

**ADDIS ABABA UNIVERSITY
INSTITUTE OF HUMAN RIGHTS**

**WOMEN WITH DISABILITIES AND THEIR RIGHT TO
EMPLOYMENT**

**BY
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**ADVISOR
Dr Emezat H. Mengesha (LL.B)(LL.M)(PhD)**

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REQUIREMENT OF MASTER OF ARTS IN HUMAN RIGHTS (M.A.)**

JUNE 2012

DECLARATION

The thesis is my original work, has not been presented for a degree in any other university and that all sources of material used for the thesis have been duly acknowledged.

It is hereby presented in partial fulfillment of the requirements for the award of the MA Degree in Human Rights.

Selamawit Bahre

June, 2012

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ACRONYMS

ACHPR	African Charter on Human and Peoples Right
CARDOS	Center for Applied Research and Development Oriented Service
CEDAW	Convention on Elimination of Discrimination against Women
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
ENDAN	Ethiopian National Disability Action Network
FDRE	Federal Democratic Republic of Ethiopia
ILO	International Labour Organization
MWD	Men with Disabilities
MOLSA	Ministry of Labour and Social Affairs
MOE	Ministry of Education
UN	United Nation
UDHR	Universal Declaration of Human Rights
WWD	Women with Disabilities

Abstract

Persons with disabilities in general and women with disabilities in particular are often treated fairly according to the given rights under different instruments. Here even if Ethiopia is signatory to the UN convention on the rights of persons with disabilities. The practical recognition that it has conferred to disability has not been implemented satisfactorily. Furthermore Ethiopia has also issued proclamation 568/2008 to protect the employment rights of persons with disabilities. But after the issuance of the law still the implementation of this law is not adequately conducted. Due to this women with disabilities face difficult challenges at their working environment.

The purpose of the study was designed to assess the working situations of women with disabilities due to inadequate implementation of the law. The study participants were employees under ministry of federal civil service institutions.

The research utilized qualitative method. In conducting the study total numbers of 30 women with disabilities were taken. The study sights are taken at 5 civil service institutions in Addis Ababa. These institutions are taken purposefully based on the available information at hand. Because absence of sufficient data leads us to use purposive sampling in order to contact employed women with disabilities under ministry of civil service institutions. Questionnaires and interviews were employed in order to generate the data.

The findings have shown that women with disabilities are discriminated by their employers as a result of inadequate implementation of the law. They face difficult situations at their work place.

The results also revealed that challenges women with disabilities face at their working place. It shows that women with disabilities are discriminated in promotion, training, and transfer. These problems are found serious because it existed due insufficient application of the present law. Though there are some recommendations made based on the findings particularly relating

to the existing law. The responsible organ specially the government has to take active role to ensure the implementation of the law, collecting the exact data of employee women with disabilities under the ministry of civil service institutions has to be done in order to protect their right easily, in addition to this preparing and conducting trainings has to be made by the responsible organ to introduce the present law and to create awareness, and forming women with disabilities bureaus independently within women affair offices to increase the participation of women with disabilities at their working place and it will help them to identify the gaps and to struggle for their right. These recommendations will help to improve the application of the law sufficiently. Then if these things are conducted properly the situations of women with disabilities at their working environment will be guaranteed when the law becomes implemented adequately.

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CHAPTER ONE

INTRODUCTION

The right to work is one of the fundamental rights in economic, social, and political life of people. However women with disabilities face double discrimination while they seek jobs because of their disabilities and gender.¹ Being aware of such discrimination against them in the labor market, international instruments as well as national instruments have been issued in order to protect the right to equal employment opportunity.

Ethiopia adopted and ratified international instruments which specifically deal with the rights of persons with disabilities. Ethiopia as a signatory to most of the international instruments has the obligation to issue related laws in order to protect the rights of persons with disabilities. Thus Ethiopia issued a law with the intention to protect the right to equal employment opportunity of persons with disabilities.

The principle of UDHR and other international instruments of human rights states that fundamental freedoms are the birth rights of all.² According to the principles under the international instruments, persons with disabilities in general are entitled to exercise their civil, political, economic and cultural rights equally with others.

With regard to rights of women with disabilities, the international instrument CEDAW prohibits all forms of discrimination against women. Article 1 of the convention defines discrimination against women and it provides women to be treated equally with men³ which reminds the equality of both including women with disability.

The prohibition of discrimination in this convention relates to the exercise of civil and political as well as economic, social and cultural rights in human right instrument and it is particularly to the protection of the rights of women. Then while we are reading the provisions of the instrument it will benefit women with disabilities as well. As they are who face double discrimination both on the grounds of their disability and gender.⁴

The convention also provides the obligation of states and the measures they should take to eliminate discrimination.⁵ As per this provision state parties condemn discrimination against

women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women including discrimination against women with disabilities.⁶

Other than the international human right instruments, the convention on the rights of persons with disabilities pointed some measures so that states to take measures to ensure that they enjoy their fundamental human right on equal basis with other members of the society.

Ethiopia has issued legislations to protect the rights of persons with disabilities. This proclamation is 568/2008 which targeted to avoid discrimination and aimed to solve the problem by giving rights to compete based on their qualification; to have equal status with others.

Therefore, woman with disabilities are facing serious challenges at their working environment even if they have the required training and qualification. Even if the law tries to guarantee their right, the law is not implemented properly. Therefore, the ways how to deal with the laws should be identified. In addition to this after woman with disabilities get employed in one institution the status and promotion of woman with disabilities working conditions shall be investigated as it happened due to inadequate implementation of the law.

1.1 Statement of the problem

Working environment for women with disabilities is the basic challenges in most developing countries. Governments in most of the states have passed many laws and acts that can prevent work place discrimination and mistreatment.

In Ethiopia women with disabilities constitute 44% of the total disabilities.⁷ To protect their rights, Ethiopia has adopted and ratified international instruments dealing with persons with disabilities in general and issued proclamations pertinent to their right.

The situation of women with disabilities however, is not the same like non-disabled women's in employment positions. In this case women with disabilities have not got conducive environment at their work place and they usually have subordinate position.

As a result they are not fairly treated in work place thereby they have employed in low employment status and lower paid job conditions. Hence women with disabilities face double

discrimination due to their being disabled and their gender. Other than this, there are several factors which discriminate disabled women. Among them inadequate implementation of the law which is issued to protect the employment rights of persons with disabilities could be taken as a major factor.

Therefore, the study deals with the challenges with regard to the situations of women with disabilities at their work place which exists due to inadequate implementation of the law.

In fact even if there is a legal instrument which is issued to protect the rights of persons with disabilities in general and women with disability in particular, the issued law is not properly implemented. Thus, the problems with regard to inadequate implementation of the proclamation will be analyzed in this study. In addition to this, identifying the situations of women with disabilities at their working environment due the existing gaps in the laws will be assessed.

According to the statements of the problems the following questions will be addressed by this research.

1.2 Research Questions

- What are the drawbacks with regard to implementations of the law
- What are the situations of women with disabilities at their work place

1.3 Objectives of the Study

a. General Objective

The objective of this research is to assess the situations of women with disabilities at their work place that exist due to insufficient application of the law.

b. Specific objective

The specific objectives are to

1. Identify the fundamental right to employment of women with disabilities
2. Identify the situations of women with disabilities at their work place including their status and promotion due to inadequate implementation of the law

1.4 Methodology

Methodologically a qualitative research method will be conducted. Here problems with regard to women with disabilities and their situation at work that exists as a result of inadequate implementation of the law will be taken in to account. It will help to identify the cause and effect of their challenges at their working environment. Then it will help us to identify the legal as well as the institutional efforts which will be made towards the right to employment of women with disabilities.

Analysis of literature reviews, journals, articles, and critical legal analysis will be reviewed. In addition, to support the above documentary basis open ended and close ended questions will be distributed for women with disabilities. This questionnaire will be distributed for those WWDs employed at the institutions under the Ministries of Federal Civil Service. In order to conduct this questioner purposive sampling is conducted. As we can closely get those women with disabilities in these institutions they can easily share their problem and the difficulties they face at their working environment.

In addition to this, policy makers working on responsible organs and higher officials at the Ministry of Federal Civil Service institutions and Ministry of Labour and Social Affairs will be interviewed. Forwarding interview can help us to investigate the problems with regard to implementation of the law. It will help to identify to what extent the responsible organ is working in order to facilitate the implementation of the present law.

The research would mainly use formal sources of law as standards. Hence treaties, conventions and customary international laws would be taken as sources of standards to identify the content, scope and limitation dealing with women with disabilities under international and regional law. Then under national law proclamations, regulations and directives would be utilized to identify the national standards.

In addition to this soft law standards under international law would be considered under this research. This would be done despite the fact that these standards are not formal sources of international law. However, these sources are useful in identifying the customary practices of states and they serve as acceptable elaborations of the formal sources. These laws have through

discussion and time it will acquired political support and they are just considered as interpretations of the general state obligations.

1.5 Scope and limitation of the study

The scope of the research covers the issues which are related with the employment situations of women with disabilities at their work place. Thus the research is limited on those women's who are disabled before they hold their employment position and those who are civil servants. As the issues are vast the research will try to concentrate only in employees under the ministry of civil service institutions. Then finally the research will present the existence of rights of women with disabilities and the challenges they face at their working environment due to inadequate implementation of the existing law.

Absence of sufficient reference materials, accurate and credible data and challenges in contacting some government organs and officials as well as contacting employed women with disabilities were some of the challenges in doing this research.

1.6 Organizations of the study

The general structure of the paper consists of five chapters. The first chapter deals with introduction, statement of the problem, methodology, and scope of the study. The second chapter presents review of related literature that was systematically organized from different books and related materials which deals about the rights of persons with disabilities in general and women with disabilities in particular. The third chapter consists of examining international, regional and national instruments that deals about rights of women with disabilities in general and employment rights of women with disabilities in particular. The fourth chapter deals with analysis of the collected data's and interpretation of the findings. Finally, in the fifth chapter summary, conclusion and recommendations will be presented.

CHAPTER TWO

2. THEORETICAL FRAMEWORK OF DISABILITY AND SITUATIONS OF WOMEN with DISABILITIES

2.1 CONCEPTUAL DEFINITION OF DISABILITY

In this section, we develop the theoretical framework that forms the definition or concepts of disability. This theoretical framework includes identifying the approaches of disabilities and conceptualization of disability by considering the definition from different literatures.

First of all the terminology used in the disability discourse changes overtime and has different meanings from one language and culture to another. For instance, “*Disability is any restriction or [lack resulting from an impairment] of ability to perform an activity in the manner or within the range considered normal for a human being*”.¹

Even though disability in general has different definitions, we can determine the meanings depending on the case. But the UN convention on the rights of persons with disabilities which is adopted in 2006, contains another different view of disability in summarizing and reflecting the outcomes of different discussions and researches on the issue.² It defines disability as follows

*Disability is an evolving concept and results from the interaction between person with disabilities impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.*³

According to the view of UN’s convention, disability is attitudinal and environmental barriers hinder persons with disabilities from their full effective participation in society as equal as others

The term is used to apply to all PWDs including those who in terms of time duration have long term physical, mental, intellectual or sensory impairments in inter action with various attitudinal and environmental barriers, which hinders their full and effective participation in society on an

equal basis with others. It is also important to note that a person with disability in one society or setting, depends on the role that the person is assumed to take in his or her community.

According to this definition any person generally fulfilling the elements of that definition should be regarded as having a disability status and be covered by a law pertaining to PWDs.

In addition to this WHO defines disability as it is;

*Disability is different functional limitations occurring in any population. It could be physical intellectual or sensory impairment, medical condition or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature.*⁴

However, in general disability is a social problem as well as an individual problem. Primarily it is a social problem because what denies the individual disabled person from contributing is the attitude of non-disabled persons towards him or her. This attitude towards PWDs does not have self-worth, they lack confidence, and they believe that they are good for nothing. The discrepancies which exist in the livelihood of PWDs and non-disabled persons are by and large attributable to the general public attitude, which is predominantly characterized by enduring stereotyped attitude.⁵

Buckup pointed out that in the traditional belief people consider disability is a result of divine punishment and can be transmitted to the next generation of a family. Because of these people fear, feel shame and avoid PWDs. Then it will create the disabled to be left alone or hidden.⁶

Colerdige in his part states that special education must be given for those who need special protection because of perceptions of able bodied people, disability as a tragedy a loss or a deficiency people can assume that PWD are underproductive. The negative response of most able bodied people to PWD is based on many reasons but mainly on ignorance and avoidance.⁷

In all societies, PWDs have the same social needs like other people. They need to be respected and to involve in different activities. They also need opportunities to develop and participate depending on their ability and interest.

Consequently, disabled people want equal opportunities and full participation in order to enjoy the same rights like all citizens. They are being discriminated, oppressed and exploited because of what they are.

In Ethiopia, we can find a general definition of disability given under the legislation dealing with PWDs. Specifically the legislator focuses on issues related to the employment rights of persons with disabilities under proclamation 568/2008. Thus the proclamation defines

*“Person with disability” means as an individual whose equal employment opportunity is reduced as a result of his physical, mental or sensory impairments in relation with social, economic and cultural discrimination.*⁸

This definition could be interpreted as to exclude persons who are suffering discrimination as a result of past and/or imputed disability. Or one may interpret as it is not defining PWDs to show particular benefits or give rare aid to a narrowly defined group of people.⁹ Hence it is essentially a non-discriminatory legislation trying to create equal employment opportunities as clearly indicated in the preamble.

However, the purpose of it prohibits discrimination on the basis of present disability, for a stronger reason, it must prohibit discrimination on the basis of past disability or imputed disability.¹⁰ The definition includes both past disabilities as we can give place to the present disability because both lead them not to function in any activity due to their disability as it is a limitation for them.

2.2 Distinguishing the Concepts between Disability, Impairment and Handicapped

WHO has put the distinction in the context of health experience between impairment, handicap and disability depending on its purpose of establishment. Thus the world program of action resolution has defined the term **Impairment** to mean “any lose or abnormality of physiological, psychological and anatomical structure of function...”¹¹

According to the definition or the meaning given earlier the word ‘loss’ indicates that the psychological and anatomical loss is something of material absence. This means, impairment is dealing with parts of systems of the body which do not work;¹² Moreover as per this definition impairment is dealing with parts or systems of the body that do not work. And the psychological,

physical and anatomical loss can be proved by physical appearances or by a medical test. Thus the loss could be physical or mental conditions of a person.

*Although **Disability** is defined as a restriction which is the result of impairment, it is a loss of physical, psychological and anatomical structure or function. A person's physical or mental impairment restricts him /her from carrying out an activity.¹³This means the loss or the abnormality of a psychological, physiological and anatomical structure or function produces the effect of restriction on that person.*

Furthermore, the term **Handicap** is defined under the world program of action as “*a disadvantage for a given individual resulting from an impairment of disability that limits or prevents the fulfillment of a role that is normal depending on age, sex, social, and cultural factors for the individual*”¹⁴

Thus the term handicap denotes that *it is an interaction between disability and an environment that creates obstacles or barriers to PWDs. The situation of handicap occurs when people with disabilities counter cultural, physical or social barriers which prevent their access to the various system of society that are available to the other citizens.*¹⁵

Thus, handicap is the loss or limitation of opportunities to take part in the lives of the community on an equal level with others. A loss or an abnormality to an individual's physical/mental structure, or function/ impairment leads to disability.

Although impairment, disability, and handicap are different, one may be a cause for the other. It can also be said that one may exist on the absence of another and the existence of one does not necessarily imply the existence of the other. The other point we have to take in to account is that the change in terminology from handicap to disability is intended to reflect our usage of words more up to date and currently accepted terminology.¹⁶

Finally, the idea of impairment, disability and handicap are different though they have common elements and suggestion in the literal societal use of the terms. But when we deeply look in to the meaning of the terms, their difference lies in the fact that one may be absent in the existence of the other.

2.3 Theoretical Approaches to Disability

Michael Oliver was the first to speak about the approaches of disability in his book. In his work he makes a conceptual distinction between two different and opposed approaches to the issue of disability based on the definition of impairment and disability.

Here the first approach is referred as the individual model of disability, namely an approach that locates the ‘problem’ of disability within the individual with impairment.¹⁷ The second one is the social model, locating the problem in society and in its failure to organize itself in a way that is fully inclusive of person with impairments.¹⁸

2.3.1 The Individual Model

This model situates the problems of disability in the person concerned while paying little or no attention to the physical and social environment of the person.¹⁹ So according to this model, a person with hearing impairment is disabled as a result of individual impairment. He/s can try to overcome the functional limitations which results from this by understanding medical treatment or using some medical and paramedical aids. Alternatively, PWDs have to accept their limitations and learn to adapt their aspirations and what they do to the world around them as the source of these peoples, the problem is their own body.²⁰

The individual model further developed in to the conceptualization of the ‘rehabilitation role’, where the individual must ‘accept’ their condition, making most of their abilities to achieve ‘normality’. This model of disability have been critiqued for the way in which they view disabled people as somehow ‘lacking’ unable to play a ‘full role’ in society.

2.3.2 The Social Model

The social model of disability *does not deny the problem of disability but locates it squarely within the society. It is not individual limitations of whatever kind, which are the cause of the problem but society’s failure to provide appropriate services and adequately ensure the needs of disabled people are fully taken in to account in its social organization.*²¹

Hence people with disability fall under this group in that they possess the talent but they become so immersed in dealing with though challenges that the social and physical environment then it pose that they do not get opportunity to stand on their feet.²²

This model draws distinction between physical impairment and the social situation called 'disability'. It views, for instance, lacking all to part of a limb or having a defective limb as impairment.²³

Then it holds disability is the disadvantage or restriction of activity caused by contemporary social organization that does not take in to account people who have physical impairment. Disability is therefore, something imposed on those who have impairments. Hence, proponents of this view hold that disabled people are opponents segment of the society.

This social model states that disability does not arise simply, from medical conditions but rather from the interaction between impairments and the physical, social, and policy environment. In other words, it states an environment and culture that accommodates the special needs of people with various impairments; the impact of disability would be greatly limited.²⁴

This approach argues that the disabled are excluded by unnecessary societal barriers: a wheel chair user is disabled when a building does not have ramp access; a deaf person is disabled if a service provider does not provide for them to access that service. In this view the 'problem' is not the disabled person, but the lack of appropriate goods and services.²⁵

In addition to this, the approach is most often stated as seeing the category of disability as social contract, explained with reference to medical and political agendas and emphasizing the historical development to institutionalized discriminatory practices.²⁶

Therefore, according to the earlier discussion, the social model recognizes many different aspects to underpin the anti-individualist position. And it produce an interaction in account of disability where in disability is seen as a construction. Then necessarily a responsibility is shared by all parties to it. Whereas the individual model of disability as we have seen, strongly suggests an expert client relationship in which the expert seeks to cure or at least alleviate the symptoms experienced by the client.²⁷

Consequently in the realm of employment specifically, it is contended that most people with disabilities are willing and able to work, and it is hostile attitudes and contingent environmental barriers that are causes for their exclusion from the workforce. Though, the remedy is to adopt civil right laws that prohibit discrimination and require provision of accommodation to individuals with disabilities in the work place.²⁸

2.4 Situations of Women with Disabilities

Women with disabilities have been despaired for many years, isolated and discriminated. Moreover their situation is becoming worse and worse. Discrimination above all is a distinguishing mark for all women with disabilities especially in the areas of work. Thus under this section the challenges that women with disability face and different experiences of some African countries will be assessed.

2.4.1 Status of Women with Disabilities

According to Bengt Lindquist, Special Rapporteur to the UN and a former Minister in the Swedish Government states that women with disabilities face triple discrimination daily, because of their gender, disability and being the poor part of the society.²⁹ With the book ‘Gender and Disability’ it notes that

*Women with disabilities do not have equal access to the labour market: less than a quarter are unpaid employment, though the majority contribute significantly to their families and communities through carrying children and relatives, and carrying out daily responsibilities.*³⁰

In developing countries, a women’s status is considered to be dominated and dependent. When she becomes disabled she losses her status all together as there are often no facilities provided to rehabilitate her in her role. Thus she becomes totally isolated, immobile and limited to the house.³¹

Thus, there is no disability allowance no environmental adjustment particularly no access to training and therefore, no employment and no opportunity to become involved in self-help movements.³²

In addition to this Boylan pointed out that WWDs suffer not only from the usual discrimination against them but also from further discrimination against disability.³³ Nevertheless, this double prejudice is the cause for the inferior status of WWDs and it makes them as they are the disadvantaged group. It will be the main reason for disabled women than disability itself.

2.4.2 Rights and Challenges of Women with Disabilities

In general rights of women are stated under different international instruments to the circumstances of special application and protection of women's right. This has its own direct effect regarding women with disabilities. The provisions of the convention CEDAW do not explicitly mention WWDs but since the provided rights under CEDAW belong to all women, WWDs should also be explicitly or implicitly covered to benefit from the instrument.³⁴

The convention together with the optional protocol which introduces different enforcement mechanism has been adopted and ratified by a large number of states including Ethiopia. CEDAW deals exclusively with the human rights of women and its adoption greatly which increased the visibility of human right system.³⁵

This in turn created an awareness of both the obstacles to the enjoyment of human rights for women and the ways to avoid the difference inequalities including the field of work at all level. The non-discriminative rights in CEDAW cover the whole spectrum of human rights by civil, political, economic, social, and cultural issues.³⁶

Therefore WWDs, more likely to suffer from discrimination and violence or sexual harassment than able bodied women. When a woman with disabilities is exposed to discrimination, it is not always clear whether the discriminatory practice is attributable to her gender or her disability. So WWDs experience discrimination to her gender or her disability.³⁷ WWDs experience discrimination against non-disabled women they may share the discrimination experienced by other women versus men.

However, even if WWDs have a right which is stated under international instruments, they always face some point of challenges which may lead them to think that they are disadvantaged.

Generally, if we consider the repeatedly mention data, approximately 300 million women around the world have mental and physical disabilities, Women's constitute 75% of the disabled people.

WWDs comprise 10% of all women worldwide are more likely than men to become disabled during their lives, due to gender bias in the allocation of scarce resources and in access to services.³⁸ Due to social, cultural and religious factors, disabled women are less likely than men to make use of existing social services. It is estimated that disabled women worldwide receive 20% of the rehabilitation services. Disabled women face spectrum of human right abuse than non-disabled women, but their social isolation and dependence magnifies these abuses and their consequences.³⁹

In Ethiopia in relation to women with disabilities, as Tirussew indicated that women with disabilities constitute 44% of the total disability population in Ethiopia.⁴⁰ women with disabilities in Ethiopia do not enjoy equal rights and privilege compared to men with disabilities, which indicated that women with disabilities are facing double discrimination due to gender disparity and disability in context to education and training opportunities, employment opportunities and access to public services.⁴¹

Women with disabilities are in high unemployment rate resulted due to high level of illiteracy among people with disabilities, which resulted as persons with disabilities, and living in developing countries. Those women with disabilities who get a chance to be employed are more likely employed in low employment status and lower paid jobs with poorer working conditions. This is because of their disability and social status as women.⁴²

From these tangible facts we can understand that women with disabilities around the world did not get particular place to participate like the other non-disabled ones. It can be said that WWDs in particular are underrepresented and under served in every aspect of their activity.

In general WWDs are facing discrimination for their basic human rights. According to former United Nations Secretary General, Javier Perez Decuellar 1998's report to the UN provides that,⁴³

“Equality of opportunity simply does not exist” he notes that where disabled child cannot go to school, where a disabled women and man cannot get training or a job, or where disabled people cannot move freely on the streets....”⁴⁴

According to the idea of Perez de Cuellar, the UDHR affirms that all human beings are born free and equal in dignity and rights, yet millions of people with disabilities in general and WWDs in particular still face daily discrimination and exclusion from equality of opportunity.⁴⁵

Consequently, even if the rights of WWDs is stated under different instruments there is always an existing fact that deals about they always face some type of discrimination in different activities, which leads them to face the challenges that existed due to their being disabled and a women. So in order to identify and solve the existing problems the legislations that are provided under different instruments shall get stronger provisions either to protect the provided rights.

2.5 Employment of Women with Disabilities

Sweetman has stated that there may be many similarities between WWD and non-disabled women's in terms of employment. No women with disability were engaged in gainful working status like others.

Thus, women and men participate in the paid labour market on a very different basis. So, women's relatively have low earning, on the basis of the belief that they are less skilled than men, irrespective of their actual skill levels.⁴⁶ People with disabilities in general face difficulties in entering the open labor market, but men with disabilities are almost twice more likely to have good position in their jobs than WWDs.⁴⁷

However, many employed women with disabilities exhibit labor market characteristics traditionally associated with vulnerability to employment. They frequently work with in structures of in security, their jobs are unskilled, poorly paid and often part time; they have few fringe benefits.⁴⁸

WWDs are being considered as useless and burdensome that it might not occur to them to apply for employment.⁴⁹ ILO has stated that, a general trend worldwide is that WWDs are less likely to be returned to vocational training, have a harder time gaining access to rehabilitation programs, are less likely to lead to part time jobs or worse lower status. The attitude still persists that WWDs are passive, dependent and not capable or intended in taking up an occupation leading to employment.

In addition to suffering of discrimination on the grounds of their disability, WWDs are subjected to all common forms of discrimination on the grounds of sex that women in general suffer from almost every given context. This double discrimination means that the experiences of WWDs are profoundly different from that of men with disabilities.⁵⁰

Women are generally discriminated against due to gender bias but WWDs face compound discrimination by being both women and with disability. Isolation and confinement based on culture and traditions, attitudes and prejudices often affect WWD more than men. This isolation of WWD leads to low self-esteem and negative feeling. Lack of appropriate support services and lack of adequate education results for low economic status, which could be created depending on the families or care givers.⁵¹

As Sweetman indicate WWDs often experience unequal hiring and promotion standards, unequal access to training and retraining, unequal access to credit and other productive resources. Unequal pay for equal work, occupational segregation and they rarely participate in economic decision making. Hence WWDs who even have successful professional employees encounter barriers at work that may hurt the advancement of their work.

In many society women do not have equal right at their work place. However, there is a great difference between nondisabled women and disabled women. But it is serious under developing countries like Ethiopia.

In Ethiopia WWDs represent approximately 50 percent of PWDs.⁵² Women in the country experience social, cultural, economic disadvantages which impede their access to health care, education, and vocational training and wage employment. In addition, if woman has physical or mental disability, her opportunity in life are future diminished and her dependency increase to be a women and disabled is to be doubly handicapped.⁵³

As Adere viewed, there are many reasons why women with disabilities face discrimination at their work place. Some of these are lack of adequate provision to treat WWDs at their work place, inadequate application of the present law and limited attention of government and non-government organizations to treat WWDs at their work place are some of the reasons.

On the other hand, even though there is a government legislation which deals with employment rights of persons with disabilities, it has some limitations in reality since it is not implemented adequately. Therefore, nowadays, women with disabilities have question of equal payment for the same job opportunity, promotion, the right of transfer from place to place or office to office and improvement of job situations.

2.6 Experiences of some African Countries

Under this section the practice of some African countries will be assessed, in order to identify the best experience. Here these selected African countries are exercising the best legislations regarding with PWDs in general and WWDs in particular. To this end we can share some of the best experiences from these selected African countries as they have good legislation in relation to the employment rights of persons with disabilities in general.

Many African countries throughout the world have in recent years adopted policies aiming to promote the rights of people with disabilities to full and equal participation in society. Some countries in Africa have made progress in introducing disability related to legislation.

Other African countries, existing national laws are reviewed in order to achieve equalization of opportunities for peoples with disabilities. Thus policies on employment opportunities for peoples with disability are frequently supported by legislation and implementation strategies as essential tools to promote integration and social inclusion.

2.6.1 Uganda

Uganda is one of the countries well advanced in affirmative action for PWDs. Uganda is also one of the few countries that has a minister of state for disabilities and five members of parliament representing PWDs, including one women representative.⁵⁴

The constitution of Uganda provides under article 40 that a person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business. It gives powers to the parliament to enact laws and to ensure that work is done under satisfactory, safe, and healthy conditions, with equal payments for equal work without discrimination.⁵⁵ Thus as per this article it allows all persons including PWDs to their skill and practice their business without any unlawful restrictions.

As far as the objective of this act is to promote equality and opportunity for PWDs and it also tries to encourage the people and all sectors of government and community to recognize, respect and accept difference and disability as part of humanity and human diversity. Other than this the act provides that in order to protect and promote the rights of PWDs in different field of activities it provides mandatory provision that the government has to take a vocational rehabilitation measures to develop the skills and potentials of PWDs to enable them compete favorable for available productive and remunerative employment opportunities in the labor market.⁵⁶

Thus according to the act it imposes an obligation on the state to provide the necessary measures which can help PWDs to actively participate in the labor market. This act also provides the principle of non-discrimination on the ground of disability under section 12. Moreover section 13 of the act states that the employment rights of PWDs as they have the right to practice their professions and to carry on any lawful occupation is provided.

Furthermore the government is expected to encourage all government and private sectors to promote the right to empowerment of PWDs. And to work on an equal basis with others and to earn a living by work through a quota system is indicated.⁵⁷ Hence any conditions put up by the employer aimed at discouraging or failing PWDs from taking up responsibilities is against the law.

Moreover the other thing found under this article sub article 3 indicates that the responsible Ministry in accordance with the employers organizations, it is expected to determine the quota of PWDs work force for employers, and shall publish the agreed quota in a statutory instrument.

In addition section 13 of the act requires that every employer to carry out appropriate modifications in their work premises to facilitate the employment of PWDs.⁵⁸ it puts a duty on every employer to facilitate every accessible equipment's to promote and bring changes on the work place for PWDs. Then according to this sub article (c) of the provision, it gives a tax exemption on any cost that encured by an employer as a result of modification carried out under.

2.6.2 South Africa

The employment equity act of South Africa aims for equality by imposing the duty to eliminate unfair discrimination and take positive or affirmative measures to attract, develop and retain individuals from previously disadvantaged groups.⁵⁹

Equal employment opportunities enable disabled people to participate actively in the economy. The current positive policy and legislative environment has created unprecedented employment opportunities for disabled people as South African employers, for the first time actively seek to employ disabled people.⁶⁰

This act of the employment equity act protects disabled people from unfair discrimination on the grounds of their disability and entities then to affirmative action measures.⁶¹

Therefore, this employment equity act entails introducing measures to encourage employers to undertake organizational transformation to remove unjustified barriers to employment for all South Africans, and to accelerate training and promotion for those disadvantaged groups.

2.6.3 Kenya

The constitution of Kenya provides for the representation in parliament of women, youth, PWDs, ethnic minorities and marginalized communities. The constitution and the law prohibits discrimination based on race, sex, pregnancy, marital status, ethnic or social origin, color, age, disability and religion.⁶² Though the Kenya constitution prohibits discrimination on a number of listed grounds which is good to identify the specific interests, and it could be considered as the provisions are guaranteeing the rights and liberties of citizens are stated specifically. Thus PWDs are expected to enjoy these rights equally with the rest of the society.

Moreover, Kenyan PWDs act, 2003 sets out the rights of PWDs. Introduced in December 2003, it is the main legal instrument concerned with disabled persons in Kenya.⁶³ In the first place the constitution of Kenya states that the government is committed to progressively implement 5% representation at every elective and appointive positions for PWDs.⁶⁴ In addition to this, the 2003 PWDs act states that the reservation of 5% of all casual, emergency, and contractual positions in employment is allowed.⁶⁵

If this is achieved it will make a substantial contribution in reducing the current marginalization of PWDs in the employment sector.⁶⁶ It further states that ‘ no person shall deny a PWD access to opportunities for suitable employment.’⁶⁷ Thus a qualified employee with a disability shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as qualified able bodied employee.⁶⁸ Though, this section aimed at ensuring that PWDs are given an equal footing in employment like other persons without disability, it can be seen by promoting the employers to include PWDs within the work place.

Here in under section 16 of the act, it provides that incentives would be given to employers who engage the services of PWDs. These employers are entitled to apply for deductions from their total taxable income equivalent to 25% of the total amount paid as salary and wages to employers with disability.⁶⁹

Furthermore, the act provides that for the establishment of national council for PWDs (NCPD) to be focal point for all issues relating to PWDs, it implement and ensure the implementation of the rights of PWDs covered in the act; and to formulate and develop measures and policies designed to ensure that PWDs are educated, employed and participated fully in sporting recreational and cultural activities.⁷⁰

The act provides that the council will implement projects that will promote sheltered employment regular or self-employment opportunities for PWDs. Furthermore, the act ensures that PWDs are well placed in all spheres of employment. It provides that obligations on the council to maintain a record of PWDs are in possession of various skills and training. Such records are to be updated regularly for the purpose of job placement.⁷¹

Therefore, the act provides penalties of financial or potential imprisonment if the conditions of the provisions stated under section 26 are not met.⁷²

CHAPTER THREE

3. INSTRUMENTS DEALING WITH THE RIGHTS OF WOMEN WITH DISABILITIES

Women with disabilities, in general terms, have equal rights like other members of human society; and in particular they should have special right because of their special status within the society. It is to mean that their disability and being women could be the reason. These special rights are those practiced by others for granted without special attention. But for WWDs it is difficult to bring into participation unless the society has done a practical positive act towards them.

In general WWDs are entitled to all human rights. So they need a positive affirmative action to enjoy their recognized human rights. Within this context, state parties to the UN and non-state parties are encouraged to take affirmative actions such as measures to reduce structural disadvantages and to give preferential treatment to WWDs. It can help us to achieve the full participation and equality with in work places for WWDs.

3.1 International, Regional, and National Instruments

Under this section different international, regional and national instruments will be discussed in order to identify the rights of women with disabilities. Thus the instruments will be seen hierarchically from the general to the specific accordingly.

I. International Instruments

To begin with, it is worth to have a passing observation on how the UN can be referred as a focal point for the protection and promotion of human rights of PWDs in general. Then other international instruments specifically dealing with the rights of WWDs will be seen here in under. To indicate that to what extent the rights of WWDs are protected under the international instruments and its application will be assessed.

I.A. The United Nation Charter

The UN requires member states to respect the human rights for all without discrimination as to race, sex, language, or religion.¹ These means that the equality of all human rights are expected to be respected by all member states. This antidiscrimination principle establishes the center for moral and legal obligations for the protection of human rights of PWDs. Moreover specific articles of the charter provide a guiding foundation on which disabilities right can be considered so that this instrument declares that equal rights for all human beings without any discrimination. Article 1/3 of the charter provides that to ensure the equal rights for all without any distinction.

Other than this, the UN has another mandate on the issue to promote higher standards of living, full employment and conditions of economic and social progress and development. Generally the whole idea of the UN charter indicates that the general function of the UN is designed for the protection of all members of international society without distinction. Though, the issue of disabilities is also evident in the phrase for all even though it is not treated specifically.

Therefore, as the UN charter is the first document that can be considered as a starting point to protect the rights of all human kind. Moreover, this international instrument is considered the rights of all human beings to be respected equally without any discrimination. It is believed that the rights of PWDs are also included with it. But as the document is a general one it did not give clear provision to deal with the rights of WWDs in particular. Rather it stipulates to respect the rights of all human beings and it is guaranteed so that it could be considered as it protects impliedly while it provides equal protection for all.

I.B. Universal Declaration of Human Rights

The other international instrument which is the first document to recognize different rights is the universal declaration of human rights. It incorporates the principle of nondiscrimination, to the status of customary international law which makes it binding on all member states.²

Here article 1 of the UDHR provides that '*all human beings are born free and equal in dignity and rights*' Which has indication of equality for all and to give respect is the idea of this provision. In addition to this, article 2 of the document states that '*everyone is entitled to all the*

*rights and freedoms set out without distinction of any kind, such as race, color, sex, language, religion, political, or other opinions, national or social origin, property, birth, or other status.*³

As UDHR is the first international document to describe equality for all, like any other international instruments the UDHR does not permit discrimination against PWDs. By this phrase it states other status that indicates disability is not a ground to discrimination. And also they are entitled to have equal right with other human beings without any discrimination on the grounds of their disability.

In addition to the above rights, article 23 deals about the inclusion of the employment rights in general. Under article 23/1 of the UDHR the right to work, to free choice of employment, to just and favorable conditions of work and protection against employment are dealt.⁴ Though as far as the declaration indicates that employment is the right for any person who is capable to perform the activity to provide protection and promote the favorable conditions has to be fulfilled.

I.C. Convention on the Elimination all forms of Discrimination against Women

It is a treaty for the rights of women, and it is a pragmatic international agreement addressing the rights of women and girls. The convention exclusively deals with human rights of women and girls. Its adoption greatly increased the visibility of women in the human right system.⁵

This in turn creates an awareness of the obstacles to the specific measures needed to remove them. The convention deals on discrimination against women, including WWDs. It requires eliminating discrimination against women by any person, organization or enterprise.⁶

CEDAW can make a difference for women and girls, specifically to reduce sex trafficking and domestic violence, provide access to education and vocational training, ensure the right to vote, end forced marriage and child marriage, help mothers and families by providing access to maternal health care and to ensure the right to work and own a business without discrimination.⁷

This convention tries to avoid all kinds of discrimination against women. So it is being the basic document in the first place to protect the rights of women in general.

The convention provides or guarantees discrimination against women which shall be *any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their*

*marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, cultural, civil or any other field.*⁸

The convention tries to recognize the equality of both men and women with all their status. Besides, it tries to ensure the equality of women with men in enjoyment of the fundamental freedoms and human rights. In addition to this, article 13 requires state parties to eradicate discrimination against women in other areas of economic and social life. Thus CEDAW protections cover all women in general; they apply equally to WWDs and the able bodied similarly.

I.D. Convention concerning Vocational Rehabilitation and Employment (Disabled Persons) No 159/1983

ILO's purpose of having such convention is to have international standards on equality of opportunities in employment areas. It was the first binding international instrument which deals specifically about disability. The ground of the convention is the principle of equality of opportunity and equal treatment for PWDs in general on employment and integration or reintegration in to the community.⁹

The convention defines '*a disabled person as an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced because of a duly recognized physical or mental impairment.*'¹⁰ This definition is related to employment and based itself on rehabilitation.

Consequently, the convention also defines what vocational rehabilitation means according to article 1/2. As per the definition, *the disabled are persons whose capacity is reduced in securing, retaining, advancing in suitable employment.* Hence, the vocational rehabilitation is there to make the disabled capable of securing, retaining and advancing in suitable employment and thereby to further that person to integrate or reintegrate in to the society.¹¹

Therefore, it indicates that disabled persons need vocational rehabilitation as a prerequisite to have an employment for engaging in a certain work, as the disabled person should be rehabilitated. Moreover article 2 of the ILO convention provides that member states of the convention to adopt a national policy of vocational rehabilitation and employment which is

available to all kinds of disabilities. The convention states that member states not only to adopt it but also they should review periodically whether it is implemented or not properly considered by the member states.¹²

In addition to this, the ILO convention tries to provide implicit guarantee for the protection of WWDs at their work place. It could help to safe guard discrimination of WWDs from other employees at their work place. Thus, it is dealt under article 4 of the convention; it addresses the issue of equality. Equal opportunity should be given for the disabled workers in general. That could promote to achieve equality or disabled men and women in particular. Hence if there is any kind of affirmative action is applicable, it should not be considered as a base of discrimination.¹³

Though the convention requires that such policies shall be based on the principle of equal opportunity between and for disabled workers and workers in general, member states are required not to apply discrimination against workers in the labour market. Other than adopting the instrument it also impose obligation on state parties to issue specific policies and to review these laws dealing employment rights of persons with disabilities in general.

I.E. Standard Rules on the Equalization of Opportunities for Persons with Disabilities

The other international instrument that deals about the rights of PWDs in general is the standard rule. This standard rule is adopted by the UN general assembly on 20 December 1993. Its status is international customary rules. This standard rules were prepared on the basis of experience gained during the UN decade of disabled persons. The standard rules are the main UN rules guiding action in the area of disability. It should be noted that the traditional concept of prevention and rehabilitation has been transformed to the issue of the rights perspective towards PWDs.¹⁴ Although under its preamble descriptions of these rules are given, they are not compulsory. They can become international customary rules when they are applied by a great number of states.¹⁵

These Standard Rules are just guidelines that constitute "soft law" and the CRPD itself refers to the Standard Rules, and they are relevant as long as they do not contradict what is provided within the CRPD.

Though the standard rules on the equalization of opportunities is not a binding instrument, the standard rules represent a strong moral and political commitments of governments to take action to attain equalization of opportunities for persons with disabilities. The rule serves as a basis for technical and economic cooperation.¹⁶

The standard rules consist of 22 rules, these rules are concerning disabled persons and consist of four chapters as preconditions for equal participation, target areas for equal participation, implementation measures, and the monitoring mechanism and cover all aspects of life of disabled persons.

Thus these rules are designated to address the specific rights and needs of PWDs based on the fundamental human rights and freedoms incorporated in the international bill of human rights. One of the purposes of the standard rules is aimed to ensure that girls, boys, men, and WWDs as members of their society then they must exercise the same rights and obligations like others.¹⁷

Among the most fascinating rules incorporated under the heading of target areas for participation rule 5 accessibility, rule 6 education, and rule 7 employments have the great relevance to bring about full participation for PWDs in social life and as agents of their own destiny.

As we are dealing the issue of employment rights of WWDs, Rule 9.3 of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities provides that States "*...should promote measure to change negative attitudes towards marriage, sexuality and parenthood of persons with disabilities, especially of girls and women with disabilities, which still prevail in society.*"¹⁸

Furthermore, Standard rules 7 deals with employment, as it provides that states should recognize the principle that PWDs must be empowered to exercise their human right particularly in the field of employment. One of the key aspects in social life is having a remunerative work accessible to the desire of the employee or the worker in the employment field. To that end the rules provides that employment laws *must not discriminate against PWDS and must not put obstacles to their employment. It also encourages states to actively support the integration of PWDs in to open employment, design, and adopt work places to become accessible to disabled persons.*¹⁹

Moreover, according to the provisions stated earlier laws and regulations in the employment field must not raise obstacles to their employment. States should actively support the integration of PWDs in to open employment. This active support could occur through a variety of measures, such as vocational training, incentive oriented quota schemes, reserved or designated employment, loans for small business, exclusive contracts or priority production rights, tax concessions, contract compliance or other technical or financial assistance to enterprise employing workers with disabilities. Thus state should also encourage emphasis to make reasonable adjustment to accommodate PWDs.²⁰

When we try to see the majority of PWDs, they are denied the chance to regular, productive work and that for women with disabilities the situation is particularly difficult. On the other hand, as under national legislations states are enacting the rights and obligations of citizens, it shall equally include the rights and obligations of PWDs in general. Thus states are under an obligation to enable PWDs to exercise their rights, including their human, civil and political rights on an equal basis with other citizens.

I.F. Convention on the Rights of Persons with Disabilities

In 2006, the UN General Assembly adopted the convention on the rights of persons with disabilities which is the CRPD; it is the first convention that specifically addresses the human rights of PWDs in general.

The Convention on the rights of persons with disabilities is structured similarly like other international instruments. It contains fifty provisions, the first provisions of the convention constitutes provisions deals with general application which is provided under article 3 and 4 respectively. The convention deals on the rights of PWDs. It recognizes disability as an evolving concept and that disability results from the inter action between persons with impairment and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.²¹

The state parties to the convention have an obligation, under the convention to take measures in legislating laws, policies and programs. Moreover states have to find a way to implement the laws, policies and programs in which they came up. They have to eliminate any kind of

discrimination based on disability. They have to provide accessible information for PWDs about new technologies, mobility aids, devices and other obligations.²²

In addition to the provided obligations, states that are members to the convention have different obligations listed under it. The convention gives emphasis for women with disabilities. However women still face double discrimination on the ground of both their gender and disability. Nevertheless they need to be protected to participate and enjoy all human rights and freedoms equally like others.²³

Consequently, the other area that the convention deals about is work and employment under article 27. It imposes obligations for the state parties. The state parties should make the labour market free to PWDs to work in suitable way. Discrimination based on disability is prohibited in different circumstances like in hiring and employment conditions of recruitment continuance of employment, career advancement state and healthy working conditions. Equal opportunity remuneration, value protection and other necessary rights related to work are guaranteed under this provision.²⁴

In addition to this, if a disability comes after certain period the state parties is obliged to assist in finding obtaining, maintaining, and returning to employment. They have to encourage not only public sectors to hire PWDs but also private sectors too. The state has also an obligation to promote opportunities for self-employment, entrepreneurship, the development of co- operative and starting one's own business. The state has to make sure that PWDs are not held in slavery or in servitude have given equal opportunity, and are protected from forced labour.

However, to ensure enjoyment of this right, state parties must guarantee just and favorable conditions of work, as well as equal access to services at their work place. In addition, they must ensure access to vocational training and career advancement. True equality must promote employment and self-employment opportunities, as well as job retention and return to work programs.²⁵

Therefore, finally the conventions have put implementation provision and impose an obligation to the parties to the convention under article 33, which states about national implementation and monitoring. The state parties should have a mechanism in which they can monitor the implementation of the convention in one state by considering national institutions and the status

for protection and promotion of human rights of PWDs. Hence not only the convention tries to look at all around the rights of PWDs in general, it also gives protection for WWDs in particular.

II Regional Instruments

When we come to the regional instruments we have several important regional instruments designed for the protection of the rights of WWDs. Within this consideration a summary of regional instruments concerning the rights of WWDs will be seen. Specifically those instruments under Africa will be discussed starting from the general instruments to the specific ones will be assessed hierarchically.

II. A. The African ‘Banjul’ Charter on Humans and Peoples Right

The African charter on human’s and people’s right encourages states to fulfill the following duties with regard to PWDs. States parties are encouraged under this charter to ensure the rights of PWDs to have special measures of protection in keeping with their physical or moral needs.²⁶

Though according to this charter state parties are also encouraged to use their available resources with a view to achieve progressively the full convenience of the mentally and physically disabled person to movement and access to public high ways, buildings and other places to which the disabled may legitimately want to have access.

II.B. The African youth charter

The African youth charter deals about young persons who are described to the enjoyment of their rights and freedoms as it is recognized under the charter. Thus in this charter the principle of non-discrimination is guaranteed *irrespective of their race, ethnic group, color, sex, language, religion, political or other opinion, national and social origin, birth or other status.*²⁷ So according to this provision, it guarantees non-discrimination with all the provided grounds and as it is stated with the phrase or other status which also include with it that disability cannot be a ground for the issue of discrimination.

Article 12/f/ of the charter provides equal opportunities of youth, men and young women. State parties had the duty to fulfill or respect the commitments made under the charter.²⁸

Article 23 it guarantees the rights of young girls and women in order to eliminate discrimination against them. Here it stipulates that in various international, regional, and national human rights conventions and instruments designed to protect and promote women's right in different activities.²⁹ According to this provision, the charter tries to bring equality between men and women at all levels. However if the charter still provides different provisions to protect young people like men, girl and women. It did not include or give emphasis for the protection of PWDs in general and WWDs in particular. But as PWDs in general and WWDs in particular they are part and parcel of the community it can be seen the charter is protecting their right impliedly when it guarantees the provisions of equality and non discrimination for all.

II.C. Continental Plan of Action for the African Decade of Persons with Disabilities 1999-2009

The continental plan of action is aimed at implementing priority activities on disability during the African decade on disabled people.³⁰

Generally, the goal of the decade is to achieve the full participation, equality and empowerment of PWDs. In Africa mainly the objective of the action plan is by formulating policies and national programs that encourage the full participation of PWDs in social and economic developments. Mostly it promotes more efforts that encourage positive attitudes towards children, youth, women and adults with disabilities. The implementation of measures to ensure their access to rehabilitation, education training and employment, as well as to cultural and sports activities and access to the physical environment are given especial attention.³¹

Though these are some of the main objective that is related according to our subject matter, the plan of action tries to guarantee the rights of WWDs within its objective to give emphasis for WWDs by encouraging positive attitudes to ensure that their access to education, rehabilitation and employment is promoted.

Consequently, it provides that to achieve the goal of the decade, it should be implemented in accordance with different governmental, nongovernmental and other institutions which are related to work on the objectives of the plan of action.

However, in doing so, mainly to achieve their objectives member states have obligations to fulfill as they are party to the plan of action. It could be expected by reviewing or amending, adopting different national legislations or by amending laws that have negative implications on the lines of PWD.³²

Thus they are expected to issue a new law that promotes the full and equal participation of PWDs. This equal opportunity for all can be achieved. Hence article 20/c also provides that the amendment should include the constitutional provisions, and other legislations to avoid discriminatory phrases. Then they are expected to state non-discriminatory clauses on the basis of disability.

In addition to this, the 2nd objective under article 22/1/a states about the obligation of member states they should develop and implement a strategy to develop and promote the recruitment of women and men with disabilities by employers of all kinds and training opportunities for women and men with disabilities in mainstreaming training programs is expected.

As per this provision member states have the obligation to create equal opportunity for WWDs and also to give them an equal training opportunity. Though as the plan of action specifically tries to address the issue of WWDs to have equal right with all the others, it is believed that the society plays a role in addition to their disability. So that this plan of action is applicable for those who are member states and gives clear consideration to implement it. Moreover, it will be helpful to protect the rights of PWDs in general and WWDs in particular. If a state is a party to this plan of action legislations that guarantee, their right should be either issued or reviewed, and gradually new legislations should be issued which have to deal with their right in accordance with the national laws.

The plan of action guarantees the protection of the rights of PWDs to have full participation in different activities and to ensure that they are participating in activities equally like any others. Thus objective 6 of the plan of action states to ensure and improve access to rehabilitation, education, training, and employment. What the state should have fulfilled is stated under article 2 /iv/ a; it indicates about employment. Here in order to protect PWDs bright member states are expected to ratify and implement the ILO convention 159 concerning vocational rehabilitation and employment (disabled persons) to ensure entry to the labor market of PWDs.

Although according to this provision member states are expected to ratify the ILO convention in order to respect and protect the employment rights of PWDs in general, developing and implementing rehabilitation programs is also expected from the member states.

Therefore, the plan of action in general has considerable provisions to protect the rights of PWDs in general and WWDs in particular. The plan of action states the expected rights of PWDs in general and WWDs in particular with providing mandatory provisions on state parties to the plan of action. This could create the sense of responsibility. Thus member states will have obligation to fill the gaps by considering their national laws, by reviewing their discriminatory provisions. Then acting according to the provided provisions under the plan of action brings equality for all in all areas, creating equal opportunity for all. Whenever a state facilitates the necessary and the basic needs of PWDs in general and specially WWDs in particular faced double discrimination ensuring their right is necessary. Yet respect will be encouraged either through or within the community they are living or their world of labour market. So it is good to have it as it provides the obligations of the states in order to promote the rights of PWDs in general.

III National Instruments

Under this section the national instruments that specifically deal about the rights of PWDs in general and WWDs in particular will be examined. Here in under this section the one Ethiopia adopts some of the international instruments that deals about the rights of PWDs and the way how the state responds to protect their right specially the rights of WWDs will be seen according to the hierarchical order of the laws.

III.A. FDRE Constitution

The constitution is the supreme law of the country. This basic document establishes the rights and duties of citizens. The FDRE constitution states that all human beings are *equal before the law and are entitled to equal protection of the law without distinction in respect to race, nationality, color, sex, language, religion, or political opinion, social or any other status.*³³

Thus according to this provision as the equality of all human beings are stated, the rights of PWDs is also included under this provision within the phrase ‘other status’. Here it includes PWDs to be protected equally like others and it declares that they are equal before the law

without any discrimination. Furthermore article 41/5 of the constitution also sets out the states responsibility for the provision of the necessary rehabilitation and support services for PWDs.³⁴

In addition to this the constitution under article 9/4, provides that international instruments which Ethiopia has ratified have equal status and acceptance as the national laws of the country. Thus Ethiopia has adopted the UN convention on the rights of persons with disabilities. It is specific legislation which deals about the rights of PWDs and the adoption of this convention by Ethiopia makes it part of the country's law.

The other constitutional provision extending general protection for PWDs is article 13 of the constitution. Article 13/2 of the constitution requires the interpretation of the chapters dealing with human rights to be interpreted in conformity with internationally ratified treaties, agreements and conventions. This is to mean that these instruments are used as reference materials when interpretation is needed.

Since international legal instruments ratified by Ethiopia are the integral part of the law, they will have direct and indirect effects. When we say direct effect it is exercised by the articles from the document as they are. But when we say indirect application it is to indicate the incorporation of the idea agreed in ones domestic law using ones mechanisms of inclusion.

Disability is well addressed in international legal instruments, yet there is still the need to have another legal instrument to effect the protection well. Here in our case as we have ratified the document, this legal protection extended by the constitution then it will help to use the ratified instruments both at the time of making the laws or in interpreting them.

Moreover, the FDRE constitution has tried to address the issues of PWDs in general. We can also interpret the rights of WWDs impliedly within the provision provided to protect the rights of women in general as it ensures the principle of equality.

Although provisions like article 25 of the constitution promote gender equality by prohibiting discrimination on the basis of different grounds, then the phrase can still apply for prohibition of discrimination on the basis of disability. Thus this can be used to safeguard the rights of WWDs by prohibiting discrimination on the ground of disability. The most relevant ones to the issue under discussion are article 35/3 is the one that recognizes women's right to affirmative action

and article 35/4 that deals about the rights of women to be protected from the influences of harmful customs.³⁵

Article 25 promotes gender equality that can be used to safeguard the rights of WWDs in particular. The other relevant one to this discussion is article 35/3 which recognizes women's right to affirmative action and article 35/4 which deals about the rights of women to be protected from the influences of discriminatory practices.

In addition to this, the constitution guarantees the rights of WWDs impliedly while it provides the rights of women in general. So as the rights of WWDs are protected we can see to what extent the constitution protects the right to work. Hence article 42/d of the constitution states that *'women workers have the rights to equal pay for equal work'*. This means that this provision gives protection for all women in general to have equal pay for equal work in comparison with men workers.

Thus the principle of equality also stipulated under the constitution, the state has the obligation to facilitate the conditions that bring equality for all human beings in all activities. Thus the most important thing is equal employment opportunity. So as the constitution provides the right to work is guaranteed that every human being who is capable to participate in the fields of work is allowed to enjoy this right to work. Hence WWDs is one of the right holders to participate in the field of work so they can enjoy their right equally with others.

Furthermore the rights of women are protected under article 35 by providing that they have equal right with men. In this case even if WWDs are not stated expressly their being women only should have included them to be protected together. Article 35 /8 states women's equality in employment promotion, payment and transfer of pension entitlements.³⁶ Thus the rights of WWDs have to be protected accordingly under this provision together with the provided rights of women in general.

Therefore, as the constitution is the general document it stated the equal enjoyment of rights together for all without any distinction. For the fact that the constitution describes the rights of women in general, it has the aim to bring equality for all. Unlike other sectors of the population especially women with disabilities are those who face double discrimination their rights will be guaranteed by the principle of equality and treated with in the provision stated for women in

general. Thus, as long as the constitution gives equal protection for all the protection for WWDs will be applied together equally.

Then as the state adopts the convention which is the CRPD to protect the rights of persons with disabilities it imposed different obligations to be fulfilled. Hence after adoption the state shall issue specific legislations and policies to protect the rights of women with disabilities in particular. Because the convention gives clear provision to protect the rights of WWDs in particular so according to the provisions of the constitution the convention becomes part of the national law. Thus in order to promote the rights of WWDs in particular specific legislations should be issued.

III.B. Developmental Social Welfare Policy

The Ministry of Labour and Social Affairs issued this policy in 1996 in order to create a favorable social condition for segments of the population whose social welfare is a priority concern.³⁷ The policy aims to address the social problems of groups considered to be vulnerable, i.e children, the youth, the family, women, the elderly and persons with physical and mental impairment.³⁸

Because the focus of the area of the policy is social welfare of these groups, the policy has the objectives like expanding participatory developmental social welfare programs and services. Also, it has the objective of developing preventive measures to social problems based on studies, rehabilitating members of society who are already suffering from various social problems and require special treatment and attention.³⁹

The policy maintains conditions that enable PWDs to be self-supportive and active participants in the countries. Thus, it advocates for the provision of education and skill training, gainful employment opportunities, medical /health services and institutional care services.⁴⁰

It also promotes public awareness programs, the removal of physical barriers, providing support to those involved in providing services to persons with physical and mental impairments and taking legislative measures to ensure the welfare of PWDs.

One of the key contributions of the policy towards the realization of the rights of PWDs is its emphasis on awareness creation activities to change the perception of the public that has a negative impact on the lives of PWDs.⁴¹

It stresses on creating conducive environment for the active participation of PWDs in the country's development which is the strength of the policy. The policy regards to the provisions of education, skill training, employment and the like have the potential to improve the participation of PWDs.⁴²

Even though there is a frame work of actions, specific strategies and plan of actions which should be adopted to bring about the desired changes explained in the policy, duties and responsibilities of organs in implementing this particular aspect of the policy have also been considered. The policies in general incorporates different rights to be protected women with disabilities are not included within the policy.

The developmental social welfare policy envisages efforts towards creation of conditions that will enable PWDs. Which could help them to use their abilities as individuals or in association with others to contribute to the development of society as well as to be self-supporting by participating in the political, economic and social activities of the country. More specifically, it underscores the need for creating conditions where rules, regulations, programs and services could be strengthened and expanded to enhance vocational training and placement opportunities for PWDs.⁴³

However, the policy has set out specific areas where efforts for enhancing opportunities to PWDs should be directed by increasing education, skill training, employment opportunities and other services and adoption of appropriate legislations with a view to ensure the welfare of PWDs in general.⁴⁴

Moreover the present developmental social welfare policy is currently under revision according to the information that the writer of the study gathered from the Ministry of Labour and Social Affairs. But this policy should include considering the rights of PWDs in general even if it did not describe the rights WWDs specifically. Therefore as WWDs are those who face double discrimination they shall be protected fairly under strategies of the policy with a specific

provision. While improving or revising this policy the inclusion of WWDs under specific condition must be seen in order to promote their participation at their working environment.

III.C. Federal Civil Servant Proclamation 515/2007

The federal civil servant proclamation is new amended proclamation in 2007. It is applicable to regulate relations between government and civil service employees then contains a provision which specifically deals with PWDs opportunity for participating in employment. The proclamation incorporates the principle of non-discrimination by stating that in the recruitment of employer's affirmative action to be given for PWDs in general.

This is one of the laws that have been promulgated to ensure job security and fair conditions of services to government employees. It explicitly states the rights to affirmative measures to PWDs, in the government office.⁴⁵ Thus the right to affirmative measures to be taken during the filling of vacancies, by way of interpretations, continues in cases of training, promotion provision of facilities, transfer and reduction of work force etc. Moreover, the right to affirmative action can be wider if PWDs is both women and from under represented nations in the government offices. The proclamation gives more advantages to WWDs than MWDs and women without disability.

The Proclamation also provides about the filling of vacancies under article 13. It states that non-discrimination among job seekers or civil servants while they are filling vacancies. This discrimination is prohibited on the basis of ethnic origin, sex, religion, political outlook, disability, HIV/AIDS, or any other grounds.

Furthermore, article 13 /3 states that preference shall be given to female candidates with disabilities and members of nationalities comparatively less represented priority shall be given. As it is stated under the provision, priority must be given for those stated earlier. So the proclamation safeguards the rights of PWDs in general. In addition to this, it provides that affirmative action in employment is conferred on PWDs. So as it is stated the only criteria they should fulfill is having the minimum score.

As it is stated under article 13/4 when filling a vacant position 'priorities of appointment shall be given to candidates with disabilities who meet the minimum passing score. According to the

provision stated earlier scoring the passing mark is sufficient for PWDs. Employment access should be given as priority to PWDs in employment over the able bodied ones.⁴⁶ But as the proclamation provides as principle of non-discrimination, it is expected to provide some provisions that states about the rights of WWDs in employment.

Therefore, the proclamation is issued to regulate the relationships between government institutions and civil servants. It includes nondiscriminatory provisions on the work places depending on different grounds including disability. Thus, it is believed that it considers or protects the interests of PWDs in general. It also provides affirmative action which is made to initiate and encourage conditions of persons with disabilities to promote participating in the areas of work. Even if the proclamation gives protection for PWDs in general and WWDs in particular by way of affirmative action, inclusions of non-discriminatory provision WWDs are still face challenges at their work place.

III.D. Labour proclamation 377/2003

This proclamation specifically deals about the employment rights of the private sector. And it tries to avoid discrimination and unlawful market activity for an employer to make distinction between workers on the basis of nationality, sex, religion, political outlook or any other conditions.⁴⁷

It does not explicitly prohibit discrimination based on disability, but the phrase ‘any other condition may be taken to include disability even though it remains ambiguous. Then part 7 of the proclamation deals with occupational safety, health and working environment. Under this part, section 99 defines the concept of disablement. ‘disablement’ is defined as any employment injury as a consequence of which there is a decrease or loss of capacity to work.⁴⁸ The degree of disablement ranges from temporary, permanent, partial to total disablement depending on the effect of the effect of the injury on the working capacity of the worker.

III.E. Employment Rights of Persons with Disabilities Proclamation No 568/2008

The right to employment of PWDs proclamation is a land mark legislative document enacted to facilitate the creation of equal opportunity for PWDs in the area of employment. Whenever laws

are drafted with a view to safeguard the interests and rights of certain groups of people one of the questions that will arise at the outset is how it defines the beneficiaries of the legislation.⁴⁹

Though according to proclamation 568/2008 'person with disability' is defined in a way an *individual whose equal employment opportunity is reduced as a result of his physical, mental, or sensory impairments in relation with social, economic and cultural discrimination.*⁵⁰

When we see the scope of the proclamation it applies to employment relationships that exist between any PWDs and employers.⁵¹ So the scope of application of the proclamation has to be understood by two things. There is what employment relationships mean and who an employer is envisaged by the proclamation.⁵² Thus it guarantees the employment rights between qualified workers or job seekers with disability and an employer.

The proclamation relies to encourage employers to hire PWDs. It has its own feature which is prohibition of discrimination, the principle of 'reasonable accommodation' which is related to the norm of non-discrimination in the eyes of the proclamation; limited affirmative action and reversal of burden of proof are included.

The principle of non-discrimination is aimed to bring equality between human beings. It is included under article 5 of the proclamation. It states that a discriminatory situation against PWDs is prohibited and if there are practices that can impair the equal employment opportunities of PWDs during recruitment, promotion and training is happened. The act is considered as it is discrimination made against PWDs. Moreover the principle of affirmative action which is applicable to bring equal opportunity in the work place should not be considered as a discriminatory practice.

In addition to this, article 7 of the proclamation provides that a provision that will encourage PWDs whenever they face discriminatory practice that would enable to exercise their right. It states that 'any PWDs who alleges that discrimination on the ground of disability existed with respect to recruitment, promotion, transfer or any other conditions of employment the person can institute a suit to the court against the defendant without bringing any burden of proof.'⁵³

Though as per this provision, it is believed that the rights of PWDs are protected in filling a case or suit against the employer who imposed discriminatory practices in the areas of work. Here in

this case the employer which is the defendant is expected to prove that there was no act of discrimination.⁵⁴ It could bring the equality of opportunity for all humans because as PWDs are human beings like others on the ground of their disability imposing discriminatory act should not be permitted. Thus as they are equal they should have equal employment opportunity like all other human beings.

In addition to this provision, article 10 also provides making strong application of suits. Here whenever the laws like the proclamations, regulations, and directives are enforceable properly any PWDs whose rights are violated could institute a case before a court.⁵⁵ Hence it stipulates that if the non-applicability of the law creates any violation on the right of PWDs existed. Their right is protected either by filling a suit by themselves or by any other who is a member can institute the case. It also provides those who violate the provision of the law could be penalized by fine punishment.

Moreover under article 6 of the proclamation it stipulates that responsibilities of the employer within this provision that the rights of WWDs are included. It provides responsibilities of employers to provide appropriate working, training conditions, working and training materials for PWDs. Although the employer is expected to provide reasonable accommodation and measures of affirmative action for WWDs in order to create conducive work environment. Thus the proclamation considers the situation of WWDs and to encourage them by applying some degree of affirmative action for WWDs due to the double burdens that WWDs face on the basis of their gender and disability.

Furthermore, as the writer of this study stated earlier the proclamation provides favorable opportunities for PWDs in general in providing matters of non-discrimination, access to appropriate training and employment opportunities, including opportunity for reasonable accommodation and affirmative action, wages and benefits.⁵⁶

This provision stipulates that the principle of non-discrimination ‘‘ unless the nature of the work dictates otherwise , a person with disability having the necessary qualification and scores more to that of other candidates shall have the right without discrimination’’ To occupy a vacant post in any office or undertaking through recruitment, promotion, placement, or transfer procedures, to participate in training program to be conducted either locally or abroad.⁵⁷

As it is seen earlier the provision indicates to avoid discrimination on the ground of disability. Here as long as PWDs is capable to take the position, discrimination on the basis of disability is prohibited. More importantly, the proclamation deals on the idea of reasonable accommodation which is indicated under article 6. ‘Any employer is required to take measure to provide appropriate working and training materials for PWDs. Under sub article 2 it provides that employers are required to take all reasonable accommodation and affirmative action to women as well. Moreover the employer is required to assign assistance to enable PWDs to perform work and follow training.

Though this provision provides that every employer has the responsibility to take affirmative action in favor of WWDs, it will be helpful to take in to account their multiple burdens that arise from their gender and disability. This is relatively broad measures of affirmative action which is confined to its application to women with disability to the exclusion of males.⁵⁸

In addition to this proclamation, there is a directive issued by Ministry of Labour and Social Affair in order to effect the applicability of the provisions stated under the proclamation. But the only applicability of this directive is for those developmental organizations. This is not helpful for civil service employees. Hence in order to effect the provisions of the proclamation and to protect the rights of civil servant WWD employees, the Ministry of Federal Civil Service shall issue its own directive to protect the rights of WWD employees under its supervision.

CHAPTER FOUR

4. RESULTS AND ANALYSIS OF THE DATA

4.1 Status of Women with Disabilities

As already been discussed in the literature review part, the rights of WWD employees have not been fully recognized. Even if there are provisions either international, regional or national laws they are not sufficiently address the rights of women with disabilities. As different researches shows WWDs face challenges at their work place due to inadequate implementation of the existing laws.

With this regard, poor working condition like promotion, transfer, training, attitude and inadequacy of laws are the basic challenges that WWDs face. These issues are discussed in this study.

4.1.1 Characteristics of Respondents

The study covers a sample area of five institutions namely the Ministry of Federal Civil Service, Ministry of Labor and Social Affair, and Ministry of Education, Revenue and Customs Authority, Ministry of Women, Children, and Youth Affairs. In these institutions WWDs are employed.

In conducting this study, 30 women with disabilities were chosen by way of purposive sampling. These respondents are engaged in different sectors under civil service institutions.

4.1.2 Working Environment

60% /18 of 30/ of respondents have replied that they never plan together with their employers about the way how the job should be conducted. In most of the cases after the institution employ these WWDs they are assigned to any available work place without considering their educational status but mainly they assigned them to any comfortable place to their disability. Here in this case according to our respondents the level where the disabled women assigned and the level of the salary that could be paid at their educational level are different. The institutions were not consulting WWDs while employing them about the necessary equipments in ensuring reasonable

accommodation, such as preparing accessible work place in order to create conducive working environment, planning the program to conduct the work, and purchasing any special equipments.

The proclamation also ensures the equal participation and training programs to be protected and respected. However, respondents affirmed that they were not participated. They illustrate clearly that they were not involved in planning unless and otherwise they have direct relation with the task.

4.1.2.1 Work Accommodation

According to the respondents 66.67% /20 of 30/ respondents described that promotion is made in favor of non disabled even though both disabled and non disabled are at the same working status. Those who get promotion, transfer are 23.3% while 76% of the respondents state that they did not get any Promotion, and transfer. Thus we can confirm that most of WWDs had not get promotion and training. Here the issue of promotion according to our respondents indicates that they were not promoted while others get promotion. For this reason employers provide reason for WWDs by saying the promotion status has got field work which could possibly affect you and it requires independent person to actively participate. So if we assigned you there you may not perform the job well. Here the employer's perspective shows us that by stating the difficulty of the job they will hinder WWDs from joining the promotion.

Proclamation 568/08 under article 6 explicitly states that reasonable accommodation for WWDs to be affirmed, by taking in to consideration their multiple burdens that will arise from their gender and disability.¹ This provision gives special protection for WWDs. But in considering this provision the disabled women had not get any special benefit or protection as a result of lack of inadequate implementation of the existing law.

Though, the proclamation states instituting a suit by indicating discrimination on the ground of disability, generally, it is permitted to take their case to the competent court, they can bring the case without bringing any evidence. Respondents described that for the existing discrimination at their job 76.6% /23 of 30/ WWDs did not sue. From these respondents 8 of 23 which is 34% tried to sue but while they are preparing, their managers brought complain to the higher officials by stating that they lack competence at their job and they do not have interest to perform their job. Due to this, these respondents rejected to complain about the existing discrimination.

Because they have the fear facing challenge of getting less competence evaluation and losing their job.

The other rest of 65% /15 of 23/ did not take their case to the court because they do not know anything about the existing law. Even if any act of discrimination is committed they do not know what to do except discussing what happened with their job partners.

With regard to 34% of the respondents, they do have ideas on understanding the law and have knowledge of the law /what the law says/. But it is not still sufficiently applicable to protect the rights of WWDs. However, much number of respondents 65% of them does not have any idea about the law. As they don't know the law to protect the rights of WWDs they have the fear to defend themselves.

Then 34% of respondents who knows about the law said that the law is issued to protect the employment rights of PWDs but it is not implemented adequately. What we see in practice has difference from what is written on the law. They also indicated that the law did not go beyond the paper. So as the issued law must bring equality by avoiding discrimination in employment. Thus ensuring the implementation of the law will protect the rights of WWDs at their work.

This shows that inadequate application of the law. As the law is issued to protect the rights of PWDs in general and WWDs in particular, they must be the beneficiary of the rights given under the law. But if the law is not implemented sufficiently more attention should be given to make awareness in introducing the law by the responsible organs. Thus even if the law is issued introducing the law either for the employer institutions or for the right holders themselves is not made adequately. As a result of this, the victims do not know their rights and duties. Even if the violation of their right exists they do not know what to do. Therefore, there has to be strong effort for high awareness creation by trainings, distributing the available laws at least for the beneficiaries of the law.

In addition to this the proclamation, article 6/c provides assignment of assistance to enable PWDs to perform their tasks. 86% /20 of 23/ respondents provide that there is no sufficient assistance assigned to guide the employers.² Particularly the problem is highly seen for those visually impaired women and lack of sign language interpreter for those who have hearing impairment. These shows they are deprived of information that is important to them.

With this regard the writer of the study interviewed Ato Abebe Seifu, who works at the ministry of federal civil service as a directorate director, at the inspection director stated that in most of the institutions hiring assistance is not adapted mostly for those physically disabled and hearing impairments. In practice we can see that institutions only hire for those visually impaired but I can say that it is not sufficient. Then he said I don't think we are strictly following the provisions of the law. Because in most of the institutions the available assistances are only for visually impaired ones but we don't have that much sufficient assistances. When we see those who have hearing impairment they don't have any assistance but when the law state to assign assistance it is meant to be applied for all. Thus the employers are not implementing the provisions of the law properly. In addition to this the Director stated that hiring assistance in practice specially for those who have hearing impairment is not applied. Thus, for those employed WWDs the existing problem will be doubled. Then uncomfortable situations at their work place will be seen to perform their task properly. ³

In principle, the law guarantees the importance of hiring assistance in general. But according to the practices faced by the respondents, the institutions do not want to employ another additional employee as assistance. While saying this even if the employers hire someone as assistance they do not have any criteria they just believe that to assist them in their movement and to read for them. According to the view of our respondents the idea of assistance should be in the first place understood only not to mean to help our movement rather the employed assistance should understand every paper written either in English or in Amharic. But the existing trend shows that there is unwillingness to hire assistance by the employer even if it is stated under the law, they give that a reason such as insufficiency of budget and state that they are not unable to employ additional employee.

34.78% /8 of 23/ the respondents are working without assistance. From this 30.43% /7 of 23/ of them while asking they need assistance the institutions provides them an answer ‘‘why do you need assistance? You are working without them so you have to work together with the other workers’’ in short the employers do not have the budget and the interest for hiring assistance.

Generally speaking, this means that the application of the law is still low; it is not understood by the employers' institutions. Even if the law described the rights and duties it is not yet applicable sufficiently. Thus the non application of the law is also considered as it is a violation of the

prescribed right given to human beings primarily and then secondly as women with disability. But even if employers provide that there is insufficiency of budget different literatures provide that the availability of programs and services that prioritize gender equality can ensure that women are not exposed to different discrimination at different fields. Here WWDs are part of them and they face the challenges twice as they are women and disabled.

Gender responsive budgeting is a participatory useful methodology for encouraging governments to allocate resources for the creation of safe public spaces for women in general.⁴

So in order to bring gender equality and to avoid discrimination allocating resources is necessary. Then when the government allocate budget in order to protect women in general WWDs share the right together as they face double discrimination. Thus in our case whenever the government allocate resource and distribute available budget it will empower WWDs to achieve higher status at their work.

Therefore, as we can see from the collected data the proclamation issued to protect the employment rights of PWDs in general and WWDs in particular is not properly implemented. The existing evidence shows that there is a need to plan holistic programs in relation towards creating employment supporting for WWDs. Though the government should set standards through legislation, and a system of check and balance is not created. Thus, the applicability of the existing laws must be introduced and the impacts must be identified.

4.1.2.2 Accessibility

80% /24 of 30/ WWDs confirmed that they suffer from in accessibility. This has a tremendous impact for their jobs. Hence they struggle with a number of barriers related to accessibility as a challenge at their work place.

With regard to building conditions, proclamation 624/2001 requires all new building construction over four floors to have elevators, in addition to this accessible toilets also indicated.⁵ Although, proclamation 568/2008 includes provision about accessibility; WWDs still suffer severely from lack of accessibility at their work place. Here most of the old buildings do not have ramps, hand rails or any other support systems are in accessible but there must be a means to access the buildings.

In addition to this, WWDs can be productive members of the society. In the institutions promoting them and using inclusive ways for WWDs should also be improved. Here while providing jobs it must be suited to their skills, interests, and abilities. And also recognizing the need to dismantle other barriers is making the physical environment more accessible, providing information in a variety of forms, and avoid challenging attitudes and mistaken assumptions' about WWDs. Thus in fact WWD workers have struggled with a number of barriers relating to their working environment.

Therefore, according to our respondents what they want to see in the future is accessible building and transportations, available access to mobility aids, reliable and appropriate legal representation for those who face discrimination on their jobs, are some of the beliefs they want to see.

4.1.2.3 Attitude towards Women with Disabilities

According to the respondents statement they indicate that 86% /26 of 30/ of WWDs confirmed that they had faced negative attitude at their work place. Negative attitude towards WWD employees can result as a manifestation of discrimination. The institutions are composed of different individuals with their own attitude and beliefs about WWDs. These attitudes are generated from ignorance, misunderstanding, stereotype and fear.

Social discrimination is considered to be one of the most significant problems for those WWDs. The attitudes of employers affect the employment out comes for WWDs. 34.61% /9 of 26/ respondents were complaining about their status as they have all the necessary qualifications and documents, but they are working below the level of their status where they belong. This is happened because of the negative attitude of the employers in believing that WWDs could not be capable of fulfilling the provided job, rather the employers assigned them in another place in a lower level. This can be seen as a violation of article 5 proclamation 568/08 because it states that any attitude or discriminatory situations that impair the equal opportunities are illegal.⁶

Therefore the situation faced by those WWDs is seen as a violation of their right guaranteed under the law. Thus if the law is sufficiently introduced and known by the victims their right will be protected as a result of the effective implementation of the law. But under these circumstances

due to the insufficient application of the law, we cannot say that the rights of WWDs are protected.

Because WWDs are capable of doing any activity that could be done by the able bodied, they should be provided any activity since “disability is not inability”.

The only requirement to be fulfilled is required performing any activity like non-disabled ones are having “capable mind”. Then WWDs being disabled cannot be a reason to avoid them from any activities by providing the available jobs for non-disabled. Different instruments either internationally or nationally guarantee that equality of human beings and providing equal opportunities for all are provided. If the available laws were applicable adequately, the existing problems could not be seen in practice as a challenge for WWDs at their working environment.

Moreover 42.30% /11 of 26/ respondents stated that most WWDs lack self-esteem. They have less value for themselves and believe that they will not do much better than this. Then Tirussew also indicated that their sense of self worth eroded by the prevailing attitude that they have become unproductive.⁷ In addition to this here in most of the cases WWDs struggle to be recognized first as human beings then as being women. The gender bias and disability at their work place impose a subordinate status on them. Though their right as workers is over looked and we need to investigate the extent of violence against WWDs at their work place. So public attention can then be mobilized to address the problems and protective steps should be taken to assist WWDs by the concerned body.

Furthermore with regard to the chance of getting training and participating in public forum 76% /23 of 30/ respondents have replied that there was no continuous forum. These respondents had no chance of training because of lack of awareness of the employers. Here they indicated that discrimination on providing training is because of the level of understanding of the employers. Employers believe that giving the chance of training for WWDs would be meaningless. In fact it is seen that when there is a workshop and training programs it will be forwarded for non-disabled. The reason why they make such kind of thing is due to lack of awareness by sending the able bodied they believe that they could get better knowledge. Thus it is also a way of showing their discrimination against WWDs by approving that they are value less so they do not give the chance of training, which is against the principle of the laws.

Some respondents 13.3% /4 of 30/ replied that once in a year it could be conducted but it is not that much relevant when we see it in line with the existing problem and it is not that much related with the issue.

Therefore to avoid this problem and to solve negative attitude towards WWDs, the best way could be providing training because while conducting and discussion awareness could be created, misunderstanding and negative expectations could be solved. Then through discussion and sharing ideas between one another possible ways will be available to create conducive environment for WWDs. That is some of the possible way to change the negative attitude of people within the society. Under the institutions, another problem WWDs faced is discrimination due to lack of workers awareness. Even if the responsible organ to create public awareness is the Ministry of Women, Children and Youth Affairs. MOLSA also have the same status to create the available awareness, human rights commission, and associations working with women with disabilities must work together in order to avoid the existing misunderstanding. The society must be changed in the first place then this could be achieved in providing together continuous awareness creation trainings. Those organs on the same issue must assess the problems and report the findings to the responsible organ in order to have binding document and guarantee the application of the law.

The rights of WWDs in most cases are not respected like other individuals but these WWDs should have special rights because of their lower status in the society. In order to avoid the existing problems employer organizations must facilitate training program to introduce the present law and to create awareness, and creating independent WWDs affairs with in the departments. Like women's affair program that must be conducted and lead by women with disabilities themselves must be formed.

In doing so as the writer of the study interviewed Ato Daniel Debebe who works at the Ministry of Labor and Social Affair as an expert at the social welfare development promotion directorate, he stated that, there are different performer's levels of understanding in different institutions. Then the way they see and understands the law is different. So in order to balance the level of understanding we have to develop the trend to give more training as a responsible organ he said we did not provide such kind of programs before. In addition to this, he discloses that until now

they do not have specific policy in order to protect the rights of WWDs. But in different legal instruments that have related issues they are trying to include the rights of WWDs.⁸

Therefore, they did not follow-up those problems by the responsible organs and the failure to prepare a forum or training on the specific issues of WWDs led them to insufficient application of the law.

4.1.2.4 Inadequacy of the Law

50% /15 of 30/ respondents stated that the non applicability of the law is raised due to lack of detail provisions that can lead them how to implement the existing law. 86% /26 of 30/ respondents stated that employer's unwillingness is caused because of their negative attitude is one reason. Whereas the rest 66% /20 of 30/ respondents stated that absence of the responsible organ to check on the applicability of the law are some of the reasons. So we can see that the issued law is not applicable sufficiently as there is no responsible organ to control the implementation of the law. Though it is possible to say there are responsible organs to follow up the law we cannot say that they are performing their duty properly. The institutions are not trying to enforce the law sufficiently by way of check and balance.

With this regard as the writer of the study interviewed Ato Abebe Seifu who works at the Ministry of Federal Civil Service, as a directorate director at the inspection director, he stated that there is no any specific law till now in order to effect the given provisions under the proclamation. However at this time we are trying to issue a directive that could help every civil service institutions to guide them how to conduct the provisions of the proclamation. In this draft directive we tried to include specific provisions about the employment rights of WWDs but it is not yet finished. So it could be a reason for the insufficient applicability of the law under different civil service institutions.⁹

Therefore as the implementation of the law is very limited to guarantee the applicability of the law, responsible organs must prepare awareness creation trainings, and public forum must be conducted. As WWDs share double burden due to their gender and disability it is considered as a discrimination which is a violation of their right. So in order to protect their right enforcing the issued law must be mandatory by the responsible organ.

CHAPTER FIVE

5. SUMMARY, CONCLUSION and RECOMMENDATION

5.1 Summary

The objectives the study were to assess the challenges of WWDs faced at their work due to inadequate implementation of the law and to assess their working environment in selected civil service institutions.

The basic questions are to investigate the challenges that WWDs face due to the inadequate implementation of the law, to identify whether the law is implemented sufficiently or not, and to see the situations of WWDs at their work place. In order to answer these questions and to examine the existing employment problem total number of 30 WWDs respondents were interviewed. The sampling techniques used in this study were availability and purposive sampling.

In this study to collect the available information different methods are explored like distribution of questionnaires, conducting interviews, and personal observations. In this case different issues were dealt which have direct and indirect relations with the situations of WWDs that they faced due to the inadequate application of the law, such as gender stereotype, awareness, accessibility, working environment, and enforceability of the law are chosen and analyzed.

Thus the major findings are as follow:

- The data shows that 60% of respondents employed WWDs did not discuss with their employer about the situations of the work and the way how to conduct their job. And 36% of respondents have discussion with their employer which could be helpful to perform their job efficiently and in choosing comfortable place for creating good working environment.
- Though 33% of the employed WWDs are reported that they have been promoted, 66.6% of respondents indicated that the chance of promotion is given in favor of non disabled partners. They indicated that it is because of low awareness of employers about the

existing law. Thus the employers also believe that WWDs are not capable of performing their duty if they are assigned to the promotion.

- With regard to knowledge and understanding of the law 34% of employed WWDs do have some idea about the law and what it says. Then they said that what is written on paper is not getting applied rather it is only there as a symbol. Written instruments as long as they are in the law they must be implemented sufficiently. Whereas 65% of employed WWD respondents do not have any idea about the law. This happens because of lack of awareness about the law. Hence the law is not known by most of WWDs themselves and also by the employers.
- 86% of respondents stated that there is no sufficient assistance. Even if having assistance is permitted by the law, employers believe that hiring assistance requires extra expense. So the employers refused to hire. Due to this 34.78% of employed WWDs work without assistance. The rest 30% of respondents are complaining to get assistance but still the employers did not hire.
- 86% of respondents indicate that they faced negative attitude from their employers and partners, because employers consider WWDs as if they have no ability or potential to perform the given work. They indicated that the cause of their negative attitude is raised due to their low awareness. They do not consider WWDs as human beings. Hence 34.6% of WWDs stated that they are working at a lower status beyond the level of their educational criteria requires otherwise. The rest 42.3% of WWDs lacks self esteem. This is due to the society's negative attitude that is resulted from low awareness and their living background. Then WWDs give less value for themselves. Even if they are doing great they do not consider themselves as if they are capable.
- Concerning participation in training 76% of employed WWDs stated that there is no continuous forum or training. Even if there is a chance to participate workshop or training the able bodied are the first to have it. So WWDs had not get the chance to join the training due to the employer's low awareness about what the law guarantees treating equally both disabled and nondisabled. 13.3% of WWDs respondents state that they participate in training at least once in a year which is not fair enough.
- With regard to enforceability of the law 50% of employed WWDs respondents stated that even if the law is issued in order to protect the employment rights of PWDs, it is not

sufficiently implemented. The reason why it is not implemented is lack of specific provisions that could help to implement the law, which is every civil service institution should have in order to make easy the implementation of the law. The other 86% of respondents indicated that the law is not enforceable and properly negative attitude which is low awareness to implement the law. At last 66% of respondents indicated that lack of having responsible organ to control the implementation of the law is the main reasons.

According to the above findings the following conclusions and recommendations are set out:

5.2 Conclusion

The results of the study shows that from 30 WWDs who are employed 76% of WWDs stated that they did not get any chance of promotion, transfer, and assistance while the able bodied get all the available chances under the institutions. Moreover, getting the chance of training is also impossible for those WWDs. Thus employed WWD respondents stated that inadequate implementation of the law brought WWDs to face challenges at their work place which is considered as a violation of rights of WWDs. The reason why WWDs face double challenges are being both women and disabled is the main factors that affect their employment situations at work and inadequate implementation of the law. Hence as a result of this there is discrimination. The discrimination is revealed by their promotion, transfer, assistance, and training. Therefore responsible organs are required to follow up the implementation of the law in order to identify the gaps of the law, working in collaboration with civil society organizations to create awareness and understanding about the existing law which could help WWDs to struggle for their right at their work place are some of them.

5.3 Recommendations

- With regard to the law, as the law is the main instrument that can be employed to protect the rights of WWDs. Here most of WWDs did not know the existence of the law. This is mainly because of its inadequate implementation of the law. As the laws are prepared to protect the employment rights of PWDs only proper application of the law ensures the rights of WWDs at their work place. Thus government should give due attention in order to guarantee the implementation of the law to identify the problems and the gaps within the law.

- Even if the government issues a law to protect the employment rights of persons with disabilities its inadequate implementation of the law creates difficulties for WWDs at their work place. So the government has to make sure that the proper implementations of the law by making continuous follow up. Thus the system of check and balance will ensure the proper implementation of the law which will be ensured to protect the rights of WWDs at their work place.
- To increase the enforceability of the law the responsible organ must issue directive in order to implement the present proclamation which could facilitate the implementation of the proclamation and it will protect the rights of WWDs easily. If the directive is issued, it will have more specific provisions how to deal about the rights of WWDs.
- Generally raising awareness will empower WWDs when they understood about their right and duties, then the society will change the negative attitude towards WWDs.
- Awareness creation training must be conducted by the government in collaboration with CSOs. It creates understanding about the existing law and to change the negative attitude of the society. Then it will also help to create awareness, to avoid discrimination and WWDs to be understood according to their given rights and duties. So the forwarded training by the government organization must bring change. Because in order to check the effect of the training the responsible organ must control the way how the trained officials or employers are working and by taking reports from these different institutions the government can control the progress and the change about the rights of WWDs at their work place.
- Employer civil service institutions must create WWDs bureaus independently within their women's affair offices to increase the participation of WWDs within their institutions. And it must be directed by WWDs themselves as they are the one who face the challenges they will have the possibility to create a way out to struggle for their right by identifying the gaps in the laws.
- As there is no sufficient data to identify the exact number of employed WWDs the responsible organ must try to collect the accurate and proper number of employed WWDs under civil service institutions is important.

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ANNEX ONE

A Questionnaire Prepared For Women with Disabilities

The most vulnerable group who face double discrimination at their working environment is women with disabilities. So, the researcher wants to know the situations at work of women with disabilities. That exists due to insufficient implementation of the issued law to protect the employment rights persons with disabilities in general and women with disabilities.

The questionnaire contains 27 items of which some are open-ended and others are close-ended. You are requested to reply according to the items presented. There are NO RIGHT OR WRONG ANSWERS. You are kindly requested to give your honest opinion on each one of the items. The information from respondents will be kept confidential and will not affect any body in any way. So, please answer all the questions frankly and honestly. Your frank and sincere responses will be highly appreciated.

Thank you in advance

Part 1

Background Information

1. Age _____ years
2. What type of disability did you have?
3. Level of education
 1. Diploma
 2. Degree
 3. Masters
 4. 12 complete
 5. Vocational training
4. Employment status:
5. what is the name of your organization /institution? _____
6. Your salary in Birr _____
7. Services for _____ years
8. What is your current marital status?
 1. Married 2. Widower 3. Divorced 4. Not married

Part 2

1. Do you think that disability affects employment situations of Women with disabilities?

1. Yes, always 2. Yes, sometimes 3. Not at all

2. Do you think that being women and disabled make the employment situations of women with disability more complex? 1. Yes 2. No

3. What are your reasons to answer Q. No. 2

4. What do you think some of the major factors that affect women with disabilities at their working environment?

5. In your opinion, what measures should be taken by the responsible organ and women themselves in order to improve the situation at work of women with disabilities?

6. In your opinion do you think that women with disability get equal payment with nondisabled men/ women on similar work?

1. Yes 2. No 3. I do not know 4. Determined by the types of profession

7. If your answer to Q. No. 6 is yes, what are your reasons?

8. If your answer to Q. No. 6 is no, what are your reasons?

9. Do you know the law /proclamation 568/2008 / issued to protect the employment rights of persons with disabilities?

10. Do you know what the law says concerning employment of different groups? 1. Yes 2. No

11. Is there any difference between what the law says and what is practiced?

1. Yes 2. No

12. Have you got promotion since you employed in-the current organization?

1. Yes 2. No

13. If your answer to Q. No. 12 is yes, how many times? _____

14. If you were not promoted, what was the reason?

1. Because of my gender

2. Because of my disability

3. Because there was no work position that fits me

4. Because I was not literate, since the position needs a professional

5. Because of employers' negative attitude toward persons with disabilities.

6. Because of employers' negative attitude toward women with disabilities.

7. Because of employers' negative attitude toward women

15. Do you think that there is chance for women with disabilities, in general, to be promoted in this organization? 1. Yes 2. No

16. What are your reasons to answer Q. No. 15?

17. Do you think that there is a chance for you to be promoted in this organization?

1. Yes 2. No

18. What are your reasons to answer Q. No. 17?

19. In your opinion what kinds of people do get a chance of promotion most of the time?

1. Men without disability

2. Women without disability

3. Men with certain disability

4. Women with certain disability

5. Both Men and women without disabilities

6. Others /specify/ _____

20. What are your reasons to answer Q. No. 19 or why do you think they get more chance than women with disabilities?

21. Have you ever got in your organization the chance of training, promotion or other opportunities in your occupation? If so, what is the chance you got and how did you get it?

22. Do you have proper assistance at your work place? If you do not why?

23. Is the working place accessible for women with disabilities?

24. Does your occupation match with your type of qualification? If not, what is the reason of the mismatch between your type of qualification and occupation?

25. What possible consequences do you suffer from as a result of the discrimination [if any] made against you at your job?

26. If you have faced any discrimination at the job, what measures have you taken? have you tried to take the issue to the court?

27. Do you think the law is implemented properly? What possible measures do you suggest for the effective implementation of the present law?

ANNEX TWO

Interview Guide

Interview Questions for Employer Institutions under Ministry of Civil Service

1. Is women with disability given limited work assignment because of her disability?
2. Does women with disability have to work harder than other able-bodied co-workers because of her disability?
3. Has women with disabilities been overlooked or by passed for promotion, training, and transfer?
4. Do you think proclamation 568/08 sufficiently applicable to protect the rights of women with disabilities in employment?
5. In your opinion, does the legal system of Ethiopia pay due attention to protect the rights of women with disabilities in employment? Why/ why not?
6. In your opinion, does the legal system of Ethiopia pay due attention to protect the right of women with disabilities at their working place? Why/ why not?
7. How do you look at the employment situation of women with disabilities in Ethiopia?
8. Do you believe that there are sufficient legal instruments to protect the rights of women with disabilities to employment in Ethiopia?
9. Is the existing law applicable properly in order to protect the rights of women with disabilities in employment?

Thank you

ANNEX THREE

Interview Questions for Ministry of Civil Service and MOLSA

1. In your opinion, does the legal system of Ethiopia pay due attention to protect the right of women with disabilities to employment? Why/ why not?
2. How do you look at the employment situation of women with disabilities in Ethiopia?
3. Do you believe that there are sufficient legal instruments to protect the rights of women with disabilities to employment in Ethiopia?
4. Is the existing law applicable properly in order to protect the rights of women with disabilities?
5. Do you follow the proper implementation of the formulated law issued to protect the rights of persons with disabilities in general and women with disabilities in particular? If there is no follow up of implementation, what are the obstacles to do so? If there is follow up, Is it practiced without any problem?
6. Is there any policy issued to protect the rights of women with disabilities particularly?

Thank you