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Children's human rights in underdeveloped country: A study in Ethiopian perspective

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Children have human rights like any human being. In addition to the general human rights they also have special rights because of their status of mental and psychical development due to age. According to the 1989 convention on the rights of the child, 'in all actions concerning children whether undertaken by public or private social welfare institutions, courts of law, administrative institutions or legislative bodies, the best interest of the child shall be a primary consideration.' Both parents and states party to the convention are responsible for the upbringing and development of the child according to the convention stated above. The upbringing and development requires hygiene, health care, access to education, environmental sanitation, preservation of accident and others. The convention recognizes to make primary education compulsory and available free to all. It is not the only CRC but ILO too, which give priority with regards to the protection of child right. It is the state obligation to take appropriate measures for the same. But it is panic on the part of the state when it denies or escape in fulfilling its obligation because of the insufficient resources with it. And no doubt one can observe the same practice in the underdevelopment countries. Child exploitation, either economical or sexual, child abuse, neglect and trafficking are wildly observed in these countries. This might be related to several factors, like poverty, insufficient efforts and commitment from concerned bodies, law rates of reporting child abuse, cultural norms or values and harm full traditional practices or others. Any way these child exploration abuse and neglect highly affect the up bringing and development of the child including education. The same is with one of the underdeveloped country of Africa that is, Ethiopia.

Key words: Human rights, child rights, child abuse, sexual exploitation, child trafficking, Ethiopia.

INTRODUCTION

The objective of the study is to show the reader human rights of a child are ineffective in implementation in Ethiopia and to point how to intervene. First the study can show how and in what extent human rights of a child are implemented in Ethiopia. Second it could enable to find the possible ways of getting remedy for implementation of child rights. Third, it is hoped to contribute for further study in the subject under consideration. The scope of the study is on child exploitation, including economic and sexual exploitation; child abuse, neglect and abandonment; child trafficking as well as problems related with other social socio economic rights and how these affect the right to upbringing and development of a child.

Human rights in general

The idea of human rights stems from the postulate that certain rights self-evidently pertain to individuals as human beings because they existed in the state of nature

before mankind entered civil society ('Save the Children Sweden'(April 2006), Good governance and budget tracking from child rights perspective). The human person is the subject of rights by the mere fact of being human is now a postulate that is agreed upon by all members of the human family. According to John Locke the idea of human rights precedes organized society and it is mainly regarded more as a philosophical and a moral conceptual than legal one ('Save the Children Sweden' (April 2006). It is recognized (Article 1, Universal Declaration of Human Rights adopted in 1948 herein after referred as UDHR) that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. This concept is also recognized in International Covenant on Civil and Political Rights (International Covenant on Civil and Political Rights adopted in 1966 and came into force in 1976 herein after referred as ICCPR), International Covenant on Economic, Social and Cultural Rights (International Coven-

anton Economic, Social and Cultural Rights adopted in 1966 and came into force in 1976 herein after re-ferred as ICE- SCR) and also in other important international human rights instru-ments. According to Article 2 of the UDHR everyone is entitled to all the rights and freedoms set forth in the de-claration, without distinction of any kind, such as race, co-lor, sex, language, religion, political or other opinion, na-tional or social origin, property, birth or other status. This concept also repeated in different international human rights instruments including ICCPR and ICESCR. In ge-neral human rights are often characterized by the follow-ing basic principles.

Fundamentality

The idea of fundamental rights in general implies the standard of permitted actions or inactions within a certain sphere ('Save the Children Sweden' (April 2006). It has a wide range of implications for social morality. However, only the most important rights can be included in the category of human rights. In different human rights instruments all the rights are not included there but the fundamental rights only.

Universality

The principle of non- discrimination under article 2 of the universal declaration of human rights (UDHR) is at the heart of the human rights discourse (Robertson, Human rights in the world 3rd Edition, 1993). It calls for the global application of all human rights to all peoples irrespective of their difference.

Indivisibility

Civil and political rights and economic, social and cultural rights are indivisible and interdependent. That means one group of rights is not more important than the other and the violation of one group of rights negatively affects the other group of rights.

Inalienability

Human rights are natural individual rights that precede the authority of the state (Robertson, Human rights in the world 3rd Edition, 1993). This means, they are the inherent rights of the human person and can not be taken a way by anyone or be given up by the holder of the rights.

Totality

Human rights are regarded as the products of the common cultural heritage of mankind where by the interests of diverse groups are accommodated (Robertson, Human rights in the world 3rd Edition, 1993).

The relation between human rights and child rights

As mentioned above human rights are universal and all human beings are entitled to them, irrespective of his or her position in a society. Distinction based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status is prohibited. From this it can be understood that distinction based on age is also not permitted. In other words children have all the rights enshrined in the international human rights instruments because of being human. They are neither the possession of their parents nor their guardians, nor that of the state, nor are they people in the making. Children requires special care and protection because of their mental and physical immaturity. They need to be brought up in an environment capable of providing care and affection. Taking this into consideration Article 25 of UDHR recognized the special care and protection of childhood. The special measure and protection of children also is recognized in Article 24 (1) and Article 10(3) of ICCPR and ICESCR, respectively. Children had been discussed before by the international community. Declarations on the rights of the child had been adopted by both the League of Nations (1924) and the United Nations (1959) (OHCHR Fact Sheet No. 10 (Rev. 1), The Right of Child page 3. 1996).

The recognition of the special rights of children within the broader human rights discourse, led to the adoption of Convention on the Rights of the Child (Convention on the Rights of the Child (herein after referred as CRC) adopted by the General Assembly by its resolution 44/25 of 20 Nov. 1989, entered into force on 2 September 1990, in accordance with Article 49).

CRC, based on different existing international human rights instruments, recognized the basic rights to which children are entitled and sets forth the minimum standards that governments are required to meet in all aspects that affect the lives and welfare of children (Supra Not One). It collects rights previously outlined in separate instruments into a single but comprehensive document, elaborating and developing in the light of the special needs of children. Both civil and political rights as well as economic, social and cultural rights are integrated in one document in CRC and state and non-state actors are required to participate for the implementation.

Measures taken by Ethiopia to harmonize national laws and polices with the provisions of CRC and ACRWC

Ethiopia ratified many of the important international human rights instruments including ICCPR and ICESCR. In addition most of the regional human rights instruments are ratified by Ethiopia. Convention on the rights of the child (CRC) and African Charter on the rights and welfare of the child (ACRWC) (CRC has been ratified in 1991 and ACRWC has been ratified in 2000) are also ratified by Ethiopia. As a party to the convention and the charter, the

Ethiopian government has been revising legislation that does not agree with the convention even though there are still gaps. Different laws are revised to make harmonization with CRC and the 1996 federal democratic and republic of Ethiopia (FDRE) constitution. The federal constitution, adopted in 1996 provides the umbrella article for the protection of the rights of the child. Article 36 of the constitution relates to the protection of the rights of the child which have been enshrined in CRC.

The revised family code of 2000 (The Revised Family Code, Proclamation of 2000, Federal Negarit Gazette Extraordinary Issue No.1/2000, Addis Ababa, 4th of July, 2000) is one piece of legislation which has been revised to make it compatible with CRC. In the old family law the marriageable age of a girl was fifteen but that of the boy was eighteen. In the revised family code the marriageable age of both boys and girls made eighteen to make it compatible with CRC. Another important development in the revised family code is determination of paternity for children born out of wedlock. In the old family law the grounds for determination of paternity are very limited and a number of children born out of wed lock left without father. Talking about the revised family code the grounds for determination of paternity became wider (The revised family code of Ethiopia 2000, Article 143). In the code for the determination of the paternity marriage is not necessarily required. The other positive development in the revised family code is in the area of adoption, especially inter -country adoption. Article 21 of the CRC provides that states parties have the duty to ensure that their system of adoption serves the best interest of the child to be adopted.

The revised family code adopts this principle and carries detailed rules on the procedures to be followed during adoption to make it compatible with CRC (The revised family code of Ethiopia 2000, Article 194 (2)). The revised family code also reformed in the area of birth Registration. Article 321 of the revised family code carries a provision that requires the federal government to issue laws on registration of births, marriages and deaths within a period of six months following the coming into force of the law.

The 2005 criminal code also added different provisions to make harmony with the provisions of CRC. For example the new criminal code added a new full chapter on harmful traditional practices in its book five (The criminal code of the federal democratic republic of Ethiopia (2005) Article 561-570). Offences against the life and health committed by means of harmful traditional practices are absent in the old code but included in the new code to make the law compatible with Article 6 and 19 of CRC. There are also a number of provisions which are added and reformed in the new criminal code.

The 2003 labour code, that is the labour proclamation No. 377/2003, is the other proclamation which is revised. This proclamation has provision which protects child rights with regard to labour (Article 81 of the labour procla-

mation No. 377/2003).

The above legislation makes up the important national laws which are made by the existing Ethiopian government to harmonize the national legislations with CRC and other international human rights instruments adopted by Ethiopia. However, the national legislations which protect child rights are not only the above ones. Even the 1950 civil code of Ethiopia has a number of provisions that protect child rights. According to Article 9 (4) of FDRE constitution international agreements ratified by Ethiopia are integral parts of the domestic law. Hence international agreements should be implemented like laws made by the Ethiopian parliament if it is ratified. In another article of the same constitution stated that interpretation of the fundamental rights provisions of the constitutions shall be in conformity with international human rights instruments adopted by Ethiopia (FDRE constitutions Article 13). This means if the domestic laws lack clarity then priority can be given to the international human rights instruments adopted by Ethiopia including CRC. When it comes to the practical reality, even if harmonization of national law with international human rights instruments including CRC is a good start, there are a number of problems which prohibit implementation of CRC and ACRWC.

Child abuse and neglect

Physical abuse

Child physical abuse is the inflection or endangerment of physical injury as a result of punching, kicking, and beating, burning, shaking or otherwise harming a child (David A. Wolfe, implication for child development and psychology, volume 10, second ed (1999) p.13). Physical injuries represent only the visible scars of abuse.

According to Article 19 of convention on the rights of the child (CRC), states parties are required to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect, maltreatment or negligent treatment, or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who have the care of the child. Physical abuse or physical violence is one of the different forms of violence's prohibited by this provision. It is prohibited physical abuse by any person even by parents. Ethiopia is a one of the party states to CRC and required to take all appropriate measures including legislative to protect the child from physical abuse. According to Article 9(4) of FDRE constitution all international agreements ratified by Ethiopia are an integral part of the law of the Land. From this provision it is clear that all international instruments ratified by Ethiopia should be treated and enforced alike. In addition, specially to the international human rights instruments, it is stated in Article 13 (2) of FDRE constitution the fundamental rights and freedoms specified in the constitution shall be interpreted in a

Manner conforming to the principles of international human rights instruments adopted by Ethiopia. One can argue from this provision the international human rights instruments adopted by Ethiopia are higher than any law in the country. Ethiopia adopted most of the international human rights instruments including CRC and the regional ones like ACRWC shall be accepted like Ethiopian laws. In other words, it can be explained as they are Ethiopian laws.

International human rights instruments are against physical abuse whether inflicted on child or adults. Children require special treatment because of their early age the law treats them specially.

In Ethiopia practical reality regarding enforcing international human rights instruments is very difficult (Getachew Assefa: Problems of implementing international human rights laws by Ethiopian courts in proceedings of symposium on the role of courts in the enforcement of the constitution V1 p. 88). Some of the problems are the attitude of law enforcement officials; problem related with accountability; monitoring; lack of awareness; lack of budget and lack of skilled man power. When it comes to the domestic laws there are different provisions in the current constitution of Ethiopia and other laws which combat physical abuse of child; on the other hand there are other provisions which require amendment or reform. The imposition of all forms of corporal and humiliating punishment on children in schools and care institutions has been legally prohibited in Ethiopia since the adoption of the Federal Democratic, Republic of Ethiopia constitution in 1995. Article 36 of the constitution states that:

“Every child has the right to be free of corporal punishment or cruel and inhuman treatment in schools and other institutions responsible for the care of the children”

The prohibition of corporal punishment in schools is further provided for in the school administration regulation issued by the ministry of education in 1998 ('Save the Children Sweden'(2005), Ending physical and humiliating punishment against children, p.14 save the children, Addis Ababa, Ethiopia). Corporal punishment was not included in the list of accepted disciplinary measures specified in the regulation; that means corporal punishment is excluded. However, the regulation does not specify what measures should be taken against a teacher or other school personal who violates the rights of the children. It would be more complete and effective if it clearly specifies penalties for the breaches by the school personnel (Supra Note 1 p.12). On the other hand Article 576 of the current criminal code of Ethiopia imposes criminal liability of any person who in any way maltreats or beats a child in his custody or charge. These provisions also apply to the personnel of schools and other institutions. According to Article 172 of the 1957 penal code judicial corporal punishment was recognized, but it is repealed by the 2005 criminal code of the federal democratic republic of

Ethiopia. In other wards judicial corporal punishment is excluded or abolished by the criminal code of the 2005. In Article 21 of the Ethiopia constitution stated that “all persons held in custody and persons imprisoned upon conviction and sentencing have the right to treatments respecting their human dignity.” Based on this and other provisions of the constitution corporal punishment of the child or adults in prison is prohibited, as it is against human dignity. This is further strengthened by a directive issued in June 1995 on the handling of prisoners in federal prisons (Supra Note 1 p.13).

The directive applies to child prisoners aged 15 to 18. When it comes to corporal punishment of children within the family it shows the problem of compatibility of Ethiopian domestic laws and CRC. The FDRE constitution clearly prohibits physical and humiliating punishment of children in school and other institutions but is silent on punishments inflicted on children in the home. Moreover, an investigation of the criminal code, the revised family code and the civil code reveals that parents are allowed to physically punish their children as reasonable chastisement. Punishments range from simple forms to the most severe types.

According to a study by 'Save the Children Sweden' out of the total number of respondent children only 1.4% said they have never experienced any type of corporal punishment anywhere in their life (Supra Note 1 p.13). Different types of corporal punishments are inflicted on children sometimes depending on and sometime irrespective of the gravity of the faults or wrongs as weighed from the adult's perspective. Punishment in the home and instruments used include stick, belts, plastic, rope, electric wire, etc. physical assaults using the hands and feet, such as pinching, slapping and kicking the back are also prevalent.

According to the study by 'Save the Children Sweden' the proportion of children that have experienced stinging with stick is 74.1%, stinging the head 73.3%, slapping 70%, pinching 69.1% and being forced to kneel down 53.1% (Supra Note 1). The reactions obtained from parents, community leaders and teachers on particular issue that reinforced the response of the children have been seen above (Supra Note 1).

There are also harsh forms of corporal punishments used to teach Children unforgettable lessons (Supra Note 1). However, these are less frequent. These include: Tying and flogging. Children hands are twisted and tied behind with rope, they are ordered to kneel down with some objects stuffed into their mouth and they are flogged many times. Burning is the other harsh form of corporal punishment in the home. Fire on a hot iron is used to burn bodily parts of children (Supra Note 1 p. 22). Denial of food is the other more violent form of punishment in the home. These kinds of punishments are used on children who have committed serious wrongs. Even though the current Ethiopian constitution and other laws prohibit corporal punishment in school, it is still practiced. Accord-

ing to the study by save the children Sweden; parents, community leaders and teachers agree on the prevalence of corporal punishment in schools, acknowledging it to be a normal practice in school (Supra Note 1 p, 22). Not only in the home and in school physical punishment of children is common at the community level in Ethiopia. Different forms of corporal punishment are committed against children by the community members outside the home and school environment. Children are victims of various forms of corporal punishment inflicted on them by older children. Older children may beat, punch, spit at and kick younger ones on the streets and in play-grounds (Supra Note 1 p 20). However, corporal punishment is less prevalent in the community compared to in the home and in school in Ethiopia (Supra Note 1 p. 20). According to the response by an official from UNICEF during interview "violence at home, in school and in the community contributed much in the problems of street children and hazardous form of child labour including child prostitution." The other respondent from save the children Denmark agrees with the response of the UNICEF Official.

From the discussions of the relevant laws and regulations, it can be concluded that physical and humiliating punishment of children is prohibited in Ethiopia, with the exception of minor punishment by parents or guardians (Supra Note 15. p. 20). Nevertheless, children still experience physical and humiliating punishment at school, in the community and severe punishment at home (Supra Note 15. p. 20). The primary factors for the poor implementation of the law include: insufficient efforts and commitment from concerned bodies such as education bureau and school administration to translate laws and regulations into actions; low rate of reporting illegal punishment to law enforcement officials due to the relationship the victim child has with the perpetrator and to awareness and cultural problems; and lack of commitment and attention from law enforcement officials to the investigation and prosecution of reported cases because of attitudinal and cultural reasons (Supra Note 1, p. 14).

Psychological abuse

Psychological and emotional abuse consists primarily of verbal behavior that terrorizes, intimidates, humiliates or demeans the victim (Unicef, 2004; children protection, a hand book for parliamentarians p. 109). Depriving children of normal contact with other persons is a form of psychological abuse. According to Article 19 of CRC states parties are required to protect children not only from physical abuse but also other forms of abuses including psychological. Psychological punishment like insults, shouting and making threats are common in Ethiopia and community leaders, parents and teachers consider psychological punishment less harmful to children (Supra Note 1 p. 25). However, psychological punishments are as damaging as the physical ones.

According to Article 24 of FDRE constitution everyone has the right to respect for his human dignity, reputation and honor. In addition intimidation, and insulting are crimes according to Article 580,615 of the criminal code respectively. Practical reality of children as they are insulted at home, in school by the school personal, by the community and it is not common to go to the court or police because of this crime. Nevertheless, these kinds of abuses affect seriously the upbringing and development of the child. It is known the future of the country is under the shoulder of today's children. Family members commonly subject children to psychological punishment; and it is more prevalent compared to physical punishment (Supra Note 1. p. 25). Psychological punishment like insults shouting and making threats are common in Ethiopia as have observed as a member of the society. Almost all children are experiencing such maltreatment in Ethiopia. Community members and parents noted that no child has grown up without experiencing such treatment according to a study made by save the children Sweden (Supra Note 1. p. 26). Community leaders, parents and teachers consider psychological punishment less harmful to children. However in the opinion of many children psychological punishment like insults are damaging like the physical ones (Supra note 15). Shouting, insults and threats are the usual forms of psychological punishment. According to one study children's responses confirmed they had experienced shouting (71.8%), insults (76.7%), causing fright, making threats (65.5%) in the home (Supra note 15). Psychological punishment is common in the home, in schools and in the community. Nevertheless, the magnitude and prevalence of psychological violence inflicted on children in the community is much lower than those inflicted in the home and in school (Supra note 15).

The perpetrators of psychological punishment in the home are fathers, mothers, older sisters and brothers, stepmothers and fathers most commonly. Perpetrators at school are teachers, guards, class monitors and boys; with regard to community vagrant boys, police and street children are the common perpetrators (Supra Note 15). Perpetrators of psychological punishment are also perpetrators of physical punishment. Because of low rates of reporting illegal punishment and the attitude of law enforcing officials, the implementation of the law is highly affected. The relationship of the victim and the perpetrator, the problem of the awareness and the culture of Ethiopian society has also significant contribution for the problem of enforcement of the rights of the children. The other point is in relation to mental (psychotically) violence, as how the relations in the family affect the children psychologically. Research into violence within the family has highlighted the potentially adverse psychological effects on children, as they witness or hear violence – both physical and mental between their parents (Supra Note 1 p. 25). In Ethiopia it is known violence against women is common in the family. In other words domestic violence

is common in every culture of the society and its effect is negative on the children, and government is required to work very hard and very wisely to enforce the existing laws.

Sexual abuse

The definition of sexual abuse of children in many societies covers any sexual activity with someone who is not legally competent to give consent or has refused consent (Supra Note 13 p. 108). The justification for the protective measure of sexual abuse is that such activity can cause both physical injury and serious psychological damage.

In most cases the perpetrators are men, and although it can occur outside the family setting most sexual abuse of children takes place in their own home by parents and other close relatives. One third of the children in United States who live on the streets have left home because of sexual abuse (Supra Note 15 p. 16).

In laws, sexual abuse is prohibited specifically under the international human rights laws which are adopted by Ethiopia and also by the domestic laws. Sexual abuse is one of the different forms of abuses and party states are required to protect according to Article 19 of CRC.

Rape is a crime in accordance with Article 589 of the 1957 penal code and also it is a crime according to Article 620 of the criminal code of the Federal Democratic Republic of Ethiopia. Where the crime of rape is committed on young women between thirteen and eighteen years of age, the punishment shall be rigorous imprisonment from five to twenty years according to Article 620 (2) of the criminal code. Under Article 589 (1) of old code, rape committed on a child less than fifteen years of age is punishable with rigorous imprisonment not exceeding fifteen years.

But factual enforcement mechanism is very poor. The wide discretionary power given to the courts has its own contribution. The following case may help to express the contribution of wide discretionary power of the courts for the weak implementation. In a case from federal first instance courts in file no 38649 an adult man was accused of attempting rape. According to the charge the person attempted to rape three children and three of them are less than ten years of age. The offence was committed on January 27/2004, and during that time the new criminal code was not come to force. The person was accused according to Article 589 (2) of the old penal law.

The criminal act is proved by evidences. Three of the children who are victim came and gave their witness. They said that there was penetration of his penis to their bodies, but the public prosecutor institute charge was based on evidence from the medical institution, which evidenced that if he had penetrated into the children, their sexual bodies would have become red. The children said the criminal's genital organ entered in them and it is different from what the doctors said. For him it requires another medical examination to proof the first examination is

correct or not. The guilt is proved as an attempt of rape. In the case of attempted offence the offender is liable to the punishment attaching to the offence he intended to commit. The court may reduce the punishment if only the circumstances justify and within the limits of the law (Art 27 (3) of the criminal code of the federal democratic republic of Ethiopia).

The lower limit of rigorous imprisonment was one year in the old penal code and the judge was free to punish from one year to 15 year if minors were raped during the old penal code while those who rape adult women can be punished up to ten years during the time of the old code. Three of the victims said the genital organ of the accused entered into their bodies, but the court punished him with three years of rigorous imprisonment without giving justification in the judgment. This crime has psychological effect on the part of the children and the criminal is given only three years of imprisonment. This crime is sexual outrage committed on minors or on small children. If the act is committed after the new criminal code comes into force, its lower limit of punishment is thirteen years according to Article 627 of the criminal code.

In another case in the same court, in file number 6879, a man was accused by the public prosecutor. According to the accusation he committed sexual outrage upon a fourteen year old girl; her name is 'X' (The actual name is not given to hide the identity of the person). The accused gave his admission in police and he said the sex was committed by mutual agreement. However, this was not proved by the victim and because of her age the victim could not give her consent.

Interestingly after one adjournment, the accused appeared with evidence that expressed the divorce of the victim and the accused as if they were husband and wife. What is more interesting is that according to the written evidence presented to the court the marriage had been concluded by the accused and the victim three years back before the offence was committed, and at that time the girl was eleven years of age. Using this confusing and reliable evidence, the court dismissed the case by saying the man and the woman were husband and wife when the offence was committed. This clearly shows the attitude of law enforcement officials including the judiciary and how they react to offences related with sexual abuse. Even if it is difficult to say all law enforcement officials react like the above ones, as experienced by judges in different levels of state courts the attitude of law enforcement officials reflects the attitude of the society and they are passive to implement the laws related with sexual abuse.

According to a study by the Africa child policy forum of the 485 young women questioned in the survey, 332 said they had been sexually abused in one form or the other when they were children (Africa child policy forum (2006), violence against girls in Africa, a retrospective survey in Ethiopia, Kenya and Uganda p. 55). This shows how sexual violence is disturbing in Ethiopia.

Children who experience sexual abuse usually are subjected to more than one kind of sexual violence. According to a study by the above mentioned organization from the 328 respondents who were subjected to at least one of the three most prevalent forms of sexual violence, 86 indicated that they had experienced all three; that is verbal abuse, being indecently touched sexually and raped; 157 had been verbally abused and experienced indecent sexual touching (Supra Note 41, p. 56). Almost half of the girls who reported that they were raped said that it occurred on more than one occasion (Supra Note 41, p. 56). The age groups who are vulnerable to most of sexual violence are in between 14-17(Supra Note 41, p. 57). This may be because the girls of this age interacts more with possible perpetrators in their school and in their community.

The perpetrators of sexual violence may be male friends, neighbors, strangers, members of relatives and others. According to the survey by African child policy forum, more than 35% of the rape reported to the survey team was committed by an immediate male family member or another male relative in Ethiopia (Supra Note 41, p. 59). The different provisions of the criminal code of the Federal Democratic Republic of Ethiopia combat sexual abuse. For example, Article 620 is a provision against rape and it increases punishment if the crime is committed on a young woman between thirteen and eighteen years of age. Article 626 is a provision which combats sexual outrages on minors between the ages of thirteen and eighteen years. Article 627 is a provision which combats sexual outrage committed on infants. Article 631 is a provision combating homosexual and other indecent acts performed on minors. There are also other provisions in the code and even the 1957 penal code has different provisions which combat sexual abuse of children even though they were insufficient. However, the main problem is implementation; the factors which affect the implementation are different as mentioned earlier.

Neglect and abandonment

Physical and emotional neglect are characterized by a failure to provide for children's basic physical, educational or emotional needs (Supra Note 13 p. 15). Physical neglect includes refusal of or delay in seeking health care, abandonment, expulsion from the home or refusal to allow a run away to return home, and inadequate supervision (Supra Note 13). Educational neglect involves actions such as allowing chronic truancy, failure to enroll a child of mandatory school age in school and failure to attend to a special educational need (Supra Note 13). Emotional neglect includes actions such as marked inattention to the child's needs for affection, refusal of or failure to provide needed psychological care, spouse abuse in the child presence and permission of drug or alcohol use by the child (Supra Note 13). According to Article 659 of the criminal code of the Federal Democratic Republic of

Ethiopia: A parent or a person exercising parental authority, who, for gain or in dereliction of his duty, grossly neglects the children under his charge and abandons them without due care and attention to moral or physical danger; or entrusts a child for a long time to a person or organization or an institution with whom he knows, or could have foreseen that it will be reduced to physical or mental destitution, or will be physically or morally endangered is punishable with simple imprisonment or fine. In grave cases, the court may in addition deprive the criminal of his family rights. Where the child has suffered injury, whether foreseen or calculated, whether by abuse of the right to administer chastisement or through ill-treatment, the relevant provision in this code shall apply concurrently (Article 63).

The above provision is about child neglect and abuse. In addition to the above provision acts of abuse and neglect perpetrated against children do also entail consequences under civil law (Tilahun Teshome and Getnet Alemu (2005), Good governance and budget tracking from child rights perspective, first draft submitted to save the children Sweden, p. 20). Article 2052 of the 1960 civil code of Ethiopia, states as follows:

Duty to educate and supervise

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

He shall be liable where, as a consequence of his default, damage is suffered by the person in his charge. He shall be liable where, as a consequence of his defect, the person subject to his supervision causes damage to a third party. As discussed earlier about the corporal punishment of children within the family it seems there is a problem of compatibility of Ethiopian laws with international standards. Even though neglect and abandonment is prohibited in Ethiopian Laws, it is a common practice in country. Hundreds of thousands of children are subjected to street life in urban centers of the country ('Save the Children Sweden'Program Profile 2006/2007 p. 11) . In Ethiopian an estimated 450,000 children are living on the street (Save the Children Sweden'Program Profile 2006-/2007 p. 11). The cause of being a street child for a number of children is child abuse and neglect. Neglect children may suffer physical health problems, limited growth and increased complications arising from other health conditions (Supra Note 13).

For the protection of children suffering different problems because of neglect and abandonment ratifying international child rights instruments and making the domestic laws compatible with the international ones are not enough. The attitude of the society including law enforcing officials should be changed and this requires much

effort on the part of the government and civil society organization in the creation of awareness to the society. In addition public and private institutions are required to monitor violations of child rights for the proper reporting of child rights violation including neglect (Supra Note 1).

Child exploitation

Sexual exploitation

According to Article 34 of the convention on the rights of the child states parties undertake to protect the child from all forms of sexual exploitation. Sexual exploitation of children not only clears violation of national law but also it is against social and religious values. The paper focuses on child prostitution, child pornography and sex tourism because other kinds of child sexual abuse are covered later on in the paper. The optional protocol to the convention on the rights of the child on the sale of children, child prostitution and child pornography defines child prostitution as the use of a child in sexual activity for remuneration or any other form of consideration (Supra Note 29, p. 64). Prostitution and substance abuse are closely linked. Children who are addicted to drugs or alcohol may turn to prostitution to support their habits, and adults who exploit child prostitution may encourage them to use drugs to make them more dependent (Supra Note 29, p. 64).

Sex tourism is traveling abroad for sex. For example according to 1998 United Nations report every year some 200,000 German men travel abroad for sex (Supra Note 29, p. 66). Inadequate laws and inefficient judicial systems are among the main causes of sex tourism.

The optional protocol to the convention on the rights of the child defines child pornography as any representation by whatever means, of a child engaged in real or stimulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes (Supra Note 29).

According to Art 634 of the criminal code:

“Whoever, for gain, makes a profession of lives by procuring or the prostitution or immorality of another, or maintains, as a landlord or keeper, a brothers, is punishable with simple imprisonment and fine. The above provision is applicable to all persons. Under Art 636 the punishment shall be from three years to ten years and the fine shall be up to twenty thousand birr if the victim is a minor.”

Article 644 of the criminal code states that, whoever, for gain or to provoke:

(a) Publicly displays by video, or in a shop window, in a booth or any other place visible from without, writing, images or objects such as to stimulate unduly, to pervert or to misdirect the sexual instruct, or to arouse or to stimulate unduly brutal or blood thirsty instincts, or anti-

social feelings which are inimical to the family spirit in minors; or

(b) Knowingly offers, lends, gives or sells such objects, images or writings to a minor is punishable with simple imprisonment from six months to three years, and fine, without prejudice to the forfeiture of the incriminating material where appropriate.

The civil code and the revised family code also protect children from sexual exploitation. The Ethiopian civil code does not directly prohibit the engagement of children from joining prostitution for a living. However; according to Article 198 and 199 (3) children are classified under persons who can not conclude legal contracts on their own. Hence until they are able to do so they are under the protection of legal guardians. Such legal guardians are responsible for the health of the children. They are responsible not only for their medical treatment when they get risk but are also responsible for the protection of their health at all times. According to Article 267-269 of the civil code, guardians are made responsible by law for the proper upbringing and protection of the health and well being of children under their care.

The law does not only state the responsibility of the guardian but also prescribes measures to be taken if they fail to fulfill the duties. On this basis as provided in Article 231, if a guardian fails to fulfill the obligation stated in the law, the case can be taken to court and he does not divulge his responsibility to the child within the limits of his ability and if the child is exposed to danger he will be charged for his negligence and required to pay appropriate compensation for the damage incurred.

According to the revised family code marriage of girls before they attain the age of 18 years is prohibited (Art 7 of the revised family code of Ethiopia, proclamation of 2000). This protects children not to get married at an early age from becoming prostitutes due to marital problem. In reality child prostitution is common in Ethiopian and its causes are different. Most of the child prostitutes came from regions to look for job, due to conflicts at home, early marriage and divorce (Save the Children Denmark (2003), child labour in Ethiopia with special focus on child prostitution, p. 1). In addition, poverty, death of one or both parents, child trafficking, child pornography, drop out from school and lack of awareness about the consequence of being engaged in prostitution are key factors that push young girls to be involved in commercial sex work.

According to the response by UNICEF official during interview, even though the law has been enacted and the organization focusing on the issue are increasing, hazardous forms of child labour including child prostitution are also increasing. Due to lack of awareness, attitudinal problem and other problems on the part of the society and law enforcement officials the international human rights laws including CRC and the domestic laws are not effectively enforced and sexual exploitation of children are common in a country like Ethiopia.

Child labour

Article 32 of the CRC urges states parties to recognize “the right of the child to be protected from performing any work that is likely to be hazardous or to interfere with the Child’s education or to be harmful to the Child’s health or physical, mental, spiritual, moral or social development”. Ethiopia has ratified the UN convention on the rights of the child, ILO minimum age convention No.138, and ILO convention No. 182 on the worst forms of Child labour.

Ethiopia proclaimed the labour proclamation No 377/-2003. The proclamation, so states its preamble, provided for the basic principles governing worker employer relation taking in to account the political, economic and social policies of the government as well as international conventions and other legal commitments of the country (Supra Note 60).

The working conditions of young workers, limits of hours of work and prohibition of night and overtime work are provided in Article 89-91 of the labour proclamation. Working conditions of young workers may be explained according to Article 81 of the current labour proclamation as under

- (i) “Young worker” means a person who has attained the age of 14 but is not over the age 18 years:
- (ii) It is prohibited to employ young persons under 14 years of age
- (iii) It is prohibited to employ young persons who on account of its nature or due to the condition in which it is carried out, endangers the life or health of the young workers performing it.
- (iv) The minister may prescribe the list of activates prohibited to young worker which shall include in particular, work in transport of passengers and goods by road, railway, air and internal water way, docksides and warehouses involving heavy weights lifting, pulling or pushing or any other related type of labour, work connected with electric power generation plants transformers or transmission lines, underground work, such as mines, quarries and similar works work in sewers.

According to one research “The study was made on 43, 061 households and discloses the fact that 85% of the children between the ages of 5 to 17 are engaged in some kind of productive and household activities; 33% of them combine schooling and work; that 92% of these children are engaged in unpaid work and that in most parts of the country the average number of hours of work is in the area of 33 h a week.” (Supra note 50, p. 24). Another publication by UNICEF on the state of the world’s children 2005 states that 43% of Ethiopia children (47% of boys and 37% of girls) between the ages of 5 and 14 are engaged in child labour during the years 1999 and 2003 (Supra Note 50, p. 24).

According to the response of the interview by an official from UNICEF, the numbers of children forced to child labour, including hazardous form are increasing. In

Ethiopia the main reasons for children to engage in child labour, especially the hazardous ones are: low level of awareness, considering children as money generating subjects by the parents and society and poverty. An official from save the children Denmark also agrees with this.

According to the above officials response child labour endangers the right to education. A victim of child labour will not have access to school; and in the rare case where the child goes to school, he/she can not focus on his/her schooling and development in Ethiopia. Child labour, especially the hazardous ones not only endangers the right to education, but also it jeopardizes the mental and physical health and the development of the child as the response of UNICEF official. The child can not also grow socially as he/she is expected.

According to a study in 2007 by ‘Save the Children Sweden’ also many children are forced out to work at an early age. 43% of children forms 5 to 14 years are engaged in work, often in hazardous condition undermining their possibility of education and development (Save the children Sweden, making children a priority in Ethiopia development (2007), p. 9). Because of poverty and having the problem of unemployment most of the problems of child labour are from the informal sector (Supra Note 60, p. 3).

According to labour proclamation an employer or trade union which violates the rights of the young workers or who does not give special protection to the young workers shall be liable to fine not exceeding Birr 1200 /one thousand and two hundred (Art 185 of the labour proclamation, proclamation No. 377/2003).

However, practically as seen by judges for a long time it can be said almost it is not implemented in the countries like Ethiopia.

The problem of child labour is widely observed in Ethiopia especially in the informal sector as above. This might be related on to several factors like poverty inequality, socio-economic vulnerability, inadequate and inappropriate education opportunities and cultural norms and values. Here all the worst forms of child labour are not been included as some are included in the previous sections. For example the use of procuring or offering of children for prostitution, for the production of pornography or for pornographic performance are some of the worst forms of child labour and same has been discussed earlier.

Trafficking and sale of children

Traffic in persons has been defined as the recruitment transportation transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the

purpose of exploitation (Supra Note 29, p. 76). Trafficking in Children is “the recruitment, transportation, transfer, harboring or receipt of child for the purpose of exploitation, regardless of whether force or not, abduction, fraud and other means mentioned above (Supra Note 29, p. 76) . Sale of children means “any act or transaction where by a child is transferred by any person or group of persons to another for remuneration or any other consideration (Supra Note 29, p. 76). The concept of sale overlaps with that of trafficking except that trafficking implies a practice whereby a child is moved.

According to Article 35 of the convention on the rights of the child “states parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”. As according to Article 9 (4) FDRE constitution international agreements ratified by Ethiopia are part and parcel of the domestic laws and CRC is accepted in Ethiopia domestic laws. The domestic laws including the Fundamental rights provisions of the constitution seem under international human rights instruments adopted by Ethiopia according to Article 13 (2) of Ethiopia. In addition to the above convention Ethiopia ratified the convention for the suppression of the traffic of persons and the exploitation of the prostitution of others.

Traffic in women and minors is prohibited according to Article 635 of the criminal code and the repealed penal code prohibited trafficking in minor. The punishment under the new code is rigorous imprisonment not exceeding five years, and fine not exceeding ten thousand birr, subject to the application of more severe provisions, especially where there is concurrent illegal restraint.

The area of adoption, especially the area of intercountry adoption, in the revised family code of 2000 also combats trafficking in person. The RFC adopts the principle that requires the court to decisively verify that the adoption serves the best interest of the child before making the approval and carries detailed rules on the procedures to be followed during adoption (Supra Note 59, Article 191).

Reality in trafficking of children, especially girls for the purpose of prostitution is common in many parts of the world including Ethiopia. For example, In 2002 it was estimated that from 28,000 to 30,000 girls were trafficked, engaged in prostitution in South Africa; many of them are from Angola, Cameroon, Ethiopia, Kenya, Lesotho, Malawi, Mozambique, Rwanda, Senegal, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe (Supra Note 29, p. 78). It is true that the trafficked children from Ethiopia are significant because only in South Africa this much children are practicing prostitution from abroad and the place of Ethiopia is third. If other countries traffick children from Ethiopia, it becomes very significant. These days it is a common practice going to the middle-east and there are a number of smugglers and traffickers behind this migration and Ethiopian economic condition contributes so much for this practice.

Socio- economic rights of children

Understanding economic and social rights

Economic, social and cultural rights are called positive rights. That means they require positive action on the part of the government. In addition they are resource dependant. However the state party should take steps to the maximum of its available resource for the progressive realization of the rights. In the Universal declaration of human rights (UDHR), both civil and political rights and socio economic rights recognized as two sets of human rights as indivisible components of the broader components human rights agenda. In two binding human rights instruments, (ICCPR and ICESCR), the two sets of rights are recognized in two different instruments. This is because at the time, the western and eastern political ideology is different. The western capitalist countries favor civil and political rights and passives to economic and social rights because they looked socio economic rights in connection with socialist ideology (A.H Robertson, Human rights in the world 3rd ed, 1993 p. 4).

On the contrary the socialist countries and other poor countries are more concerned with socio economic rights (A. H. Robertson, Human rights in the world 3rd ed, 1993 p. 10). Currently, political rights and economic social and cultural rights are understood as interdependent, interrelated and indivisible human rights. That means the violation of one sets of rights affects the other sets of rights. For example, violation of the rights to food means also violation of the rights to life, a number of street children, child prostitution and other hazardous work are directly related with child abuse and neglect. But mostly it was observed that state parties are more concerned with civil and political rights than economic and social rights. One of the reasons is the nature of economic social rights that is it is resource dependant and proofing whether the government used the maximum of its available resource or not is a difficult task. But opinions may vary on the point as somehow budgets, political discussions, and policy and strategic plans all give insights into decisions about allocation of resources.

States and the international community as a whole continue to tolerate all often breaches of economic social and cultural rights which, if they occur in relation to civil and political rights, would provoke expression of horror and outrage and would lead to concerted calls for immediate remedial action. In effect despite the rhetoric, violation of civil and political rights continue to be treated as though they were for more serious, and more potentially intolerable, than massive and defect denial of economic, social and cultural rights. The magnitude, severity and constancy of that deprivation have proved attitude of resignation, feeling of helplessness and compassion (‘Save the Children Sweden’ (2006), Good government and budget tracking from child rights perspective, p. 33).

On the other hand Article 2(1) of ICESCR, the most comprehensive international human rights instrument on

economic social and cultural rights state the obligation of party state as follows. Each state party to the present covenant undertakes to the present covenant to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present covenant by all appropriate means, including particularly the adaptation of legislative measures. As pointed out earlier in the convention on the rights of the child both civil and political as well as economic social and cultural rights are recognized in one instrument.

The four core principles in the convention on the rights of the child (CRC) are survival and development, best interest of the child, non-discrimination and participation. Four of them have related with economic and social rights of children. According to article 4 of CRC with regard to economic, social and cultural rights, social and cultural rights, states parties shall undertake such measures to the maximum of its available resource and, where needed, with the frame work of international co-operation. However the resource question needs to be treated in as much a realistic manner as circumstances may warrant. Otherwise, the economic and social rights rhetoric would be a wish too good to be realized (Supra Note 70, p. 34). It calls for the need to have a good understanding of what is meant by the term "resource", the need to proper identification of potential resource to the different areas of economic and social expenditure (Supra Note 70, p. 34). The origin of the resource may be domestic or foreign and it can be made available by the state or non- state actors. Some of the economic and social Rights provisions enshrined in CRC are as follows:

Article 6: The right to life, survival and development.

Article 23: Rights of children under disability.

Articles 24 and 25: The right to health and health service.

Article 26: The right to social security.

Article 27: The right to adequate standard of living.

Articles 28 and 29: The right to education.

The Ethiopian practical situation

Here it has been tried to show the implementation of socio economic rights of Ethiopian children in general. The practical situation regarding socio economic rights of children in Ethiopia is very disturbing even if the Ethiopian economy is increasing for successive five years. According to a report by UNICEF on the state of the world children in 2006, the Ethiopian situation reveals the truth (Supra Note 73).

According to the above report four out of five children either use surface water or have to walk more than 15 min to find protected water. Ethiopia ranks twentieth in descending order out of 192 countries in respect of under five mortality rates. 47% of under-five children suffer from moderate or sever underweight while the percentages of

those with moderate of sever stunting is 52. The estimated number of children under fourteen living with HIV/AIDS is 120,000. The number of children under seventeen orphaned by AIDS is reported to have reached 720,000 while there are 4,000,000 (four million) children orphaned due to all causes.

In another study in 2007 by 'Save the Children Sweden (Supra Note 63), millions die in childhood or at the stage of beginning of their journey to adulthood. One in eight children does not survive to their fifth birth day. Many of those who survive the early years have their childhoods cut short by poverty and vulnerability. Many children have no access to quality health care and they are also vulnerable to violence and trafficking. Many children are obliged to work at an early age. 43% of children from 5 to 14 years are engaged in work, often in hazardous conditions undermining their access to education and health. Harmful traditional practices like early marriage and female genital mutilation (FGM) are common practice even if harmful traditional practices are crimes according to the 2005 criminal code of Ethiopia. Even though the marriageable age of boy and girl is eighteen early marriages is a common practice and the law is not practically implemented.

The study by 'Save the Children Sweden' included orphans in Ethiopia and how they are living (Supra Note 63 p. 10). According to the study there are nearly four million orphans in Ethiopia. Half of orphan children lack adequate food and school attendance. Many of these orphans are responsible for themselves and the survival of their siblings and for this reason they work or find other way of survival. According to the study by the aforementioned organization most of child aid programs by the government or by non governmental organization is based on the traditional household headed by parents or another adult member of the family (Supra Note 63 p. 11). However, there are millions of children orphaned and the household is headed by children themselves; street children, children with disability and sexually exploited children living outside the frame work of the traditional household. In addition children with a traditional household also require consideration of their unique situation than formulating policies and strategies based only on parents, adults or families, because a number of children's rights are violated by parents themselves.

After reviewing the opinion of different officials of organizations in different occasions who are working for child rights, an official from UNICEF responded as thus "I would say socio economic rights are not improving in Ethiopia. It can be seen by the increasing number of street children, child commercial sex workers, child domestic workers, child prisoners, etc. Child labour endangers the right to education. A victim of child labour will not have access to school. And in the rare occasions where the child goes to school, he/she can not focus on her/his schooling and development. In addition child labour, especially the hazardous ones jeopardizes the mental and

physical health and development of the child. The child can not also grow socially”.

Another respondent from ‘Save the Children Denmark’ has to say: economic and social rights are written in the paper, but their full realization is not fulfilled. Within this in mind there are good initiatives in the area.

Another respondent of the Ministry of Women Affairs Child Rights Department responded that Majority children from lower income family are not fully exercising their right to education. Even if some of them got the opportunity, they are deprived of standard /quality/ education that helps them to be successful. The same is true also in the implantation of the right to health. However, relatively, these days the socio economic rights are getting better. Families are trying to give priority to their children interest starting from buying of clothing up to their schooling and health service. But one very forgotten thing must be taken into consideration, that children have to be taught to respect families, elders etc.

As the above respondents regarding economic and social rights of children the implementation is very far from what is written even if the last respondent said there is improvement to some extent. According to her, the improvement is trying to give priority by the parents to their children. Even according to her response the parents are trying, as all know not only parents but also the government and non-governmental organizations as well as UNICEF are trying but effective realization is not trying. Some of the incentives by the existing government are ratification of different international human rights instruments including CRC, harmonization of the domestic laws with international human rights instruments, the Ethiopian national plane of action for children (2003-2010), the child rights committee from ministry of women affairs to the lower level of the government are good starts. However, efforts are going on for implementation; and ratification and harmonization of law does not mean implementation. Having a good plain of action and the establishment of different child rights committee also does not mean implementation but it is a good start for the implementation. Even opening a number of school and clinic and increase the enrolment rate of children does not mean effective realization of the right to education or health.

As stated in the study by ‘Save the Children Sweden’ the enrolment rate of student and the number of school increased significantly.” However, the dropout rate also increased significantly. Even according to Sub-Saharan African standard more children have no access to education in Ethiopia (Supra Note 79). Further it is required to work a lot to enforce the principle of non-discrimination in CRC. According to a respondent from UNICEF many girls have been dropped out of schools because of unequal decision of labour and early marriage even if the ratio of school enrolment is balanced between boys and girls. Another respondent from ‘Save the Children Denmark’ said there are hundreds of thousands of street

children in Addis Ababa and regional town who are not learning and it is far from implementing the principle of non-discrimination. According to the study by ‘Save the Children Sweden’ even if the number of students and schools are increased significantly, the number of student teacher ratio and the number of students book ratio also increased. That means there is lack of books and teachers having the quality, in other words, there are problems of quality and the same is true of health.

According to the respondent in an interview from UNICEF: The problems of implementation are; lack of capacity, lack of skilled man power, lack of awareness and lack of budget. The response from an official from save the children Denmark is also almost the same. Both the above respondents also agree that even if it is one of the reason poverty is not the main problem of child labour, especially the hazardous ones, rather low level of awareness and considering children as money generating subjects by the society is the main problem. However, the contribution of poverty for hazardous child labour is also significant. Currently the price of food is increased too much; as practically surveyed in the market, the price of some food grains increased too much. It increased continually and some food items price doubled and tripled with in one year. This is also another addition to the existing problem of child rights, especially the economic and social rights in Ethiopia.

Conclusion and Suggestions

Children are entitled to special protection under international human rights laws in addition to the protection given to all human beings because of their early age. Child abuse neglect and exploitation are prohibited by the convention on the rights of the child (CRC).

According to Article 4 of CRC, it states that parties to the convention agreed for the implementation of the rights in the convention. Concerning the economic and social rights states parties are required to take every measures to the maximum of their available resource. These days, economic social and cultural rights are seen as interdependent, interrelated and indivisible rights with civil and political rights. Convention on the rights of the child (CRC) is ratified by Ethiopia. In addition according to Article 13 (2) of FDRE constitution even the fundamental rights provisions of the constitution are interpreted in conformity with international human rights instruments adopted by Ethiopia. States parties agreed to take all appropriate measures including legislative measures for the implementation of the rights recognized in CRC according to Article 4 of CRC. Because of this provision, Ethiopia is required to make the domestic laws compatible with CRC, to make detail legislation and to create effective institutions for the enforcement of the rights. This includes making detail laws compatible with CRC. According to Article 36 (e) of FDRE constitution every child has the right to be free of corporal punishment or cruel and inhuman

treatment in schools and other institutions responsible for the care of the children. This provision is silent about corporal punishment by parents in the home. In addition the criminal code, the civil code and the revised family code has the implication that corporal punishment in the home is not properly protected by the Ethiopian domestic laws and which is contrary to or incompatible with CRC. When it is compared the incompatibility of laws with CRC and the problem of implementation the incompatibility of Ethiopian laws is less significant. As seen above Ethiopia ratified CRC and ACRWC and changed different laws to make them compatible with the constitution and the international agreements; even though there are some problem of laws in some provisions like child abuse at home. The current criminal code, the revised family code and labour proclamation (Proclamation number 377/2003) are some of the laws which are reformed to make them compatible with the constitution and the international human rights instruments including CRC. Even the previous laws which are changed like the 1957 penal code have significant provisions which protect human rights of a child. The practical reality of implementation of convention on the rights of the child (CRC) and African charter on the rights and well-fare of the child (ACRINC) in Ethiopia is far away and it is not exaggeration to say human rights of a child are still a myth in underdeveloped countries like Ethiopia.

Lack of adequate institutions, lack of reporting system, and lack of skilled man power, lack of budget and lack of awareness are the problems of implementation according to the respondent mentioned above. In addition the culture and attitude of the society, large family size and number of children per class room, poverty and unemployment have also significant contribution in the problems of implementation. It is true that the current Ethiopian Government takes different measures related with UNCRC. CRC was ratified by the existing government in 1991, the African charter on the rights and welfare of the child also ratified in 2000. This means by ratifying the instruments the government has tried to take progressive action for fulfilling the rights of children.

Other measures Ethiopia has taken by the existing government are harmonization of domestic laws with CRC; developing national plane of action for children, establishment of child rights committee from the federal level to the lower level of government and others. Moreover, the country has prepared and submitted three periodic reports to the UN committee, and has collected three feed-backs in the form of concluding observation. Having done all the above steps by the country the implementation has different obstacles. The three consecutive concluding observations of the UN committee consistently outlined regrets on the lack of data and information substantiating and affirming progress (Save the children alliance, 2006), report on the proposal for enhanced systems of child rights monitoring and reporting on the basis of case studies in North Wolo and Addis Ababa Administration). Save the children alliance which is one of the lead local actors in

promoting child rights, too, agrees that weak and ineffective monitoring and reporting arrangements as big gaps in the implementation or realization of child rights in the country (Save the children alliance, 2006). The response of an official from UNICEF in an interview also agrees with these findings. The third periodic report submitted to the UN committee by the Ethiopian government acknowledges these challenges by noting "although child rights committee are formed at various levels of the government, they are neither institutionalized nor systematized." Therefore it can be said that human rights of child are still not practically possible in Ethiopia, even the government takes different measures.

Apart from the views of the officials from different organization, following suggestions have been made for practical application and realization of Human rights of Children in Ethiopia:

1. Official translation of CRC and publication of it in the official Negarit is required.
2. Corporal punishment of children within the home or within the family needs legal reform to make it compatible with CRC and other international human rights instruments.
3. The government should work hard in poverty reduction to lessen different forms of exploitation and provide support to victims of child abuse, neglect and exploitation as much as the resource of the country permits.
4. Functioning and at least satisfactory system of reporting of child rights implementation should be established in the domestic level.
5. A strong system of accountability must also be established and public participation can be ensured for the effective system of accountability.
6. The governmental and the non-governmental organizations should focus on awareness rising of both adults and children concerning child rights.
7. The government should work in cooperation with different civil society organizations and UNICEF to enforce the socio economic rights of children, especially the socio-economic rights of street children, children who engage in work which is hazardous to their upbringing and development, child prostitutes and orphans at least to some extent.

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REFERENCES

- Save the Children Sweden (2005). Ending Physical and Humiliating Punishment against Children, Save the Children, Addis Abba, Ethiopia.
- Save the Children Alliance In Ethiopia (November 2006). Report On

- And Proposals For Enhanced Systems Of Child Rights Monitoring And Reporting: A Case Study In North Wollo Of ANRS And Addis Ketema Of Addis Ababa Administration, Addis Ababa, Ethiopia.
- Save the Children Sweden, (2006). Good Government And Budget Tracking From A Child Rights Perspective, Addis Ababa, Ethiopia.
- 'Save the Children Sweden' (2007). Making Children A Priority In Development In Ethiopia, Addis Ababa, Ethiopia.
- The Criminal Code of the Federal Democratic Republic Of Ethiopia, Proclamation No 414/2000.
- The African Child Policy Forum, Violence Against Girls In Africa, A Retrospective Survey In Ethiopia, Kenya And Uganda, (2006). Addis Ababa, Ethiopia.
- The Revised Family Code, Proclamation of 2000, Federal Negarit Gazetta Extraordinary Issue No.1/2000, Addis Ababa, 4th of July, 2000.
- Unicef (2004). Child Protection, On Hand Book for Parliamentarians, Azmeraw B. Save the Children Denmark Program Officer.
- Convention on the Rights of the Child. GA, Res 44/25, Annex, 44 U.N GAOR Supp. (No. 49) At 167, U.N. Doc. A/44/49 (1989).
- David AW. Implication For Child Development And Psychology 2nd Ed, Published By International Educational And Professional Publisher, Volume 10, New Delhi (1999).
- FDRE Constitution Issued In Federal Negarit Gazeta Aug. 1995.
- Getachew A, Problems Of Implementing International Human Rights Laws By Ethiopian Courts In Proceedings Of Symposium On The Role Of Courts In The Enforcement Of The Constitution V.1 May, 2000, p. 88
- Labour Proclamation No. 377/2003, Federal Negarit Gazeta, 10th Year No. 12, Addis Ababa, 26th February 2004, Netherlands.
- Persons and Organizations Consulted or Interviewed
- Robertson AH, Human Rights In the World 3rd Ed, Published By Manchester University Press, Manchester, 1993.
- Save The Children Denmark (2003). Child Labour In Ethiopia With Special Focus On Child Prostitution, Addis Ababa, Ethiopia.
- Save The Children Sweden, Program Profile For Eastn And Central Africa Region 2006/2007.
- Tlahun T, Getnet A. Good Governance And Budget Tracking Form Child Rights Perspective: First Draft Report Submitted To 'Save the Children Sweden' (2005). Addis Ababa, Ethiopia.
- Wizero HY, Ministry of Women Affairs National Steering Committee Against Sexual Abuse and Economic Exploitation of children (SAEC) Cordinator.
- Wizero RM, UNICEF, Adolescence Development, HIV/AIDS and protection Department (ADPH), Ethiopia (Addis Ababa).