
- Living independently Art. 19. inclusion
- Personal mobility Art. 20

This means that it actually recognizes new forms of legal protection tied to the particular nature of the discrimination and unequal opportunity faced by PWDs. The particular importance is the over coming of institutionalizing practices Art. 19, which can be connected to the right to not be subjected to torture or cruel, inhuman or degrading treatment or punishment under Art. 15.³⁰

According to Art. 9. In order to “*enable persons with disabilities to live independently and participate full in all aspects of life*” the state parties obliged to “*take appropriate measures to ensure to PWDs access on an equal basis with others to physical environment, to transportation, to information and communications, including information and communication technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.*” This articles must be linked to article 19 living independently and being included in the community

means “*equal right of all person with disabilities to live in community with choices equal to others...*” the state shall “*take effective and appropriate measures to facilitate full enjoyment by PWDs of this right and their full inclusion and participation in the community...*” by insuring the right in subsection Art. 19(a-c) and mentioned. Again Art. 9 linked with other article like Art.18, liberty of movement and nationality, Art. 20 personal mobility and Art. 21 freedom of expression and opinion and access to information. These are universal design applicable for PWDs with other persons.³¹

The accessibility related to social services provided in the convention these are:-Art. 24 Education, Art. 25 health, Art. 26 habilitation and rehabilitation, Art. 27 work and employment, Art.28 adequate standard of living and social protection. The PWDs have equal opportunity or enjoyment of the highest attainable standard of education, health and work and employment with out discrimination on the basis of disability to participate with others. This right of PWDs are provided under Art. 26 (habilitation and rehabilitation) the ratifying states requires to take effective and appropriate measures to ensure for PWDs by all aspects of above explained rights in the convention.³²

On the other hand under Art. 28 adequate standard of living and social protection “*the right of PWDs to an adequate standard of living for themselves and their families including adequate food, clothing and housing ,and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this with out discrimination on the basis of disability*” ratifying states must ensure equal access to clean waters, service and other assistance for disability related needs to social protection program and poverty reduction programs and access to assistance from the state with disability related expenses to public housing programs and to retirement benefits and programs.³³

2.1.2.7. THE PROTECTION OF THE PRIVACY, FAMILY AND HOME OF PWD UNDER THE CONVENTION.

According to Art. 22 and 23 “PwDs have the right to the protection of the law against...”interference of attacks of “*place of residence or living arrangements shall be subjected to arbitrary or unlawful interference with his or her privacy, family home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation.*” And the states shall “*protect the privacy of personal, health and rehabilitation information of PwDs ...*” and by Art. 23 “*take effective and appropriate measures to eliminate discrimination...*” relating to “*marriage, family, parenthood and relationships on an equal basis with others...*”these two articles linked with Art. 19 of the convention living independently and being included in the community.³⁴

2.1.3. NATIONAL REPORTING, IMPLEMENTATION AND MONITORING OF THE CONVENTION

2.1.3.1. NATIONAL REPORTING

The convention commits every ratifying states to presenting to the UN “*a comprehensive report on measures taken to give effect to its obligations ... and on the progress made*” to wards adopting the rights included in the convention. The first report must be presented with in two years of ratification and subsequent reports at least every four years after that. The ratifying states when preparing reports to the committee. It “*shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations*”³⁵

The submitted reports from the responsible organ to the committee, “*The committee shall decide any guidelines applicable to the content of the reports*” each report shall be considered by the committee, which shall make such suggestions and general recommendation on the report as it may consider appropriate and ... the state party may respond with any information it chooses to the committee.³⁶

The committee may request farther information from states parties relevant to the implementation of the convention. According to art 36 of the convention “*if a states parts*

is significantly over due in the submissions of a report, the committee may notify the state party concerned of the need to examine the implementation of the convention in that state party, on the basis of reliable information available to the committee, if the relevant report is not submitted with three month following the notification the committee shall invite the state party concerned to participate in such examination. . .” the ratify states *“shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating these reports.”* Then the committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmers of the UN and other competent bodies reports from states parties in order to address a request or indication of a need for technical advice or assistance contained there in a long with the committee’s observations and recommendations, if any, on these requests or indications.

2.1.3.2. IMPLEMENTATION OF THE CONVENTION

To implement the convention the ratified states in accordance with their system of organization and with their legal and administrative system of the country’s each country must examine the existing national legislation to check for conformity with the norms of the convention and make modification if necessary. Art.33 of the convention discusses the implementation of the convention in national the states *“shall designate one or more focal points . . . and shall give due consideration to the establishment or designation of coordination mechanism with in government to facilitate related action in different sector and at different levels.”*³⁷

The convention obliged the ratified states under Art. 4(3) *“in the development and implementation of legislation and policies . . . and in other decision making processes concerning issues relating to persons with disabilities, states parties shall closely consult with and actively involve persons with disabilities, including children with disabilities though their representative organizations.”*³⁸

Additionally the states also collect appropriate information to implement the convention as mentioned under Art. 31 *“the information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the*

implementation of states parties obligations under the present convention and to identify and address to barriers faced by persons with disabilities in exercising their rights.”³⁹

All above mentioned provision under national reporting, national monitoring and international monitoring are also applies in the recent stage concerning of implementation.

2.1.3.3. **MONITORING OF THE CONVENTION.**

2.1.3.3.1. **NATIONAL MONITORING**

According to Arts. 33 and 4 sub. 3 of the convention requires ratifying states to create a disability policy monitoring system by designating “*one or more focal points with in government for matters relating to the implementation . . . give due consideration to the establishment or designation of a coordination mechanism with in government of facilitate related action in different sectors and at different levels.*” A monitoring system based on data collection according to Art. 31 related to the application of the convention allows the state to be more directly committed protection “*PWDs and their representative organizations shall be involved and participate fully in the monitoring process.*”⁴⁰

2.1.3.3.2. **INTERNATIONAL MONITORING**

The convention institutes the committee on the rights of PWDs according to Art. 34 of the convention provides the procedure of election of the committee to monitor with receiving, examining and making suggestions and general recommendation for the national reports on the application of the convention.

The cooperation between states parties and the committee was according to Art. 37 of the convention “*each state party shall cooperate with the committee and assist its member in the fulfillment of their mandate. In its relationship with state parties the committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present convention, including through international cooperation.*”

The relation ships of the committee with other bodies in order to faster the effective implementation and to encourage international cooperation in the right of PWDs covered by this convention as provided under Art. 38 “*the specialized agencies and other united nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present convention of fall with in the scope of*

their mandate. The committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the convention in areas falling within the scope of their respective mandates. The committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the convention in areas falling within the scope of their activities; the committee, as it discharges its mandate, shall consult as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their function.”

Then the committee submits reports on its activities every two years to the general assembly and the economic and social council, in which it “*may make suggestions and general recommendations based on the examination of reports and information received from the states parties. Such suggestions and general recommendations shall be included in the report of the committee together with comments if any, from states parties.*”⁴¹

Finally the conference of the state parties shall meet regularly in order to consider any matter with regard to the implementation of the convention on the rights of PWDs no more than six months after the entry into force of the convention, the conference of the states parties shall be convened by the secretary general of the UN. The subsequent meetings shall be convened by the secretary general of the UN biennially or upon the decision of the conference of the states parties.⁴²

Any states parties may propose an amendment to the convention, and submit it to the secretary general of the UN by Art. 47 and denunciation by Art 48 of the convention a state party may denounce by written notification to the secretary general of the UN the denunciation shall become effective one year after the date of receipt of the notification by the secretary general.⁴³

2.2. THE RIGHT OF THE PWD IN ETHIOPIA WHEN SOME NATIONAL LAWS ANALYZED.

In the past and current there is not present clearly stated policies and special legislations related to disability right in Ethiopia. The writer of this paper will try to describe the rights of persons with disability regarding to human right and a few

provision related to disability from FDRE constitution, revised criminal code, civil code, new proclamation concerning employment right of PWD. From the above mentioned laws except new proclamation recently enforced about the employment of person with disability. The other most of them contain a few provisions that intended to protect the rights of person with disabilities.

2.2.1. THE CONSTITUTION OF FDRE.

This constitution entered in to force in 1995. It provides all international agreements ratified by Ethiopia are an integral part of the law of the land.⁴⁴ These ratified International HR instruments are:-

- The International Covenant on Civil and Political Rights (ICCPR);
- The International Covenant on Economic, Social and Cultural Rights (ICESCR);
- The Convention on the Elimination of All Forms of Racial Discrimination;(CERD)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment;(CAT)
- The Convention on the Rights of the Child (CRC).

Then person with disabilities are entitled to enjoy this right as other member of society. The constitution obliged all federal and regional states and also concerned organs at all levels shall have the responsibility and duty to respect and enforce human rights principle in the constitution and international instruments adopted by Ethiopia.⁴⁵

According to the fundamental principle of the constitution HR rights are emanate from the nature of mankind are inviolable and inalienable. But all democratic rights are emanating from laws. These two rights intended to applicable with out discrimination for all human being participate by these rights.⁴⁶

In chapter 3 under HR part of this constitution provides the fundamental HR and freedom from these .for example the right to equality stated as follow “*all person are equal before the law and are entitled with out any discrimination to the equal protection of the law. In this respect; the law shall guarantee to all persons equal and effective protection with out discrimination of ground race...or other opinion, property, birth or other status*” the word “*other status*” refers to the PWD right equal protection with others .the persons with disabilities can participate in all prospective by the law including the opportunity of work, the fulfillment of access ability for all society equally use the economy of the county.⁴⁷

The second division of the fundamental and freedoms right is democratic right. Under this part the constitution expresses civil, economical, social and cultural rights. That right is granted to the peoples some of the provision of the constitution seen as follow.

2.2.1.1. CIVIL AND POLITICAL RIGHTS RELATED TO PWD UNDER ETHIOPIAN CONSTITUTION.

2.2.1.1.1. CIVIL RIGHTS OF PWD UNDER CONSTITUTION OF FDRE.

According to Art. 33(2) “*every Ethiopian national has the right to the enjoyment of all rights, protection and benefits derived from Ethiopian nationality as prescribed by law*” and every person has the right to respect for his human dignity reputation and honors ,free development of his personality in a manner compatible with the right of other citizens and to marry and found a family with out any distinction who have attained marriageable age according to the law; every human being recognized every where as a person and lives clean and healthy environment. According to the other articles of the constitution it provide civil rights commonly use for PWDs with others equally.⁴⁸

2.2.1.1.2. POLITICAL RIGHTS OF PWD UNDER CONSTITUTION OF FDRE.

The constitution do not deals about PWDs political right in an experience manner to them. How ever it covers them impliedly by providing rights in the constitution are applicable to all and all persons are equal before the law with out distinction or discrimination. In the constitution provided every one has the right to hold opinions and freedom of expression with out any interference; assemble, demonstrate together with others peacefully and unarmed, to petition and association for any cause or purpose.⁴⁹

Under Art.38 imply “*every Ethiopian national with out any discrimination based on color ...others opinion or other status.*” has the right to take part in the conduct of public affairs, directly and through freely chosen representation and on the attainment of 18 years age to vote and to be elected at periodic national elections to any office and any level of governments. This show the inclusion of PWDs rights in the constitution.

2.2.1.2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF PWDS UNDER FDER CONSTITUTION.

The FDER constitution imposes the right to participate in economic, social and cultural right commonly in equal bases with each other enjoy all benefits derived from Ethiopia. It implays PWD right in the provisions especially under Art. 41 “*Every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood, occupation and profession.*” use “*equal access to publicly funded social services*” of the country. The constitution impose obligation on the state allocate the increase resources to provide for public health, education and other social services and take necessary measures to increase opportunities for citizens to find gainful employment.⁵⁰Then they participate in the basic aim of development activities shall be to enhance the capacity of citizens for development and to meet their basic needs in particular to be consulted with respect to policies and projects affecting their community to improves their living standards and sustainable development of the peoples of the Ethiopia as a whole in the

above discussion the word “*citizens and people*” identify or implies includes PWD if the government take measure without any discrimination for PWD according to the constitution they become effective.⁵¹

The FDRE constitution also provide under Art. 41(5) “*physically and mentally disabled with in available means allocate resources to provide rehabilitation and assistance*” this article has a sense of PWD rehabilitation and. All PWD in Ethiopia considered as non productive citizens and receiver benefit from the government for self reliance under this article provision. This contradict with the other provision of HR that state in constitution clearly specially Art. 13, 41(3) and other in the FDRE constitution provided.

The FDRE constitution imposes responsibility on the state to protect and preserve historical and cultural legacies and to contribute to the promotion of the arts and sports. But it does not specifically address to the rights of PWDs.⁵²

In FDRE constitution the privacy of international human right treaties in the interpretation of the constitution Art. 9. The constitution provision of Art. 41(5) is not enough as to guarantee the right of PWDs. It is clear in that the right of child and women are mentioned clearly and comprehensively. But it is not for PWDs. Art. 41(5) is more of a humanitarian provision unlike the human right provisions.

2.2.2. THE RIGHT OF PWD IN ETHIOPIA UNDER PROCLAMATION NO. 568/2008.

This proclamation called “*The right of PWD to employment proclamation No.568/2008*”

It was the only one best proclamation to the right of PWDs regarding to employment opportunity in Ethiopia. This proclamation was enacted with the objective to provide for proper protection of PWDs employment right with others. The major aim of this proclamation to remove the negative attitude of person’s disablement in the society is deep rooted that it has adversely affected the right of PWDs to employment and to follow the countries policy of equal employment opportunity provides reasonable

accommodation for PWD to employment and lays down simple procedural rule that enable them to prove discrimination encountered in employment before any judicial organs.⁵³

2.2.2.1. THE PROTECTION OF THE RIGHTS OF PWDS TO EMPLOYMENT OPPORTUNITY.

Under Art. 4. of proclamation “*a PWD having the necessary qualification and having equal or close sores to that of other candidate’s shall unless the nature or the works dictate other wise have the right with out any discrimination*” to occupy a vacant post in any office or undertaking through recruitment, promotion, placement or transfer procedures and participate in a training program to be conducted either locally or a brood and they have the right to get the wage and other benefits of the position be occuppies.⁵⁴

The above phrases say “*unless nature or the works dictate*” means according to the definition of Art. 2(8) of the proclamation a job that could not be performed by a qualified person with disabilities. Even if reasonable accommodation is provided by this definition of proclamation the discrimination of PWD rights to employment is much narrowed to protect their rights.

According to the provision of Art. 7(1), 10(1) any person with disability or the trade union of which he is a member or the concerned organ entrusted to implement this proclamation may have the right to institute a suit before the competent court on the issue of discrimination on the ground of his disability and with respect to Art. 4(1) and other conditions related to employment for PWD right the court shall render its decision with in 60 days from the date on which the suit is instituted. The punishment of the employer according to Art. 11(1) Provision unless the provision of the revised criminal code provide more severe penalties. The proclamation shall be penalized by a fine not less than Birr 2000 or not exceeding Birr 5000.⁵⁵

Comment: - the proclamation is a great progress in the protection of the right of PWD. But it is only limited to the right of employment. The other rights of PWD do not have such type of laws.

2.2.2.2 THE PROHIBITION OF DISCRIMINATION TO PROTECT PWDS RIGHT TO EMPLOYMENT OPPORTUNITY.

This proclamation impose obligation on employer to take necessary measure for protection of PWD right. according to Art.6(1) *“any employer shall have the obligation to”* take measures to provide appropriate working ,and training conditions and working and training materials for persons with disability; shall assign an assistant to enable a person with disability to perform his work or follow his training. *“specially for the protection of the women with disability right the employer shall be obliged to”* take all reasonable accommodation and measures of affirmative action to WWD taking in to account their multiple burden that arise from their sex and disability. By this reason the employer give attention to *“protect women with disabilities from sexual violence that occur in the work places and, with out prejudice to other sanction to be taken against the offender under the relevant laws, take administrative measures against the perpetrator of acts of violence.”*

On the other hand the proclamation imposes the burden of proof on the employer according to Art. 7(2) a suit instituted for the competent court by any PWD the employer shall be responsible to prove that there was not act of discrimination. From this provision it observed as the protection given for the PWDs.⁵⁶

According to Art.5(1-3) provided the prohibition of discrimination any law, practice, customs, attitudes or other discriminatory situations selection criteria that impair the equal opportunities of employment to disabled persons. and in recruitment, promotion, placement, transfer or other employment conditions when disabled person is not in a position to exercise his equal right of employment opportunity as a result of not providing a reasonable accommodation, shall be regarded as discriminatory acts by this proclamation. The exception of this ideas provided under Art. 5(4) the affirmative action taken to create equal employment opportunity to PWD or exclusions dictated by the nature of the work may not be regarded as discrimination by this law.⁵⁷

THE CIVIL CODE OF ETHIOPIA RELATED TO PWDS RIGHTS.

The civil code of Ethiopia contains a few provisions extending protection to PWD right under its articles. Natural persons have full capacity before the law. The first principle of the civil code under Art.1 *“every human person is the subject of rights from its birth to its death”* and also according to Art. 8,9,192 and 193 of the civil code every physical person is capable to performing all the act of civil life and they shall enjoy the right of personality and liberty granted by law unless he is declared incapable by the law like age, mental condition (insane) and sentence passed up on a person. But PWD are entitled under capable person impliedly include them. These shows the civil code of Ethiopia under the above provision protects all human being equal with out discrimination of PWDs.⁵⁸except age, insane,

On the other way the civil code under tattle II chapter 3 provided the condition of disability legal capacity of PWDs limited under the following condition. The deaf-mute, blind person and other persons who as a consequence of permanent infirmity *“or unable to take care to administers their property may invoke in their favour the provision of the law which afford protection to those who are insane.”* The provisions of this article indicate the discrimination of the right of PWDs. It considers them as incapable and nonproductive and also only consumer people.⁵⁹

But the insaneness was the illness caused by known or unknown causes. This illness may treatable or not. So the insane person needs medical treatment from the concerned body as the state law provides the right to get medical treatment for every citizen of Ethiopia. When the definition of the civil code seen *“an insane person is one who as a consequence of a mental disease or of his senility, is not capable to understand the important of his action.”* The provision lists other person like an insane under Art. 339(2) *“persons who are feeble minded, drunkard or habitually intoxicated and persons who are prodigals shall in appropriate cases be assimilated to insane persons”* The effect of application of these provisions on the person on ill (patient) who are considered as *“insane”* on the assumption that they can not administer their property’s and themselves are provided under Arts. 340 and the subsequent articles from 341 up to 379 of the civil code provisions.

The application of the provision designed for the insane persons who are not unable to learn, work and participate equally with any other person by the help of technology and training and depriving and restricting their legal capacity under civil code it is for the purpose of protection *insane's interest* administrate their property and 3rd person's right.⁶⁰ It considered as contracted concluded with incapable person it create difficulty to ascertain the consent of the contracting party and the law makes the 3rd parties believes that the insane person can not lead their affair with out the help and permission of the tutor.⁶¹

How ever the fact that the PWDs are governed equally with the insane persons who can not be fair by mental, psychological and other measurements and restricting the legal capacity of the PWDs create problems in its interpretation, application and effect.⁶² Because PWDs are able to learn, work and participate equal with any other person when they rehabilitate, assistance and a comfortable by using technology and give training applicable to them. Unless otherwise these huge fragment of productive people be consumer of the country and increase the poverty in the country as non productive able people play a roll for increase the poverty to. In the civil code provision it exposes the PWDs to face unnecessary discriminatory performances.

The civil code has provision regarding to witness and signature capacity are limited restricted for the people with disabled by blindness under Art.1728(3) "*he signature or thumb mark of a blind person hall not bind him unless it is authenticated by a notary, registers or judge acting in the discharge of his duties.*" The restriction of a blind person's rights freedom to conclude contract with other persons as free. Because people would not be usually willing to take the cause to notary court or administrative offices to sign contracts. This restricts PWD social life with other persons.

Again in Art 1730(1) impose restriction the right of all PWDs where necessary according to this article they considered as the insane the duty of witness "*shall be certify that a contract was made and the terms thereof*". When it necessary for the contracted party. According to the provision the need of witness to identify it is present the contract, between the parties, and on what they concluded the contract at that time by consent or not to prove this purpose Art. 1729(1) imposes requirements of witness. These

requirements of witness raise discrimination on the PWDs. It is decide the person blind impairment unable to be a wittiness because they considered as incapable.⁶³

The Amharic version of the Ethiopian civil code article (... deaf, blind and insane...) have the same provision. But according to the definition of the these term call as blind and hearing impairment people were as the insane has the other definition. So the provision of this Amharic civil code extremely discriminate the right of all people with physical impairment.

THE REVISED CRIMINAL CODE **RELATED TO DISABILITY RIGHT.**

The revised criminal code of Ethiopia entered in to force in 2005. It contains provision equal protection for all peoples. Under Art. 4. The revised criminal code of Ethiopia provides that “*criminal law applies to all alike with out discrimination as regards persons, social conditions, race, nations, nationality, social origin, colour, sex, language, religion ,politically or other opinion, property, birth or other status. No difference in treatment of criminals may be made except as provided by this code...*”the term “*other status*” should cover PWDs right equally protected with other by the revised criminal code of Ethiopia with out discrimination. Again the code offers them protection under the following articles provision.⁶⁴

Under Art. 48(2), 49(1) about the criminal responsibility a person is responsible under the law according to the condition of the offender capability at the time of his act. When a person delay abnormal in his development, deterioration of his mental faculties, deficient conditions or any other similar biological cause to disability, he was in capable at the time of his act of understanding the nature or consequences of his act or of regulating his conduct according to such understanding he is not responsible for his acts under the law. But at the time of his act he was partially incapable he will be partially liable to the punishment specified for the crime committed this is protect persons with intellectual disability.⁶⁵On the other hand the revised criminal code of Ethiopia does

punish discriminatory practices against all PWDs. The revised code has criminalized several forms of acts of violence and aggravates the punishment when certain forms of violence are committed against PWDs. Those cover sexual violence such as rape, sexual outrage, sodomy, incest and abduction.⁶⁶

The crime of rape punishment depends on the ground of different aggregative punishment under Art. 620. in this article at sub.one it stated as follow “ *who ever compels a woman to submit to sexual inter course out side wed lock, whether by the use of violence or grave intimidation or after having rendered her unconscious or incapable of resistance is punishable with rigorous imprisonment from five years to fifteen years.*”

Art. 620(2) (a, c) “*Where the crime is committed on a women incapable of understanding the nature or consequences of the act or of resisting the, due to old age, physical or mental disability, depression or any other reason.*” And on young women between thirteen and eighteen years of ages are punishment shall be rigorous imprisonment from 5-20 years. These three elements of the sub article cover most categories of women with mental or physical disability who are incapable of depending them selves.⁶⁷

The revised criminal code of Ethiopia prohibits sexual outrage under Art. 622- 628 the grounds of punishment of them are depend on the different definition defined under Art. 622 up to 628 of the revised criminal code of Ethiopia they stipulated under them. The higher penalty involving rape and sexual outrage according to Art. 628 are from 5-25 years rigorous imprisonment punished the offender. When crime committed against person with intellectual disability according to Art.623 defines as “*who ever knowing of his victims incapacity, but with out using violence or intimidation,, performs sexual intercourse, or commits a like or any other indecent act, with an idiot, with a feed able minded or retorted, insane or unconscious person or with a person who is for any other reason incapable of understanding the nature or consequences of the act. Is punishable according to the circumstances of the case with simple imprisonment for not less than one years or with rigorous imprisonment not exceeding fifteen years*”

The revised criminal code of Ethiopia criminalizes Sodom's and unnatural carnal offence. According to Art. 630(2) (a) the penalty will be aggravated when the crime committed on person PWDs from three years to fifteen years rigorous imprisonment. If the perpetrator take unfair advantage of the victims inability to offer resistance or defend himself /herself or the feeble mindedness of the victim.⁶⁸

In addition under the revised criminal code of Ethiopia the abduction of the woman are prohibited when abducts are committed by violence or intimidation it penalized by law. According to Art.588 and 590(2)(d) the abduction of a woman is punishable under the revised criminal code of Ethiopia when the abduction of a woman by violence or intimidation is punishable with aggravated punishment when the crime is committed against a woman with intellectual disability or one incapable of offering resistance or is unable to defend herself . The crime penalty will be aggravated from seven years to twenty years rigorous imprisonment. Similar to this offence is committed against a minor with intellectual disability or who is incapable of defending herself/himself. The offender punished by aggravated from ten years to twenty-five years according to the provision Art. 590(2) revised criminal code of Ethiopia the provision covers, dependent on the other conditions set forth in the provision the perpetration of abduction on a PWD. All the above discussion on revised criminal code of Ethiopia depends on the protection PWD that its covers their rights.⁶⁹

CHAPTER THREE
ACCESSIBILITY, EDUCATION EMPLOYMENT
OPPORTUNITY FOR PWDS.

3.1. ACCESSIBILITY

The issue of accessibility relates to social and physical factors. Most of HR discussed in relation to the treatment of international instrument of HR including the right of movement, the right to receive or impart information, the right to employment, the right to education, the right to exercise political right such as voting, the right to have access to cultural or religious place and the right to have access to facilities and other depend on the accessibility right of an individual.

However the major factors problem for PWDs from participating fully in all real life activities include road, transportation, building and information accessibility. The use of services, products or information can not be realized with out accessible means to reach them.⁷⁰

The UN standard rules on the equalization of opportunities for PWDs 1993 provides the state take measures to remove the obstacles to participation in the physical environment by making the physical environment accessible entails giving special consideration to housing conditions, building, public transport service and information for PWDs other means of transportation streets and other outdoor environment. According to this rule the states have responsibility of providing adequate information on disability policy and guidelines to architects construction engineers and others who are professionally involved in the design and construction of the physical environment, so the needs of PWDs inclusion at the design stage of the process.⁷¹

Similarity based on this rules idea the recent convention on the rights of PWDs 2007 provided the relevant provision to better and equal life to disability rights with other the basic accessibility principle under Art 9.

1. To enable persons with disabilities to live independently and participate

fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

(a) Buildings, roads, transportation and other indoor and outdoor Facilities, including schools, housing, medical facilities and workplaces;

(b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures:

(a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

(b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(c) To provide training for stakeholders on accessibility issues facing persons with disabilities;

(d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

(f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

The convention have a practical contribution to expand accessibility solution and develop effective accessibility policy options for countries like Ethiopia which have no enough accessibility law or practice.

But the supreme of law FDRE constitution provides under its social objectives in general idea all Ethiopian use equal access “*to the extent the country’s resources permit, policies shall aim to provide... to public health and education, clean waters, housing, food and social security.*”⁷²

The problem lies when it comes to specifically dealing with PWD rights. In addition to the general country's' problem of accessibility practices the problem doubled for PWD and it will be triplet when the cases is WWD or for children with disability. When the writer observes the current day accessibility laws of building, public transport, road and information service in Ethiopia; it looks as follow.

3.1.1. BUILDING

In Ethiopia there is no law as a proclamation or as a regulation level to govern the accessibility of buildings. There is no standard for the public or private buildings to have accessibility services for PWDs. Even at Addis Ababa city administration office who gives license for every construction do not have the standard of accessibility for PWDs. Every business building, office building, religious area, recreation and condominium housing of the city are not accessible for them. They do not have signals for the blind, signs for the deaf, flat stairs for physically disabled etc. and there is no compulsion for the owners to do such things with in their buildings.

3.1.2. PUBLIC TRANSPORT

Public transport like bus, taxi and others services delivery are not accessible for PWDs specially wheelchair user, the bus stations do not have signals for the blind etc.

3.1.3. ROAD

The road was not constructed as accessible to PWDs passengers. The traffic lights also not consider the person’s impairment visually; traffic lights do not have sounds etc.

3.1.4. INFORMATION

The information services gives in Ethiopia Medias, TV, magazines, news paper and internet they did not enough and not consider the type of disability. The best example

may be job vacancy announcement it's announcement mechanisms are not considering disability community and it's one of the difficulty for the PWDs right protection.

All the above and other related are not accessible for PWDs specially sanitation facilities is the big problem in the hotels, public toilette, around working place and in different level of schools and training center in those areas are no special sanitations for PWDs. This is limit to lead their life effectively in the society.

3.2. EDUCATION

Every thing in human life related with education. Education is the instrument of developments for human beings. Under UDHR provides *“every one has rights to education, education shall be free at least in the elementary and fundamental stages elementary education shall be free, at least in the elementary and fundamental stages elementary education shall be compulsory technical and professional education shall be made generally available an higher education shall be equally accessible to all on the basis of merit.”*⁷³

Education shall be directed to the full development of the human personality and to strengthen of respect for human rights and fundamental freedoms.

The standard rules on the rights equalization opportunity for PWDs provides relevant to this under rule number 6.

On education states that special attention should be given to very young children with disability, preschool children with disabilities and adults with disabilities particularly women the states with the aim of education in view of recognizing the principles Of equal primary secondary and tertiary education opportunities for children, young, and adults with disabilities in integrated settings. The state is also expected to ensure that the education of PWDs is an integral part of the education system. In states where education is compulsory, it should be provided to girls and boys with all kinds and all level of disabilities including the most sever ones.⁷⁴

On other way the recent international document on the rights of PWDs convention list several guidelines on the issue of educational rights for PWDs under Article 24

“1. That is state parties recognize the right of persons with disabilities to

education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;*
- (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;*
- (c) Enabling persons with disabilities to participate effectively in a free society.*

2. In realizing this right, States Parties shall ensure that:

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;*
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;*
- (c) Reasonable accommodation of the individual's requirements is provided;*
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;*
- (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.*

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

- (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;*

- (b) *Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;*
 - (c) *Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.*
4. *In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.*
 5. *States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.”*

How ever constitution of FDRE Art.41 provided the equality of educational opportunity for all under HR chapter three “*every Ethiopian national has the right to equal access to publicly funded social services. The state has the obligation to allocate ever increasing resources to provide to the public health, education and other social service*”. Additionally this provision give grantee for PWDs the state obliged to them with in available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled.⁷⁵ The same to this under Art. 90 (1) the social objectives to “*the extent the country’s resources permit policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security.*”

Special education requires teachers with specific training skill which enable them to understand the nature of the learning's characteristics of the disabled and special materials to support for PWDs. In Ethiopia this like of special educational institution are present in few number around urban area.

The establishment of special educational school for children with sensory disability such as blindness and the deafness in the last your decades until now the intake capacity of these few special schools was limited and the number of children served in these schools remains small when compared with the existing needs of special educational needs in rural and urban area of Ethiopia.⁷⁷ This time the children with motor disorders (polio cases and other with neurological problems), reading writing difficulties, visual and hearing (auditory) impairment, mild developmental disabilities, behavioral problems as well as others with special educational needs have been going to regular schools with children without disabilities. These had never been a placement service in the school system. Then most of these children seen to be left with out any special educational support, then they suffer psychological and academic difficulties and are intended to leave school early in life with out success.⁷⁸ A few of them continue in vocational secondary and higher educational level. They are also suffered by lack of source materials special skilled teachers and suitable for pwds attaining their educational at different level of academic settings in the same way discrimination on hearing impairment and mobility problems are common. In addition to lack of trained man power in sign language communication in order to add to their educational capacity.⁷⁹

Some discriminatory measures are also reflected from certain not aware officials authorized to administer educational institutions.

For instance the case file No.58/92 Ethiopian national association of the blind (ENAB) Vs, the Jimma teacher training College jointly with the Orommia regional bureau of education the refuse the application of students to be participants of the educational program. The Jimma teachers training collage is worth noting its discriminatory regulation officially issued in 1999.

This unconstitutional and discriminatory regulation issued by the collage with the understanding of the regional bureau. The Ethiopia national association of blind instituted a case in one of the federal first instance civil court in Addis Ababa against the

college jointly with the bureau. However, the court after long proceeding decided not to give a ruling on the illegality of the regulation. Then the court directed the case to the constitutional inquiry with false reason no power to decide without legal effect of a regulation issued by government officials the court is mistaken on its final judgment not to decide the case by its own motion. By doing this the court has waived out its constitutional responsibility to interpret and apply the human rights principles, economic, social and cultural rights and social objectives of indicate under Arts.13, 25, 41 and 90(1) of the FDRE constitution. The regulation, on its face value is against the equality principle and the equal rights of citizens to have on equal access to publicly funded social services and public education irrespective of their social status of any kind and other similar discriminatory measures followed by the ignorant public official and lack of specific legal provision concern PWDs suffered lack of equal opportunities of their constitutional rights and human rights. Then they live a life of dependency on other persons.

3.3. EMPLOYMENT OPPORTUNITIES FOR PWDs

Employment opportunity in general terms may be described as the rights to work on equal basis. In every nation in the world the rights to work or an employment opportunity continues to be an essential part of human condition as a primary source of income upon which human survival depends.

The ILO is a UN specialized agency dedicated to guaranteeing fair and decent conditions of labour everywhere; It (ILO) proposed that PWDs should wherever possible be trained with other persons, under the same conditions and with the same pay, and that training should continue to the point where the disabled person is able to enter employment in the trade or occupation for which he/she has been trained.⁸⁰

ILO has made a significant and consistent contribution to the promotion of equal employment opportunities in the convention No. 159 requires ratifying states to introduce a national policy based on the principle of equality of opportunity between disabled workers and workers generally respecting equality of opportunity and treatment for disabled women and men and providing for special positive measures aimed at effective implementation of these principles.⁸¹

However Ethiopia has ratified several international laws which may be invoked by all whose interest may be affected including PWDs for the implementation of their universal Human rights and relevance to specific individual or groups of individuals such as women (CEDAW) children (CRC) and other different conventions and recommendations adopted by the ILO of which convention concerning vocational and employment (disabled persons) 1983 and No. 159/1983 and recommendation No. 168/1983.

In doing so the convention has been granted as status of national law in accordance with the constitutional provision stated under constitution of FDRE Art. 9(4) the convention as well as its recommendation is deemed as one of national legal instruments which may have a functional relevance for PWDs, concerning employment opportunities.⁸²

The ILO convention No.159/1983 provides that under Art.1(2) and Art. 7 the executing authorities shall take measures with view to providing and evaluating vocational guidance, vocational training, placement, employment and other related services to enable PWDs, secure, retain and advance in employment for the achievement of this objective, the convention forcemember states, to utilize existing services for workers in general, wherever possible and incorporate with necessary adaptations.⁸³ In the same understanding Recommendation 168/1983 recommends that PWDs should enjoy equality, opportunity and treatment in respect of access to retention of and advancement in employment, which wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment.⁸⁴

In other way under standard rule 7 the rights to participate in the work place action programs to provide PWDs training placement and ongoing support such as personal assistance and integrating services, measures to design and adapt work places to make them accessible to PWDs and measures to support the use of new technology and the development of assistive devices, tools and equipment.⁸⁵

country's should actively support the integration of PWDs in to open employment by measures such as: vocational training incentive oriented quota schemes reserved or designated employment, loans or grants for small business, exclusive contracts or priority production rights, tax concessions, contract compliance as other technical or financial

assistance to enterprises employing workers with disabilities; Employees in general should be encouraged to make reasonable adjustments to accommodate PWDs.⁸⁶ As employers, states should create favorable conditions for the employment of PWDs in the public sector and take measures to include PWDs in training and employment programmes in the private sectors,⁸⁷ states must also educate other persons by initiating and supporting “Public awareness raising campaigns designed to overcome negative attitudes and prejudices concerning workers with disabilities.”⁸⁸ This is an important point since considerable resistance may be met with from fellow workers.

In addition rule 7 addresses the need for participation by organization of PWDs, stressing that they must be consulted by states, workers organizations and employers. “Concerning all measures to create training and employment opportunity, including flexible hours, part time work, job sharing self-employment and attendant care for PWDs.”⁸⁹ And states, workers, organizations and employers should cooperate to ensure equitable recruitment and promotion policies, employment conditions, and rates of pay, measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment related injuries.⁹⁰

As it stated above these international instruments have a direct application to guarantee the employability right of PWDs in the same with national laws.

The case of the following here was discrimination against PWDs is prevalent in Ethiopia and the insufficiency of national as well as international laws to guarantee the special needs and rights of persons with disabilities in the field of employment. There may be a great number of cases not reported to courts of law due to personal financial constraints and lack of qualified legal assistance.

For example. The case No. 485/98 concerning discrimination against the right of retention in employment after acquiring disability with in the some work place.

Mr.Lemma vs. Ethiopian disaster prevention and preparedness agency (D.P.P.A.)

Mr.Lemma has been working in the agency as a project expert for a period of more than two decades suddenly he has lost his eye sight completely. On this state of fact, he acquired the status of being a person with disability, blindness, from the status of person

without disability. After a period of time the agency has notified its decision to retire Mr. Lemma due to his a state of fact blindness without any other alternatives. Then Mr. Lemma instituted a case against the agency claiming that the decision is against the constitutional right equality Art. 25 of FDRE; irrespective of any social status and applied for his retention instead of forced retirement. The case was lodged in the administrative tribunal empowered to handle civil suits in which government employees the administrative tribunal, having made detailed. The case carefully examination of relevant laws decided in favor of Mr. Lemma; stating that the latter can perform his official duties, since the nature of his former professional does not have a direct connection to his acquisition of disability.

In the view of tribunal, blindness can not and shall not be a hindrance for a person to be employed or retained as a project officer.

Like the above discriminatory of work problem in Ethiopian it may be the specific obligatory new international convention on the rights of PWDs addressing the issue of employment opportunity if it adopted and become our part of law according FDRE constitution Art.9(4). It is sufficient with FDRE proclamation No.568/2008 to resolve the problem of PWDs in the field of employment opportunity and in the other aspect of human right by equality with out any discrimination with others.

If Ethiopia ratified UN 2007 convention on the rights of PWDs; Ethiopia can recognize to protect the rights of PWDs according to the provision of this convention Art. 27 PWDs would have priority to work on an equal basis with others. The provision of Art.27 was

“1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain aliving by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) *Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;*
 - (b) *Protect the rights of persons with disabilities, on an equal basis with others, to just and favorable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;*
 - (c) *Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;*
 - (d) *Enable persons with disabilities to have effective access to general technical and vocational guidance programs, placement services and vocational and continuing training;*
 - (e) *Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;*
 - (f) *Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;*
 - (g) *Employ persons with disabilities in the public sector;*
 - (h) *Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives and other measures;*
 - (i) *Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;*
 - (j) *Promote the acquisition by persons with disabilities of work experience in the open labour market;*
 - (k) *Promote vocational and professional rehabilitation, job retention and return-to-work programs for persons with disabilities.*
2. *States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”*

The employment opportunity for PWDs proclamation No. 568/2008. It was the new proclamation to protect the right of their work opportunity in Ethiopia.

Under Art. 4 of this proclamation provides that unless the nature of the work dictates otherwise a PWDs having the necessary qualification and scored more top that of other candidates shall have the right with out any discrimination: to “*occupy vacant post in any office or undertaking through recruitment, promotion, placement or transfer procedures*” or to “*participate in a training programmer to be conducted either locally or abroad*”. In addition where a PWDs acquired the necessary qualification and having equal or close score to that of other candidates, preference shall be given for PWDs by the condition provided above the provisions prohibit discrimination of the criteria of selection candidate under this Art. 4(3) no selection criteria shall refer to disabilities of candidate unless the nature of the work dictators otherwise. And any person with disability shall have the right to get the wage and other benefits of the position he occupies generally the proclamation provides the prohibition of discrimination on PWDs responsibilities the prohibition of discrimination on PWDs responsibilities of employer for PWDs and their rights.

The employer has responsibility to perform reasonable accommodation for PWDs according to definition Art.2(5) of the proclamation “*reasonable accommodation.*” means an adjustment or accommodation with respect to equipment at the work place, requirement of the job working hours, structure of the business and working environment with a view to accommodate persons with disabilities to employment. According to this definition the phrase “*accommodation with respect to equipment at the work place*” means the employer has responsibility to fulfill for the persons disability impairment. For instance a person may have physical disability on his hand, the employer has an obligation to bring the material help for him or brings an artificial arm or material to catch the pen other things. Because of this reason the definition of this phrase has interpretations problem. In the same way under Art.4 (2) the phrase “*equal or close score*” there are no definition or the standard of the equal or close score. It has the interpretation problem in this proclamation it was open to discrimination of PWDs. Because the employer prefers the person non-disability for the reasons of less aware

about right PWDs, the reason mentioned under section 3.3.2. and to remove burden of responsibility under Art.6 of the proclamation provided.

3.3.1. ACCESS OF VACANCY INFORMATION TO PWDs.

The major difficulties for PWDs. the lack of vacancy information to seek jobs;

- There is no disability information center.
- The vacancy announcement placed at different notice board like note board and on the road; as the employer will on different buildings, pole of electricity power, pole of telecommunication etc.
- On the other side notice by mass media, news paper, TV, radios are not considered them.

All above condition of vacancy announcement are excluded the rights of PWDs in Ethiopia.

For *example* the person visual and mobility impairment have problem to get vacancy information for work opportunity and they can not help their people by their knowledge and to capable economically to help themselves for independent life.

3.3.2. THE ATTITUDES OF EMPLOYER

When by any means the PWDs got the information of vacancy to apply with other candidate. Then raised another discriminatory issue from employer directly or indirectly; according to the following witness.

Ato Mazahaymanot Worku senior public prosecutor of ministry of justice and was visual impaired; he said

- *We do not have reader or interpreter at the time of exam.*
- *Most employers do not consider PWDs being fit for their organization.*
- *They said “our building is not comfortable for you and the working place also the same.”*
- *Employer believes that employing PWDs increase expense such as employing assistants and providing that they lack of ability to move here and there. Especially the person use (crutch, wheelchair) blind they assume as inefficient producer form.⁹¹*
- *They are lack of awareness about disability issues and employees with disability.⁹²*

- The employer misunderstanding of the capability of PWDs has resulted in a generally negative attitude and ideas discriminate towards them.⁹³

- The employer required qualification in different ways like the discriminatory job notice and unfair screening mechanisms to block the opportunity of work and the employers always raise issues which are irrelevant with PWDs at the time of interview.

For example National Bank of Ethiopia committed a mistake on the person move by wheelchair as he told to the writer of this paper from Ethiopian national association of the physical impairment; his name was Ato Guya chair man of the association; he was an accountant graduated from Addis Ababa University. he said *“after I applied by fulfilling all necessary criteria for national bank of Ethiopia and I was taken the exam of employer and got necessary point that able me to pass the exam They called me for interview and said “you are not fit on this place of work; you are return my client this job is not comfort for you.”* Similar to this issue on the other PWDs committed discriminatory action by violating of their equality rights given laws.

CONCLUSION

This research started by defining the term disability as well as the main types and cause of disability. The thesis also deals about the issue of PWDs rights in Ethiopian. Right is some thing that is entitled to all human being due to their humanity so they can exercise it up to the end of their life with out any limitation unless laws limit it.

All human rights instruments apply equally to PWDs right by their universal principle of non discrimination.

Additionally UN adopted on December 13, 2006 and signed on March 2007 specific disability convention to address a comprehensive and integral convention with the objective of promoting the right and dignity of PWDs. The convention not only entitled the disability community with right but also it enforce states parties to develop different way of thinking about disability issues and to introduce laws ensuring that PWDs are treated fairly and in equal manner with other follow citizens with a possible affirmative action. The convention will also be the base for ensuring equality and enjoyment of all human rights such as accessibility, personal mobility, living independently, health,

education employment and rehabilitation and participation in all political, social economical and cultural life with out any discrimination.

The convention would serve as to bring appropriate disability guideline and basis of law for countries that have no enough disability laws like Ethiopia.

Ethiopia participated in the signing ceremony of the convention on March 30, 2007 and to ratify this convention one of the agenda of the parliament in this working year (2008), but the parliament has closed with out any discussion on this issue. Even if the FDRE constitution pave the way for the ratification of international convention and it is a grate opportunity to have disability laws in Ethiopia; it do not have enough provisions concerning disability. The In the FDRE constitution provision of art 41(5) is not enough as to guarantee the rights of PWDS. Comparatively it is clear in that the right of children and women are mentioned clearly and comprehensively under the constitution. But it is not the cases for PWDS. It is more of a humanitarian provision unlike the human rights provision.

The proclamation No 568/2008, rights of employment opportunities of persons with disability, is a great progress in the protection of the rights of PWDS. But it is only limited to rights of employment the other rights of PWDS do not have such type of laws. The criminal code of FDRE 2005 Punish and aggravate when certain forms of violence are committed against PWDS. Those crimes are sexual violence such as rape sexual out rage, sodomy, incest and abduction.

Like the absence of comprehensive domestic laws concerning disability the research has also discover that PWDS in generally have little or no access to social and economic service. They have encountered discrimination on mobility and information discrimination because roads building and public transport facilitate are not accessible for them in Ethiopia.

RECOMMENDATION

The researcher recommends the following immediate and long lasting solution on the protection of the rights of persons with disability.

- The responsible organs especially counsels of peoples representatives of Ethiopia has the responsibility to ratify the most important UN convention 2007 on the rights of PWDs.
- This convention does not need ratification only; it also need published by Negarit gazette as proclamation for its implementation. Its translation in to different local languages also important for its application by the all courts, government and non governmental organizations. Then it is possible to say that under the Ethiopia laws the rights of the PWDs is fully protected.
- Under employment opportunity for PWDs proclamation No 568/2008 Art. 4(2) has interpretation problem. It must be become fixed stand as to guide the problem of the phrase “*equal or close scare*”. The researcher recommends that it is the Ministry of labour and social affair ministry responsibility to define the term.
- The researcher also recommends the amendment of the civil code on articles of tutorship and judicial interdiction provisions. The provision needs clarity and the languages used require to be revised. In addition to this the code must have provisions by allowing the use of signature or special sign by the blind persons as every body else without discrimination. The provision on the capacity of wittiness under article 1729 needs revision, it shouldn't be collectively prohibits all persons with disability from the right to testify.
- In order to achieve the rights, equal opportunities and participation in the field of employment according to the proclamation No. 568/2008 the following accessibility areas shall be fulfilled for PWDs unless otherwise this proclamation take the chance of proclamation No. 101/94 lack of implementation. The researcher recommends for each points as

: - urban road

It must be constructed as access to PWDs passenger's road includes for blind and wheelchair mover persons. The traffic light not only colour; it must also include sound signal code to across the road.

: - Transportation

Regarding to public transportation the authorized organ prepare special service like priority of having service or to give especial tickets for the PWDs as workers of the city bus authority, with payment.

: - Building area

The concerned authorized body monitors the design of buildings as it accessible for PWDs in every aspect of service. For *example*: - The condominium houses not have lift. Human being due to different causes through the life becomes disabled. So the person become disabled faced a big problem to live in that condominium house which constructed with out lift.

: - Education

The government proposes more materials and special skilled teachers concerning PWDs to conduct teaching and training at all level of education.

: - health care

In all hospital and health center need the man skilled with symbol language to communicate with hearing impairment persons.

Therefore the legislative shall promulgate laws, regulations on the accessibility for PWDs in each area and it is important for the proper to implementation of the employment opportunity proclamation No. 568/2008.

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