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ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
FACULTY OF LAW

THE RIGHT TO EDUCATION OF CHILDREN WITH
INTELLECTUAL DISABILITY AND ITS
IMPLEMENTATION IN ADDIS ABABA

BY: HIWOT ABEBE

March, 2011
ADDIS ABABA

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Disability And Its Implementation In Addis Ababa**

BY: HIWOT ABEBE

**A THESIS SUBMITTED IN THE PARTIAL FULFILLMENT OF
THE REQUIREMENT FOR THE DEGREE OF MASTERS OF
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FACULTY OF LAW**

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ABSTRACT

The purpose of this research is to assess the implementation of the right to education of children with intellectual disability in Addis Ababa. To this end, a descriptive survey is employed. Quantitative and qualitative research methodologies were administered. Questionnaires, interviews, and field visits were used as data gathering tools. The responses were interpreted and analyzed. The primary sources of data were children with intellectual disabilities from special and regular classes, inclusive regular class teachers, special class teachers, inclusive regular class students, school directors, concerned Government body and NGOs. A total of 160 respondents were selected using purposive sampling techniques. Secondary sources of data are reports of the Central Statistic Agency on the status of disability in Ethiopia and Education Abstract published by Ministry of Education.

Finally the quantitative data were analyzed using percentage while the qualitative ones were transcribed and analyzed. The core findings of the study are; 1st) The study finds out that schools in Addis Ababa having special and inclusive classes are not available and physically accessible for children with intellectual disability as a result a great majority of children with intellectual disability are out of reach of education. 2nd) The study disclose the fact that those available schools are not equipped with relevant learning materials and teaching aids pertaining the special needs of children with intellectual disability. 3rd) The study reveals that the school environment in most of the schools with special and inclusive classes are not convenient and comfortable for children with intellectual disability. 4th) At last, the good thing is there is favorable policy environment for fully adopting inclusive education in the future in Ethiopia.

ACRONYMY

AAIDD: - American Association for Intellectual and Developmental Disability.

AAMR: - American Association on Mental Retardation.

ACRWC: -African Charter on the Rights and Welfare of the Child.

AIDS: - Acquired Immuno-Deficiency Syndrome.

Art: - Article.

AU: - African Unity.

CADE: - Convention Against Discrimination in Education.

CRC: - Convention on the Rights of the Child.

CSA: - Central Statistic Agency.

CSTC: - Community Skill Training Center.

ECHR: - European Court of Human Rights.

ECOSOC: - United Nation Economic and Social Council.

ECPHRF: - European Convention for the Protection of Human Rights and Fundamental Freedoms.

Ed.: - Editor.

Eds.: - Editors.

EEA: - English Education Act.

EFPD: - Ethiopian Federation of Persons with Disabilities.

ESDP: - Education Sector Development Program.

FDRE: - Federal Democratic Republic of Ethiopia.

HIV: - Human Immuno-deficiency Virus.

ICCPR: - International Covenant on Civil and Political Rights.

ICESCR: - International Covenant on Economic, Social and Cultural Rights.

ILO: - International Labor Organization.

IMF: - International Monetary Fund.

IQ: - Intelligence Quotient.

MDGs: - Millennium Development Goals.

MOE: - Ministry of Education.

NFBE: - Non-Formal Basic Education.

NGO: - Non-Governmental Organization.
NPA: - National Plan of Action.
OSJE: - Organization for Social Justice in Ethiopia.
SC-S: - Save the Children, Sweden.
SNE: - Special Need Education.
TVET: - Technical Vocational Education and Training.
UDHR: - Universal Declaration of Human Rights.
UN: - United Nation.
UNDP: - United Nations Development Program.
UNESCO: United Nations Educational, Scientific and Cultural Organization.
UNICEF: - United Nations Children's Fund.
UNDESA: United Nations Department of Economic and Social Affairs.
UPE: - Universal Primary Education.
US: - United States.
WFC: - World Fit for Children.
WHO: - World Health Organization.

KEY WORDS

- *Intellectual Disability*
- *Right to Education*
- *Special Needs Education*
- *Inclusive Education*
- *Special Class*
- *Inclusive Regular Class*
- *Children with Intellectual Disability*
- *Policy Implementation*

CONCEPT DIFINITION

Special Need Education: - is an education that focuses on children and students who are at risk of repetition and dropout due to learning difficulties, disabilities or socio-emotional problems, or are excluded from education.

Inclusive Education: - is an education system that is open to all learners regardless of poverty, gender, ethnic background, language, learning difficulties and impairments. It emphasizes that all children and student can learn.

Special Class: - is a class where students with sever special needs or disabilities are taught in small groups by specialized and experienced teachers. The class is found attached to regular school.

Inclusive Class: - is a class where students with special needs attend same class together with students without special needs.

IQ (Intelligence Quotient): - is a measure of somebody's intelligence, obtained through a series of aptitude tests concentrating on different aspects of intellectual functioning. An IQ 100 represents average intelligence.

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CHAPTER ONE

1. INTRODUCTION

1.1 Background of the Study

Education is a key to development. It contributes to personal improvement and individual self-esteem to a sense of inner value in addition to individual worth. Education is both a human right in itself and an essential means of realizing other human rights. It has vital role in empowering women, safeguarding children from exploitative and hazardous labor and sexual exploitation, protecting the environment, promoting human rights and democracy and controlling unhealthy population growth. Education, as an empowerment right, is fundamental way of which economically and socially marginalized adults and children can pull themselves out of poverty and achieve the way to participate fully in their communities. With the international classification of human rights in to civil and political rights in one side and economic, social and cultural rights on the other side, education, with its many features, belongs to both groups of rights. This makes it a fundamental human right.

Right to education is protected in the constitution of more than 140 countries and a large number of international and regional instruments. Such as; Universal Declaration of Human Right (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Right of the Child (CRC), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), African Charter on Human and Peoples Right (ACHPR), African Charter on the Right and Welfare of the Child (ACRWC), etc. These instruments in one way or the other point out the essential natures of right to education.

The primary beneficiaries of right to education are children. The realization of this right entails the participation of three organs; state, parents, and children. Without the collaboration of these three bodies it is impossible to achieve the best benefit from

education. For instance, states are internationally obliged to fulfill at least the minimum core of right to education which are; availability, accessibility, acceptability and adaptability of primary education.

On the other hand, children are vulnerable group of the society and children with disability are relatively at greater state of vulnerability compared to their non disabled peers. More specifically, children with intellectual disability are the most vulnerable and least served section of the persons with disabilities community. Unlike other children, children with intellectual disability seek a special attention and care in order to perform their daily activities which have a direct link with the nature of their disability and communities attitudinal barriers. Although the ability to receive education depends on the severity of the intellectual disability, through education children with intellectual disability will be able to develop their communication skill, self-supporting ability, acquire knowledge. As a result, they can easily meet the world and have a smooth relationship with their families, friends and the community at large. Therefore, this group of children needs special attention.

In Ethiopia, children with intellectual disability, similar to many other countries, are the most marginalized and discriminated groups of the society. As stated earlier education is one of the fundamental rights of children with intellectual disability. Accordingly, Ethiopia has recognized the right to education of everyone including children with intellectual disability under domestic laws, Education Policy, Strategies and Programs and other ratified international legal instruments with a good reference of the latest CRPD.

1.2. Statement of the Problem

In Ethiopia, especially in rural areas children with intellectual disability are considered as worthless members of the community. The society does not believe that children with intellectual disability are capable of being educated, expressing their opinions or sharing feelings. The attitudes of parents having children with intellectual disability also differ from one another. Some perceive them as a gift from God while others over protect them.

For instance, they do not allow their children with intellectual disability to go out and play with their peers; do not send them to school, etc. This is because of fear that their children might be exposed to danger. On the other side, there are families who have negative attitude towards their children with intellectual disability and deny them love, care and protection. This is a result of lack of awareness. Because of these and other problems it is too difficult for children with intellectual disability to effectively exercise their rights with special emphasis to right to education. .

Education is the human right of children with intellectual disability. The Government of Ethiopia has recognized the right to education by declaring a slogan i.e. *"Education for All"* in its laws and education policy, strategy and programs. Ethiopia has also ratified various international instruments that recognized right to education. These are good progresses shown in the education sector. However, the mere declaration of this fact is not good enough for effective realization of the right to education of children with intellectual disability. Further, the attention given to these children is still insignificant compared to the seriousness of the problem.

Based on the UN estimation, 3% of a given population is with intellectual disability. Accordingly, in Ethiopia out of the 2,739,551 (1997 census figure) populations of Addis Ababa those with intellectual disability account around 82,186. Nevertheless, this figure is not compatible with the /2007-2008/ survey of Central Statistic Agency of Ethiopia which indicates that there are only 4,310 persons with intellectual disability in Addis Ababa. On the other hand, in Addis Ababa there are only 10 schools that have special and inclusive classes. So, when we compare the number of schools available to children with intellectual disability in Addis Ababa it shows a clear disparity between the demand and supply. Moreover, the minimum core of the right to education i.e., accessibility, availability, acceptability and adoptability of primary education are far from being effectively realized. Therefore, these facts show the gap between the law and the practice.

1.3. Research Question

The main research questions the research will address are;

- ✓ To what extent are the domestic laws, Policies, Strategies, Programs and international obligations, towards realizing the right to education, entered by Ethiopia have been implemented in Addis Ababa.
- ✓ Are schools in Addis Ababa having special and inclusive classes, available, accessible and adaptable to children with intellectual disability?
- ✓ Is the school environment conducive for inclusive education?
- ✓ What problems do children with intellectual disability face in the teaching learning process?
- ✓ Are special training and teaching aid materials provided for the teachers?
- ✓ What work has been done by the Government of Ethiopia in guarantying the implementation of right to education of children with intellectual disability?

1.4. Objective of the study

The main objective of the study is to asses the implementation of the right to education of children with intellectual disability in Addis Ababa. The specific objectives are;

- ✓ To clearly point out the human right to education of children with intellectual disability.
- ✓ To explore international and regional instruments as well domestic laws that govern right to education with special emphasis to right to education of children with intellectual disability.
- ✓ To create a clear image on issues like what intellectual disability mean, its types, causes, and also the attitude of different groups of the society specially the school community towards children with intellectual disability and their right to inclusive education.
- ✓ To critically examine whether or not those domestic laws, Education Policy, Strategies, Programs and international commitments entered by Ethiopia, to realize right to education, are effectively implemented.
- ✓ To find out whether or not education is available, accessible, acceptable and adoptable for children with intellectual disability in Addis Ababa.

- ✓ To show areas where there is a gap between the law and the practice so that possible solutions will be recommended to fill the gap.

1.5. Scope of the study

To make the work manageable the scope of the research is limited to assessing the implementation of the right to education of children with intellectual disability in Addis Ababa. Although children with intellectual disability are entitled to every right just like their peers, they are not given equal opportunity of exercising their rights. In this paper it is not possible to discuss each and every right of children with intellectual disability rather because of limitation of space, time, and scope among their fundamental rights the research will only deal about their "*right to education*".

On the other hand, to handle the practical study part of the research the study exclusively focuses on Addis Ababa. In addition, Addis Ababa is selected because it is the capital city of Ethiopia where numbers of Higher Government Organs, Non-Governmental Organizations, a relatively civilized society, high number of schools exist.

Therefore, assessing the implementation of right to education of children with intellectual disability in Addis Ababa will make it easier to presume what the situation would be in rural parts of Ethiopia where critical social problems in relation to children with intellectual disability prevails in higher rate than in Addis Ababa.

1.6. Significance of the study

In our time, inclusive education is getting global acceptance in its significance of effectively realizing the right to education of children with intellectual disability. This particular research focuses on the right to education of children with intellectual disability and its implementation in Addis Ababa. To this end, a study will be conducted on ten schools in Addis Ababa having inclusive and special classes for children with intellectual disability. Hence, the study will have the following significances;

- ✓ It identifies the intensity of the problems children with intellectual disability are facing while exercising their right to education.
- ✓ It comes up with recent and practical data on the quality of education provided by those schools in Addis Ababa having inclusive and special class.
- ✓ It would create awareness about the right to education, with special emphasis to inclusive education, of children with intellectual disability among children with intellectual disability themselves, families, societies, school communities, etc.
- ✓ It highlights the possible area of work for the Government, NGOs and any concerned body to effectively realize the right to education of children with intellectual disability.
- ✓ It serves as a source for the Government to find possible solutions for those practical problems pointed out in the research, so that it could effectively realize the right to education of children with intellectual disability.
- ✓ Finally, it helps as a baseline information for conducting further research studies in this area.

Generally, the research will contribute a lot in identifying and pointing out the practical problems and recommending possible solutions so that right to education of children with intellectual disability will be effectively realized.

1.7. Research methodology

1.7.1. Method and Instruments of Data Collection

In the study both quantitative and qualitative data gathering methods were administered. Three different types of questioners were developed with both close-ended and open-ended questions in order to obtain information from a quantitative method. On the other hand for the qualitative method five different types of interviews were employed to collect in-depth information from children with intellectual disability from special and inclusive classes, school directors, NGOs and concerned Government Body. Field visit was also conducted to observe the situation of children with intellectual disability in the school environment.

1.7.2. Source of Data

The study is constructed with both primary and secondary data. The primary sources include children with intellectual disability from special and inclusive classes, inclusive regular class teachers, special class teachers, inclusive regular class students without intellectual disability, school directors, a concerned Government body and NGOs. The secondary sources of data were Government policy documents and laws, international instruments, Education Abstract published by Ministry of Education, the Central Statistic Agency population census, etc.

1.7.3. Sample Sizes and Sampling Techniques

In this study a total of 160 respondents grouped into 8, i.e. children with intellectual disability from special and inclusive class, inclusive regular class students without intellectual disability, inclusive regular class teachers, special class teachers, school directors from the ten schools and a concerned Government body and NGOs, were selected using purposive sampling techniques. In the case of children with intellectual disability, those who were able to understand and respond to the interview were selected. And with regards to special class teachers as their number is very small and an attempt was made to address all of them who were available at the time of gathering the data. Inclusive regular class students without intellectual disability were selected based on teacher's preference in their class activity and discipline.

1.7.4. Data Collection Procedure

To obtain reliable data the researcher personally collected all data in the research. The data collecting instruments was initially prepared in English version and then translated in to Amharic to make it easier for participants to understand the question.

1.8. Organization of the Study

The paper has five chapters. The first chapter is an introductory part which deals with background of the study, statement of problem, research questions, objectives and scope of the study, methodology and at last organization of the paper. Chapter two is about general concept of right to education and intellectual disability. Chapter three discuss about the status of right to education under different international, regional and domestic instruments including the FDRE Constitution, Civil Code, Revised Family Code, Education Policy, etc. The fourth chapter deals with the implementation of the right to education of children with intellectual disability in Addis Ababa. Finally, the last chapter i.e. chapter five, presents the summary of the major findings, the conclusion drawn from those findings and possible recommendations are made.

1.9. Limitation of the Study

During conducting the study, the researcher face obstacle in sampling method. The main problem was that the number of children with intellectual disability who can communicate and give valuable information varies from one school to the other so it was not possible to take equal number of participants from each school and some teachers from both regular and special classes were not willing to answer the questioners believing that it is wastage of time and will not bring any thing new for children with intellectual disability. The other thing is most of the school directors were too busy that it took the researcher more time to get the required information; children with intellectual disability from special class stay in the school compound only up to 12:00 AM (half-day class) so it was impossible for the researcher to address all schools in short day. Despite all these limitations, the researcher has accomplished her study.

2. REVIEW OF RELATED LITERATURE

2.1. THE GENERAL CONCEPT OF THE RIGHT TO EDUCATION

2.1.1 Definition of the Right to Education

Questioning the importance of education will be a big mistake. In 1954, the Supreme Court of USA, in the case of Brown Vs Board of Education of Topeka, gave due emphasis to the importance of education by stating as follows:

Today education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education bo

CHAPTER TWO

th demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it is a right which must be made available to all in equal terms.¹

Before discussing about right to education, the first thing is to know about what is meant by education. Education has been defined in several ways.

Education can be defined in both broader and narrower sense. Broadly it encompass “all activities by which a human group transmits to its descendents a body of knowledge and skills and a moral code which enable that group to subsist”.² Art1 (a) of UNESCO’s Recommendation concerning *Education for International Understanding, Co-operation, Peace and Education Relating to Human Rights and Fundamental Freedoms* of 1974 gives a highlight about the wider definition of education as;

¹ Klaus Dieter Beiter, *The Protection of the Right to Education by International Law, Including a Systematic Analysis of Art 13 of the ICESCR*, Martinous Nifhoff publisher, Leiden/Boston, 2006, p.18.

² Drouglas Hodgson, *The Human Right to Education*, Faculty of Law, The University of Western Australia, Ashgate publishing ltd, England, 1998, p. 3.

*Education implies the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge.*³

By the same token, the European Court of Human Rights has tried to define education from two dimensions i.e. both in its wider sense and narrower sense as “education in its widest sense refers to the whole process whereby, in any society, adults endeavor to transmit their beliefs, culture and other values to the young”.⁴

Whereas, in its narrower sense, education is defined as: “teaching or instruction referring in particular to the transmission of knowledge and to intellectual development”. It means a formal institutional instruction which could be national, provincial or local education system, whether public or private.⁵ Most international institutions use the term education in this sense. For example, Article 1 (2) of UNESCO’s Convention Against Discrimination in Education (CADE) of 1960 defines education as “*all types and levels of education, including access to education, the standard and quality of education, and the condition under which it was given.*”

2.1.2. The Nature of the Right to Education

Education is the key to sustaining economic growth and reducing poverty. It is a backbone of every country. Today we live in a world of constant change; everyday life demands an ever increasing knowledge base and ability to master new technologies and technical skills. Education and training are thus becoming more and more necessities and therefore should be intrinsic rights of citizens.⁶ Courts of many countries have ruled that the right to education has to be granted to all citizens specially the poor, prisoners, or

³ Klaus D. Beiter (2006), op cited at note 1, p. 19.

⁴ Drouglas Hodgson (1998), op cited at note 2, p. 4.

⁵ Klaus D. Beiter (2006), op cited at note 1, p.9.

⁶ Ministry of Education, *Special Needs Education Program Strategy: Emphasizing Inclusive Education to Meet the UPE and EFA Goals*, Addis Ababa, 2006, p. 36.

other persons living on the margins of society such as illegal migrants.⁷ Especially in our time, the major internationally accepted slogan is “*education for all*”. This is clearly stated under Article 26 (1) of UDHR as “*Every one has the right to education*”. From this it can be concluded that the right to education is a fundamental human right.

The division of human rights into two main categories resulted from a controversial and contested decision made by the UN General Assembly in 1951, during the drafting of the International Bill of Human Rights. It was as a result of this that the right to education was forced to be grouped into the social, economic and cultural rights group.⁸ The first generation rights deal essentially with liberty and participation in political life and are civil and political in nature such as freedom of religion, voting right, etc. On the other hand, second generation rights are based on the principle of social justice and public obligation and tend to be “*positive rights*” which are socio-economic rights; e.g. right to food, right to free primary education, etc. The last is the third generation rights which are extremely broader including group, cultural and collective rights; for example, right to self determination, right to healthy environment and right to natural resource.⁹

The world community arrive at a consensus of classifying these rights in to three groups based on the concept or belief that civil and political rights are ‘*absolute*’ and ‘*immediate*’ where as socio-economic rights were held to be “*programmatic*”, “*to be realized gradually*”, and therefore not a matter of right.¹⁰ This concept may work for some socio-economic rights but it is not a valid argument for right to education because this right even if grouped as a socio-economic right, it has also lots of common features with civil and political rights.

Right to education has been variously classified as economic, social and cultural right. It is all of these and also in many ways it is civil and political rights, since it is central to the

⁷ Yoram Rabin, *The Many Face of the Right to Education*, Hart Publishing, Portland, 2007, p. 270.

⁸ Asbjorn Eide (ed), “*Economic, Social and Cultural Rights as Human Rights*”, in Asbjorn Eide et al (eds.), *Economic, Social and cultural Rights*, (2nd ed.), Kluwer Law International, Netherlands, 2001, p. 10.

⁹ Deprose Muchena, *The Place of Economic and Social Right in Human Rights and Development Discourse*, 1998, p. 11.

¹⁰ Asbjorn Eide (2001), op cited at note 8.

full and effective realization of civil and political rights as well.¹¹ So, right to education is one of the socio-economic rights and also civil and political rights. For example, right to education as a second generation right requires huge amount of capital expenditure. On the other hand, contrary to other social rights, includes an element of duty and compulsion because in other cases an individual can refuse to accept state-provided public services, the same is not true for education as a result of compulsory primary education.¹²

The right to education as a socio-economic right is most commonly acknowledged throughout the world and protected in the constitutions of more than 140 countries and large number of international covenants.¹³ For instance; Article 26 (1) of UDHR implicitly recognizes education as a lifelong and continual process. But this doesn't mean that countries that do not have a written constitution didn't recognize the right to education. Rather right to education is also recognized in non-constitutional legislations. For instance, the principle of universal compulsory legislation is recognized in the English Education Act by the imposition of legal duties on parents and local education authorities.¹⁴

Therefore, the human right to education is a welfare or second generation right which is to be provided to individual primarily by governmental agencies.¹⁵ But there are also some conditions in which right to education becomes a first generation right or a negative right such as: state has the duty to refrain from discriminating against students on the base of their religion, race, color, sex, etc.¹⁶ Furthermore, the state has the negative duty not to interfere in the parents enjoyment of their right to choose the type of education their children should have and the school they should go to.

¹¹ Committee on Economic, Social and Cultural Rights, General Comment No.11: *Plans of Action for Primary Education (art 14)*, (Twentieth session, 1990), UN Doc. E/C.12/1999/4, par. 2.

¹² Yoram Rabin (2007), op cited at note 7, p. 266.

¹³ Ibid.

¹⁴ Drouglas Hodgson (1998), op cited at note 2, p. 13.

¹⁵ Id, p. 3, a welfare right has been defined as "*a right to have certain necessities provided by the community*".

¹⁶ Klaus D. Beiter (2006), op cited at note 1, p. 39.

Driving to the normative content of the right to education it encompasses three basic rights that should be distinguished from one another; the right to receive education, the right to choose a stream of education and the right to equal education. The first group of right i.e. the right to receive education, as the word itself expresses, it precisely means individual's right to receive education and educational services that are funded by the state.¹⁷ This includes; the right to receive primary education, secondary education and higher education. This is guaranteed under different international instruments such as, Article 28 of Convention on the Rights of the Child (CRC) which obliges states to achieve, in a progressive manner, free and compulsory primary education; make secondary education available; and other factors on the basis of equal opportunity. Similar obligation is also found under CRPD, UDHR, ICESCR, ACRWC, etc.

By the same token, right to equal education is a substantive right which requires some extra work like allocating more resource to underprivileged children with special needs, e.g. children with intellectual disability who require special types of education and groups formerly suffering historic discrimination in educational institutions such as women.¹⁸ Therefore, it generally means providing education to all without discrimination. This right is also guaranteed under international instruments such as: Article 2 of UDHR which prohibits any kinds of discrimination on the enjoyment of the rights provided under the declaration including the right to education. Article 3 of the Convention Against Discrimination in Education /CADE/ similarly prohibits discrimination by stating as: *"Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group"*.

The Committee on Economic, Social and Cultural Right of the United Nation on its Commentary No. 13 provides another form of normative content of the right to education. The elements are: availability, accessibility, acceptability, and adaptability. We will now briefly look at what is meant by them.

¹⁷ Yoram Rabin (2007), op cited at note 7, p. 267.

¹⁸ Id, page 278.

Availability: - this means as the word itself expresses educational institutions and programs have to be available in sufficient quality, such as, the availability of sanitation facilities for both sex, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, etc.¹⁹

Accessibility: - this means educational institutions and programs have to be accessible to everyone, without discrimination, within the jurisdiction of the state party. This element includes the accessibility of three elements i.e. non-discrimination, physical accessibility, and economic accessibility.²⁰

Acceptability: - in this case the curricula and teaching method has to be acceptable. E.g. it has to be relevant, culturally appropriate and of good quality to students.²¹

Adaptability: - this is all about how education has to be adaptable and flexible so that it can adapt to the need of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.²²

2.1.3. The Justifications for the Realization of Right to Education

The right to education is a complex right or bundle of rights.²³ It is strongly argued that the right to education is both human right in itself and an indispensable means of realizing other human rights. By recognizing education as a basic and fundamental right there are plenty of benefits the world will attain. And several arguments can be raised to support this point of view. In this part such arguments will be discussed in detail.

The justifications for the realization of right to education are: it provides the foundation for individual autonomy, liberty and human dignity, it is essential for the realization of other civil and political rights, it benefits the society at large.

¹⁹ Committee on Economic, Social and Cultural Rights, General Comment No.13: *The Right to Education (art 13)*

(Twenty first session, 1999), HRI /GEN/1/REV.9 (Vol. I), par, 6.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ R. Clayton and H. Tomlinson, *The Law of Human Rights*, Oxford University Press, Great Britain, 2000, P. 1345.

The first justification is without education, *liberty declines in value*.²⁴ In our time it is undisputed that all human rights are of equal importance for human dignity²⁵ so that right to education as being a human right contributes a lot in the safeguarding of human dignity. It is undoubted that an education that imparts knowledge of essential skills and trains the individual in logical thought and reasoned analysis forms the basis of individual dignity and self respect.²⁶ Without education people lack the capacity to achieve valuable functioning as part of the living. If people have access to education they can develop the skill, capacity and confidence to secure other rights. Further, education gives people the ability to access information detailing the range of the right they hold, and government's obligations.²⁷ The other aspect of education is that it constitutes the inner worth richness of the personality.²⁸ The right to education is closely linked to liberty rights- the right of parental choice of education and to the rights of the child.²⁹

A child will not reasonably be expected to succeed in life if he/she is denied the opportunity to be educated. Right to education relates to human dignity in both intrinsic and extrinsic manner. In the case of intrinsic manner, education contributes a lot to personal development and individual self-esteem, to a sense of inner value in addition to individual worth. On the other hand, in extrinsic manner the amount of education obtained represents the primary measure for an assessment of a person's worth, capabilities and potential to succeed in numerous areas of daily life.³⁰

Education is a welfare right which an individual is not able to provide by him/herself rather the community or Government provides for him/her and if an individual does not achieve at least literacy and numeracy he/she will suffer from significant and enduring disability which prohibits him/her from functioning effectively in the community.³¹

²⁴ Yoram Rabin (2007), op cited at note 7, p. 268.

²⁵ The Maastricht Guideline on Violation of Economic, Social, and Cultural Rights, par. 4.

²⁶ W. F Foster & G. Pinheiro, "*Constitutional Protection of the Right to Education*," Dalhousie Law Journal, Vol.11, 1987/88, P.755&771.

²⁷ <http://www.right-to-education.org/node/233> (Accessed on June 22, 2010).

²⁸ G. Mialaret (ed.), *The Child's Right to Education*, 1979, P. 40.

²⁹ R. Clayton and H. Tomlinson (2000), op cited at note 23.

³⁰ Yoram Rabin (2007), op cited at note 24.

³¹ Klaus D. Beiter (2006), op cited at note 1, p. 26.

Therefore, as clearly stated under Article 13(1) of ICESCR “*education shall be directed to.... human personality and the sense of its dignity*”.

The second rationale of right to education is it is essential to the *realization of basic civil and political rights and also socio-economic rights*. In 1993, representatives of 171 governments assembled in Vienna at the world conference on Human Rights and declared that human rights are universal, indivisible, interdependent and interrelated.³² Furthermore, it is beyond doubt that the two sets of right are inextricably linked in practical life. It is a fact that as a person dies sooner or later without food and health care, anyone who has not learnt to read and write will not be able to enjoy civil and participatory rights such as freedom of expression, information, assembly and association, the right to vote and to be elected or the right to equal access to public service.³³ Denial of right to education has the potential to restrict the enjoyment of such and other fundamental rights.³⁴ So, education guarantees people access to the skills and knowledge needed for full membership in society.³⁵

Education also promotes the *realization of economic and social rights*. For example, the right to work, the right to an adequate standard of living or the right to health can be exercised in a meaningful manner where a minimum level of education has been attained.³⁶

Education plays a vital role in preserving democracy and enabling citizens to participate actively in politics. For instance, the US Supreme Court in its decisions on the case between *Player Vs Doe* stated that: “.....*Some degree of education is necessary to prepare citizens to participate effectively and intelligently in our open political system if*

³² Asbjorn Eide (2001), op cited at note 8, p. 12.

³³ Elisabeth Kock, "Economic, Social, and Cultural Rights as Component in Civil and Political Rights: A Hermeneutic Perspective, IDA", *International Journal of Human Rights*, Vol.10, No.4, 405-430, Routledge Taylor and Francis Group, 2006, p. 407.

³⁴ Neville Harris and Paul Meredith (eds.), *Children, Education and Health, International perspective on law and policy*, Ashgate, Antwerpen-Oxford, 2006, p. 3

³⁵ F. Complain & F.V. Hoof (eds.), *The Right to Complain About Economic, Social and Cultural Rights*, 1995, P.12.

³⁶ Klaus D. Beiter (2006), op cited at note 1, p. 29.

we are to preserve freedom and independence”.³⁷ Therefore, education is the key for the effective enjoyment of many civil and political as well as economic and social rights.

The third rationale of recognizing the right to education is beside its necessity to individuals it also *benefits the society at large*. For instance, it promotes the nation's economic prosperity, decreases crime rates, prevents sexually transmitted disease (HIV/AIDS), promotes war on poverty, etc.³⁸ Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labor and sexual exploitation, protecting the environment, promoting human rights and democracy and controlling population growth. Education, as an empowerment right, is a fundamental means by which economically and socially marginalized adults and children can leave themselves out of poverty and achieve the way to participate fully in their communities.³⁹ Further, education makes a person aware of the cultural and spiritual values of their community and also seen as a process transmitting those values from one generation to the next.⁴⁰ As a result, a number of constitutional instruments regard the protection of minority rights, religious beliefs and individual convictions as fundamental to the provision of education.⁴¹

The US Supreme Court in the previously mentioned case (case between *Player Vs Doe*) stated that;

“We have recognized the public school as a most vital civic institution for the preservation of a democratic system of government, and as the primary vehicle for transmitting the values on which our society rests”.⁴²

Therefore, all the above rationales leads to the conclusion that education is so closely connected with the day-to-day life activity of human beings and should be recognized as a fundamental and basic human right granted to everyone.

³⁷ Drouglas Hodgson (1998), op cited at note 2, p. 18.

³⁸ Yoram Rabin (2007), op cited at note 7, p. 269.

³⁹ General Comment No.13, op cited at note 19, Par, 1.

⁴⁰ Klaus D. Beiter (2006), op cited at note 1, p. 18.

⁴¹ R. Clayton and H. Tomlinson (2000), op cited at note 23, p. 1346.

⁴² Klaus D. Beiter (2006), op cited at note 1, p. 26.

2.1.4. Duty Bearer in the Realization of the Right to Education

While discussing about the right to education this much, it is essential to know from whom to claim this right. Unlike other welfare rights such as the right to social security, it is impossible to isolate the issue of funding from the issue of educational curricula.⁴³ The right to education suffers from two characteristics; i.e. indeterminacy and resource dependence.⁴⁴

Traditionally, education has been the duty of a child's parent. The English jurist Sir William Blackstone described the source of general parental duties to their children in these terms;

*The duty of parents to provide for the maintenance of their children is a principle of natural law; an obligation ...laid on them not only by nature itself, but their own proper act, in bringing them in to the world..... By begetting them.....they have bestowed shall be supported and preserved. And thus the children will have a perfect right of maintenance from their parents.*⁴⁵

In a modern society the duty of parents is reduced and transferred squarely to the state. But this doesn't mean that parents are free from any duty, rather they have a vital role in choosing the type and content of education the child receives and which school he/she joins. This right is given to parents because children as a result of their age are not in a position to make a well thought decision on their choice of educational stream. They are incapable of foreseeing the long term implication of their decision.⁴⁶ Therefore, it is the right thing to delegate such a right to parents or guardians with a context of mutual consultation and persuasion with their children.

State is not the only responsible organ here. Non-Governmental Organizations and other sectors also bear some of the responsibilities. This is stated under Article 7 of the World Declaration on Education For All, 1990 which states that, “new and levitated

⁴³ Yoram Rabin (2007), op cited at note 7, p. 265.

⁴⁴ Neville Harris and Paul Meredith (eds.) (2006), op cited at note 34, p. 14.

⁴⁵ Drouglas Hodgson (1998), op cited at note 2, p. 8.

⁴⁶ Neville Harris and Paul Meredith (eds.) (2006), op cited at note 34, p. 274.

partnerships at all levels are necessary....including partnerships between government and non-government organs, the private sector, local communities, religious groups, and families.”⁴⁷ Generally, the realization of the right to education involves mainly three parties; state, parents and the child.⁴⁸

State is the major entity liable to violate the various rights to education. For instance, the state’s refusal to budget for education is violation of an individual’s (usually child’s) right to receive education and also violation of an individual’s or group’s right to equal access to education.⁴⁹ So, the primary responsibility for the realization of the right to education falls under the shoulder of the state.

The most significant provision that clearly illustrates this fact is Article 2 (1) of the International Covenant on Economic, Social, and Cultural Right which is a binding provision. It reads:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

When a deep look is made to this provision the major responsibility to realize the right to education is directed to states. The phrases that illustrate this fact are: “undertakes to take steps”, “by all appropriate means”, “achieve progressively”, and “to the maximum of its available resources”. So that state is the primary duty bearer.

This and other international instruments impose obligation on states to realize the right to education. For instance, Article 26(1) of UDHR states that:

'Every one has the right to education. 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

⁴⁷ Klaus D. Beiter (2006), op cited at note 1, p. 21.

⁴⁸ Yoram Rabin (2007), op cited at note 7, p. 266.

⁴⁹ Id, p. 281.

available and higher education shall be equally accessible to all on the basis of merit"

According to this article, states are under a duty to provide primary education freely, make technical and professional education available and higher education equally accessible to all. Similarly, on ACRWC under Article 11(3) provides measures to be taken by member states for the full realization of the right to education, such as, providing free and compulsory basic education, encouraging the development of secondary education, etc. So, from these instruments one can understand that states are under the obligation of realizing the right to education.

Manfred Nowak, has remarked that *"the right to education is not only a kind of idealistic goal....but a legally binding human right....a human right with corresponding obligations of states under international law"*.⁵⁰ Additionally, Article 26 of the Vienna Convention, (which was adopted on 22 May 1969 and opened for signature on 23 May 1969 by the *United Nations Conference on the Law of Treaties* and entry into force on 27 January 1980, in accordance with Article 84(1) Official Publication in United Nations, *Treaty Series*, vol. 1155, p.331), imposes obligation on states to implement those international human right instruments in good faith.

On the other hand, human rights impose three types or levels of obligation on states parties: the obligation to respect (which requires states to refrain from interfering with the enjoyment of socio-economic rights), to protect (which requires states to prevent violations of such right by third parties) and to fulfill (which requires states to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of such rights).⁵¹ Among these obligations the right to education, as a civil and political right, falls under the obligation to respect and as a socio-economic right falls under the obligation to fulfill because it demands resource.

⁵⁰ Id, p. 377.

⁵¹ The Maastricht Guide Line on the Violation of Economic, Social and Cultural Rights, par. 6

In a general sense, the obligation of states parties to the realization of the right to education, like other rights in the Covenant, could be classified into two, i.e., states parties' domestic obligations under the Covenant and state parties' international obligation; indicated through the phrase "individually and through international assistance and co-operations, especially economic and technical"⁵² which entitles the state to claim for international assistance. The phrase "its maximum available resource" is supported by this phrase because according to the Limburg Principle paragraph 26 "Its available resources" refers to both the resources within a State and those available from the international community through international co-operation and assistance. This extends the duty to realize the right to education towards the international community. International co-operation and assistance pursuant to the Charter of the United Nations (Arts. 55 and 56) and the Covenant shall have in view as a matter of priority the realization of all human rights and fundamental freedoms, economic, social and cultural as well as civil and political.⁵³

As well recommended by the Committee on Economic, Social and Cultural Rights, the United Nations Development Program (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children's Fund (UNICEF), the International Monetary Fund (IMF), International Labor Organization (ILO), World Bank, the Regional Development Banks, and other relevant bodies in the United Nations system, states should enhance their co-operation for the implementation of the right to education.⁵⁴ However, although there is clearly an obligation to cooperate internationally, it is not clear whether this means that wealthy states parties are obliged to provide aid to assist in the realization of the rights, including the right to education in other countries.⁵⁵

⁵² P. Alston & G. Quinn, *Human Rights Quarterly: The nature and scope of state parties' obligations under the ICESCR*, (Vol. 9), Johns Hopkins University press, London, 1987, P. 164-192.

⁵³ Limburg Principle on the Implementation of the International Covenant on Economic, Social and Cultural Rights, Maastricht, The Netherlands, (1986), par. 29 (*the Limburg principles are the outcome of a meeting of experts in international law, held at Maastricht, the Netherlands from 2-6 June 1986, to consider the nature and scope of the obligation of state parties to the ICESCR*).

⁵⁴ General Comment No.13, op cited at note 19, Par, 60.

⁵⁵ Matthew Craven, "The International Covenant on Economic, Social and Cultural Rights", in (Raija Hanski and Markku Suksi (eds.)), *An Introduction to the International Protection of Human Rights – Text*

A state can't simply raise inefficiency of resources as a defense for not realizing this right rather it has to successfully prove that it is entitled to international aid. Therefore, states should actively hunt for assistance from the international community and should use any international resources that are made available such as, from bilateral aid schemes and from the international financial institutions for the realization of such right.⁵⁶

The realization of the right to education can not, however, be exclusively based on states parties and the international community, there are also the circumstances in which the obligation may rest on individuals, basically of the duty to "respect" the right to educations of others. For instance, in UK if parents fail to perform their statutory duty to ensure that their child receives efficient fulltime education, the local authority may initiate a procedure which results in making a school attendance order. The failure to comply with an attendance order is a criminal offence.⁵⁷

The realization of the right to education requires the participation of three parties: the state, the parents and the child.⁵⁸ In this regard the failure of individuals to comply with the requirement of compulsory primary education for themselves may amounts to disrespect to the Covenant.

Therefore, as a conclusion, saving other responsible bodies aside, the state is the central actor in any claim to the right to education, it is the prime duty-bearer, the prime implementer, it is the guarantor, the signatory vis-à-vis the international norms and standards, binding it to respect, protect and fulfill the right to education. It is the chief provider of the right to education which involves the commitment of substantial budgetary resources to the education system as well as its regulation in the interest of efficiency and fairness.⁵⁹

Book, (2nd rev. ed), Institution for Human Rights, Finland: Turku/Abo, Abo Academic University, 2002, p. 107.

⁵⁶ Id, p. 108.

⁵⁷ R. Clayton and H. Tomlinson (2000), op cited at note 29, p. 1349.

⁵⁸ Yoram Rabin (2007), op cited at note 12.

⁵⁹ <http://www.right-to-education.org/country-node/335/country-constitutional> (Accessed on May 27, 2010).

2.1.5. Immediate Vs Progressive Realization of the Right to Education

In our world resources are scattered and unfairly distributed. Some countries have plenty of resources while others lack such natural gifts. The wording of Article 2(1) of International Covenant on Economic, Social, and Cultural Rights shows the belief held during the drafting of the Covenant that the implementation of economic, social and cultural rights could only be undertaken progressively, as the full and immediate realization of all the rights was beyond the resources of many states.⁶⁰ As previously discussed right to education is one of the socio-economic rights which is resource dependent. In a general sense resource is a crucial factor in the implementation of socio-economic rights including right to education. So, states are usually expected to implement them progressively.⁶¹ In this part the discussion will mainly focus on ICESCR because this issue is discussed in detail manner under its commentaries.

Article 2 (1) of ICESCR states that: “....to the maximum of its available resources, with a view to achieving progressively the full realization of the rights.....” Right to education as being an expensive right it is difficult for states to immediately realize it. As a result, the Covenant gives states time gap to fully realize this right upon the available resource. General Comment 3 of 1990, 5th session paragraph 9 pointed out that while the concept of progressive realization constitutes a recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time, the phrase must be seen in light of the overall objective which is to establish clear obligation for states parties to move as immediately as possible towards the realization of these rights.

Further, under no circumstances shall this be interpreted as implying for States the right to deter indefinitely efforts to ensure full realization.⁶² Moreover, even if the full realization of the relevant right may be achieved progressively, steps towards that goal

⁶⁰ Matthew Craven (2002), op cited at note 55, P. 107.

⁶¹ Neville Harris and Paul Meredith (eds.) (2005), op cited at note 34, p. 4.

⁶² Limburg Principle on the Implementation of the International Covenant on Economic, Social and Cultural Rights, par. 21.

must be taken within a reasonable short time after the Covenant entered into force for the state concerned.⁶³ All states regardless of the availability of resources must set benchmarks to move progressively beyond the core content and to secure the national resource for that purpose.⁶⁴ So, states should not use this phrase as escape goat from their obligation.

The Committee insisted that the progressive realization of the rights in the covenant requires the taking of “deliberate, concrete and targeted step”.⁶⁵ The Committee has reiterated this concept with regard to right to education as follows:

*There is a strong presumption of impermissibility of any retrogressive measure taken in relation to the right to education.... If any deliberately retrogressive measures are taken, the state party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the covenant and in the context of the full use of the state party's maximum available resource.*⁶⁶

Though the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also impose an obligation of immediate effect through the wording “the undertaking to guarantee” that relevant rights will be exercised without discrimination.⁶⁷ Paragraph 31 of General Comment No. 13 states that; “*The prohibition against discrimination enshrined in article 2 (2) of the Covenant is subject to neither progressive realization nor the availability of resource; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination*”. Therefore, any discrimination on the grounds of race, color, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or

⁶³ Committee on Economic, Social and Cultural Rights, General Comment No.3: *The nature of States parties' obligations* (art. 2, par, 1), (Fifth session, 1990), UN Doc. E/C 12/1999/4, par. 2.

⁶⁴ Asbjorn Eide (1998), op cited at note 8 p. 27.

⁶⁵ Hatharine G. Young, "The Minimum Core of Economic, Social Rights, a concept in search of content", *The Yale Journal of International Law*, vol.33, No. 113, 2008, p. 121.

⁶⁶ Klaus D. Beiter (2006), op cited at note 1, p. 387.

⁶⁷ General Comment No.3, op cited at note 63, par, 1.

imposing the equal enjoyment or exercise of right to education constitute a violation of the Covenant.⁶⁸

Further, the Committee affirmed that the adoption of temporary special measures intended to bring about de facto equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regard to education (*affirmative action*), as long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided they are not continued after the objectives for which they were taken have been achieved.⁶⁹

Article 2 (1) of ICESCR also impose an obligation on states to take all the appropriate means including legislative measures. There are some cases where legislative measure will become indispensable. For instance, with regard to right to education legislative measure is so essential otherwise it will be too difficult to guarantee the enjoyment of right to education without discrimination.⁷⁰ So, states have the obligation to identify which means is more appropriate, taking into consideration their countries standard and make the right budget allocation, to realize the right to education.

Therefore, considering the priority accorded to primary education under Article 14 of ICESCR, it is also clear that the obligation to provide primary education for all is an immediate duty of all state parties.⁷¹ Towards the realization of secondary, higher and fundamental education for all, states parties have an immediate obligation at least *to take steps*.⁷²

2.1.6. Minimum Core Obligation of the Right to Education

The minimum core obligation reflects the aspects of the right which satisfy “*basic needs*” of the rights holder, rather than any supplementary, luxurious, elective, or more ambitious level of interest. “Basic need” is a minimum condition for a bearable life. And the core of

⁶⁸ Asbjorn Eide (1998), op cited at note 64.

⁶⁹ General Comment No.13, op cited at note 19, Par, 32.

⁷⁰ Id, par, 3

⁷¹ General Comment No.13, op cited at note 19, Par, 51.

⁷² Id, par, 52

a right is its most basic feature, which relies on no other foundation for justification.⁷³ The minimum core of a right is the right's core content as an embodiment of "*the intrinsic value of each human right.....contains elements.....essential for the very existence of that right as a human right*".⁷⁴ The minimum core obligation imposes a strict and non-derogable obligation on states.

With regard to the right to education, although education must involve the acquisition of knowledge and skills, there are no internationally agreed upon criteria as to the specific knowledge and skills to be acquired.⁷⁵ So, as a result we have to turn our focus to the commentaries provided by the Committee on Economic, Social, and Cultural Rights.

The Committee in its Commentary No.3 (1990), paragraph 10, stated its view as "*a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights that are incumbent upon every State party*". Thus, for example, a State party in which any significant numbers of individuals are deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant. In this Commentary what constitute basic form of education is not clearly elaborated. The Committee is of a view that particular attention should be paid to respect for the realization of the core content or minimum essential level of education, including the provision of primary education to all; access to public educational institutions and programs on a non- discriminatory basis; and free choice of education without interference from the state or third parties.⁷⁶

According to the view of the Committee, free and compulsory primary education is one of the minimum cores of the right to education. First of all, compulsory education generally refers to two dimensions; first, school attendance for the purpose of receiving education over a fixed period of time (number of years); second, the specific curriculum

⁷³ Hatharine G. Young (2008), op cited at note 65, p. 128.

⁷⁴ Id, p. 126.

⁷⁵ Klaus D. Beiter (2006), op cited at note 1, p. 20.

⁷⁶ M. E. Salomon, A. Tostensen & W. Vandenhoe (eds.), *Casting the Net Wider: Human Rights, Development and New Duty- Bearers* Hart publishing Ltd, UK- Oxford, 2007, P. 342.

determined by the state or other requirements introduced by the educational framework, such as the obligation to wear a school uniform.⁷⁷

The element of compulsion serves to highlight the fact that neither parents, nor guardians, nor the state are entitled to treat as optional the decision to whether the child should have access to primary education or not.⁷⁸ In the same token, paragraph 7 also stated that: “*the right of getting primary education free of charge is expressly formulated so as to ensure the availability of primary education without charge to the child*”. Fees imposed by the government, the local authorities or the school and other indirect costs (such as compulsory levies on parents and obligation to wear relatively expensive school uniform) constitutes disincentive to the enjoyment of the right and may jeopardize its realization.⁷⁹ Further, the compulsory primary obligation has a great advantage in the protection of children from short sighted parents or guardians who wish to deny the child’s enjoyment of the right to receive education.⁸⁰ For instance, in the case of children with intellectual disability, who are largely neglected and discriminated by their parents and the society, the government has the obligation to ensure that those children receive at least primary education which is essential to their dignity and personality development.

So, states, putting aside other factors, are under strict obligation to fulfill the minimum core of the right to education which have, according to Art 13, the obligations to ensure the right of access to public educational institutions and programs on a non-discriminatory basis; to ensure that education conforms to the objectives set out in Article 13(1); to provide primary education for all in accordance with Article 13(2)(a); to adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education; and to ensure free choice of education without interference from the state or third parties, subject to conformity with “minimum educational standards” (Art 13(3) and (4)).⁸¹ Therefore, state is under strict obligation to realize these minimum core of the right to education otherwise according to Paragraph 10 of the General Comment No.3 “*for a state party to be able to attribute its failure to meet*

⁷⁷ Yoram Rabin (2007), op cited at note 7, p. 279.

⁷⁸ General Comment No.11, op cited at note 11, par, 6.

⁷⁹ Id, par, 7.

⁸⁰ Yoram Rabin (2007), op cited at note 7, p. 280.

⁸¹ General Comment No.13, op cited at note 19, Par, 57.

at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations”.

2.2. THE GENERAL CONCEPT OF INTELLECTUAL DISABILITY

Disability is a global issue which exists every where in the world. It doesn't discriminate between sex, age, race, ethnicity, religion, status, etc. Disability simply attacks all human beings and no one knows when it will occur. Many persons with disabilities say that *"disability is a reality for us but a possibility for every one"*. Defining disability enables the people to identify persons with disabilities from that of persons without disabilities and also it helps the government to easily identify persons with disabilities and take the necessary measure. Similarly, families and the society if they know what disability mean, they will do their best to prevent it or look for proper assistance if it already exists.

As disability is a global issue, it is difficult to give a precise and single definition for it. It depends on the person or the county giving the definition. Bogdan (1986) when saying about the difference of definition of disability depending on who defines it, he stated that:

*“The generic term “disabled” and specific disability categories are ways of thinking about the criteria used to determine whether someone is disabled has to do with how the definer thinks about these things”*⁸²

Countries in the world give different definitions for disability so it is better to refer to the definition given by World Health Organization. In 2001 WHO came up with a new definition that introduced a radical departure from the old assumption that disability applies to a distinct subset of people as:

"Disability is not something that a person has but, instead, something that occurs outside of the person—the person has a functional limitation. Disability occurs in the interaction between a person, his or her functional ability, and the environment. A person’s environment can be the physical

⁸² M. Beirne-Smith, J. Patton, R. Ittenbach, *Mental Retardation*, (4thed), Library of Congress Cataloging-in-publication, New Jersey, 1994, p.59.

environment, communication environment, information environment, and social and policy environment."⁸³

In Ethiopia, disability is defined under the Proclamation to Provide for the Right to Employment of Persons with Disability No 568/2000 as:

"Persons with disability" means an individual whose equal employment opportunity is reduced as a result of his physical, mental or sensory impairments in relation with social, economic, and cultural discrimination".

Even if the law gives such definition for disability, still the traditionally held view exists i.e., disability is seen as God's punishment on the disabled and his family. It is also considered as a curse from elders or forefathers or an attack of evil spirit.⁸⁴ But children with disability, like all other children, must be given the opportunity to grow and be loved. Surely they need no less food, no less socialization, no less training, than other children. However, the reality is far from this since they receive less attention, less stimulation, less education, less medical care, etc.⁸⁵

Disability differs in its form and effect. Accordingly there are five types and they are: Hearing Impairment, Visual Impairment, Leprosy, Intellectual Disability, and Physical Impairment. Among these, intellectual disability will be a focus area of this research.

2.2.1. Definition of Intellectual Disability

Intellectual Disability is not something you are like being short or tall. It is not a medical disorder, although it may be coded in a medical classification of disease. Nor is it a mental disorder, although it may be code in a classification of psychiatric disorder.⁸⁶

⁸³http://www.accessingsafety.org/index.php/main/main_menu/understanding_disability/a_new_definitioN (Accessed on August 10, 2010).

⁸⁴ *Including Persons with Disability in World Vision Ethiopia's Agenda*, An Informational Broacher on Disability, Advocacy and Communication Division, Ethiopia, 2008, p. 8.

⁸⁵ United Nation's Children Fund, *Exceptional Children*, News, Issue, 105/1980/3, p. 5.

⁸⁶ American Association on Mental Retardation, *Mental Retardation: Definition, Classification, and System of Supports*, (9th ed.), AAMR, Washington, Dc, 1992, p. 9.

Since ancient time people were trying too hard to define intellectual disability in different ways. For instance, different terms were being used to identify those persons like; general learning disability, major specific learning disability, mental retardation, developmental disability, intellectually challenged, mental disability, etc. Nowadays, the term mental retardation is getting a lesser acceptance and rather the term *intellectual disability* is the new terminology used to identify those persons. Having this in mind, the known American Association on Mental Retardation changes its name to be called "American Association for Intellectual and Developmental Disability (AAIDD)". From this we can see that, this new term is getting international acceptance. But it does not mean that this term has never been criticized rather it has a defect of creating confusion, potential misinterpretation and lack of inclusiveness that this term convey. However, its advantage weights a lot and now it is being used in countries of the world replacing the term mental retardation.⁸⁷

Attitude toward and treatment of persons with intellectual disability can actually be traced back to ancient civilization including Egyptians, Sparta, Rome, China, and the early Christian world. Intellectual disability is provided as a documented history only about the last 200 years.⁸⁸ During that time offensive words such as "sub-normal and incompetent" were used to identify such persons.

Before the 18th century, the concept of intellectual disability was strange to a world that didn't have a sophisticated knowledge base with which to understand it. Those persons with intellectual disability were treated in mysterious way and were believed to be capable of receiving divine revelation.⁸⁹ And for parents having such kinds of children were taken as a punishment from God for their sins. Even to day many non-professionals confuse intellectual disability with mental illness. But mental illness is a confused state of thinking involving distorted perceptions of people and one's environment.⁹⁰

⁸⁷M. Beirne-Smith, J. R. Patton, S.H. Kim, *Mental Retardation, an Introduction to Intellectual Disability*, (7th ed.), Pearson Merrill Prentice Hall, New Jersey , 2006, p.45.

⁸⁸ M. Beirne-Smith, et al., (1994), op cited at note 82, p. 27.

⁸⁹ Id, p. 28.

⁹⁰ M. Beirne-Smith et al., (2006), op cited at note 87, p. 44.

Intellectual disability has been defined in different ways. And the definition has changed as behavioral science has grown, become more complex, and included attention to broader aspect of the environment. Materials on definition and classification presented thus far have pertained largely to the area within the geographical boundaries of the US.⁹¹ But other countries have also made their own contribution in this area. For the purpose of our discussion a reference will be made to the American Association on Intellectual and Development Deficiency manual of terminology. The Association was developing definitions of intellectual disability since 1937. In 1992 American Association on Mental Retardation (AAMR) comes up with a new modified definition for intellectual disability which states that:

"Mental retardation refers to substantial limitations in present functioning. It is characterized by significantly sub-average intellectual functioning, existing concurrently with related limitations in two or more of the following applicable adoptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work. Mental retardation manifested before age 18."

In 2002 the American Association on Mental Retardation Committee on Terminology and Classification prepared a new definition for intellectual disability which builds up on the 1992 AAMR definition by eliminating its criticisms. It states that:

"Mental retardation is a disability characterized by significant limitations both in intellectual functioning and in adoptive behavior as expressed in conceptual, social, and practical adaptive skills. This disability originates before age 18."

In a general term intellectual disability refers to the presence of specific intellectual limitations affecting the person's ability to cope with the ordinary challenges of every day living in the community.⁹² And to have an accurate diagnosis of intellectual disability, we need three requirements:

* An IQ score of approximately 70 or below

⁹¹ C. J. Drew, D. R. Logan, M. L. Hardman, *Mental Retardation: A Life Cycle Approach*, (4the.d.), Merrill Publishing Company, Columbus, 1988, p. 7.

⁹² American Association on Mental Retardation (1992), op cited at note 86, p. 13.

* A determination of deficits in adaptive behavior

* Origins of the disability prior to age 18.⁹³

2.2.2. Types of Intellectual Disability

Most professionals and lay persons believe that intelligence is epigenetic in nature. It is one's mental capacity to receive information as input from outside world then to translate it in the way to remember it whenever needed and people may have inadequate intelligence due to problem of health and complicated physical and mental problem.⁹⁴

Alfred Binet developed the first version of what has come to be known as IQ tests. These tests typically include a range of items that assess one's general knowledge, vocabulary, problem-solving skills, and reasoning ability. They are considered to be the best index of intellectual ability because they allow an examiner to compare a person's score with others of markedly the same ages and ability levels.⁹⁵

Every person with intellectual disability will differ in the nature, extent, and severity of their functional limitations, depending on the demands and constraints of their environment and the presence and absence of support.⁹⁶ Currently speaking, intellectual disability could be classified based on an IQ test as mild, moderate, severe and profound, or based on the level of support demanded as: intermittent (as-needed basis); limited (consistent over time, time-limited); extensive (regular involvement); and pervasive (constant high intensity). The main purpose of the second type of classification of intellectual disability is to explain a person's functional limitation in terms of the degree of support he/she needs to achieve personal growth and development.⁹⁷ Rather currently,

⁹³ <http://www.ericdigests.org/2003-4/mental-retardation.html> (Accessed on August 15, 2010).

⁹⁴ Minilik Desta, *Mental Retardation*, Ethiopian Association of Children and Youth with Mental Retardation, Niged Printing Press, Addis Ababa, p. 3.

⁹⁵ <http://www.ericdigests.org/2003-4/mental-retardation.html> (Accessed on August 16, 2010).

⁹⁶ American Association on Mental Retardation (1992), op cited at note 86, p. 38.

⁹⁷ M, Beirne-Smith et al., (2006), op cited above at note 87, p. 69.

it is more likely for the IQ test type of classification to continue to be used.⁹⁸ For the purpose of this paper this type of classification of intellectual disability will be discussed.

2.2.2.1. Mild Intellectual Disability

This type of intellectual disability represents the lower or less level of severity of intellectual disability with IQ scores of from 70 to 55/50. A person with mild intellectual disability encounters some behavioral problems like disruptiveness, attention deficits, low self-esteem, over activity, distractibility, and other attention related problems.⁹⁹ Children with mild intellectual disability experience a delayed and markedly less accomplished motor problem of (balance, locomotion, manipulative dexterity, their growth rate is slower, and are generally shorter and lighter than normal children) and sensory development (visual and auditory).¹⁰⁰ Further, these children read at levels lower than expected from them and of the various aspects of reading, comprehension appears to be the most difficult for them. In mathematics, the majority of them can learn the basic computations; however, mathematical reasoning and appropriate application of concepts to problem solving tasks are more difficult for them. Delayed language development is also expected.¹⁰¹

Mild intellectual disability is at the border of normality and intellectual disability so identifying those individuals with this type of intellectual disability is too difficult. Children with such kinds of intellectual disability are not suspected until the child joins school. Adults with milder intellectual disability can secure employment and become economically self-sufficient.¹⁰²

2.2.2.2. Moderate Intellectual Disability

Persons with moderate intellectual disability are with IQ scores of from 55/50 to 40/35 and also are not that much different from normal children but they are not as active as the normal ones in speaking or adopting the environment. Most of them can not wear

⁹⁸ Id, p. 261.

⁹⁹ M. Beirne-Smith, et al, (1994), op cited at note 88, p. 216.

¹⁰⁰ M, Beirne-Smith et al., (2006), op cited at note 87, p. 283.

¹⁰¹ Id, p. 289.

¹⁰² Id, p. 257.

their cloth, eat properly and even when they grow they face challenge in administering their own affair and taking responsibility in the community. Color blindness is more prevalent among individuals with moderate intellectual disability.¹⁰³

2.2.2.3. Severe Intellectual Disability

Persons with severe intellectual disability have IQ scores of from 40/35 to 25/20. Defining severe intellectual disability was the primary task since ancient time. Many researchers, medical personnel and others were trying to give a definition for severe intellectual disability. And among them the better one was the definition given by Bellamy (1985) i.e. *"those who require ongoing support in several major life areas in order to participate in the main stream of community life, and who are expected to require such support throughout life."*¹⁰⁴

An analysis of studies shows that 35% to 60% of the cause of intellectual disability is genetic disorder and more than half of severe intellectual disability is caused by genetically determined disorder.¹⁰⁵ Most of them have difficulty in applying knowledge, limited communication skill and the rate of speech language disorder among this group is estimated at 90%.¹⁰⁶ Those persons with severe intellectual disability are victims of not being able to move their body freely. Most of them need assistance for mobility, for manipulating objects in their environment, for performing daily activities such as dressing, eating, toileting, and communicating. But some of them are able to do such daily activities with a great deal.¹⁰⁷ The major behavioral problems faced by those persons are verbally or physically aggressive acts, self-injury (head banging, hand flapping), non-compliance, self-stimulatory behavior (body rocking or repetitive vocalization), etc.¹⁰⁸

¹⁰³ Minilik Desta, op cited at note 94, p. 9.

¹⁰⁴ M. Beirne-Smith, et al, (1994), op cited at note 88, p. 251.

¹⁰⁵ United Nation Office of the High Commissioner for Human Rights, and Inter-Parliamentary Union, *From Exclusion to Equality: Realizing the Rights of Persons with Disabilities*, United Nation, Geneva, 2007, NO. 14, p. III.

¹⁰⁶ M. Beirne-Smith, et al, (1994), op cited at note 88, p. 253.

¹⁰⁷ M. Beirne-Smith et al., (2006), op cited at note 87, p. 294.

¹⁰⁸ Id, p. 259.

2.2.2.4. Profound Intellectual Disability

Persons with profound intellectual disability have IQ scores below 25/20 and with undeveloped physical and mental development. As a result they face severe damage on their brain which controls all body activity. These persons are known of having a very small skull or very big skull full of liquid. Most of them die at childhood but those who survive do not show any improvement afterwards.¹⁰⁹

These persons are considered on the basis of current knowledge and practice, incapable of profiting from any type of training or education. They may be completely dependent on someone else for every thing, including rolling over in bed, eating and toileting etc.¹¹⁰ Some of the characteristic of persons with profound intellectual disability are; they suck their thumb or finger, have night mares of difficulties in sleeping, have physical illness such as head ache, dizziness, eye strain, stomach upset, physically aggressive and never express their feeling, etc.¹¹¹

2.2.3. Causes of Intellectual Disability

Until now hundreds of causes of intellectual disability have been identified and it is still difficult to reach in to a general consensus because of the fact that it is only about 50% of causes of intellectual disability are specified. This problem of identification is highly related with mild intellectual disability.¹¹² In general there are three types of causes of intellectual disability i.e.

Pre Delivery /Prenatal/: - In human life, this is a stage in which life begins. The peaceful growth of the fetus could be disturbed and exposed to intellectual disability because of different factors that could be natural or artificial. One of the natural factors that cause intellectual disability at this stage is genetic disorder.¹¹³ The other natural

¹⁰⁹ Minilik Desta, op cited at note 94, p. 9-12.

¹¹⁰ M. Beirne-Smith et al., (2006), op cited at note 87, p. 297.

¹¹¹ Ethiopian Federation of Persons with Disability (EFPD), *Bright Hope: A Bilingual Annual Bulletin*, No.6. December 2002, p. 36.

¹¹² M. Beirne-Smith, et al, (1994), op cited at note 88, p. 138.

¹¹³ http://www.searo.who.int/en/Section1174/Section1199/Section1567/Section1825_8090.htm (Accessed on August 16, 2010).

factors that cause intellectual disability at this stage are Chromosomal Abnormalities and Blood-group incompatibility between the fetus and the mother.¹¹⁴ The exposure of the mother to toxic substances (research shows that 1 in 650 births from alcoholic mothers will be victim of intellectual disability), drugs, industrial chemicals, nicotine, caffeine, being infected by disease,¹¹⁵ the exposure of the mother to accidents or falling, the age of the mother being very old or very early to conceive a child, etc.¹¹⁶ All these factors have a direct effect on the fetus and results on different level of intellectual disability on the new born baby.

At the Time of Delivery /Perinatal/: - This one is a matter of few minutes or hours of duration. On the other hand, it is the crucial time in which intellectual disability may occur. Some of the causes are; at the time of delivery when the baby face shortage of oxygen (it is when the baby come in improper position), when delivery is too early or too late from the regular time, the baby being under or over the normal weight, the improper usage of medical materials for pulling the baby, etc.¹¹⁷ So, physicians have to be very careful while delivering a baby from the mother to prevent the occurrence of intellectual disability.

After Delivery /Postnatal/: - After delivery there are lots of events that cause intellectual disability. Among them head injury takes the lead. It is estimated that 1 in 30 new born baby will experience a serious brain injury before completing ten year. And 89% of injuries are caused by falls mostly from bicycle or motorcycle.¹¹⁸ Nutritional deficiencies of both the pregnant women and the new born baby, depriving environmental factors are also other factors. For example, a child of culturally deprived home, environment lacking carrying interaction, stimulating surrounding, is at risk of the development of intellectual disability.¹¹⁹

¹¹⁴ M. Beirne-Smith, et al, (1994), op cited at note 88, p. 165.

¹¹⁵ http://www.searo.who.int/en/Section1174/Section1199/Section1567/Section1825_8090.htm (Accessed on August 16, 2010).

¹¹⁶ Ethiopian Federation of Persons with Disability (EFPD) (2003), op cited at note 111, p. 17.

¹¹⁷ Ibid.

¹¹⁸ M. Beirne-Smith, et al, (1994), op cited at note 88, p. 165.

¹¹⁹ M, Beirne-Smith et al., (2006), op cited at note 87, p. 1.

2.2.4. EDUCATION AND INTELLECTUAL DISABILITY: INCLUSIVE Vs SPECIAL NEED EDUCATION

Up to now the general concept about the right to education and intellectual disability has been discussed and in this part the two types of education system provided to persons with intellectual disability i.e. Inclusive Education and Special Need Education will be discussed briefly.

Education does not limit itself only to academic or mere text book learning; rather it is more concerned with the all-round development of an individual. And it is a philosophy designed to help the young child reach his or her own potential and to enjoy a quality of life that comes through self and environmental knowledge.¹²⁰ So, education is the main means that enables persons with intellectual disability, especially children, to reduce the negative effects of their disability. Through education they will be able to develop their communication skill, self-supporting ability, to acquire knowledge so that they can easily meet the world and in general terms have a smooth relationship with their families, friends and the community at large. Contrary to this fact, the majority of persons with intellectual disability do not have adequate access to education like that of persons without disability due to discrimination, stigma, inaccessible infrastructure, lack of attention from government, etc.¹²¹

There are two ways of delivering education to persons with disability i.e. Inclusive and Special Needs Education. Both concepts are about paving the way for persons with disability to enjoy their right to education. In many countries children with disabilities are excluded from school. In some cultures being disabled is seen as a curse, and as such persons with disabilities are hidden away from the wider community. In others it is more of priorities that educating a child with disability is seen as a wasted investment or the school may not have the facilities or teaching staff to include such a child.¹²² But

¹²⁰ A. N. Desai, *Helping the Handicapped: problem and prospects*, Ashish Publishing House, New Delhi, 1990, p. 90.

¹²¹ Handicap International and Ethiopian Bar Association, *Review of International and Ethiopia Laws on Disability*, Addis Ababa, 2008, p. 4.

¹²² <http://www.right-to-education.org/node/638/> (Accessed on Jun 22, 2010).

contrary to this, education is a fundamental human right enjoyed by everyone irrespective of one's disability, ability, sex, race, religion, economic status, geographical or any external factors.

2.2.4.1. Special Need Education

Special needs education promotes the building and setting up of segregated schools and classes to children with disabilities. The early history of special need education was largely a history of separate schools, especially for children with visual impairment, hearing impairment and intellectual disability. And, in public school such children were taken out of one classroom and put in another.¹²³ Without question, the field of Special Education was dramatically influenced by Jean-Marc Itard (1774-1838) who was a medical doctor. He is often referred to as the "*father of special education*".¹²⁴

In regular class room setting teachers are most selective whom to teach and not to teach. This means if a child is with some type of disability sooner or later he/she will be referred to the special needs education class.¹²⁵ So, special needs education focuses on children who are at risk of repetition and dropout due to learning difficulties, disabilities or socio-emotional problems, physical, sensory or intellectual impairment, or are excluded from education. Therefore, the main idea behind special education was to enable the child with special needs to receive a specially arranged and individually planned series of learning activities.¹²⁶ What is meant by special educational needs is;

- 1) Special educational needs are deemed to exist if children have learning difficulties which require that special educational provision be made for them
- 2) Learning difficulties are deemed to exist if children have significantly great difficulty in learning than the majority of children of their age or, if they have a

¹²³ W. L. Heward, M. D. orlansky, *Exceptional Children: An Introductory Survey of Special Education*, (2nd ed.), UNICEF's Information Division, New York, 1984, p. 16.

¹²⁴ M. Beirne-Smith, et al, (1994), op cited at note 88, p. 29.

¹²⁵ Ethiopia National Association on Intellectual Disability, *Workshop proceeding on Inclusive Education*, UNECA, 2009, p. 13.

¹²⁶ William L. Heward, Michael D. orlansky (1984), op cited at note 123, p. 17.

disability that either prevents or hinders them from making use of the educational facilities generally available to their age.¹²⁷

Contrary to this, school community and the society wrongly understand those children as having no potential of being educated as a result of their impairment.¹²⁸ The modern concept towards special education is it is one part of isolation, ensuring that persons with disability are different so they should be included in regular classes.

2.2.4.2. Inclusive Education

Inclusive education is the human right to education, set out in the Universal Declaration of Human Rights, which states: “**Every One has the Right to Education**”.¹²⁹ This right is also guaranteed in other Human Right Treaties which will be discussed in detail in chapter three. It advocates for the admitting and mixing of children with disability with the typical children under same classroom. In an inclusive education you accept all children that come to you despite their disability.¹³⁰ Further, inclusive education has also been defined as;

“An approach to education where students with special needs including disabilities are educated in neighboring schools in age-appropriate regular class room settings with non-disabled peers, and are provided with supports and instructions that assure their participation with their peers, while also meeting their individual strength and needs’. 131

Furthermore, inclusive education refers to an education system that is open to all learners, regardless of poverty, gender, ethnic background, language, learning difficulties and impairments. It emphasizes that all children and students can learn. It requires identifying

¹²⁷ G. Hornby, G. Davis, G. Taylor, *The Special Educational Needs Co-coordinator's Hand Book*, Routledge, New York, 1995, p. 2.

¹²⁸ Ministry of Education (2006), op cited at note 6, p. 3.

¹²⁹ Ministry of Education, *Let Us Facilitate Access to Education for All*, Special Need Education Program in Ethiopia, (pamphlet)

¹³⁰ Garry Hornby, et al. (1995), op cited at note 127, p. 2.

¹³¹ Inclusion International, *Quality Education and Inclusion*, London, 2009.

barriers that hinder learning, and reducing or removing these barriers in schools, vocational training, higher education, teacher education, and education management.¹³²

Inclusive education is important to school improvement and to increase accountability of teachers and other students. The concept of full inclusion, a policy of all students being educated in inclusive environments 100% of the time, without regard to the severity of disability is receiving more attention in most parents, professionals, advocacy groups, etc.¹³³

Those who are in favor of inclusive education argue its advantages as;

- ❖ It is cost effective; because it is expensive and unaffordable to build a separated, segregated, Special Needs Education at a distance¹³⁴ and waiting for a country to achieve such economic status will be playing with the time and lives of persons with disabilities.
- ❖ As a right, it is the right of persons with disabilities to have access to education without discrimination on the grounds of their disability.
- ❖ It creates a generation who is aware and familiar with disability and will not discriminate in the future.

Therefore, inclusive education is the best way to come up with tolerance, love, respect, and partiality between students with and without disability and the community in the school and also to effectively realize right to education of children with intellectual disability.

CHAPTER THREE

3. THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL

¹³² Ministry of Education (2006), op cited at note 128.

¹³³ M, Beirne-Smith et al., (2006), op cited at note 87, p. 307.

¹³⁴ William L. Heward, Michael D. Orlandsky (1984), op cited at note 126, p. 20.

DISABILITY UNDER INTERNATIONAL, REGIONAL AND DOMESTIC INSTRUMENTS

Neither nature nor society can be made to fully serve their useful purpose without education. This is the reason for the priority to which it is universally accorded.¹³⁵

The right to education is the only human right for which international law stipulates a corresponding duty in the form of compulsory education until the end of primary education. And this primary education is an important means by which the state protects children from abuse and neglect by their parents or guardians and from economic exploitation.¹³⁶ As a result, education is recognized as a universal human right.

Inclusive education plays a vital role in providing shared public spaces for children with disabilities to grow and develop alongside their non-disabled peers. It is essential in realizing the educational rights of all children and in fostering values of diversity, dignity, citizenship, and inclusion. Research supports that inclusive education is better for all children. Data shows that there are 120-150 million children with disabilities worldwide of which 80% of them are living in developing countries; only 5% of them have access to support services of any kind and only 2% of them attend school. Around one-third of the 115 million children not in school have a disability: lack of schooling and the structural barriers in society are the main causes.¹³⁷ There are an estimated 130 million people with intellectual disability and their families around the world. The vast majority lives in poverty and experience exclusion. 26 million people with disabilities are earning less than \$ 1 per day. So, because of poverty, lack of education and vulnerability, children with intellectual disability are highly exposed to HIV/AIDS.¹³⁸

¹³⁵ Douglas Hodgson, *The Human Right to Education*, Faculty of Law, The University of Western Australia, Ashgate publishing ltd, England, 1998, p. 39.

¹³⁶ Id, page 42.

¹³⁷ Inclusion International, *Hear Our Voices, Priority Issues for People with Intellectual Disabilities and their Families in the Implementation of the United Nations Convention on the Right of Persons with Disabilities*, Inclusion International, London, 2008.

¹³⁸ Connie Laurin-Bowie, Inclusion International, paper presentation on "*The United Nations Convention on the Rights of Persons with Disabilities: What it means to People with an Intellectual Disability and their Families*" UNECA, 2008.

Until the 1970s persons with disabilities were largely considered as objects of care and welfare right rather than the subjects of rights. The protection of their right was not given due significance. Consequently, prejudice, discrimination, and aversion force them to be excluded and marginalized from their society and to be invisible in human right concerns. Later on, the attitude began shifting towards what has come to be known as the rights based approach in the 1970s.¹³⁹ As a result, different international and regional instruments that protect the rights of persons with disabilities emerged.

Because of the vital importance of education for children with intellectual disability the international community recognized their right to education under different international and regional instruments. Some of the instruments will be discussed below.

3.1. THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY UNDER INTERNATIONAL AND REGIONAL INSTRUMENTS

The Global, African, American and European human rights systems have all recognized in treaty form the educational entitlements of persons with disabilities. Next, selected international and regional instruments will be discussed.

3.1.1. Universal Declaration of Human Rights /UDHR/

Universal Declaration of Human Rights was unanimously adopted by the UN General Assembly on 10 Dec 1948 to give content to the human rights provisions of Article 55 of the United Nations Charter and to provide in its words, "*a common standard of achievement for all peoples and nations*".¹⁴⁰ It consists of a preamble and 30 articles which have been elaborated in subsequent treaties, regional human rights instruments, national constitutions and laws.

A general right to education was directly and specifically articulated for the first time in this Declaration under Article 26(1). It states that:

¹³⁹ Handicap International and Ethiopian Bar association, *Review of International and Ethiopian Laws on Disability*, Addis Ababa, 2008, p. 4.

¹⁴⁰ Douglas Hodgson (1998), op cited at note 1, p. 40.

Every one has the right to education. 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 and higher education shall be equally accessible to all on the basis of merit".

Thus, children with intellectual disability have as equal right to education as their peers without intellectual disability. Further, article 2 clearly describes this fact by stating *"every one is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"*. In this provision, it is possible to include children with intellectual disability in the protection by interpreting the phrase *"other status"*.

According to Article 26(1) of same document, the obligation to avail free education to children implies that each nation should establish a free public education system in order to place education within the reach of the great majority of children. And, compulsory elementary education appears to be based on the notion that every person has an irrevocable entitlement to a period of education at public expense.¹⁴¹ The declaration recognizes *"free elementary education"*. But the term free must be interpreted as the delivery of elementary education itself would be free of charge but it is not ascertain that other expenses of the student such as transportation costs, books and school uniforms would be covered. However, now a day it falls short of practice of many developed countries where secondary and even higher educations are free.¹⁴² Although it is difficult for most developing countries to provide secondary and higher education for free to every one, it can be argued that those with disabilities can be made exception taking in to account the especial circumstance they are found in.

Therefore, children with intellectual disability have the right to get access to free and compulsory primary education, which is directed to the full development of their

¹⁴¹ Id, page 41.

¹⁴² Ibid.

personality, under the Declaration. In addition, the Declaration recognizes parent's right to choose the kinds of education given to their children.

3.1.2. International Covenant on Economic, Social and Cultural Rights /ICESCR/

The Covenant is a multilateral treaty adopted by the United Nation General Assembly on December 16, 1966, and come into force, ten years later, on January 3, 1976 same year with the International Covenant on Civil and Political Rights. It consists of a preamble and 31 articles divided into five parts. It imposes a legally binding obligation on those nations which ratify or accede to it to work toward the granting of economic, social, and cultural rights to individuals. Such as, labor rights, right to health, education, etc. The ICESCR is part of the International Bill of Human Rights, along with the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR). The Committee on Economic, Social and Cultural Rights monitors implementation of the Covenant by member states. Most of the rights provided in this Covenant are economic in their nature and are also implemented progressively, which requires states to take a positive action towards the fulfillment of the rights. This is provided under Article 2(1) of ICESCR.¹⁴³

The educational provisions of UDHR have been reaffirmed, amplified and made more detailed by this Covenant. Article 13 of ICESCR expands upon the content attributed to the right to education by Article 26(1) of the UDHR. It is devoted to the right to education and, in its day, contained the most extensive and detailed provisions on this subject to be incorporated in an international instrument.¹⁴⁴ It reads thus;

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the

¹⁴³ ICESCR, Article 2(1), 'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, specially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures'.

¹⁴⁴ Douglas Hodgson (1998), op cited at note 1, p.42.

human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

*(a) Primary education **shall be compulsory and available free to all;***

*(b) Secondary education in its different forms, including technical and vocational secondary education, **shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;***

*(c) Higher education shall be made **equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;***

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

This article discusses the right to education in such very detail manner. As clearly stated in the Article, education is recognized as a right that belongs to every one so that children

with intellectual disability as part of the vast group, "every one", have the right to education. In addition, in the same article it is provided that "*education shall be directed to ...human personality and the sense of its dignity...*" Here primary education includes the elements of availability, accessibility, acceptability and adaptability which are common to education in all its forms and at all levels. So, the rights in the Covenant include non-discrimination and enhancing physical and economic accessibility.¹⁴⁵ As a result, children with intellectual disability have the right to get access to education in order to develop their personality, dignity and to effectively participate in a free society.

Article 13(2) lists a number of specific steps parties are required to pursue to realize the right to education. Article 13(2) (a) requires compulsory primary education available free to all. As such, Article 13 implicitly endorses the concept of equality of educational opportunity which is reinforced by the non-discrimination language contained in Article 2(2) of the Covenant which reads as: "*States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*". From this one can conclude that, children with intellectual disability can be grouped under the ground of "***other status***" and based on this they have the right to get access to education, same like their peers, without any discrimination.

According to Article 13 (2) (b) of the Covenant, member states are obliged to make secondary education generally available and accessible. Therefore, children with intellectual disability have also the right to secondary education. Moreover, if they have the ability they can have access to higher education too. Under the rest sub articles of Article 13(2) the Covenant recognizes the educational freedom of parents to choose and establish private educational institutions for their children and also to ensure the religious and moral education of their children in conformity with their own conviction. This right also indirectly protects children with intellectual disability.

¹⁴⁵ Committee on Economic, Social and Cultural Rights, General Comment No.13: *The Right to Education (art 13)* (Twenty first session, 1999), HRI /GEN/1/REV.9 (Vol. I), par, 8.

A special provision that may indirectly refer to children with intellectual disability could be found under art 10 (1) of ICESCR. It reads as:

"The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children....."

This provision talks about the necessary protection to be given to families who are responsible for the care and education of dependent children. These children could be children with intellectual disability and when their parents are protected, indirectly they benefit too and can enjoy their right to education without any obstacle. Article 10(3) also reads as *"the Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions....."*

Here, however children with intellectual disability are not explicitly outlined the phrase **"other conditions"** can be interpreted as the situation of intellectual disability. As a result, they have also the right to get special protection and assistance including Special Education, teaching aids, facilities, accessibility of education or in general Inclusive Education without any discrimination.

Therefore, under the ICESCR the right to education of children with intellectual disability is provided as a general right and there is no any provision that directly addresses the issue of intellectual disability unless we made such indirect reference to the above mentioned provisions.

3.1.3. United Nations Convention on the Rights of Persons with Disabilities (CRPD)

It was in December 13, 2006, that the United Nations General Assembly formally adopted the Convention on the Rights of Persons with Disabilities at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. The

Convention entered into force on 3 May 2008. The Convention has a preamble and 50 articles which clearly articulate what existing human rights mean with in a disability context. Some of the important articles in the Convention are; Recognition of Children (Art 7), Recognition of Women (Art 6), Protection from exploitation, Violence and Abuse (Art16), Right to Education (Art 24), Right to Employment (Art 27), Right to and Adequate Standard of Living (Art 28), and so on. Among these rights, special emphasis will be made on the core right i.e., "right to education".

The Convention has three unique features. First, the way it develops makes it unique i.e. it was for the first time in the history of the United Nations that people with best interest with the Convention were so intimately involved in drafting. And also the disability community influenced not only the text itself, but also the level of awareness among member states of the challenges faced by people with disabilities and their families. Second, it shifts the understanding of disability from a medical to a social model (in which disability is no more seen as a problem rather a set of barriers). Further, it also includes articles that require state parties to develop social policies and practice overtime. Third, it is the first core human right Convention to have links to both the United Nations Office of the High Commissioner on Human Right and the United Nation Department of Economic and Social Affairs.¹⁴⁶

The main purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. Additionally, it promotes respect for their inherent dignity and ensure their full participation in social life. The Convention prohibits the discrimination of persons with disabilities on the grounds of disability. Under Article 5 of the Convention, state parties have entered into an obligation to prohibit any discrimination on the basis of disability and any other ground, to guarantee equal and effective protection against discrimination and to provide persons with disability with reasonable accommodation. So, children with intellectual disability have equal right with others in the enjoyment of human right such as the right to education.

¹⁴⁶ Inclusion International (2008), cited at note 3, p. 2.

When we talk about the right to education of children with intellectual disability, our focal point must be on inclusive education because it is a fundamental right which enables those children to be part of the community and enjoy their right to education without any discrimination. And, the Convention also pays a much more attention on inclusive education. Article 24 (1) of the Convention reads as: "*States 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 life long learning directed to....*" It obliges states to make accessible an inclusive quality and free primary education on equal basis with others in the community and also make available secondary education for persons with disabilities.¹⁴⁷

Other sub articles also provide the means how to deliver the service that addresses the special needs of these children to the extent that state 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. This tells us that children with intellectual disability will, without uncertainty, be benefited from the available inclusive system. An Inclusive Education would not by any means come true without having an inclusive school and educational system.¹⁴⁸ In a general sense, states are obliged to ensure the availability of reasonable accommodations for persons with disabilities to enable them enjoy their right in equal footing with their peers. Here reasonable accommodation means any action that helps to alleviate a substantial disadvantage due to an impairment or medical condition. For the case of children with intellectual disabilities to reduce barriers that hinder them from fully enjoying their right to education and to provide them equality of access and opportunity reasonable accommodation is essential. Reasonable accommodation did not mean creating unequal standard or imposing undue economic burden on the Government however taking measures such as arranging tutorial class for these children could be the one.

¹⁴⁷ UNCRPD, Article 24(2).

¹⁴⁸ Id, Article 24 (3).

For the perfect implementation of Article 24 there are accessory provisions in the Convention that create convenient condition for children with intellectual disability in enabling them fully exercise their rights. Article 7(1) deals with the particular rights of children with disabilities. it obliges State Parties to take all necessary measures to ensure that all children with (intellectual) disability do enjoy their full human rights and fundamental freedoms on an equal basis with other children. With regards to this article some groups of people argue that there is no need of having such specific provision and the issue should be mainstreamed through out the convention. On the other hand, other groups argue in favor by stating that there are some issues which are child-related only and could not be covered in provisions that focus on adults. For example, best interest of the child. And, Article 6(1) makes a special reference to women and girls with disabilities, who are subjected to multiple discriminations, obliging state parties to take necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms. Therefore, according to these two articles, children with intellectual disability along with women and girls have the right to education without any discrimination.

Further, Article 9(1) of the Convention discusses about "**Accessibility**". This is a core term for children with intellectual disability's right to education because inaccessibility is one of the fundamental problems they are facing in exercising this right. Article 9(1) reads as:

- 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.*

With the fulfillment of these sub-article States will pave the way, for children with intellectual disability, to fully and effectively exercise their right to education.

Further more, to ensure the proper implementation of the Convention by member States, the Convention also establishes reporting and monitoring procedure. The Committee on the Rights of Persons with Disabilities takes this responsibility. There is also an Optional Protocol to this Convention¹⁴⁹ that further strengthens the communication mechanism by allowing groups or individuals, after having exhausted all national resources, can have the Committee on the Rights of Persons with Disabilities consider a claim that a state party has violated the provisions in the Convention.¹⁵⁰

Therefore, the UN Convention on the Rights of Persons with Disabilities recognizes and protects the right to education of persons with disabilities by making special reference to the Inclusive Education which directly concerns children with intellectual disability.

3.1.4. The Standard Rules on the Equalization of Opportunities for Persons with Disabilities

Among the major outcomes of the United Nations Decade of Disabled Persons (1983-1992) was the adoption, by the General Assembly, of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in 1993. The primary aim of the United Nation General Assembly was to agree on an international convention on the elimination of all forms of discrimination against persons with disabilities but because of lack of consensus it was rather agreed to formulate the non-binding Standard Rule on the

¹⁴⁹ <http://www.un.org/disabilities/default.asp?id=150> (Accessed on September 25, 2010) - *An Optional Protocol to the Convention on the Rights of Persons with Disabilities has 90 signatories and 58 ratifications and entered in to force with the Convention on 3 May 2008.*

¹⁵⁰ Additional Protocol to the Convention on the Rights of Persons with Disabilities, Article 1.

basis of the experience gained during the UN Decade of Disabled Persons.¹⁵¹ The purpose of the Rule is to ensure that persons with disabilities can exercise the same rights as other persons. Although not a legally binding instrument, the Standard Rules represent a strong moral and political commitment of Governments to take action to attain equalization of opportunities for persons with disabilities. The rules serve as an instrument for policy-making and as a basis for technical and economic cooperation.¹⁵²

The Standard Rules consist of 22 rules divided in to four chapters that cover the whole aspects of life of persons with disabilities; precondition for equal participation, target areas for equal participation, implementation measures, and the monitoring mechanism. In its resolution 49/153 of 1994, The General Assembly urged all governments to implement the Standard Rules and welcomed the appointment of a Special Rapporteur to monitor the implementation of the Rules. World Health Organization supports in particular the implementation of the United Nation Standard Rules and promotes their use for the development of national policies related to disability and rehabilitation.

The Standard Rule, in its preamble, gives due emphasis to the need to make an intensified effort to achieve the full and equal enjoyment of human rights by persons with disabilities. And it also makes reference to different International Human Rights Instruments such as, UDHR, ICCPR, CRC, etc.

Among the Rules, Rule 6 is the one that discusses about the educational right entitlement of persons with disabilities. It consists of nine sub-articles. This rule is composed of the most detailed norms yet to be developed and will be discussed in detail;

Rule 6 reads as follow:

States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the educational system.

¹⁵¹ Douglas Hodgson (1998), op cited at note 1, p. 159.

¹⁵² <http://www.un.org:80/esa/socdev/enale/dissre00.htm> (Accessed on October 03/2010).

- 1) *General educational authorities are responsible for the education of persons with disabilities in integrated settings. Education for persons with disabilities should form an integral part of national educational planning, curriculum development and school organization.*
- 2) *Education in mainstream schools presupposes the provision of interpreter and other appropriate support services. Adequate accessibility and support services, designed to meet the needs of persons with different disabilities, should be provided.*
- 3) *Parent groups and organizations of persons with disabilities should be involved in the education process at all levels.*
- 4) *In States where education is compulsory it should be provided to girls and boys with all kinds and all levels of disabilities, including the most severe.*
- 5) *Special attention should be given in the following areas:*
 - a) *Very young children with disabilities;*
 - b) *Pre-school children with disabilities;*
 - c) *Adults with disabilities, particularly women.*
- 6) *To accommodate educational provisions for persons with disabilities in the mainstream, States should:*
 - a) *Have a clearly stated policy, understood and accepted at the school level and by the wider community;*
 - b) *Allow for curriculum flexibility, addition and adaptation;*
 - c) *Provide for quality materials, ongoing teacher training and support teachers.*
- 7) *Integrated education and community-based programs should be seen as complementary approaches in providing cost-effective education and training for persons with disabilities. National community-based programs should encourage communities to use and develop their resources to provide local education to persons with disabilities.*
- 8) *In situations where the general school system does not yet adequately meet the needs of all persons with disabilities, special education may be considered. It should be aimed at preparing students for education in the general school system. The quality of such education should reflect the same standards and ambitions as general education and should be closely linked to it. At a minimum, students with disabilities should be afforded the same portion of educational resources as students without disabilities. States should aim for the gradual integration of special education services into mainstream education. It is acknowledged that in some instances*

special education may currently be considered to be the most appropriate form of education for some students with disabilities.

- 9) *Owing to the particular communication needs of deaf and deaf/blind persons, their education may be more suitably provided in schools for such persons or special classes and units in mainstream schools. At the initial stage, in particular, special attention needs to be focused on culturally sensitive instruction that will result in effective communication skills and maximum independence for people who are deaf or deaf/blind.*

In its introduction, Rule six obliges States to ensure persons with disabilities gets equal access to primary, secondary and tertiary levels of education and to incorporate the education of such persons in the main educational system. Accordingly, children with intellectual disability are also the beneficiary of this right.

According to Rule 6(2), children with intellectual disability have the right to get adequate access and support services to meet their special needs. This is an interesting Rule which could entitle children with intellectual disability with lots of rights. For instance, the rights to get free transports service, wheelchair, educational material aids, etc since these are the main obstacles that hinder children with disability from attending class even if schools are available.

Rule 6(3) further recognizes the involvement of parent groups and persons with disabilities themselves in the educational process. This is also a fundamental article that gives credit for the voice of persons with disabilities. Rule 6(5) gives special attention for very young and pre-school children with disabilities. This sub-article provides special protection for children with intellectual disability. In addition, sub-article 7 introduces the notion that the education and training of persons with disabilities should be cost-effective.

Therefore, the UN Standard Rule on the equalization of opportunity for persons with disabilities protects the right to education of persons with disabilities in general and children with intellectual disabilities in particular.

3.1.5. Declaration on the Rights of Mentally Retarded Persons

The Declaration on the Rights of Mentally Retarded Persons was adopted by the United Nations General Assembly in Resolution 2856(XXVI) of 20 Dec, 1971. Although the Declaration is not legally binding, it does have power of moral and political situation which were used effectively to bring national policy changes. It was underpinned by a desire to assist persons with intellectual disability to develop their abilities in various fields and to promote their integration as far as possible in normal life.¹⁵³

The Declaration consists of a Preamble with seven paragraphs and eight Articles. The preambles of the declaration specifies the need of giving due emphasis on the protection of persons with intellectual disability. Article 1 stated that: *"The mentally retarded person has, to the maximum degree of feasibility, the same rights as other human beings"*. This is a general provision which deals about the right of persons with intellectual disability to enjoy all the rights without any discrimination same to other human beings. This shows that, persons with intellectual disability, except their limited capacity of performing some activities, are no different creatures and it entitles them to enjoy all the rights that belong to other human beings.

Further more, Article 2 of the Declaration reads as: *"The mentally retarded person has a right to proper medical care and physical therapy and to such education, training, rehabilitation and guidance as will enable him to develop his ability and maximum potential"*. This is the only provision that is related to right to education. It recognizes the right of persons with intellectual disability to get access to education, training, and rehabilitation with the aim of achieving his ability developed to the maximum potential. As discussed in the previous chapter, education is the key for persons with intellectual disability and the declaration clearly points out this fact.

Therefore, the Declaration on the Rights of Mentally Retarded Persons recognizes and protects the right to education of children with intellectual disability. But as it is a non-

¹⁵³ Douglas Hodgson (1998), op cited at note 1, p. 156.

binding instrument the international community has to work on changing it into a binding one.

3.1.6. The Convention on the Rights of the Child /CRC/

The early life of the human person, which we generally refer to as childhood, is mainly characterized by its state of frailty and helplessness. This state of affairs calls for special care and protection. Most of the time age is used as criteria to define a child even if the limit being different from one place to another.¹⁵⁴ In fact, CRC under Article 1 defines a child by taking age as the most important factor as: *"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier"*.

The principles of human rights mentioned in different international human rights instruments and frameworks apply both to children and adults. However, a separate instrument like the Convention on the Rights of the Child brings together children's human rights articulated in other international instruments. Therefore, in 1989 the various ideas embodied in international instruments such as, UDHR, ICESCR, ICCPR and similar international instruments culminated in the United Nation Convention on the Rights of the Child.¹⁵⁵

The adoption of the Convention has brought about significant advances in the area of children's life and rights. Some countries used the Convention as the basis on which to adopt domestic legislation and improve protection standards for children, or have appointed officials specifically working on child right protection.¹⁵⁶ The Convention was adopted and opened for signature, ratification and accession by the United Nation General Assembly Resolution 44/25 of 20 Nov, 1989. The CRC has addressed comprehensively the rights, duties and responsibilities of parents and other persons

¹⁵⁴ Save the Children, Sweden (SC-S) and Organization for Social Justice in Ethiopia (OSJE), *Exploring Child Right and The Child Rights' Frame work: An Interactive and Participatory Child Rights Teaching Material*, Addis Ababa, 2007, p. 8.

¹⁵⁵ Tilahun Teshome, "The Child and the Law in Ethiopia: The case of the United Nations Convention on the Rights of the Child", *Journal of Ethiopian law*, Vol. XVIII., 1989, p. 37-38.

¹⁵⁶ SC-S & OSJE (2007), op cited at note 20, p. 30 .

legally responsible for children. It is the first binding and comprehensive international instrument dealing with the rights of children. The only international implementation mechanism provided for in the CRC is the system of periodic reporting by states parties to the relevant human rights treaty body, the Committee on the Rights of the Child.¹⁵⁷

The international community has been time and again reminded that special attention must be paid to the various needs of particular vulnerable children.¹⁵⁸ Disability is one of the factors that put children in a vulnerable situation. Various United Nation publications indicate that one in every ten children in the world is born with or acquire a physical, mental or sensory impairment.¹⁵⁹ Such children with special emphasis to children with intellectual disability need particular care with regard to health, physical, mental, moral and social development within the framework of legal environment for their normal growth in all dimensions and education is the key to this.¹⁶⁰

CRC consists of a Preamble, and 54 articles divided into three parts. The Convention begins in its Preamble by stating the various rationales to protect children. Paragraph three refers to other international instruments i.e. UDHR, ICCPR, and ICESCR and reading this paragraph with cross reference to Article 2¹⁶¹, which obliges state parties to respect and ensure the rights sets forth in the Convention to each child within their jurisdiction without discrimination of any kind such as race, color, sex, language.....birth or other status. Therefore, as have done earlier, by interpreting the phrase "*other status*" it is possible to determine that children with intellectual disability have the full right, just like their peers, to enjoy all the rights recognized under CRC. Article 3 of CRC also requires that the best interest of the child shall be a primary consideration in all actions taken considering children, including those with disabilities which also apply to children with intellectual disability.

¹⁵⁷ Sharon Detrick, *A Commentary on the United Nations Convention on the Rights of the Child*, Martinus Nijhoff Publisher, The Hague, 1999, p. 41.

¹⁵⁸ Tedlla Diressied, "Children In Especially Difficult Circumstances in Ethiopia", in (Habtamu Woundimu (ed)), *The Situation of Children and Adolescents in Ethiopia*, Addis Ababa University Printing Press, Addis Ababa, 1996, p. 49.

¹⁵⁹ Id, p. 57.

¹⁶⁰ Id, p. 51.

¹⁶¹ SC-S & OSJE (2007), op cited at note 20, p. 31, states that Article 2 of CRC prohibits discrimination against 'All children, in All situation, All of the time, and Every where'

In addition, under paragraph 11 of the preamble the Convention gives due emphasis to children all over the world, who are living in exceptionally difficult conditions, by referring that, those children need special consideration. And, for children with intellectual disability that of special consideration could be getting access to right to education.

Another specific reference to the right of the child to education in an international human rights instrument is enshrined in Principle 7 of the 1959 United Nation Declaration of the Rights of the Child.¹⁶² Principle 7 proclaims that: *"The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stage. He shall be given an education which will promote his general culture... to develop his abilities... become a useful member of the society"*.

In CRC there are different provisions that are concerned about the right to education; Article 23(3), 40(4), 32(1), 28, and Article 29. Article 23 of CRC is a detailed provision that deals with rights and the necessary protection to be provided to children with mental or physical disability. It is a stand-alone provision on children with disabilities. Unlike other general human right instruments, CRC under this Article directly deals with different obligations of states and the measures they should take in the protection of rights of children with disability.¹⁶³ Article 23(2) provides that state parties have responsibility to provide children with intellectual disability special care of assistance subject to the available resources. And, such assistance, if possible, should be provided free of charge by taking into account the financial status of parents or guardians. Furthermore, such assistance should be with the aim of ensuring children with intellectual disability or in general the children with disability to have effective access to and receive education, training, health care service, etc. Therefore, the Convention recognizes the right to get an effective access to education of children with intellectual disability who are educable. And those who are trainable have also the right to get effective access to training.

¹⁶² Sharon Detrick (1999), op cited at note 23, p. 472.

¹⁶³ Inclusion International (2008), op cited at note 3, p. 20.

Article 28 of the Convention is a general provision about the right of the child to education and it also applies to children with intellectual disability. It is about the organizational aspect of the child's right to receive education. It discusses about the duty of states to achieve, in a progressive manner, free and compulsory primary education; make secondary education available; and other factors on the basis of equal opportunity. In this case, CRC doesn't make any reference to pre-school education. But during the technical review of the Draft Convention on the Rights of the Child, UNESCO express its concern on pre-school education and propose to amend the now Article 28 by incorporating a legal duty upon State parties *"to facilitate the provision of early childhood care and education, using all possible means, in particular for the disadvantaged child, in order to contribute to the young child's growth, development and to enhance his or her later success at other levels of education"*. Similarly, Aggarwal, a well known Indian educationist and researcher also states that *"children who have been to a pre-primary school show better progress at the primary stage"*.¹⁶⁴ But the proposal has failed. The main reason was that many states oppose the proposal believing that it increases their educational expenditure.¹⁶⁵

This researcher believes that the proposal made by UNESCO should have been encouraged because of its special reference to disadvantaged children, which includes children with intellectual disability since it has a vital importance for early intervention on the disability of the child. Specially, for the case of children with intellectual disability early intervention has a vital importance in identifying and reducing the level of severity and also enables those children to be ready for the future education. In addition, it shouldn't have been that much difficult for states to accept this obligation because the introductory part of Article 28 talks about the progressive nature of the provision. Therefore, the researcher believes that it would have been great if Article 28 was framed like UNESCO's proposal and then those countries that have the resource will apply it.

The Convention under Article 29 provides the ways state parties agreed for education of the child to be directed to. Paragraph one of Article 29 pertains to the aim of education

¹⁶⁴ Tedlla Diressied (1996), op cited at note 24 p. 104.

¹⁶⁵ Id, p. 45.

and also paragraph two contains the freedom of individuals and bodies to establish educational institutions. Article 29(1) (a) states that: "*The development of the child's personality, talents and mental and physical abilities to their fullest potential*". This directly refers to children with intellectual disability. So, as discussed in previous chapter children with intellectual disability are in special need of education to develop mentally and personally.

In addition, for the proper implementation of the provisions in the Convention by member states CRC provides a reporting system as a controlling mechanism.¹⁶⁶ Therefore, the Convention on the Rights of the Child recognizes the right to education of children including children with intellectual disability.

3.1.7. Convention against Discrimination in Education /CADE/

Convention against Discrimination in Education was adopted by the General Conference of UNESCO meeting in Paris from 14 November to 15 December 1960, at its eleventh session. It is composed of a preamble and 19 articles. It is the first international instrument to prescribe comprehensive standards to combat discrimination in public education. It was first proposed by the special Rapporteur Charles Ammoun's in 1957. The Convention seeks particularly to eliminate discrimination and ensure equal treatment and equality of opportunity to education at all level.¹⁶⁷

The Convention in its preamble paragraph four states that: "*the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of national educational systems, has the duty not only to proscribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education*". Accordingly, the Convention extends its protection beyond prohibiting discrimination to promoting equality of opportunity to education for all. In our case, under this Convention children with intellectual disability are guaranteed not to be

¹⁶⁶ UNCRC, Article 44(1) - *state parties under take to submit reports to the Committee on the UN Convention on the Rights of the Child, through the Secretary General of the United Nation, with in two year of the entry in to enforcement and after then every five years.*

¹⁶⁷ Tedlla Diressied (1996), op cited at note 24, p. 47.

discriminated in exercising their right to education. This is not the end rather the Convention entitle them to get equal opportunity and treatment in education. For instance, it means, they have the right to get access to primary, secondary and even higher education, to be treated equally by their teachers just like their peers and extra.

The concept covered in the Convention is also found in the UDHR under Article 2 which deals with 'non-discrimination' and Article 26 is about 'right to education' and when these two provisions read together they give us the concept "non-discrimination on the enjoyment of the right to education" which is the core issue of this Convention. For the purpose of the Convention the term 'education' refers to all types and levels of education including access to education, the quality of education, and the conditions under which it is delivered.¹⁶⁸

Article 1 of the Convention defines what discrimination means and lists down the prohibited grounds exhaustively. Among the grounds the status of 'disability' is not included. This excludes persons with disabilities in general and children with intellectual disability in particular to be beneficiary of the protection in the given article. Similarly, in the Convention there is no provision that specially deal with persons with disability but this doesn't mean that the whole provision doesn't apply to them.

Under Article 3, the Convention provides measures member states have to take in order to eliminate and prevent discrimination in education. One of the measures is *"Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group"*¹⁶⁹ we can interpret this sub-article to include children with intellectual disability. Accordingly, member states are prohibited from making any restriction on the enjoyment of right to education by those children simply because they belong to a particular group i.e., children with intellectual disability or disability in general.

¹⁶⁸ Id, page 48.

¹⁶⁹ CADE, Article 3(d).

Member states of the Convention are also expected to develop and apply a national policy in order to promote equality of opportunity and treatment in education. Further, they agree that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.¹⁷⁰ Article 9 reads as: "*Reservations to this Convention shall not be permitted*" This provides extra protection in guarantying the right to education of these children. Additionally, member states are also obliged to make periodic reports to the General Conference of UNESCO on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have taken to achieve the goal of the Convention.

To conclude, the Convention against Discrimination in Education prohibits any bias in the enjoyment of the right to education and children with intellectual disability are also benefited from this fundamental safeguard.

3.1.8. African Charter on the Rights and Welfare of the Child /ACRWC/

The Charter of the Organization of African Unity was adopted by a conference of African Heads of State and Government in Addis Ababa, Ethiopia, on 25 May 1963. This organization was responsible for adopting different African instruments such as the African Charter on Human and Peoples' Right (ACHPR) and the African Charter on the Rights and Welfare of the Child (ACRWC). WHO studies shows that there are about 600 million persons with disabilities around the world and 180 million are children with disabilities; 400 million live in developing countries and 80 million in Africa.¹⁷¹ ACRWC was adopted in 1990. It entered into force almost a decade later in 1999.¹⁷² In many

¹⁷⁰ CADE, Article 4&5.

¹⁷¹ Sakui W. G. Malakpa, *The Right to Education for Persons with Disabilities: Towards Inclusions*, The African Association for the Special Education and Rehabilitation Services (AASERS), a Proposal paper submitted and accepted by the Editorial Committee, 2009, p. 1.

¹⁷² Dejene Girma Janka, "Domestic Application of African Charter on Human and People rights and on the Rights and Welfare of the Child", *Ethiopian Journal of Legal Education*, Vol.3 No.1, Justice and Legal System Research Institute, Addis Ababa, 2010, p. 26.

respects, its provisions are modeled on the provisions of the UN Convention on the Rights of the Child.¹⁷³

The most comprehensive formulation of the right to education in regional African human rights instruments is to be found in the ACRWC.¹⁷⁴ The Charter imposes a binding obligation on those African states which ratify it. It further establishes the African Committee of Experts on the Rights and Welfare of the Child, an organ responsible for monitoring its implementation.

The Charter is composed of a preamble and 48 articles divided in two parts. The Charter in its preamble paragraph 2 recognizes that "*every one is entitled to all the rights and freedoms, recognized therein, without any discrimination*" which also includes the status of intellectual disability. This paragraph can be read with cross reference to Article 3 of the ACRWC, which deals about non-discrimination on the enjoyment of the rights and freedoms recognized in the Charter. This provision contains the phrase "*other status*" as one of the prohibited grounds which through interpretation includes the status of intellectual disability. So, children with intellectual disability are beneficiaries of the protection from 'discrimination' in the given article.

Further, paragraph 4 states the fact that most African Children are under critical situation to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disaster, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care. The situation even gets worse in the case of children with intellectual disability living in Africa since they require much more protection, assistance and care.

The Charter under Article 11 provides the right to education in a well detailed manner. In the Charter, the right to education of children with intellectual disability can be referred from both general and special provisions. The Charter under Article 11(1) states that "*Every child has the right to education*". So, children with intellectual disability being member of the child group have the right to education. In addition, Article 11(2) provides

¹⁷³ SC-S & OSJE (2007), op cited at note 20, p. 42.

¹⁷⁴ Douglas Hodgson (1998), op cited at note 1, p. 59.

the means how education of the child should be directed to. Article 11 (2) (a) reads as: *"The promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential"*. It further strength the fact that, education is a special need of children with intellectual disability. The rest of the sub-articles discuss the fact that education should be directed to strengthening African unity, keeping and protecting the culture, etc. Furthermore, Article 11(3) lists down the measures to be taken by member states for the full realization of this right, such as, providing free and compulsory basic education, encouraging the development of secondary education, etc. Article 11(3) (e) makes a special reference to disadvantaged children by obligating member states to take measures to ensure their equal access to education. In our case children with intellectual disabilities will fall under these groups because they are disadvantaged as a result of their intellectual disability status. This provision did not recognize the right to education to be achieved in a progressive manner. So, we can say that member states of the Charter are obliged to fulfill their obligation under this article immediately and this gives a better protection for children in general and to children with intellectual disability in particular.

Article 13 of ACRWC is about 'handicapped children'. This provision, even if it did not make any direct reference to right to education of children with intellectual disability, it has a vital importance for the realization of right to education of these children. Article 13(1) reads as: *"Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community."* In order to enjoy this right the special measure of protection to be taken must include **education**. Otherwise children with intellectual disability could not be able to participate in the community, achieve personal or mental development. Article 13(2) further states that, the assistance to be given to children with disability should be achieved to effective access to training, preparation to employment, etc. Article 13(3) is a very important provision which discusses about accessibility.¹⁷⁵

¹⁷⁵ ACRWC, Article 13(3): *"The States Parties to the present Charter shall use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person*

Inaccessibility of different public services is the major problem of these children. And with specific reference to education; school buildings, teaching aids, roads, etc are not accessible for children with intellectual disability especially in the countries like Ethiopia. And it is one of the major obstacles for children with intellectual disability that hinder them from exercising their right to education in effective way. According to this sub-article, State parties have a duty to create a convenient situation for children with disability by using their available resources. The Charter also has a reporting procedure in order to follow up its implementation by member States.¹⁷⁶ Therefore, the African Charter on the Rights and Welfare of the Child is composed of different provisions that recognized the right to education of children with intellectual disability.

3.1.9. European Convention for the Protection of Human Rights and Fundamental Freedoms /ECHR/

The Convention was adopted in 4th November 1950 by the members of the Council of Europe and entered into force on 3 September 1953. This Convention has five protocols. The Convention surprisingly contains no provision concerning the right to education. But latter on to avoid this gap The Council of Europe adopted the First Additional Protocol on 20 March, 1952 on *The Enforcement of certain Rights and Freedoms not included in Section I of the Convention*. This protocol is the first internationally binding instrument after UDHR to explicitly refer to right to education.

The Governments that are signatories to the protocol agreed to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention. According to Article 5, all the articles in the protocol shall

to movement and access to public highway buildings and other places to which the disabled may legitimately want to have access to."

¹⁷⁶ Id, Article 43: "Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights: (a) within two years of the entry into force of the Charter for the State Party concerned; and (b) and thereafter, every three years"

be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

Article 2 of the First Protocol to the European Convention states that, *"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and teaching, the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions"*. This article was formulated negatively which merely imposes a negative obligation on a state party not to take steps to interfere with the rights. And it extends to all forms of education provided or permitted by the state however it doesn't extend to vocational training.¹⁷⁷ So, the European Convention for the Protection of Human Rights and Fundamental Freedoms in its First Protocol guarantees every one the 'right to education' and children with intellectual disability are also entitled to this right.

The Convention, under Article 19, establishes the two important bodies', i.e. European Commission of Human Rights and European Court of Human Rights, in order to ensure the observance of the engagement undertaken by the High Contracting Parties in the present Convention. These two bodies have been called of from time to time to interpret the meaning and content of the right to education under Article 2 of the 1st Protocol.¹⁷⁸ The commission held that Article 2 required a balance to be struck between the expressed wishes of the parents and disabled child's right to have as effective education as possible.¹⁷⁹ Therefore, children with intellectual disability's right to education, under the European Convention on Human Rights, can be recognized by referring to the First Additional Protocol.

3.2. THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY UNDER THE LAWS, POLICIES AND PROGRAMS OF ETHIOPIA

¹⁷⁷ Connie Laurin-Bowie (2008) op cited at note 4, P. 56

¹⁷⁸ Id, page 57.

¹⁷⁹ Id, page 163.

In most cases, poverty is found to be nations' root cause of diversified socio-economic crisis and Ethiopia is not exceptional. Children who are living in such countries are one of the front liners to be directly affected by. Although, the children in Ethiopia have various rights recognized under different laws and regulations, but there are so many economical, social or cultural obstacles that hinders them from exercising their rights. The situation even gets worse in the case of children with disabilities.

About 600 million people in the world suffer from various forms of disabilities and over two third of the total population of persons with disabilities live in developing countries.¹⁸⁰. In most parts of Ethiopia persons with disabilities are exposed to discrimination and stigma as a result of their disability status. The main reason is the wrong belief of part of the society that disability is seen as curse, punishment from God, or a devil act, etc. Vulnerable groups such as women, children, and minorities face double and triple forms of discrimination. By the same token, in most parts of Ethiopia especially in rural areas, the magnitude of childhood disabling factors and the incidence scale of disability are very high.¹⁸¹ As in the case of other least developed countries the situation of children especially those under difficult circumstances are very critical in Ethiopia and they represent the most vulnerable group in society.¹⁸²

Hence, in countries like Ethiopia education is the key for providing best protection for children with intellectual disability. Now a day in some part of our country there are new trends of integrating and teaching children with disabilities in regular school setting and interesting work has been done in recognizing their various rights by the laws of country even if the stigma and discrimination is not totally eradicated.¹⁸³ Next, this concept will be discussed in detail.

3.2.1. A Brief Historical Background of Right to Education in Ethiopia

¹⁸⁰ Handicap International and Ethiopian Bar association (2008), op cited at note 29, p. 1.

¹⁸¹ Tirusew Tefera, "Inclusion of Children with Disabilities in Regular Schools: Challenges and Opportunities", *The Ethiopian Journal of Education*, Vol. XIX, NO 1, 1999, p. 29.

¹⁸² Tedlla Diressied (1996), op cited at note 19, p. 49.

¹⁸³ Tirusew Tefera (1999), op cited at note 47, p. 30.

It has been a century since modern education took root in Ethiopia.¹⁸⁴ The religious education, that preceded it, albeit its limited objective had lived for many centuries. The history of education in Ethiopia has, however, been barely associated with social and economic development.¹⁸⁵

In history Ethiopia has set different targets for Universalizing Primary Education, such as in 1980, during the Addis Ababa UNESCO Conference on African Education in 1961, and the Tentative Plan Action of the Socialist Government of Ethiopia for wiping out illiteracy by 1984 and later by 1994. Currently, the Federal Government of Ethiopia has also taken various measures to accomplish this goal. For instance, to address the issue of accessibility of education in Ethiopia the Ministry of Education and the Regional Educational Bureaus have put formal and non-formal educational programs in place. Now, the Federal Government of Ethiopia has also set a new target year 2015 for Universal Primary Education (UPE).

The Federal Government with the aim of eradicating illiteracy from Ethiopia also uses the NFBEC (Non-Formal Basic Education Center) and CSTC (Community Skill Training Center).¹⁸⁶ Similarly, the Ministry of Education is working on adopting a new strategy called Alternative Approach to Basic Education (linking both non-formal and formal basic education).¹⁸⁷ However, how far it is put in practice is still questionable. In the next section, the right to education of children with intellectual disability under different laws, policy, strategies and programs of Ethiopia will be discussed.

3.2.2. The FDRE Constitution

¹⁸⁴ Ministry of Education, *The Education and Training Policy and its Implementation*, Addo Ababa, 2002, p.1

¹⁸⁵ Amare Asegedome and Temecheegn Engida, "Education in Ethiopia: A Development Perspective", *The Ethiopian Journal of Education*, Vol. XXII, 2002, p.101.

¹⁸⁶ Id, page 102.

¹⁸⁷ Id, page 103.

Constitution is the fundamental law of a country, reflecting the underlying and unifying values of society. It spells out the basic rights of each person. It serves as a framework for other laws and policies, and can only be changed and updated through a democratic process.¹⁸⁸

In Ethiopia, the Federal Constitution is the supreme law of the land.¹⁸⁹ And any law, customary practice, or a decision of an organ of a state or a public official that contradicts with the Constitution will be voided automatically. Therefore, all citizens, organs of the government, political organizations, etc have the obligation to respect and obey the Constitution.¹⁹⁰

The Constitution has a preamble and is divided into eleven chapters. The three generation rights happen to be found in the Constitution. So that, right to education which is one of the socio-economic rights, even if it has also a nature of civil and political rights, is recognized under the Constitution. Although there is no direct provision devoted to right to education, an indirect inference can be made.

Article 25 of the Constitution guarantees the right to equality. It reads as:

"All persons are equal before the law and are entitled to equal protection of the law without discrimination. And the law shall guarantee to all persons equal and effective protection without discrimination on the grounds of race, nationality... or other status"

In this case, children with intellectual disability have the right to exercise their right to education without any discrimination on their status of disability. We can call this the mother of other rights.

¹⁸⁸ <http://www.right-to-education.org/country-nodel/327/country-constituional> (Accessed on August 25, 2010).

¹⁸⁹ FDRE Constitution, Article 9(1).

¹⁹⁰ Belaynesh Atnafu, *Review on the Constitutional and Other Legislatives Frameworks Regarding Inclusive Education and the Issue of Accessibility to Persons with Intellectual Disability*, Workshop Proceeding Report on Inclusive Education, UNECA, Addis Ababa, 2009, p. 26.

Article 36 of the constitution is dedicated to rights of a child. Article 36(1) (d) of the Constitution reads as "*Not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harm to his or her education, health or well-being*". Reading this sub-article at the first glance we understand about the prohibition of child labor abuse in the Constitution. Indirectly it also protects a child's right to education by prohibiting any imposition of burden of work on the child and also not permitting him/her to perform work that puts his/her education at risk. This is very much connected to children with intellectual disability because as a result of their vulnerability and the negative attitude of some part of the community on their capacity to be educated, they are highly exposed to labor abuse which has a negative impact on their education. Similarly, Article 36(1) (e) also recognizes the child right to be free from corporal punishment or cruel and inhuman treatment in schools.

Article 41 of the Constitution is composed of socio-economic rights collectively. Article 41(3) states that, "*Every Ethiopian national has the right to equal access to publicly funded social services*". In this case education could be one of the publicly funded social services. According to this sub-article, children with intellectual disability have the right to get access to education in equal basis same to their peers without disabilities. However, in practice great majority of children with intellectual disability living in Addis Ababa are not getting access to education. This fact will be seen in the next chapter supported by data. Likewise, Article 41(4) obliges state to allocate ever increasing resources to provide health, education, and other social services to the public. And children with intellectual disability are members of the general public.

Moreover, Article 41(5) reads as: "*The state shall within available means, allocate resource to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parent or guardian*". It sets out the state's responsibility for the provision of necessary rehabilitation and support services for people with disabilities. In our case the government of Ethiopia has the obligation to allocate available resources in order to make education available, accessible, acceptable and adoptable to children with intellectual disability. On the other hand, if we see how the Government discharges this obligation it is too far from what is actually stated in the

Constitution. For example, there are only ten schools in Addis Ababa having Special and Inclusive Classes. To the contrary there are 4,310 persons with intellectual disability living in Addis Ababa. Here, the number of schools is insignificant when compared with that of children with intellectual disability. Furthermore, those schools do not even have sufficient teaching and learning materials essential to make education accessible and adoptable to children with intellectual disability. A data that supports this fact will be discussed in the next chapter.

The above discussion shows that, in the Constitution, although there is no article that specifically devoted to right to education, an indirect reference can be made to the above provisions of the Constitution. However, the very limited and indirect nature of provisions provided in FDRE Constitution regarding the right to education can not adversely affect the full realization and enjoyment of the right to education of the people in general and that of children with intellectual disabilities in particular.

Moreover, due regard should also be given to Article 9(4) of the FDRE Constitution which reads as: *“All international agreements ratified by Ethiopia are an integral part of the law of the land”*. So, in Ethiopia ratified international instruments after passing certain procedure will become part of the law of the land.¹⁹¹

Accordingly, ratified human right instruments such as, UDHR, ICESCR, CRC, ACRWC, etc and their provisions are made part of the law of the land. Therefore, persons with disability including children with intellectual disability living in Ethiopia have the right to enjoy all the rights, special emphasis to, "right to education", recognized by those international and regional instruments adopted by Ethiopia. Further, the Constitution requires the interpretation of human right principles in the Constitution to conform to the

¹⁹¹ Ibrahim Idris, "The Place of International Human Right Conventions in the 1994 FDRE Constitution," *Journal of Ethiopian Law*, Vol. XX (2000), p. 45; *the procedures international instruments have to pass to be part of the law of the land are; first the House of Federation has the power to ratify international instruments, then according to the Proclamation No.4/1987, Article 25(5) the executive has only the power make the agreement and sign the instruments. After that the signed instrument will be presented to the House of People Representative and the house will ratify it by following the same procedure it uses to ratify domestic laws. Then finally, it will be presented to the President for signature but if he didn't sign with in 15 days the international treaty will become part of the law of the land without his signature.*

relevant provisions of UDHR and International Covenant on Human Rights.¹⁹² This further, guarantees the right to education of children with intellectual disability in Ethiopia. For example, almost all international instrument ratified by Ethiopia prohibits discrimination and similarly the FDRE Constitution in its principle of "equality" prohibits discrimination too. Accordingly, children with intellectual disability have the right to enjoy right to education in equal manner like that of their peers.

However, the main question to be raised is how far those instruments ratified by Ethiopia are implemented. Next, this fact will be discussed.

ICESCR under article 2(a) states that: *"Primary education shall be compulsory and available free to all"*. Ethiopia as being signatory to this Covenant is obliged to fulfill this obligation. Although it fulfills its obligation of making primary education free of charge, still education is not available in adequate manner for children with intellectual disability living in Addis Ababa. Article 2(e) states that: *"The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved"*. In our case, with specific reference to Addis Ababa, the number of governmental schools that provide special need and inclusive education are insignificant compared to the number of children with intellectual disability. With regards to the material conditions of teaching staff, no sufficient improvement has been observed since almost all of the ten schools are not equipped with basic teaching aids and learning materials relevant to the special needs of children with intellectual disability. Therefore, for the case of children with intellectual disability, it is hard to say that Ethiopia is effectively implementing its obligation under this provision.

Furthermore as discussed previously, the ICESCR Committee in its General Comment No.13 (twenty first session) under Paragraph 8 state that *"primary education includes the elements of availability, accessibility, acceptability and adaptability which are common to education in all its forms and at all levels"*. However, in Ethiopia for the case of children with intellectual disability, these four requirements are not fully practiced. For

¹⁹² FDRE Constitution ,Article 13(2).

instance, in Addis Ababa schools are not physically accessible even for most of children with intellectual disability who are currently enrolled. Therefore, the majority of children with intellectual disability living in Addis Ababa are out of reach of school because of the physical inaccessibility and the non availability of schools in sufficient number.

By the same token, Article 24 (1) of CRPD reads as: *"States 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 life long learning directed to...."* Here we can see three core points; first, the Government of Ethiopia has discharged its obligation of recognizing the right to education of persons with disabilities by acknowledging it in its national laws, educational policies, programs and strategic action plans. This is a good thing. On the other hand, for the obligation of creating equal opportunity for persons with disabilities including children with intellectual disability, there is a lot to be done since schools are not yet available and accessible for the majority of children with intellectual disability in Addis Ababa. Therefore, it is possible to conclude that these children are not given equal opportunity to education and this is denial of their right to education. With regards to ensuring inclusive education system, Ethiopia is on the way to it. Up to now the education strategy is on special need education However it is expected to be changed to inclusive education in the near future.

The other instrument ratified by Ethiopia is CRC. As discussed earlier, Article 23(2) of CRC stated that state parties have responsibility to provide children with intellectual disability special care of assistance free of charge, subject to the available resources. Furthermore, such assistance should be with the aim of ensuring children with disability to have effective access to education, training, health care service, etc. Although Ethiopia is member state of CRC and is bound by these obligations the actual implementation seems too far from it. Although, the majority of children with intellectual disability in Addis Ababa came from poor families and need special financial assistance to fulfill their educational needs, they are not provided with such assistances.

Therefore, although the combined application of the above Constitutional provisions with that of various international and regional human rights instruments ratified by Ethiopia is paramount to guarantee the recognition of the right to education of children with intellectual disability under the Ethiopian legal system, it is easy to scrutinize how far those instruments are not effectively implemented yet. This idea will be elaborated in the next chapter supported with data.

3.2.3. The Civil Code of the Empire Ethiopia

The Civil Code of Ethiopia is comprised of various civil rights of the people of Ethiopia. In this document we can find a provision that deals with the issues under discussion. Article 2052(1) reads as:

"A person commits an offence where he fails to take in respect of persons entrusted to his charge of supervision by law or inconformity with the law, measures of education and supervision which may reasonably be expected of him, having regard to the circumstance and custom"

It is obvious that children with intellectual disability are vulnerable and need continual assessment from parents or guardians. Thus, parents or guardians are obliged to provide education to a child, who is under their watch, in conformity with the circumstances and custom of that area. And if they fail to do that they will commit an offence and whenever damage happens to that child or if he/she causes damage to another person they will incur civil liability.¹⁹³ So, the Civil Code of Ethiopia under this Article guarantees the right to education of children with intellectual disability indirectly by imposing duties upon parents and guardians to make sure that their child gets education. In Addis Ababa the majority of the community lacks awareness about the special need to education of children with intellectual disability to education and consequently they do not send them to school. This shows that those parents and guardians are committing an offense and a great work should be done in awareness creation campaign.

¹⁹³ Civil Code, Article 2052 (2) and (3)

3.2.4. The Revised Family Code of Ethiopia

The Revised Family Code of the Federal Democratic Republic of Ethiopia deals about education under Article 260 which reads as:

General and Professional Education

"The guardian shall ensure that the minor be given general education or professional training commensurate with his age and ability."

Similar to the Civil Code, this article also obliges parents or guardians to ensure whether or not a minor under their custody gets education or professional training that fit his/her age and ability. As discussed in the previous chapter the four levels of intellectual disability requires different kinds of assistance that pertains their special needs. So, this Article entitles children with intellectual disability with a right to get access to education or training compatible with their age and level of intellectual disability. Therefore, they are protected from their parents or guardians who might deny their right to education either negligently or intentionally. For instance, parents might negligently believe that educating a child with intellectual disability is wastage of time or they may even coerce their child to stay at home and help them in home work by prohibiting him/her from going to school. This is violation of right to education of children with intellectual disability.

3.2.5. Right to Education of Children with Intellectual Disability under the Federal Government Educational Policies and Programs

3.2.5.1. THE EDUCATION AND TRAINING POLICY (1994)

The Transitional Government of Ethiopia with the aim of eradicating problems related to education such as, limited access and inequitable distribution of schools, inefficiency and lack of quality education, drew this policy.

Ethiopian Education and Training Policy states that, one of the main objectives of the educational system is to *"develop the physical and mental potential and problem solving capacity of individuals by expanding education and in particular by providing basic education for all"*.¹⁹⁴ The policy requires universalizing primary education, and expansion of secondary and higher education. It assures that disadvantaged groups will receive special support in education. The policy is inspired by the ratified International Human Rights Instruments.¹⁹⁵ Its other objective is *"to enable both the handicapped and the gifted learn in accordance with their potential and needs"*.¹⁹⁶ In this case, it doesn't provide a clear guideline as to which mode of educational delivery would be followed to unfold the potentials of children with disabilities.¹⁹⁷ Although the policy says like this, those children with intellectual disability in Addis Ababa, currently enrolled in schools, are not receiving education compatible with their potential and needs. The main reason is lack of sufficient teaching aids and learning materials that addresses their special needs. This is one of the obstacles these children face in exercising their right to education. A reference to this fact can be made to the next chapter.

The Educational and Training Policy Educational Structure No. 3.2.9 states that: *"special education and training will be provided for people with special needs"*. In the policy, the special support in education includes strategic planning, definition of priorities, objectives and responsibilities to be realized in practice.¹⁹⁸ As discussed earlier, children with intellectual disability are one of the disadvantaged groups entitled to receive special needs education and training. In reality the Government is providing special need education and training. However, the major difficulty is its inadequacy when compared with the prevalence of the problem. For instance, Ministry of Education estimated that there are around 1.5 to 3 million children of school age in Ethiopia with special educational needs and only a small number are attending school. And in Addis Ababa out of the 688 primary schools (1-8) (MOE (2001) Abstract) only ten schools providing special need and inclusive education. This explains how the Government failed to

¹⁹⁴ Educational Structure No. 2.1.1.

¹⁹⁵ Ministry of Education, *Special Needs Education Program Strategy, Emphasizing Inclusive Education to Meet the UPEC and EFA Goals*, Addis Ababa, 2006, p.1.

¹⁹⁶ Educational Structure No 2.2.3.

¹⁹⁷ Tirusew Tefera (1999), op cited at note 47, p. 50.

¹⁹⁸ Educational Structure No 2.2.3.

effectively put in practice its objective of providing special education and training for these children.

The Educational Structure No. 3.9.4 reads as: "*special financial assistance will be given to those who have been deprived of educational opportunities ...*" In most parts of our country children with intellectual disability are deprived of education. To address this long overdue problem, the Government has committed itself, so says the policy, to the educational needs of children with intellectual disability. Here also the practice is not compatible with what is actually stated in the policy. This is because, those ten schools in Addis Ababa with special and inclusive classes do not have special budget allocated for the special need of these children. This is an obstacle for the schools to fulfill the demands of children with intellectual disability such as, learning materials, teaching aids, and other facilities pertaining their special needs. Furthermore, most of the students with intellectual disability have poor economic background accordingly they are not even equipped with basic learning materials such as writing pads, bag, pen, uniform, etc.

Therefore, from the sound of the policy the government committed itself to provide special financial assistance for those who have been deprived of educational opportunities. However, in reality the government fails to effectively discharge this duty by not allocating the necessary budget for schools to address these children's special needs. This issue will be discussed in the next chapter in detail.

Ethiopia has also committed itself to the Millennium Development Goals (MDGS) aimed at eradicating extreme poverty and improving the welfare of its people. Ethiopia through participation in the World Declaration on Education for All in Jomtien (Thailand) in 1990, and in the World Education Forum held in Dakar in April 2000, reaffirmed her commitment to achieve UPE by 2015¹⁹⁹ by providing quality education to all school age children and with the aim that "*all children will be able to complete a full course of*

¹⁹⁹ M. Joseph Bastian, *Universal Primary Education: An Operational Definition for Ethiopia*, Ministry of Education, Addis Ababa, 2004, p. 2 *the concept of UPE as a desirable and essential goal for the political, social, and economic development of the poorer nations of the world has been accepted for a very long time, this is a manifestation of the recognition of the importance of basic education in nation building through increasing the economic productivity for the disadvantaged population and through the creation of a community of enlightened parents and responsible citizenry. Ethiopia is no exception.*

primary schooling"²⁰⁰. But this is not an easy task for the Government where scarce financial, human and organizational capacity is apparent and large numbers of school age children are expelled from the school compound due to disability unfriendly circumstances.

3.2.5.2. SPECIAL NEEDS EDUCATION PROGRAM STRATEGY /2006/

In order to produce the required changes in the education system, MOE has developed a Special Need Education Strategy in 2006. Here, three strategic priorities were identified:

- ❖ Including SNE in national and regional education sector planning and reporting system
- ❖ Developing guidelines and provision of technical assistance to regions, and
- ❖ Strengthening the capacity of the education system.²⁰¹

The strategy is recognized as one component of the third Education Sector Development Program ESDP III. This package has come to reality after a strong advocacy and promoting works.²⁰² This strategy pays special attention to inclusive education which is one of the human rights of children with intellectual disability. Further, it provides different strategies to achieve the goals of UPE and EFA with special emphasis to inclusive education. These terms are highly related to children with intellectual disability and they are the key for realizing their right to education.

The strategy is directed to:

- *Implement the Education and training Policy, and the International Principles endorsed by the government to honor the rights of citizens to education*
- *Develop and implement guidelines for curriculum modification and support system development in schools for learners with special needs*
- *Facilitate participation of learners with special needs in technical and vocational education and other higher educational institutions*
- *Strengthen Special Need Education programs in teacher education institutions*

²⁰⁰ Derebssa Dufera, "Prospects and Challenges of Achieving the Millennium Development Educational Goals in Ethiopia: where does Ethiopia stands on EFA Goals," *The Ethiopian Journal of Education*, Vol. XXVI, No. 2, 2006, p. 25.

²⁰¹ M. Joseph Bastian (2004), op cited at note 65, p. 14.

²⁰² Derebssa Dufera (2006), op cited at note 66.

- *Improve supply of trained manpower and appropriate materials to schools and other learning institutions.*

The Strategy recognizes right to education, with special emphasis to special need education. One of its objectives is implementing the Education policy and international principles. However, how far these objectives are accomplished is doubtful. Because, there is still a big gap between what is stated in the policy and the actual practice. With regards to strengthening special need education programs in teacher education institutions, the practice shows that there is a little work done in this area. For instance, in Addis Ababa in the ten schools with special and inclusive classes the number of special class teachers' in each school ranges only from 1 to 4. This indicates that there is inadequate number of trained man power in SNE. On the other hand, the strategy further aimed at improving the supply of appropriate materials to schools and other learning institutions. In this case too, it is possible to conclude that it is only implemented to the very limited extent since almost all of the ten schools are out of adequate teaching aids and learning materials that address the special needs of these children. As will be discussed in the next chapter those scarce material that are currently available in those schools are either donated by Non Governmental Organizations or bought and prepared by the special class teachers themselves. However, this, as the strategy says, was the duty of the Government.

In addition, the strategy to address the strategic issues in special need education and for effective implementation of the strategy, it spot out the need to provisions of resources, inter-sectoral development, working with partners, using the available national expertise, collaboration and cooperation between the concerned ministers, governmental and non-governmental organizations, civil societies, etc is mandatory. This is so much true for the reason that without such cooperation it is too difficult to effectively realize right to education of children with intellectual disability in our country economic level.

3.2.5.3. THE EDUCATION SECTOR DEVELOPMENT PROGRAM (ESDP)

The government's desire to improve the provision of quality education resulted in the formulation of the Ethiopian Education and Training Policy that has launched three

different ESDP (I, II, III) in different years. ESDP I and II were successful in their efforts to substantially increase levels of primary enrollment (grade 1-8) and in improving access to education for girls and reduce their levels of school drop out and repetition. But these two programs didn't pay attention to disability.²⁰³

The main document to be discussed under this topic is Education Sector Development Program (ESDP-III) of (2005/06-2010/11) which is a continuation of ESDP I & II. Within the framework of the 1994 Education and Training Policy the government of Ethiopia launched the first five year education development program (ESDP- I) in 1997 as part of a twenty-year education sector indicative plan which has been translated into a series of National Education Sector Development Programs.

The vision of education sector is;

“To see all school- age children get access to primary education by the year 2015 and realize the creation of trained and skilled human power at all levels who will be driving forces in the promotion of democracy and development in the country!”

One of the missions of the education sector is;

*"To extend quality and relevant primary education to all school-age children and expand standardized education and training programs at all levels to bring about rapid and sustainable development with increased involvement of different stakeholders."*²⁰⁴

Having recognized the vision of the Ethiopian Government and the vision and mission of the education sector, and the role of education in poverty reduction, the following major goals of ESDP- III are identified. Regarding general education, the major goals are; to produce responsible and competent citizens; to increase access to educational opportunities at primary level, to achieve UPE by the year 2015; to improve the quality of education, to enhance efficiency and use of resources wisely; to address equity issues by narrowing the gap between male and female, among regions and rural and urban areas; to

²⁰³ Ministry of Education, *The FDRE Education Sector Development Program III (ESDP-III), Program Action Plan*, Addis Ababa, 2005, p. 45.

²⁰⁴ Id, page 2.

provide increased access to adult and non- formal education in order to combat the problem of adult illiteracy; and to increase access to quality secondary education based on the demand of the economy for trained human power at middle and higher level and the intake capacity at the tertiary level.²⁰⁵

One of the goals of ESDP-III is, increasing access to educational opportunities at primary level and to achieve UPE. These two goals are highly related to the need of children with intellectual disability and achieving those amounts to best guarantee of their right to education. But the practice shows that majority of children with intellectual disability are denied of educational opportunities and those who are currently enrolled in schools do not get a qualified education because of lack of sufficient teaching aid materials.

In an attempt to meet UPE by 2015, there is a need to encourage a faster increase in net intake, i.e., admission to school at age 7. While doing this, it is also important to develop a strategy that would capture children, whose age range from 8 to 14. Therefore, there is a need to have a flexible curriculum, which will maintain its relevance to the target group and reduce the time required to complete primary education.²⁰⁶ This helps children with intellectual disability, who most of the time, attends school lately because of their delay in intellectual development.

The Government of Ethiopia, in its ESDP-III, has also given due consideration to the expansion of educational opportunities to children with special needs. According to this document, the Ministry of Education /MOE/ shall provide technical assistance to the regions in the form of guidelines and capacity building. It is also clearly indicated in the document that special needs education is considered as cross-cutting issue to be mainstreamed in general school education as well as Technical Vocational Education and Training /TVET/. It further, focus on the need for MOE to strengthen cooperation between education offices and development partners in order to address the increasing demand for the expansion of inclusive education in the country.²⁰⁷

²⁰⁵ Id, page 31.

²⁰⁶ Id, page 41.

²⁰⁷ Helen Young (ed), *Including the Excluded: Integrating Disability in to the EFA Fast track Initiative Process and National Education Plans in Ethiopia*, World Vision UK, Milton Keynes, 2008, p. 11.

Generally, the main thrust of ESDP- III is to improve educational quality, relevance, efficiency, equity and expand access to education with special emphasis on primary education in rural and underserved areas, as well as the promotion of education for girls as a first step to achieve universal primary education by 2015.²⁰⁸ Moreover, the document (ESDP- III) provides a detail program description for the five years (2005/06-2010/11) ranging from pre-primary education to tertiary education.²⁰⁹ It also provides a program for the enhancement of quality of education, improvement of efficiency and some other cross cutting issues such as gender issues, civic and ethical education, HIV/AIDS and education, special needs education and community participation. And for the proper implementation of ESDP- III there is an assessment mechanism that involves monitoring, reviews, evaluation both at national and regional level.²¹⁰ The goals of ESDP III are very interesting although a lot has to be done to transform it in to reality.

Further, the government of Ethiopia, with a great focus on improving the educational system of Ethiopia and providing best quality of education, has also designed other more specific and short term educational plans. For instance, a program to ensure an educational quality is one of them. The program contains six different packages targeted on ensuring educational quality directly. The six packages which constitute the program to ensure educational qualities are; Teachers development package, School development package, Civic and ethical education improvement package, General educational system improvement package, ICT improvement package, and the general educational administration and organizational arrangements improvement package.²¹¹ Having such plans is the primary task and the Government has already done that and what is left is changing it in to practice.

Therefore, ESDP- III has recognized the right to education of children with intellectual disability with special emphasis to inclusive education.

²⁰⁸ Ministry of Education (2005), op cited at note 69, p. 3.

²⁰⁹ Id, p. 53-83.

²¹⁰ Id, p. 72.

²¹¹ Id, p. 53-62.

3.2.5.4. THE DEVELOPMENTAL SOCIAL WELFARE POLICY (1997)

The Developmental Social Welfare Policy, adopted in 1997, specifically targets on people with disabilities and sets out to safeguard their rights and to promote opportunities for vocational rehabilitation. It provides for creating conditions where rules, regulations, programs and services could be strengthened and expanded whilst enhancing vocational training and placement opportunities for persons with disabilities.²¹²

The policy includes the following recommendations related to disabled persons:

- *Conditions enabling persons with disabilities and promoting their full participation in political, economic and social activities shall be facilitated;*
- ***Education, skill training, employment opportunities and other services shall be increased and appropriate legislative measures shall be taken to ensure the welfare of persons with disabilities;***
- *Mechanisms providing persons with disabilities with appropriate medical/health services and supportive appliances shall be created;*
- *Mechanisms providing persons with disabilities with appropriate support services in the context of their family and community shall be created;*
- *Special centers where disabled persons without any family support will be cared for shall be established;*
- ***Appropriate and sustainable educational programs and awareness-raising campaigns shall be launched;***
- *Prevention strategies and programs shall be formulated;*
- ***Physical barriers shall be removed and residential areas, work and other public places shall be made accessible to persons with disabilities; and***
- *Support shall be provided to non-governmental organizations and voluntary organizations providing services to persons with disabilities.*²¹³

According to the policy recommendations, education and skill training has to increase in number and also appropriate legislative measures have to be taken. This is so much true

²¹²International Labour Office, *Ethiopia Country Profile, Employment of Persons with Disabilities: The Impact of Legislation (East Africa)*, International Labor Organization, Geneva, 2004, p. 7.

²¹³ Ibid.

for the case of children under our discussion since the educational service rendered to these children compared to the magnitude of the problem is insignificant. Similarly, the policy also recommends that, appropriate and sustainable educational programs and awareness raising campaign should be made. This is undeniable fact because the major obstacle for realizing right to education of children with intellectual disability is the negative attitude in most part of the community towards them and their right to education. Therefore, this area should be given due emphasis. By the same token, the policy also recommends for the removal of physical barriers to make public places accessible for persons with disability. This includes school buildings and infrastructures which are also obstacles for children with intellectual disability to effectively exercise their right to education. Thus, how far the recommendation is put in to effect is questionable and will be discussed in the next chapter.

3.2.5.5. THE NATIONAL PLAN OF ACTION

The 27th General Assembly of the United Nations held a special Session (in May 2002) on children and adopted a resolution regarding " A World Fit for Children" (WFC) and each member country is required to come up with its own pledges to children of its country through preparing a contextualized National Plan of Action.²¹⁴ Ethiopia as being one of the member states has made a step forward to this end when it formulated its first National Program of Action for Children and Women in 1995 lasting a period of five years. However, it was soon found out that it was not put in to effect due to various reasons and the foremost one is that Ethiopia was at war at that time with Eritrea (1998-2000) and the resource allocated for implementation was inadequate. Thus, the Ministry of Labor and Social Affairs (MOLSA) prepared a second Plan of Action i.e. Ethiopian National Plan of Action for Children (NPA) (2003-2010 and beyond) in which many stakeholders including children themselves participated in the preparation of the document.²¹⁵ The main rationale for the preparation of the NPA was to fulfill the goals, targets and strategies of WFC and policies and laws of Ethiopia.²¹⁶ In the 'World Fit for

²¹⁴Ministry of Labour and Social Affairs (MOLSA), *Ethiopia's National Plan of Action for Children (2003-2010 and beyond)*, Addis Ababa, 2004.

²¹⁵ Douglas Hodgson (1998), op cited at note 1, p. 48.

²¹⁶ MOLSA (2004), op cited a t note 80, p. 44

Children', heads of state and government committed themselves to exert extra effort in creating a world fit for children. Then, they identified four priority areas and a set of targets to be met by 2010. They are;

- Promoting healthy lives
- Providing healthy lives
- Protecting against abuse, exploitation and violence, and
- Combating HIV/AIDS

With additional principles and objectives:

- Eradicating poverty
- Care for every child
- Educate every child
- Put children first, etc.²¹⁷

So, WFC recognizes the need to educate every child. Accordingly, this implies that children in general and those with intellectual disability in particular have the right to education without any discrimination.

Consequently, the Ethiopia National Plan of Action basing the above objectives and principles came up with the following objectives;

- *To implement the CRC in general and UN resolutions concerning the "World Fit for Children", in specific;*
- *To ensure that the rights and needs of children get the priority in national development efforts;*
- *To lay out the principles and objectives concerning strategies and actions related to children;*
- *To indicate and fill out the gaps in legislation and major activities regarding children; etc*²¹⁸

One of the areas the NPA gives due focus is expansion of pre-school education. Here, it is recognized that early childhood education and care is important for later learning and psychological development of the child. As a result, NPA aims at expanding pre-primary

²¹⁷ Douglas Hodgson (1998), op cited at note 1, p. 47.

²¹⁸ MOLSA (2004), op cited a t note 80, p. 48

education to double the current participation rate of children. This is a good thing and special focus should be given to children with intellectual disability because getting access to education at early age enables them to be able to tackle their problem sooner. Moreover, NPA aims at increasing access to primary education by using a strategy of improving the quality of primary education, ensuring that schools are accessible, increase awareness to the community about the benefit of child education, etc. According to the plan, children with intellectual disability will be provided a quality education that includes free primary education, having a trained teacher, the necessary teaching aids, relevant supportive materials, friendly school surrounding, etc. If all these are put in practice, it means that children with intellectual disability can effectively exercise their right to education recognized under the laws of Ethiopia and different international instruments. Nevertheless, the practice shows that the opposite is true.

Further, the Plan of Action also provides a special protection for those Children in specially difficult circumstances such as, children in crisis, orphans and other vulnerable children.²¹⁹ Here, children with intellectual disability are one of the vulnerable children. Since, as a result of their disability status, poor economic condition, the prevalence of negative attitude towards them among the majority of the community, and generally various social barriers they are in difficult situation that hinder them from exercising their various rights including right to education.

The NPA has also made a specific reference to the need of expanding special needs education. It is identified that children with various disabilities have not received education and training that is geared towards fulfilling their need. And, the NPA plans for:

- ❖ Integrated approach to accommodate students (children) with special needs;
- ❖ The educational participation rate of children with special needs will be doubled.²²⁰

With regards to accommodation, nothing interesting work is done yet specifically in Addis Ababa since most of students with intellectual disability came from poor families

²¹⁹ Id, page 21.

²²⁰ Id, page 85.

and do not even have access to basic educational materials such as, pen, notepad, uniform, etc. (refer to chapter four) Therefore, it is hard to say that the Government is actually accommodating children with special needs. On the other hand NPA also plans for doubling the educational participation rate of children with special needs but accomplishing this task without increasing the number of schools that give service to special need education will be meaningless. For instance, in Addis Ababa out of 688 primary schools only ten of them have special and inclusive classes.

To achieve this plan NPA frames a strategy to be followed such as

- ❖ Designated schools (at primary and secondary levels) will offer integrated and inclusive education program;
- ❖ Existing Special Need Education-training program will be strengthened with human and ,material resource; and
- ❖ Families and community awareness raising campaign on the education of children with some impairment will be made.²²¹

Furthermore, the Government is working in collaboration with regions to achieve its goals.²²² This Action Plan tells that the Government of Ethiopia is paying attention to inclusive education. Moreover, the Government plan of making primary and secondary schools to offer an integrated and inclusive education should be encouraged because it is the best way of protecting right to education of children with intellectual disability.

Therefore, from the above discussions it can be concluded that the country is equipped with quite compelling, convincing and feasible policies, programs, and strategic action plans yet with poor implementation.

²²¹ Id, page 86.

²²² Interview with Ato Amha Berhe, Social Welfare Development Capacity Building and Information Service Expert, October 10, 2010.

CHAPTER FOUR

4. IMPLEMENTATION OF THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY IN THE TEN SELECTED SCHOOLS IN ADDIS ABABA

The Educational and Training Policy (1994) of Ethiopia defines the rationale of education as, *'(Education)... is a process by which man transmits his experiences, new findings, and values accumulated over the years in his struggle for survival and development through generations'*.

In the previous chapters it was clearly discussed that everyone has the right to education free from discrimination on grounds of ethnicity, religion, economic status, language, gender or disability. Inclusive education is the human right to education of children with intellectual disability which is one way of respecting and implementing their rights in effective manner.

In countries like Ethiopia, where harmful traditional practices are apparent, where the majority of the people are not properly aware of their human and democratic rights or to fully exercise them, education is the key solution. Apart from this, although the Government of Ethiopia is taking steps towards realizing the right to education and specially its UPE goal with a big slogan "No Child Will be Without Education", still the accessibility of education to children with intellectual disability is questionable. There are some initiative works that are being done towards realizing right to education however it is not sufficient enough when compared to the intensity of the problem. As will be seen later on, even if the number of primary schools has shown progress, there are only ten schools in Addis Ababa having special and inclusive classes. This is insignificant when compared to the actual number of children with intellectual disability in Addis Ababa. We have also seen various laws of Ethiopia including the FDRE Constitution, Policy, Programs and Strategies on education with the aim of guaranteeing the right to education to everyone and taking special measure for those children with special needs. Children

with intellectual disability are some of the groups who are in special needs of inclusive education. However, the actual practice in guaranteeing their rights seems far from what has been actually put on papers.

Therefore, to see how far those Laws, Educational Policies, Programs and International Instruments, which recognize the right to education of children with intellectual disability, adopted by Ethiopia are being implemented in Addis Ababa, data is gathered from ten schools which have special units and inclusive classes.

Children indeed spend a considerable part of their daily time at school and are the school's most significant population group. Schools are second only to the family in their contact with, and responsibilities for the education of the child, and thus play a very important role in the personality development of children.²²³ Although education is part of the life of a child, in Ethiopia the majority of children are still out of school and this fact even gets worse for that of children with disabilities.

According to the World Health Organization (WHO), it is estimated that there are approximately 650 million persons with disabilities in the world i.e. 10% of the global population. An estimated 80% of these people live in developing countries, many in conditions of poverty. It is also estimated that the world's poorest people, meaning those who live on less than one dollar a day and who lack access to basic necessities such as food, clean water, clothing and shelter, 1 in 5 is a person with disabilities.²²⁴

When we come to Ethiopia, in 2000 E.C, the Central Statistic Agency conducted a survey on disability in Ethiopia. The Agency stated that the 2000 survey was more reliable than the previous one (1994). The main reasons are; first, in the 1994 survey a sampling method was taken but in the 2000 survey the data was collected in a house to house survey. Second, as the issue of disability is very sensitive the data collectors were given the essential training on how to approach each household smoothly. Third, the questions were framed in collaboration with the Ethiopian Federation of Persons with Disabilities

²²³ Mieke Verheyde, "Participation At school", in (Fiona A., Eva B., Lieve C., et al, (eds.)), *Participation Right of Children*, Intersentia, Antwerpen-Oxford, 2006, p.181-182.

²²⁴ <http://www.un.org/disabilities/default.asp?id=33> (Accessed on November 01, 2010).

/EFPD/, NGOs, Experts, etc with special intention of making the questions polite so that parents will give accurate information. Therefore, the Agency, because of these reasons, believes that, in the 2000 survey probably accurate information about disability in Ethiopia is gathered.²²⁵

According to the 2000 /2007-2008/ survey of CSA, the total population of Ethiopia was 73,750,932 and out of this 805,492 are persons with disabilities (429,004 male and 376,488 female). This accounts for 1.09% of the total population. And, out of the total population of Ethiopia 58,726 are persons with intellectual disability while children between the age 0-19 account for 14,186. In Addis Ababa the total population is 2,739,551 and out of this 32,630 are persons with disabilities i.e. (17,931 males and 14,699 females). Specifically, the general populations of children in Addis Ababa with the age between 0-19 amounts 1,043,850 and out of them 6,251 are children with disabilities. By the same token, in Addis Ababa there are 4,310 persons with intellectual disability out of which 525, or 0.05%, are children less than 19 years old.

In Ethiopia children with disabilities have poor participation in education. This situation even gets worse with the case of children with intellectual disability. The main reasons behind are; poverty, insufficient school coverage across the country, low level of education quality, lack of trained teachers, lack of adequate awareness in families, society and the school community of the problems of children with intellectual disability and their right to be educated.²²⁶ Although exact figure is not available, the Ministry of Education estimated that 1.5 to 3 million children of school age in Ethiopia have special educational needs and only a small number are attending school.²²⁷ This rather tells us that a huge work is yet expected from the Government of Ethiopia to fully realize the right to education of children with special needs.

²²⁵ Interview with Ato Gebeyehu Abelti, Deputy General Director of Central Statistic Agency, Addis Ababa, Ethiopia, October 12, 2010.

²²⁶ Helen Young (ed), *Including the Excluded: Integrating Disability in to the Fast Track Initiative Processes and National Education Plans in Ethiopia*, Advocacy and Communication Division, World Vision Ethiopia, Milton Keynes, 2008, page iii.

²²⁷ Ministry of Education, *Special Need Education Program Strategy: Emphasizing Inclusive Education to Meet the UPE and EFA Goals*, Addis Ababa, 2006.

Similarly, according to the data collected by the Ministry of Education in 2001 E.C (2008/2009), the total number of students with special educational needs enrolled in primary education (Grade 1-8) is around 41,509 which is insignificant when compared to the number of school age children in Ethiopia with special need (1.5 to 3 million). This is incompatible with the obligation Ethiopia entered under various international instruments to deliver primary education free and compulsory. Further, Ethiopia has also committed itself to MDGS that "*all children will be able to complete a full course of primary schooling*" in 2015. However, in our case the great majority of children with intellectual disability are not getting access to this basic right and it lays a huge burden on the Government. From those children with special needs who are currently enrolled (at national level), children with intellectual disability accounts 9,179.²²⁸ The enrollment rate of special need education students shows an increase from 35,177 (2000 E.C) to 41,509 (2001E.C). Though it is a good start, the huge gap between the number of those children who are in need of special education and the level of the service rendered is still visible and indicates that insufficient work is done in this area.

In 2001 E.C, the number of primary schools (1-8) in Addis Ababa was 688 (MOE (2001) Abstract) however there are only ten schools having special and inclusive classes. If schools are not physically accessible to children with intellectual disability, it is impossible for them to enjoy their right to education in the same manner like that of persons without disability.

Persons with intellectual disability in Addis Ababa are found distributed in different parts of the city. On the other hand, the ten schools are situated with the arrangement of one school for each sub-city. Each sub-city covers a large area and having one school in one sub-city is not sufficient enough to address the educational need of children with intellectual disability. On the other hand, the Government in its National Plan of Action indicates that in the near future the educational participation rate of children with special needs will be doubled. However, it is not realistic to believe that it is possible to double the enrollment rate of children with special needs without making schools available

²²⁸ Ministry of Education, *The Educational Statistic Annual Abstract*, Addis Ababa, 2001 E.C /2008-2009/, page 38.

accessible for them in the first place. This is also contrary to the different commitments Ethiopia entered under national laws, policies, programs and international instruments. Thus, this chapter deals with assessing the extent of implementation of right to education of children with intellectual disability in Addis Ababa.

4.1 DATA REPRESENTATION, ANALYSIS AND INTERPRETATION

4.1.1. Background Information of participants

Some basic information about the participants is provided here

Table 1: Background Information of Schools

Name of Primary Schools (1-8) with special and regular classes	Location in Sub-city
Akaki yemengest	Akaki-Kality
Abune Baselios	Kolfe Keranio
Belay Zeleke	Gullelie
Birhan Zarie	Bole
Felege Yordanos	Kirkos
Kokebe Tsibeha	Yeka
Lideta Selam	Lideta
Sebestie Negasi	Nifas Silk Lafto
Dejazenach Wondeyirad	Kotebe
Yekatit 23	Addis Ketema

Table 2: Background Information of School Directors

Variable	Quantity
Sex	
Female	2
Male	8
Total	10
Education Level	
Diploma	3
Degree	7

Table 3: Background Information of Inclusive Regular Class Teachers

Variable	Quantity
Sex	
Female	16
Male	8
Total	24
Age	
19-30	16
31-45	2
>45	4
Not indicated	2
Education Level	
TTI	5
Diploma	15
Degree	2
Not indicated	2

Table 4: Background Information of Special Class Teachers

Variables	Quantity
Sex	
Female	17
Male	6
Total	23
Age	
19-30	7
31-45	5
>45	7
Not indicated	4
Education Level	
TTI	5
Diploma	16
Not indicated	2

Table 5: Background Information of Inclusive Regular Class Students without Intellectual Disability

Variable	Quantity
Sex	
Female	31
Male	19
Total	50
Age	
8-13	32
14-16	18
Grade Level	
1-2	27
3-4	19
5-7	4

Table 6: Background Information of Children with Intellectual Disability: Inclusive Class

Variable	Quantity
Sex	
Female	6
Male	9
Total	15
Age	
13-16	3
17-23	6
Not indicated	6
Grade Level	
1-4	12
5-7	3

Table 7: Background Information of Children with Intellectual Disability: Special Class

Variable	Quantity
Sex	
Female	16
Male	19
Total	35
Age	
8-15	11
16-22	5
Not indicated	19
Grade Level	Special Class

Generally speaking, the respondents constitute quite a various ranges of representation in terms of age, academic background and interacting with children with intellectual disability at classroom and so forth. Taking such representative of respondents, at the

end, will enable the research enrich with different data from various angles and perspectives.

Of course, such diversification will add a value to the proposed solution at the last chapter of the study in helping children with intellectual disability enjoy their basic human rights of access to education irrespective of their intellectual conditions.

4.1.2. Data Representation, Analysis and Interpretation of Responses of Special Class Teachers

The quantitative analysis of responses of special class teachers towards children with intellectual disability, Inclusive Education, services rendered by schools for these children, etc is presented as follows: -

Table 8: Special Class Teachers response towards Inclusive Education and Children with Intellectual Disability

Q. No	Question Items	No of respondents	Response options			
1	What motivates you to become a Special Needs Education teacher?	23	Interest (100%)	salary and other benefits	Obligation	
2	Did you receive any training related to Special Need Education?	23	Yes (91.3%)	No (8.69%)		
3	If your answer for question No. 2 is “Yes” how long did the training last?	23	3-6 Months (8.69%)	7-12 months (26.08%)	>12 months (60.86%)	Workshop participation (4.34%)
4	Do you get chance to go abroad either for education or experience sharing on Special Need Education?	23	Yes (4.34%)	No (95.65%)		
5	How familiar are you with basic human rights of children with intellectual disability in relation to inclusive education?	23	Very good (91.3%)	Good (8.69%)	Bad	
6	How is your relationship with children with intellectual disability?	23	Very good (8.69%)	Good (86.95%)	Not so bad (4.34%)	Bad
7	Do children with intellectual disability have full access to library, learning materials and other services as per their special needs?	23	Yes (13.4%)	No (47.82%)	To some extent (47.82%)	
8	Does inclusive education bring tolerance, love and respect between children with and without intellectual disability?	23	Strongly Agree (43.7%)	Agree (43.47%)	Strongly Disagree	Disagree (13.04%)
9	Teaching children with intellectual disability in special class is more advantageous than inclusive education?	23	Strongly Agree (73.9%)	Agree (17.39%)	Strongly Disagree	disagree (8.69%)
10	How does teaching children with intellectual disability feel like?	23	V.good (78.2%)	Good (21.7%)	Boring	Indifferent

Table 8 indicates the various attitudes of special class teachers towards children with intellectual disability and their right to inclusive education. All of the respondents (100%) indicate that they become special class teachers in interest. Willingness is a key factor since the special class teacher, who plays the crucial role in the education of children with intellectual disability, should be better prepared than ever before. Such a teacher needs to be able and willing to identify himself more continuously and intimately with children with intellectual disability than would be true if he were teaching a regular class.²²⁹ So, to be a special class teacher one has to be committed, devoted and to have tolerance. Therefore, as long as those teachers are joining the special class willingly it is more likely that they will do their best to provide the best quality of education for children with intellectual disability. further, the majority of the respondents i.e. (86.9%) and (8.6%) of teachers indicated that their relationship with children with intellectual disability is “Very Good” and “Good” respectively, which raises the percentage of teachers at ease with their students to 98.7%.

The respondents, however, vary on their levels of training with 60.8% of them having undergone training that last over one year. In addition, only one teacher from Yekatit 23 Primary School indicates that she has got a chance to go abroad for experience sharing and for further education on special needs education. This shows that there is lack of opportunity for teachers to specialize on this area which would have contributed a lot in providing a qualified education for children with intellectual disability. Conversely, the Government has committed itself to "*Strengthen Special Need Education programs in teacher education institutions*". One way of strengthening SNE program is arranging scholarship programs for teachers on special need education to enable them deliver best quality education for children with intellectual disability. Ethiopia has also entered an obligation under CRC Article 28(3) "*to promote and encourage international cooperation in matters relating to education, in particular..... and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries*". However, the practice shows that insignificant work is done in this area.

²²⁹ Wallance W. Taylor and Isabelle W. Taylor, *Service for Handicapped Youth in England and Wales*, Russell Sage College Press, New York, 1967, p. 35.

While coming to students access to services at schools such as, library, learning materials, resource rooms, clinics etc (47.8%) of the respondents indicated that children with intellectual disability are not enjoying full access to such services and (47.8%) indicated that the service is accessible only to some extent, while the rest (13%) of the respondents indicated that those children have full access to such services.

On the other hand, Ethiopia as being signatory to various international instruments specifically the Declaration on the Rights of Mentally Retarded Persons, although it is not binding, is obliged, under Article 2, to provide proper medical care and physical therapy and to such services as education, training, rehabilitation and guidance as will enable children with intellectual disability to develop their ability and maximum potential. However, the practice is not compatible with this obligation Ethiopia entered with.

(43.4%) of the respondents strongly agree that inclusive education brings love, tolerance and peace between children with and without intellectual disability while (13%) of the respondents disagree to this fact. This shows that inclusive education is more advantageous to socialize children with and without intellectual disability. By the same token, a very considerable number of respondents (73.9%) strongly agree that teaching children in special class is more advantageous than in an inclusive class.

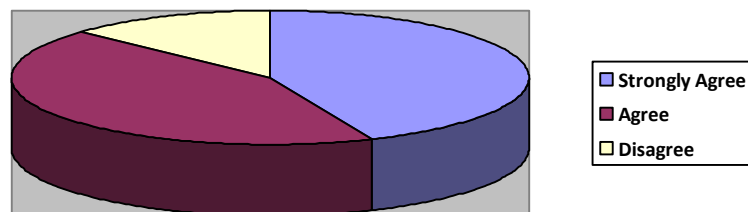


Chart 1: Special Class Teachers Response: whether inclusive education brings love, tolerance and respect between children with and without intellectual disability or not.

Responses of the Special Class Teachers for the open ended questions

For the question whether or not children with intellectual disability get the maximum advantage from the school system as expected, 69.5% of the respondents indicated that these children are not beneficiaries from the school system because of problems such as,

insufficient number of teachers, inadequate materials for skill training, the inaccessibility of schools, etc. This is not compatible with the obligation of fulfilling the minimum core of right to education Ethiopia entered under ICESCR. Since, the Committee in its Commentary No.3 (1990), paragraph 10, stated that State party in which any significant numbers of individuals are deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant. On the other hand (30.4%) of the respondents indicated that these children are getting the necessary advantage from the school as much as possible by the available trained teachers and teaching aids. For instance, their social interaction skill is developing, they are exercising their right to education, they are developing their language and communication skills, etc.

When asked whether they are equipped with the necessary teaching aid materials or not, (78.2%) of the respondents indicated that they don't get access to such materials and the most missing are; attractive and interesting teaching aid materials such as alphabet and map, puzzles, games, books, drawing papers, in which children with intellectual disability could be educated through playing and feeling relaxed. They further stated that the main reason for not having the required teaching aid materials is the non allocation of budget to these programs.

Unlike to the Government schools, non-Governmental training centers for persons with intellectual disability are equipped with adapted teaching aid materials ranging from therapy balls, mats, up to alphabets, puzzles, pictures, etc. (Directory of Special Needs Education services, equipment and materials, MOE 2007). This directory further emphasis on the fact that such learning materials are essential for the development of motor, communication and other skills of children with intellectual disability. This is one major problem since without sufficient teaching aids it is not possible to deliver education for children with intellectual disability that enables them to develop in their personality, talents and mental and physical abilities to the fullest potential. Thus, networking of these institutions might be considered as one way of experience sharing and material exchange to ensure that children with intellectual disability from government school are also benefiting from the already existing disability friendly

resources. This finally will lead us to the position that all children with intellectual disability will have equal access to adapted teaching aid and learning materials fitting their special needs as enshrined in various human rights instruments.

On the other hand, (21.7%) of the respondents indicate that they have access to necessary teaching aids which are mostly donated by Non-Governmental Organizations and prepared by teachers themselves.

When asked whether their students with intellectual disability get learning materials essential to their special need or not, (56.5%) of the respondents answered in the negative. Contrary to this, (43.4%) of the respondents indicated that according to our country's standard it is possible to say that the existing educational materials are sufficient.

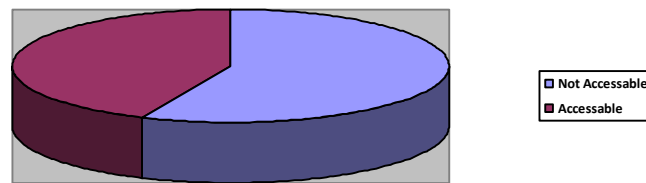


Chart 2: Response of Special Class teachers: On the Accessibility of Learning Materials

The special class teachers were questioned whether they face any problem while teaching in special class or not, most of the respondents (73.9%) indicated that they face lots of problems including the following:

- ❖ Some times being insulted or beaten by children with intellectual disability
- ❖ Some students quarrel each other and disturb classes
- ❖ Some of them pee and release their feces on their clothes and they have to clean it
- ❖ Some times there is disagreement with parents because some of them do not want their children to repeat class over and over again
- ❖ Sometimes the work becomes boring and too hard so it results in frustration
- ❖ There is a negative attitude by regular class teachers towards them believing that they have special incentives for being special class teachers, which is not true.
- ❖ Lack of awareness on what intellectual disability means and special needs that should be taken into account within the school community and even families, etc.

A special class teacher from Belay Zeleke Primary School mentioned a major problem in the school i.e. as the school does not have fence children with intellectual disability escape and this puts their life at stake. Furthermore, she indicated that some parents do not come on time to pick their children as a result they will sit and wait for them and there are also times when parents may not totally come. At that time they have to take the children to their own home and bring them the next day for class. This shows how special class teachers devoted themselves in protecting these children. This alone calls for the need to provide some form of incentive for the special class teachers to encourage them to keep up the good work.

When asked whether special class has effect on the educational performance of children with intellectual disability or not, the majority of the respondents (91.3%) indicated that special class has a positive effect on children with intellectual disability and some of the effects cited include; change on way of walking, eating, and behaving, progress in social life skill i.e. communicating, playing, greeting with other people, self care, knowing and writing letters, having different skill trainings. Therefore, with the researcher's view if special class is taken as a pre-school education and then after attaining such basic skills transferring those children with intellectual disability who are educable to regular class will come up with effective realization of the right to education of children with intellectual disability.

Finally, the Special Class teachers were questioned to recommend possible solution to provide a quality of education for children with intellectual disability, and presented as follows: -

- ❖ Adequate teaching aid and learning materials should be provided
- ❖ There should be a psychologist in every school who will council children with intellectual disability
- ❖ Making school services such as latrine, water, play ground, resource room accessible and convenient for children with intellectual disability

- ❖ Including those children who are educable in regular class and training those who can not be educated so that in the future they may be independent from their families
- ❖ Awareness raising campaign about intellectual disability and the need to give special support to children with intellectual disability and promoting inclusive education should be made to the teachers, regular students, school community, parents, and the society as a whole.
- ❖ Government should give the necessary attention to children with intellectual disability
- ❖ Higher governmental bodies should make periodic supervision on the existing situation of schools so that they will see the actual problem
- ❖ Increasing trained man power on special need education
- ❖ Preparing a curriculum that addresses the special need of these children.
- ❖ Implementing those laws that are on paper.

All of the solutions proposed by the special class teachers are constructive and if changed in to practice, right to education of children with intellectual disability will be fully and effectively realized. For instance, the teachers recommend for the preparation of a curriculum pertaining the special educational needs of children with intellectual disability and similarly the Special Needs Education Program Strategy is directed to developing and implementing guidelines for curriculum modification and support system. Although Ethiopian laws, policies and strategies on education recognize right to education of children with intellectual disability and emphasize on the need of giving special assistance to them. What is left is turning it in to reality.

4.1.3. Data Representation, Analysis and Interpretation of Responses of Inclusive Regular class Teachers

The quantitative analysis of attitudes of regular class teachers towards children with intellectual disability, inclusive education, services rendered by the school for those children, etc is discussed as follows: -

Table 9: Regular Class Teachers Response towards Inclusive Education and Children with Intellectual Disability

Q. No	Question Items	No of respondents	Response options				
1	Did you receive any training related to Special Needs Education? If yes, for how long?	24	3-6 Months (8.3%)	7-12 months	>12 months (4.1%)	Workshop participation only (50%)	Not trained (37.5%)
2	Are you familiar with basic human rights of children with intellectual disability in relation to inclusive education?	24	Yes (54.1%)	No (4.1%)	Medium (41.6%)		
3	Do you agree that children that intellectual disability could be educated in regular class?	24	Strongly agree (58.3%)	Agree (20.8%)	Strongly disagree	Disagree (20.8%)	
4	What do you feel about teaching children with intellectual disability in regular class?	24	Feel good (79.1%)	Feel annoyed	wastage of time (4.1%)	Feel Nothing (16.6%)	
5	How is your relationship with children with intellectual disability?	24	V. good (70.8%)	Good (16.6%)	Not so bad (12.5%)	Bad	
6	How do other students without intellectual disability perceive children with intellectual disability?	24	V. good (29.1%)	Good (33.3%)	Not so bad (33.3%)	Bad (4.1%)	
7	How do you perceive the participation of children with intellectual disability in the classroom activities?	24	V. fast	Fast (4.1%)	Moderate (37.5%)	Slow (58.3%)	

This table shows the attitudes of regular class teachers towards children with intellectual disability, their right to inclusive education and their actual inclusion in the regular classrooms. Half of the respondents (50%) indicated that they participated only on

workshops not actually taking a regular training, while (37.5%) of the participants reported that they did not have any kind of training at all. Only (4.1%) have a training more than one year. This figure tells that most of the regular class teachers teach children with intellectual disability, who are included in their class, with either having only a little knowledge about how to address the special needs of these children or having no knowledge at all. This is an obstacle for teachers to provide quality education for children with intellectual disability. On the other hand, the Special Needs Education Strategy is directed to improving the supply of man power on SNE. However, in this case half of the regular class teachers take only workshop participation and a great number of them indicated that they never had any training on SNE. This shows how limited their potential is in addressing the special needs of children with intellectual disability and how the Strategy failed to accomplish its task.

On the other hand, (54.1%) of the respondents indicated that they are familiar with the human right to inclusive education of children with intellectual disability. And, the majority of the respondents (58.3%) strongly agree that those children could be educated in regular class and (79.1%) of the respondents indicate that they feel good in teaching these children in regular class. Most of the respondents (58.3%) indicated that participation of children with intellectual disability in class activities is slow while (37.5%) say it is moderate and 4.1% indicated it is fast.

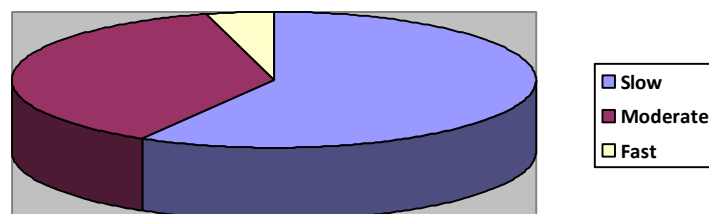


Chart 3: Regular Class Teachers Response: About Class Activity of Children with Intellectual Disability

The responses of Regular Class Teachers for the open ended questions

Most of the respondents (91.6%) reported that they have basic knowledge about intellectual disability and tried to define it from the nature, cause and effect perspective. and one teacher indicated he has no knowledge about intellectual disability at all. Thus, once they know what intellectual disability mean and its consequences it would be easier for those teachers to understand the special needs of children with intellectual disability and provide the necessary assistance. For the question whether children with intellectual disability get the maximum advantage from the school system as expected or not, (66.6%) of the respondents indicated that these children are not beneficiaries from the school system. The reasons indicated include;

- ❖ Lack of trained teachers
- ❖ Inadequate teaching aid materials
- ❖ Special attention is not give to those children
- ❖ Workload of teachers prohibits them from giving the required assistance focusing on children with intellectual disability
- ❖ Lack of awareness among the school community towards children with intellectual disability and their special needs, etc.

In this case although Ethiopia was obliged under various international instruments including CRPD to provide necessary learning materials and employ qualified and professional teachers on special needs of children with disabilities, in practice it is far from being effectively discharged.

On the other hand, (33.3%) of the respondents indicated that children with intellectual disability are beneficiaries of the school system. Since, teachers and school administrators are doing their best and children with mild intellectual disability are actually learning in inclusive classes. Those with severe intellectual disability are getting various skill trainings. They are also exhibiting improvements like socialization, keeping personal sanitation, and hygiene.

Respondents unanimously agreed that schools do not provide the relevant teaching aid materials such as, attractive books, games, etc to them to teach through playing and feeling relaxed. By the same token, most of the respondents, i.e. (66.6%), indicated that children with intellectual disability do not get relevant educational materials pertaining to their special need, and also other school services such as resource center, latrine, water, playing ground, etc. The main reason indicated is that the schools do not have special budget to fulfill their demands. Conversely, the Education Policy states that "*special financial assistance will be given to those who have been deprived of educational opportunities ...*" (Educational Structure No. 3.9.4). However, in practice such "special financial assistance" is not being provided to schools which created the gap which would have been used to supply schools with adapted teaching aid material.

With regard to the accessibility and convenience of the school environment for children with intellectual disability, the majority of the respondents (70.8%) answered in the positive while 29.1% of them indicated that the school environment is not accessible and convenient to those children. Because, the ground is full of misplaced rocks which are inconvenient for walking, the school compound is narrow compared with the large number of students, no adequate service of water, latrine, clinic, etc is available. Although Ethiopia is obliged under ICESCR and its commentaries to make education available, accessible, adaptable and acceptable, in this case the schools environment is not adaptable for children with intellectual disability.

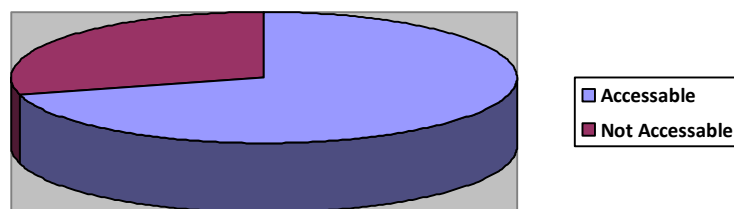


Chart 4: Regular Class Teachers Response: on the Accessibility of School Environment for Children with Intellectual disability

When questioned about problems they face while teaching children with intellectual disability in regular classes, (88.3%) of the respondents indicated that they come across

so many problems. For instance, children with intellectual disability quarrel or fight with other students, talking in the class, feeling tired, bored, stressed, dizzy in the afternoon class, going to water and toilet over and over again which disturbs other students, problem in doing home works and exams and not giving attention to the teaching in class. Contrary to this (11.7%) of the respondents indicated that they do not face any problem.

Further, when the respondents were questioned whether they provide any special assistance for children with intellectual disability or not, 66.6% of the respondents indicated that they provide the necessary support for those children such as, encouraging them psychologically, having special follow-up, using encouraging words and writings, being member of Special Need Clubs and share different experiences from them, showing love and respect to them and at the time of evaluation preparing simpler questions and giving them more time. The rest of the respondents 33.3% indicated that they do not give any special support for these children.

In terms of problems children with intellectual disability face in the inclusive class most of the respondents (88.3%) indicated that children with intellectual disability actually face various problems in the inclusive class and the problems cited include, being excluded, hated, taken as an example of laziness by other students, not understanding and participating in equal speed with other students at the time of learning, fell anxious for staying long time in a class, etc. The main reason behind is lack of awareness among regular class students. However, the Development and Social Welfare Policy has recognized launching appropriate and sustainable awareness-raising campaigns as one of its policy objectives even if it still lacks effectiveness. On the other hand, the rest (11.7%) of the respondents indicated that those children do not face any problem in regular class.

Finally, when all the respondents were asked to give their own solution to curb all the above mentioned and other problems and to improve the quality of education provided for children with intellectual disability they indicate similar solutions with that of special class teachers.

One teacher proposes a unique solution that, it would be better if a Special Need Schools are built for children with intellectual disability. His point of view is different from the

rest of the teachers and not compatible with the internationally held view i.e. inclusive education is promoted because special class is discriminatory. In addition, it is also their human right. So, according to the researchers view preparing a Special Need School will worsen the prevailing problem. And it has also a consequence of discriminating children with intellectual disability from their peers without disability. Among the solutions recommended by the teachers the need to increase the number of teachers trained on SNE is the fundamental one. Although the Special Needs Education Strategy is also directed to improving the supply of trained manpower on SNE still there are very limited numbers of teachers in special classes which limited the quality of education offered for children with intellectual disability.

4.1.4. Data Representation, Analysis and Interpretation of Responses of Inclusive Regular Class Students

The quantitative analysis of attitudes of inclusive regular class students towards children with intellectual disability, inclusive education, services rendered by the school for those children, etc is as follows:

Table 10: Inclusive Regular Students response towards Inclusive Education and Children with Intellectual Disability

Q. No	Questions	No. of Respondents	Responses in Percentage			
1.	Do you agree that children with intellectual disability could be educated in regular class?	50	Strongly agree (54%)	Agree (26%)	Strongly disagree (4%)	Disagree (16%)
2.	Are you familiar with basic human rights of children with intellectual disability in relation to inclusive education?	50	Yes (16%)	No (78%)	Medium (6%)	
3.	How do you feel attending class together with children with intellectual disability?	50	I feel v. happy (52%)	I feel happy (28%)	I feel Bad (8%)	I feel nothing (12%)
4.	Do you agree that children with intellectual disability should be educated in special class?	50	Strongly agree (18%)	Agree (52%)	Strongly disagree (18%)	Disagree (12%)
5.	How do you describe your relationship with children with intellectual disability?	50	V. good (76%)	Good (14%)	Not so bad (10%)	
6.	If your answer to question No. 5 is “Very Good” or “Good”, are you friendly with them?	50	Yes (92%)	No (8%)		
7.	Do you agree inclusive education brings tolerance, love and respect between children with and without intellectual disability?	50	Strongly agree (36%)	Agree (56%)	Strongly disagree (2%)	Disagree (6%)

This table shows the attitude of regular class students without intellectual disability towards children with intellectual disability and their right to inclusive education. Accordingly, 54% of respondents strongly agree that children with intellectual disability have the potential to be educated in regular class. In contrast 18% and 52% of the respondents indicated that they strongly agree and agree respectively that children should be educated in special class. The remaining (12%) disagree and (18%) strongly disagree to this fact. Similarly, the majority of them (78%) indicated that they do not know about the human right to inclusive education of children with intellectual disability and only 16% stated that they are familiar with it. From this one can understand that the main reason for high number of inclusive regular students without disability to prefer special class for children with intellectual disability while acknowledging that they have the potential to be educated in regular class is lack of knowledge about the fact that children with intellectual disability have the human right to inclusive education. This is consequence of lack of awareness.

On the other hand, (52%) of the respondents indicated that they feel very happy in having class together with children with intellectual disability and the rest (28%) of them indicated that they are happy while (12%) said they feel bad. Further, (76%) of the respondents stated that they have a very good relationship with children with intellectual disability. This shows that there is friendly and positive relationship between children with intellectual disability and most of the students in regular class. In addition, (36%) of the respondents strongly agree and 56% agree that inclusive education brings tolerance, love and respect between children with and without intellectual disability. This means (92%) of the students agree on this fact. Actually, one of the main aims of inclusive education is bringing love, respect, tolerance, friendship between students with and without disability.

The responses of Inclusive Regular Class Students for open-ended questions

Most of the respondents (74%) indicate that they know little about intellectual disability and the rest (34%) said they have no knowledge at all. When questioned whether or not inclusion of children with intellectual disability in their class has a negative impact on

their education, (90%) of the respondents indicated that it has no negative impact on their education, while (10%) responded to the contrary.

When asked whether school services, which are provided to the students in general, is available to children with intellectual disability or not, (52%) of the respondents stated that the school services such as, library, water, latrine, etc are not available to children with intellectual disability. The rest (48%) indicated that these children get access to all the services rendered within the school just like their peers. In the same token, when they are questioned whether they provide any assistance to children with intellectual disability (90%) of the respondents said that they do provide the necessary assistance for children with intellectual disability and the assistances cited include,

- ❖ Pushing wheelchair for those who are with limited mobility
- ❖ Helping them to understand difficult tasks
- ❖ Correcting them when they make any mistake
- ❖ Negotiating whenever they are in conflict with other students
- ❖ Giving them love, care, respect and playing with them
- ❖ Taking them to the toilet, etc

On the other hand the rest of the respondents indicate that they will not provide assistance for those children because they beat them.

When questioned whether children with intellectual disability face any problem in the school or not (56%) of the respondents indicated that children with intellectual disability do face lots of problem in the school for instance, being isolated, discriminated, insulted and beaten by other students, and inconvenient school environment like playing ground, class, chair, etc,. In this case although the Government is obligated under various international instruments, to respect, protect, fulfill and promote people's rights, it fails to discharge its obligation of protecting children with intellectual disability from violation of their right to equality, physical integrity, self dignity, etc. On the other hand, (44%) of them responded that children with intellectual disability do not face any problem at school.

Finally, respondents were questioned to suggest any possible solutions to increase the quality of education provided to children with intellectual disability and their suggestions include,

- ❖ Fulfilling the relevant educational materials in which they could learn feeling relaxed
- ❖ Giving equal educational opportunity
- ❖ The school administration should discipline those students who insult and beat children with intellectual disability
- ❖ Giving love, care, support for them
- ❖ Giving tutorial class for them so that they will get additional assistance in their education
- ❖ Making school environment and classes comfortable for them
- ❖ Increasing trained teachers on SNE

4.1.5. Data Representation, Analysis and Interpretation of Responses of Children with Intellectual Disability: Inclusive Class

Next, the qualitative analysis of responses of children with intellectual disability towards Special Need Education Vs Inclusive Education, the school environment, teacher-student relationship, will be discussed. The responses of children with intellectual disability to the questions raised to them are presented below.

Children with intellectual disability when asked whether they found the school environment friendly to learn or not, out of the 15 students interviewed 13 of them stated that the school environment is friendly to learn and the rest two students answered that the school environment is not friendly to learn because some students beat and insult them. Further, they mentioned that the school is not convenient for transportation.

When asked which class they prefer i.e. either special class or inclusive class, out of the 15 children with intellectual disability, from inclusive class, interviewed all of them stated that they prefer inclusive class than special class and furthermore said that they are

very happy because here they are integrated with other students so that they did not feel they are different. By the same token, all of the interviewees answered that they actively participate in class activities like doing home works, asking questions they do not understand, etc. This clearly shows that inclusive education avoids segregation and isolation and children with intellectual disability are enjoying being included in regular class.

For the question, where they sit in the class room, out of the 15 students interviewed 9 of them stated that they sit mixed with other students without intellectual disability and the rest 4 students said that they sit alone in one desk because other students do not want to sit next to them. This explains that there is a friendly relationship between children with intellectual disability and majority of regular class students without intellectual disability with in inclusive class. it is a courageous.

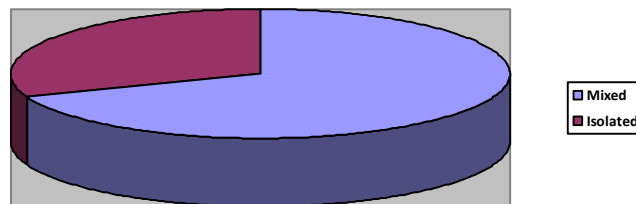


Chart 5: Response of Children with Intellectual Disability in Inclusive class: Where They Sit in the Class

When asked whether they take part in school activities such as clubs, parents' day celebration, etc same like their peers, 13 of them stated that they actively participate in all school activities whenever they want and the rest 2 responded that they do not participate in such activities. For the question whether they face any problem in the school or not, out of the 15 children interviewed 12 of them answered that they did not face any problem in the school, while the rest 3 students stated that they come across problems such as, some students snatched their educational materials, beat, insult and make fun of them. As discussed in the previous chapters, children with intellectual disability have equal right with persons without disability in exercising all rights guaranteed under domestic, regional and international instruments. As a result, being beaten, insulted, snatched of their educational materials are violation of their right to privacy, dignity and

honor guaranteed under various international instruments ratified by Ethiopia. For instance, ACRWC under Article 10 stated that *"No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honor or reputation, provided..... The child has the right to the protection of the law against such interference or attacks"*. Similar obligation is also found under Article 17 of CRPD. Although according to these articles and FDRE constitution Article 24, 25 & 26, Ethiopia is under the obligation of protecting its citizen from attacks which interferes their privacy, human dignity, respect and reputation; in practice these children encounter such violation of right in their day to day life activity. Thus, the Government has to work strongly in safeguarding the rights of children with intellectual disability since as a result of their vulnerability they are highly exposed to such violations of rights.

All of the respondents stated that their teachers are very nice to them. And, 8 of them said that their teachers give special attention and assistance to them, while 7 of them responded that their teachers treated them same like their peers with no special assistance. Here the gathered data tells that almost equal number of students gives their response from two dimensions so there are regular class teachers who need to adapt their teaching methodology in light of children with intellectual disability since these children need special follow up and support. In this case too, various international instruments oblige member states to take special measure to effectively guarantee rights of disadvantaged children. Therefore, the Government has to arrange mechanisms to adopt special follow up and tutorial class for children with intellectual disability so that they will be able to compete with their peers without intellectual disability. Similarly, all of the interviews declared that they have a very good relationship with other students without intellectual disability.

Furthermore, 14 out of the 15 interviewees stated that they spend their break time playing together with regular class students. And, 11 out of 15 stated that they have friends from mainstreaming class students, while 4 of them said that they do not have a friend from regular class students because the other students do not want to be friend with them. This figure shows that, except few students, there is a positive relationship between children with and without intellectual disability which proves that inclusive education actually

brings love, respect and tolerance between students with and without intellectual disability.

When asked whether or not learning materials, addressing their special educational needs, are available in the school, 11 out of the 15 interviewed stated that those materials are available to them while the rest 4 students said that those materials are not available and accessible to them. Additionally, 11 students said that their teachers do not give any tutorial class for them to improve their educational performance. This is also the area where the school administration has to work on for the reason that children with intellectual disability have to get special follow up and additional supportive classes to enable them to compete with other students without disabilities.

The rest 2 students stated that their teachers give them tutorial classes. Further, to the question whether school services such as library, latrine, playground, water, clinic are accessible to them or not, all of the interviews stated that they have access to such services in the school except clinic.

Concerning the distance between their home and the school and the transportation means they use, 8 of the interviewees stated that their home is near by the school, while 7 of them said that their home is far from the school. Also, out of the 15 students with intellectual disability interviewed 11 reported that they walk to school on foot, while the rest 4 students stated that they use transportation. One of the students from Akaki Primary School who is with mobility limitation as a result of his intellectual disability reported that his house is too far from the school and he has to come all the way to school by pushing his wheelchair because taxies are not willing to carry his wheelchair and it takes him almost two hours to come to school. And, at the time he reaches school he will be very tired and this has impact on his educational performance. This clearly shows that the school is not physically accessible for him. This is not compatible with the commitments Ethiopia entered under different international instruments to make schools physically accessible. For instance, Article 9(1) of CRPD obliges Ethiopia to ensure the accessibility of the physical environment, transportation, communication, etc by eliminating any obstacles and barriers in buildings, transportation, schools, etc. This

obligation is also found under Article 13(3) of ACRWC and General Comment No.13 (twenty first session) under Paragraph 8 obliges states parties to create a convenient situation for children with disability and make education physically accessible by using their available resources.



Photo A: A Child with Intellectual Disability from Inclusive Class (with mobility limitation)

The above situation notify that the schools in Addis Ababa which have special and inclusive classes are accessible only for few students living nearby the schools otherwise the rest have to struggle a lot to get education. Further, if they have no capacity to do that, their only option is to stay at home. On the other hand, the FDRE Constitution under Article 41(3) grants *every Ethiopian national the right to equal access to publicly funded social services*. In our case education could be one of the publicly funded social services which children with intellectual disability have the right to get equal access like their peers without intellectual disability. However, in practice majority of these children living in Addis Ababa are not getting access to education because of the non availability and physical inaccessibility of schools.

Finally, children with intellectual disability, who are included in regular class, when asked to recommend solutions to improve the quality of education provided to them and also promote inclusive education, they suggested for the availability of text books, punishing those students who insult and beat them, teachers should give tutorial class to them, create awareness about inclusive education in the school community, etc.

4.1.6. Data Representation, Analysis and Interpretation of Responses of Children with Intellectual Disability: Special Class

Here, we will see the responses of children with intellectual disability who are currently attending special class. Various questions concerning the school environment, their relationship with other students, learning materials, etc were raised to them and their responses are presented as follows.

When children with intellectual disability were asked whether they found the school environment friendly to learn or not, 33 out of the 35 interviewed stated that the school is friendly to learn, while the rest two students said that it is not friendly to learn and mention few reasons such as, the class is very small compared with the number of students, no sufficient number of trained teachers, the time span of class is short and they said they would be happy if they stay up to 3:30 pm just like regular class students.

When asked what they feel in attending special class, 24 of them said that they are very happy while 11 students stated that they are not happy. Likewise, 15 students stated that they prefer special class than inclusive class and reasons cited include, if they attend regular class, those students without intellectual disability will beat, insult and make fun of them and also some students said that in special class they have tea and bread at break time but will not get this if they attend regular class. The rest 20 students prefer inclusive class since they want to be same as regular class students. In this case the reasons raised by those students who prefer special class are not fundamental since they are the result of lack of awareness within regular class students. This should have been worked on by the Government as stated under the Development and Social Welfare Policy that one of the objective of the Government is to launch awareness raising campaign. Ethiopia is also obliged under CRPD to promote awareness of the capabilities and contributions of persons with disabilities. If these obligations were effectively discharged it is obvious that those students from regular class will not discriminate children with intellectual disability so that the later will enjoy their right to inclusive education.

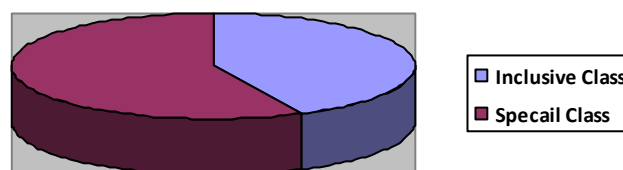


Chart 6: Response of Children with Intellectual Disability in Special Class: Which Class they Prefer i.e. Inclusive Vs Special Class.

All of the 35 special class students with intellectual disability interviewed stated that they actively participate in class activities such as, asking questions and doing what their teachers order them to do. Similarly, all of them said that they participate in various activities carried out within the school such as; club, parent's day celebration, mini-media, at National Anthem, etc. With the exception of special class students from Belay Zeleke who said that even if they can participate in all school activities, they do not take part in flag celebration while regular students queue in the morning for National Anthem. While interviewing those students from this School the researcher notice their strong emotion that they feel unhappy for not participating in the National Anthem Program. In fact, it is their right to participate in all activities and denying them this right is against the principle of equality guaranteed under the FDRE Constitution and various international instruments adopted by Ethiopia. For instance, UDHR, ICESCR, ACRWC, ICCPR which unanimously prohibit "**discrimination**". Therefore, the school administration has to make a systematic arrangement that enables children with intellectual disability participate in this event like their peers.

When asked whether they face any problem at school or not, 7 special class students stated that they actually face some problems within the school compound such as, girls from the special class are raped by regular class students (student from Kokebe Tsebeha), some regular class students beat, insult and make fun of them, etc. This is a very serious issue. As discussed in previous chapters, children with intellectual disability, particularly women and girls are vulnerable and special protection should be given to them. Article 6(1) of Convention on the Rights of Persons with Disabilities makes a special reference

to women and girls with disabilities, who are subjected to multiple discriminations, and obliges states to take measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by them. Further, it is also a clear violation of their right to self respect, bodily integrity; etc which is guaranteed under then FDRE Constitution and international instruments ratified by Ethiopia such as ACRWC, CRPD and CRC. The above data indicates that Ethiopia is not effectively discharging its obligation under these Conventions and its domestic legislations.

Therefore, the school administrations have to protect their female students with intellectual disability from any kinds of violation of right specially committed as a result of their double vulnerability.

To the question how their teachers perceive them with regards to their disability, 33 students stated that their teachers are very clever, supportive, and gives them love and care. While 2 students said that their teachers are not good to them and they do not like them. Likewise, when asked what their relationship seems with regular class students, out of the 35 students interviewed 29 of them indicated that their relationship with regular class students without intellectual disability is very fine and friendly, while the rest 6 students said that their relationship with those students is not positive and friendly.

When asked with whom they spend their break time, 14 of the interviewed said that at break time they play together with regular class students and the rest 21 students stated that they play with special class students only. This indicates that most of children with intellectual disability have socialized themselves with regular class students which by itself encourage inclusive education.

For the question whether learning materials adapted for their special needs are available or not, out of the 35 students interviewed 19 said that the necessary educational materials are available for them while the rest 16 special class students stated that learning materials such as, equipments for skill training, pencils, colored pencils, books, painting papers, balls, puzzles, etc are not available for them. On the other hand, one of the objective of the Education Policy is *"to enable both the handicapped and the gifted learn in accordance with their potential and needs"*. (Educational Structure No 2.2.3). Further,

one of the missions of the Education Sector is *extending quality and relevant primary education to all school-age children and expanding standardized education and training programs* to all. However, in this case what the majority of the special class students interviewed said and with the researcher's personal observations too, these facilities are not available in most of the schools which makes it impossible to provide a quality and standardized education. Students are forced to use the scarce learning materials by sharing each other and this is one major obstacle in the teaching-learning process. Therefore, a lot is expected from the Education Sector to accomplish its mission.

Likewise, 31 of them indicated that school services such as, library, latrine, playground, water are accessible to them while the rest 4 students said that such school services, specially libraries, are not accessible. This problem is visible in the nine schools since there is no resource room except one school i.e. Felege Yordanos Primary School which is unique from the rest. In this school there are children with intellectual disability who are included in regular class and it has a well developed resource room, full of equipments that address the special needs of these children. However, it doesn't have special class for children with intellectual disability who are trainable. This class only used as a resource center for students with intellectual disability who are included in regular class. They can come to the center at any time and take additional lesson from the special class teacher assigned there.

The researcher was anxious why children with severe intellectual disability are not enrolled in the school for skill training while having such developed resource center. And the SNE teacher who runs the resource center said that the school was ready to open special class for children with severe intellectual disability for skill training but the Woreda prohibited them believing that it is "discriminatory". But in the researcher's belief this is too wrong since it would have been discriminatory if those children with mild intellectual disability were denied the opportunity to join regular class; otherwise having a special class for those who cannot be educated rather trained is not discrimination. Therefore, in this sub-city children with intellectual disability who are trainable are denied access to education.

When asked how far their home from the school is and what kind of transportation means they use, 19 of the interviewees stated that their home is nearby the school while the remaining 16 participants stated that they came from far places to attend class and 28 of them said that they came to school by foot, while 7 students indicated that they use transportation to reach to school. By the same token, out of the 35 participants 3 students (two female and one male) stated that they face problem on the way to school and back to home. Problems cited include, some guys on the street snatched their learning materials, beat, insult and make fun of them. This data clearly shows that schools are not available and accessible for majority of children with intellectual disability. In fact, in Addis Ababa there are only 10 schools that have special and inclusive classes which are inadequate compared to the 4310 persons with intellectual disability. On the other hand, the Government of Ethiopia committed it self in the Education Policy *to provide special education and training for people with special needs* (Educational Structure No. 3.2.9) and children with intellectual disability are one of them. Similarly, one of the goals of ESDP-III is, increasing access to educational opportunities at primary level. However, the data indicates that those promises are not put in to practice.

Finally as a conclusion, children with intellectual disability from Special Class were asked about what possible changes should be made in the future to improve the quality of education provided to them, some solutions proposed by them are;

- ❖ The government has to give special attention to them.
- ❖ Additional classes have to be provided.
- ❖ The number of children with intellectual disability enrolled has to increase so that those children who are behind doors will get chance to come to school.
- ❖ Those students who beat, insult and laugh at them should be disciplined.
- ❖ Adequate learning materials should be provided, such as, materials for skill training, books, puzzles, games, etc.

4.1.7. Data Representation, Analysis and Interpretation of Responses of School Directors

Directors of the ten schools were interviewed about their students with intellectual disability and inclusive education. Their responses are as follows.

When asked about their understanding about intellectual disability and inclusive education most of them i.e. 9 of the directors tried to define intellectual disability from the nature, type, and cause and effect perspective. With regard to inclusive education they stated that it is an education system in which persons with disability are included in regular classes. One of the directors indicated that although there are children with intellectual disability who are actually included in regular classes in the school, she has a very little knowledge about inclusive education. For the question whether inclusive or special need education is preferable to children with intellectual disability, all of the interviewees stated that inclusive education is best for those children with mild intellectual disability. And for those with severe intellectual disability special class is preferable for the reason that as they do not have the capacity to be educated they will be given skill training in special class. Those who prefer inclusive education cited few reasons which include,

- ❖ In special class children with intellectual disability are segregated and this has impact on their psychology.
- ❖ In inclusive class children with and without intellectual disability will share experiences.
- ❖ While learning in inclusive class children with intellectual disability will be psychologically satisfied, their thinking dimension will be broadened.

When asked whether there is any screening system they use while admitting children with intellectual disability, 4 directors out of the ten interviewed stated that they do not have any screening criteria while the rest 6 directors said that they use criteria such as, medical evidence that proves a child is with intellectual disability and the level of its severity, background information of the child's life cycle and some times age is also seen.

On the other hand, for the question whether or not children with intellectual disability get adequate access to school services such as library, clinics, water, latrine etc all of the participants stated that children with intellectual disability are getting access to such school services in equal manner with students without disability.

Similarly, with regards to school infrastructural accessibility for children with intellectual disability, except for Akaki Yemengest Primary School, schools managed to reserve ground classrooms to children with intellectual and related disability. Yet, it is worthy of mentioning the good initiatives being taken by some schools, Belay Zeleke primary school, for instance to build a ramp to students who uses wheelchair beginning from the school gate leading to the classroom and latrine.

Such similar good starts needs to be further done to paths leading to library in terms of enabling Children with disabilities lead an independent life which is well stated and promoted in the CRPD and domestic instruments.

Unless it would be a challenge to children with multiple disabilities (intellectual, physical) access and benefit from the available school resources. In Akaki Yemengest Primary School there is one student with intellectual disability which results in mobility limitation. He uses wheelchair. For him the classrooms are not accessible whereby he found it difficult to go in and out of the classrooms which are preceded by steps to climb up.

The school takes a solution by getting him another wheelchair which will be placed permanently inside the class and each day he comes to school by his wheelchair and while reaching to his class he gets down to the ground from his wheel chair and climb up the stairs himself and set in his other wheelchair. Although this process is painful to him, he is able to attend class. This is a good work that should be encouraged. However, still the child is suffering a lot while climbing the stairs. So, it would be an easiest solution to build a ramp for the wheelchair. To see how this student manages to enter to the class the researcher strongly recommends the reader to refer to the photos attached in the Annex part.

Such instances are nothing but an indication that Ethiopia needs to work hard and push further in living up to the best expectation of various international human right instruments obligations. For instance, Article 9(1) of the Convention on the Rights of Persons with Disabilities strictly obliges member states to take measures to identify and eliminate obstacles and barriers on accessibility of buildings, schools, transportation, etc. Further, ACRWC in its Article 3(e) obliges member states to take special measure in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community. In this case too Ethiopia is under the obligation of taking special measure to make education accessible to disadvantaged children including children with intellectual disability. The measures might include making schools available and accessible, eliminating any barriers in transportation that hinder children with intellectual disability from attending school, etc. Moreover, Ethiopia has also committed itself to expand education under Education Training Policy. However, the practice shows that Ethiopia is far beyond reaching this goal.

The school directors were asked to describe the relationship of children with intellectual disability with their peers, teachers, the management staff and the school community as a whole. All of them said that children with intellectual disability have a positive relationship with teachers, other students and the school community as a whole and other students give assistance, love and care for them. Different Non-Governmental Organizations such as, Ethiopian National Association on Intellectual Disability, Handicap International, etc make awareness raising campaign on intellectual disability so that the school community has a positive attitude towards children with intellectual disability. All of them stated that children with intellectual disability do not face any problem in the school. This is a little bit contradictory from what children with intellectual disability actually said because it is impossible to conclude that those students with intellectual disability do not face any problem at all since some of them stated that they actually come across various problems in the school domain. Even in one school it is indicated that female children with intellectual disability are raped by regular students. This is a very serious issue and rather than concealing the problems it is better to look for a solution for it through cooperation.

When asked whether regular and special class teachers get any periodic training on how to deliver the best quality of education for children with intellectual disability that address their special need, all of the directors interviewed stated that special class teachers are trained and regular class teachers have been given short term trainings by Governmental and Non-Governmental Organizations.

For the question presented to school directors on whether or not children with intellectual disability participate in school activities such as sport, games, clubs, ceremony of parents' day, all of them indicated that they are actually getting involved in these and related school activities. If it needs to cite a good experience of Kokebe Tsebeha Primary School whereby children with intellectual disability have hosted a handicraft exhibition open to all school community as an extra curricular activity. This shows that there is a good start in creating opportunities for children with intellectual disability to participate actively in their right to leisure, cultural and recreational activities recognized under various international instruments. To see an example, ACRWC under Article 12 (2) obliges member states to *"respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity"*. CRPD also mentions this fact under Article 30 (2) by obliging member states to *"take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society"*. Therefore, the above data indicates that there is a good start with this regard and should be shared with other schools too.

With regard to the difference in attitude between regular and special class teachers towards children with intellectual disability, nine of the directors said that there is no difference in attitude between regular and special class teachers and even regular class teachers participate actively in Special Need Club. One director even if he agrees with the above points said that there is a big gap in the attitude between regular and special class teachers because those special class teachers have devoted and committed themselves to this work however such devotion is not found with regular class teachers. To support his argument one special class teacher said that when children from special class fight each

other regular class teachers, rather than solving the dispute, they look for us and say "your students are fighting so you should do something". She further said that "this is not right because those teachers have also a responsibility to help these children. It should not always be referred to us". This shows the prevalence of difference in attitude between regular and special class teachers in some schools towards children with intellectual disability.

Schools directors were also asked to entertain a question if there is any mechanism of continual assessment on the educational performance of children with intellectual disability it was communicate that there is a periodic assessment on the educational performance of children with intellectual disability both in regular and special class. This assessment, according to the respondents, will basically serve as a basis to transfer children with intellectual disability to regular class for inclusive education.

Such continual assessment however are recognized among professionals as an essential input in supporting children with intellectual disability, it is not oftentimes, if not always, advised to determine child's right to access an inclusive education.

Finally, the directors were asked to give a possible suggestion to make the schools more accessible and friendly for children with intellectual disability and to enhance inclusive education. And the solutions cited include:-

- ❖ Increasing trained teachers on SNE.
- ❖ Providing adequate teaching aid and learning materials including materials for skill training.
- ❖ Creating awareness among the school community about children with intellectual disability and the assistances to be given for them.
- ❖ The government has to give special attention to children with intellectual disability in allocating budget.
- ❖ By collaborating with NGOs the government has to give assistance for children with intellectual disability with lower socio-economic background.
- ❖ Government should increase the number of schools having special and inclusive Class.

4.1.8. Data Representation, Analysis and Interpretation of Responses of Non-Governmental Organizations and a Government Body

To further strengthen the above discussion and balance the information gathered, interview is also made with two concerned persons of selected NGOs which are actively participating on the area of disability and one with special target on intellectual disability. These are Public Relation Officer of Ethiopian National Association on Intellectual Disability and Monitoring and Evaluation Officer of Handicap International.

Their responses to the questions read for them are discussed as follow.

When asked about their personal opinion about the current Education Policy of Ethiopia with regards to children with intellectual disability, both of the interviewees said that as the policy says "*Education for All*" and the Education Abstracts shows that enrolment rate is increasing, primary education is free, etc it is good for all children including children with intellectual disability. The researcher agrees with their point of view but the practice is far from what has been written in the papers since, as clearly seen from the previous data, children with intellectual disability are not effectively benefiting from the education system of Ethiopia and they are some of the disadvantaged groups.

Thus, in order to fully ensure that children with intellectual disabilities are enjoying their basic right to education, the Government needs to implement the Education Policy, programs and strategies in their entirety. This means, what has been inked on papers should be converted to the ground in concrete tangible manner allowing children with intellectual disability attending school fitting their mode of learning.

The researcher, therefore, recommends some possible solutions to achieve this goal in the recommendation part.

To the question whether Education and Training Policy and other strategic programs of Ethiopia effectively address the issue of right to inclusive education of children with intellectual disability or not, the interviewees answered that it is not possible to say it actually addresses the issue of inclusive education since the current education strategy is on special need education and it should be changed into inclusive education. This is so

true since as they have said, currently we have a Special Need Education Strategy and the government is on transitional period to fully integrate inclusive education in the education system. Thus, in the future the strategy should be totally changed in to inclusive education in that case more detailed issues of inclusive education will be dealt.

When asked about the extent the right to education of children with intellectual disability is implemented, they stated that even if the education policy, strategies and directories says education for all there is a problem in implementation. For instance, there are no schools nearby for children with intellectual disability, the schools infrastructures are not accessible, learning and teaching materials are not provided for schools in adequate manner. This is what is actually seen in practice.

With regard to preference from special and inclusive class education, both respondents stated that they preferred inclusive education and also mentioned core challenges for promoting inclusive education in Ethiopia such as,

- ❖ Lack of awareness in most of the society of Ethiopia about children with intellectual disability and their right to education.
- ❖ Lack of a reliable, detailed and researched data at nation-wide level about the status of children with intellectual disability in Ethiopia and their special needs.
- ❖ Lack of trained teachers and adequate teaching aid materials.
- ❖ Inadequate number of schools having special and inclusive classes.

When asked about the role their organization plays towards eradicating these challenges they stated that they are working on awareness raising campaign about inclusive education by using pamphlets, posters, through web-site, and conducting studies on the accessibility of schools for persons with disabilities. In addition, the Public Relation Officer of ENAID said that their association conducts seminar for different organizations specially schools about intellectual disability and inclusive education, etc. She further stated that, the association accepts persons with intellectual disability, who are above 18 years and trainable. Skill training such as handicrafts is provided to them. The interviewees further highlighted the need for awareness creation campaign. In the same

token, The Developmental Social Welfare Policy (1997) also recommends for appropriate and sustainable awareness-raising campaigns to be launched.

Finally, the interviewees were asked to suggest any possible solutions for promoting inclusive education in the country and addressing it to children with intellectual disability in adequate manner. Similar to previous participants, they said that the government should give necessary attention to children with intellectual disability, awareness raising campaign should be made, teaching aid and learning material should be provided in sufficient manner and school infrastructure should be made accessible to children with intellectual disability.

From the government side interview was made to solicit the vision of the government towards Special Need and Inclusive Education and children with intellectual disability. Ato Tilahun Teshome the Special Need Education Expert from Ministry of Education was chosen for the interview. When asked about the status of the current Education Policy of Ethiopia in guaranteeing right to education of children with intellectual disability and whether there are any priorities set specific to children with intellectual disability or not, he said that the current Education Policy guarantees right to education for all and provides special protection and assistance for persons with disabilities. However, no specific priority is given to specific type of disability since measures are taken in general for all types of disabilities. And, for the question which type of education i.e. either special need education or inclusive education given priority under the Special Need Educational Program Strategy, he stated that the current strategy is on special need education but now the government is taking steps towards inclusive education.

With regards to any work done in collaboration with schools in Addis Ababa with special and inclusive classes for the proper implementation of right to education of children with intellectual disability, the interviewee reported that direct contact with such schools is made by The Education Bureau but MOE has given awareness creation campaign in all the schools with special and inclusive classes in Addis Ababa about inclusive education.

He was asked whether schools with special class provide sufficient library service, books, latrine, water, and other services in adequate manner to children with intellectual

disability or not and whether there is any special measure taken for special class students. And he stated that schools provide the above mentioned services for children with intellectual disability up to their capacity even if it is not fully adequate. With regards to special treatments for these children he said that in the future it is planned to assign special budget for those children while allocating school grant.²³⁰ This should be put in practice as fast as possible because schools should make the necessary equipment and support available to bring children with intellectual disability up to the same level of education as their non-disabled peers.²³¹

Concerning teachers training the interviewee stated that in Ethiopia Special Need Education is given in 4 universities namely, Addis Ababa University, Dila University, Haromaya University and Bahirdar University. On the other hand, a Diploma course is given in Sebeta, Debreberahan, Addis Ababa (Kotebe College), Hosaena, and Adwa. He further said that in the future short term and long term training will be given to both regular and Special Class teachers. But, here even if there are different training centers in Ethiopia the number of teachers trained in SNE is insignificant compared to the number of children with intellectual disability. As the researcher has observed in the ten schools in Addis Ababa special class teachers are unevenly distributed ranging from 1-4 in the schools.

On the other hand, the ESDP III indicated that to improve the quality of primary education availability of qualified teachers in sufficient number is a critical input.²³² However, the practice seems different since the number of qualified teachers is insignificant. Further, The Committee on Economic, Social and Cultural Rights stated that for states to effectively put in practice the "inclusive education" first it should ensure that teachers are trained to educate children with disabilities.²³³ Ethiopia as being the signatory of International Covenant on Economic, Social and Cultural Rights, is obliged

²³⁰ School Grant means a budget that is allocated for each student. For instance if 10 birr is allocated to each student and if there are 100 students in the school then 1000 birr budget will be granted to that school

²³¹ Neville Harris and Paul Meredith (eds.), *Children, Education and Health: International Perspective on Law and Policy*, Ashgate, Antwerpen-Oxford, 2006, page 1

²³² Ministry of Education, *Education Sector Development Program-III*, 2005/2006-2010/2011, Program Action Plan, Addis Ababa, 2005, page 11

²³³ Neville (2005), at p.12

to provide a sufficient number of trained teachers to effectively put in practice inclusive education. But this is not the case in our country.

Finally, when asked whether there are plans in the future for effective implementation of the right to education of children with intellectual disability or not, Ato Tilahun said that MOE has planed for preparing curriculum that is suitable for persons with disabilities which also includes children with intellectual disability with special focus on Individual Education Plan in which the national curriculum being in practice, teachers are further allowed to amend the curriculum in accordance with the special needs of their students. This generally means preparing a school based curriculum. The researcher believes that if this is turned into actual practice it is a good thing because as the special need of children with intellectual disability varies from one another, in this case teachers will be able to use different mechanisms in accordance with their students' specific special needs.

While gathering these data from the ten schools, the researcher has also made some personal observations. To begin with the good things observed, children with intellectual disability are very friendly and if we make ourselves close to them freely, they know how to give love and respect. They like playing and want some one to love, care and make them close to him/herself. That is why most of them love their teachers who exactly do the above things for them.

With regards to special class teachers almost all of them are devoted to their work, they love being with these children and sometimes it is impossible to demarcate the teacher-student relationship since they all seem friends and one big family. The teachers protect and care their students as they were their own child and even most of the students call their teachers *"MAMI"* and *"DADI"*. This shows how close their relationship is. And actually, they work too hard and some children with intellectual disability show interesting changes after they come to school.

While supporting such improvements the researcher would like to bring the case of 8 years old girl from Dejazemach Wondeyerad Primary School, who had a severe speech problem and who later on manages uttering words and express herself following well supervised training. So, with such close relationships and significant changes gained from

the teaching-learning process it is obvious that if all the necessary teaching aid and learning materials are supplied, it is possible to address the educational needs of children with intellectual disability and come up with visible changes.

With that of the school community, in most of the schools, special attention is given for children with intellectual disability. For instance, in Akaki Yemengest Primary School, the researcher has seen an announcement posted on the information board that says *"To all school community, tomorrow there is a foot ball match between Special class students so you are invited to attend the game"*. This is a very good start that paves the way for children with intellectual disability to socialize themselves with the school community. And, this is clearly compatible with the obligation Ethiopia entered under Article 31 of CRC, which states that *"States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts"*. Similarly, there is a school principle posted every where in the school compound that says *"Let us avoid discrimination and stigma and promote inclusive education"*. These words have power to create a positive thinking on one's mind about children with intellectual disability. Similarly, in this school Special Class students have a small farm land to plow vegetables and the teacher told me that this helps them to have a physical exercise.



Photo C: Children with Intellectual from Special Class in their Farm Land

The other good thing I have observed is that, as most of children with intellectual disability came from poor economic background, those students in special class are provided with bread and tea during break times. In some schools, the cost is covered by the school itself, in others by teachers of both regular and special class and even in some schools special class teachers cover the cost themselves. This is a good thing although this task should have been done by the Government through allocating special budget for children with intellectual disability. This fact is clearly stated in the Education Policy under the Educational Structure No. 3.9.4 that "*special financial assistance will be given to those who have been deprived of educational opportunities ...*" and also Article 11(3) (e) of ACRWC obliges Ethiopia to take special measures to ensure that children with intellectual disability have equal access to education. Allocating special budget could be one type of special measure that enables these children from poor economic background to attend class without any barrier.

Further, in most schools except, Kokebe Tsebeha, special classes are situated near to regular classes and the administrative staff. This is very nice since it paves the way for special class students to be close to other students.

The other thing is some schools are not convenient for transportation. For instance, in the case of Lideta Selam Primary School, for a student who lives around Lideta the only option he/she uses to come to school is on foot otherwise no other means of transportation is available and it may took 20-25 minuets to reach to school which is difficult for most of children with intellectual disability. This is also true for Abune Basilious Primary School. In this case too the government has to work on facilitating transportation in these areas. So that children with intellectual disability will have a convenient school environment which has a direct influence on their educational performance. Otherwise, without making schools physically accessible and friendly for children with intellectual disability simple recognition of their right to education will be meaningless.

Therefore, every one can learn and benefit from learning if education and training are organized to meet the diversity of learners. And, although the Government of Ethiopia is

taking some measures to address this issue still the above data shows the intensity of the problem and there is a huge work yet to be done by the Government. Therefore, promises made under the Education Policy, Strategies, and Programs has to turn in to reality by taking effective measures for realizing the right to education of children with intellectual disability. And also those obligations under international instruments should be discharged basing the commitment the Government entered under the ESDP III i.e. *"Implement the Education and training Policy, and the International Principles endorsed by the government to honor the rights of citizens to education "*.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATION

This chapter is exclusively focusing on summarizing major findings, drawing of conclusion and feasible recommendations.

5.1 Summary

The purpose of this research is to evaluate the implementation of the right to education of children with intellectual disability in Addis Ababa. To this end, as indicated in the methodology the researcher used quantitative and qualitative research methodology. Questionnaires, interview, and field visit were employed as means of data gathering techniques. Whereby responses are interpreted and analyzed accordingly.

The findings of the study attained from the data are as follow:

- The study reveals that all of children with intellectual disability from regular classes prefer inclusive education and nearly half of children with intellectual disability from special classes are not happy having special class rather they prefer inclusive class.

- The study discloses the fact that more than half of inclusive regular class teachers, all of the special class teachers and school directors believed that children with intellectual disability should be included in regular class.
- The study finds out that a great majority of inclusive regular class students without intellectual disability believe that children with intellectual disability have the potential to be educated in regular class.
- (66.6%) and (56.5%) of regular class teachers and special class teacher respectively believed that children with intellectual disability are not equipped with learning materials pertinent to their special needs. And a great majority of children with intellectual disability from regular and nearly half of children with intellectual disability from special class indicated that they are not provided with adequate learning materials.
- The study disclose that a great majority of children with intellectual disability from both regular and special class, although there is no special school services delivered to them, have access to services such as, latrine, water, library, etc offered to the whole students in the school. Further, it is also stated that they participate in school activities such as, club, ceremony of parents' day, etc.
- The study reveals that schools in Addis Ababa that have special and inclusive classes are not physically accessible for nearly half of children with intellectual disability both from special and inclusive classes. And, schools are not available for majority of children with intellectual disability living in Addis Ababa.
- The study disclose the fact that (82%), (87.17%) of regular class students without intellectual disability, and special class teachers respectively believes that inclusive education brings love, tolerance and respect between both children with and without intellectual disability.

- The study indicates that there is favorable policy environment for the full introduction of inclusive education in Ethiopia.
- The study comes up with the result that majority of the school community have positive attitude towards children with intellectual disability.

5.2. Conclusion

Every thing begins with education, for neither nature nor society can be made to serve their useful purpose without it. Countries with an educated population are more prosperous and democratic. Education can make the difference between a life of poverty and a life of prosperity. Thus the Education Policy, Programs, and Strategies of Ethiopia recognized the right to education of everyone and with further commitment to provide special assistance to children with special needs including children with intellectual disability. Although it is stated this way, there are various problems in implementing the different policy frameworks and strategies so that the right to education of children with intellectual disability is not fully realized.

Having only ten Governmental Primary Schools in Addis Ababa with special and inclusive class, with a total of 4,310 persons with intellectual disability in Addis Ababa is a prove by itself. Therefore, it is understandable that the number of schools are inadequate compared with children with intellectual disability who are in special need of education. These schools are not even equipped with relevant learning materials and teaching aids pertinent to the special needs of children with intellectual disability. So in Addis Ababa schools are not available and physically accessible to the majority of children with intellectual disability. As a result, the vast majority of children with intellectual disability in Addis Ababa are still out of reach of school. This is against the

minimum core obligation on right to education, i.e., accessibility, availability, acceptability and adoptability of primary education, Ethiopia entered under various international instruments.

Therefore, the implementation of right to education of children with intellectual disability in Addis Ababa is at a very infant stage.

5.3. Recommendation

In order to address the issues discussed in this study and for the effective implementation of right to education of children with intellectual disability, the following recommendations are made:

- Schools should be physically accessible and available i.e. the number of schools that have special and inclusive class should increase to the maximum possible number.
- The Government should work in increasing the enrolment rate of children with intellectual disability.
- The Government should prioritize the special needs of children with intellectual disability while allocating budget.
- Basic learning materials and teaching aids that address the special needs of children with intellectual disability should be available in adequate manner in every school.
- Friendly school environment should be developed for children with intellectual disability by making schools convenient and comfortable in order to enable those children attain the best advantage from education.

- The Government should increase a trained man power on Special Need Education.
- Incentives should be given for special class teachers either in the form of salary increment, priority in educational advancement opportunities, or any other type to encourage them to accomplish their task effectively.
- The current Special Need Education Strategy should be changed in to Inclusive Education Strategy so that children with intellectual disability will exercise their right to education in equal manner like that of children without intellectual disability. In this case, the researcher strongly believes that special class should be used as a pre-school education for children with intellectual disability and after acquiring some basic skills such as communication, socialization, keeping personal sanitation, class discipline, etc then transferring them to inclusive is best. Thus, it is more likely for children with intellectual disability to be able to compete with children without intellectual disability in regular class. In addition, those children with sever intellectual disability should be provided with various skill trainings so that in the future they will independently manage their life.
- The Government, NGOs and any concerned body should work on awareness creation campaign to the school community as a whole, parents of children with intellectual disability (so that they will send their children to school), the society at large to tackle discrimination and stigma against children with intellectual disability in exercising their right to education and with special emphasis on promoting *inclusive education*.
- The Government should come up with reliable, detailed and researched data, at nation wide level, about the status of children with intellectual disability in Ethiopia and their special needs. As a result, it is possible to provide the best service for children with intellectual disability with special emphasis to '*right to education*'.

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H. INTERVIEW

Interview with Ato Amha Berhe, Social Welfare Development Capacity Building and Information Service Expert, October 10, 2010.

Annex -A- Questioner for Special class teachers

**THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL
DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA**

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so please answer questions openly and honestly.

I thank you in advance for your cooperation

Name of school:

Sex:.....

Age:.....

Educational level:.....

Grade level you teach:.....

1. What motivates you to become a Special Needs Education teacher?
A) Interest B) Salary and other benefits C) obligation
2. Did you receive any training related to Special Needs Education?
A) Yes B) No
3. If your answer for question No. 2 is “Yes” how long the training last?
A) From 3-6 months B) From 7-12 months
C) > 12 month D) Workshop participation only
4. Did you get chance to go abroad either for education or experience sharing on Special Need Education?
A) Yes B) No
5. Are you familiar with basic human rights of children with intellectual disability in relation to inclusive education?
A) Yes B) No C) Medium
6. How is your relationship with children with intellectual disability?
A) Very good B) Good C) Not so bad D) Bad

7. Do children with intellectual disability have full access to library, education materials and other services as per their special needs?
A) Yes B) No C) To some extent
8. Does inclusive education brings tolerance, love and respect between children with and without intellectual disability?
A) Strongly Agree B) Agree C) Strongly Disagree D) Disagree
9. Teaching children with intellectual disability in special class is more advantageous than inclusive education?
A) Strongly Agree B) Agree C) Strongly Disagree D) Disagree
10. How does teaching Intellectual disability feel like?
A) Very good b) Good C) Boring D) Indifferent

Open ended questions

1. Do children with intellectual disability get the maximum advantage from the school system as expected? If yes, please explain and if no, why not?
2. Are you equipped with the relevant teaching aid materials? If no, what is left out?
3. Do your students with intellectual disability get educational materials essential to their special needs? If no, what are left out?
4. Are there any problems you face in teaching children with intellectual disability in the Special Class? If yes, mention some.
5. What do you think is the effect of Special Class on the educational performance of children with intellectual disability?
6. What possible solutions would you suggest to improve the quality of education delivered to children with intellectual disability?

Thank You

Annex – B- Questioner for Inclusive Regular Class Teachers

THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so please answer questions openly and honestly.

I thank you in advance for your cooperation

Name of school:

Sex:.....

Age:.....

Educational level:.....

Grade level you teach:.....

1. Did you receive any training related to Special Needs Education? If yes for how long the training last?
A) From 3-6 months B) From 7-12 months
C) > 12 month D) Workshop participation only
2. Are you familiar with basic human rights of children with intellectual disability in relation to inclusive education?
A) Yes B) No C) Medium
3. Do you agree that children with intellectual disability could be educated in regular class?
A) Strongly Agree B) Agree C) Strongly Disagree D) Disagree
4. What do you feel about teaching children with intellectual disability in regular class?
A) I feel good B) I feel annoyed

- C) I feel it is wastage of time D) I feel nothing
5. How is your relationship with children with intellectual disability?
- A) Very Good B) Good C) Not so bad D) Bad
6. How do other students with out intellectual disability perceive children with intellectual disability?
- A) Good B) Very good C) Not so bad D) Bad E) Very bad
7. How do you perceive the participation of children with intellectual disability in the classroom activities?
- A) Very Fast B) Fast C) Moderate D) Slow

Open ended questions

7. What do you know about intellectual disability?
8. Do children with intellectual disability get the maximum advantage from the school system as expected? If yes, please explain and if no, why not?
9. Are you equipped with the relevant teaching aid materials pertinent to special need of children with intellectual disability? If no, what is left out?
10. Do your students with intellectual disability get educational materials essential to their special needs and also other school services such as library, latrine, water, etc? If no, what are left out?
11. Is this school accessible and convenient for children with intellectual disability? If no, what is the problem?
12. Are there any problems you face in teaching students with intellectual disability in regular class?
13. Did you provide any special support to children with intellectual disability? If yes, what kind of additional preparations and evaluation methods you use to improve the educational performance of these children?

14. What problems do children with intellectual disability face in an inclusive classroom?
15. What possible solutions do you suggest to provide a quality and best education for children with intellectual disability?

Thank you

Annex –C- Questioner for Inclusive Regular Class Students

THE RIGTH TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa

Annex –D- Guideline for Interview with Children with Intellectual Disability: In Inclusive Regular Class

THE RIGTH TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so pleas answer questions openly and honestly.

I thank you in advance for your cooperation

Name of school:

Sex:.....

Age:.....

Grade:.....

1. How did you find the school environment? Is it friendly to learn or not?
2. Which class do you prefer? Special Class or inclusive in regular class? What is your reason?
3. Do you actively participate in the classroom activities?
4. Where do you sit in the class? Is it mixed with others or isolated?

5. Do you take part in the school activities Such as, clubs, parents day celebration, etc same like your peers?
6. Do you face any problem at school? If yes, what are these problems and there causes?
7. How do your teachers perceive you in relation to children with out intellectual disability? Do they give any special attention to you?
8. How is your relationship with children without intellectual disability? If it is good do they provide any kind of special support for you?
9. With whom do you spend your break time?
10. Do you have friends without intellectual disability?
11. Are there special learning materials available for your special educational needs?
12. If yes mention some. Are there that are not available?
13. Did you get any tutorial class?
14. Are school services accessible for you? For instance, library, latrine, playground, water?
15. Is the school far from your home? How do you travel to school? In the way to school do you face any problem? If yes, pleas mention some.
16. What changes do you think should be made in the future, at your school, to improve the quality of education delivered for you?

Thank you

Annex –E - Guideline for Interview with Children with Intellectual Disability: In Special Class

THE RIGTH TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so pleas answer questions openly and honestly.

I thank you in advance for your cooperation

Name of school:

Sex:.....

Age:.....

Grade:.....

1. How did you find the school environment? Is it friendly to learn or not?
2. What did you feel in attending Special Class being excluded from other children? And which class do you prefer?
3. Do you actively participate in the classroom activities?
4. Do you take part in the school activities Such as, clubs, parents day celebration, etc same like your peers?
5. Do you face any problem at school? If yes, what are these problems and there causes?
6. How do your teachers perceive you with regard to your disability?
7. How is your relationship with children with out intellectual disability?
8. With whom do you spend your break time?
9. Do you have friends without intellectual disability?
10. Are there special learning materials available for your special educational needs? If yes mention some. Are there that are not available?
11. Are school services accessible for you? For instance, library, latrine, playground, water?
12. Is the school far from your home? How do you travel to school? In the way to school do you face any problem? If yes please mention some.
13. What changes do you think should be made in the future, at your school, to improve the quality of education delivered for you?

Thank you

Annex –F - Guideline for Interview with School Directors

**THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL
DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA**

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so please answer questions openly and honestly.

I thank you in advance for your cooperation

Name of school:

Sex:

Age:

Educational level:

1. What is your understanding about intellectual disability and inclusive education?
2. How many students are enrolled in the school
3. Which one do you think is best; Special Need Education or Inclusive Education for children with intellectual disability? Why?
4. Is there any screening system your school use while admitting children with intellectual disability? If yes, what type is it?
5. Do children with intellectual disability get adequate access to school services such as library, clinics, water, latrine, etc? If no, what is the problem? Is there any plan regarding this in the future?
6. How accessible is the school building infrastructure for children with intellectual and physical disability?
7. How do you describe the relationship of children with intellectual disability with their peers, teachers, the management staff and the school community as a whole?

8. What problems do children with intellectual disability face in the school domain?
9. Do teachers, of both regular and special class, in your school get any periodic training on how to provide the best quality of education that address the special need of those children?
10. Do children with intellectual disability participate in school activities like sport, games, clubs, celebration of parents' day, etc?
11. Is there a difference in the attitude towards children with intellectual disability in the case of teachers of regular class and Special Class?
12. Is there continual assessment on the educational performance of children with intellectual disability?
13. What solutions do you recommend to make the school more accessible and friendly to children with intellectual disability and to enhance inclusive education?

Thank you

Annex –G- Guideline for Interview with Concerned Government Body from Ministry of Education

THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA

Purpose of the questionnaire is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so please answer questions openly and honestly.

I thank you in advance for your cooperation

1. What do you say about the current educational policy of Ethiopia on the education of children with intellectual disability? What priorities are set?
2. Which one does the current educational policy prefer; Special Need Education or Inclusive Education?
3. Is there any work done in collaboration with Schools in Addis Ababa with special class for the proper implementation of right to education of children with intellectual disability?
4. Do schools with Special Unit provide sufficient library service, books, and other services in adequate manner to children with intellectual disability? Is there any special measure taken for Special Class students?
5. Do Special Class teachers and regular class teachers (in case of inclusive class) have special education training? If yes, where is it given? And, is there any plan to provide training for those who are currently not trained?
6. Is there any plan in the future for effective implementation of the right to education of children with intellectual disability?

Thank you

Annex –H- Guideline for Interview with NGOs

THE RIGHT TO EDUCATION OF CHILDREN WITH INTELLECTUAL DISABILITY AND ITS IMPLEMENTATION IN ADDIS ABABA

Purpose of the questioner is to find out how the right to education of children with intellectual disability is been implemented in Addis Ababa with special focus on those ten schools which have special units. It is used for a partial fulfillment of LLM. Thus, your contribution has a paramount importance for the quality of the paper.

Confidentiality is guaranteed, so please answer questions openly and honestly.

I thank you in advance for your cooperation

1. What do you say about the current education policy of Ethiopia with regard to children with intellectual disability?
2. Do you think that the Education and Training Policy and other strategic programs of Ethiopia effectively address the issue of right to inclusive education of Children with intellectual disability?
3. How do you evaluate the implementation of right to education of children with intellectual disability in Ethiopia?
4. From Special Need Education and Inclusive Education which one do you believe is best for children with intellectual disability?
5. What do you think are the major challenges for promoting inclusive education in Ethiopia?
6. What is your organization role towards solving these major problems or obstacles?
7. What possible recommendations your organization could made for promoting inclusive education in the country and providing it to children with intellectual disability in adequate manner?

Annex - I
Photos of Children with Intellectual Disability





