

***THE NEED FOR THE POLITICAL REPRESENTATION OF
PERSONS WITH DISABILITIES IN ETHIOPIA***

Submitted in Partial Fulfilment of the requirements for the Degree LLM (Human Rights and Democratisation in Africa) of the University of Pretoria.

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PLAGIARISM DECLARATION.

Student No. 11368421

I, Abdu Abdurazak Kedir, do hereby declare:

1. That I understand what plagiarism entails and am aware of the University's policy in this regard.
2. That the work presented in this dissertation is original, my own.
3. That it has never been presented to any other University or Institution.
4. That where someone's works have been used, (whether from a printed source, the internet or any other source) due acknowledgment has been given and reference made according to the requirements of the Faculty of Law.
5. And that the work is hereby presented in partial fulfilment of the requirements for the award of the LLM Degree in Human Rights and Democratisation in Africa.

Signed.....

Date.....

Supervisor: Dr Benyam Dawit Mezmur

Signature.....

Date.....

DEDICATION

This dissertation is dedicated first of all to my sweet mom, who made me what I am and paved all the way for my career. It is also dedicated to my family, my siblings, and my committed fiancée, Selamawit woldemichael, who exerted her all best efforts in facilitating favourable atmosphere for my academic engagements. Finally, it is dedicated to all those who gave me a chance to grow academically.

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I thank Selam for her love and for all the wonderful moments we share. I wish also to thank her for encouraging me to embark on this great academic adventure, and for her care and support during my study. I also thank her for always encouraging me to aim high.

To all the above-named persons and to those I was not able to mention due to constraints of space I am truly grateful. Thank you.

LIST OF ABBREVIATIONS.

AMID	Academy of Migration Studies in Denmark
CEDAW	Convention on the Elimination of all Kinds of Discrimination against the Women
CSOs	Civil Society Organisations
DPOs	Disabled People Organisations
ECPR	European Consortium for Political Research
EISA	Electoral Institute of Southern Africa
FDRE	Federal Democratic Republic of Ethiopia
ICCPR	International Covenant of Civil and Political Rights
IDEA	Institute for Democracy and Electoral Assistance
IPU	Interparliamentary Union
NGOs	Nongovernmental Organisations
OHCHR	Office of the High Commissioner for Human Rights
PDRE	People's Democratic Republic of Ethiopia
PWDs	Persons with disabilities
SADC	Southern African Development Community
SMD	Single Member District
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UDHR	Universal Declaration on Human Rights
WHO	World Health Organisation

AUTHOR'S NOTE.

I would like to mention the following points in brief.

1. I have used these terminologies 'Persons with disabilities', 'disabled persons/population' and 'the disabled' interchangeably, firstly because there is no strong consensus on the usage of a specific nomenclature which identifies the group, notwithstanding the UNCRPD, which uses the term 'Persons with disabilities'. Secondly and most importantly, I am of the strong view that there is no outstanding effort that is intended to properly facilitate the political representation of PWDs at the international level in general and in Ethiopia in particular. In this case therefore, PWDs still remain disabled, as there is a negligible enabling atmosphere with regard to political representation. Then, it is my preference to use terms other than 'Persons with disabilities' to demonstrate the obstinate disability in relation to the subject matter of the research (political representation) by way of serving the purpose of advocacy.
2. I have capitalised the letter (P) in the term 'Persons with disabilities' when this term is used in the thesis. It is important to note that I intentionally did it in order to reflect the attitude that the focus of the term should be on the established personality of a specific individual other than the disability that is the result of environmental barriers coupled with some sort of impairment.

I wish all the best prospectives for the disabled.

I wish the world to properly recognise disability as diversity within the society.

THE NEED FOR POLITICAL REPRESENTATION OF PERSONS WITH DISABILITIES (PWDS) IN ETHIOPIA.

CHAPTER ONE. SETTING THE SCENE.

1.1 BRIEF BACKGROUND AND JUSTIFICATION FOR THE RESEARCH.

Modern parliaments are mostly composed of the top echelon of the society.¹ The unfairness of the representation still holds true even where free, fair and periodic democratic elections are held.² PWDs constitute the largest minority group³ accounting for 15.6% of the world's population.⁴ In Ethiopia, approximately the same percentage of the population is disabled though not fairly represented in the political system.

The rationale behind this paper is to assess the main causes of such unfair representation and to seek for a solution as applicable to PWDs within the Ethiopian context. The paper inquires whether political representation of the disabled person is one of the standing issues of the contemporary democratisation process in Ethiopia. Then, if the answer to the above question is in the affirmative, the research tries to find out as to what type of representation is recommendable in order to

¹ Unpublished: K Bird 'the Political Representation of Women and Ethnic Minorities in Established Democracies: A Framework for Comparative Research' Unpublished Working Paper Presented for the Academy of Migration Studies in Denmark (AMID), Aalborg University, 2003 one.

² As above.

³ UN-OHCHR and IPU *From Exclusion to Equality: Realising the Rights of Persons with Disabilities: Handbook for the Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol* (2007) one.

⁴ WHO *World Report on Disability 2011* (2011) 27.

upgrade the political representation of the disabled person. Consequently, engaging in this topic is reasonable in that the research is devoted to come up with a solution to one of the prominent problems of the disabled. However, before venturing the content of the research, the next sections attempt to come up with a brief observation of the concept of political representation and the status of political representation of PWDs under international human rights instruments, respectively.

1.2 THE CONCEPT OF POLITICAL REPRESENTATION.

Broadly speaking, political representation may refer to the place of political actors in the state machineries (the legislature, the executive and the judiciary).⁵ However, the focus of this paper is on one of these arms of the government (namely the parliament). This is because of the fact that parliaments still remain an important center for decision-making, irrespective of the growing impacts of globalisation.⁶

By parliamentary representation, we speak of the say that the political actors have in the legislature.⁷ Representation in the parliament may either take the form of 'descriptive (demographic)' or 'substantive (normative)'.⁸ The parliamentary representation is 'descriptive' when it reflects the composition of the overall population in a state.⁹ This type of representation tries to depict each section of the population; fair enough to say the parliament is the microcosm of the peoples in the country.¹⁰ On the other hand, the 'substantive representation' is all about acting for a specific interest (the interest of the group matters more than the number of its representatives).¹¹ This type of representation emphasizes on the impact of group interests in the political decision-making.¹² It follows that no matter how the numbers of group representatives may escalate representation does not exist as far as interests are not fairly represented in the Parliament.

⁵ HF Pitkin *the Concept of Representation* (1966) 10.

⁶ M Sawyer 'Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability' (2000) 21 *International Political Science Review* 362.

⁷ J Steiner et al; *Deliberative Politics in Action: Analyzing Parliamentary Discourse* (2004) 87.

⁸ M Tremblay and R Pelletier 'More Feminists or More Women? Descriptive and Substantive Representations of Women in the 1997 Canadian Federal Elections' (2000) 21 *International Political Science Review* 381.

⁹ J Mansbridge 'Political Participation and Group Representation: What does a Representative do? Descriptive Representation in Communicative Settings of Distrust, Crystallized Interests and Historically denigrated Status' in W Kymlicka and W Norman (eds) *Citizenship in Diverse Societies* (2000) 228.

¹⁰ CJ Calhoun *Nations Matter: Culture, History and the Cosmopolitan Dream* (2007) 77.

¹¹ N Fraser *Scales of Justice: Reimagining Political Space in a Globalizing World* (2008) 134.

¹² as above.

Both types of representation have their own weaknesses. For example, the demographic representation stresses on the parliamentary presence of the representatives of every groups in a state. Then, this leads to a complicated interpretation of representation; for instance, children should be represented by children members of the parliament; similarly, prisoners should represent prisoners.¹³The above approach also undermines the existence of intergroup understanding and solidarity.¹⁴ Meanwhile, the normative representation is concerned about voicing interests. However, this approach disregards that interests are more reflected and claimed by the concerned group rather than the others, which do not have anything to do with the matter at hand.¹⁵ In deed, the mixed approach will take place for the purpose of this paper. The mixed approach takes the midway position in that it refers to both types of representation at a point. Now, it is also important to look at the fundamental international human rights' instruments to reflect on the legal basis of claiming the right to represent and be represented for the same reason. The overview of international instruments helps to understand the international commitments of Ethiopia, as well.

1.3 POLITICAL REPRESENTATION OF PWDS IN THE EYES OF INTERNATIONAL INSTRUMENTS.

Various instruments have outlined the importance of representation both as standby right and as a supplementary mechanism to enforce such other rights as accrued through effective representation.¹⁶ To begin with, the UDHR proclaims the right to take part in the activities of one's own government.¹⁷ To this effect, the UDHR puts 'representation' as one of the mechanisms facilitating involvement of citizens in the conduct of public affairs.¹⁸ In addition, this right is bestowed upon everyone who is a national of a state.¹⁹ Then, PWDs are the beneficiaries of this declaration in as far as they are citizens of a state, irrespective of their disabilities. In addition, the UDHR clearly affirms that the will of the people is the source of every power and authority of the government.²⁰ As a result, a government should obtain the indispensable representation of all

¹³ n 1 above, 2-6.

¹⁴ as above.

¹⁵ as above.

¹⁶ See for example, UDHR art 21, ICCPR art 25, CEDAW art 7 and UNCPRD art 29.

¹⁷ UDHR art 21 (1) Adopted and Proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948.

¹⁸ as above.

¹⁹ as above.

²⁰ n 17 above, art 21 (3).

groups of the population to claim 'popular legitimacy'. It follows that the government is not enjoying the fullest authority and legitimacy so long as it has not fairly represented the PWDs.

Representation is a political right. Moreover, when talking about political and civil rights, the ICCPR is the very source of such rights, which serves as a reference. The ICCPR puts representation as a fundamental right, which enables citizens to take part in public affairs.²¹ Every citizen has the right to choose representatives to participate in the governance of his/her country.²² Then, we can infer that the only requirement, which the ICCPR puts, is 'citizenship' so as to enjoy the right of representation.²³ Everyone can claim representation in the political system of the state to which he/she is a citizen. State parties to the Covenant cannot even unreasonably restrict such right. Subsequently, PWDs also have an outright entitlement of representation in their countries, as the states are parties to ICCPR. Discriminations impairing the right to be represented are also prohibited.²⁴ However, the application of anti-discrimination clause is only limited to the prohibition of discriminatory acts on the grounds listed under article two of the ICCPR itself.²⁵ The next question is as to whether 'disability' is one of those grounds listed. The short answer is that 'disability' is not one of the grounds listed as sources of discrimination.²⁶ On the other hand, the same article conclusively embraces other possible grounds of discrimination by the phrase 'other status'.²⁷ As a matter of consequence, it is difficult to substantiate and argue that 'disability' is excluded from the scope of article two, though it is not listed in the text of the same article. Then, it follows that PWDs may not be deprived of representation because of disability. On top of this, a state party is duty bound to ensure the enjoyment of the rights enshrined under the Covenant if a person resides in its jurisdiction, irrespective of the status of a person.²⁸ Ethiopia also bears the above obligations as being a signatory of the Covenant.²⁹

As one of the approaches used in this paper is 'feminist' and as one of the purposes of the CRPD is to introduce 'a gender based perspective to disability',³⁰ it is also important to look at the position of CEDAW on the issue of women's political representation. CEDAW considers representation of the women in the politics as a means of contribution for the effective development of a state.³¹ To this end, the state is duty bound to take the views of groups, which represent the vast majority of the

²¹ ICCPR art 25 (a) Adopted in 1966.

²² as above.

²³ n 21 above, art 25.

²⁴ as above.

²⁵ as above.

²⁶ See n 21 above art 2 (1).

²⁷ as above.

²⁸ as above.

²⁹ www.ohchr.org (accessed on 9 September 2011).

³⁰ UNCRPD Preamble (S) Adopted in 2006.

³¹ Committee on CEDAW General Recommendation 23 (Sixteenth session, 1997) para 17.

women and the prevalent feminist outlooks.³² The state is also expected to implement the necessary special measures to achieve the fullest representation of the women.³³ Women and the disabled have some shared aspects of discrimination so long as both fall under the category of ‘vulnerable groups’. As a result, some principles enshrined under the anti-discriminatory laws for the women may be effectively extended to the disabled as they are intended to realize the same goal. The problem of under representation of the women and the disabled is almost the same in that it is mostly a result of a deep-rooted trend of discrimination.³⁴ Therefore, it is commendable to consider the robust stand of the CEDAW in applying the ‘gender perspective to disability’.

The other related international instrument is the UNCRPD. This convention boldly guarantees the right of representation.³⁵ However, since Ethiopia is a state party to the Convention which in turn makes it one of the operative laws in Ethiopia,³⁶ a detailed discussion of the topic will take place in the next Chapter, which dwells on the Ethiopian system.

1.4 RESEARCH QUESTIONS.

The following are the main research questions that the paper intends to answer.

1. Is there any need for the political representation of the disabled person in Ethiopia? (in the eyes of the process of democratisation and the right-based approach)
2. If so, is the disabled fairly represented in the political system? (in the legislature)
3. If not, what are the root-causes for the unfair representation?
4. What is the stand of the Ethiopian statutory regime and the concerned international instruments to which Ethiopia is a party on the political representation of the disabled?
5. Which type of representation and system of implementation is probably applicable in the Ethiopian context?
6. What is the impact of political participation of the disabled on the representation of the group?
7. What is the role of the government and the concerned NGOs in enhancing the political representation of the disabled?

³² n 31 above, para 26.

³³ n 31 above, para 15.

³⁴ J Lovenduski State Feminism and Political Representation (2005) 1-4

³⁵ n 30 above, art 29 (A).

³⁶ n 29 above.

8. Are persons with disabilities really represented in the political parties currently operating in Ethiopia? (Does the practice of party formation in the country really reflect the outstanding group interest at all?)

1.5 OBJECTIVES OF THE THESIS.

The research tries to achieve the following objectives in as much as possible:

- To understand the status of political representation of the disabled.
- To assess the root causes and factors for such representation.
- To overview the locus of operative laws in Ethiopia as regards the political representation of the disabled.
- To seek solutions, which are helpful to upgrade the representation of the disabled prospectively.
- To contribute a baseline research on disability rights in general and the application of civil and political rights in particular.
- To initiate further research on the implementation of Civil and Political rights in general and political representation in particular as applicable for the disabled.

1.6 SIGNIFICANCE OF THE STUDY.

The paper is focussed on the political representation of the disabled in Ethiopia. Thus, it may serve in solving the problem, which is prominent with this regard. Broadly speaking, the research may also initiate and assist as a baseline for the discussion and possible solutions of the problem at the African level. Most importantly, this research may be used for sensitisation and awareness raising purposes concerning disability rights in general and political participation in particular. Possibly, it may have a fundamental contribution in the development of research on the areas of disability rights. The paper will also be crucial for purposes of reference to those who are interested in the subject matter.

1.7 THEORETICAL APPROACH TO THE STUDY.

One of the theories used in this paper is the approach of 'classical legal studies'. Classical legal studies emphasize that 'law' by itself is an indeterminate value, which cannot be detached from the prevalent political system.³⁷ According to this theory, laws are intended to serve the purpose of a specific political system.³⁸ As a result, the recognition of disability rights under the statutory laws per se is not significant unless the disabled group is involved in the politics for the resulting implementation of the legally recognised rights.

The other theory is the feminist approach, which underlines the importance of female participation in the overall societal transactions.³⁹ Gender is a cross-cutting societal construct⁴⁰ which is also a typical aspect of disability.⁴¹ Besides, women are one of the constituent members of the 'vulnerable groups'; and the same is true for the disabled, as well. Therefore, for stronger reason, the paper deems that this theory is applicable in order to rationalise the importance of political representation of the disabled due to the crosscutting nature of both disability and gender; and so long as both the women and the disabled share some aspects of vulnerability.

The 'right-based approach' is an additional framework for the paper. This approach tries to answer the questions of the disabled through the efficient recognition and application of human rights.⁴² One of the components of human rights are political rights which in turn include 'the right to political participation' the implementation of which is reflected through political representation, among other things. Therefore, the right-based approach is used to answer some questions relating to political representation.

The very source of this research is the 'concept of democracy' itself. This concept stresses the principle of 'majority rule' and at the same time, it recognises 'minority rights', irrespective of the nature of the democracy followed by a specific state.⁴³ As a minority group, the disabled deserve to

³⁷ M Tushnet 'Critical Legal Studies and the Constitution Red, White and Blue: A Critical Analysis of Constitutional Law' (1988) *the Political Science Reviewer* 205 and 206.

³⁸ As above.

³⁹ n 34 above, 5.

⁴⁰ n 6 above, 364.

⁴¹ JE Lord and MA Stein 'The Domestic Incorporation of Human Rights Law and the United Nations Convention on the Rights of Persons with Disabilities' (2008) 83 *Washington Law Review* 450.

⁴² OHCHR *Monitoring the Convention on the Rights of Persons with Disabilities: Guidance for human rights Monitors Professionals Training Series No. 17* (2010) 8-11.

⁴³ W Albert *Democracy* (2007) 194.

enjoy their rights (the right to be represented in this case) as dictated by the core principle of democracy. In deed, the whole spirit of the research is tuned towards the realisation of the above principle of democracy.

1.8 PROPOSED METHODOLOGY.

In as much as possible, the paper explores available literatures on the issue of disability rights in general and political representation in particular. Furthermore, both structured and nonstructured interviews will be held with the concerned parties such as government officials, NGOs, persons with disabilities, MPs and political party leaders. Further desktop research is also undertaken to support the paper with updated information. Where relevant and available, effort will be made to undertake case analysis and comparison of the experience of a other African countries.

1.9 SCOPE AND LIMITATIONS OF THE STUDY.

The study will in particular focus on the evident situation of political representation of the disabled in Ethiopia. The content of the paper is only intended to cover issues as are related to the political representation of the disabled. This research may possibly face some limitations with regard to related literature so long as the field of disability rights is in its early development stage, especially in Ethiopia. However, experience of other group rights (such as indigenous people and women's) will be taken in to account to ease the effect of this limitation. The other challenge is the availability of relevant informants. Meanwhile, it is worthy to mention that every possible effort will be exerted to gather the required information. Technology-related problems such as a slow internet connection, computer virus, etc. are expected challenges though not exceptional for this research. Last but not least, the tough requirement of complying with a word limit is also a typical constraint to produce a comprehensive research. Consequently, every thing is shortened in order to meet the word limit while attempting to cover the salient features of the research.

1.10 LITERATURE REVIEW.

It is no exaggeration to assert that very scanty works are available on some concepts, which are related with the issue of political representation of the disabled. For instance, Karr, Valerie L. has written on the right to self-determination of the disabled; while Lawson, Anna deliberated on 'reasonable accommodation' as enshrined under the CRPD. Mauer, Mark, Jacobus tenBroek discoursed on 'participatory justice' and the CRPD in his works. The other writer is Redley, Marcus who contributed some ideas on the right to vote for persons with learning disabilities.

In addition, Eren Tatari has written on the institutional constraints on effective minority representation. However, there is almost no work, which directly discusses the political representation of the disabled, especially in the context of Ethiopia. To the extent of the writer's knowledge, this is a footprint paper, which mainly sets and discusses the political representation of the PWDs as a contemporary and important agenda.

1.11 PROPOSED STRUCTURE OF THE PAPER.

Chapter 1. Setting the scene: Under this chapter, the essence of the proposal will be discussed. Moreover, an introduction to the concept of political representation and types of representation will be done. In order to understand the international obligation of the country, analysis of the stand of international instruments to which Ethiopia is a party will also take place in this chapter.

Chapter 2: The status of political representation of the disabled: This chapter tries to portray the contemporary political representation of the disabled in the parliament and political parties. In addition, in this context, it assesses the stand of the legal regime in Ethiopia.

Chapter 3: Justifications for the importance of political representation of Persons with disabilities in Ethiopia and barriers of effective political representation of the disabled: This chapter highlights some perspectives that are relevant to justify the necessity of political representation for PWDs and further attempts to find out the barriers to enhancing PWD's political representation.

Chapter 4: Conclusion and Recommendation. After a brief conclusion of the thesis, this chapter is followed by a list of recommendations that will indicate the way forward.

CHAPTER 2. THE STATUS OF THE POLITICAL REPRESENTATION OF PWDS IN ETHIOPIA.

2.1 INTRODUCTION

This chapter discusses the overall picture of political representation of PWDs in Ethiopia. Primarily, the chapter briefly dwells on the current state of political representation in the country by employing various indicators. However, before looking into the contemporary realities, it is also useful to give some historical background of political representation in Ethiopia. Therefore, the second section of the Chapter tries to pinpoint the development of the concept of political representation ever since constitutional law and constitutionalism came in to the scene of Ethiopian politics. Then, the third section explores political representation of persons with disabilities as is visible in the parliamentary practice of these days. This section also tries to portray the picture of political representation of persons with disabilities in Ethiopia through the analysis of the standpoint of contemporary domestic laws regulating the subject of political representation and other related areas.

2.2 SHORT HISTORY OF THE DEVELOPMENT OF POLITICAL REPRESENTATION IN ETHIOPIA.

This section evaluates the historical status of political representation in reference to the stage of development of constitutional law and constitutionalism in Ethiopia. Consequently, an overview of the three constitutions, namely the 1931 Constitution, the 1955-Revised Constitution, and the 1987 Constitution, will take place. Discussion of the fourth Constitution of 1995, that is currently governing the politics of the country, appears in the next section.

2.2.1 THE 1931 IMPERIAL CONSTITUTION.

The essence of representation in Ethiopia is understandable in connection with the development of constitution and constitutionalism in the country as there is no historical point of reference before the adoption of the first constitution.⁴⁴ To this effect, Ethiopia has passed through four written constitutions.⁴⁵ While the second one is a revision of its predecessor, the other 3 have introduced various systems of representation depending on the prevalent political ideology of the day. For this reason, it follows that political representation in Ethiopia is not characterised by similar and successive patterns of application as both the political ideologies of each regime and the resulting constitutions are incongruent to each other when it comes to fundamental principles.⁴⁶ However, it is important to mention now that the past ideologies had their own influence on the contemporary aspects of political representation irrespective of the observable disparities.

The first Constitution came in to being during the reign of Emperor Haile-Sellassie I in 1931 subsequent to his coronation in 1930.⁴⁷ The 1931 Constitution was also subject to revision in 1955.⁴⁸ As a result, Ethiopia had two slightly different but fundamentally similar constitutions during the reign of Haile-Selassie I. For the first time in its history, Ethiopia experienced the bicameral parliament⁴⁹, which was composed of the house of deputies and the senate in accordance with the provisions of the 1931 imperial Constitution.⁵⁰ Nevertheless, membership to these houses does not come through the will of Ethiopians, which may either be exercised by some form of structured elections or any other means.⁵¹ First and foremost, Ethiopians were considered as 'subjects' of the emperor, not citizens of the country.⁵² This in turn makes it difficult to think of citizenship rights such as political representation. Therefore, the Constitution tells us that every right embodied in it is the gift of the emperor to his subjects.⁵³ For this reason, it was impossible to plead for the enforcement of inherent citizenship rights, as it should come through the will of the emperor. Secondly, even if there is some form of representation in the chambers of the parliament at the time, it is not the

⁴⁴ www.et.undp.org/index.php?option=com_docman&task... (accessed on October 1 2011).

⁴⁵ www.interafricagroup.org/.../ (accessed on October 1 2011).

⁴⁶ www.camlaw.rutgers.edu/statecon/subpapers/regassa.pdf (accessed on October 1 2011).

⁴⁷ M Perham *The Government of Ethiopia* (1969) 7.

⁴⁸ as above.

⁴⁹ n 44 above.

⁵⁰ Art 30 of the 1931 Imperial Constitution provides that 'the deliberative chambers of the empire are the two following: A. Chamber of the senate; B. Chamber of deputies.'

⁵¹ Imperial Constitution of 1931 art 31 and art 32.

⁵² n 51 above, art 1.

⁵³ n 51 above, Chapter 3 (see also the preamble).

population who assigns the members to the seats through universal suffrage, as according to the words of that Constitution, Ethiopians were not ready to elect their representatives.⁵⁴ It was the emperor who elects members of the 'senate'⁵⁵ while members of the 'house of deputies' were in turn elected by 'dignitaries' and 'local chiefs'.⁵⁶ However, the intention of the Constitution was to transfer the mandate of electing members of the house of deputies to the population when Ethiopians were 'ready' to elect their representatives.⁵⁷

2.2.2 THE REVISED 1955 IMPERIAL CONSTITUTION.

The revised 1955 Constitution has ceded some suffrage rights to the people in as much as the election of deputies is concerned.⁵⁸ This seems to realise the promises of the 1931 Constitution, which undertook to transfer the election of deputies upon the requisite readiness. Nevertheless, the source of all sovereign power still remained with the emperor himself even under the revised Constitution.⁵⁹ On the other hand, one of the principles of democracy dictates that the source of every power is the general population and indeed, sovereignty resides in the hands of the people.⁶⁰ As a result, since the people cannot give their representatives powers that they do not have, the election of representatives under the 1955 constitution was nominal and unworkable as the emperor is said to be sovereign under the same constitution.

As per the 1955 Constitution, all subjects who are Ethiopians by birth and who are 21 years of age and above may choose their representatives to the house of deputies.⁶¹ Hence, an individual is not entitled to be represented if he is not an Ethiopian by birth, irrespective of his Ethiopian citizenship through other means such as naturalisation. For this reason, the 1955 Constitution discriminated against the other citizens of the country who are Ethiopians through the operation of the law in favour of citizens who are Ethiopians by birth. This essence of the 1955-revised Constitution contradicts with the provisions of the forerunner international instrument namely, the UDHR that entitles everyone to take part in the day-to-day government activities through representation.⁶² The

⁵⁴ n 51 above, art 32.

⁵⁵ n 51 above, art 31.

⁵⁶ n 51 above, art 32.

⁵⁷ as above.

⁵⁸ The Revised Constitution of Ethiopia as promulgated by His Imperial Majesty Haile-Sellassie I. 4 November 1955 art 95.

⁵⁹ n 58 above, art 26.

⁶⁰ n 43 above, 206.

⁶¹ n 58 above.

⁶² n 17 above.

ICCPR, which was adopted when the 1955 Constitution was still operative,⁶³ does not also support the stand of the Constitution as it provides the right to be represented to all citizens.⁶⁴ Despite all these shortcomings, the revised Constitution stayed in operation with no amendment even after the international community passed the ICCPR.⁶⁵ Consequently, citizens, except those who are Ethiopians by birth, kept on being discriminated as regards their rights to be represented. This in turn implies some indirect discrimination against persons with disabilities (PWDs) in that they cannot be represented in the government if they are not Ethiopians by birth. Thus, such general grounds of discrimination may have their own implications on the political representation of PWDs even if disability does not serve as a direct ground of discrimination. In addition, candidates should own property to join the house of deputies.⁶⁶ Persons who can comply with other criterions of candidacy cannot stand for election contest, as they do not own property though they are eligible for election. Similarly, such indirect grounds of discrimination affect the disabled, as is true for other citizens.

For this and other reasons, disabled persons were not well represented in the political system of that time. This situation is more reflected when one sees through legislations enacted by the parliament of that time, some of which used disability-offensive terms in their texts.⁶⁷ Consequently, it is understandable that the parliament was not representing the disabled in a meaningful manner, as it was not taking care of or remedying the offensive articles of laws at least by way of an amendment. Had the parliament been a representative of the disabled, either such mistakes should not have happened to the laws or a due and timely concern would have been extended to the effects of these offensive terms and a remedy would have been provided. As a result of all the above, generally, it is impossible to talk about the political representation of PWDs under both the 1931 and 1955 constitutions.

⁶³ The ICCPR came in to being 11 years after the Revised Constitution of Ethiopia in 1966.

⁶⁴ n 21 above.

⁶⁵ The Revised Constitution of 1955 was operational until 1974, the year which marked the commencement of the Derg military regime, while the ICCPR was adopted in 1966.

⁶⁶ n 58 above, art 96 (b).

⁶⁷ For example, see CIVIL CODE OF THE EMPIRE OF ETHIOPIA PROCLAMATION No. 165/1960 art 340 which uses offensive terms against Persons with Disabilities such as 'infirm persons', 'Deaf-mute' etc. The article states as follows:

'Art. 340. Infirm persons. Deaf-mute, blind persons, and other persons who, as a consequence of a permanent infirmity are not capable to take care of themselves or to administer their property may invoke in their favour the provisions of the law which afford protection to those who are insane.' NB: This article is operational with no amendment up-to-date.

2.2.3 THE 1987 CONSTITUTION OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ETHIOPIA (PDRE).

The third Constitution of Ethiopia, which stayed only from 1987-1991, came in to force during the reign of the military junta known as 'Derg'.⁶⁸ The Derg had an insignificant experience of constitution and constitutionalism as it was mostly attempting to practice its political thinking through proclamations.⁶⁹ Consequently, an in-depth discussion of constitutional precepts of that time is of a lesser importance. Unlike the reign of the Emperor, there was a total paradigm shift of ideology at this time and the Marxist-Leninist political philosophy was a leading philosophy of the Derg founders.⁷⁰ It follows that the 1987 Constitution of People's Democratic Republic of Ethiopia, which the Derg military regime introduced, was also guided by the spirit of Marxism-Leninism.⁷¹ The Constitution formed the unicameral national assembly,⁷² which is almost all in all dominated by the ruling party known as 'Workers' party of Ethiopia'.⁷³ This happened due to the basic concern that political seats are allocated based on a compatible ideology to that of the military.⁷⁴ There was absolutely no option to reflect other political attitudes apart from that of Marxist-Leninist and the workers' Party of Ethiopia, both of which had almost the same stand. Therefore, it was impossible to involve in the government activities without adopting the Marxist-Leninist view. Indeed, the representation in the national assembly of the Derg regime was typically characterised by its ideological manifestations. Therefore, persons who adopt any possible ideology apart from the socialist one were immediately left out. This in turn makes the national assembly a non-representative one as it was dictated by a single political party/ideology. In fact, since the criterion for representation is a political attitude, this situation of non-disabled citizens of Ethiopia is also applicable for the disabled. The Marxist ideology was imposed upon every one, irrespective of any consideration such as disability. In sum, Marxist Ethiopians were the main, if not the sole ones to be represented in the national assembly of the Derg. Due to the above and other factors, the representation of PWDs was unthinkable during the Derg regime.

⁶⁸ M T Alefe 'Rhetoric or Reality: Secession as a Human Rights Approach to Accommodation in Multiethnic Ethiopia' Unpublished article, Ethiopian Institute of Federalism, 2008 3.

⁶⁹ Proclamation no. 1/1974 was effective for 13 years 1974-1987.

⁷⁰ www.mongabay.com/reference/.../ethiopia/GOVERNMENT.html (accessed on 6 October 2011).

⁷¹ as above.

⁷² www.countriesquest.com/africa/ethiopia/.../the_mengistu_regime.htm (accessed on 6 October 2011).

⁷³ www.munseys.com/diskone/ethiop.htm (accessed on 6 October 2011).

⁷⁴ as above.

2.3 THE CURRENT STATUS OF POLITICAL REPRESENTATION OF PWDS IN ETHIOPIA.

2.3.1 THE CONTEMPORARY LEGAL ATMOSPHERE AND THE POLITICAL REPRESENTATION OF PWDS.

2.3.1.1 THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (UNCRPD) OF 2006.

The UNCRPD puts state parties under duty to ensure the enjoyment of political rights for PWDs.⁷⁵ One of such rights is the right to be represented which is exercised through freely chosen representatives.⁷⁶ Not only do PWDs should enjoy the right to be represented but also they are endowed with the right to represent other fellow citizens of their respective countries by standing for election and by being elected.⁷⁷ This is also one of the manifestations of political representation. Hence, Ethiopia has pledged and is under duty to respect these political rights when it domesticated the UNCRPD.

The Convention does not conclude by guaranteeing the enjoyment of political rights but it further proceeds and commits state parties to ensure and facilitate the opportunities, which enable the PWDs enjoy political entitlements.⁷⁸ Such opportunities refer to the occasions, which pave the way to exercise political rights.⁷⁹ For instance, the right to vote and to be elected are the main opportunities to enjoy the right of political representation⁸⁰ so long as representation is not possible in the absence of the process of voting and election. Since the UNCRPD requires the state parties to ensure both the enjoyment of political rights and the facilitation of opportunities to enjoy such rights,⁸¹ Ethiopia is also expected to comply with such requirements as a state party to the Convention.

⁷⁵ n 30 above, art 29.

⁷⁶ n 30 above, art 29 (a).

⁷⁷ n 30 above, art 29 (a) (II).

⁷⁸ n 30 above, art 29 (a).

⁷⁹ as above.

⁸⁰ as above.

⁸¹ as above.

2.3.1.2 THE 1995 CONSTITUTION OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA (FDRE).

The 1995 constitution, unlike its antecedents, has clearly provided for the right of political representation. Primarily, the Constitution asserts that the highest sovereign power resides in the people of Ethiopia;⁸² and the general population exercises this sovereign power through its representatives.⁸³ Then such right of expressing sovereignty through representatives surely applies to the Ethiopian PWDs as part of the population of Ethiopia. In addition, in a similar manner with the other human right instruments, the 1995 Ethiopian constitution guarantees the right to take part in the conduct of public affairs directly or through freely chosen representatives.⁸⁴ This right is the right belonging to every citizen irrespective of any ground of discrimination as listed in the Constitution.⁸⁵ The listed grounds include race, colour, nation, nationality, sex, language, religion and political or other opinion.⁸⁶

From the reading of the text of the Constitution, it is clear and visible that disability is not listed as one of the grounds on which discrimination is prohibited in exercising the right of political representation. On the other hand, the current Ethiopian Constitution also consists of the phrase 'other status' as one of the grounds not to discriminate against the enjoyment of political representation,⁸⁷ alike other human rights instruments analysed under chapter one. Consequently, disability as a status may fall within the domain of 'other status', taking note of the justifications given in the previous chapter. Hence, if the constitutional phrase 'other status' refers to disability, the position of the Ethiopian Constitution does not seem to disfavour the right of political representation of PWDs in as long as discrimination against the exercise of political representation on the ground of other status in a similar manner with the list is outlawed. Then, the conclusion is that like other citizens, Ethiopian PWDs are also right-holders to claim every available possibilities of political representation in accordance with the Constitution of the country.

⁸² Constitution of Federal Democratic Republic of Ethiopia Extraordinary Proclamation no. 1/1995 art 8 (1).

⁸³ n 82 above, art 8 (3).

⁸⁴ n 82 above, art 38 (1) (a).

⁸⁵ n 82 above, art 38 (1).

⁸⁶ as above.

⁸⁷ as above.

2.3.1.3 THE ELECTORAL LAW OF ETHIOPIA AMENDMENT PROCLAMATION NO. 532/2007.

The other domestic legal instrument, which is the subject of discussion in this subsection, is the Electoral law of Ethiopia Amendment Proclamation no. 532/2007. As the name indicates, this law was enacted to govern the process and implementation of all elections in the country.⁸⁸ Conversely, in the eyes of a special law, which is intended to govern electoral activities in a country, Proclamation no. 532/2007 lacks clarity and contains some ambiguous provisions when it comes to the voting rights of the disabled. Such ambiguities and lack of clear provisions are touched upon in the next paragraphs. Yet, as an opportunity for the facilitation and realisation of an effective political representation,⁸⁹ it is important to underline the fact that the deprivation or inefficient exercise of the right to vote may directly affect the extent of enjoyment of the right of political representation or may lead to the total impairment and denial of such right. To this effect, flaws of the Ethiopian electoral law in as far as PWDs are concerned, may endorse ineffective voting system which possibly ends up in restraining their inherent right of representation which defeats the very purpose of the proclamation itself.⁹⁰

The Proclamation provides that voters are guaranteed to elect their representatives 'with out discrimination' and 'with equal participation'.⁹¹ The general anti-discrimination clause (without discrimination) is pretty much clearer to construct the understanding that disability cannot be a ground to deny the right to vote in so far as the proclamation deters any source of discrimination. Perhaps it is even better than those anti-discrimination clauses, which expressly listed some grounds of discrimination and leave out some other grounds such as disability, which does have a lot of implications owing to its reference to the largest minority of the world,⁹² especially in these modern times. Due to the nature and manifestations of discrimination, it is clear that such lists can never be exhaustive. But then, it is not commendable to suppress grounds like disability, which affect a considerable segment of the society and create social chaos if unaddressed. In this sense, the general anti-discrimination clause of Proclamation no. 532/2007 has provided a comprehensive meaning comprising of almost every basis of discrimination. Thus, from the perspective of such

⁸⁸ The second paragraph of the preamble of the proclamation states that 'It has become necessary that any electoral activity shall be guided by an electoral law-----'.

⁸⁹ The UNCRPD under article 29 terms the right to vote as one of the opportunities facilitating an effective political representation.

⁹⁰ The first paragraph of the preamble of the proclamation states that 'It has become necessary to enable the peoples of Ethiopia to exercise their right to self-administration without any discrimination through their representatives-----'.

⁹¹ Electoral Law of Ethiopia Amendment Proclamation no. 532/2007 art 26 (1).

⁹² n 3 above.

general anti-discrimination clause, PWDs are entitled to enjoy the right of political representation as they are not prohibited to freely choose political candidate of their own will, notwithstanding their disability.

In relation to the issue of discrimination, it is important to note that Proclamation 532/2007 puts some exceptions as a basis to discriminate against the enjoyment of the right to elect.⁹³ One of such exceptional and justifiable grounds of discrimination is restriction of the law⁹⁴ whose goal is revoking the right to elect. For this reason, it is impossible for someone to choose his/her representative if there is a restriction under the normal operation of the law. One of such citizens against whom the law puts a restriction on the right of voting are persons proved to be incapable of making decision due to mental disorder.⁹⁵ Most importantly, this law is flawed, as it is depriving one of the fundamental citizenship rights of the disabled in the name of failure to make decision. To the dismay of the Ethiopian Electoral Proclamation, there is certain evidence where persons with mental disabilities have shown their political support.

‘Several institutionalised individuals with mental retardation decided to support the candidacy of Lowell Weicker for Connecticut governor due to his commitment for disability rights and the fact that he has a son labelled mentally retarded. Similarly, at a candidate forum in a mental retardation facility, one candidate, after hearing the residents’ questions, asked a facility staff member if he was sure the individuals were mentally retarded.’⁹⁶

In fact, the law is taking care of the purity of votes when restricting these persons.⁹⁷ There is also some level of consensus that persons with mental disabilities are prone to undue influence exerted from intimate persons for instance, relatives, counsellors and service providers.⁹⁸ It is also clear that such undue influence is the result of failure to make decision as regards their choice. Meanwhile, the best solution is to work on as to how to avert this possible effect of undue influence other than limiting them to exercise their inherent citizenship rights based on disability. For example, the Government is trying to do away with corruption, briberies and other similar negative practices. The effort to avoid such undue influences is no more different from the attempts to eradicate corruptive acts. Nonetheless,

⁹³ n 91 above, art 26 (2) and art 33 (3).

⁹⁴ n 91 above, art 26 (2).

⁹⁵ n 91 above, art 33 (3) (a).

⁹⁶ K Schriener et al; ‘The Last Suffrage Movement: Voting Rights for Persons with Cognitive and Emotional Disabilities’ (1997) 27 *Publius: The Journal of Federalism* 87-88.

⁹⁷ n 96 above, 84.

⁹⁸ as above.

the Ethiopian system is indirectly discriminating against these persons to exercise their right of political representation through the retention of such obstructive provisions of the law.

Even if such restrictive laws are necessary for any reason whatsoever, their content should be framed with a sufficient precision. It is true that there are individuals with serious cognitive problems while some others are exposed to a lesser condition of intellectual impairment.⁹⁹ For this reason, these discriminatory laws should neither be over-inclusive nor under-inclusive. The broad framing and construction of these laws may lead to an over-inclusiveness in the sense that all persons facing mental problems may not vote, irrespective of their cognitive level. The law may also be under-inclusive provided that it furnishes voting rights to those facing irreversible intellectual deficiencies. In a specific reference to the Ethiopian Electoral law, those citizens who are managing some sort of mental disability but possessing the requisite faculty of decision-making can still participate in the election.¹⁰⁰ This discrimination against the persons with mental disorder as enshrined under the Ethiopian Electoral Proclamation still lacks clarity due to its failure in addressing the case of citizens with mental disability, which may result in to a periodical disorder. Persons who encounter some types of mental disability may also face seasonal problems of decision-making.¹⁰¹ In such cases, it is difficult to prove whether such persons are capable of making decision or otherwise owing to the periodical and unpredictable nature of the problem. Therefore, it is important to take account of such types of disabilities when talking about voting. However, Proclamation no. 532/2007 is silent regarding this problem. Even if it is difficult to know the position of the Ethiopian electoral law on such issues, the mere fact that it is silent may constitute discrimination on the ground of disability as the electoral law is expected to respond to the needs of voters. Rather the proclamation tends to generalise every type of incapacity to make decision. Then, if the periodic incapacity to make decision is the outcome of the mental disability and if the same is equally treated with other grave cognitive impairments leading to the incapacity of making decision, it is perhaps possible to consider the view that the Ethiopian electoral law evasively discriminates on the basis of disability. It follows that despite the existence of general anti-discrimination clause, there is a possibility of discriminating on the basis of disability. However, with regard to the scope of this specific provision, it is difficult to come up with a definite and all-encompassing conclusion so long as the stand of the Electoral law is vague.

⁹⁹ n 96 above, 89.

¹⁰⁰ The plain reading of the text shows that the provisions of the Ethiopian Electoral Proclamation only discriminate against those who are incapable of making decision.

¹⁰¹ www.bu.edu/cpr/reasacom/whatis-psych.html (accessed on September 29 2011).

The Ethiopian electoral law also provides that every election takes place on the basis of 'equal participation' of citizens.¹⁰² Equality clauses of this type are laudable in that they invite some level of legal recognition.¹⁰³ Yet, 'formal equality' cannot remedy the inequality and the resulting injustice where differences are still visible in the society.¹⁰⁴ Hence, the mere fact that the law makes a mention of equality is in vain for the fear that there could be no effective solution to the persistent inequality.¹⁰⁵ Then, 'substantive equality' should come in to effect alongside the formal one, so to say the law should address some mechanisms and measures by way of intervention to calm down the impact of the prevalent differences.¹⁰⁶ It is along the application of justifiable measures within the reach of the law that 'formal equality' can meet its intended objectives.¹⁰⁷ To this effect, the law which gives the right to 'formal equality' should equally address 'substantive equality' through depicting the necessary legal actions to pave the way for the attainment of 'formal equality' as envisaged under its provisions.¹⁰⁸

Coming back to the Ethiopian Electoral Proclamation, it is true that at face value, the text says that elections are accomplished 'with equal participation' of the electors. Nevertheless, the law does not go further and address the injustice faced by the PWDs in the country. Generally, the crude approach of the law seems to assert that election is all about going from home to the polling stations and then casting votes. But that should not be the case when it comes to a comprehensive electoral law. Depending on the type of disablement in the society, some facilities should be in place and the law should ensure the same in order to realise the equal participation of PWDs in elections. It is only after the fulfilment of such guarantees of the law that PWDs can participate in the elections on an equal basis with the other citizens. For instance, polling stations should not be located upstairs or where there is no access to ramps. Otherwise, the law is basically denying the inherent rights of persons confined to a wheelchair or generally those with a physical disability that limits their movement. In order for the visually challenged persons to elect effectively and thereby assist themselves, braille voting cards should be the main concern of the law as is true for other election materials. The use of sign language should also be encouraged within the legal framework so that persons encountering hearing impairment can actually exercise their right of political

¹⁰² n 91 above, art 26 (1).

¹⁰³ S Goonesekere 'The Concept of Substantive Equality and Gender Justice in South Asia' (2008) 3.

¹⁰⁴ C O'cinneide 'The right to Equality: A Substantive Legal Norm or Vacuous Rhetoric?' (2008) 1 *University College London Human Rights Review* 81.

¹⁰⁵ as above.

¹⁰⁶ G Brodsky and S Day 'Beyond the Social and Economic Rights Debate: Substantive Equality Speaks to Poverty' (2002) 14 *Canadian Journal of Women and the Law* 185.

¹⁰⁷ as above.

¹⁰⁸ as above.

representation. Indeed, this is the contribution of 'substantive equality' towards the realisation of the formal equality.

Conversely, the Ethiopian Electoral Proclamation has nothing to say on such important issues. For the sole sake of mentioning some few and insignificant provisions, for example, the law provides for the right of the elector to decide his/her assistant in order for him/her to put his mark on the ballot paper and insert it into the ballot box.¹⁰⁹ This provision is commendable in at least protecting the comfort of the disabled elector and ensuring the secrecy of voting. Yet, the Proclamation falls short of addressing the right of the disabled to get the necessary assistance. Right to get assistance is a primary and all-inclusive question of the disabled in order to solve every electoral barrier including the right to decide one's own assistant. In this sense, Ethiopian PWDs are entitled to enjoy the right to decide their own assistant without first being guaranteed of the inherent right of getting the necessary assistance in such cases, which in turn makes the promises of the electoral proclamation more of a rhetoric importance.

In the same manner, the electoral Proclamation enunciates that his/her assistant may accompany the blind at the time of registration for voting.¹¹⁰ This provision tends to assume the fact that a particular blind elector has a personal assistant who is necessarily and regularly available with the concerned elector. However, such assumption is unwarranted as it is not mostly evident in the case of Ethiopian blind people.¹¹¹ Rather, the approach of this specific provision should have been oriented in a way that addresses the general problem of the blind resulting from lack of assistance during the registration for election. To this effect, had the Electoral Proclamation maintained it, guaranteeing the right to get the necessary assistance would have been a tenable solution. By way of confirming the realisation of such safeguards of the law, Proclamation no. 532/2007 should have prescribed the possible duties of the Government, particularly the Electoral Board of Ethiopia. In conclusion, it is understandable that the right of PWDs to enjoy the protected right of political representation faces a number of challenges due to the general paralysis of the overall electoral system.

Indeed, it is observable from the on-going discussion that the operative laws of Ethiopia do not directly deprive persons with disabilities of having their representatives in the political system, notwithstanding some shortcomings. As a matter of consequence, the general essence of the laws in this respect should reveal itself through the evident practice on the ground, assuming that the

¹⁰⁹ n 91 above, art 67 (1).

¹¹⁰ n 91 above art 36 (6).

¹¹¹ One of my interviewees namely, Ato Kasahun Yibeltal reiterates that most of the blind are poor to employ their own personal assistant (as interviewed on October 4 2011)

practice should assert every blessings of the law. For this reason, it is important to look in to the practice to understand the extent of its harmony with the spirit of the law. Accordingly, the next section tries to elucidate the practice with a view to substantiate the place of PWDs in the Ethiopian political system.

2.3.2 THE STATUS OF POLITICAL REPRESENTATION OF PERSONS WITH DISABILITIES IN THE CURRENT FRAMEWORK OF PARLIAMENTARY AND PARTY POLITICAL PRACTICES IN ETHIOPIA.

2.3.2.1 IMPLICATION OF THE PRESENT-DAY PARLIAMENTARY PRACTICE OF ETHIOPIA ON POLITICAL REPRESENTATION OF PWDS.

The current Constitution makes it clear that the population of Ethiopia expresses its sovereign powers through its representatives.¹¹² As a result, the population elects parliamentarians.¹¹³ One of the constituent members of the overall population of Ethiopia is persons with disabilities. Membership to the population in turn gives rise to the right to elect one's own representative.¹¹⁴ Subsequently, it is true that persons with disabilities should have their representatives on the seats of the parliament, despite the form of representation adopted by the laws. Then, the concern of having representatives in the parliament is still an outstanding question, which needs some answer. It is advantageous to look in to the approaches of 'descriptive' and 'substantive' representation theorists to effectively address this question.

The 'descriptive' approach to representation is of the view that every constituent group of the entire population should be represented by its own members (equivalent with saying that the parliament is a small home for the population of a state).¹¹⁵ In line with this point, 'descriptive' theorists add that women should be represented by the women, the youth by the youth as their fundamental needs in the political system may not be addressed effectively through other parliamentarians coming from different groups.¹¹⁶ Consequently, the conclusion is that there are no representatives of the disabled

¹¹² n 82 above, art 8 (3).

¹¹³ n 82 above, art 54 (1).

¹¹⁴ as above.

¹¹⁵ n 9 above, 228.

¹¹⁶ as above.

in the Ethiopian parliament,¹¹⁷ as per the views of descriptive approach. In fact, there are a handful of persons with disabilities in the parliament but they are there due to their membership to a specific political party and the intention of their existence is not to represent the disabled in particular.¹¹⁸ However, to the extent that descriptive representation refers to the presence of members of the group in the parliament, accession of some disabled parliamentarians is undeniable. Yet, the end objective of a descriptive representation is to properly reflect the political question of a specific group to which a parliamentarian alleges membership to.¹¹⁹ This is not true in Ethiopia as a result of the fact that parliamentarians join the parliament due to their membership to a political organisation.¹²⁰

On the other hand, theorists of ‘substantive’ representation assert that in a real political representation, what matters most is the interest of the group in particular and the population in general, other than the personality of a parliamentarian.¹²¹ In this case, political interests of the disabled should be well reflected regardless of the existence of disabled parliamentarians. But then again, the Ethiopian scenario does not signify this type of representation. After all, the initiation and discussion of disability related issues in the parliament is often missing.¹²² Moreover, to further substantiate this point, it can be mentioned that while the parliament has organised various monitoring committees to check the performance of the executive,¹²³ it is unfortunate that the parliament has so far failed to establish/organise a committee on disability affairs.¹²⁴ In addition, Ethiopia ratified the UNCRPD on July 7 2010¹²⁵ after 4 years of its international adoption¹²⁶, which seems very late. In the same manner, ‘Right of disabled Persons to Employment Proclamation no.101/1994’ was repealed and replaced by the ‘Right to Employment of Persons with Disabilities Proclamation no. 568/2008’ in 2008 after 14 years of failure to serve its purpose.¹²⁷ On top of all this, there is no visible effort to initiate the amendment of some laws, for instance, the equality clause in the Constitution which does not make a particular reference to disability like other explicit grounds of discrimination and in turn subjects it to the interpretation of other phrases such as ‘other

¹¹⁷ Interview with Ato Moshe Semu (President of Ethiopian Democratic Party (EDP)) Cell: +251 911 22 47 45 (29 September 2011).

¹¹⁸ Interview with Dr Marara Guddina (Vice-chair of United Ethiopian Democratic Forces (UEDF)) Cell: +251 911 21 38 87 (19 September 2011).

¹¹⁹ n 10 above, 78.

¹²⁰ Interview with Ato Getachew Bayafers (Education and Research Department of All Ethiopian Unity Organisation (AEUO)) Cell: +251 911 07 18 32 (26 September 2011).

¹²¹ n 11 above, 134.

¹²² n 117 above.

¹²³ www.ethiopia.gov.et/English/Information/.../GovernmentStructure.as... (accessed on 1 October 2011).

¹²⁴ Consult the list of standing committees of the Parliament available at: <http://www.ethiopia.gov.et/English/Information/.../GovernmentStructure.as...> (accessed on 1 October 2011).

¹²⁵ www.un.org/disabilities/countries.asp?id=166 (accessed on 1 October 2011).

¹²⁶ www.un.org/disabilities/default.asp?id=150 (accessed on 1 October 2011).

¹²⁷ Right to Employment of Persons with Disabilities Proclamation no. 568/2008 art 12 (1).

status'.¹²⁸ There is no general Proclamation of disability rights in Ethiopia. These are some of the points which are helpful to highlight that the Ethiopian parliament has failed to represent the outstanding and up-to-date political questions of persons with disabilities. As a result, the parliamentary practice has manifestly relegated the importance of political representation of the disabled.

2.3.2.2 IMPLICATION OF THE PRESENT-DAY PARTY PRACTICE ON POLITICAL REPRESENTATION OF PWDS IN ETHIOPIA.

In Ethiopia, political parties hold almost all the seats in the parliament.¹²⁹ On top of this, political parties allege that they are formed to promote the political interests of the overwhelming population from different angles.¹³⁰ Then, political parties are reasonably expected to advance the political representation of the disabled. To this end, parties can nominate disabled candidates for competition as descriptive representation theorists assert. Alternatively, political parties may develop disability-sensitive political programs, which may help in addressing the questions of persons with disabilities from the perspective of substantive approach to political representation.

Based on the descriptive approach, persons with disabilities may have a numeric advantage in the Parliament provided that political parties develop a mechanism for the nomination of disabled candidates. However, this is not the reality as most political parties confess.¹³¹ Currently, it is only the ruling party, which has some candidates that are persons with disabilities whose are familiar faces as a result of their presence from one term of parliament to the other (and who are mostly composed of victims of the protracted war with the military regime).¹³² With the exception of this isolated example, which by itself has some flaws, political parties do not have the culture of presenting disabled candidates.¹³³ Not only do Ethiopian political parties fail to endorse disabled candidates, they also do not have a reasonable number of disabled members.¹³⁴ The loss of sufficient number of members has in turn resulted in to lack of disabled nominees.¹³⁵ It follows that

¹²⁸ Equality clause of the current Constitution under art 25 has not listed disability as one of the grounds on which discrimination is impossible; and that article is still in operation with no amendment.

¹²⁹ n 117 above.

¹³⁰ Interview with Girmay Hadra (Chairperson of Forces for Ethiopian Justice and Democratic Front (FEJDF)) Cell: +251 911 64 24 07 (25 September 2011).

¹³¹ n 120 above.

¹³² n 130 above.

¹³³ n 120 above.

¹³⁴ n 130 above.

¹³⁵ as above.

Ethiopian political parties are not descriptively representing persons with disabilities despite their claim of representing the population in general.

From the substantive perspective of representation, political parties may promote the necessary attention to the questions of persons with disabilities in the Parliament provided that they have fairly included political demands of such group in their political programs and manifestos. With this regard, almost all Ethiopian political parties have some sort of social policies concerning the disabled population. Nevertheless, this type of political program tends to assume that each and every question of the disabled is answered within the sole framework of social policies. Apart from the scope of social affairs, it is clear that persons with disabilities also have so many concerns in other fields of policies such as economy, land, defence, civil service and etc.¹³⁶ Then, political parties fail to address such concerns as they are only focussing on social affairs. This in turn makes it difficult to say that Ethiopian political parties have political programs, which are disability inclusive due to the aforementioned limitation of policy coverage. In this sense, it is not reasonable to expect the promotion of disability concerns in the Parliament in the absence of inclusive party programs. Hence, from the standpoint of substantive approach, the political representation of persons with disabilities in the Ethiopian Parliament is almost imaginary.

2.4 CONCLUSION.

Historically, the trend of political representation during the regimes of the emperor and the Derg was disappointing. As discussed above, not only the disabled but also other citizens of the country were not fairly represented in the political system due to the prevalent ideologies at different times. In addition, other factors such as discriminatory laws have also contributed to the occurrence of the historic unfair representation in those days.

Moreover, the current trend of political representation of persons with disabilities reveals that it is at the lowest stage of development and more effort is needed in order to solve the problem. Nevertheless, it is important to examine whether there are some justifications for the need of political representation of persons with disabilities before looking at the possible solutions, which aim at bringing about positive trend of representation. In line with this assertion, the next chapter comes up with some justifications for the need of political representation of the disabled and the barriers for the success.

¹³⁶ n 111 above.

CHAPTER 3. JUSTIFICATIONS FOR THE IMPORTANCE OF POLITICAL REPRESENTATION OF THE DISABLED AND MAJOR BARRIERS FOR EFFECTIVE POLITICAL REPRESENTATION IN ETHIOPIA.

3.1 INTRODUCTION.

In the previous Chapter, a brief assessment of the status of political representation of the disabled has taken place through the legal framework and the prevalent practice. The evaluation has made clear that there are considerable gaps on the political representation of Ethiopian persons with disabilities. The mere existence of gaps on the political representation of the disabled does not and cannot by itself affect the interest of the group if there is no imminent necessity of political representation. Then, exploring the presence of such an urging need for the realisation of a prospective and efficient representation will be vital. Having this in mind, the first section of the 3rd Chapter endeavours to provide some platform for the driving factors, which signify the importance of political representation of the disabled. After responding to the question of why there is a need for political representation, the 2nd part of the Chapter further proceeds and tries to highlight the existence of possible impediments, which hampered the advancement of political representation of the disabled in Ethiopia.

3.2 JUSTIFICATIONS FOR THE IMPORTANCE OF POLITICAL REPRESENTATION OF THE DISABLED IN ETHIOPIA.

This section attempts to establish the need for political representation of the disabled by forwarding some predominant justifications, which denote the primacy of representation. Hence, the section categorises and presents the justifications under five main perspectives, namely, the 'democratic perspective', the 'right based perspective', the 'legitimacy perspective', the 'utility perspective' and the 'social justice perspective'.

3.2.1 THE DEMOCRATIC PERSPECTIVE.

The democratic perspective is drawn from the very concept of democracy itself. Democracy refers to the 'governance of the people for the people by the people',¹³⁷ given its implementation as subjected to various political ideologies and state structures. In this sense, democratic systems should address the claims of the broad mass in as much as possible.¹³⁸ As a result, there is a common observation that attaches the allegiance of democracy to the general public. Basically, this attribute of democracy makes it incompatible with political episodes such as exclusion, marginalisation and underrepresentation.¹³⁹ Thus, fair political representation of the disabled has its own significant contribution to the quality of democracy.¹⁴⁰ In line with the above assertion, democracy is neither of the view that some are decision makers while others do not remain to be decision takers nor does it encourage the rule of some others at the expense of the rest.¹⁴¹ Rather, it promotes the formation of a popular government through the equal participation of every citizen.¹⁴² It follows that political representation is at the heart of such popular participation, as it enhances the equal exercise and control of political power.¹⁴³ This in turn urges for the representation of the disabled to safeguard the group from being the subject of the rule of others. On top of this, a fair political representation has its root in the concept of democracy for popularising the system of administration, as it invites the accommodation of a wide variety of views, opinions and ideas.¹⁴⁴ No doubt those persons with disabilities have their own unique perspectives of life in general and politics in particular, which should get its way to the parliament through the enjoyment of fair political representation.

The very concept of democracy further indicates that it is cognisant of 'minority rights' while acknowledging 'majority rule'.¹⁴⁵ The necessary inference from this assertion is that the direct effect of such harmonising role of democracy is enabling the minority to exercise its inherent rights in the world of the majority. Then, as one of the minority groups,¹⁴⁶ persons with disabilities are also entitled to enjoy their rights in a democratic manner. Needless to mention that one of such rights is the right of political representation. Consequently, in a similar pattern with other fundamental

¹³⁷ n 43 above, 25.

¹³⁸ as above.

¹³⁹ Unpublished: L Sgier 'Political Representation and Gender Quotas' Paper for Delivery at the ECPR Joint Sessions, Edinburgh, UK, 2003 1.

¹⁴⁰ n 6 above, 363.

¹⁴¹ M Htun 'Is Gender like Ethnicity? The Political Representation of Identity Groups' (2004) 2 Perspectives on Politics 439.

¹⁴² n 1 above, 2.

¹⁴³ A Phillips 'Representation renewed' in M Sawer and G Zappala (eds) Speaking for the People: Representation in Australian Politics' (2001) 35.

¹⁴⁴ A Phillips 'The Politics of Presence' (1994) 15.

¹⁴⁵ n 43 above.

¹⁴⁶ n 3 above.

rights, political representation should also be exercised in any democratic system, including Ethiopia. As a minority group, the entitlement of Persons with disabilities to exercise the right of political representation ensures the equal opportunity for the group¹⁴⁷ in deciding the destiny of the country. By endorsing the respect for minority rights, the democratic system is interested in protecting minority groups from the possible majoritarian prejudice.¹⁴⁸ Thus, the political representation of minority groups in general and that of the disabled in particular, is at stake in order to realise the full protection of the group against any possible bigotry from the side of the majority. In fact, the majority is still the one, which dominates the parliament and passes any favourable decision.¹⁴⁹ Even in such cases, the presence of minorities in the parliament has its own contribution in levelling the disproportionate proceedings of the parliament.¹⁵⁰ The same is also equally true for the disabled, as one of the minority groups. In general, the democratic approach justifies the importance of the political representation of the disabled, as it stands in favour of introducing an all-inclusive political system.

3.2.2 THE RIGHTS BASED PERSPECTIVE.

This approach tries to address every problem through the full recognition of rights and the resulting practical enforcement of such rights.¹⁵¹ In other words, extending a due respect for the inherent rights coupled with the real enjoyment of the same is a way out for every challenge encountering human beings, as per the right based approach. The international framework of human rights recognises that political representation is one of the inherent rights of human beings.¹⁵² On this account, the right based approach advocates for the realisation of such rights, which the world has undertaken to protect. For this reason, the approach advances the question for the fair political representation of the disabled. On the same vein, the Ethiopian Constitution has incorporated international instruments of human rights that the country ratified.¹⁵³ Most of these instruments underline the inherent right of the disabled to be represented in the political system.¹⁵⁴ However,

¹⁴⁷ M Sawyer 'Representing Trees, acers, voters and Nonvoters: The Concept of Parliamentary Representation in Australia' in M Sawyer and G Zappala (eds) *Speaking for the People: Representation in Australian Politics* (2001) 6.

¹⁴⁸ F Bieber 'Political Parties and Minority Participation' (2008) 6.

¹⁴⁹ as above.

¹⁵⁰ K Anthony 'The Political Representation of Ethnic and Racial Minorities' Briefing Paper 3/06, NSW Parliamentary Library Research Service, 2006 41.

¹⁵¹ n 42 above.

¹⁵² n 17 above.

¹⁵³ n 82 above, art 9 (4).

¹⁵⁴ n 17 above.

the right of political representation of persons with disabilities is not effectively enforced despite the recognition.

It is also clear that the right based approach stands for effective enforcement of rights.¹⁵⁵ Realisation of rights in turn requires the upper hand effort from the side of the government.¹⁵⁶ In this case, the government is reasonably expected to do its best in satisfying the wants, demands and needs of the society with a view to realising human rights.¹⁵⁷ As a result, drawing the attention of the government to the immediate concern is very helpful.¹⁵⁸ In the advancement of such concerns, political representation has a lot to do, as it serves the purpose of enabling tool for the representatives in setting the agenda of political discussion.¹⁵⁹ Conversely, those groups which are unrepresented or under represented in the political system do not get this opportunity of voicing their burning concerns of an immediate nature. Consequently, they are unsatisfied, as their concerns are not addressed.¹⁶⁰ In this sense, the rights based approach encourages the fair representation of the disabled in the political system in order to enable the group to pinpoint the possible shortcomings on the enforcement of rights, which call for the requisite attention of the government.

The current Ethiopian Constitution also declares that the general public airs its voices and concerns through its representatives.¹⁶¹ Nevertheless, the defective enforcement of the right of political representation of the disabled contrary to the constitutional guarantees is preventing the group from conveying its political and policy demands. In addition, representatives of persons with disabilities may be part of the solution for the problems, provided that the disabled is fairly represented in the political system.¹⁶² Beyond this, the regular activity of the legislature is to make laws, which in turn have their own bearing on the rights of citizens.¹⁶³ Then, such legislations may have the tendency of disadvantaging one against the other, as they are not enacted by a fairly representative legislature.¹⁶⁴ Thus, the political representation of the disabled is very crucial, as it may protect from unnecessary imposition of the legislature. Indeed, the rights based approach suggests the importance of political representation for the disabled not only as a stand-alone right but also as a facility and precursor for the enforcement and realisation of other rights. In this case,

¹⁵⁵ n 42 above.

¹⁵⁶ n 41 above, 445.

¹⁵⁷ n 150 above, 38.

¹⁵⁸ E Tatari 'Institutional Constraints on Effective Minority Representation' (no date) *European Journal of Economic and Political Studies* 48.

¹⁵⁹ K Sanbonmatsu 'Gender-Related Political Knowledge and the Descriptive Representation of Women' (2003) 25 *Political Behavior* 367.

¹⁶⁰ n 8 above, 382.

¹⁶¹ n 82 above, art 8 (3).

¹⁶² n 6 above, 362.

¹⁶³ P Zetterberg 'Do Gender quotas Foster Women's Political Engagement?' (no date) 62 *Political Research Quarterly* 717-720.

¹⁶⁴ as above.

too, persons with disabilities in Ethiopia cannot protect themselves from the possible imposition of laws that discriminate against them by the legislature, as they are not fairly represented in the political system in general and the parliament in particular.

3.2.3 THE LEGITIMACY PERSPECTIVE.

This perspective appeals to the genuine link, which should exist between the representative and the represented in many ways. A legitimate parliament for instance should claim the requisite emotional or moral force from the electorate.¹⁶⁵ In this sense, the disabled may not owe this type of moral basis, as it remains unrepresented. In a similar manner, a fairly representative parliament is expected to be responsive for the needs of the society at large.¹⁶⁶ Then, this expectation is totally absent where the disabled and its group interest are not represented in the parliament. Hence, the importance of fair representation is still an outstanding issue for both the disabled and the parliament, as the latter needs to have the basis of moral authority while the former demands the resulting responsiveness of the representatives.

The legitimacy of the parliament also helps to 'act for' other than 'standing for' the rights of the represented.¹⁶⁷ This in turn creates some sort of sense of ownership in the mind-set of the represented¹⁶⁸ as long as the parliament is acting for the realisation of rights. Conversely, this is not true in the case of unfair representation of Persons with disabilities. The parliament cannot act for the rights of persons with disabilities where they are not sufficiently represented. As a result, the disabled do not feel the sense of ownership of the parliament, which does not have some seats for its representatives. The issue of accountability of the legislature also fits in to this dimension.¹⁶⁹ The parliament is accountable to the electorate where it acts for the rights of the represented. Basically, the current Ethiopian Constitution also tells us that the parliament is accountable for the people.¹⁷⁰ However, as one of the constituents of the people, it is difficult to conclude that the parliament is accountable for persons with disabilities for they are not adequately represented in the House. Therefore, the existence of a reasonable and acceptable political representation of Persons with disabilities facilitates the fair play between the parliament and the group.

¹⁶⁵ n 143 above, 33.

¹⁶⁶ as above.

¹⁶⁷ n 147 above, 7.

¹⁶⁸ n 147 above, 11.

¹⁶⁹ as above.

¹⁷⁰ n 144 above, 11.

The other aspect of legitimacy is reflected through the effect of policy-related affairs of the electorate. If the representation is uneven, strategic interests of the disenfranchised may not be objectively treated in the policy making process.¹⁷¹ Even if some concern is extended for such interests, it is difficult to expect the proper understanding of their significance and thus the policy accommodates interests as perceived by others, contrary to the real demand and policy preference of the interested group.¹⁷² Then, unfair representation ends up in bringing about unfair policies, which in turn endangers the legitimacy of a specific political system.¹⁷³ In line with the above assertion, one of the political objectives of the Ethiopian government is to promote the 'self-rule' of its people.¹⁷⁴ On the other hand, the self-rule of persons with disabilities does not seem feasible in as much as they remain unrepresented in the political system. Nonetheless, the policy will be equitable and interests are not overlooked provided that a balanced political representation takes place. For this reason, introducing a real representation of the disabled is advantageous for both the political system and the group in the sense that the politics benefits from the inputs of the disabled while the latter sustains the requisite self-rule and the inclusion of its interests in the policies of a state.

Furthermore, the absence of a legitimate political system may lead to a 'political paternalism' due to its inherent unrepresentativeness.¹⁷⁵ The mirror reflection of such unrepresentativeness is the 'political minority' of those who are not represented in the system.¹⁷⁶ 'Political paternalism' refers to the exclusive ownership of unrepresentative policymaking process by a certain group of citizens¹⁷⁷ while 'political minority' entails the subjection of marginalised groups to such unrepresentative policy preferences.¹⁷⁸ In contrast, given the nature of its implementation, citizens are expected to equally involve in all aspects of designing and policy management processes of a democratic state.¹⁷⁹ Meanwhile, an all-inclusive system of political representation averts both political paternalism and political minority by hosting the role of every citizen in the political system and thereby nourishing the democratisation process in a state.¹⁸⁰ It follows that a genuine political representation of persons with disabilities obviates the patriarchal politics and assists in the furtherance of democracy by legitimising the system.

¹⁷¹ n 144 above, 16.

¹⁷² n 96 above, 79-83.

¹⁷³ as above.

¹⁷⁴ n 82 above, art 88 (1).

¹⁷⁵ n 6 above, 372.

¹⁷⁶ n 150 above, 42.

¹⁷⁷ n 6 above, 372.

¹⁷⁸ n 150 above, 42.

¹⁷⁹ n 143 above, 36.

¹⁸⁰ as above.

The relationship between fair representation and legitimacy may also draw some inferences from the evident power interplay. Power distribution is a fundamental aspect of a legitimate political system.¹⁸¹ However, decentralisation of power is not possible without the existence of a sound political representation.¹⁸² To this effect, the manipulative political system, which does not represent all interested parties, fails to meet the threshold of legitimacy as far as it concentrates the power in the hands of some groups by shelving some others. This in turn leads to the creation of the political system, which serves the demands of some part of the society while the unfairly represented ones are ostracised. Consequently, the enjoyment of political representation for the disabled means getting its own share from a piece of the pie. If the disabled, as a group, get what is due to them through proper political representation, most likely, the political system ensures its legitimacy at least through the lens of the rights of persons with disabilities. Consequently, the legitimacy of unrepresentative government is susceptible to any possible political adulteration for all the aforementioned reasons.

3.2.4 THE UTILITY PERSPECTIVE.

The utility perspective draws its framework from the possible contribution of the disabled to the political system provided that the group is adequately represented in politics. Generally, the emphasis of this approach is on the potential benefits of the society and the politics, which may flow from the political representation of Persons with disabilities.

Needless to explain that persons with disabilities have their own political skills and talents.¹⁸³ In this case, had they been fairly represented, they would have been helpful in shaping the political ideology of a state in a sustainable manner.¹⁸⁴ On top of this, persons with disabilities have their own unique perspectives of life.¹⁸⁵ Such opportunities will in turn put them in a better position to speak for differences¹⁸⁶ with a view to inform the political system to recognise and fairly accommodate the prevalent disparities. The accommodation of differences in the parliament in particular, may enhance both the internal and external efficacies of the parliament.¹⁸⁷ Internally, the growth of political discussions resulting from the representation of groups with different political views ends

¹⁸¹ n 139 above, 13.

¹⁸² as above.

¹⁸³ n 8 above, 364.

¹⁸⁴ n 147 above, 7.

¹⁸⁵ n 8 above, 365.

¹⁸⁶ n 6 above, 367.

¹⁸⁷ n 163 above, 721.

up in elevating the efficacy of the parliament.¹⁸⁸ Meanwhile, the external efficacy of the parliament increases due to the manifest political confidence of the electorate because of the remarkable attention of parliamentary deliberations to a wide variety of political differences, demands, views and opinions.¹⁸⁹ However, this is only possible through the advancement of the quest of various interest groups for a real implementation of political representation. Therefore, the importance of political representation of the disabled is justifiable in this respect, as it is supportive of positive prospects of the parliament.

The realisation of political representation of the disabled may also inoculate a new set of ideas and values in to the political system from the side of Persons with disabilities in view of complementing the already existing ones.¹⁹⁰ Most importantly, Persons with disabilities are familiar with disability-related concerns.¹⁹¹ For this reason, they may furnish a significant contribution in designing disability laws, policies, programs and strategic plans.¹⁹² In this sense, the political representation of the disabled is commendable in that it paves the way for the direct involvement of those possessing relevant and appropriate experience, which is applicable to the matter at hand.¹⁹³ Indeed, the utility perspective enunciates that the existence of an effective political representation of the disabled does not only advance the rights of persons with disabilities but it also promotes and benefits the political system.

3.2.5 THE SOCIAL JUSTICE PERSPECTIVE.

This perspective tries to rationalise the importance of political representation of the disabled through the explanation of some social purposes, which a genuine political representation may serve. There is a general consensus that social causes can be advocated through political representation.¹⁹⁴ For instance, the disabled may seek remedies through its representatives for some social issues such as adequate living standard and housing if the group is fairly represented in politics. In addition, representing the disabled in the politics may assist in addressing the social injustice and redressing the impacts of such prejudice.¹⁹⁵ Therefore, political representation of

¹⁸⁸ as above.

¹⁸⁹ as above.

¹⁹⁰ n 6 above, 363.

¹⁹¹ n 8 above, 368.

¹⁹² as above.

¹⁹³ n 6 above, 363.

¹⁹⁴ n 139 above, 16.

¹⁹⁵ J Crowley 'The Political Participation of Ethnic Minorities' (2001) 22 *International Political Science Review* 105.

persons with disabilities entails the breaking of the link between social inequalities and their political reflections.¹⁹⁶ Having political representatives in the system of the government may also avail the disabled of facilities, which pave the way for consultation and protection.¹⁹⁷ Hence, persons with disabilities should secure the requisite political representation in order to attain such goals.

Closely linked with the above assertions, an efficient political representation of the disabled may have the role of social positioning by ensuring appropriate power interplay and by deterring the prevalence and historical legacies of various forms of discriminations.¹⁹⁸ Such purpose of political representation is more effectively served through the recognition of diversities and pluralism, which are the typical aspects of any social structure.¹⁹⁹ Then, acknowledging the political representation of Persons with disabilities amounts to recognising disability as one aspect of diversity. As an added value, the representatives of Persons with disabilities may enjoy a superior social respect and prestige due to their reputation as parliamentarians.²⁰⁰ The social respect by itself has something to do with the transformation of the society at large. In general, from the on-going discussion, it is not problematic to understand the place and vitality of political representation in order to achieve the maximum social renovation. Consequently, the need for political representation of persons with disabilities in Ethiopia still persists to be justifiable to bring about such societal changes.

Finally, a considerable attempt is exerted under this section to put in clear terms the justifications for the need of political representation of persons with disabilities in Ethiopia. However, thinking of political representation of the disabled in Ethiopia is still unrealistic despite the existence of such basic and sound justifications. Then, the next section is concerned with the analysis of barriers, which hinder an effective political representation of the disabled in Ethiopia.

3.3 MAJOR BARRIERS FOR EFFECTIVE POLITICAL REPRESENTATION OF PWDS IN ETHIOPIA.

As already noted in the previous section of this chapter, there are some driving factors, which reasonably give rise for the importance of the representation of the disabled in the Ethiopian political system. However, as per the analysis of chapter 2 of this paper, the status of political representation of persons with disabilities signifies the reverse. Consequently, the gap between the

¹⁹⁶ as above.

¹⁹⁷ n 144 above, 15.

¹⁹⁸ n 195 above, 106.

¹⁹⁹ n 139 above, 7.

²⁰⁰ n 6 above, 361.

need and the status of political representation invites the focus of the research to explore causes for such discrepancies. On account of this rationale, this section attempts to identify major barriers to enhance the political representation of Ethiopian persons with disabilities. Three major impediments of effective representation, namely barriers due to the prevalent partisanship practice in Ethiopia, barriers due to the electoral system and socio-economic barriers are the areas of concern for this section.

3.3.1 BARRIERS DUE TO THE CURRENT PARTISANSHIP PRACTICE IN ETHIOPIA.

Most political parties in Ethiopia do not possess a sufficient number of disabled members.²⁰¹ The limited involvement of the disabled in the Ethiopian party politics is the result of inadequate party agitation and sensitisation of party programs.²⁰² In furtherance of the above assertion, Ethiopian political parties, while admitting the limited reach of their programs and manifestos to persons with disabilities, allege that the tight political space in Ethiopia has a negative bearing on the recruitment of members in general and PWDs in particular.²⁰³ According to the words of the interviewees, a 'tight political space' refers to the loss of conducive political atmosphere owing to the disruptive measures of the ruling party.²⁰⁴ As a result, parties contend that it is difficult for them to freely and effectively agitate the society for the recruitment of members. Worst of all, political parties also add that even those who are aware of their political programs are not courageous enough to join them because of the scary political deadlock.²⁰⁵

The absence of disabled members in turn leads to the paucity of candidates with disabilities. Thus, political parties render the representation of persons with disabilities difficult, as they are not nominating disabled candidates due to insignificant membership. In addition, the internal party procedures of nomination are mostly related to the political capacity of the nominees (the would be candidates) to advance the agenda of a party.²⁰⁶ This means that party loyalty matters most, as compared to other attractive electoral assets such as the identity of a candidate. Setting party loyalty as a pervasive criterion for assuming candidacy may imply that political parties in Ethiopia are

²⁰¹ n 130 above.

²⁰² n 111 above.

²⁰³ All opposition party leaders who were interviewed agree with this assertion.

²⁰⁴ To this effect, opposition party leaders like Dr. Marara Guddina and Ato Girmay Hadra allege that freedoms such as that of assembly, association, press and expression are either highly limited or subject to a serious scrutiny.

²⁰⁵ One of the interviewees Ato Getachew Bayafers contends that the ordinary people are not ready to run the risk of joining opposition parties due to the harsh reaction of the ruling party.

²⁰⁶ n 144 above, 14.

far from being disability sensitive due to a constrained ‘civic mindedness’ which negates the recognition of all diversities in the country.²⁰⁷ Thus, it is very unlikely that parties in Ethiopia promote the representation of persons with disabilities in the political system in as much as they are not sufficiently familiar with the prevalent diversities of the country and hence, are not disability sensitive.

3.3.2 BARRIERS DUE TO THE ELECTORAL SYSTEM.

As already discussed, the Ethiopian Electoral law does not provide an adequate guarantee for the voting rights of the disabled. For instance, it discriminates against the persons with mental disabilities.²⁰⁸ No matter how the Electoral Proclamation tells us that the process of election takes place with equal participation of every one, it does not provide for the necessary facilities such as braille voting cards and sign language interpreters.²⁰⁹ In a similar manner, the Party Registration Proclamation does not arrange for some mechanisms of affirmative actions for the parties to present disabled candidates unlike the women.²¹⁰ For women for instance, the Proclamation provides for the apportionment of government support during election to be considerate of the number of women candidates of a political party.²¹¹ Notwithstanding the role of such party affirmations in enhancing the political representation of the disabled, the Party Registration Law is still silent about such issues.

The second problem is related to the ‘district magnitude’ in Ethiopia. The Electoral Law articulates that a constituency is represented by a single candidate and it follows ‘first past the post’ voting system.²¹² This type of electoral system has its own shortcomings particularly when it comes to ‘descriptive representation’.²¹³ According to this system, it is only the candidate acquiring the majority of votes in the constituency who can secure a parliamentary seat.²¹⁴ Other competitors are instantly left out, as they do not comply with the majority requirement. In this case, it is difficult for PWDs to be descriptively represented in the parliament, as they do not constitute the majority of any constituency. It is clear that PWDs in Ethiopia are not concentrated in a specific geographic

²⁰⁷ as above.

²⁰⁸ n 91 above, art 33 (3) (a).

²⁰⁹ The Electoral Proclamation has no provision that may be construed either as embracing ‘reasonable accommodation’ or accessibility issues.

²¹⁰ The Revised Political Parties Registration Proclamation No. 573/2008 art 45 (2) (b).

²¹¹ as above.

²¹² n 91 above art 25.

²¹³ n 150 above, 29.

²¹⁴ as above.

location and rather they are sparsely distributed all over the country. Then, 'the single member district (SMD)' arrangement of the electoral system is one deterrent factor to introduce a 'microcosmic' representation of the disabled in Ethiopia.

The endorsement requirement of candidature is also another challenge for the political representation of PWDs. As discussed above, parties do not have a sufficient number of disabled candidates.²¹⁵ Most probably, this situation necessitates the coming in to the electoral contest of disabled private candidates. However, the Electoral Proclamation puts a stringent requirement as to the number of endorsement signatures, which such person should get in order to register as private candidate.²¹⁶ In this sense, it discourages the disabled, as some facilities for securing the highest attainable number of petitions such as transportation and means of communication are inaccessible. Therefore, it is difficult for the disabled to contest for and win elections as a private candidate.

It is also important to note that the Ethiopian electoral system provides for the political representation of minorities.²¹⁷ Such minorities, as recognised by the constitution, have their own reserved seats in the parliament.²¹⁸ However, the constitution does not recognise PWDs as one of the minority groups in the country and thus, it only refers to ethnic minorities.²¹⁹ Due to the allotment of reserved seats, it would have been of some benefit in increasing the number of PWDs in the parliament if the constitutional status of minority had also been granted for the disabled. Thus, the lack of constitutional acknowledgement as minority group has hindered PWDs to descriptively represent themselves in the parliament, despite their factual minority attributes in the society.

3.3.3 SOCIO-ECONOMIC BARRIERS.

There are a number of socio-economic factors that serve as barriers to the political representation of PWDs in Ethiopia. One of such barriers is the inadequate provision of electoral education.²²⁰ Understanding the electoral system is an added value in enhancing political representation.²²¹ Therefore, the disabled should acquire the requisite awareness on the issues of the electoral process

²¹⁵ n 120 above.

²¹⁶ The Electoral Proclamation art 45 (3) requires any private candidate to produce endorsement signatures not less than 1000.

²¹⁷ n 82 above, art 54 (2).

²¹⁸ n 82 above, art 54 (3).

²¹⁹ n 82 above, art 54 (2) and (3).

²²⁰ n 1 above, 16.

²²¹ as above.

such as how to cast votes, voting services, election enrolments etc.²²² in order to vote and represent themselves effectively.

The low level of societal awareness may also influence the representation of the disabled. Most of the society, including parliamentarians, government officials, partisans, PWDs, NGOs and other stakeholders are not well-aware of the right of political representation of PWDs. In such cases, these bodies cannot satisfactorily accomplish their role of facilitating the election process.

The other impediment is the societal prejudice against PWDs. In some instances, such prejudices are even the bases for the legally sponsored electoral discrimination (for example, discrimination against the voting rights of the mentally disabled).²²³ Therefore, the cultural biases of the society may either limit the extent of political representation or totally impair the right through the restrictions imposed on voting and other related rights.

3.4 CONCLUSION.

The importance of political representation of PWDs is featured under this chapter. Various perspectives such as democratic perspective, right based approach, legitimacy perspective, utility approach and the social justice perspective were employed to examine the necessity of political representation of PWDs in the context of Ethiopia. It has also been clear that the ultimate point of all theories is the vitality of political representation for the disabled, as viewed from different angles.

In addition, the paper has also attempted to analyse some major impediments of political representation of the disabled in Ethiopia. Such factors that contribute for the underrepresentation of PWDs include electoral barriers, party-related barriers and socio-economic barriers. Then, chapter 4 comes up with solutions to enhance the political representation of PWDs in general and some commendable ways to alleviate such barriers in particular.

²²² n 150 above, 23.

²²³ n 96 above, 84.

CHAPTER 4. CONCLUSIONS AND RECOMMENDATIONS.

4.1 INTRODUCTION.

The previous three chapters have provided the noticeable features of PWDs' political representation in Ethiopia. This Chapter is dedicated for some of the main conclusions drawn from the previous chapters, and also offer some recommendations in order to improve the rights of PWDs to political representation. The first part forwards some concluding statements of the thesis, while the second part gives some possible solutions to the problem of political underrepresentation of the disabled in Ethiopia. In doing so, the recommendation section primarily comes up with the type of representation that best fits in responding to the political demands of Ethiopian PWDs. Secondly, the paper provides some general remarks, which should be implemented by the stakeholders in relation to the political representation of the disabled.

4.2 CONCLUSIONS.

The paper has focussed on one aspect of political representation namely, parliamentary representation of the disabled, as the legislature predominantly remains the centre of decision making. Moreover, analysis of the concept of political representation is dealt in the paper from the perspectives of descriptive representation that takes parliamentary presence as a core aspect of representation and normative representation that stresses on portraying political interests. The place of political representation of the disabled under international human rights instruments is also depicted as reflecting some positive trends.

In the Ethiopian political history, the development of political representation throughout the administrations of the monarch and the Derg was poor. Not only PWDs, but also other people were not impartially embodied in the administration owing to the widespread dogmas. Furthermore, other dynamics for example, unfair laws have also backed the event of the notable prejudicial representation in those times. In this sense, the previous administrative arrangements were obstinately refuting political rights such as the right of political representation of an enormous number of Ethiopians. Hence, there was almost no place and initiative to boost and promote political representation of the PWDs. As examined from the perspective of legal instruments, party and parliamentary practices in Ethiopia, even the present trend of political representation of the disabled divulges that it is at the lowest phase of growth and more work is expected to disentangle the problem.

However, various logical and legal justifications suggest the importance of political representation of PWDs in Ethiopia. Such justifications may be viewed from different angles such as democratic approach, right based approach, legitimacy approach, utility approach and the social justice approach. As a result, there is a clear gap between the need and the evident status of political representation of the disabled in Ethiopia. On account of the existence of such gaps, the paper has identified three basic barriers that impede the effective and successful political representation of PWDs. These include barriers related to the electoral system, barriers due to the party practices in Ethiopia and socio-economic impediments.

Finally, based on the implications of the assessment of the status, importance and barriers of political representation of PWDs in Ethiopia, concluding remarks and recommendations are forwarded under this Chapter.

4.3 RECOMMENDATIONS.

4.3.1 RECOMMENDATIONS AS TO THE TYPE OF POLITICAL REPRESENTATION THAT ANSWERS THE QUESTIONS OF THE DISABLED IN THE ETHIOPIAN POLITICS.

This subsection tries to answer the question as to what type of representation is a possible solution for the political representation demands of the disabled. Possible remedies of the underrepresentation may rely on ‘descriptive/microcosmic/demographic’ or ‘normative/substantive’ representation or somewhere in between.

4.3.1.1 DESCRIPTIVE REPRESENTATION AS A WAY OUT.

As already discussed, ‘descriptive’ representation is all about the number of political representatives in the legislature.²²⁴ Then, increased number of parliamentarians is the indication of a better level of representation.²²⁵ To this effect, dealing with the mechanisms as to how to increase the number of disabled parliamentarians will be relevant. In this case, it is conceivable to draw two potential

²²⁴ n 9 above, 228.

²²⁵ n 10 above, 77.

mechanisms that may be applicable to the political representation of Persons with disabilities. The first is the concession of ‘reserved seats’ in the legislature while the second one is related with ‘party quotas’ for candidature.

4.3.1.1.1 RESERVED SEATS.

The concession of ‘reserved seats’ refers to the political commitment of allocating a certain number of parliamentary seats for the disabled by way of augmenting political representation.²²⁶ In most cases, parliamentary seats are allotted for ethnic, religious, linguistic and other minority groups, depending on the political context of the concerned states.²²⁷ PWDs are one of the minority groups²²⁸ and given some differences, the status of minority makes the political situation of the disabled largely analogous with other minorities. Accordingly, this is the very reason of proposing such mechanism as one of the alternatives to descriptively represent the disabled in the Ethiopian parliament.

In a similar vein, the Ethiopian Constitution asserts that minority nationalities and peoples are entitled to a certain number of reserved parliamentary seats the minimum limit of which is 20.²²⁹ Arguably, Ethiopian persons with disabilities may claim a similar constitutional status due to the shared aspect of minority locus, may be through one of the following two possible options. The first is by directly extending the constitutional provision to PWDs, due to the common factor of minority status. This in turn invites the analogical interpretation of the Constitution. However, the constitutional list of minorities is exhaustive²³⁰ and does not allow analogy. Then, the remedy will be initiating constitutional amendment to include PWDs in the list. Yet, the amendment procedure has its own intricacies and this option is not as such sustainable.

The second option requires the inclusion of PWDs in to one of the categories namely, ‘peoples’. The term ‘peoples’ is defined by its numeric significance and refers to a group of persons not less than 20 in number.²³¹ Then, peoples with disabilities may claim the minority status under the constitution if

²²⁶ n 141 above, 439.

²²⁷ n 1 above, 6.

²²⁸ n 3 above, 1.

²²⁹ n 82 above, art 54 (3).

²³⁰ See n 82 above, art 54 (2) and (3).

²³¹ n 91 above, art 20 (1) (c).

their number is not less than 20. Nevertheless, this group of peoples should receive the confirmation of the concerned body in order to enjoy the special representation.²³²

The claim of the disabled to enjoy reserved seats in the parliament seems feasible, at least from the angle of the experience of other countries in Africa. For instance, Uganda has the system of 'special representation' for PWDs.²³³ Indeed, such foreign practices may help to justify the importance of special representation/reserved seats for the disabled.

On the other hand, concession of 'reserved seats' has its own shortcomings, particularly when it is applied to enhance disability rights. Despite the underrepresentation of the disabled, securing reserved seats may be perceived as promoting the other form of segregation²³⁴ as far as the group is negotiating for unique opportunities apart from the ordinary society by invoking differences. Meanwhile, such specialities are in contradiction with the UNCRPD, which encourages the inclusion of PWDs in every sector of socio-economic and political activity of that society.²³⁵ Therefore advocating for reserved seats is not worthwhile as it perpetuates the discrimination. Moreover, unlike other citizens, PWDs will vote 2 times (one for the special seats and the other for the constituency candidates), if the scenarios like Uganda are taken as a benchmark.²³⁶ This in turn is in contradiction with the electoral principle of 'one person one vote'²³⁷ and makes the importance of reserved seats superfluous. In this sense, the descriptive political representation of the disabled should be realised through other means if the numeric parliamentary presence of the group is necessary. As a result, assessing the significance of 'party quotas' widens the opportunity to choose the best out of the 2 options to boost the descriptive representation of the disabled.

4.3.1.1.2 PARTY QUOTAS.

'Party quotas' refer to the internal party strategies whereby political parties grant some opportunities for the candidacy of members of vulnerable groups with a view to expanding the base of their popular support.²³⁸ Party quotas have their own evident role in increasing the descriptive

²³² as above.

²³³ Unpublished: S Tamale 'Introducing Quotas in Africa: Discourse and Legal Reform in Uganda' A Paper Presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference, Pretoria, 2003 3.

²³⁴ n 139 above, 4.

²³⁵ n 30 above, art 3 (c).

²³⁶ www.aceproject.org/ero-en/topics/voter-registration/vrx_w014.pdf (accessed on October 2 2011).

²³⁷ n 91 above, art 26 (3).

²³⁸ n 163 above, 724.

representation of vulnerable groups where the electoral system is typically characterised by a 'SMD'.²³⁹ The SMD is intended to represent a constituency by a single candidate.²⁴⁰ The necessary implication of this electoral system for the upper hand vulnerable groups is that they cannot join the parliament due to lack of the requisite majority,²⁴¹ save some exceptions where they may constitute a bulk of a specific geographic location.²⁴² Ethnic minorities and indigenous people may qualify for the threshold of geographic majority,²⁴³ unlike PWDs who are sparsely populated across the country. As outlined above, it should be noted that the Ethiopian electoral system is also categorized with the followers of a SMD.²⁴⁴

In countries like Spain, there is an established experience that such party quotas have contributed for the growth of descriptive representation of the women.²⁴⁵ Thus, party quotas may bear some affirmative outcomes as for the descriptive political representation of the disabled. However, although not straightforward, the Ethiopian Electoral Proclamation encourages political parties to increase the number of women candidates by considering it as one of the criteria for the apportionment of electoral support.²⁴⁶ It would have been commendable if the Proclamation had followed the same approach to do away with the underrepresentation of the disabled.

Party quotas have some negative implications, notwithstanding the aforementioned benefits. Primarily, the delivery of quotas for some groups will either encourage the other groups to claim the same favour²⁴⁷ and this in turn leads to the infinite list of beneficiaries or makes them decrease the genuine support for a specific party if they are not taking the advantage of such quotas. In addition, the part quota may also undermine the competence of a particular election.²⁴⁸ This means, incompetent candidates stand for elections while the competent ones fail. As a result, the electorate has the tendency of scepticism on the quality of the representatives and the leaders thereof.²⁴⁹

Generally, the thesis has attempted to provide some insights of both 'reserved seats' and 'party quotas' with a view to clarifying their possible advantages and disadvantages in bringing about effective descriptive representation. From the on-going discussions, perhaps it is possible to conclude that party quotas have some better prospect in upgrading the descriptive representation

²³⁹ n 150 above, 30.

²⁴⁰ as above.

²⁴¹ n 148 above, 27.

²⁴² as above.

²⁴³ as above.

²⁴⁴ n 91 above, art 25.

²⁴⁵ Unpublished: M Threlfall 'Explaining Gender Parity Representation in Spain: The Internal Dynamics of Parties' Paper presented at the ECPR Conference, Budapest, 2005 1.

²⁴⁶ n 210 above.

²⁴⁷ n 139 above, 9.

²⁴⁸ as above.

²⁴⁹ as above.

of the disabled as compared to the concession of 'reserved' seats. The gaps of 'party quotas such as competence may easily be corrected by upgrading the capacity of candidates. Meanwhile, the gaps due to a 'reserved' seat' such as 2 voting rights, failure to mainstream disability rights are systematic and difficult to immediately correct them. Then, such problematic nature of 'reserved seat' compels one to choose 'party quotas'.

4.3.1.2 SUBSTANTIVE/NORMATIVE REPRESENTATION.

A group is said to be normatively represented when vested political interests are duly reflected in the parliament.²⁵⁰ The implication of such representation is the creation of a responsive parliament towards the popular political urges.²⁵¹ Then, the question is as to how to substantively represent the disabled. Alike the descriptive representation, there are parliamentary and party mechanisms which enable the broader representation of interests in the legislature.

The legislature, for instance, can organise internal standing committees to regularly engage with disability affairs with a view to oversee disability related governmental undertakings and set the timely agendas for the concerns of PWDs.²⁵² Perhaps, sustainable partnership with CSOs, DPOs and NGOs may have some contribution in retaining the attention and systematic involvement of the parliament in disability matters²⁵³ if there is a state-wide culture of founding and mobilising such associations. Above all, the main role of the parliament within the government lies-in directing the statutory regime through the promulgation of governing sets of laws.²⁵⁴ With this regard, the legislature can advance a wide range of political demands of the disabled by scrutinising the existing legal instruments in order to react accordingly.²⁵⁵

Meanwhile, parties may substantively represent the disabled if they manage to have disability responsive political manifestos.²⁵⁶ Disability inclusive party programs are conducive for the advocacy of interests when members of such parties join the parliament, as the representation mission of a party member is the derivative of party manifestos.²⁵⁷ Therefore, the existence of responsive party

²⁵⁰ n 11 above, 134.

²⁵¹ as above.

²⁵² n 3 above, 105.

²⁵³ n 3 above, 18.

²⁵⁴ n 3 above, 74-75.

²⁵⁵ as above.

²⁵⁶ n 111 above.

²⁵⁷ n 117 above.

platforms may help in guiding the spirit of parliamentary deliberations to address the needs of PWDs, which in turn has the repercussion of normative representation.

In Ethiopia, it is commendable to work on the creation of both disability responsive parties and legislature. This in turn has a lot to do with the realisation of the substantive representation of the disabled. In this sense, normative representation facilitates the creation of a conducive political atmosphere that signifies the visibility of disability related political affairs.

Finally, it is important to mention that both descriptive and substantive representations have their own varying roles in promoting the political representation of PWDs. However, it is not constructive to conclude that either of them is a sustainable remedy for the underrepresentation of the disabled. In as far as it theorises the benefit of presence of PWDs in the parliament, descriptive representation has a necessary implication that the members of the group always effectively represent group interests.²⁵⁸ Yet, it is challenging to prove this assertion, as representation and representativeness is mostly influenced by several factors²⁵⁹ such as party ideology, parliamentary influence, demands of the electorate, personal charisma of a representative etc. On the other hand, theorists of substantive representation allege that the mere consideration of interests in the parliament signifies effective representation of a group, despite the identity of a representative.²⁶⁰ No matter how the legislature is praiseworthy in considering the political questions of a group, it lacks the blessings and inputs of the concerned group, which does not have delegations in the house.²⁶¹

Consequently, it is recommended to adapt the robust attributes of both approaches. Representing and promoting the political interests of the disabled has an undisputable significance. Similarly, it is equally essential to see a reasonable number of persons with disabilities in the parliament by way of valuing their contributions to the group and to the society in general. To this effect, it is advisable to encourage party membership and candidature of the disabled alongside the creation of disability inclusive legislature and party policies.

4.3.2 GENERAL RECOMMENDATIONS.

1. The government should:

²⁵⁸ n 1 above, 2-6.

²⁵⁹ n 6 above, 363.

²⁶⁰ n 1 above, 2-6.

²⁶¹ n 96 above, 79-83.

- Amend electoral and other laws and make elections accessible to avoid impediments for the political representation of the disabled.
- Encourage the candidature of PWDs by utilising various mechanisms such as granting electoral support for the parties.
- Establish disability affairs standing committee in the parliament by way of extending attention to the political questions of the disabled.
- Provide accessible electoral education and awareness program for the disabled through the Electoral Board.
- Strengthen partnership with organisations engaged in disability related activities aiming at mainstreaming and addressing political interests of the disabled in state agencies.
- Create consultation opportunities to PWDs with a view to include their perspectives, experiences and needs in every socio-political activity.

2. Political parties should:

- Increase membership of the disabled with the end objective of producing candidates.
- Utilise disability sensitive strategies of education, propagation and agitation when they disseminate their political objectives and programs.
- Facilitate access to their offices, governing laws and bylaws to expedite membership of the disabled.
- Create consultation opportunities to PWDs with a view to include their perspectives, experiences and needs in every socio-political activity.
- Introduce some form of affirmation and quota delivery schemes to upgrade the candidature of PWDs.
- Design disability sensitive political manifestos to portray political demands of the disabled.

3. Organisations operating in the disability sector should:

- Sensitise the society with a view to increase political visibility of the disabled in the electorate.
- Support the facilitation and accessibility of the electoral forum to enable the disabled to effectively vote for their representatives.

- Sensitise the disabled by providing the necessary political knowledge on the importance of representation.
- Assist in the development of disability inclusive political programs both at the party and government levels.
- Cooperate with the Electoral Board in the dissemination of voters' education.
- Provide the necessary input for the parliament and the government in general in setting disability related agendas.
- Enlighten parties, the parliament, the Electoral board and the government on the democratic values of enhancing political representation of the disabled.

4. PWDs should:

- Effectively participate in every opportunity enabling them to promote their political representation.
- Magnificently demonstrate their political skills and contributions to the society in order to gain the genuine attention of the electorate.
- Effectively involve in the political activities of parties, the parliament and the government.

5. International human rights institutions should:

- Ensure that the Ethiopian periodic reports have fairly covered the progress on political participation and representation of the disabled.
- Provide a viable concluding observation that urges the government to take the necessary measures in guaranteeing political representation of the disabled.
- Effectively monitor the implementation of such concluding observations through special rapporteurs on disability rights.

6. International donor agencies should:

- Include the political representation of PWDs as one of the compelling requirements for financing the democratisation program in Ethiopia.
- Supervise the success of such political representation as required by their funding schemes.

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BIBLIOGRAPHY

BOOKS.

Albert, W Democracy (2007).

Bieber, F 'Political Parties and Minority Participation' (2008).

Calhoun, CJ Nations Matter: Culture, History and the Cosmopolitan Dream (2007).

Fraser, N Scales of Justice: Reimagining Political Space in a Globalizing World (2008).

Lovenduski, J State Feminism and Political Representation (2005).

Mansbridge, J 'Political Participation and Group Representation: What does a Representative do? Descriptive Representation in Communicative Settings of Distrust, Crystallized Interests and Historically denigrated Status' in W Kymlicka and W Norman (eds) Citizenship in Diverse Societies (2000).

OHCHR, Monitoring the Convention on the Rights of Persons with Disabilities: Guidance for human rights Monitors Professionals Training Series No. 17 (2010).

Perham, M The Government of Ethiopia (1969).

Phillips, A 'Representation renewed' in M Sawer and G Zappala (eds) Speaking for the People: Representation in Australian Politics' (2001).

Phillips, A 'The Politics of Presence' (1994).

Pitkin, HF the Concept of Representation (1966).

Sawer, M 'Representing Trees, acers, voters and Nonvoters: The Concept of Parliamentary Representation in Australia' in M Sawer and G Zappala (eds) Speaking for the People: Representation in Australian Politics' (2001).

Steiner, J *Deliberative Politics in Action: Analyzing Parliamentary Discourse* (2004).

UN-OHCHR and IPU, *From Exclusion to Equality: Realising the Rights of Persons with Disabilities: Handbook for the Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol*.

WHO, *World Report on Disability 2011* (2011).

JOURNAL ARTICLES.

Brodsky, G and Day, S 'Beyond the Social and Economic Rights Debate: Substantive Equality Speaks to Poverty' (2002) 14 *Canadian Journal of Women and the Law*.

Crowley, J 'The Political Participation of Ethnic Minorities' (2001) 22 *International Political Science Review*.

Htun, M 'Is Gender like Ethnicity? The Political Representation of Identity Groups' (2004) 2 *Perspectives on Politics*.

Lord, JE and Stein, MA 'The Domestic Incorporation of Human Rights Law and the United Nations Convention on the Rights of Persons with Disabilities' (2008) 83 *Washington Law Review*.

O'cinneide, C 'The right to Equality: A Substantive Legal Norm or Vacuous Rhetoric?' (2008) 1 *University College London Human Rights Review*.

Sanbonmatsu, K 'Gender-Related Political Knowledge and the Descriptive Representation of Women' (2003) 25 *Political Behavior*.

Sawer, M 'Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability' (2000) 21 *International Political Science Review*.

Schriner, K, Ochs, LA and Shields, TG 'The Last Suffrage Movement: Voting Rights for Persons with Cognitive and Emotional Disabilities' (1997) 27 *Publius: The Journal of Federalism*.

Tatari, E 'Institutional Constraints on Effective Minority Representation' (no date) *European Journal of Economic and Political Studies*.

Tremblay, M and Pelletier, R 'More Feminists or More Women? Descriptive and Substantive Representations of Women in the 1997 Canadian Federal Elections' (2000)21 International Political Science Review.

Tushnet, M 'Critical Legal Studies and the Constitution Red, White and Blue: A Critical Analysis of Constitutional Law' (1988) the Political Science Reviewer.

Zetterberg, P 'Do Gender quotas Foster Women's Political Engagement?' (no date) 62 Political Research Quarterly.

PAPERS.

Alefe, MT 'Rhetoric or Reality: Secession as a Human Rights Approach to Accomodation in Multiethnic Ethiopia' Unpublished article, Ethiopian Institute of Federalism, 2008.

Anthony, K 'The Political Representation of Ethnic and Racial Minorities' Briefing Paper 3/06, NSW Parliamentary Library Research Service, 2006.

Bird, K 'the Political Representation of Women and Ethnic Minorities in Established Democracies: A Framework for Comparative Research' Unpublished Working Paper Presented for the Academy of Migration Studies in Denmark (AMID), Aalborg University, 2003.

Goonsekere, S 'The Concept of Substantive Equality and Gender Justice in South Asia' (2008).

Sgier, L 'Political Representation and Gender Quotas' Paper for Delivery at the ECPR Joint Sessions, Edinburgh, UK, 2003.

Tamale, S 'Introducing Quotas in Africa: Discourse and Legal Reform in Uganda' A Paper Presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference, Pretoria, 2003.

Threlfall, M 'Explaining Gender Parity Representation in Spain: The Internal Dynamics of Parties' Paper presented at the ECPR Conference, Budapest, 2005.

DOMESTIC LEGISLATIONS.

Imperial Constitution of 1931

The Revised Constitution of Ethiopia as promulgated by His Imperial Majesty Haile-Sellassie I. 4 November 1955

Civil Code of the Empire of Ethiopia Proclamation No. 165/1960

Constitution of Federal Democratic Republic of Ethiopia Extraordinary Proclamation no. 1/1995

Electoral Law of Ethiopia Amendment Proclamation no. 532/2007

Right to Employment of Persons with Disabilities Proclamation no. 568/2008.

The Revised Political Parties Registration Proclamation No. 573/2008.

INTERNATIONAL INSTRUMENTS.

Universal Declaration of Human Rights, 1948.

International Covenant on Civil and Political Rights, 1966.

United Nations Convention on the Rights of Persons with Disabilities, 2006.

Committee on CEDAW, General Recommendation 23 (Sixteenth session, 1997).

INTERVIEWS.

Getachew, Bayafers (Education and Research Department of All Ethiopian Unity Organisation (AEUO)) Cell: +251 911 07 18 32 (26 September 2011), Addis Ababa.

Girmay, Hadra (Chairperson of Forces for Ethiopian Justice and Democratic Front (FEJDF)) Cell: +251 911 64 24 07 (25 September 2011) Addis Ababa.¹

Kasahun, Yibeltal (Advisor of the Federation of Ethiopian National Associations of Persons with Disabilities (FENAPD) Cell: +251 911 66 50 63 (4 October 2011), Addis Ababa.¹

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Moshe, Semu (President of Ethiopian Democratic Party (EDP)) Cell: +251 911 22 47 45 (29 September 2011), Addis Ababa.

WEBSITES.

www.et.undp.org/index.php?option=com_docman&task... (accessed on October 1 2011).

www.interafricagroup.org/.../ (accessed on October 1 2011).

www.camlaw.rutgers.edu/statecon/subpapers/regassa.pdf (accessed on October 1 2011).

www.mongabay.com/reference/.../ethiopia/GOVERNMENT.html (accessed on 6 October 2011).

www.countriesquest.com/africa/ethiopia/.../the_mengistu_regime.html (accessed on 6 October 2011).

www.munseys.com/diskone/ethiop.htm (accessed on 6 October 2011).

www.bu.edu/cpr/reasacom/whatis-psych.html (accessed on September 29 2011).

www.ethiopia.gov.et/English/Information/.../GovernmentStructure.as (accessed on 1 October 2011).

<http://www.ethiopia.gov.et/English/Information/.../GovernmentStructure.as...> (accessed on 1 October 2011).

www.un.org/disabilities/countries.asp?id=166 (accessed on 1 October 2011).

www.un.org/disabilities/default.asp?id=150 (accessed on 1 October 2011).

www.aceproject.org/ero-en/topics/voter-registration/vrx_w014.pdf (accessed on October 2 2011).