

**ADDIS ABABA UNIVERSITY**  
**COLLEGE OF EDUCATION AND BEHEVIORAL STUDIES**  
**DEPARTMENT OF EDUCATIONAL PLANNING AND**  
**MANAGMNET**

**THE RIGHT TO EDUCATION: *THE LAWS AND POLICIES IN***  
***ETHIOPIA***

**BY**  
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**NOVEMBER, 2020**  
**ADDIS ABABA, ETHIOPIA**

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ETHIOPIA***

**BY  
ANBERBIR ABAYNEH**

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**Addis Ababa University**  
**College of Education and Behavioral Studies**  
**Department of Educational Planning and Management**

I, the undersigned declare that the thesis titled **“The right to education: the laws and policies in Ethiopia”** and submitted in partial fulfillment of the requirement for the degree of masters of arts is my original work and has never been submitted to any other university for the award of a degree, All sources used in this thesis have been duly acknowledged.

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## Declaration

I, the undersigned declare that the thesis titled **“The right to education: the laws and policies in Ethiopia”** and submitted in partial fulfillment of the requirement for the degree of masters of arts is my original work and has never been submitted to any other university for the award of a degree, All sources used in this thesis have been duly acknowledged.

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## Certification

This is to certify that the thesis titled **“The right to education: the laws and policies in Ethiopia”** is the original work of Anberbir Abayneh submitted for examination with my knowledge as a University Advisor.

Dr. Kenenissa Dabi

Signature \_\_\_\_\_

Date \_\_\_\_\_

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## **List of Acronyms/Abbreviations/**

<b>ACHPR</b>	African Charter on Human and Peoples' Rights
<b>ACHR</b>	The American Convention on Human Rights
<b>ACRWC</b>	African Charter on the Rights and Welfare of the Child
<b>CADE</b>	The UNESCO Convention against Discrimination in Education
<b>CAT</b>	Convention Against Torture
<b>CESCR</b>	The United Nation Committee on Economic, Social and Cultural Rights
<b>CRC</b>	The United Nation Convention on the Right of Child
<b>EFA</b>	The World Declaration on Education for all
<b>FDRE</b>	Federal Democratic Republic of Ethiopia
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILO</b>	International Labor Organization
<b>MOE</b>	Ministry of Education
<b>PDRE</b>	Peoples Democratic Republic of Ethiopia
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNESCO</b>	United Nation Educational, Scientific and Cultural Organization

### **Key Terms**

- Right to Education
- Human right instruments
- Laws and policies

## **Abstract**

*The very purpose of this research paper was to make an assessment for the realization of the right to education in the laws and policies of Ethiopia. In addition, the study also aimed at identifying the extent of protection given to this right under the laws and policies of the country. To this end, in this research, the researcher employed qualitative content analysis research method to better understand the protection given to the right to education under the federal and regional constitutions, different policies and laws. The study concluded that the laws and policies including the constitution of the country do not clearly stipulate the right to education in the same and similar manner like the UDHRs, ICESCRs and other international human right instruments did. Moreover, the FDRE constitution, which devoted 16 articles for the democratic rights, did not devote any article about the right of every person to education. The regional constitutions also did say anything about the people's right to education. Ethiopia has also made different policies which are directly related with children, women and youth. However, none of these policies clearly stipulate the right of these groups to education. Finally the study recommended that in order to tackle absence of clear provision in the right to education, the ministry of education and other respective organs need to issue special legislations and policies that address people's right to the right to education. In addition to the law making, it is recommended that the ministry of education and other relevant offices need to incorporate the right to education on the text books and other materials to teach and aware the people.*

# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1 Background of the Study**

The history of education goes prior to the age of enlightenment in Europe. Prior to the age of enlightenment of the eighteenth and nineteenth centuries, education was the responsibility of parents and the church (Nowak, 1995 cited at Dieter, 2006). Beginning in the sixteenth and seventeenth centuries, certain eminent philosophers like John Lock and Jean-Jacques Rousseau explained in their writings the modern conception of the individual right to education (Hodgson, 1998). According to these philosophers education of children is the obligation of parents until they become able to make full and proper use of their freedom,

Education was started to be assumed as a matter of public concern and state responsibility only with the emergence of modern secular states. In the second half of nineteenth century and in the early twentieth century, constitutional protection is given to the education rights and these documents started to provide the extent of state responsibility towards the right to education (M. Nowak, 1995 cited at Hodgson, 1998).

The constitution of the German empire of 1849 contained a section entitled “Basic right of the German People” which has a seven provision (Article 152-158) about educational rights. This constitution was affirmed education as a function of the state, independent of the Church, and the right of the poor to free education was proclaimed (Hodgson, 1998). On the other hand the French constitution also enshrines the right to education for all in France. The provision that does so is found in the Preamble of the Constitution of 1946, which was incorporated by

reference into the Preamble of the current French Constitution. This constitutional provision declares that “the Nation guarantees equal access for children and adults to instruction (education) vocational training and culture. The provision of free, public and secular education at all levels is a duty of the State.”

The notion of education as a human right has been formally recognized since the adoption of the Universal Declaration of Human Rights in 1948. There are two instances for the international recognition of the right to education. The first instance of international recognition of the right to education occurred with the conclusion of various minorities’ treaties in the immediate aftermath of World War I as an adjunct to peace treaties signed by the Allied and Associated Powers with the defeated nations. These treaties sought to protect the religious and linguistic identity and educational rights of certain minorities which had been displaced through a redrawing of national boundaries in Europe. (Hodgson, 1998 P.10)

And the second instance of the international recognition of the right to education under the auspices of the League of Nations took place with the proclamation in 1924 of the declaration of Geneva. This Declaration represented the first step towards the development of international norms concerning the global protection of children, as earlier international agreements had merely focused on particular problems affecting children such as working conditions and slavery. (Hodgson, 1998 P.11)

Ethiopia as a founding member of the United Nations Organization and a signatory of the Universal Declaration of Human Rights started to adopt the right to education in its constitution since the ratification of the 1955 revised constitution. This constitution on its article 122 envisages that all international treaties, conventions and obligations to which Ethiopia

shall be a party have an equal status with the constitution and are supreme law of the land. Even though Ethiopia has accepted and gives constitutional protection to the idea of the right to education many decades before it is still have a problem in its practical implementation.

UNESCO`s Institute for statistic recent data revealed that worldwide there are still About 263 million children and youth are out of school. This is equivalent to a quarter of the population of Europe. The total includes 61 million children of primary school age, 60 million of lower secondary school age, and includes the first ever estimate of those of upper secondary school age at 142 million. Of all the regions in the world, the sub-Saharan Africa has the highest rates of exclusion. Over a fifth of children between the ages of 6-11 are out of school, followed by a third of youth between the ages of 12-14. According to this data, almost 60% of youth between the ages of 15-17 are not in school (UNESCO Policy paper 27/ Fact sheet 37 July 2016).

On the other hand the UNICEF data in 2018 indicates that Ethiopia has a population estimated about 102 million. Out of this number 48% (more than 47 million) of the population are children'. Currently there are about 2.6 million primary school-aged children are out of school and 18% of children in grade 1 are drop out of school. In addition to this 40% of girls are married as children and only 25% of secondary school-aged girls attend secondary school. (Mulugeta ayele, 2018)

Though Ethiopia is a signatory of the universal declaration of human right since the time of its ratification, there is still lack of a special law that gives protection to the right to education. On the other hand the data mentioned above indicates that either many parents do not send their child to school or sometimes they kept silent when children are out of school without a good cause. Therefore, the primary objective of this research is to assess the protection given to the right to education in the

constitutions (both Federal and Regional), other laws and policies in Ethiopia. It also answers whether the right to education is protected or not in the countries laws and policies. At the same time it analysis and finally gives critical recommendations for the law making body and the respective organs involves in the education sector.

## **1.2 Statement of the Problem**

After the recognition of the right to education by the Universal Declaration of Human Rights and a number of treaties and normative instruments, countries have included such a right in their constitution. However, in Ethiopian constitution there is no clear provision which is devoted to the right to education. The fact that the constitutional provision dealing with the right to education is absent or not found in a compiled form does (literally speaking) mean that citizen's right to education is limited. To find legal remedy to these constitutional provisions through interpretation is a problem.

The other problem regarding the right to education is the problem of the right being difficult to be enforced. Someone's right to education may be violated by either the government or individuals like parents. At this point the holder of the right does not have the means through which he is claiming his right to be protected. Questions like in what way and where the right could be claimed, the limitations to claim the right could also be raised.

On the other hand, Ethiopia has ratified the major human right instruments which specifically recognize the right to education. Therefore, how can we implement these laws in the absence of sufficient resource in the country is a question to be answered.

In this regard, however, the researcher could not identify adequate research conducted in assessing the laws and policies of Ethiopia that are specifically dealing on the right to education. Even the existing researches conducted by MA students of AAU didn't address the issue by giving especial emphasis on the laws and policies of the country which are addressing the right to education. For instance, Blen (2014) focuses on current practice on the implementation of the educational rights of children with physical disability in Addis Ababa, with a specific emphasis on Menilik School; Samrawit (2015) which explores the right to primary education on issues of access and equity in Addis Ababa; Dawit (2015) assesses the role of civil society organizations on human rights education in Ethiopian justice system; Enguday (2015) discusses the right to education of children and young people living with podoconiosis with a special study on Wolaita Zone, southern region. Though these list of researches attempt to address the issues of right to education, they all failed to emphasize in addressing the laws and policies of the country in light of the right to education. Moreover, those researches which have little attachment with the right to education, they didn't give any assessment on the laws and policies as to whether they recognize the right of every people resided in the country.

In general this paper, therefore, will attempt to investigate the constitutions (both Regional and Federal), other laws, and policies of Ethiopia in light of recognition and protection to the right to education in the country.

### **1.3 Basic Questions**

This study therefore seeks to assess to what extent that the domestic laws, policies, and other legislations of Ethiopia address the right to education. To this end, this study attempts to raise and discuss the following research questions.

- ❖ What do the constitutional provisions (both Federal and Regional), other law and policies, on the right to education look like in Ethiopia?
- ❖ To what extent the right to education has a legal protection in Ethiopia?

## **1.4 Objective of the Study**

### **1.4.1 General Objective**

The main objective of this research is to make an exploration towards the existence and level of protection given to the right to education under the laws and policies in Ethiopia.

### **1.4.2 Specific Objectives**

And the specific objectives are:

- To identify the existence of the right to education under the constitutions (federal and regional), laws, and policies in Ethiopia.
- To explore relevant laws and policies as to whether the right to education is free and compulsory in Ethiopia.
- To analyze the compatibility of national policies and laws on the right to education with the international human rights instruments;
- To assess the articulations of the legal provisions that are found in the laws and policies of Ethiopia as to whether they clearly allow claiming the right by court of law.

## **1.5 Significance of the Study**

The right to education is one of the fundamental rights of a human. However, it is one of the ideas that have been paid little attention among officials with different levels of government position, school leaders and the people itself.

This paper aims to identify the extent of the protection given to the education right as a human right in Ethiopia, the application of the right to education in the constitution, policies and other laws of the country. Therefore, this study is expected to have the following significance.

- It assesses the legal protection given to this right in the country.
- It gives insight about the existence of the education right to the country.
- It identifies the problem of articulations on the right to education in the countries laws and policies.
- It highlights the extent of application of the right to education under the laws and policies in the country.
- Finally, it serves as an input for policy makers in the ministry of education and will help researchers as a baseline to conduct further research.

## **1.6 Limitation of the Study**

To interpret a law sometimes need to understand the intentions of the law makers what they discussed during the law making process. In order to understand the intention of the law maker it is very important to see the background documents like minutes recorded on the meetings of the ratification process. This researcher was informed that there was a minute recorded on the issue of the right to education during the discussion period on the legislation process of the constitution. However,

the said minute is not available in the library of the house of people`s representative. The absence of this minute in my research makes the research limited to understand their intentions; thus, this is a limitation during the research process of this paper. Therefore, the result of the study should be considered with this limitation.

## **1.7 Structure of the Study**

The specific objectives of the study are already spelled out and need not be restated. However, it is necessary to point out in broad terms that the main purpose of the study. The purpose of the study is to thoroughly examine the constitutions, other laws, and policies of Ethiopia articles that address on the right to education and to study the legal protection given to the right. Moreover, to provide recommendations for the policy and law makers and to make the research as an initial source for other researchers is another purpose. To deal with these issues the paper is organized in the following manner. In general, the paper has five chapters each of which has its own section and sub- sections.

Accordingly, the first chapter is an introductory part which deals with background of the study, structure of the study, statement of the problem, research questions, objective and scope of the study, and methodology of the research.

Under chapter two attempts will be made to go through review of the related literature historical development of the right to education, classification of the right to education, recognition of the right to education under international and regional human right Instruments and finally the current constitutional recognition of the right to education in different countries across the world is discussed.

The third chapter discusses the methodology of the research on how the research is conducted.

Chapter four devoted to assess the extent of protection given to the right to education under FDRE constitution, regional constitutions, proclamations, and policies in Ethiopia. And the final part of the paper, which is chapter five sets out analysis, brief conclusion and recommendations.

### **1.8 Scope of the Study**

The study covers the constitutions of different countries across the globe, international and regional human right conventions, treaties, and declarations as well. The research further assesses all the domestic laws, constitutions, policies and standards of the country.

## **CHAPTER TWO**

### **REVIEW OF RELATED LITERATURE**

#### **2.1. Historical Development of the Right to Education**

Documented data in The World Declaration on Education for all, (EFA 1990 P.7) revealed that education has been formally recognized as a human right since the adoption of the Universal Declaration of Human Rights in 1948. But, the history of education goes prior to the age of enlightenment in Europe. As indicated by Nowak, prior to the age of enlightenment of the eighteenth and nineteenth centuries, education was the responsibility of parents and the church (Nowak, 1995 cited at Dieter, 2006 P. 21). Beginning in the sixteenth and seventeenth centuries, certain eminent philosophers explained in their writings the modern conception of the individual right to education (Hodgson, 1998 P. 7).

John Locke (1632-1704) in his speaking about 'parental power' mentions about the obligation of parents to educate their children until they become able to make full and proper use of their freedom, which is inherent by virtue of the simple but fundamental fact that every man/woman has a natural freedom. When the children reach the age of reason they cease to be subordinate of the authority of their parents, who up to that moment are the guardians of their children's freedom. In addition to Lock, Jean-Jacques Rousseau (1712-1778), also recognizes and asserts children's freedom and looks their happiness as dependant on the exercise of such freedom (Mialaret, 1979 P. 21). The same to Lock, Douglas Hodgson also referred to the 'parental obligation' to educate children until they become able to make full and proper use of their freedom and faculties (Hodgson, 1998 P. 7).

General parental obligation to their children has an inherent source of a human and the English jurist Sir William Blackstone described this inherent source in these terms:

*The duties of parents to provide for the maintenance of their children, is a principle of natural law; an obligation . . . laid on them to not only by nature itself, but by their own proper act, in bringing them into the world . . . By begetting them . . . they have entered in to a voluntary obligation to endeavor, as far as in them lies, that the life which they have bestowed shall be supported and preserved. And thus the children will have a perfect right of maintenance from their parents. (Blackstone, 1829 P. 435 cited and quoted at Hodgson, 1998 P. 8)*

The common law of England gradually evolved to recognize parental obligations to nurture and protect their children and to provide them with a basic education sufficient to prepare them for adult life. Blackstone described the parental duty to children in this regard in terms of: "...giving (children) an education suitable to their station in life: a duty pointed out by reason, and of far the greatest importance of any. For it is not easy to imagine or allow, that a parent has conferred any considerable benefit upon his child, by bringing him into the world; if he afterwards entirely neglects his culture and education, and suffers him to grow up like a mere beast, to lead a life useless to others, and shameful to himself." (Hodgson, 1998 P. 8)

The modern human right instruments of their time such as, the French and the American Revolutions did education establish itself also as a public function. The classical civil Liberties instruments such as the English Bill of Right, the American Declaration of Independence, and the French Declaration of the Rights of Man didn't contain any rights specifically related to the right to education. The basic tenet of these

instruments according to Douglas Hodgson focused instead upon basic political and civil rights such as freedom from arbitrary arrest, freedom of expression, opinion and religious belief, the right to life and security of the person, freedom and equality, and the protection of private property (Hodgson, 1998 P. 8-9).

M. Nowak in his side explained reasons of the continuous development of the right to education in the following terms "The emergence of socialism and liberalism were the two developments of the nineteenth century that placed education more firmly in the catalogue of human rights. ... *Laissez-faire* was gradually suppressed by the perception of the state as a benevolent provider. Nineteenth century liberal and anti-clerical thought also influenced the definition of secular educational rights in continental Europe. These educational rights were formulated to defend and advance the ideas of freedom of science, research and teaching against interference by the church and state." (M. Nowak, 1995 cited at Hodgson, 1998)

Hodgson in his position said, Education was assumed to be a matter of public concern and state responsibility only with the emergence of modern secular states (Hodgson, 1998). According to Nowak in the second half of nineteenth century and in the early twentieth century, constitutional protection is given to the education rights and these documents started to provide the extent of state responsibility towards the right to education. For example the constitution of the German empire of 1849 contained a section entitled "Basic right of the German People" which has a seven provision (Article 152-158) about educational rights (M. Nowak, 1995 cited at Hodgson, 1998). These rights aimed at striking a fair balance between the interests of children, parents, the Church, and operators of educational institutions. Education was

affirmed as a function of the state, independent of the Church, and the right of the poor to free education was proclaimed (Hodgson, 1998).

The French constitution also enshrines the right to education for all in France. The provision that does so is found in the Preamble of the Constitution of 1946, which was incorporated by reference into the Preamble of the current French Constitution. This constitutional provision declares that “the Nation guarantees equal access for children and adults to instruction (education) vocational training and culture. The provision of free, public and secular education at all levels is a duty of the State.”

Before 1946 according to Boring, no constitutional provision was made for the right to education. In 1833, the French government obliged by law all the towns to open a public primary school for boys. Few years later, towns were required to provide public primary schools for girls as well. The most significant and famous advances, however, occurred in 1881 and 1882, when the government adopted a series of measures called the Lois Jules Ferry (Jules Ferry Laws), named after the Minister of Education who pushed them through. According to him, the most important of those laws was the Law of 28 March 1882, which introduced compulsory schooling for all boys and girls between the ages of six and thirteen. He further said that, this Law provided that compulsory schooling could be provided by public or private schools, by the children’s father, or by a private tutor. Consequently regular exams were started to those who were homeschooled or taught by a private tutor to verify whether they meet the required standard or not. The law also provided that special measures would be taken to ensure that children who were blind or deaf would also have access to education (Boring, 2016).

The emerging solicitude manifested towards children prompted the enactment of child welfare legislation. According to Hodgson, compulsory education laws were introduced to make the state responsible for providing public education and for supervising private education, and to provide children with a basic general education and vocational training. These laws as he said, provide new educational opportunities for children and withdrew many of them from the labor force (Hodgson, 1998 P. 10). Child labor laws were also enacted to restrict the exploitation of child labor and to ensure that children were able to take advantage of these new educational opportunities. In his citation about these laws he said that the laws regulated the working conditions of children and attempted to restrict the number of hours per day during which minors could be employed (Kelly, 1978 cited at Hodgson, 1998 P.10).

According to Hodgson`s commentary, there are two instances for the international recognition of the right to education. The first instance of international recognition of the right to education occurred with the conclusion of various minorities` treaties in the immediate aftermath of World War I as an adjunct to peace treaties signed by the Allied and Associated Powers with the defeated nations. These treaties in his explanation, sought to protect the religious and linguistic identity and educational rights of certain minorities which had been displaced through a redrawing of national boundaries in Europe (Hodgson, 1998 P.10).

And the second instance of the international recognition of the right to education as Hodgson said, took place under the auspices of the League of Nations with the proclamation in 1924 of the declaration of Geneva. This Declaration in his view is represented the first step towards the development of international norms concerning the global protection of children, as earlier international agreements had merely focused on

particular problems affecting children such as working conditions and slavery. Its five basic principles for child welfare and protection formed the foundation of the Declaration of the Rights of the Child of 1959 (Hodgson, 1998 P.11).

## **2.2 Recognition of the Right to Education under International and Regional Human Right Instruments**

### **Introduction**

It has been observed that there is an exponential growth in international human rights law after 1945. And this growth is coming without any overarching plan or design; according to Daniel et.al rather the development comes through a range of processes and in response to demands from numerous participants (Daniel et.al, 2010 P. 104). Consequently, instruments which protect the right to education have been adopted at the international and regional levels (The UDHR, 45th anniversary 1948-1993, UNESCO, 1994). In the international level, the right to education has been specifically recognized and reaffirmed in some detail by many international human right instruments; especially it is more reflected by in Dieter's view, four major international human rights instruments and three regional human right instruments (Dieter, 2006 P.85). As to him, the four international human right instruments are: The universal Declaration of Human rights of 1948, the UNESCO Convention against Discrimination in Education of 1960, the International Covenant on Economic, social and cultural Rights of 1966 and the Convention of the Rights of the Child of 1989. And the three regional instruments which recognize the right to education are: The American Convention on Human Rights of 1978, The European Convention for the Protection of Human Rights of 1950 and The African Charter on Human and People's Right of 1981. (Dieter, 2006 P.85)

Both Hodgson and Dieter agreed that international instruments have generally been prepared by the United Nations. (Hodgson, 1998 P.25) At the regional level, instruments have notably been prepared in the European, American and African contexts. Instruments at the international level according to Dieter include those adopted by the specialized agencies of the United Nations, presently the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labor Organization (ILO) (Dieter, 2006 P. 85)

Therefore, for the purpose of this paper four international and the three regional instruments will be addressed hereunder from the point of view of the right to education.

### **2.2.1 The Universal Declaration of Human Right (UDHR) of 1948**

Before discussing about the articles of the right to education in UDHR, it is important to have a highlight about how the idea of this document comes in to effect by the member states.

Documented materials revealed that the French government in the San Francisco Conference On June, 1945, that recommended the idea to the United Nations to set up an International organization on cultural cooperation. Following the recommendation, as Hodgson writes another conference was held in November, 1945 in London to establish Educational, scientific and cultural Organization which was convened by the government of the United Kingdom and France. This conference according to him drafted the constitution of the United Nations Educational, scientific and cultural Organization (hereinafter called UNESCO) and decided its headquarter is to be in Paris (The UDHR, 45th anniversary 1948-1993, UNESCO, 1994). Since then the United Nations and UNESCO have started to work on the matter of education, including:

elimination of illiteracy, youth's human right to education, and eradication of discrimination in education. (Hodgson, 1998 P.25) According to the UNESCO document in 1946 UNESCO appointed a committee composed of the leading thinkers of that time to search for areas of potential agreement among different cultural and philosophical traditions (The UDHR's, 45th anniversary 1948-1993, UNESCO, 1994 P.15 and ff).

Moreover, the document explains that the UNESCO committee was winding up its investigation of the theoretical basis for human right and forwarded its investigation to the United Nations Commission on Human Right to draft an international bill or declaration. When the declaration emerged from the drafting committee, in July, 1948 it was submitted to the UN member governments to see their comment and to the full human rights commission for debate (UN Office of the High Commission for Human Rights. 1948, UDHR's). According to Daniel et.al After an intensive debate and discussion on different sessions by the drafting committee, the General Assembly of the United Nations in its unanimous vote approved the Universal Declaration of Human Rights document on December 10, 1948 (Daniel et.al, 2010 P.35.)

Since then as explained in the document, the UDHRs serves as a common standard of achievement for all peoples and all nations (UDHR's preamble last paragraph will give us this message). The UDHR's 1948 is the single most important reference point for cross cultural discussion of human freedom and dignity in the world today; (Mary Ann, Noterdam law Review, Volume 73.) and this document has been the basis for further guarantees of the right to education in later human right instrument (Daniel et.al, 2010 P.281).

Furthermore, this document is not only a base for other human right documents but it is also the first and the oldest document that takes

universal acceptance in the area of human rights. Taking in to account the age, supremacy, and universality of the document Henry and Philip explained in their writing in the following way.

*“It is the parent document, the initial burst of enthusiasm and idealism, terser more general and grander than the treaties, in some sense the constitution of the entire movement-the single most invoked human rights instrument.”* (Henry and Philip, Cited at Mary P.1)

This grand document consists of thirty Articles with Article 1 and 2 as a general principle of dignity, liberty, equality, and fraternity; and three concluding articles from Article 28 through 30 devoted to establish range of connections between the individual and society. The rest of the Articles (from Article 3 through 27) according to Mary are taken as pillars of the declaration, and these pillars can be classified in to four. (Mary Ann, Noterdam law Review, Volume 73.)

The first pillar contains the personal liberty of an individual which are listed from Article 3 through 11; and the second is about the rights of an individual in relation to others and to various groups which are stated from Article 12 through 17; and the third pillar of the convention proclaims about the spiritual, public, and political liberties which lies from Article 18 through 21 and the final pillar the economic, social, and cultural rights is stretched from Article 22 to Article 27.

According to the aforementioned classification, the right to education is enumerated in the UDHRs document on the fourth pillar of the convention in Article 26; and the article states the right as follows:

1. *Everyone 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.*

*2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.*

*3. Parents have a prior right to choose the kind of education that shall be given to their children.*

Article 26 of the declaration gives emphasis on the importance of free education in at least the foundational and elementary stages, and that it should be compulsory. In addition to this when we jointly read article 26/1 with article 2 of the convention the word “everyone” gives us a message that “the right to education is not limiting age group; also everyone entitled to all the rights and freedoms set forth in the declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion”. This interpretation is more emphasized by Gudmundur and Asbjorn. According to their explanation about UDHRs document they explained that the word ‘everyone’ refers both to adults and children (Gudmundur and Asbjorn, 1999 P. 554).

Moreover, the UDHR makes the power of education apparent in its roll that plays to strengthen respect for freedoms and human rights, including peace and tolerance between nationalities, races, and religions. Furthermore, it dictates the right of parents to choose the kind of education that shall be given to their children.

The other important sentence in the wording of the article is “education shall be free, at least in the elementary and fundamental stages.” But

here the word “free” doesn’t indicate to what extent that education will be free, and also the word “fundamental” by itself is vague and needs further explanations. Therefore, the above mentioned writers explained that, “the word ‘free’ is understood as free of charge, but it can also be understood in a broader sense, namely that school supplies shall be provided for free. The ‘fundamental’ stage of education shall be defined by the state themselves, but it should contain basic knowledge and skills essential for functioning in society, which differ in various societies.

Another commentator in his commentary about the UDHR article 26 argued in the same way like Gudmundur and Asbjorn. According to him, elementary education would arguably include elements of fundamental education such as literacy, numeracy and tuition in the basic knowledge and skills essential for functioning in society. As these elements may differ from society to society, he further explained that the concept of fundamental education is probably best left to be defined by the individual nations themselves (Arajärvi Cited at Hodgson, 1998 P.40-41.)

Regarding the content of education the article elaborated that “education shall be directed to the full development of the human personality” according to Beiter this wording indicates the general ethical aim of education, (Bieter, 2006 P.92). The development of the entire personality includes all the dimensions of the human being: it includes physical, intellectual, psychological, and social. Each individual develop, according to his or her abilities and talents, into a well-balanced person is the aim of education (Ibid. P. 555) and finally the article concludes in its sub article 3 by providing protection to the parent`s priority right to choose the kind of education to their children.

## **2.2.2 The International Covenant on Economic Social and Cultural Rights of 1966**

The International Covenant on Economic Social and Cultural Rights which was Adopted on 16 December 1966 entered in to force, 3 January 1976, is one of the principal international human rights treaties. As Danwood says it is the primary international instrument that defines and seeks to enforce economic, social and cultural rights without any discrimination (Article 2). These rights are an integral part of international human rights law. They are the subject of specific treaty obligations in various international instruments, notably the International Covenant on Economic, Social and Cultural Rights (hereinafter called ICESCR).

According to him the ICESCR, together with the International Covenant on Civil and Political Rights and the Optional Protocol, will serve to elaborate the Universal Declaration of Human Right (Danwood, n.d. P.1). Comparing the ICESCR with UDHR one commentator said that the ICESCR is a reaffirmed, amplified and more detailed Covenant than the UDHR (Hodgson, 1998 P. 41 paragraph 4)

The core issues listed under ICESCR are the right to the highest attainable standard of health (Article 12), the right to adequate housing, and the right to food (Article 11), the right to work (Article 6), and the other is the right to education (Article 13).

Article 13, as listed in the commentary document of ICESCR, is the longest provision in the Covenant, is the most wide-ranging and comprehensive article on the right to education in international human rights law (ICESCR General Comment No.13). In his view Hodgson says that this Article at the time of its adoption was exclusively devoted and contains the most extensive and detailed provisions on the right to

education. (Hodgson, 1998) The ICESCR in its first sub article states about the right to education as follows:

*The State 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 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.*

The first part of article 13/1 contains three important elements. The first is the right of everyone to education. This expression relates to that of the first sentence of article 26(1) of the UDHR. The second element is it elaborates the aims of education towards the full development of the human personality and the sense of its dignity, which relates to Article 26(2) of the UDHR. And the third is the freedom aspect of education that serves in creating a free society in promoting understanding, tolerance and friendship among all people in all nations.

There is a clear departure between Article 26(2) of the UDHR and Article 13 of ICESCR. With respect to secondary education the UDHR has no any provision. Whereas, article 13(2)(b) of ICESCR makes a clear provision to secondary education as follows:

*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.*

In his elaboration on the departures of the two covenants Hodgson explained that Article 13(2)(c) is partly repeats Article 26(1) of the UDHRs but the ICESCR does go one step forward by ensuring progressively free education in higher education based on merit. Apart from the above departures between the two instruments he further explains that Article 13(2)(e) of the ICESCR additionally constitutes “a new provision in calling for the active pursuit of the development of a system of schools at all levels, the establishment of an adequate fellowship system and the continuous improvement of the material conditions of teaching staff” (Hodgson, 1998 P.43). The same to Hodegson, Bieter in his book explains as Article 13(2)(e) of the ICESCR is a new provision which directs three obligation on the states: first, state parties must develop a system of schools at all levels; second, they establish adequate fellowship system; and third, the material conditions of teaching staff shall be continuously improved (Dieter, 2006 P.98).

The other element contained in sub Article 2 of Article 13 is Article 13(2)(d) which stipulates about the encouragement or intensification of fundamental education to the extent that it can be possible. This sub article according to Dieter obliges state parties to advance the availability and accessibility of fundamental education. They are directed to do so to the highest degree possible. It requires also substantial measures be taken to make such education available and accessible, but does not go as far as to require that fundamental education be made generally available and generally accessible (Beiter, 2006 P.97).

The last two sub articles of Article 13 (sub article 3 and 4) explain additional obligations of the state parties in respecting and implementing the right to education. Sub article 3 deals about parent`s freedom to

choose schools for their children other than those established by the public authorities, and left an obligation on the states to protect their right to ensure the religious and moral education of their children in conformity with their own convictions. And Article 13(4) prohibits states interference with the liberty of individuals and bodies to establish and direct educational institutions. But it provides an observing right to the states to control the institutions whether their work conforms to the minimum standards that may be laid down by the state.

The very purpose of Article 14 of the ICESCR according to commentators of the document is to guide state parties undertake to work out a plan to gradually, within the reasonable period of time, to organize compulsory and free primary nature (Asbjourn and Gudmundur, 1999). Moreover, according to Van Bueren this article also applies to countries which originally introduced free primary education but have reverted to the imposition of school fees prior to becoming a party to this convention and to developing countries (Bueren, 1995 Cited at Hodgson, 1998). The article provides as follows:

*Each state party to the present covenant which, at the time of becoming a party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.*

### **2.2.3 The UNESCO Convention against Discrimination in Education of 1960**

The United Nation Economic Scientific and Cultural Organization (here after called UNESCO) has adopted a number of normative documents, conventions, and recommendations ensuring the enjoyment of the right to education for everyone. (The UDHR`s, 45th anniversary 1948-1993, UNESCO, 1994). The best known among these is the Convention against Discrimination in Education. This document was adopted on 14 December 1960 and comes in to force after the general conference was ratified it. The convention according to scholars is the first international treaty to prescribe comprehensive international standards for public education (Hodgson, 1998 P. 47) and also the first legally binding instrument which provides for standards and a quality of education (Birute et.al., 2010 P. 142). The aims of the Convention as Hodgson says are to eliminate discrimination in education, and promote equality of opportunity and treatment. (Hodgson, 1998 P.47) The historical background of this convention according to one commentator is the discrimination and segregation in education under the apartheid regime in South Africa. It remains relevant today as an important interpretation of the phenomenon of discrimination and exclusion in education ( Daniel et.al, 2010). Though concerned with education, science and culture, UNESCO considers education in human rights and fundamental freedoms as its major purpose (U. Oji, 1997).

The UNESCO Convention against Discrimination in Education (hereafter called CADE) in its article 1 and 2 gives a very broad definition of discrimination, with regard to its grounds, expressions, and implications. In its definition the purpose of the convention is not, however, to create a uniform educational system. According to the convention the act of establishing and maintaining different educational systems or

institutions cannot be considered as discriminatory, Coomans in his book about the right to education explained that the essence of the right to education means no one denied of the right to education. In practice, this means an individual right of access to the education available, or in more concrete terms, the right of access to the existing public educational institutions on a non-discriminatory basis (Fons Coomans, 2002).

Though concerned with education, science and culture, the UNESCO considers education in human rights and fundamental freedoms as its major purpose (*U. Oji, 1997 P. 117*). Article 4 of the convention provided about the right to education and the Article reads as follows:

*(a ) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;*

*(b) To ensure that the standards of education are equivalent in all public education institutions of the same level, and that the conditions relating to the quality of education provided are also equivalent;*

*(c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education course and the continuation of their education on the basis of individual capacity;*

*(d) To provide training for the teaching profession without discrimination.*

Article 4 (a) of the CADE has a similar provision on primary education like Article 13 (2) (a) of the ICESCR and Article 26 (1) of the UDHR. They all explain the two distinctive features of primary education as it is “compulsory” and “available”. On the other hand, the UDHR provides

nothing about secondary education. But both the ICESCR and CADE have provided the availability and accessibility of secondary education.

Article 5 (a) of the CADE and Article 13 (1) of the ICESCR have a similar provisions regarding the objective of education. Both instruments declare that the aim of education is to develop a human personality and to strengthen respect for human rights and fundamental freedoms; in addition to this, education also promotes understanding, tolerance and friendship among all nations, racial or religious groups.

With regard to the similarities between the CADE and the ICESCR commentators on their analysis between the two instruments explained that both are noteworthy with respect to the substantive content of the right to education. Article 4 of the CADE and the clause 2 of Article 13 contain similar provisions, however, provisions of Article 4 are formulated in terms of State obligations whereas, the provisions of clause 2 of Article 13 also designed as State obligation, put the emphasis on achieving the full realization of this right (Comparative Analysis on UNESCO Convention against Discrimination in Education and Articles 13 and 14, 2006).

As far as parental responsibility is concerned both the CADE in its (Article 5 (1) (b)) and the ICESCR in (Article 13 (3)) provide an obligation to the State parties to respect for the liberty of parents and or legal guardians to choose schools for their children apart from those established by the governments. Consequently, both instruments provide the responsibility of the States to ensure the religious and moral education of the children to be respected in conformity with the parents' conceptions.

There are of course different provisions which are promulgated in the CADE compared to other global instruments: The specific provisions

relating to the rights of members of national minorities in Article 5 clause (c), the continuation of education of those who have not completed "primary education" in Article 4 (c), obliging States to assure "compliance by all with the obligation to attend school prescribed by law" in Article 4 (a) are the most important ones. The other distinguishing feature of the CADE is its definition about "education". Even though it is very broad the CADE for the purpose of the convention defines it as it refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

#### **2.2.4 The Convention on the Rights of the Child of 1989**

There are several Declarations as well as global and regional Conventions in the field of education. Among this, according to Asbjørn, and gudmundur the declaration of Geneva is the first. (Asbjørn, and gudmundur,1999 P. 556) This declaration provided the background for the drafting of the Declaration of the Rights of the Child of 1959. The Declaration of the Rights of the Child which was proclaimed by the General Assembly of the United Nations on 20 November 1959 according to one scholar is the first international human rights instrument with a specific reference to the right of the child to education (Sharon, 1999 P. 473). Like the UDHR article 26(1) Principle 7 confers a general right to education. Principle 7 states as follows:

*The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture, and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgment, and his sense of moral and social responsibility, and to become a useful member of society.*

*The best interest of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.*

*The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authority shall endeavor to promote the enjoyment of the right.*

This declaration (in fact doesn't have a binding effect on states) prioritize the realization of education at the elementary level (Beiter, 2006 P. 114-115) and more restrictive than the UDHR, as it requires that the education shall be free at least in the elementary level (Asbjørn, n.d. P. 558). Principle 7 qualifies the exercise of parents' responsibility by introducing "the best interest of the child" which is going to be a guiding principle (Hodgson: 1992, cited at Beiter, 2006 P. 114).

The Convention on the Rights of the Child which was adopted in 1989 entered in to force on September 2, 1990) as Asbjørn says is the successor of the Declaration on the Rights of the Child and the most recent international convention relating to education (Asbjørn, n.d. P. 556)

Hodgson explained, the preamble of the Convention on the Rights of the Child (hereinafter referred to us CRC) recognizes in its third paragraph the Universal Declaration of Human Rights, the international Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. He further says the Convention contains a number of provisions concerning education. Article 23 (2) refers to the obligation of state parties to ensure that the disabled child has effective access to education and training. Article 40(4) concerns the availability of guidance, education and vocational training programs as alternatives to institutional care in the juvenile state context. Article 32

(1) recognizes the right of the child to be protected from performing any work that is likely to be hazardous or to interfere with the child's education. Article 28 together with article 29 concerning the aims of education represents the most comprehensive formulation of the right to education at the international manner. (Hodgson, 1998 P.44)

Article 28 of the CRC reads:

*1. State parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*

*(a) Make primary education compulsory and available free to all;*

*(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*

*(c) Make higher education accessible to all on the basis of capacity by every appropriate means;*

*(d) Make educational and vocational information and guidance available and accessible to all children;*

*(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.*

*2. States parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present convention.*

3. *States parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world 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.*

Beiter explained that the CRC has four guiding principle which will help to interpret the Conventions Rights provisions also those on the rights to education: according to him non-discrimination (article 2), the best interest of the child (article 3), the right to life, survival and development (article 6), and the right to express views and have them taken in to account (article 12). (Beiter, 2006 P.115)

Article 28(1) of the CRC are more comparable to Article 13(2)(a) to (c) of the International Covenant on economic, Social, and Cultural Rights. Provides that states parties to recognize the right of the child to education. With the view to achieving this right progressively and on the basis of equal opportunity; Detrick in his commentary on the convention (Detrick, 1999 P. 473) explained the specific obligations assumed in the state parties according to the article as follows:

- Primary education shall be made compulsory and available free to all;
- The development of different forms of secondary education, including general and vocational education, shall be encouraged. Secondary education, in its various forms, shall be made available and accessible to every child, and appropriate measures shall be taken to those ends, such as the introduction of free education and offering financial assistance in case of need;

- Higher education shall be made accessible to all on the basis of capacity by every appropriate means;
- Educational and vocational information and guidance shall be made available and accessible to all children; and
- Measures shall be taken to encourage regular attendance at schools and the reduction of drop-out rates.

According to Dieter the three known elements in the ICESCR similar to CRC's article 28(1) are the states obligations concerning primary, secondary, and higher education. However, he said that article 28(1) of CRC introduces two new elements: the first new element is on article 28(1)(d) which obliges states parties to make educational and vocational information and guidance available and accessible to all children; and the other is Article 28(1)(e) which requires that states parties take measures to encourage regular attendance at schools and the reduction of drop-out rates. (Dieter, 2006 P.118)

Another new element introduced by the CRC is contained in article 28(2). According to Asbjørn it is the obligation to guarantee respect for the human dignity of the child in the maintenance of discipline. Although indications of the same principle are found in the International Convention on Civil and Political Rights and the Universal declarations of Human Rights, the direct mentioning of this fact promotes human rights and abolishes punishments involving shame (Asbjørn, n.d. P. 560).

Article 28(3) is according to Dieter is a novel provision which calls up on States parties to promote and encourage international cooperation in matters relating to education, with a view to contributing to the elimination of ignorance and illiteracy throughout the world and

facilitating access to scientific and technical knowledge and modern teaching methods (Dieter, 2006 P.119).

*Article 29:*

*1. States parties agree that the education of the child shall be directed to:*

*(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;*

*(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*

*(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;*

*(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples ethnic national and religious groups and persons of indigenous origin;*

*(e) The development of respect for the natural environment.*

*2. No part of the present article or article 28 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 principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall*

*confirm to such minimum standards as may be laid down by the state.*

The article which has a direct relation to article 28 is article 29 of the CRC. Article 29(1) deal about the aim of education and article 29(2) concerns about the individual body's liberty to establish and direct educational institution.

Regarding the aims of education mentioned in article 29(1) are similar to 26(2) of the UDHR and article 13(1) of the ICESCR. Article 29(1)(a) deals about the development of the child's personality, talents and mental and physical abilities and article 29(1) (b) and (c) provides about the developmental issues concerning human respect for rights, child's parents, to develop his or her own cultural identity, language and values for the national values of the country.

According to one commentator there are two new aims of education are introduced in Article 29(1). The first new element is 29(1) (c) which refers to education which develops the respect of the child for various persons and states cultures. And the second is, on article 29(1)(e) which refers to the development respect for the natural environment. (Dieter, 2006 P.119-120)

## **2.3. Recognition of the Right to Education under Regional Human Right Instruments**

### **Introduction**

The right to education is not only protected by international documents but also has a legal protection in documents adopted at the regional level. The most important regional documents are The European Convention on Human Rights (1950), The African Charter on the Rights and Welfare of the Child (1999), The American Convention on Human

Rights (1978), and The Arab Charter on Human Rights (1994). The Asian continent and Pacific Ocean region do not have separate documented provisions dedicated to the right to education, and only international laws are applied in those states (Biruté and Aurelija, 2010). As far as the protections of human rights are concerned several regional documents give protection to this right. However, only a small number of them are directly dedicated to the right to education or at least focus specific emphasis on this right (Biruté and Aurelija, 2010).

After the ratification of the Universal Declaration of Human Rights significant efforts have been made at the regional level to recognize and secure the right to education. (Hodgson, 1998 P.56) However, according to Henry and Reyan, their desire to have regional law face challenges by the scholars of that time (Henry and Ryan, 2007 P. 930).

The first group arguing in favor of its importance mentions four reasons. According to Henry and Ryan their initial reason is: The bonds which are made naturally among states of a particular region based on geography, history and culture. According to this argument it is important to respect the very nature of a human being and its dependency in natural demarcation; because it is more helpful to them to create a regional law based on the international standard but applicable in their context.

The second group of argument had laid its base on the admissibility of regional laws in their respective people. Recommendations of a regional organization may meet with less resistance than those of a global body.

Laws which are published in the specific region are addressed effectively than those laws which are internationally publicized; therefore, regional laws are taken as more effective than the other is their third argument.

The fourth argument is on how regional laws are settled more in compromise formula than the global one. In the global level global bodies are more likely to be based on considerations of a political nature.

On the other hand, arguments which are against of establishing regional human right law have their own grounds. Their first ground is the global nature of human rights. Since human rights being global in nature and belonging to everyone should be defined in global instruments and implemented by global bodies. The second reason is regional bodies in the field of human rights would, at best, duplicate the work of United Nations bodies and, at worst, develop contradictory policies and procedures.

Their third reason is more argued by the eastern European states in their particular objects of finance. According to them any cooperation between regional commissions and the United Nations would add to the financial burdens of the United Nations (Henry and Ryan, 2007 P. 931).

Three regional conventions have so far been concluded to further strengthen the protection and promotion of human rights within the European, American and African regions respectively (*U. Oji, 1997*). Therefore, the paper will examine these three conventions hereafter.

#### **2.4.1 The European Convention for the Protection of Human Rights and Fundamental Freedoms Article 2 of the first protocol**

The European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter; the European Convention) was signed in 1950 and entered into force in 1953 is now applies to some 30% of the nations in the world contained no explicit provision concerning the right to education. According to the opinion of scholars in

the field of human right, even though the European Convention lacks to have those provisions, it takes the 'first' position in many aspects than other regional conventions. It is the first comprehensive treaty in the world in the field of human rights, the first in establishing international complaints procedure, and still is the first international court for the determination of human rights matters, and remains the most judicially developed of all the human rights system as well (Henry et.al., 2007 P. 933).

The document that gives protection to the right to education in Europe is article 2 of the First Protocol of the European Convention. This protocol is the first regional binding instrument after the Universal Declaration of Human Rights to explicitly refer to a right to education (Ibid). Article 2 of 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 to teaching, the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical conviction.*

The protection of the right to education is one of the core elements mentioned in this article. The first sentence of Article 2 "no person shall be denied the right to education" is formulated in a negative form. The article is unique from other international or regional human right provisions. According to one commentator the very reason for its negative formulation is, at the time of its adaptation all member states of the Council of Europe had already established a general education system and it was regarded unnecessary to require the states to establish such a system. (Hodgson, 1998 P.56) Consequently, this article leaves the structure and funding of public education to the states discretion.

Article 2 encompasses two different but interconnected rights. In its first sentence protects the right to education, while in its second sentence it entitles parents to ensure the education of their children in conformity with their own religious and philosophical convictions. Moreover, the liberty of parents to choose the type of education that shall be given to their children according to their own religious, moral or philosophical convictions is strongly protected under different international laws. (The close reading of the following international documents will indicate the extent of freedom what parents do have on their children. UNESCO Convention against Discrimination in Education Article 5(1)(b), Article 13(3) of the CESER, Article 18(4) of the CCPR, article 12(4) of the ACHR, Article 26(3) of the UDHR, Article 14(2) of the CRC) However, the parental right to select the kind of education to their children is not something unlimited; rather as P. Arajärvi says it has certain limitations on parents not to exercise their right in contradiction to human rights or in any other ways which contradicts human right instruments. (P. Arajärvi, 1992)

The level of education that the right to education works is not clearly mentioned in article 2 of the protocol. Therefore, it is going to be a question whether the right to education is protected at elementary, high school or university levels. To qualify this article the former European Commission for Human Rights in its judgment (Publication of the European Court of Human Rights, Series A, Vol. 6, P.22. cited at Bieter, 2006) enumerated that “the level includes entry to Nursery, Primary, Secondary and Higher education.”

#### **2.4.2 The American Convention on Human Rights (ACHR)**

The American Convention on Human Rights is signed by American States in Costa Rica and entered in to force on 18 July 1978 is one of the

regional conventions on human rights. This convention lacks a specific provision on education.

The American Convention on Human Rights at the time of its adaptation includes a general provision in its Article 26 in the following terms:

*The state parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical in nature, with a view to achieving progressively by legislation or other means, the full realization of the rights implicit in the economic, social, educational, scientific and cultural standards set forth in the Charter of the Organization of American States as amended by the protocol of Buenos Aires.*

Article 13 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and cultural rights ("Protocol San Salvador") deals with the right to education and also encompasses a provision that specifically concerns the aims of education. The four basic objectives of education first set out in Article 26 (2) of the UDHR are also reiterated in Article 13 (2) of the protocol of San Salvador. To these are added the two new aims set out in Article 13(1) of the ICESCR and mentioned above. However, article 13(2) of the protocol San Salvador includes the aim of enabling of all persons to participate effectively in a "democratic and pluralistic" society, whilst Article 13(1) of the ICESCR refers in this regard to a "free" society. Moreover, two new aims are set out in Article 13(2) of the protocol of San Salvador:

- The strengthening of respect for ideology pluralism, justice and peace; and
- The enabling of everyone to achieve a decent existence.

Article 13(2) of the protocol of San Salvador provides that:

*The State parties to this protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace.*

They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace (Sharon, 1999 P. 507-508).

### **2.4.3 African Charter on Human and Peoples' Right**

The pioneer African nations who took part in the discussion on the future Charter of the United Nations at San Francisco were only four: Egypt, Ethiopia, Liberia and the Union of South Africa. The rest of African states have since acceded to the Charter with its human right provisions.

There are various reasons for the few African States participation in the conference, according to Asbjorneide and August "rooted European tradition in the idea of respect for human rights takes the strongest position." Hence, people with non-Western culture background can be forgiven if they lag behind in the due observance of human rights (Asbjorneide and August, 1968 P. 69).

The African Charter on Human and peoples' Right of 1981 (hereinafter called ACHPR) is the newest, the least developed or effective (in relation to the European and Inter-American regimes) the most distinctive and the most controversial of the three established regional human rights regimes involves African states (Asbjorneide and August, 1968 P. 69).

The youngest ACHPR, according to a researcher, has divided rights in to three generations (Frans, 2007). 'First generation' rights in ACHPR are, for example, the right to equality before the law (Article 3), the right to have one's case heard (Article 7), and the right to freely associate (Article 10). And socio economic (second generation) rights include the right to work under equitable and satisfactory conditions (Article 15) the right to enjoy the best attainable state of physical and mental health (Article 16/1), and the right to education (article 17/1). The right to generally satisfactory environment (Article 24), and the right to international peace and security (article 23/1) are included on the charter as 'peoples' rights, and they have been characterized as 'third generation' rights.

The African charter on Human and Peoples' Rights devoted its article 17 for the right to education, and this article states

1. *Every individual shall have the right to education.*
2. *Every individual may freely take part in the cultural life of his community.*
3. *The promotion and protection of morals and traditional values recognized by the community shall be the duty of the state.*

According to Fatash article 17 of the ACHPR contains two rights together, and it provides no detail as to the content of the right to education. The Charter neither includes any other articles on education nor lay down any specific arrangement for implementing the right to education. It proclaims to somewhat unclear duty of the state to promote and protect the right to education (Fatsah, 2003). Another researcher shares the idea of Fatash and says the right to education even as set forth in the Charter does not state with sufficient clarity which education one has a right to (Evelyn, 1996).

Moreover, this article contrasts with the very elaborate wording of the International Covenant on Economic Social and Cultural Rights, which guarantee these rights in great detail.

Unlike from the ACHPR Article 13 and 14 of the International covenant on Economic, Social and Cultural Rights (ICESCR) lay down, for instance, that primary education shall be compulsory and available free to all (Article 13 (2)(a)) or set forth a detailed plan of action for the measures required to implement this (Article 14), freedom of choice of parents as regards the education of their children (Article 13 (3)) and its corollary, the freedom to establish private educational institutions (Article 13 (4)), the protection of intellectual property (Article 15 (1)(c)), and freedom of scientific research and creative activity (Fatsah, 2003).

## **2.5 The Current Constitutional Recognition of the Right to Education in Different Countries across the world**

At present different countries are recognized the Right to Education in their respective constitutions at large (Daniel et.al., 2010). Most of these constitutions also specifically mention equality of opportunity and access in the exercise of this right.

To have a better understanding in its constitutional protection examples of the national constitutional recognition of the right to education in some selected countries from the continent of Africa, Asia and Europe will be explained hereafter:

From Europe, section 27 of Spain constitution (1992) proclaims that everyone has free and equal access to education with elementary education is compulsory and free. The responsibility to guarantee the right to education in Spain was laid on the shoulder of public authorities.

Article 21 of the constitution of Sweden proclaims that all children covered by compulsory schooling shall be entitled to a free basic education at a public school. The public institutions shall be responsible also for the provision of higher education.

Article 42 of the constitution of Ireland obliges the state to provide for free primary education, acknowledges the family as the primary and natural educator of the child. It also guarantees respect for the inalienable right and duty of parents to provide for the religious, moral, intellectual, physical and social education of their children.

From Asia and the Far East, the 1946 constitution of Japan in its article 26 provides the right of all people to receive an equal education correspondent to their ability, as provided for by law. And also all people shall be obligated to have all boys and girls under their protection receive ordinary education as provided by law. Such compulsory education shall be free.

The 1982 constitution of China of article 21 proclaims education as the state responsibility. In its constitutional responsibility the state also will run schools of various types, makes primary education compulsory and universal, develops secondary, vocational and higher education and promotes pre-school education.

The Democratic People's Republic of Korea's constitution (1972 with amendments 1998) article 73 declares that citizens have the right to education. And their right to education is ensured by an advanced educational system and by educational measures enacted by the state for the benefit of the people.

From Africa, section 29 of the South African constitution explicitly recognizes the right to education. The constitution states that everyone has the right to basic education including adult basic education and to

further education. The state, through reasonable measures, must make education progressively available and accessible.

The constitution of Ghana (1992) article 25 provides a right to its entire people an equal opportunity of education with free and in a compulsory manner. Also secondary education in its different forms, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education.

The 2010 Kenyan constitution in its article 43/1 (f) proclaims that every person has the right to education. However, there is no clear constitutional provision that indicates at what grade level that this right works, and whether education is to be free and compulsory or not.

## **2.6 The Right to Education in Ethiopian Constitutions, Prior to the 1995 Constitution**

Ethiopia has passed through different constitutional practices during the imperial and military ruler (Derg) regimes. The rulers of the time had provided to the country written constitutions from the point of view of their political goal and philosophical ideologies they follow. Whatever the rulers intention behind was, one can never discredit the positive contributions they made to the countries legal system. Having this in mind the three previous constitutions will be highlighted hereunder.

### **2.6.1. The 1931 Constitution**

Ethiopia had little written public law and no written constitution before 1931 (Abera, 2000). The first written constitution of the country was officially signed and came to effect during the reign of Emperor Haile Silassie I on 16<sup>th</sup> July, 1931. This constitution was promulgated with some intentions which the Emperor had to achieve. According to Abera`s

research in the constitution, the most important goal that this constitution meant to achieve was to break down the powers of the regional lords, who gradually had become strong, so as to bring them under a powerful centralized state monarchy. As far as human right is concerned the 1931 constitution did not give any constitutional recognition to any kind of human rights including the right to education. Generally the 1931 constitution as concluded by the same researcher, 'it could only be a first introductory step towards democracy and modern government. It only laid down the basis for a constitutional framework' (Ibid., 2000).

### **2.6.2. The 1955 (The Revised Constitution)**

The second written constitution of Ethiopia is the 1955 revised constitution which came with the introduction of new constitutional concepts, and as the name indicates with some revisions in the 1931 constitution.

Along with others, according to Kaleab, two critical reasons were mentioned to amend the 1931 constitution of Ethiopia: the changing political climate of the early 1950`s in the country and the federation of Eritrea with Ethiopia in 1952 triggered the Emperor to amend the 1931 constitution (Kaleab, 2011). Compared to the 1931 constitution the 1955 revised constitution made many significant changes. According to Abera, some of the changes were: it formulated guarantees for more human rights and provided at least in theory the separation of powers, judicial review and the rule of law. (Abera, 2000)

The revised constitution devoted about 29 articles on human rights (article 37-65). However, it lacks to have a clear reference to the right to education. Even if it lacks reference to this right, the constitution in its

article 122 gives an equal status for the Universal Declarations of Human Rights to be applicable as the supreme law of the empire of Ethiopia.

### **2.6.3. The Peoples Democratic Republic of Ethiopia (PDRE) Constitution (1987)**

Following the fall of the emperor from its power in 1974, the 1955 revised constitution was totally suspended by art. 5 (a) of Proclamation Number 1/1974. The establishment of the military ruler (Derg) necessarily brought about profound social changes within Ethiopian society. The abolishment of the monarchy and the introduction of socialism as the guiding ideology of the military regime, as well as its international alignment with communism, meant facing a totally new direction (Fasil, 1997).

### **2.6.4. The Right to Education under PDRE Constitution**

Apart from the previous two written constitutions of the country, the PDRE constitution in a better and concrete manner devoted two articles on the people`s right towards the right to education. Especially Article 40 sub article 1 of the constitution provides as every citizen of the country will have the right to free education. Moreover, sub article 2 of the same article states as the government is responsible towards the expansion of the schools in different level.

## **CHAPTER THREE**

### **RESEARCH DESIGN AND METHODS**

This section deals with the research design employed in this study. In addition the rationale behind for selecting the research methods is explained to inform the readers. Moreover, information about data collection instruments, data analysis and interpretation procedures followed in all steps of the order.

#### **3.1 The Research Method**

The purpose of the study is to assess the status and existence of the right to education under the constitution, policies and laws in Ethiopia. In order to accomplish the desired target of the study, the researcher preferred to employ qualitative research method which was more appropriate to understand the protection given to the right to education under the laws and policies of the country. In qualitative research, as Mariette referred, several analysis methods can be used; for example, phenomenology, hermeneutics, grounded theory, ethnography and content analysis (Burnard, 1995 cited at Mariette Bengtsson, 2016). Each analysis method has its own advantage and disadvantage based on the research questions to answer. In order to answer the basic question of this research, the researcher selected systematic content analysis method. This method according to Mariette, is systematic and replicable technique applied to analyze variety of texts, ranging from interview transcripts to legal texts such as case law and legislation (ibid.).

According to another scholar, systematic content analysis is potentially one of the most important research techniques in social sciences. According to Klaus, this technique views data as representation not of physical events but of texts, images, and expressions that are created to

be seen, read, interpreted and acted on for their meanings. . . . analyzing texts in the contexts of their uses distinguishes content analysis from other methods of inquiry (Klaus Krippendorff, 2004).

Content analysis method of a research as a research tool has many advantages. Some of its advantages are mentioned hereunder:

Content analysis, as a research tool will help the researcher to determine the presence of certain words, themes, or concepts in a given qualitative data (i.e text). Definition of the word text in content analysis research is, according to Austin, is anything written, visual, or spoken that serves as a medium for communication (Astuti, 2020). Moreover with its very purpose, a content analysis method also helps a researcher to quantify and analyze the presence, meanings and relationships of such certain words or concepts. (<https://www.mailman.columbia.edu>) to arrive on the desired goal of the research.

In addition to the aforementioned advantages Amy Luo also adds the following further advantages.

Unobtrusive data collection: We can analyze communication and social interaction without the direct involvement of participants, so our presence as a researcher doesn't influence the results.

Transparent and replicable: When done well, content analysis follows a systematic procedure that can easily be replicated by other researchers, yielding results with high reliability.

Highly flexible: We can conduct content analysis at any time, in any location, and at low cost – all we need is access to the appropriate sources (Amy Luo, 2019)

### **3.2 Research Design**

Khushal & Filipos defines research design in the following way, according to them; it is the plan, structure and strategy of investigation conceived so as to obtain answers to research questions. (Khushal & Filipos, 2009 P.132) In another literature Austin explains that the design of qualitative research is a general way of thinking about conducting qualitative research.(Astalin, 2013).

To gain in-depth information with regard to existence and implementation of the right to education in the laws and policies of Ethiopia the study employed inductive analysis method. To this end, I first intensively analyze the articles and contents of the FDRE and the nine regional government constitutions, the labor proclamation no. 1156/19, the education and training policy, the national children policy, the national policy of Ethiopian women and the national youth policy one by one. Based on the analysis, I compare our laws and policies with international laws which address the right to education and finally I put the status of our law as to whether it gives protection to the right to education or not.

### **3.3 Sources of Data**

The federal as well as regional constitutions, different policies of the country, laws enacted by the parliament are used as primary source of data. Relevant data has also been gathered from different UNESCO and other international organization documents. Apart from these sources: various related books, proceedings and different web sites were consulted.

### **3.4 Sampling Techniques and Sample**

The primary purpose of sampling according to Violet is the selection of suitable populations (or 'elements') so that the focus of the study can be appropriately reached. In qualitative research, he further explains that effective sample selection process is very important to protect the findings and outcomes of a study from inappropriate procedures. (Violeta Lopez and Dean Whitehead: P:124)

Since we are designing a qualitative content analysis study, we must first determine the sample population from which we draw our data.

In qualitative research, there are various sampling techniques that we can use when recruiting participants. According to sources the two most popular sampling techniques are purposeful and convenience sampling because they align the best across nearly all qualitative research designs. (statistics solution: 2020) For the purpose of this research the researcher selected purposive sampling technique. This type of technique in qualitative research as Mark and Robert suggests is highly subjective and helps the researcher to freely recruit participants who can provide in-depth and detailed information about phenomenon under investigation. (Mark and Robert, 1995 Para. 7)

The focus of this research is, therefore, to see the protection given to the right to education under the constitutions, policies and laws in Ethiopia. To achieve the desired result the researcher conduct purposive sampling technique and select the FDRE and the nine regional government constitutions, the labor proclamation no. 1156/19, the education and training policy, the national children policy, the national policy of Ethiopian women and the national youth policy are selected purposively as a sample to constitute the population of the study.

### **3.5 Data Gathering Instruments and Procedures**

The selected methods of data collection determine the fate of our research. While selecting method(s) of data collection, Khushal and Filipos suggest that the researcher has to take into account the objectives of his research and the nature and scope of the inquiry. (Khushal & Filipos, 2009, P.57)

In a qualitative research method, there are many procedures for collecting documents. According to Cruswell, one of the main procedures is to identify the types of documents that can provide useful information to answer our qualitative research questions. (Cruswell, 2012 P.123)

Taking the aforementioned rule in to account, therefore, relevant articles of the FDRE and the nine regional government constitutions, the education and training policy, the National Policy on Ethiopian Women, the National youth policy, the National Children's Policy, and other proclamations are used as a primary source of data in the research process. In addition to this, to understand the intentions of the law makers during the law making process minutes of the FDRE parliament that were recorded during the discussion stage of the law making process, which is available in the library of the parliament also consulted, interpretation and analysis of the documents will be made to answer the basic question of the research:

### **3.6 Interpretation and Data Analysis**

Khushal and Filipos explain that interpretation is considered as one of the basic components of research. According to them it refers to the task of drawing inference from the collected data. They further said that inference may be deductive or inductive. The former involves inferences from generally abstracts propositions to particular ones, while the latter is inference from particular propositions to general propositions. (Khushal & Filipos, 2009 P.59)

Moreover, according to these scholars, through interpretation, the researcher attempts to search for broader meaning of research findings. And also the researcher tried to establish link between the results of his inquiry with those of another and to establish some explanatory concepts. The researcher, through his interpretation, endeavors to find and understand the abstract principle that works beneath his findings. Interpretation opens up new avenues for intellectual adventures and stimulates the quest for more knowledge (ibid.)

Having the above concept in mind, the researcher will make employed an inductive data analysis, and tried to see the specific articles of the law and policies which are directly relevant to the topic and based on the assessment I will give interpretations of the articles, and finally I compare and see the status of the article as to whether it is provided in light of the FDRE constitution and other international laws which are addressing the right to education. Summary of the major findings and conclusion is drawn from the summary and finally recommendations will be stated.

## **CHAPTER FOUR**

### **CONCEPTUAL FRAMEWORK OF THE PAPER**

The right to education has different meanings both from the ethical and legal aspect of education. From the ethical aspect, the right to education opens up a wider horizon. From this point of view education is strictly an intellectual process, something which takes place within the boundaries set by knowledge. But this interpretation has its own critiques by scholars like Dieter. According to him, people can be educated through work, through social activity, through participation in cultural life, through emotional response to art, through human relation through sport and the like. (Dieter, 2006)

One can find the legal aspect of the meaning of the right to education by a cumulative reading of (art 2(2) and 3 ICESCR, Art 26 ICCPR, Art 2 CRC Limburg principles at 35 and 37). According to the elements mentioned under these documents the right to education means that no one shall be denied a right to education. In practice, this means, an individual right of access to the education available, or in more concrete terms, the right of access to the existing public educational institutions on a non-discriminatory basis.

The Committee on Economic, Social, and Cultural Rights issued a general comment on article 13 of ICESCR. The General Comment No 13 provides an authoritative meaning to education and the right to education. According to this document education is both a human right in itself and an indispensable means of realizing other human rights. Moreover education can also empowers people to demand their right not only to education but also other rights which people are entitled by law.

The right to education comprises four interrelated and essential features (contents) that can be applied on the conditions of a particular state party. According to ICESCR document the features are availability, accessibility, acceptability and adaptability.

Availability: means educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate.

Accessibility: educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party.

Acceptability: the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents.

Adaptability: education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (ICESCR Commentary on Article 13: P. 2-4)

N.B As an authoritative source the commentary on article 13 of ICESCR will get due attention and be considered while reading the entire part of the paper.

## **4.1 The Right to Education Under the Laws of Ethiopia**

### **A glimpse to the FDRE Constitution**

The previous three constitutions, two of which were promulgated during the imperial regime and one during the military ruler (Derg) were following the unitary form of government (all the commands were directed from the central government with non-autonomous administrative powers in the regions).

The 1995 Federal Democratic Republic of Ethiopia constitution (here in after called the FDRE constitution) is not a mere constitution for the country; rather it is taken as a shift of paradigm in most aspect of the constitutional history of the country. Apart from the previous three constitutions, it establishes a Federal State structure and made the form of government parliamentary. It also resided all sovereign powers to the hand of Nations, Nationalities and Peoples of Ethiopia, assuming the highest authority of the federal government to The House of Peoples` Representatives (article 1, article 8/1 and article 50/3 of the FDRE constitution). This constitution also established the country as a federation of multi-ethnic nation, identified nine states as the sub-national entities that constitute the Ethiopian federation. The nature and formation of the states is delimited on the basis of ethno-linguistic. (article 45-47)

This constitution also recognizes the rights of Nations, Nationality and People in the country to speak, to write and to develop their own language; to express, to develop and to promote their culture and to preserve their history. (Article 39/2) Moreover, the constitution also protects the Economic, social and cultural rights of the citizens to the extent allocating ever increasing resources to provide to education.(article 41/4)

### **4.1.1 The Right to Education under the 1995 FDRE Constitution**

The 1995 FDRE constitution does not give a clear reference to the right to education as article 26 of the UDHRs, article 13 of ICESCR and article 28 of the conventions on the rights of the child did. Anyone cannot understand the protection given to the right to education in the constitution unless sh/e is reading the articles in a cumulative manner and following the rules of interpretation.

As far as the right of the child is concerned the FDRE constitution in its Article 36 stipulates as follows:

*1. Every child has the right:*

*(a.) To life*

*(b.) To a name and nationality*

*(c.) To know and be cared for by his or her parents or legal guardians;*

*(d.) Not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being;*

*(e.) To be free of corporal punishment or cruel or inhuman treatment in schools and other institutions responsible for the care of children.*

*2. In all actions concerning children undertaken by private and public institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interests of the child.*

*3. Juvenile offenders admitted to corrective or rehabilitative institutions, and juveniles who became wards or who are placed in public or private orphanages, shall be kept separately from adults.*

*4. Children born out of wedlock shall have the same rights as children born of wedlock.*

*5. The state shall accord special protection to orphans and shall encourage the establishment of institutions which ensure and promote their adoption and advance their welfare, and education.*

As stated above, article 36 of the constitution does not explicitly stipulate or lacks clarity about the right of a child for education. Whenever there is obscurity or absence of clear reference of terms in legal provisions (articles) one can clarify it by cumulatively reading of the given provisions. Generally speaking the whole content of article 36 is about rights of a child. One of the rights of a child is education as per article 13 of UDHR and article 28 of CRC.

The FDRE constitution article 36 sub article 1 specific sub article d protects children from exploitative practices and hazardous or harmful works which are against their education. Even if this sub article seems to elaborate about protecting a child from bad practices, a close reading of the article will give us additional meaning which is a right of a child to education. Therefore, one can conclude that the constitution gives a firm protection to children's' right to education by deterring any exploitative practices and hazardous or harmful works which have negative impact on their right to education.

As far as the right to education is concerned the other provision that gives additional protection to child education is sub article 1/e of article 36. This sub article elaborates the right of every child at school to be free from any type of corporal punishment or cruel and inhuman treatment.

One can understand from this provision that every child has not only the right to education at schools, but also has a right to be protected from any bad or evil treatments from the school community which are against to their education.

The other relevant constitutional provision on the right to education is article 41 of the FDRE constitution. This article enshrines economic, social and cultural rights of the people. Sub article 3 of the article states that every Ethiopian national has the right to equal access to publicly funded social services. Education is one of the publicly funded social services as per sub article 4 of article 41. Therefore, every Ethiopian national has the right to education including to access public health and other social services. Moreover the constitution also warns any organ of government (both federal and state) during the implementation of the constitution to be guided by the objectives and principles of the constitution. One of the objectives mentioned under the constitution are social objectives (article 85 cum 90). In order to attain the constitutional objectives, to the extent of the country's resources permit, policies of the government shall aim to provide all citizens access to education and the education also must be provided free from any religious or other interference.

Furthermore, chapter three of the FDRE constitution (stretching from article 13 to 44) enshrines fundamental rights and freedoms of all people. All the fundamental rights and freedoms specified in the chapter, as per article 13 sub article 2, are also interpreted in a manner conforming to the principles of the UDHR, International Covenants on Human rights and other international instruments which are adopted by Ethiopia.

Moreover, the FDRE constitution does not only specifies the manner of interpretation of fundamental rights and international human rights covenants but also clearly stipulates on article 9 sub article 4 the status

of those international agreements which Ethiopia is a party. The article reads as “all international agreements ratified by Ethiopia are part and parcel (integral part) of the law of the land.”

Therefore, even though the constitution doesn't clearly refer to people's right to education, in a similar way like international human right documents, it is very clear to understand from the above constitutional provisions that the right to education is boldly recognized in the country.

The table below further shows those international agreements ratified by Ethiopia.

No.	Name of International Human Right Treaty	Year of ratification or accession by Ethiopia
1	International Convention on the Elimination of All Forms Racial Discrimination (ICERD)	23 June 1976
2	Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)	10 December 1981
3	Convention on the Rights of the Child (CRC)	1991
4	International Convention on civil and Political Rights (ICCPR)	11 June 1993
5	International Convention on Economic, Social and Cultural Rights (ICESCR)	11 June 1993
6	Convention Against Torture(CAT)	1994
7	Convention on the Rights of Persons with Disabilities (CRPD)	2010

Table 1:- International treaties and the year of ratification by Ethiopia

Source: Ethiopia before the UN monitoring bodies, Eva Brems, 2007/08/08 Volume 20

[https://www.researchgate.net/publication/26569474\\_Ethiopia\\_before\\_the\\_United\\_Nations\\_Treaty\\_Monitoring\\_Bodies](https://www.researchgate.net/publication/26569474_Ethiopia_before_the_United_Nations_Treaty_Monitoring_Bodies)

#### **4.1.2 The Right to Education under Regional Constitutions**

The federal constitution in its article 50 sub article 5 provides a power to the state councils to draft, adopt and amend their constitutions

consistent to the federal constitution. The constitution also duly envisages that each regional state may establish a system appropriate to it by means of its constitution. This type of right may benefit states to promulgate laws and administer the people in the context of their language, culture and geographical set up.

Following the coming in to force of the FDRE constitution states starts to adopt their own constitutions and implement to manage their internal matters accordingly. Most of the nine regional states Afar 2001, Amhara 2001, Benishangul Gumuz, 2001, Gambella 2001, Harari 2004, Oromia, 2001, Somali 2002, South 2001, Tigray 2001, were adopted their constitutions almost in a similar time except Harari region which is lagging a little behind. The constitutions are blamed not only for their similarities in time of ratification but also they shared similarities in their content, form, wording and articulation.

As far as the right to education is concerned in regional constitution, almost all the nine regions take a replica of the federal constitution including the articulation of article 36 (rights of a child) and article 41 (economic, social and cultural rights). Therefore, all the interpretation given for the federal constitution on the right to education under 4.1.1 also works in the same and similar manner for the regional constitutions provisions listed in the following table.

<b>Name of The Regional State</b>	<b>Year of ratification of the const.</b>	<b>Articles of the right to education under the FDRE constitution</b>	<b>Articles of the right to education under the Regions constitution</b>
Afar	5 July 2002	Article 36/1(d,e) art 41(3&4)	Article 35/(d,e) and art 39(3&4)
Amhara	5 November 2001	Article 36/1(d,e) art 41(3&4)	Article 36/(d,e) and art 41 (3&4)
Benishangul	2 December 2002	Article 36/1(d,e) art 41(3&4)	Article 37/1(d,e) art 41(3&4)
Gambella	17 December 2002	Article 36/1(d,e) art 41(3&4)	Article 37/1(d,e) art 41(3&4)
Harari	2004	Article 36/1(d,e) art 41(3&4)	Article 36/1(d,e) art 41(3&4)
Oromia	27 October 2001	Article 36/1(d,e) art 41(3&4)	Article 36/1(d,e) art 41(3&4)
Somali	2002	Article 36/1(d,e) art 41(3&4)	Article 36/1(d,e) art 41(3&4)
SNNPR	12 November 2001	Article 36/1(d,e) art 41(3&4)	Article 36/1(d,e) art 41(3&4)
Tigray	15 November 2001	Article 36/1(d,e) art 41(3&4)	Article 37/1(d,e) art 41(3&4)

Table 2:- Regional constitutions of Ethiopia with their articulations on the right to education

Source: Christophe Van der Beken: sub-national Constitutional Autonomy in Ethiopia: On the Road to Distinctive Regional Constitutions

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### **4.1.3 The right to education under labor proclamation 1156/2019**

The right to education has got recognition and protection under different international as well as regional conventions and constitutions of different countries in the world as mentioned in chapter two of this paper. One of the type of education that holds recognition in the conventions is vocational education. Regarding vocational education the mother document for the right to education (the UDHR) in its article 26 sub article 1 provides as technical and professional educations are generally available to all.

In a similar manner, article 13(2)(b) of ICESCR devotes a provision as *technical and vocational* education to be given in a secondary level of education which shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.

Ethiopia has also adopted this right in light of the international conventions and applied them in different laws and policies of the country. One of the laws of the country that gives recognition to the right to education is the labor proclamation. (Proclamation No 1156/2019)

Before we see the details of the proclamation it is important to see the definition of vocational education and to what it refers to. Vocational training is a type of training which refers to instructional programs or courses that focus on the skills for a particular job. The vocational training education also prepares students for specific careers disregarding traditional, unrelated academic subjects. There are also different types of vocational trainings which can be accomplished through many channels; one of the channels of resources for receiving vocational training is apprenticeship program. (<https://www.indeed.com>)

The Federal democratic Republic of Ethiopia Government in its labor proclamation no 1156/2019 under section II on article 48 boldly recognizes contracts of apprenticeship (vocational training). This type of contract is made for persons who are attained the age of 15 and above. Article 48 of the proclamation reads as follows:

*Formation of Contract*

*1/ There shall be a contract of apprenticeship where an employer agrees to give a person complete and systematic training in a given occupation related to the function of his undertaking in accordance with the skills of the trade and the person in return agrees to obey the instruction given to carry out the training and works related thereto.*

*2/ the contract of apprenticeship shall be concluded with the person whose age is not less than fifteen years.*

*3/ the contract of apprenticeship and its modifications shall be valid only where it is made in writing and approved by the Ministry or the appropriate organ.*

Beyond the formation of contract of apprenticeship the proclamation also regulates the contents of a contract of apprenticeship. The proclamation in its article 49 elaborates the contents of the contract and in article 50 about obligations of the contracting parties, in its article 51 the termination of the contract, and finally in its article 51 stipulates the duty of the employer to provide a certificate to the apprentice, that includes: the occupation he has been trained in, the duration of the training and other similar particulars.

Having the above argument in mind, one can safely conclude that the right to have a vocational training, which is one type of education, is recognized under the laws of Ethiopia.

## **4.2 The Right to Education under the Policies of Ethiopia**

### **4.2.1 The Education and Training Policy (ETP 1994)**

#### **Prelude**

Ethiopia has formulated its education and training policy during the transitional period in 1994, one year ahead of the coming in to existence of the FDRE constitution. This policy is considered as the first education policy which is assumed to evaluate and accordingly shape the direction of education and training sector in Ethiopia. (The Education and Training Policy and its implementation, February 2002, Ministry of education, P.2) The education and training Policy (hereafter called the policy) has incorporated the general and specific objectives of education and training. To Develop the physical and mental potential and the problem-solving capacity of individuals by expanding education and in particular by providing basic education for all, to bring up citizens who can take care of and utilize resources of the country wisely, to create citizens who respect human rights, stand for the well-being of people, as well as for equality, justice and peace, endowed with democratic culture and discipline, to bring up citizen who differentiate harmful practices from useful ones, who seek and stand for truth, appreciate aesthetics and show positive attitude towards the development and dissemination of science and technology in society, to cultivate the cognitive, creative, productive and appreciative potential of citizens by appropriately relating education to environment and societal needs are specified as a general objective.

In addition to the general objectives, to promote relevant and appropriate education and training through formal and non-formal programmers, to develop and enrich students' inquisitive ability and raise their creativity and interest in aesthetic, to enable both the handicapped and the gifted

learner in accordance with their potential and needs to provide basic education and integrated knowledge at various levels of vocational training, to satisfy the country's need for skilled manpower by providing training in various skills and at different levels, to make education, training and research be appropriately integrated with development by focusing on research are some of the specific objectives of education which are elaborated in the policy.

The policy also set curriculum, strategies of education, measurement and examination of education, assignment and training of teachers, the languages of education as some of the overall strategies of education and training. The policy further elaborates how the curriculum is designed, what the objective of the curriculum will look like and also indicates the specific authorized body to prepare the curriculum as a strategy. In addition to this the other important point mentioned in the policy is how the structure of education in the country will look like. Generally speaking the policy regulates education will stretch from kindergarten to higher education including informal and general education.

The policy also recognizes different level of educations. Kindergarten education, Primary education (from grade 1-8), secondary education of four years two of which (9-10) are general secondary education and the rest (grade 11 and 12) are classes to prepare students for higher education and the world of work. Furthermore, higher education is given in the level of diploma, first degree and graduate level with a purpose to enable students to become problem-solving professional leaders in their fields of study and in overall societal needs.

The other types of education incorporated in the policy are: basic education that focuses on literacy, numeracy, environment, agriculture, crafts, home science, health services and civics. Also non-formal education that concentrates in enabling the learners to develop problem-

solving attitude and ability is part of the policy. Especial education and training which is provided for people with special needs is also recognized.

In addition to the above issues the policy also address in a clear and broad manner about educational measurement and examination, teachers, languages and education, educational support inputs, educational organization and management, educational finance, and finally areas of special attention and action priority which is given right after the issuance of the policy.

### **The right to education under the education and training policy**

The education and training policy as a policy document does not clearly stipulate as everyone has the right to education. But it is very important to see the whole content of the document whether there is a reference to and existence of the right to education inside. The policy in its article seven stipulates that the government`s responsibility towards promoting the quality relevance and expansion of education. In order to achieve this goal due attention will be given to the supply, distribution and utilization of educational materials, educational technology and facilities by the government. To ensure relevance and standards the government also creates mechanisms of manpower training, maintenance, and developed educational support inputs. Educational materials, educational technology and facilities are also explained to be a center of attention of the government. The policy moreover stipulates areas which the government will give special attention in education. Women and people from areas of less educational access will get more opportunity and the government also planned to provide special financial support.

When we see all the above commitments by the government, one can understand that, the government is committed to provide education to the people. But still, these provisions do not sufficiently respond the presence of the right to education in the policy. The most important article that answers this question is article 3.9.1. of the education policy. According to this article ‘the right to education in the primary level (Grade 1-8) and in the first cycle of secondary education (up to grade 10) is financed by the government and given freely to all people in the country.’ Therefore, we can safely conclude that the policy is designed in light of the UDHRs article 26/1, and article 13/2 of ICESCR and assures the right of every person to free education.

As far as free education is concerned, the education and training policy of Ethiopia is more advanced than other international conventions. Both the UDHRs and ICESCR are provisioned education shall be free at least in the primary level. But the policy of Ethiopia stretches the right for free education up to the first cycle of secondary education (Grade 10). However, the omission of the policy for primary school to be compulsory in the country is taken as a departure from the international conventions. This point of departure indicates that to whatever extent the government is devoting its resources to free education, without making education compulsory at least in the elementary level, makes the government’s endeavor to create an educated society futile.

The other important element which is included in the education and training policy is the use of languages in education. As indicated in the constitution the Nation and Nationality and People of Ethiopia have the right to use and develop their own language; but, the constitution does not elaborate other issues related to language. However, the only educational document which gives a deep and illustrative coverage about the use of language is article 3.5 of the education and training policy.

Article 3.5 of the policy reads as follows:

*Article 3.5. Languages and Education*

- 3.5.1. Cognizant of the pedagogical advantage of the child in learning in mother tongue and the rights of nationalities to promote the use of their languages, primary education will be given in nationality languages.*
- 3.5.2. Making the necessary preparation, nations and nationalities can either learn in their own language or can choose from among those selected on the basis of national and countrywide distribution.*
- 3.5.3. The language of teacher training for kindergarten and primary education will be the nationality language used in the area.*
- 3.5.4. Amharic shall be taught as a language of countrywide communication.*
- 3.5.5. English will be the medium of instruction for secondary and higher education.*
- 3.5.6. Students can choose and learn at least one nationality language and one foreign language for cultural and international relations.*
- 3.5.7. English will be taught as a subject starting from grade one.*
- 3.5.8. The necessary steps will be taken to strengthen language teaching at all levels.*

Compared to article 27 of the International Covenant on Civil and Political Rights which is only recognizing the right of minorities to use their language, the education and training policy of Ethiopia, assures every child the right to learn in his/her mother tongue. Apart from learning in mother tongue, the rights of nationalities to promote the use

of their languages, the right of nations and nationalities to either learn in their own language or to choose from other national languages in the country, and the language of teacher training for kindergarten and primary education to be the nationality language used in the area are being considered as the indication of the recognition and protection given to the right to education in the country.

#### **4.2.2 The Right to Education under the National Children's Policy**

Ethiopia has ratified its national children's policy (here after called the children policy) in 2017 and is considered as one of the youngest policies in the country. What makes the children policy necessary is, according to the document, it is the indication of the government's commitment towards to respect, protect and fulfill children's rights and enhance the family and community's role in the health growth and personality development of children (article 3.4 of the policy).

Creating a conducive environment for the promotion and protection of children's rights and welfare in order that they undergo full personality development and become ethical and responsible citizens is a general objective of the children policy. Whereas, supporting orphan and vulnerable children to be raised in the Ethiopian culture, traditions, and customs; protecting children from harmful traditional practice and various forms of abuse; to ensure the best interests of the child are some of the specific objectives of the children policy.

The Ethiopian children's policy has also three fundamental features:

1. Children's development and growth
2. Prevention and protection of children from social, economic and political hardships

3. Providing rehabilitation, care and support for children in difficult circumstances

As far as the right to education is concerned this policy not only lacks to have clear reference to the right but also does not devote any article, at least, in the same way as the constitution and the education policy of the country did. The child policy, however, gives a bold recognition and considers the education policy and those international conventions where the right to education is clearly recognized as its foundation. Particularly, the policy refers all regional and international agreements on a child rights including the Convention on the Rights of the Child, the conventions' inclusiveness of civil, political, economic, social and cultural rights.

The policy also refers to those children rights which are stated under the FDRE constitution and expects everyone to work for the respect of the rights.

Even if there is an absence of a clear provision for the right to education in the children's policy, its recognition for those international conventions which addresses the right including the FDRE constitution, will give us a message that the Children policy is respecting the rights of all children to education.

#### **4.2.3 The Right to Education under the National Policy on Ethiopian Women**

The national policy on Ethiopian Women (hereafter called women policy) is formulated right after the falling down of the military regime (Derg) in 1993. The transitional government of that time has designed the women policy taking in to account the exiting problems of that time.

As envisaged in the document women are large contributors of the economic, social, political and cultural activities of their communities. Though their share of the division of labor differs from place to place and among cultures, their average working day is extended from 13 to 17 hours per a day. On the other hand women as a child bearer, contribute their influence on their children both positively and negatively especially during infancy and childhood period. However, the wrong prejudice and cultural influences barred them from enjoying the fruits of their efforts both in the rural and urban areas.

In order to tackle the above problems the policy has put in to consideration some of the following objectives:

- To create conducive atmosphere to speed up equality between men and women so that women can participate in the political, social and economic;
- To ensure women's right to own property;
- To facilitate the necessary conditions to rural women to access their basic social services; And to create means and ways to lighten their work-load;
- To eliminate, step by step, prejudices, customary and other practices which are based on the supremacy of male.

However, one of the fundamental rights of women which is guaranteed by many international conventions is left to get recognition both implicitly and explicitly in the women policy. Due to the absence of the right of women to education in the women policy, one can say that women are barred to claim their right to education based on the policy document. Since this policy is issued before the coming in to existence of the FDRE constitution the concerned body (women and children minster) need to

make another policy which must be designed in light of the constitution and other international standards.

#### **4.2.4 The Right to Education under the National Youth Policy**

The right to education is an issue which is implemented from the age of early childhood to an old age group. The policies which are discussed earlier indicate that the whole groups of the society are the one who are part of the enjoyment of this right. The person whose age group stretches from 15 to 29 year is considered to be youth in the Ethiopian context (youth policy p.4)

Taking in to account the age limits, the National Youth Policy has framed its major policy issues to the youth in its section five.

##### **Youth education and training**

Among others one of the important issues addressed in the youth policy is how to make the youth more beneficiaries from the education sector. To this end the following are some of the objectives specified in the policy:

- To create favorable conditions for active participation of the youth and benefit from the country's education and training policy.
- To create favorable condition for the youth who are out of school to develop their reading and writing skill through expanding adult education services to make them beneficiaries from the education sector.
- To eliminate imbalances in the education sector between people living in the rural and urban as well as between male and female gender.

The right to education which has got recognition under the education and training policy of Ethiopia is referred in the youth policy. Therefore, the comments mentioned under the education and training policy are directly applied to the youth policy. (see the comments on the education and training policy on page 67 and ff.) The youth policy, therefore, recognizes the right to education by simply committed to work for the implementation of the education policy as its main objective.

In addition to this, the youth policy has some positive departure from UDHRs article 26 in addressing the issue of adult education. As indicated above, the youth policy creates a favorable condition for the youth who are out of school, in a way to develop their reading and writing skill through expanding adult education services. This article is designed in light of article 13/2 (d) of ICESCR; the article envisages that '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.' As far as fundamental education is concerned the ICESCR article 13/2 (d), therefore, does not indicate its applicability to adult education. But the general commentary on article 13/2/d number 24 provides the meaning of fundamental education to be an integral component of adult education.

## **CHAPTER FIVE**

### **SUMMARY, CONCLUSION AND RECOMMENDATION**

#### **5.1 Summary of the Findings**

The purpose of this research is to assess the realization of the right to education under the laws and policies of Ethiopia. To this end, as indicated in chapter three of the paper, the study is entirely qualitative and employed content (document) analysis method with an inductive approach. In order to fulfill the aims, the following basic research questions were developed:-

- ❖ What do the constitutional provisions (both Federal and Regional), other law and policies, on the right to education look like in Ethiopia?
- ❖ To what extent the right to education has a legal protection in Ethiopia?

The following are the findings that are attained from the data:

- The study shows that there is lack of clear reference to the right to education in the constitution compared to the wording and articulation of UDHRs and ICESCR. This shows that there is incompatibility between the national laws and policies and those international human rights instruments.
- Though the constitution of the country didn't clearly stipulate the right to education it does not mean that the right is not protected in the country. However, the findings of this research reveals that the constitutional articles mentioned on the right of the child, the issues addressed in the education and other policies gives less

favorable legal and policy environment for the realization of the right to education. Moreover, the study indicates that the country needs subsequent legislations to give effect to the international and regional human rights instruments recognizing the right to education. In addition to these, the study finds out that the country needs specific law on the area of education which includes everyone's right to education. However, we can safely summarize that with the exception of the above problems there is an existence of the right to education in the laws and policies of the country.

- The study reveals that the education and training policy is more advanced than all international human right instruments by making education free in Ethiopia, not only in the elementary level but also in the first cycle of secondary education. However, education is not compulsory both in the laws and policies of the country.
- The researcher further reveals that because of the absence of clear reference to the right to education in the laws and policies, it is very difficult to the ordinary people who holds the right, and sometimes even for the legal professionals to claim the right by court of law.
- The study reveals that in order to give more attention and to create awareness, there is a need to adopt specific guidelines based on the constitution and policies.
- The study comes up with the result that the constitutional right of the nation, nationality and people of Ethiopia to speak, to write and to develop their own language shows the protection given to the right to education and made the FDRE constitution more advanced.

## **5.2 Conclusion**

The dignity and freedom of every human being is protected by human rights. International laws require states to protect, respect and fulfill human rights of their people. Education is therefore, aims to strengthening the enjoyment and exercise of human rights and the full development of a human personality.

The right to education is one of the fundamental rights of a human which is recognized by many international covenants and treaties among many nations in the world. Ethiopia as a founding member of the United Nations also recognizes the mother document for human rights called The Universal Declaration of Human Rights. This declaration requires member states to adopt and implement all those rights mentioned under the declaration. Putting in mind this declaration and other international agreements, to see the existence and protection given to the right in the laws and policies of Ethiopia is the general objective of this research.

As far as a constitutional protection of the right to education is concerned, the FDRE constitution lacks clear reference to the right compared to the UDHR and other international covenants. When we explore the status and articulation of the right in Ethiopia's laws and policies compared to those international human right instruments, we can find that our laws and policies are not designed compatibly with those international human right instruments. With the exception of its wording and articulation the right to education is found and protected by both the FDRE and regional constitutions of Ethiopia. Moreover, the education and training policy gives a better protection compared to the international laws in recognizing free education up to first cycle of secondary education.

The FDRE constitution, in its chapter three from article 13 to article 44 stipulate fundamental rights and freedoms of every person, however, the chapter did not devote any specific article about the right of every people to education. Instead of stipulating the right in a specific article or to put as a specific sub article of article 36 it simply incorporated under the sub article d and e of article 36 indirectly. This form of articulation makes a challenge on the holder of the right in order to claim it by court, and also creates a problem to the judicial body to easily entertain the case in court of law.

Apart from its lack of clarity, the other problem of the constitution is its articulation of article 9 sub article 4. This sub article says “All international agreements ratified by Ethiopia are an integral part of the law of the land.” But to access those international agreements that are ratified by Ethiopia is a difficult task not only to the ordinary citizens who are entitled the right but also the legal professionals who are practicing law in the judiciary process.

The regional constitutions which are a direct replica of the federal constitution (with an exception to their regional issues) did not say anything about the people’s right to education. Any person who wants to address this right in a court of law may not cite any article from the constitutions except through the way of interpretation as the FDRE constitution did.

Ethiopia has made different policies which are directly related with children, women and youth. Those policies with the exception of the education and training policy did not specifically mention the right of the targeted groups to education. Since the right to education is a wide concept and one of the fundamental rights of a human, omitting this right from the policies lead those groups of the society not to claim the right easily. Therefore, we can safely conclude that the articulations of

the legal provisions that are found in the laws and policies of Ethiopia do not easily allow the holder of the right to claim it by court of law.

Even though the education and training policy makes education free in the country at least in the elementary and first cycle of secondary education level, there is no any mandatory provision in the laws and policies of the country that makes education compulsory. Therefore, in order to make this advantage (free education) more practical and applicable to all, there is a need to have mandatory legal protection that makes education compulsory at least in the elementary level.

Apart from the above problems, recognizing the right of the Nation, Nationality and people of Ethiopia to speak, to write and to develop their own language is considered as a strong side of the constitution.

### **5.3 Recommendation**

For effective implementation of the right to education in Ethiopia, and to address those issues discussed in the research, recommendations are mentioned hereunder:

- The concept of the right to education has incorporated many issues inside; like: functioning educational institutions and programs have to be available in sufficient numbers in a country (availability), educational institutions and programs have to be accessible to everyone, discrimination on any ground must be forbidden (accessibility), the form and substance of education, including curricula and teaching methods, has to be relevant and accepted by the society , culturally appropriate and of good quality and in accordance with the best interests of the child (acceptability); also education has to be flexible, so that it can adapt to the needs of changing societies and communities, and

respond to the needs of students within their specific social and cultural context, including the evolving capacities of the child (adaptability). In order to address these and other relevant issues the country need to adopt special proclamation like educational law, and policies that address people's right to the right to education.

- Even if the laws and policies of Ethiopia address the right to education, the way they stipulate the right is not clear compared to international human right instruments like UDHRs and ICESCR. In order to give strong constitutional protection to the right it is highly recommended to boldly stipulate as 'everyone has the right to education' under the constitution through constitutional revision or amendment.
- Apart from its constitutional protection there is also a need to enshrine this right under the subsidiary laws and policies of the country in order to make the right more applicable in the grass root level.
- Though education is free in the country at least in the elementary and first cycle of secondary education level, there is no any mandatory provision that makes education compulsory. Therefore, in order to make this advantage (free education) prevalent and applicable to all, there is a need to have mandatory provision in the laws and policies of the country that makes education compulsory the same to UDHRs and ICESCR.
- Ethiopia as a member States of the United Nations has pledged itself to achieve in cooperation with the United Nations to promote and respect for and observance of the right to education. However, the laws and policies in Ethiopia are not designed in light of the

commitment that the country is engaged in those international covenants. Therefore, apart from making legislations, it is recommended to work more on the promotion and respect of the right.

- The signatories of the international conventions are expected to be committed to teach and educate their people to promote and respect for those rights and freedoms mentioned under the conventions. Therefore, it is important to Ethiopia, and especially to the ministry of education and other relevant offices, to incorporate the right to education on the curriculum, syllabus, student text books, policies and other materials in order to teach and aware the people.

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