



ADDIS ABABA UNIVERSITY

SCHOOL OF GRADUATE STUDIES

**THE STATE OF CHILD RIGHTS IN ETHHIOPIA: ASSESSMENT OF THE LEGAL
FRAMEWORKS AND ITS SOCIAL WORK IMPLICATION**

BY

MENELIK SOLOMON MAMO

MAY 2016

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**A THESIS SUBMITTED TO
THE SCHOOL OF GRADUATE STUDIES
ADDIS ABABA UNIVERSTY**

**IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTERS IN SOCIAL WORK**

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Menelik Solomon Mamo

Approval of the Board of Examiners:

_____	_____	_____
Advisor	Signature	Date
_____	_____	_____
Internal Examiner	Signature	Date
_____	_____	_____
External Examiner	Signature	Date

Declaration

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

Name: Menelik Solomon

Email: abimen6@yahoo.com

Signature: _____

Date: _____

This thesis is submitted for examination with my approval as an advisor of the candidate.

Dr. Abebe Assefa Abate

May, 2016

Acknowledgement

Prima facie, I am grateful to the Lord and God, Jesus the Christ, for the good health, wealth and wellbeing that were necessary to complete this study and for all the blessings here on Earth and on Heaven.

Though only my name appears on the cover of this Thesis, a great many people have contributed one way or another to its production. I owe my gratitude to all those people who have made this Thesis possible and because of whom my graduate experience has been one that I will cherish forever.

My deepest gratitude is to my advisor, Dr. AbebeAssefa. I have been amazingly fortunate to have an advisor who gave me the freedom to explore on my own and at the same time the guidance to recover when my steps faltered. I hope one day I would become as good an advisor as Dr. AbebeAssefa.

I would also like to thank the experts and Federal judges who were involved in this study. Without their passionate participation and input, the study could not have been successfully conducted.

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List of Acronyms

AAU	Addis Ababa University
ACRWC	African Charter On The Rights And Welfare Of The Child
ACPF	African Child Policy Forum
AU	African Union
ABE	Alternative Basic Education
Art.	Article
CSP	Charities And Societies Proclamation
CPUs	Child Protection Units
CSOs	Civil Society Organizations
CEDAW	Convention On The Elimination Of All Forms Of Discrimination Against Women
DRC	Declaration On The Rights Of The Child
ECCE)	Early Childhood Care And Education
ESDP	Education Sector Development Programs
ESSSWA	Ethiopian Association Of Social Workers, Sociologists And Social Anthropologists
EHRC	Ethiopian Human Rights Commission
EIO	Ethiopian Institution Of The Ombudsman
FDRE	Federal Democratic Republic Of Ethiopia
FGM	Female Genital Mutilation
GBV	Gender Based Violence
GTP2	Growth And Transformation Plan Two

HTPs	Harmful Traditional Practices
HPR	House Of Peoples Representatives
HIV/AIDS	Human Immuno Vires/ Acquired Immuno Deficiency Syndrome
IQ	IntelligenceQuotient
ILO	International Labor Organization
ICCPR	International Convention For Civil And Political Rights
ICESCR	International Conve ntion For Economic Social And Cultural Rights
ICERD	International Conve ntion On The Elimination Of All Forms Of Racial Discrimination
IFSW/IASSW	International Federation of Social Workers International Association of School of Social Works
ISS	International Social Service
LON	League Of Nations
MOLSA	Ministry Of Labor And Social Affairs
MOWCYA	Ministry Of Women, Child And The Youth Affairs
NHRI	National Human Rights Institutions
NGO	Non Governmental Organizations
OAU	Organization Of African Unity
OVC	Orphan And Vulnerable Children
PAs	Peasant Associations
TV	Television
FFIC	The Federal First Instance Court
FHC	The Federal High Court
FSC	The Federal Supreme Court

UN	The United Nations
UNICEF	United Nations Child
UN CRC	United Nations Child Rights Convention
UDHR	Universal Declaration Of Human Rights
ANPPCAN	African Network for the Prevention and Protection of Children Against Neglect

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Abstract

The study of child rights legal frameworks and its implication for Social work implication is of a paramount importance specifically for professionals, students and researchers, and generally for organizations that work for children. The importance of such study is even greater when it is conducted from an interdisciplinary perspective. This study is undertaken for the same aim in order to assess the state of child rights in Ethiopia by emphasizing on the comparative analysis of the major child rights legal frameworks with the United Nations Child Rights Convention and the African Charter for the Rights and Welfare of Children. In addition, the study has also incorporated the perception of major foreign and domestic child based organizations. The paper is organized in such manner that a detailed introduction about the study is given under chapter one followed by the research methods in chapter two. Chapter three of the study is devoted to a review of related literatures and the theoretical frameworks. Chapter four is divided into two main parts. Under part one, a detailed analysis of the major child rights legal and institutional frameworks of the country is provided Vis a Vis the UNCRC and the ACRWC. Part two of the same chapter is devoted to the analysis of the findings about the perception of major child based organizations. The social work implication of the subject matter is provided under chapter five of the study. The final chapter of the study is dedicated to conclusion and recommendations.

CHAPTER ONE

1 INTRODUCTION

1.1 Background of the Study

Child rights: Human beings are born equal in dignity and rights. These are moral claims that are inalienable and inherent in all individuals by virtue of their humanity alone, irrespective of caste, color, creed, and place of birth, sex, cultural difference or any other consideration. These claims are articulated and formulated in what is today known as human rights. Human rights are those minimal rights, which every individual must have against the State, or other public authority, by virtue of his being a 'member of human family' irrespective of any consideration. The main duties deriving from human rights fall on states and their authorities or agents and hence, they need to be protected by the rule of laws. At least theoretically, states are increasingly accountable to the international community for their human rights practices. To ensure the respect, protection and enjoyment of human rights, the world came together to establish an independent world organization, first the League of Nations and finally United Nations, that would take the responsibility for the cause of Human Rights and other international relations between nation states. Several human Rights instruments have been agreed up on and were ratified under the auspices of both organizations at different times. The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the ICESCR, and the ICCPR and its two Optional Protocols. The International Bill of Rights is the basis for numerous conventions and national constitutions. Besides the International Bill of Human Rights, a number of other instruments have been adopted under the auspices of the UN and other international agencies depending on their general purposes and the segment of people these laws are intended

to benefit or protect. Among such conventions are the Conventions dealing with certain categories of persons who may need special protection.

Among such categories of persons needing special attention and protection are children. Children by reason of them being minors by law and devoid of autonomy, power and most often, material resources, are unable to make decisions on their own for themselves in any known jurisdictions in the world. They must rely on adults and the state for the nurture and guidance they need for proper growth development towards independence. The actions or in actions of guardians and the government impact children more strongly than any other group in a society. Their view is rarely heard and considered in the political process as they neither generally vote nor be voted. Any negative change in their environment bears a disproportionate impact up on children. Ensuring the rights of children to health, nutrition, education, and social, emotional and cognitive development is imperative for every country and entails obligations for every government. Ensuring that children enjoy fundamental rights and freedoms not only advances a more equitable society, but fosters a healthier, more literate and, in due course, a more productive population. The healthy development of children is very crucial to the future well-being of any society and the costs to society of failing its children are huge. And as such they need a special care and protection solely devoted to their holistic well-being.

Internationally, there have been many human rights and child-specific legal instruments adopted for the respect, protection and promotion of children. The protection of children's rights under international treaty law can be traced back to the first Declaration of the Rights of the Child adopted by the League of Nations in 1924, which was a brief document containing only five principles by which member were invited to be guided in the work of child welfare. An extended version of this text was adopted by the General Assembly in 1948, which was followed

by a revised version adopted by the General Assembly in 1959 as the UN Declaration on the Rights of the Child. In 1978, however, a proposal for a new convention on children's rights was made by Poland, which had consistently raised issues with regard to children's rights being binding. Poland's draft, with minor amendments, served as the basis for the 1989 Convention on the Rights of the Child (CRC). The reasons for an international change of heart towards the protection of children's rights were manifold, but all signatories fundamentally recognized that the 1959 Declaration on the Rights of the Child no longer reflected the needs of many of the world's children. Although legal instruments were developed that targeted the protection of children in particular, it has to be emphasized that basic human rights instruments already recognize these rights. The International Bill of Human Rights, for example, contains a broad bundle of human rights also applicable to children, and many of its principles are reflected and substantiated in children-specific legislation. Children enjoy protection by way of general human rights provisions, and their relevance should not be underestimated. The Universal Declaration of Human Rights, as the most prominent and fundamental UN human rights document, provides in its Article 25 that childhood is entitled to special care and assistance. Furthermore, the UN International Covenant on Civil and Political Rights, a legally binding document which came into force in 1978, contains provisions specifically referring to children. The Human Rights Committee has emphasized that the rights provided for in Article 24 are not the only ones that the Convention recognizes for children and that, as individuals, children benefit from all of the civil rights enunciated in the Covenant. The CRC, which consists of 54 Articles, incorporates the full range of human rights -civil, cultural, economic, political and social – and creates the international foundation for the protection and promotion of human rights and fundamental freedoms of all persons under the age of 18. The Convention represents widespread recognition

that children should be fully prepared to live an individual life in society, and brought up in the spirit of peace, dignity, tolerance, freedom, equality and solidarity. There are also other also other conventions and optional protocols devised to supplement the range of international legal instruments in the protection and promotion of children's Rights.

There are also other regional or continent based child rights instruments. One instrument claimed to be unique in certain aspects is the African Charter on the Rights and Welfare of the Child, adopted in July 1990 and entered into force on 29 November 1999. The Charter aims to supplement the CRC and additionally addresses issues of particular importance to children in Africa. The Charter was adopted in view of the critical situation in which most African children find themselves in terms of their socioeconomic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger. Thus, in its Preamble, the Charter points out that children require particular care and legal protection, and that they deserve freedom, dignity and security due to their physical and mental development. This African charter is unique in incorporating provisions that put duties and responsibilities on the children themselves and it is adopted with a view to address the children of African in context. Nevertheless, common to all those conventions is their binding nature on the states that have ratified or acceded to those particular instruments, and their general requirements and implementation of obligations. For example, States that have ratified the UNCRC are legally bound by it, and are required to take appropriate measures by taking the necessary legal, budgetary, administrative and other measures in order to implement it, including making available maximum resources. Thus state parties are obliged to adapt or change legislation and policies, and practices that will bring about the realization of all children's rights (economic, social, cultural, civil and political) and conform to the UN CRC. With regard to the African

Children's Charter, state parties to the charter undertake to recognize the rights, freedoms and duties enshrined in the Charter and to adopt, in accordance with their constitutional processes, such legislative or other measures to give effect to the provisions of the Charter. Thus, the Charter envisages that state parties to it will incorporate its provisions in their constitutions or national legislation as well as through policy development and implementation. However, both the Convention and the Charter do not specify particular solutions instead they chart out general measures. Once a State has voluntarily acceded to and ratified a treaty, the State is obliged to adopt the same in good faith.

By virtue of this, Ethiopia ratified the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) on December 9, 1991 by virtue of Proclamation 10/1992 and on October 2, 2002 by virtue of Proclamation 283/2002 respectively. The adoption of the two instruments marks a paradigm shift since it identifies children as bearers of not only care and protection rights but also civil and political rights as well. These two instruments are comprehensive treaties that recognize the civil, political, economic, social and cultural rights of children. As a Member State to both treaties, Ethiopia has been taking various measures to ensure the realization and observance of the rights of children as enshrined under the Convention and African Children's Charter and other treaties as well. These measures range from constitutional recognition of the rights of children and the responsibility to create the legislation and policy framework, provide resource to that of various steps to be taken, so that children's rights can be realized with a view to give the provisions of the two treaties legal effect in Ethiopia. Thus, this paper envisages to study the extent to which Ethiopia is living up to the legislative obligations laid down fundamentally in these instruments and how these

domestic legislations comply with the general purposes of these two child Right documents with particular emphasis on article 4 of the CRC.

Social work profession: The care and protection of children in general and child rights in particular calls for the attention of different professions and more importantly the profession of social work. Indeed social justice and human rights are at the core of the social work profession. The International Definition of Social Work includes the phrase: ‘Principles of human rights and social justice are fundamental to social work’ (IFSW/IASSW, 2000). In this sense, the introduction to the IFSW policy paper stipulates that ‘social work has, from its conception, been a human rights profession, having as its basic tenet the intrinsic value of every human being and as one of its main aims the promotion of equitable social structures, which can offer people security and development while upholding their dignity’ (IFSW, 1988). The UN manual ‘Human rights and social work’ also states that more than many professions, social work educators and practitioners are conscious that their concerns are closely linked to respect for human rights. They accept the premise that human rights and fundamental freedoms are indivisible, and that the full realization of civil and political rights is impossible without enjoyment of economic, social and cultural rights, (UN, 1994, p. 5). The document continues: ‘Human rights are inseparable from social work theory, values and ethics, and practice ... Advocacy of such rights must therefore be an integral part of social work, even if in countries living under authoritarian regimes such advocacy can have serious consequences for social work professionals, (UN, 1994, p. 5). Similarly, one can also find expressions of the same nature in different social work literatures emphasizing the consistency of the profession’s mission and values with human rights. Internationally also, the contribution of social work leaders to human rights causes; official professional representation and action on human rights; and social work involvement in

critical incidents or major human rights movements (Healy L., 2008, P.46). Many authors have pointed out this fit between social work values and human rights. A prominent human rights activist and social worker in the form of Jane Addams is a stellar example, as she exerted leadership in all three generations of human rights as later defined in the UDHR. According to a brief biography, she was at the forefront of the struggles for children's rights and other social work causes, (Schugurensky, 2005, cited in Healy L., 2008, P.48).

The record of social work in the children's rights movement is strong, especially in the earlier years of the efforts to recognize children as worthy of rights and to challenge the abuses to which children were subjected in the workplace, (Healy, 2008, P.48). According to the same author, Social work efforts to protect children have led to the establishment of government agencies and an array of laws and special services in many, if not most, countries. More recently, there has been social work involvement, although not leadership, in the efforts leading up to the Convention on the Rights of the Child and more so to its implementation around the world, (Healy, 2008, P.48). It is in this spirit that this paper is designed to look into the state of child rights in the country and pinpoint possible implications for the social work profession in Ethiopia.

1.2. Statement of the Research Problem

Since the adoption of the Constitution of the Federal Democratic Republic of Ethiopia, the government has taken significant steps aimed at legal reform. Several pieces of legislation affecting children have been promulgated. Some of the major legal reform initiatives which play a crucial role for the "safeguarding" of the rights of children include the entry in to force of the Revised Family Code in 2000, the Labor Proclamation in 2003, the Criminal Code in 2005 and the Charities and Societies Proclamation in 2009. This is not to mention the adoption of

the UNCRC and ACRWC. However, there seems to be gaps and inconsistencies between these domestic legislations and the two major conventions the country has adopted. There are occasions whereby the UN Committee for the Rights of the Child expressed its deep concern over the lack of a systematic legislative review and adoption of a comprehensive Children's Code. The Committee has made a recommendation to the government to undertake a comprehensive legislative reform. The establishment of conducive environment for the operation of civil societies, especially in the area of human rights protection and justice has been described as a vital tool in the endeavor of implementing the provisions of major child rights related legal instruments and the protection and care of children. Whereas, as a state party to the Conventions, Ethiopia is required to work in tandem with human rights based NGOs, the House of Peoples Representatives adopted the Proclamation for the Registration and Regulation of Charities and Societies (Proclamation 621/2009) in 2001. Accordingly, it came with a three-pronged classification of charities and societies as Ethiopian charities, Ethiopian resident charities and international and foreign charities. By virtue of article 14 of the same proclamation, only Ethiopian charities are entitled to engage on any of the charitable activities that are related with human rights not excluding the rights of children. However, the law requires Ethiopian charities to obtain 90 percent of their funding from local sources. There are also special arrangements whereby a foreign fund is considered to be a local one. Since at present, Ethiopian charities are not in a position to muster the strength to secure 90% of funding for their activities, this has adversely impacted their activities for the promotion of the rights of children and this put the country's couple of decades endeavor in the provision of care and protection of child rights, and its commitment in fulfilling its treaty based obligations in to question. The then ministry of women's affairs revised and updated the 2001 alternative child care guideline in later in the same

year the CSP was promulgated to serve as the minimum standard guideline to check on the activities and services rendered by child based organizations. Accordingly, the guideline requires any community based child organization to incorporate legal protection services to the range of its activities meant for the care of children. But, a closer look into the provisions of the CSP reveals that only Ethiopian charities and societies could engage in the provision of legal protection and rights based services and again, if and only if they raise 10 % of their funds from local sources. whereas, the children's cause could not be accomplished solely without any cooperation with domestic and foreign NGOs and whereas the UNCRC calls for the same, such domestic legal arrangements makes the country's endeavor and commitment partly absurd. The benefit of collective advocacy work has also been curtailed because of this proclamation. Among few professions that engage in advocacy and rights-based activities is the social work profession.

The introduction to the IFSW policy paper states that 'social work has, from its conception, been a human rights profession, having as its basic tenet the intrinsic value of every human being and as one of its main aims the promotion of equitable social structures, which can offer people security and development while upholding their dignity', (IFSW, 1988). In spite of its emphasis on the promotion of justice and the protection of human rights, external recognition of social work's contributions remains limited, especially in Ethiopia. According to (Healy, 2008, P.52). Many explanations for social work's low visibility in the global human rights movement could be advanced. These include emphasis on social and economic rights, rather than civil and political rights that command more public attention; focus on vulnerable and socially Excluded groups; preference for the case approach rather than macro issues; serve the wider cause; a focus on needs rather than rights. Each of these flaws recommends opportunities for advanced work by the profession to reinforce its human rights principles. Therefore, this paper

tries to assess the legal frameworks laid down by the state since ratifying the UNCRC and ACRWC and other child rights-related instruments and whether or not these legislations and policies are in harmony with the conventions and create a favorable environment for the protection of child rights and institutions engaged in the sector. Hence, the paper tries to answer the following research questions:

1. How Child Friendly is the Ethiopian Child Rights Legal Framework compared to the UNCRC and ACRWC?
2. What is the perception of major child rights actors in Ethiopia as to the child-friendliness of Ethiopia's child rights legal framework?
3. What is the Social work Implications of Ethiopia's Child Rights legal frameworks?

1.3. Rational of the study

The study of the business of children from a human rights and interdisciplinary perspective has not been sufficiently investigated in Ethiopia. Social work profession has always been based on knowledge and it is the firm belief of the writer that knowledge and understanding of the human rights of the child is of utmost importance for the proper care and protection of children in general and the fulfillment of the mission of social work profession. The need for the assessment of the law and practice of the rights of children and the dissemination of the same to the relevant stakeholders is of a paramount importance. It is for this crucial purpose that this study is going to be conducted.

1.4. Objective of the Study

This research paper has two types of objectives: general and specific objectives.

General Objective

The cardinal objective of this study is to assess the legal environment in Ethiopia in relation to child rights and to suggest ways of contribution from a multi-disciplinary perspective specifically from a law and social work profession's point of view to bring about a holistic enhancement of the state of the child rights through advocacy and intervention geared at for the same cause at the federal level.

Specific Objective

The specific objectives of the study include:

- To analyze the contents of major child related legal instruments to examine how the country fares in attempting to adopt a child friendly legal environment.
- To examine the impact of domestic legislations /policies/ on the activities of major child based organizations.
- To assess the general situation's implication for social work profession in the country and its endeavor to live up to its professional values generally and its role in contributing to the betterment of children specifically.

CHAPTER TWO

2 RESEARCHMETHODS

2.1 Introduction

In order to best study the subject matter at hand i.e. assessment of the state of child rights legal framework in Ethiopia and its Social work Implications, the research project is conducted from an interdisciplinary perspective combining the research methods employed in legal profession with the research methods of Social Science especially the profession of Social Work.

2.2 Study Approach

This research paper applies a doctrinal type of legal research and qualitative research methodology of social science research. As a doctrinal legal research, it identifies, closely examines, interprets and analyzes the major child-related domestic legislations, policy instruments, and international child rights instruments ratified by Ethiopia. Doctrinal method is therefore a two process, because it involves locating the sources of the law and then interpreting and analyzing the text of the law (Hutchinson T. & Duncan N. 2012,p.23).According to McConville M. (2007, p. 22), One point that must be made clear is that doctrinal research methods is more than simply a literature review. It is the location and analysis of the primary documents of the law in order to establish the nature and parameters of the law. It seeks to achieve more than simply a description of the law. This type of legal research is closely related to the hermeneutic content analysis employed in social science studies. As such, this paper aims to undertake a critical interpretation and analysis of the contents of these domestic legal and policy instruments the country set out in response to the obligations imposed by the two major child rights instruments, the UNCRC and ACRWC. To achieve this, the paper utilizes indicators

commonly used by child rights actors specifically: - the general measures of implementation laid down by the UN child rights committee, child friendliness index adopted by Africa child policy forum and the child protection policy framework and human resources child protection indicators adopted by UNICEF to measure and monitor child rights protection.

In addition to this, the paper also aims to incorporate an assessment of the perception of major child-rights actors (government and non-government, local and foreign, and treaty bodies) about the child rights legal framework in the country. The research approach for this study is a qualitative research approach. For this part of the research project, the study employs the Phenomenology approach of a qualitative study. According to Michael B. & Demand M. (2001, p. 178), the goal of Phenomenology is to understand how others view the world, and how this view may vary from commonly held views by focusing on a person's subjective interpretations of what one experiences. This type of qualitative research approach is frequently used in in such fields as psychology, sociology and Social work profession. Qualitative research comes from an interpretative perspective and is concerned with interpreting and understanding phenomena through the meanings that people attach to them (Kards, 2013, p. 121). One of the major uses of qualitative methods is to explore phenomenon and experiences from the perspective of individuals experiencing them (Linda, Army & Thomas, 2008, p.80).

Though the identification and analysis of child rights related legal frameworks has been studied from a legal point of view, there is no study conducted to investigate how child rights actors or stakeholders view the child rights legal framework of the country, to the best of the researcher's knowledge.

The rationale and justification for employing a qualitative approach is that, among other things, it enables the researcher to get in-depth and rich information about the perception of

major child rights stakeholders. According to Krueger & Neumann (2006, p.9) qualitative research is not mainly concerned with drawing representative samples rather, it focuses on identifying and selecting cases or participants that have deep and rich knowledge of the research issue to provide a good insight.

2.3 Research Design

This research employed an exploratory research design. The researcher preferred to conduct exploratory research because to the best of my knowledge, there has been no research project conducted to assess what child rights stakeholders feel about the legal framework in which they operate in relation to child rights protection. Krueger and Neumann (2003) stated that if the issue that is to be researched is new or other researchers had written little on it, one has to start from exploration. It also provides insights into and comprehension of an issue or situation for more rigorous investigation later.

2.4 Instrumentation

The Federal Negarit Gazette Establishment Proclamation No. 3/1995 states that all laws of the Federal Government shall be published in the Federal Negarit Gazette. The constitution of the Federal Democratic Republic of Ethiopia also stipulates, under article 9, that all international agreements ratified by Ethiopia are an integral part of the law of the land. Therefore, concerning research question no.1 the instrument used to identify those child related legislations is the requirement of publicity on the Federal Negarit Gazette. Besides these Negarit gazette publication, the paper also identifies those extraordinary issues of laws commonly called Codes. Other important child related national policy instruments would also be identified based on the same criteria of official publicity. In addition to this, the paper aims to employ the child

friendliness index adopted by the African child policy forum in order to assess the child friendliness of the Ethiopian child rights legal framework. Research question No.2 will be measured based on the general measures of implementations officially called General Comment 5, CRC/GC/2003/5, adopted by the UN child rights Committee, and the child protection policy framework and human resources child protection indicators adopted by UNICEF. In addition to this, the study aims to tackle research question No. 3 based on the values, ethical principles and fundamental foundations of the social work profession.

2.5 Sampling Technique

The researcher aims to use fixed purposive sampling to identify and select appropriate organizations and individual respondents for this study. Hence, relevant United Nations and African unity bodies, federal Ministry, government organs, bureaus and organizations, major non-government foreign and domestic child related organizations are identified in advance for the purpose of collecting data. These units of analysis were selected based on the criteria of Authority, Seniority / experience/ and service coverage.

2.5.1 Sample Size and Sample frame

According to Anita (2004), in qualitative studies the aim is not to be representative of the population rather the validity, meaningfulness and insights generated from such studies have more to do with the information richness of the cases selected, and the analytical qualities of the researcher than with the sample size. As such, there are no hard and fast rules for sample size in qualitative research methods as it largely depends on what one wants to know, the purpose of the study and practical factors. In order to provide an in-depth understanding of this study as seen through the units of analysis being studied, the study aims to divide the pertinent child rights

actors into governmental organ and special agencies of treaty organizations organ and Foreign, Ethiopian resident and Ethiopian charities and societies or child based organizations.

The following units of analysis or target groups are selected based on the criteria set out above. These are: -

No.	Respondents from the Government side	Respondents from Charities and societies		UN treaty Body
		Foreign	Domestic	
1	The Ministry of Justice & FDRE Courts	World vision Ethiopia	Child Development Training and Research Centre	UNICEF
2	The Ministry of Women & Children	African Child Policy Forum	Bethsaida Support for Children and Youth	
3	The Women & Children Standing Committee in the HPR	Save the children Alliance	Bright Hope Children s Welfare Association	
4		Plan International	Abebech Gobena Yehitsanat Kibkabe ina Limat Mahber	
5		SOS Children's Village Ethiopia	Meserete Kristos Church Relief and Development	

Table.1. List of Target groups- Child Rights Organizations

The writer believes that on the basis of the research questions, these units of analysis offer the necessary and relevant data to assess the main issue of the paper. The heterogeneity of these organizations, i.e. (international treaty bodies, national government organs, foreign and domestic non-government organizations all related to the children's issue) will offer data that is required to effectively assess the research question .

2.6 Data collection tools

Both primary and secondary data will be collected for the purpose of accomplishing the research goal. Primary data will be collected through unstructured self-completion questionnaires to be filled by the pertinent personnel or expert of each units of analysis. The key informants are selected in accordance with the criteria enumerated above. Secondary data will be gathered by reviewing legal instruments such as proclamations, code laws, regulations and guidelines, and policy documents, and official reports.

The questionnaires were self-prepared in such a way that these questionnaires incorporate each elements of the general measures of implementation, the indexes and indicators employed to measure the research questions and adopted by the organizations enumerated above under the instrumentation. In addition, the questionnaire was made in such a way that it fits with the nature of the expertise and activities of each units of analysis. After the first draft was prepared in English language and back translated into Amharic language the researcher submitted the same for an instructor in the school of social work and for external child rights experts for validation. The first English draft was also submitted for my Advisor. Up on consultation with the child rights experts and their feedback, the questionnaires were reduced in number from ten to seven but without excluding the basic ones. The reason for such reduction was that a large number of questions may negatively affect the overall outcome of the questionnaire as the respondents may get bored and that some redundant questions were made to be incorporated in to one and the less relevant ones avoided. A copy of these questionnaires in two versions is attached herewith under annex part.

2.7 Data Analysis

Combining and synthesizing the collected data into meaningful patterns and themes is one of the basic steps in any research process. The researcher aims to classify the questionnaire according to the type of respondents so that it would be easier to sort and order the qualitative data often described as 'attractive nuisance' into specific subjects and related themes. To achieve this, the researcher aims to apply coding and categorizing the concepts or themes that are similar by using appropriate methods. The whole data collected through questionnaire is aimed to be incorporated into meaningful manner so that it would provide a clear picture of the whole theme of the study. The data gathered from the analysis of the legislations in this study will be interpreted under the assumption of hermeneutic content analysis and critical social work theory.

2.8 Scope and limitation of the study

This paper aims to explore and analyze the human rights of the child as enshrined in the international legal instruments and domestic laws. In doing so, it tries to consult and review national laws, policy instruments and guidelines. In addition to this, it attempts to incorporate the views and opinions of major child based government and non-government organizations. This study is only limited to legislations at the state or federal level and as such it does not intend to include regional laws and instruments of whatever nature, regional governmental and non-governmental organizations. Besides, it only concentrates on the two major international and continental child rights instruments and specifically on Article 4 and Article 1 of the UNCRC and ACRWC respectively.

2.9 Significance of the study

An inter-disciplinary study of the legal and policy framework of the rights of the child in Ethiopia is a rarity. Unique to other studies and publications, this research paper tries to assess the subject matter from two disciplines and it incorporates the implication for social work profession, and this is of greater significance for educational, intervention and advocacy purposes. Loads of researches and studies that are conducted so far in the social work profession in the country are often limited on other aspects of the child disregarding the professions fundamental values towards Human Rights and Justice. Grounding varieties of concepts to the depth of social work theories is also of a paramount importance to illuminate knowledge in this sphere. To this end, this paper is of a paramount importance in identifying and narrowing the gap in research and advocacy on the rights of the child in Ethiopia. Though different studies have been conducted on the issue of harmonization of domestic laws with the two international child related instruments this paper goes further in measuring domestic child rights protection endeavors practically with contemporary instruments.

2.10 Ethical Consideration

According to Krueger and Neumann(2006,p.136) there should be a balance between two values in ethical issues, the pursuit of scientific knowledge and the rights of those being studied or other members of the society.As stated by Walliman (2011, p.109) working with human participants in research practice always raises ethical issues. Accordingly, people involved in any research should be treated with respect during and after research. Krueger and Neumann (2003, p.135) also explained that social work research is never to coerce to anyone in to participation; participation must be voluntary. Accordingly, the researcher did not force anybody to participate in this research. All the respondents participated on this research process after they dully

expressed their willingness to do and also this has been acknowledged by their signature on the consent form.

Privacy is the other ethical issue that has been considered in this study. Krueger and Neumann (2006, p.139) stated that the researchers will protect the privacy by not disclosing participants' identity after information is gathered. When researchers offer to respect the privacy of the participants, they are giving participants the right to decide how much information to share and how it will be used. Accordingly, the researcher has fully made an awareness of the fact that this research is solely meant for academic purpose and that the respondents identity would not in any way be exposed other than for the said purpose. Walliman (2011, p.42) also raised two aspects of ethical issues in research process. The individual values of the researcher relating to honesty, frankness and personal integrity" is the first issue (2011, p. 42). The second and most necessary aspect mentioned by Walliman (2011, p.43) is the issue of confidentiality, anonymity and courtesy. In line with this, the researcher has from the very beginning informed the participants the goal and objective of the research.

2.11 Study Area/population

The first part of this research project is conducted based on the laws and policies promulgated, ratified and designed by the Federal Democratic Republic of Ethiopia. Hence, the study area is limited to the seat of the Federal Government of Ethiopia, Addis Ababa. Laws and policies that has been issued by the State Governments has not been include in the study. With regard to the second part of the study, the study population were child rights actors whose headquarters/ head offices are located in the city of Addis Ababa. Hence, regional offices have not been included in the study.

Chapter Three

3 Literature Review

3.1 The Historical Development of the International Child Rights Protection System

Children and childhood throughout the world have mostly been understood in terms of a golden age that is synonymous with innocence, freedom, joy, play and the like. On the other hand, it is also true that children are vulnerable, especially at a young age. Because of their nature it is universally expected that they need to be cared for and protected from the austerity of the world exterior and nearby. The history of Hebrews, Greeks and Romans, whose cultures had a great impact upon the Western society, bears testimony to the fact that children, by and large, were taken for granted by their parents and the patriarchal society at large (National Human Rights Commission, 2006, p.92). As a result of this, they were taken as objects of intervention rather than as legal subjects in their own rights and interests. After many years of this kind of belief however new developments gradually began to surface where by parents, specially the male parent, is obliged to protect children's interests and. In a similar development, courts in Roman-Dutch law jurisdiction began to exercise the State's responsibilities as *parens patriae* and came to be considered as the 'upper' or superior guardian of minor children (National Human Rights Commission, 2006, p.94). The nineteenth century, however, saw the birth of the child-saving movement, the growth of the orphanage, the development of child protection legislations, schooling and the construction of separate institutions, including the juvenile courts, for delinquent children, in different parts of the Western world (National Human Rights Commission, 2006, p.95). Accordingly, the 1904 International Agreement for the Suppression of "White Slave Traffic" is one of the first Conventions that specifically address children as a group.

Moreover, with the establishment of League of Nations in 1919 the international protection of children's rights got further impetus. Within a decade of its establishment, LON has ratified the International Convention for the Suppression of Traffic in Women and Children in 1921, in 1924, Slavery Convention and DRC(declaration on the rights of the child), on which the 1959 DRC was built upon. However, since the earlier international agreements had only concentrated on particular problems affecting children such as working conditions and slavery the landmark towards the international norms concerning the global protection of children was marked with the coming of 1924 DRC (Hodgson, D. 2009, p. 3-4). Besides, nowadays the formation of the UN has resulted in a considerable success in terms of enacting a comprehensive set of international human rights for children (Hodgson, D. 2009, p.1). Indeed the UN legal framework including the basic human rights instruments has already recognized the aforementioned rights and interests of children. For instance, the International Bill of Human Rights contains a broad set of human rights that also address children, and many of its principles are reflected and validated throughout legislations that specifically deal with the rights and interests of children. At a greater scale, vulnerable groups such as women and children have been granted special protection by specific UN legal frameworks. In this regard the most notable UN manifestation to advance children's rights is the CRC (Ruppel, N. 2009,p.55-57). The Convention has carved out the aspects of children's rights that are being promoted over the last number of years (Hayes, 2002, p.19). Primarily CRC addressed four aspects of children's rights or "the four 'P's": participation by children in decisions affecting them; protection of children against discrimination and all forms of neglect and exploitation; prevention of harm to them; and provision of assistance to children for their basic needs (Stern, 2007,p.38 & Zeldin, 2007, p.2). However, Children's rights are usually categorized into three aspects that are called "three P's":

protection rights, participation rights and provision rights (Brems, 2007, p.69). The four International bills of human rights are the Universal Declaration of Human Rights(UDHR), International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)

3.1.1 The League of Nations and Child Rights Protection

Under the earlier patriarchal model where father's power over his household was like that of a God-human relationship, children were assumed as a property or possession of the male parent. However, in the late nineteenth century children in Europe and North America came to be considered as a special population in need of protection. "Child saving" attracted the attention of many social reformers to the extent of leading the development of child welfare systems, Juvenile courts, and other special arrangements for children (Todres, 2014, p.266-267).

In the early part of the century, NGOs with the specific aim of improving the lives of children came into existence and started to run the child saving process. Among these was the International Save the Children United Kingdom, founded by EglantyneJebb in 1919. Then this Charity Organization Society shifted from raising funds to save homeless and orphaned children to the issue of children's rights. As a result, Ms. Jebb drafted a document that affirmed the rights of children and the duty of the international community to put children's rights in the forefront of planning. The draft document presented five points to the League of Nations. Since the league's primary goal as stated in Article 23 is by being Subject to the provisions of existing or coming international conventions to make an effort in order to secure and maintain fair and humane conditions of labor for men, women and children, in fulfilling its goals for children in particular, the League of Nations on September 26, 1924 ratified Ms. Jebb's five point document as the First Declaration of the Rights of the Child or the Declaration of Geneva as it came to be known.

This First Declaration on the Rights of the Child contained five basic principles (Oladiji, 2012, p.17-18).

Recognizing that ‘mankind owes to the child the best that it has to give’, the five simple principles of the Declaration indicated the ground of child rights in terms of both protection of the weak and vulnerable and promotion of the child’s growth. The Declaration also indicated as the care and protection of children was no longer the sole duty of families or communities or even individual countries rather as it is the whole world legitimate interest (Bhakhry, 2006, p.17).

Accordingly, under its five principles it conferred upon men and women of all nations the following obligations: child must be given both material and spiritual means required for its normal development; child that is hungry should be fed; the child that is sick should be helped; delinquent child should be reclaimed; and the orphan and the homeless child should be sheltered; child must be the first to receive relief in times of distress; child must be protected against every form of exploitation and child must be brought up in the consciousness that its talents are to be used in the services of its fellow men (Declaration of the Rights of the Child, 1924, p.1). Generally, among other things the Declaration indicated that the child must be given the means required for its normal material and spiritual development and must be protected against any form of exploitation (Hodgson, 2009, p.4). Thus, though the Declaration of Geneva did not point out any distinction between categories of rights, first and foremost its main tenet was to protect the child from different kinds of exploitation and emphasize the importance of the child’s social, economic and psychological needs (Thelander, 2009, p.16).

However, first, the 1924 Declaration of Geneva only alleged to be a declaration of a set of moral duties i.e. did not entail the assumption of legal obligations by States and it was left to

each League Member States to take appropriate action within its means and individual circumstances (Hodgson, 2009, p.5). Thus, the Declaration was brief and only inspirational for it called member states to be guided by its principles without any legal obligation (Oladiji, 2012, p.17). Second, the 1924 Declaration of Geneva entailed more of the duties of “men and women of all nations,” rather than the rights of children, “regarding children more as beneficiaries of child welfare than as subjects of law” (Todres, 2014, p. 267-268). In confirming this, a cursory look at the fourth and fifth principle of the Declaration i.e. “The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation; and fifth- “The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men”, suggested that the capacity of the child was not particularly taken into account (Oladiji, 2012, p.17). Despite these shortcomings, in history and under international treaty law, the declaration of the rights of the child remains to be the first international Human Rights document that specifically dealt with children’s rights (Cicculli, 2011, p.15 and (Ruppel, N.2009, p.55).).

3.1.2 The United Nations and Child Rights Protection

Because of the League of Nations inability to avert World War II, which had surrounded the whole planet, caused great suffering on non-combatants, particularly children. After the war, the triumphant side brokered the formation of another world organization in the form of United Nation in 1945 and this organization enacted the 1959 DRC. However, before the enactment of the 1959 DRC, the UN general assembly first enacted UDHR in 1948 (Bhakhry, 2006, p.18 & 22). As stated in its preamble, the UDHR is a “Common standard of achievement for all peoples and all nations”. The Declaration further states 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”. Thus, since it proclaims the inherent dignity, equal and

inalienable rights of all human beings as the foundation of freedom, justice and peace in the World, it embodies more measures to protect the children, by laying out a “common standard” of achievement for all people and all nations and hence children too (UDHR, 1948, p. preamble).

Though all of the provisions of UDHR address children implicitly, only two of them explicitly address children. First, Article 25 states that “Motherhood and childhood are entitled to special care and assistance”, and adds that “All children, whether born in or out of wedlock, shall enjoy the same social protection”, Second, under Article 26, which deals with the right to education, provision is made to ensure that “Parents have a prior right to choose the kind of education that shall be given to their children” (UDHR, 1948, Art25 & 26). Thus, when the UDHR was ratified, it was assumed that children’s rights had been incorporated in general.

Primarily however, the UDHR does not clearly recognize that children are holders of rights by themselves but it solely captures attention to their need for special protection (Ofodile, 2010, p.5-6). Secondly, even after its ratification, children had less power in almost every society and across the globe as a result of which they were left more vulnerable and victimized by human rights violations than other citizens (Oladiji, 2012, p.20).the researcher believes that the state of children was precarious at the time, the UDHR was not found to be fully ample to deal with the situation of children in the post-Second World War era. It was clear that Children belonged to a vulnerable group, who needed specific measures towards their protection or in terms of providing rights that would permit their full and healthy development. It was based on these and other justifications that the UN ratified the 1959 DRC (Bhakhry, 2006, p.22).

In 1959, DRC was ratified unanimously by all 78 Member States of the UNGA in Resolution 1386 (XIV) (Cicculli, 2001, p.16). In line with its assertion that a child, due to his physical and mental immaturity and lack of capacity, needs special protections and care,

including appropriate legal protection before and after birth. The UN endorsed ten standard principles for the protection of children based upon the 1924 DRC (Walsh, 2011, p.223). Consequently, one of the key principles of the DRC dictates that special protection against all forms of neglect, cruelty and exploitation should be accorded to children in order to enhance their physical, mental and social development. The declaration goes on to provide other core standards like the right to equality without discrimination on the ground of race, religion or national origin, the right to name, nationality, adequate nutrition, housing, medical services, special education and treatment when a child is physically or mentally handicapped, the right to understanding and love by parents and society, recreational activities and free education, that children be among the first to receive relief in all circumstances and brought up in a spirit of understanding, tolerance, friendship among peoples, and universal brotherhood are also the rest principles of the DRC (Declaration of the Rights of the Child, 1959, p.1). Thus, the 1959 DRC proclaimed numerous rights to children based on the assertion that humanity owed to children the best it could offer them. Moreover, the source of the principle of best interest of a child is rooted in to this Declaration (Omondi, 2014, p.52).

On another note, the ratification of DRC by UN General Assembly was indeed a very vital step towards the international protection of the right of the child. This is so first that, as Cicculli (2001, p.15) indicated, the 1959 DRC specifically calls upon voluntary organizations and local authorities to struggle for the observance of children's rights (Cicculli, 2001, p. 16). Second, it was the first serious attempt to provide the details of what constitutes children's overriding claims and entitlements. Third, unlike the 1924 DRC for the first time, the 'it - character' of the child removed from the language used and was replaced by '/He/She' and 'His/her' i.e. compared to the wording of 1924 DRC, the child was now clearly accepted as a

subject of law with specific rights (Oladiji, 2012, p.21). Finally, Principle 5 of the 1959 Declaration brings into the fore the concept of affirmative action for the handicapped child and principle 9 added a general proscription on all forms of neglect, cruelty and traffic, as well as calling for a minimum age for employment and a prohibition on any employment which would jeopardize the child's health, development or education (Hodgson, 2009, p.6).

The 1959 Declaration marked the move towards making children more visible as a population (Hayes, ND: 16). Thus, the Declaration is considered as landmark in providing a basis for a rights-based protection of children (Munyao, 2010, p.79). Beyond this, the wide acceptance in 1959 of the rights recognized in the Declarations marked a considerable step towards their legal recognition in the CRC of 1989 after 30 years (Hodgson, 2009:7). However, first, the simple the intent statement of the Declaration let it to have limited direct impact for it has no legal force that binds (Omondi, 2014, p.52). Thus, states were supposed to take only note of the principles stated therein for they were universally recognized as being applicable to all children. This led to a general tendency by many nations to remain silent about the inexcusable conditions being suffered by large numbers of children (Oladiji, 2012, p.20-21). Second, the Declaration did not have any recognition to the autonomy or wishes and feelings of children, nor any approval to their empowerment for it considers them as pure investment (Bhakhry, 2006, p.22).

Generally, the 1959 Declaration of 1959 fundamentally reaffirmed and expanded the provisions of the 1924 Declaration and realized the provision of UDHR to children in a more specific manner. However, to give legal force to the provisions of the UDHR the UN again ratified twine International covenants on Human Rights in 1966, namely ICCPR and ICESCR (Hodgson, 2009, p.6).

Accordingly, the ICCPR and ICESCR implicitly address the rights of children in there several provisions. ICCPR under its several provisions refer those terms like “juvenile”, “children” or “child”. However, Article 24 is the most comprehensive provision that talks about the rights of children. Article 24 (1) indicates that irrespective of any ground like race, color, sex, language, religion, national or social origin, property or birth whether as every child shall have the right to the necessary measures of protection due to his/her status of minor. Article 24 (2&3) also indicates as every child shall be registered right away after birth and shall have a name as well as nationality (ICCPR, 1966, Art. 24).

Similarly, ICESCR under Article 10, 12 and 13 talks about the rights of children explicitly. The most comprehensive provision i.e. Article 10(3) suggests that without any discrimination on the basis of parentage and other conditions special measures of protection and assistance should be taken on behalf of children and young people. Moreover, they have to be protected from economic and social exploitation. Therefore, their employment in those works harmful to their moral, health and normal development should be accountable before the law. It also suggests that states should set minimum age below which the paid labor employment of child is punishable by the law. Thus, children and young persons are to be protected from economic and social exploitation (ICESCR, 1966, Art. 10(3)).

In general, those 1966’s twin Covenants that has gave legal force to the provision of 1948 UDHR as well as 1959 DRC and also that are being used to children implicitly or explicitly is considered as vital development in international legal protection of children (Hodgson, 2009, p.8). Though children are endowed to the protection of these international human rights instrument their rights have got formal and explicit acknowledgment recently due to the

ratification of CRC in 1989 (Harvey, ND, P. 11-12). Thus, with the ratification of CRC in 1989 a new era in the history of children's rights has begun (Lenzer, ND, P.215).

3.1.3 The Convention on the Rights of the Child (CRC)

In addition to those stated above, another landmark on the journey towards the CRC was the nomination of 1979 by UN as the International Year of the Child (Hayes, 2002, p.16). Accordingly, the possibility of CRC was first elevated by the government of Poland in 1978 when UN member states designed activities and agendas that would take place during the International Year of the Child in 1979 (Blanchfield, 2013, p.2). Then during the International Year of the Child, the UN Commission on Human Rights taken in to account the Polish proposal and organized a Working Group to review and create a final outline. The Working Group submitted the final draft text to the Commission on Human Rights, and on 20th November, thirty years to the day after the endorsement of the 1959 Declaration, the UN General Assembly ratified the CRC and came into force on September 2. The CRC is complete announcement of child rights ever made i.e. it is the first UN Human Rights instrument since the UDHR which brings together as inseparable the full range of civil and political rights, and economic, social and cultural rights. Moreover, as stated in the preamble the Convention asserts the fact that children due to their vulnerability need special care and protection and it also adds as families, states independently or in cooperation are responsible for caring and protecting children. Thus, the Convention is a set of international standards and measures intended to protect and promote the well being of children in society. (Barnardos, 2008, p.2).

Moreover, the Convention clearly declared the rights of children to the participation in decisions affecting their own destiny; to the protection against discrimination and all form of neglect and exploitation; the prevention of harm and the provision of assistance for their basic

needs (Gajurel, 2007, p.14). Thus, the Convention outlines the rights of children in detail and declares as children do not only need care in peacetime but also from violence during armed conflicts (Harju, 2013, p.22-23). The CRC outlines not only the rights of children to be protected but as Walsh indicated it also outlines the specific obligations of signatory states in protecting the civil, political, economic and social rights of children (Walsh, 2011, p. 225). Moreover, for the Convention to be more than only rhetoric, its implementation by the States Parties must have to be monitored (Hayes, 2002: 24). Thus, in addition to their obligation to implement the substantive provisions of the CRC via taking measures, each State party is under an obligation to submit regular reports to the Committee on the rights of child (Oladiji, 2012, p.27). Accordingly, under Article 44 of the Convention, States Parties are supposed to submit national reports to the Committee on the Rights of child describing as to what measures are being taken in order to implement the Convention (Hayes, 2002, p.24).

In addition to the national reports in its evaluation of a country's performance the UN committee also receive reports of relevant NGOs. This enables the committee in order to evaluate governmental reports in the light of information presented by the NGO sector. After evaluating the reports, the Committee forwards a 'list of issues' to the concerned government. This list indicates specific issues, under the different articles, where further information is needed. Governments are supposed to replay to this list, in writing, to the Committee one month in advance of the plenary hearing. At the plenary hearing, the Committee s reviews the country's national report and, using a question and answer format, analyses the country's progress in implementing the Convention. A statement of the Committee's findings and recommendations for action are then delivered to the country as Concluding Observations ((Hayes, 2002, p.24-25).

3.1.4 The African Charter on the Rights and Welfare of the Child

Member states of the Organization of African Unity (OAU) adopted a Declaration on the Rights and Welfare of the African Child in 1979 (OAU, 1979), the same year regarded as the International Year of the Child by the UN. This prefigured the African Charter on the Rights and Welfare of the Child, which was adopted in 1990 by the Assembly of Heads of State of the then Organization of African Unity (OAU Doc CAB/LEG/24.9/49) and which entered into force in 1999. Like the CRC, the African Charter is a comprehensive instrument that sets out children's rights and defines universal principles and norms for the status of children. The African Charter and the CRC are the only international and regional human rights treaties that cover the whole spectrum of civil, political, economic, social and cultural rights of the child.

The rationale for the African Charter was the feeling by member states that the CRC 'missed important socio-cultural and economic realities of the African experience (Viljoen, F, 2003, p. 86). It emphasizes 'the need to include African cultural values and experience in considering issues pertaining to the rights of the child in Africa (Olowu D., 2004, p.10). The African Charter challenges traditional African views that conflict with children's rights on issues such as child marriage, parental rights and obligations towards their children, and children born out of wedlock. It expressly proclaims its supremacy over any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the Charter (Chirwa, D., 2000, p.158).It includes provisions addressing harmful cultural practices (Art 21 of ACRWC) , outright prohibition on the recruitment of children (defined as any person under eighteen years of age) in armed conflict (Art 22(2) of ACRWC), the prohibition of marriages or betrothals involving children (Art 21 of ACRWC), prohibition of use of children as beggars (Art 27(1)(b) of ACRWC and grants girls the right to return to school after pregnancy Art 11(6) of ACRWC).

The African Charter also explicitly tackles specifically African issues; for example, calling for apartheid and similar systems to be confronted and abolished (Art 26 of ACRWC). Apartheid may have been defeated in South Africa, but this provision is also 'applicable to children living under regimes practicing ethnic, religious or other forms of discrimination that justify special measures to be taken for the welfare of children in those countries' (Chirwa, D., 2000, p.159). By addressing the issue of conscription of children into the armed forces, 'the Charter deserves credit for addressing a critical issue affecting the African child (Chirwa, D., 2000, p.159).

To conclude, the wide acceptance of the rights declared in the DRC during the 1959 marked a considerable step towards their legal recognition 30 years later in the CRC of 1989 (Hodgson, D. 2009, p.7). Accordingly, "today the CRC is the most internationally accepted human rights treaty in history, forging an "age of rights" for children" (Todres, J. 2014, p. 267-268). In general, the Convention declares as children's rights must be promoted as well as protected and also places the responsibility for this with parents and states (Hayes, N. 2002, p.22).

Thus, although the 1959 declaration can be consider as a landmark in providing a basis for a rights-based protection of children (Munyao, W. 2010, p.79), for the first time they are viewed as a right holder and not as an object of adult concern under the CRC, and also States became responsible of modifying national legislation in order to protect and defend child right under the CRC (Cicculli, M. (2011, p.19).

The international acceptance of children's rights and the fact that they needed to be protected from all forms harm and be provided for their development led to the development of a more regional child rights instrument in the form of the African child charter which was based on

the continent's culture and the political and other factors that happened during the CRC negotiations. Despite this, the application and implementation of the provisions of these international child rights instruments by state parties to the convention and the charter does still require further resources and consideration from all aspects.

3.2 State Obligations under CRC and ACRWC

International conventions do not come free of obligations. Almost all of international conventions and treaties that have a binding nature require certain obligations to be fulfilled by member states. For example under Art. 4 of the CRC and Art. 1 of the ACRWC it is provided as follows:-

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation (Art.4 of CRC).

The state members of the Organization of the African Union parties to the present charter... shall undertake the necessary steps, in accordance with their constitutional process and with the provisions of the present charter to adopt such legislative or other measures as may be necessary to give effect to the provisions of this charter. (Art. 1 of ACRWC)

Each of the International Covenants has articles similar to article 4 of the Convention on the Rights of the Child, setting out overall implementation obligations; and the responsible Treaty Bodies have developed relevant General Comments. Article 2 of the International Covenant on Civil and Political Rights, on implementation, includes as its first paragraph the non-

discrimination principle, equivalent to article 2(1) of the Convention. Paragraph 2 states: “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.” Paragraph 3 requires States Parties to the Covenant to ensure an “effective remedy” for any person whose rights or freedoms as recognized by the Covenant are violated. In an early General Comment, the Human Rights Committee notes that article 2 of the Covenant on Civil and Political Rights “generally leaves it to the States Parties concerned to choose their method of implementation in their territories, within the framework set out in that article. It recognizes, in particular, that the implementation does not depend solely on constitutional or legislative enactments, which in themselves are often not *per se* sufficient. The Human Rights Committee considers it necessary to draw the attention of States Parties to the fact that the obligation under the Covenant is not confined to the respect of human rights, but that States Parties have also undertaken to ensure the enjoyment of these rights to all individuals under their jurisdiction. This aspect calls for specific activities by the States Parties to enable individuals to enjoy their rights (Human Rights Committee, 1981, G/C No. 3, p.164).

Article four of the CRC sets out States’ overall obligations to implement all the rights in the Convention on the Rights of the Child. It states that they must take “all appropriate legislative, administrative, and other measures”. Only in relation to economic, social and cultural rights, is there the qualification that such measures shall be undertaken to the maximum extent of their available resources and, where needed, within the framework of international cooperation. Neither the Convention itself nor the Committee defines which of the articles include civil and

political rights and which economic, social or cultural rights. It is clear that almost all articles include elements that amount to civil or political rights. While emphasizing that there is no favored legislative or administrative model for implementation, the Committee on the Rights of the Child has proposed a wide range of strategies to ensure Governments give appropriate priority and attention to children in order to implement the whole Convention effectively.

3.2.1 Ratification of CRC and ACRWC

In its 2003 General Comment No. 5 on “General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)”, the Committee provides detailed guidance to States. It first explains and defines the concept: When a State ratifies the Convention on the Rights of the Child; it takes on obligations under international law to implement it. Implementation is the process whereby States Parties take action to ensure the realization of all rights in the Convention for all children in their jurisdiction. Article 4 requires States Parties to take ‘all appropriate legislative, administrative and other measures’ for implementation of the rights contained therein. While it is the State which takes on obligations under the Convention, its task of implementation of making reality of the human rights of children needs to engage all sectors of society and, of course children themselves. Ensuring that all domestic legislation is fully compatible with the Convention and that the Convention’s principles and provisions can be directly applied and appropriately enforced is fundamental. In addition, the Committee on the Rights of the Child has identified a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels. (Committee on the Rights of the Child, G/C No. 5, 2003, CRC/GC/2003/5, paras. 1 and 2). The Committee notes, from its examination of reports over the first decade, positive

indications that children are becoming more visible in government: “The general measures of implementation identified by the Committee and described in the present general comment are intended to promote the full enjoyment of all rights in the Convention by all children, through legislation, the establishment of coordinating and monitoring bodies governmental and independent comprehensive data collection, awareness-raising and training and the development and implementation of appropriate policies, services and programs...the Committee also emphasizes that, in the context of the Convention, States must see their role as fulfilling clear legal obligations to each and every child. Implementation of the human rights of children must not be seen as a charitable process, bestowing favors on children...” (Committee on the Rights of the Child, G/C No. 5, 2003, CRC/GC/2003/5, paras. 9) In the reporting guidelines for periodic reports, the CRC Committee asks in relation to Article 4 for information on measures adopted to bring national legislation and practice in full conformity with the principles and provisions of the Convention. This includes information on any comprehensive review of domestic legislation and any new laws or codes adopted. The Committee further asks specifically about clarification on the status of the CRC in domestic law, including its recognition in the constitution or other legislation, the possibility of invoking provisions of the CRC in national courts, and its status in the event of a conflict with national legislation. Some of these aspects are developed further through evidence from CRC Committee’s conclusions and recommendations.

3.2.2. Ratification of other International Child Rights Instruments.

In its General Comment on “General measures of implementation of the Convention on the Rights of the Child”, the Committee provides in an annex a non-exhaustive list of other international instruments which it urges States Parties to ratify, “in the light of the principles of indivisibility and interdependence of human rights. These are in addition to the two Optional

Protocols to the Convention on the Rights of the Child (on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography) and the six other major international human rights instruments. The Committee indicates that it will update this list from time to time.

- Optional Protocol to the International Covenant on Civil and Political Rights;
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- Optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention against Discrimination in Education;
- ILO Forced Labor Convention No. 29, 1930;
- ILO Convention No. 105 on Abolition of Forced Labor, 1957;
- ILO Convention No. 138 Concerning Minimum Age for Admission to Employment, 1973;
- ILO Convention No. 182 on Worst Forms of Child Labor, 1999;
- ILO Convention No. 183 on Maternity Protection, 2000;
- Convention relating to the Status of Refugees of 1951, as amended by the Protocol relating to the Status of Refugees of 1967;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation for

Prostitution (1949);

- Slavery Convention (1926);
- Protocol amending the Slavery Convention (1953) ;
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956);
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000;

- Geneva Convention relative to the Protection of Civilians in Time of War;
- Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the

Protection of Victims of International Armed Conflicts (Protocol I);

- Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the
- Protection of Victims of Non-International Armed Conflicts (Protocol II);
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and of Their Destruction;
- Statute of the International Criminal Court;
- Hague Convention on the Protection of Children and Cooperation in respect of Inter-country

Adoption;

- Hague Convention on the Civil Aspects of International Child Abduction;
- Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of

Children of 1996. (Committee on the Rights of the Child, G/CNo. 5, 2003, CRC/GC/2003/5, annex)

The Committee on the Rights of the Child provides that the implementation of other international human rights instruments is of particular importance for the realization of the rights of the child as well. Currently, Ethiopia is a State Party to ten core international human rights instruments. It ratified the instruments in the following years:

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)_1976
- International Covenant on Civil and Political Rights (ICCPR)_1993
- International Covenant on Economic, Social and Cultural Rights (ICESCR)_1993
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) _ 1993
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) _ 1994
- Convention on the Rights of the Child (CRC) _1991
- Convention on the Rights of Persons with Disabilities-2010
- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts
- The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Pornography
- The Protocol to Prevent, Suppress and Punish Trafficking in Women and Children.

However, other child rights related international treaties to which Ethiopia is not yet a Party include:

- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
- First Optional Protocol to the International Covenant on Civil and Political Rights
- Second Optional Protocol to the International Covenant on Civil and Political Rights
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
- Optional Protocol to the Convention against Torture, Inhuman or Degrading Treatment or Punishment
- International Convention on the Protection of the Rights of All Migrant Workers and members of their Families
- Optional Protocol to the Convention on the Rights of Persons with Disabilities
- International Convention for the Protection of All Persons from Enforced Disappearance.

3.2.3. Obligation To Review And Amend Legislations.

The obligation to carry out legislative measures requires that there should be a comprehensive review of the legislation applicable to children to ensure that they are consistent with the obligations under the CRC. The CRC Committee stated that such review ‘needs to consider the Convention not only article by article, but also holistically, recognizing the interdependence and indivisibility of human rights’(CRC Committee, *G/C No. 5*, para. 18). The Committee emphasizes that needs to be continuous of all existing legislation, and all new proposed legislation should be reviewed from a child-rights approach (CRC Committee, *G/C No. 5*, para. 18.) In its concluding observations, the CRC Committee has recommended that laws and administrative regulations related to children should be reviewed to ensure that they are rights

based and conform to international human rights standards, including the CRC, ensure speedy promulgation of any needed amendments, and that adequate provision is made for their effective implementation (CRC Committee, *G/C No. 5*, para. 18.) Allocation of resources is therefore essential not only to deliver services, but also for promulgation and implementation of legislation, policies and regulations. Concerned about the frequent lack of clarity in legislation, the CRC Committee has also stated that laws should be based on a child's rights approach, be sufficiently clear and precise, published, and accessible to the public (CRC Committee, *G/C No. 5*, para. 18.)

The Committee was clearly concerned when provisions related to children were scattered throughout domestic law, which is also the case in Ethiopia. On some occasions, the Committee has called on States to consider adopting a comprehensive single law or code for children, embodying the provisions and principles of the CRC, and providing a legal foundation at the domestic level for its implementation. However, in its General Comment No. 5, the CRC Committee took a slightly different approach, and while welcoming the development by States of consolidated children's rights statutes, reminded them of the need to ensure 'that all relevant sectoral laws (on education, health, justice and so on) reflect consistently the principles and standards of the Convention.' (CRC/GC/2003, para 51)

From the beginning, in its *Guidelines for Initial Reports*, the Committee has emphasized the particular importance of ensuring that all domestic legislation is compatible with the Convention. In addition, it urged that there is appropriate coordination of policy affecting children within and between all levels of government. In 2003, the Committee adopted a detailed General Comment on "General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)" (CRC/.

3.2.4. Domestic Mechanisms to give effect to International instruments.

The Monist versus dualist approaches

The domestication of international conventions follows either a monist or dualist approach (Oppenheim: International Law of Treaties, p.37). The former places both international and domestic laws on the same footing so that domestic courts can invoke international conventions without any domestic enabling legislation even where the enabling legislation is required by the convention itself. The latter treats international law and domestic law differently so that enabling legislation (to which the treaty should be annexed or which rewrites the treaty) from the national legislature is mandatory for the incorporation of international convention into domestic law.

Article one of the ACRWC sets out the basic obligations of States Parties to harmonize the ACRWC by taking ‘necessary steps, in accordance with their constitutional processes’ and by adopting ‘legislative and other measures to give effect’ to the rights within the Charter (Art. 1, ACRWC). During and after ratification of the ACRWC, the state should undertake a comprehensive and consultative review of all domestic legislation and administrative measures to make sure that they comply with the obligations laid out in the Charter through a process called harmonization or domestication. The harmonization process is very important and if done properly will ensure that a strong legislative and administrative framework is in place to enable implementation of the Charter. The constitutional traditions of a country play an important role in determining the process for harmonization: countries usually have a dualist or monist system, or a mixture of the two.

Domestic mechanisms to give effect to international instruments ratified by Ethiopia

The most contentious issue in Ethiopian legal system in relation to the status of international legal instrument including CRC is whether it can be directly applied in the court. Indeed as Braasch (2008, p.270) and his colleagues indicated the issue of incorporating the instruments of human rights within the Ethiopian law is controversial i.e. either only approving of the instruments is enough or it needs publicizing the international human rights instruments through the Ethiopian “Federal Negarit Gazette” an official magazine by which the government publishes its laws and declarations (Braasch et al, 2008, p.270).

Accordingly, concerning treaty making process, the FDRE Constitution has indicated that the power to sign international agreements is granted to the executive organ of the government which after proper deliberation has to direct them to the House of Peoples’ Representatives (the legislature) for their ratification (Art.55 (12)). Thus, once they are adopted, all international agreements, including human rights instruments, are integral parts of the law of the land (art.9 (4)) without any additional measure to be taken by the legislature. However, art.2 (2) of the Federal Negarit Gazette Establishment Proclamation No. 3/1995 states that all laws of the Federal Government shall be published in the Federal Negarit Gazette, whereas art.2 (3) states that all Federal or Regional legislative, executive and judicial organs as well as any natural or juridical person shall take judicial notice of laws published in the Federal Negarit Gazette. Given the requirement of these provisions i.e. enacting national legislations in order to execute the provisions of international Conventions at the domestic level, Ethiopia can be considered as dualist (Rakeb, 2002, p.15).

The FDRE Constitution, according to the opposing claim, holds the existing international Conventions within the Ethiopian law during the approval. Indeed, some argue as international

Convention may not get the ground for application until they have been adopted through national legislation during the process of making these treaties known to the masses. However, though the ground for such argument is the requirement of publication on the Negarit Gazette that entails the judges to take judicial notice of the laws, the supreme law of the land dictates that international legal instruments are already part of the state's legal system as of the act of ratification by the legislative organ of the government and hence, any judge is within the ambit of the law if S/He invokes the international human rights law instrument at a time of resolving conflicts (Samrawit, ND, p. 10 & 13).

Another subject of debate in relation to the status of international human rights law in the Ethiopian legal system is about the hierarchy of international human rights in relation to the Constitution (Braasch et al., 2008, p.271). Accordingly, there are two lines of arguments concerning the normative position of ratified Conventions in Ethiopia's hierarchy of laws. At one level, the supremacy clause of Art. 9 (1) of the constitution that provides that any inconsistent 'law, customary practice or a decision of an organ of state or a public official' shall be null and void, has resulted in the affirmation that the constitution is superior to all adopted Conventions. At another level, the affirmation under Art 9(4) of the constitution that duly adopted Conventions are "integral parts of the law of the land" and its requirement under Art 13(2) that the Bill of Rights of the Constitution must be interpreted in compliance with adopted Conventions considered as a partial answer to the question of the hierarchical position of ratified Conventions (Takele, 2009, p.132). Beyond this, in practical cases, Article 13(2) of the FDRE constitution could be employed to address this controversial issue. As indicated in the provision, the fundamental rights and freedoms of the FDRE Constitution should be interpreted in conformity to the UDHR and norms and principles of international human rights Conventions ratified by

Ethiopia. This assures as international human rights Conventions adopted by Ethiopia occupy higher or at least equal position, to the FDRE Constitution (Takele, 2009, p.137-138).In addition, Seyoum and Aman also argue as international human rights Conventions adopted by Ethiopia have equal status with the constitution (Seyoum and Aman ,ND, p.6).according to them, as one of the human rights conventions ratified by Ethiopia, the CRC has place high up in the hierarchy so that it is authoritative guidelines for the interpretation of the rights of children guaranteed by the constitution.

The writer's view is that though Article 9(4) clearly asserts that the Constitution is the supreme law of the land, this does not lead to the conclusion that in case of conflict between adopted international human rights Conventions and the Constitution's provisions on fundamental rights and freedoms the latter would triumph over the former. When interpretation is at stake chapter three of the constitution, fundamental freedoms and rights, is to be consulted against the international bill of rights. This means that any other law that contravenes the bill of rights or provisions of the chapter three are null and void. Apart from chapter three, other provisions of the constitution are hierarchically speaking above any other laws.

Status and Domestication of the CRC and ACRWC in Ethiopian Courts

Despite the constitutional provision that international legal instruments are an integral part of the legal system of the land, the effort geared towards giving legal effects to human rights conventions on children and women appears to be inadequate. A systematic attempt aimed at full domestication of the international instruments to which Ethiopia is a party to, leaves much to be desired. The failure to publish these international instruments in the official law Gazette has been the cause or an obstacle for their enforcement before the law. The application of the provisions of the Convention and the African Charter on the Rights and Welfare of the Child has indeed

been few and far in between in particular in lower tiers of the judiciary. The Federal Courts Proclamation empowers federal courts to consider cases arising under international treaties. Although no such challenges can be located, national courts formally have the power to directly enforce the CRC and ACRWC. In a recent landmark decision by the Cassation Bench of the Federal Supreme Court, the best interests of the child were invoked as a guiding principle and the main standard to be considered when ruling on child custody and other issues affecting children.

The fact that these judgments are rendered by the Cassation Bench makes them all the more important. This is due to the fact that by virtue of Proclamation 454/2005 interpretation of the law by the Federal Supreme Court rendered by the Cassation division with not less than five judges carries the force of law. Courts of law at the federal and regional level are increasingly following the lead of such landmark decisions. This has increased the number of court decisions based on the Convention on the Rights of the Child. A child's representative can bring cases in domestic courts to challenge violations of the child's rights. Representatives can include parents, guardians and attorneys. Children may only engage with the judicial system where explicitly provided for in law (Civil Procedure Code, Article 199(1, 3)).

Based on the civil procedure code, the following procedures are to be followed for a child or for his/her cause to institute a court case. In civil cases related to the financial or property rights of a child, a "tutor" (Civil Procedure Code, Article 280(1)) must represent the child. Where parents are married, they jointly act as the tutors of a minor child (Civil Procedure Code, Article 204), while family arbitrators must appoint a guardian or tutor where parents are divorced (Civil Procedure Code, Article 206). Where parents are not capable of representing the child, the court may appoint a representative (Civil Procedure Code, Article 212) but must, as far as

possible give preference to a close relative. In the event of a conflict of interests between a child and his or her tutor, the court may appoint a tutor “ad hoc” on the application of the tutor or any member of the family council (Civil Procedure Code, Article. 221). The family council is made up of the parents, grandparents and great-grandparents of the child as well as any brothers or sisters who have reached the age of majority. Where the public prosecutor refuses to prosecute an alleged offence, a private prosecution may be brought by the injured party, the legal representative of the injured party, the husband or wife of the injured party, the legal representative of an incapable person, or the attorney of a corporation. Any person who is detained may make an application for habeas corpus to the High court (Civil Procedure Code, Article. 177).

Some commentators argue that the aforementioned provisions in the FDRE Constitution and recent judicial developments demonstrate that the Convention on the Rights of the Child and African Children’s Charter prevail over ordinary legislation in Ethiopia. The Committee on the Rights of the Child also called upon the government to translate the Convention into the different vernaculars spoken in the country (CRC/C/ETHIOPIA/CO/2006, para 9). Failure to promulgate the international conventions affirming the rights of children in the official law gazette acts against the effective domestication of the international agreements into the domestic legal order and thereby the implementation of the rights of children.

3.3. Civil Societies in Ethiopia

Civil society in the form of self-help system (traditional mutual-help associations) have long existed in Ethiopia. These systems were established with the main purpose of dealing with various social problems. The proclaimed aim of these systems is the enhancement of self-

reliance of individuals, households and the society in general. The history of modern civil society organizations in Ethiopia can be traced back at least to the era of Haile Selassie's monarchy (1930-1935 and 1940-1974) after the promulgation of the 1960 Civil Code (Desalegn Rahmato, 2008, p.42). Partly, because of the famine that engulfed the country during the last years of the imperial regime a number of foreign NGOs were allowed to set up offices in the country and to engage in relief activities (Desalegn Rahmato, 2008, p.42). During the Derg regime (1974–1991), most of the traditional associations were repressed and supplanted by Peasant Associations (PAs) and official co-operatives. It became almost impossible for individuals to set up any forms of association because the authorities refused permits to applicants (Desalegn Rahmato, 2008, p.42). Following the 1991 Transitional Government, civil society has been growing at a tremendous rate and is increasing its relevance to the nation's political and economic growth. According to a World Bank report, (2000 p.240) national and international NGOs were officially registered with the government in 1998. In 1999, the number jumped to 310. Further, there has been notable progress in the ability of the local civil society to strategically target and design activities, credibly deliver critical services, and provide accountability on programming and expenditure of funds (Jeffrey Clark, 2000, p.38). In 2009, according to the data from the Ministry of Foreign Affairs of Ethiopia, there were 1,119 civil society organizations in Ethiopia of which only 141 were international while the rest were local. More than 575 civil society organizations were engaged in development activities, while more than 100 were engaged in specific fields, like human rights advocacy and monitoring and humanitarian services (Jeffrey Clark, 2000, p.38). The number of civil society organizations (CSOs) working on child right issues and child protection services has been increasing over time since the country has ratified the CRC.

In many States, collaboration between government and civil society in policy development has not been easy. It has often depended on personal relationships and the attitude of authorities towards NGOs; animosity makes the process especially challenging. The history of civil societies in the country also reveals that their relationship with the government at different times is dependent on the ideology the latter follows and wants to impose on its subjects. This is evidenced in the reign of the socialist Derg regime.

A report by the Federal Ministry of Labor and Social Affairs (2005, p.29) indicated that there were around 70 organizations working on child right issues in the country, out of which 48 were indigenous in 2005. According to a document from the African Child Policy Forum (2008), the number of civil society organization delivering support and services for children increased to 132.

Types of the non-governmental organization taking part in child matters include UNICEF, other UN affiliated bodies, save the children organizations, as well as many other concerned domestic and foreign humanitarian organizations and associations some of which were a respondent for this research. There are also mass based associations that can mobilize large number of people such as religious organizations, youth and women's associations, community based organizations, self-help groups, and traditional associations. Very many of them are direct implementers while a few ones, particularly those with larger financial sources and foreign NGOs such as the „Save the Children“ orgs, do provide financial and technical support to the implementing NGOs and government agencies.

Though the country's Alternative Child Care Guideline provides that organizations engaged in childcare activities should provide all the services enumerated there under holistically including human rights advocacy or protection, the problematic and controversial area for civil

societies engaged in child rights protection is the legal protection service provision that has been strictly restricted by the CSP. A critical analysis of the CSP proclamation No. 621/ 2009 CSP will be provided in the subsequent chapter.

3.4. Child Rights Theoretical Frameworks

3.4.1. The will theory of child rights

The base for the will theory of right is capacity. Philosophers of 17th and 18th centuries thought that, owing to their incapacity of reasoned decision-making children could not be the bearers of right (Michael D.& Philip E. Veerman, ND, P.380). Having found its essence in the 17th and 18th centuries, this view point still has ground in modern children's rights theory. This theory starts with the assumption that the majority of children do not have the competence to make choices and claim rights and concludes children do not have rights, whatsoever. The views of the renowned philosophers who support this theory will be discussed herein under.

Thomas Hobbes:-Hobbes gives emphasis to the relationship of children with their fathers. The relationship between father and child is seen as one of mutual benefit. According to Hobbes, the relationship between father and child is based on fear, and children are in a position of extreme dependence (Thomas Hobbes, 1651), as analyzed by De Villiers, 1993 p.291) He further stated children lack rationality to conclude contract with other members of the society. Therefore, children have no natural rights, and no rights in terms of the social contract. Children, according to Hobbes, have to accept their fathers as sovereign and fathers have the power to decide on all matters regarding their children.

John Lock:-John Lock, having agreed with Hobbes view of irrationality of children, argues children are in a temporary state of ignorance and irrationality(Thomas Hobbes, 1651), as analyzed by De Villiers, 1993, p.381). According to John Lock, the base for granting right is the

ability and the free will of a person to act rationally and in a reasoned manner. The temporal inability of children will later make a way for reason and the freedom to exert their wills(Thomas Hobbes, 1651), as analyzed by De Villiers, 1993, p.381). The parents have temporal control over their children until they can cast of their dependency up on becoming adults (John Lock, (1689), as analyzed by De Villers, 1993, p.291). As opposed to Hobbes, John Lock denies the absolute power of parents over their children; he also further accepts certain natural rights that need to be protected(John Lock, (1689), as analyzed by De Villers, 1993, p.291).

John Stuart Mill:-John Stuart mill extends the paternalistic approach of Hobbes and Lock towards children to the society. The libertarian persuasion usually associated with Mill did not extend to his thinking about children. John Stuart Mill propagates the absolute power of society over children(John Lock, (1689), as analyzed by De Villers, 1993, p.291). Therefore as stated above all the three philosophers do not accord children the rights of their own. The attitude of the three philosophers towards children is negative.

3.4.2. The Interest theory of rights

This theory disregarded, as opposed to the will theory of rights, the view that rights is determined by moral capacity to act rationally. This theory argues that children, as humans, have rights if their interests are the basis for having rules which require others to behave in certain ways with respect to these rules (International Journal of Child Right, 1994,, p.275). According to Freeman, one of the proponents of interest theory, children have interests that justify protection before they develop wills to assert their rights. Freeman supports the theory of Brian Barry which puts this issue with a simple logic that one is not justified in frustrating children's present want, just as one is not justified in trying to alter that character (Freeman, 1980, p.21). The main focus of Freeman's perception of the right of children is their potential capacity

irrespective of their present capacity to exercise it. He further advocates the grant of the right to equal opportunity, and the liberal paternalism (Freeman, 1980, p.275). One of the argument for denying right for children is that they are not in a position to discharge duties which are imposed as a result of rights. But for MacCormick the existence of a right precedes the imposition of a duty (Freeman, 1980, p. 387). It is because children have a right to be cared for and nurtured that parents have the duty to care for them. Raz's theory of duties, which is in line with interest theory of rights, is also worth discussing here. According to the theory, a law creates a right if it is based on and expressed the view that someone has an interest which is sufficient ground for holding another to be subject to a duty (Joseph R. 1986, p.13-14). Joseph Raz's theory requires a subtle examination of public perception of the purpose of the law when he argues that to be a rule conferring a right it has to be motivated by a belief in the fact that someone's (the right holders) interest should be protected by the imposition of duties on others (Joseph R. 1986, p.13-14). On the other hand, Eekelaar also relies on an interest theory of rights and sees the following version propounded by Joseph Raz as a key concept (Eekelaar. 1986, p.13-14):

[A] Law creates a right if it is based on and expresses the view that someone has an interest which is sufficient ground for holding another to be subject to a duty.... [T]o be a rule conferring a right it has to be motivated by a belief in the fact that someone's (the right-holder's) interest should be protected by the imposition of duties on other.

The important precondition for rights in Eekelaar's theory is a social perception that individual or class of individuals has certain interest (Eekelaar. 1986, p.271-272).The interest in question must be capable of isolation from the interest of others. It must be acknowledged that children often lack the information or ability to decide what is in their best interests(Eekelaar. 1986, p.271-272).As a consequence Eekelaar's theory of rights involves some kind of imaginative leap

and guess what child might retrospectively have wanted once it reaches a position of maturity(Eekelaar. 1986, p.271-272).Three kinds of interests are identified that form the foundation of these retrospective leaps. These are basic interests, development interests and autonomy interests.

Basic Interests:-Basic interests relate to the claims of children to physical, emotional and intellectual care (Eekelaar, 1986, p.171-172). The duty to fulfil these claims is placed on the child's parents. Where they fail to do so, the state may intervene(Eekelaar, 1986, p.171-172). The fact that legislation requires minimum standards of parental care reflects the social recognition of the importance of protecting the basic interest of a child.

Developmental Interests:- Eekelaar defines developmental interests as follows: Within certain overriding constraints created by the economic and social structure of society (whose extent must be open to debate) all children should have an equal opportunity to maximize the resources available to them during their childhood (including their own inherent abilities) so as to maximize the degree to which they enter adult life affected by avoidable prejudices incurred during childhood.These interests may be asserted not only against parents but even against wider community. Eekelaar is doubtful if these claims can legitimately be classified as legal rights. Except for compulsory education, the law imposes no duty on parents to fulfil their children's developmental interests(Eekelaar, 1986, p. 173).Fulfilment of these interests depends, rather, on the natural dynamics of a family, which, in turn, is dependent on the wider social and economic mechanisms of the community(Eekelaar, 1986, p. 173).

Autonomy Interests:-Autonomy interests refer to the freedom of a child to choose his or her own lifestyle and to enter social relations free from the control of parents and other

adults(Eekelaar, 1986, p.175).Eekelaar argues that this interest can be interpreted as a version of the developmental interest. Nevertheless, a separate category can be justified because of the potential for conflict with the other two interests(Eekelaar, 1986, p.175). Abortion on request and the removal of age restrictions in general would further the autonomy interest but it is doubtful if they would serve the basic and developmental interest(Eekelaar, 1986, p.175). Eekelaar suggests that the autonomy interest should rank subordinate to the other two interests(Eekelaar, 1986, p.175)

3.4.3. Developmental Rights Theory

The concept of developmental rights is related to the notion of future rights found in the work of some political and legal theorists. Future rights theorists generally focus on the child's potential for leading an autonomous life. John Eekelaar, (1986) for example, argues that children's future rights should reflect the idea that children's "capacities are to be developed to their best advantage." Joel Feinberg, (1980) identifies the child's "rights-in trust "or "anticipatory autonomy rights," which he defines as the child's right "to have . . . future options kept open until he is a fully formed self-determining adult capable of deciding among them, Teitelbaum L. 1999, p.110)as well advocates for "taking account of the developmental nature of capacity in formulating a rights theory."

The foundation for the development of the UNCRC is the United Nations Charter. The Charter identifies the promotion and encouragement of respect for human rights for all without discrimination of any kind as one of the three purposes of the organization. It further stresses the need to promote better standards of living, improved conditions for economic and social progress and human development together with universal respect for, and observance of human rights. It seems that the UNCRC and many other child rights instruments are based on the last two

theories of child rights specially the Interest theory. The ‘best interest of the child’ is one of the core principles of the UN convention and the African Charter and it is rooted to the Interest theory of Child Rights. As to the approaches to be followed in relation to child rights, the Convention provides strong support for regulating children’s lives through a direct focus on the decision-maker emphasizing the duty based approach. There are a large number of Articles in the UNCRC and African charter, expressed in duty-based terms, that prescribe what ‘States Parties shall do’ for the children within their jurisdiction. Ferguson, (2014, p.144),for example, considers that Article 11, paragraph 1, requires signatories to ‘take measures to combat the illicit transfer and non-return of children abroad’ or Article 19, paragraph 1, which mandates that ‘States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence’. The same author states that there is no mention of rights; the language of duty alone is used as the most effective means to convey the underlying relationship between the child and desired outcome. Though as stated above most of the provisions of the convention are stated in terms an obligation, the rights based and welfare based approach are also incorporated together with the duty based approach mostly for the outcome of the later. Concerning this Ferguson (2014, p.144), believes that Article 12, paragraph 1, for example, state that ‘States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child’. Ferguson continues that this highlights the existing role for duty as a means for concretizing and giving effect to children’s rights. According to the same author (2014, p.144) duty similarly interacts with welfare-based reasoning in Article 3, which is one of the four guiding principles of the Convention and secures the child’s ‘best interests’ as ‘a primary consideration’. Paragraph 2 thus begins that ‘States Parties undertake to ensure the child such

protection and care as is necessary for his or her well-being'. Implementation of the UNCRC is also expressed in terms of particular duties and obligations, regardless whether the Article is expressed in rights-based terms, as demonstrated in Hodgkin and Newell, 2007, p.229).For each Article, the authors provide detailed guidance from a number of sources, particularly the Committee on the Rights of the Child, on the interpretation of the provision in question, concluding with a checklist of general and specific measures to which State action needs to be held, Ferguson, (2014, p.150).

CHAPTER FOUR

4. FINDINGS and DISCUSSION

4.1. Part One: A Comparative Analysis of Child Rights Protection Frameworks Ethiopia Vis A Vis CRC and ACRWC.

4.1.1. Legal and Policy Frameworks in Relation to CRC & ACRWC

A. Definition of the child

In a similar fashion with any legal instrument in stipulating its addressees, both the UN's CRC Article 1 and African Children's Charter's Article 2 provides the foundation for the application of the two child rights instruments. The application of all the rights recognised in both the CRC and ACRWC depend on the determination of who the Child is. Despite the discrepancies in the age determination visible in different countries, these instruments regard every human being below the age of eighteen years as a child, and therefore, all human beings below this age would be entitled to the protection guaranteed by the treaties, notwithstanding the fact that under the CRC system there is a room for the laws of a State to determine a means of earlier attainment of majority. The different minimum ages set forth by a Member State need to strike a delicate balance between the evolving capacities of the child indicated in Article 5 of the Convention with that of the obligation of the State to provide special protection for children. Some writers argue that the absence of a minimum age limit below which states cannot lower the age of attainment of majority may lead to the possible erosion of the protection guaranteed by these child related legal instruments. Nonetheless, I argue that if the child were said to have emancipated or attained majority before the age of 18, this would give a comfortable room for state parties to allocate that amount of their resource to the larger unemancipated group of children given the constraint of resources especially in developing countries like Ethiopia. Besides, the lower age limit remains to be the most controversial one in the definition of the child. The drafters are said to have intentionally left out the issue of starting point of

childhood because they wanted to avoid taking a position on abortion and other pre-birth issues, which may threaten the conventions universal acceptance (Sharon Detrick, 1999, p.140).

With regard to the Ethiopian laws, one would not find one wholly applicable definition of the term child. Instead, Ethiopian laws make use of such terms as “Minors”, “Infant”, “Young workers” or “Young Persons”. Since the nation does not have a comprehensive code dealing with all the issues of children, the kind, which is commonly known as ‘child statute’, it was not necessary to provide for such a definition. Therefore, in Ethiopia, children appear in several laws that do have different purposes. The application of the laws might depend on age groups, hence the need for the delineation of age groups. The purpose of the delineation could, among others, be the protection of children. Accordingly, it would evidently be necessary to examine the different laws of the nation to see whether or not their application is in conformity with the Convention definition of the child. In this regard, the most relevant laws are the 1960 Civil Code, the new Penal Code, the Labour Code, the Family Code and the Defence Forces Proclamation. These laws comply with the Convention’s definition of the term ‘child’. We do however deem the following require reconsideration.

1. The Penal Code’s age related provisions leave sufficient room to consider, for purposes of administering penalty, children aged between fifteen and eighteen as adults. The Penal Code’s rule that the age of nine be the starting age for criminal responsibility does not agree with the Committee of CRC, which had deemed it to be ‘very low’. The age of nine years set by the penal code is regarded by the committee on the rights of the child as very low (concluding observation of the committee on the rights of the child on the first periodic report submitted by Ethiopia).

2. The country also lacks a clear rule setting an age limit for both voluntary enlistment and conscription into the military forces, and this is a violation of the Convention. The Nation has to put into its existing pertinent law, namely the Defence Forces Proclamation No. 27/1996, age limit for both enlistment and conscription.
3. The age limit for employment under the Ethiopian labour law proclamation No. 377/2003 is 14 years. Article 89(2) of this proclamation totally prohibits employing persons less than fourteen years of age.

Generally speaking, it can be argued that the Ethiopian laws lack uniformity and complete difference in their definition of the term child. Besides, different laws accord different types of special treatments to children, depending on the purposes they serve.

B. General Principles

Of all the provisions making the CRC and ACRWC, the general principles stick out a little more exceedingly than the rest, reflecting the fundamental basis for children's rights in international law. These provisions, found in Article 2 of the CRC and Article 3 of the ACRWC (principle of non-discrimination), Article 3 of the CRC and Article 4(1) of the ACRWC (principle of the best interest of the child), Article 6 of the CRC and Article 5 of the ACRWC (principle of the right to life) and Article 12 of the CRC and Article 4(2) of the ACRWC (principle of respect for the views of the child), are thought to embody the whole philosophy behind the two conventions, which mainly centres on the thinking that children are right bearers just as adults. A look into the Ethiopian child rights legal framework reveals the following facts.

- The principle of non-discrimination is incorporated into the supreme laws of the country and other subsidiary legislations are also believed to be fashioned in the same way. Article 25 of the Federal Constitution provides for the right of equality before

the law to all persons. Despite this I argue that what is of a paramount importance is to lay down the necessary mechanism and institutional set up to put into practice the principle in all the walks of the lives of children.

- The principle of the best interests of the child is explicitly stated in the Constitution's Article 36(2) and the provisions of other laws. In a court case concerning a family matter (divorce case), the cassation bench of the supreme court encouragingly cited this principle of the CRC to decide the fate of the child in question. By the law, other subsidiary courts are obliged to follow suit in deciding cases concerning children.
- The legal system of the country sufficiently protects the child's right to life, as well as the child's right to survival and development. The writer argues that the mere propagation of the right to life, survival and development is fruitless if children are not benefiting from the fruit of the economic growth of the country and the country's development (understood as holistic concept), so that a better living condition would gradually be created for children to survive and thrive.
- Concerning the right of the child to have his/her views heard and respected Ethiopian law does not at the moment have a provision worded exactly after these said provisions. However, since Articles 9(4) and 13(2) of the Federal Constitution make the rules in the treaties part of the laws of the land, Ethiopian law still lags behind in the areas of the laws that govern child-tutor relationship and custody proceedings. In both cases, the law does not oblige the tutor and the court, respectively, to seek the views of the child before making decisions affecting the child. The family law's adoption section is by far better in this regard since it explicitly demands courts to seek the opinion of the child before handing down decisions. This right also demands

that all institutions in the society, which pass decisions on matters affecting the children, are required to take into account the views of children. This includes the family, schools and others. What is more, the CRC recognises this right to be dependent on what it terms as the 'evolving capacities of the child', while the ACRWC is silent on this point. Finally, the ACRWC conditions the implementation of the rights on appropriate domestic laws and recognises the right as far as the child's matters are before state organs, while the CRC knows none of these conditions.

C. Civil rights and freedoms

Article 7 of the CRC and Article 6 of the ACRWC (*right of the child to name, nationality and to know his or her parents*), Article 8 of the CRC (*right to preserve his or her identity*), Article 13 of the CRC and Article 7 of the ACRWC (*right to freedom of expression to seek and receive information*), Article 14 of the CRC and Article 9 of the ACRWC (*right to freedom of thought, conscience and religion*), Article 15 of the CRC and Article 8 of the ACRWC (*right to freedom of association and peaceful assembly*), Article 16 of the CRC and Article 10 of the ACRWC (*Right to privacy*) and Article 17 of the CRC (*right to access to appropriate information*) are, despite notable differences, the relevant provisions in both instruments constituting the civil rights and freedoms of the child.

In relation to the right of the child to name, nationality and to know his or her parents, and to preserve his or her identity, the researcher found that the existing laws are either not fully implemented or are deficient in terms of realizing the mentioned rights. Particularly, even though the laws found in the 1960 Civil Code, provide for a scheme of naming and registration of newly born children, the registration aspect of these laws has not been carried out. Serious deficiency

also exists in the consistency of implementation and the institutional framework. As mentioned in the fourth and fifth periodic report of Ethiopia, a draft proclamation has been submitted to and adopted by HPR to establish a system of vital statistics. In particular, birth registration is useful, among others, to ensure that children have access to services at the appropriate age, including vaccinations and school enrolment. Birth registration is of intrinsic value in that it amounts to the first official recognition of the individual importance of the child to the State and the law. Apart from this, birth registration is useful for national planning for children. It is difficult for State Parties to have clear information concerning infant and child mortality rates without birth registration. Moreover, registration is pivotal for the proof of the protective ages of children as in the case of employment, recruitment in to armed forces, administration of child justice, etc. Countries are obligated to make universal registration compulsory for both parents and of the relevant administrative authorities. The term “universal” is employed here as to mean that all children born within the state regardless of their nationality. As far as the nationality issue is concerned, the pertinent law, the Ethiopian Nationality Proclamation No. 378/2003, largely protects children. Following the *jus sanguine* tradition, it confers Ethiopian nationality to those born from Ethiopian nationals. However, it also grants nationality to abandoned children as long as found within the territories of Ethiopia. The law presumes them to have been born to Ethiopian parents. Nevertheless, there is still the possibility of children remaining stateless within Ethiopia and this is a phenomenon contrary to the conventions under consideration. This could happen to children born to immigrants, whether legal or illegal, unless found abandoned or are adopted by Ethiopian foster parents.

Concerning freedom of expression, Ethiopia has incorporated it in its constitution with some limitations. The problem is rather found to lie in how to make Ethiopian children exercise this

right. Regarding freedom of religion, the FDRE Constitution complies with both the CRC and the ACRWC provisions. The same can be said of the rights in Articles 15-17 of the CRC, according to the findings of the study.

D. Family environment and alternative care

Article 34(3) of the FDRE Constitution provides that the family is the natural and fundamental unit of the society and is entitled to protection by society and the State. Article 34(1) of the FDRE Constitution asserts the principle of the equality of men and women with regard to marriage. It goes on to state that men and women have equal rights while entering into, during marriage and at the time of divorce. These provisions demonstrate that the paternal authority over children which was reflected in older domestic legislation in Ethiopia has given way for the notion of parental rights and responsibilities. The provision also reflects the view that the family is the preferred environment or the ideal setting for raising children and for satisfying their needs. Consequently, the FDRE Constitution has entrenched the right of families to support and assistance. Article 50(1) of the Revised Family Code provides that the spouses shall have equal rights in the management of the family. Article 50(2) goes on to state that the spouses shall co-operate to protect the security and interest of the family to bring up and to ensure the good behaviour and education of their children in order to make them responsible citizens. Article 219 of the Revised Family Code stipulates that the father and mother are jointly guardians and tutors of their minor children. Article 220 (1) of the Code provides that in case of death, disability, unworthiness or removal of one of the parents, the one who remains shall alone exercise such functions. Article 220(2) asserts that the mother shall exercise such functions where the father of the child is unknown. On the other hand, Article 225 of the Revised Family Code also envisages situations whereby other relatives may become guardian and tutor of the child. Article 41 of the

Federal Civil Servants Proclamation (Proclamation No. 515/2007) also provides that maternity leave for a pregnant civil servant. Accordingly, she is entitled to a paid leave for medical examination and paid leave before delivery upon appropriate recommendations. Article 46 of the Proclamation also accords medical benefits for working parents in government medical institutions. Moreover, part eight of the Proclamation to Provide for Public Servants Pension envisages benefits for surviving widows as well as children (Proclamation 714/2011), Articles 40-45). The same is true in the case of part eight of Private Organizations Employees' Pension Proclamation (Proclamation 715/2011), Articles 39-44).

In recent times, Ethiopia has taken various measures to ensure that its laws and policies concerning alternative care are in line with the Convention on the Rights of the Child. The Ministry of Women, Children and Youth Affairs has adopted a variety of guidelines concerning the provision of alternative childcare. Mainly, these include the 2009 Revised Alternative Child Care Guidelines to establish a regulatory instrument on the quality of the childcare system and the 2010 Standard Service Delivery Guidelines for OVC Care and Support Programs. The 2009 Revised Alternative Child Care is issued with a view to facilitate the provision of quality and effective care and support to orphan and vulnerable children. The Guidelines acknowledges different forms of alternative childcare including community-based alternative care, reunification and reintegration program, foster placement, adoption and institutional care. Foster placement refers to homes that provide substitute parenting for children who have lost their biological parents, are in orphanages, vulnerable due to the impact of HIV/AIDS and other socio political and economic problems. A foster family is a family that has applied to and is selected by a foster family care organization to provide a temporary physical care and emotional support and protection for an unaccompanied child placed through a foster family care program for an

unspecified time (Alternative Childcare Guidelines). Foster placement is said to be beneficial for the physical, emotional, guidance, supervision, and positive role modelling of children. According to the alternative guideline, Institutional care is a form of alternative care that needs to be considered as a last resort. However, the current practice in the country does not seem to treat institutional care as such. This is due to documented and verified studies that demonstrate its adverse effects on children. These include loss of brain functionality that can become permanent, causes toxic stress for infants and very young children which can damage brain architecture, lower IQ than their counterpart peers in foster care and tendency to become homeless after leaving institutional care (GirmachewAlemu and YonasBirmeta, ND, p. 128). Moreover, institutional care is more expensive than community based care. The researcher witnessed psychological problems prevalent in the fostered children during social my field placement for social work practice I and II at the SOS Ethiopian children’s village.

Variable/Items	Frequency		
	Male	Female	Total
No. of children separated from their parents			
Total No. of OVC			4,224,753
Approximate No. of AIDS related deaths in 2013			45,200
Approximate No. of AIDS related orphans deaths in 2013			898,400
No. of children Placed in institutions.	2,141	2,760	4,901
No. of children Placed with foster families			2,712
Approximate No. of AIDS related deaths in 2013			45,200
Approximate No. of AIDS related orphans deaths in 2013			898,400

Table 2. Numerical figure of children orphaned and died

Source =official reply of Ethiopia to the issues raised by Child Rights Committee based on the 4th&5th periodic Report to the UN Child Rights Committee.

E. Adopted domestically or through inter-country adoptions.

According to the data from MOWCYA, The number of children getting domestic alternative service within the country has increased from 361,857 to 4.9 million for community based care services during the period of 2010/11-2014/15. Equally, the number of domestic adoption has increased from 1,347 to 10,387 in the same period. On the other hand, the number of inter-

country adoption decreased from 4,269 to 1,250 during the period of 2008/09 to 2013/14. Currently, the number significantly decreased to 398 during 9-month report of 2014/2015.

F. Education

Both the UNCRC and the ACRWC (under Art 28& 29, and ACRWC Art. 11 respectively) provide the child the right to education together with explaining the aim thereof vest in the child the right to education and outline the aims of education. Art 28 of the UNCRC provides for a progressive achievement of this right in keeping with the allocation of maximum available resources in line with the standard embodied under Article 4 of the same Convention. Particularly, Article 28(1)(a) requires that primary education be compulsory and available free for all as does Article 11(3) a of the ACRWC. In contrast, the two Conventions do not impose comparable obligation on states parties as regards secondary and higher education. Both conventions outline the purposes of education. Besides underscoring the aims spelt out under Article 29 of the UNCRC, Article 11(2) of the ACRWC emphasises preservation of positive African traditions and promotion of African Unity and Solidarity as the purposes of education.

Although it is indirectly referenced under Art. 36,41 and 90, the FDRE Constitution does not specifically stipulate the right to education. Sub 4 of Article 41 obliges the state to allocate ever-increasing resources, among other things, to education. In this regard, it is understandable that the ACRWC obliges state parties to take measures to ensure that girls who become pregnant before completing their education get the opportunity to continue their education.

As part of discharging its educational objectives, the Government introduced a new Education and Training Policy and an Education Sector Strategy in 1994. Moreover, in 1997 the government developed a twenty-year Education Sector Plan, which is divided into a series of five-year Education Sector Development Programs (ESDP). The National Policy Framework for

Early Childhood Care and Education (ECCE) was developed in 2010 to ensure the provision of good quality services to all children from birth to the age of seven. The Policy Framework was developed to ensure the rights of children to health care and nurturing in a safe, caring and stimulating environment to develop their full potential. The strategic objectives of the Policy Framework focus on establishing a coherent governance and program implementation structures for ECCE and also mainstreaming it in all relevant national policies and programs; promoting the development of accessible, equitable and quality ECCE services for children particularly to those with special needs and marginalized children; protecting young children from abuse and harmful practices; promoting and strengthening partnerships and collaboration among all stakeholders required for mobilization of the necessary resources and ensuring effective delivery of services and programs for young children.

At the time of the writing of this research paper, a draft of General Education Law and Education Sector Development Plan-V has been presented to the appropriate organ. Alternative Basic Education (ABE) is also provided for children for, in particular, pastoralist and semi pastoralist areas of the country. The obligation under Article 28, to provide equal access to education is not limited to gender or urban-rural divides line. It also encompasses disadvantaged groups such as working children, street children, and children with physical, mental and sensory impairments. These make a very large part of school aged children. Yet, though the ETP of Ethiopia states that the Education Programme shall enable both the handicapped and the gifted learn in accordance with their potential and needs, only very insignificant number of children with disabilities benefit from the education programme of the country. In sum, it can be said attempt has been made in Ethiopian law and policy documents, to implement the provisions of

Article 28 of the UNCRC and Article 11 of the ACRWC on primary education. The following illustration is made based on the data from MOWCYA, 2015.

Year	Pre-primary	Primary	Secondary
2011/12	21.6%	95.4%	36.9%
2012/13	26.0%	95.3%	38.4%
2013/14	29.4%	102.8%	39.2%

Table 3. Enrolment Rate. Source =official reply of Ethiopia to the issues raised by Child Rights Committee based on the 4th & 5th periodic Report to the UN Child Rights Committee.

Grade 5 completion rate			Grade 8 Completion rate		
Male	Female	Total	Male	Female	Total
7.2%	75.2%	76.2%	53.4%	52.2%	52.8%

Table 4.completion Rate. Source =official reply of Ethiopia to the issues raised by Child Rights Committee based on the 4th & 5th periodic Report to the UN Child Rights Committee.

Dropout/Repetition/ Teacher Pupil Ratio			
Academic year	Pre-primary	Primary	Secondary
2010/11	-/-/27.4	16.6%/8.5%-51	-/-/31
2011/12	-/-/31.8	16.3%/8.5%/50	-/-/29
2012/13	-/-/37.8	16.1%/7.9%49.4	-/-/28.7
2013/14	-/-/32.0	7.85%/8.4%/47	-/-/27.8

Table 5.Drop out & repetition. Source =official reply of Ethiopia to the issues raised by Child Rights Committee based on the 4th & 5th periodic Report to the UN Child Rights Committee.

Disability	Primary(1-8)					
	2011/2012			2012/2013		
	Male	Female	Total	Male	Female	Total
Visually impaired	3,688	2,659	6,347	5,020	3,678	8,698
Physically impaired	7,148	5,084	12,232	10,864	7,768	18,632
Hearing impaired	5,404	4,320	9,724	8,686	6,783	15,469
Mentally retarded	6,580	4,734	11,314	10,247	7,608	17,855
Others	2,005	1,510	3,515	4,476	3,274	7,750
Total	24,825	18,307	43,132	39,293	29,111	68,404

Table 6. Children with Disabilities Attending regular primary school. Source =official reply of Ethiopia to the issues raised by Child Rights Committee based on the 4th& 5th periodic Report to the UN Child Rights Committee.

G. Rights of children in Armed Conflict

Armed conflicts affect children in a variety of ways. These include loss of life and limb, illness, gender-based violence, etc. It is this that Article 38(1) and (4) of the UNCRC and Article 22 of the ACRWC aim at preventing by requiring state parties to respect rules of international humanitarian law applicable to children. The rules of humanitarian law pertinent to children are found in the Geneva Convention No. 4 ‘Relative to the Protection of Civilian Persons in Time of War’ and in the 1977 Protocols Additional to the Geneva Conventions. According to these instruments, children are the object of special respect and protected against any form of indecent

assault. The protection accorded to children is not limited to freedom from violence to life and person. Parties to conflict are actually required to provide children with the care and aid they need including removal from encircled areas, provision of food, clothing and even education to the extent possible (Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, Articles 24, 27, 50). One of the most alarming trends relating to children in armed conflicts is their active participation as soldiers. Children become soldiers in many different ways. UNCRC Art 38(2) and (3) address the recruitment of children. They oblige state parties to ensure that children under 15 year of age do not take direct part in hostilities. More particularly, they require state parties to refrain from recruiting under 15-year-olds into armed forces. Thus, it is argued that compelling children at any age to join the armed forces would amount to a breach of Article 35 (abduction) and Article 32 (forced labour). Consequently, the General Assembly adopted an optional protocol to the convention raising the minimum age for voluntary recruitment into the army from 15 fixed in the Convention to 18 years of age (Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, Adopted by the UN General Assembly, May 2003, Article 3). Ethiopia has also ratified and incorporated into its legal system this additional protocol. In addition, Ethiopia has also ratified the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, the 1977 Protocols Additional to the Geneva Conventions and the African Charter on the Rights and Welfare of the Child.

Ethiopia has promulgated a domestic law in relation to this in the form of Proclamation for the Establishment of Defence Force. Article 4 of Defence Forces Proclamation (Proclamation No. 27/1996) provides that the Ministry of Defence of the country may recruit persons fit and willing for military services in accordance with criteria periodically issued. However, the

proclamation does not stipulate any minimum age for enlistment, recruitment in to armed forces and for direct participation in hostilities. National recruitment guidelines specify recruits must be at least 18. In addition, The African Charter expands Ethiopia's obligation under Art 38 of the CRC, to exempt every child from recruitment. Consonant with this, the Internal Regulation of the Armed Forces issued by the Defence Council puts attaining the age of 18 as a prerequisite for joining the army.

Besides having laws, several measures may be taken to reinforce the local capacity to prevent the use of children as soldiers.

H. Child Friendly Justice

CFJ as part and parcel of the concept and practice of child protection particularly concerns children who come into contact to a justice system. It stipulates the principles and manners of treating children and handling their cases through the processes of justice. UN CRC /Article 37 & 40/ and related international standards on the Administration of Juvenile Justice as well as the African Charter on the Rights and Welfare of the Child (ACRWC) /Article 17 require states to establish a child-centered, specialized justice system whose overarching aim is children's social reintegration, and which should guarantee that their rights are respected. The international laws also emphasize the need to divert children away from judicial proceedings whenever possible and to redirect them to community support services. According to the laws, the formal justice system should only deal with the small minority of children who have committed very serious crimes and represent a threat to their society. Detention of children should always be a measure of last resort.

The Child Justice System of Ethiopia is not well developed yet. Though Ethiopian laws provide for the setting up of a juvenile justice system, which is based on the protection of the

interest of the child, the practice is far from the letters of the law. Despite its revision a decade after Ethiopia had acceded to the International Covenant on Civil and Political Rights and the CRC, the age at which criminal responsibility commences is nine years. This is very low and against the recommendations of the Committee on the Rights of the Child. Besides, the age of delinquency is set to be between 9 and 15 years despite the Human Rights Committee's general comment that the upper limit be 18.

Pursuant to the Committee's Concluding Observations on paragraph 77 and recommendation in the third period report, the following measures have been taken with regard to juvenile justice, Ethiopia has reformed its laws, took organizational measures to facilitate the effective implementation of the laws and procedures that deal with the special needs and respect the rights of children in conflict with the law. The laws of Ethiopia are, for the most part, complete in providing appropriate treatment of children in conflict with the law, in line with the provisions of the UN CRC. Some of the relevant considerations in this respect include the following:

- Article 9 of the FDRE Constitution incorporates all ratified international instruments, including the CRC into the law of the land. Accordingly, article 36 (3) of the Constitution states that juvenile offenders between the ages of 9 to 15 years, admitted to corrective or rehabilitative institutions shall be kept separately from adults(article 53). The Constitution further prohibits corporal punishment, and cruel and inhuman treatment in institutions responsible for the care of children.
- The Criminal Policy of Ethiopia, developed on the basis of the 4 principles of the CRC, aims to promote recovery and reintegration of children in conflict with the

law. It also recognizes the importance of taking steps leading to prevention of re-offending and the use of detention only as a measure of last resort.

- The Criminal Policy calls for the establishment of special institutions at federal and regional levels which will oversee the appropriateness of the measures taking into consideration:
 - Special needs and circumstances of the child;
 - The principle of proportionality;
 - Laws, guidelines & programs to be revised & developed in line with the Constitution, national laws, international instruments & practices;
 - Special investigators, prosecutors & courts created at different levels.

The Criminal Code grants discretionary power to the court to decide, on a case-by-case basis, and impose alternative measures, for children 9 -15 years of age. Article 53 (2) specifically states that alternative measures shall not be applied unless the child is convicted. Types of alternative measures include reprimand or censure (Article. 160), school or home arrest (Art. 161), supervised education (Art. 159), admission to a curative institution (Art. 158), admission to a corrective institution (Art. 162), fines (Art. 167) and conditional release/probation (Art. 168).

Federal Prisons Commission Establishment Proclamation No. 365/2003 provides that only infants less than 18 months old, who need close maternal care, may stay in detention with their mothers. The Commission, however, has the duty to provide all that is necessary to the health and care of the infant.

The National Youth Policy adopted in 1996 by the then Ministry of Youth, Culture and Sports, and the National Youth Policy Implementation Manual developed in 2005 identify juvenile delinquency, living and working on the street and beggary as some of the social evils

that negatively affect youth. The Manual also recommends awareness creation and advocacy activities; continued and sustained study and research; and expanding work creation and deployment as major strategies.

The administration of justice, in which the State has sought to provide deferential treatment for matters related to legislation and other measures applicable to children in contact with the law, guarantees the implementation of standards for justice in accordance with articles 30, 37 and 40 of the Convention. Child friendly courts which were previously limited to Addis Ababa are now established in the regions of the country. The establishment of these specialized structures has reportedly contributed towards improved treatment of children coming in contact with the justice system as victims, suspects, accused and convicted.

The Child Protection Programme was established in 1996 with the support of Forum for Street Children Ethiopia, a local NGO. Among the aims of the Programme are: Improving the treatment of children by the police and involving the police in alternative treatment of young offenders of in place of custodial treatment (UNICEF,2005, p.29).

With a view to achieving these goals, the Child Protection Programme has been organised under the Addis Ababa police Commission Crime Investigation Department and Child Protection Units (CPUs) now exist in each of the ten Sub-City Police Departments (UNICEF,2005, p.29).Establishment of coordinating offices in Awassa, Dessie, Nazareth and Dire Dawa has followed the establishment of the Programme in Addis (UNICEF,2005, p.29).Besides improving the handling of accused children the introduction of CPUs has also improved the practice of the police in handling child victims of violence and abuse by ensuring follow up and support during legal proceedings ((UNICEF, 2005, p47).

Another laudable initiative is the introduction of the Community-Based Correction Programme Centres that work hand in glove with the CPUs. The objectives are:

- Preventing children from getting into anti-social activities
- Correcting and rehabilitating young first time offenders and petty offenders while they remain with their families rather than in the custody of the police and reformatory institutions (UNICEF, 2005, p.52).

The Juvenile Justice Project Office has facilitated the creation of Child Friendly Benches within the Federal First Instance Courts. The introduction of these benches is a major break with the practice in the past and in line with the Criminal Procedure Code and the Penal Code. Such Benches have now been introduced to courts in Makelle, Nazareth, Awassa, Wolaita Sodo and Arba Minch (UNICEF, 2005, p.70). In this connection, one needs to note that the establishment of the Child Friendly Benches has not been institutionalised within the structural framework of the court system. They largely rely on the good will of the Presidents of Courts and could easily be reversed (UNICEF, 2005, p.73).

Therefore, it can be said that Ethiopian Law complies with the requirements of the CRC and ACRWC in this regard. The other provisions, which are of paramount importance in relation to justice for children, are Art 40 of the CRC and 17 of ACRWC. They provide for protection of a child accused or recognised to have infringed the penal law. These provisions enjoin state parties to accord treatment that respects the child's dignity and worth and provide for procedural safeguards that must be guaranteed for the child during her/his arrest and the whole process of the application of criminal Law.

I. Children in situations of exploitation

The CRC and the ACRWC have several provisions that aim to protect children from exploitation. Salient among them are those that deal with the right to protection from economic exploitation, right to protection from sexual exploitation and sexual abuse and right to protection from abduction, sale or trafficking for any purpose (UNCRWC Arts 32, 34 and 35 ACRWC Art 15, 27 and 29).

Economic Exploitation and Child Labour (Article 32 of CRC and 15 of ACRWC)

Article 32 of the CRC and Article 15 of ACRWC accord children protection against economic exploitation and from performing any work, which is likely to be hazardous or interfere with their education. To this end, they call on states to set minimum age for admission to employment, provide appropriate regulation regarding hours and condition of employment and ensure effective enforcement of these laws.

The FDRE Constitution under Article 36 (1) (d) stipulates that every child has the right ‘not to be subjected to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being’. The Labour Code regulates the minimum age and the condition of work of young persons. The Labour Proclamation prohibits the employment of persons under the age of 14 (The Labour Proclamation, Proc. No. 377/2003, Art. 89). This minimum age corresponds with the absolute minimum age under international standards, which is allowed as an exception taking into account the economic development of the country. Working children between the age of 14 and 18 are categorized as young workers under the Labour Proclamation. The Labour Proclamation regulates the working conditions of such young persons. Article 89(3) of the Labour Proclamation prohibits the employment of young persons in a work, which by accounts of its

nature or due to the working condition in which it is carried out may endanger the life, or health of the young worker. Under Article 89(5), the Proclamation provides an illustrative list of activities in which young persons may not engage. The Minister of Labour and Social affairs is entrusted with the power to prescribe the list of hazardous activities, in which young persons should not engage. There also other provisions, which are in full compliance with the various ILO Conventions.

Pursuant to the Committee's Concluding Observations on paragraph 71 and 72 in the report (CRC/C/129/Add.8) with regard to high prevalence of child labour, Ethiopia has ratified the ILO Convention which set the minimum age of employment at 15 years. The revised labour law proclamation No.377/2003 provides important provisions to protect children younger than 14 years of age not to engage in employment and defines working conditions for young workers who are between 14-18 years of age. Article 89(3) of the Labour Proclamation prohibits employment of young persons in occupations which may endanger the life, or health of the young worker. Such occupations include; transport of passengers and goods, works connected with electric power generation and distribution, works involving heavy handling, working underground quarries and mining ores, work in sewerage, etc. MOLSA is entrusted with the power to prescribe the list of hazardous activities in which young person should not engage.

A national Plan of Action (2010 -2014) was developed to guide and coordinate a national labour response in the country. Decent work country program implementation plan (2009-2012) is the other instrument developed to bring about conducive working environment for children and women. In addition, there are other policies and plans of action under preparation, including a national plan of action against worst forms of child labour and developmental social welfare policy. The different instruments are expected to meet the needs of youth looking for their first

jobs, stimulating and improving the diversity of choice and enhancing their contribution to the country's overall development.

The report by MOWCYA (2015) A child labour prevention desk was set up at the federal level. Child labour is also prioritized in the decent work country programme 2014/15, the national occupational safety and health policy and the draft national social protection policy.

The same report tells that a Project intervention in Addis Ababa & SNNPR has run for the last three years targeting 20,000 children identified as engaged in and/or at high risk of engaging in child labour. These children are provided with services under the education and livelihood intervention. All targeted *woredas* and communities have approved bylaws against child labour exploitation and trafficking

Monitoring and oversight mechanisms are strengthened through the introduction of a national labour inspection system. Labour inspectors from MOLSA and respective regional bureaus, regularly inspect work places and check the presence of under age child employees administering corrective measures including referral to law enforcement when standards are violated. Cooperating with other government and non-government agencies, labour inspectors may also arrange for the provision of rehabilitation services if children are found illegally employed. The number of labour inspectors increased from 121 to 332 in the last five years enabling them to cover more work places (MOWCYA, 2015).

The writer believes that working together with employers' associations and trade unions to ensure child labour free work places by including clauses on the non-engagement of youth workers in hazardous types of work in collective agreements will yield much outcome.

The MOWCYA report to the UNCRC (2015) states that the Government plans to introduce a special law regarding domestic employment. The planned law will deal thoroughly with the issue of child domestic work.

Sexual Exploitation and Abuse (Article 34 of CRC and Article 27 of ACRWC)

The UNCRC and ACRWC enjoin states parties to protect children from sexual exploitation and sexual abuse. Ethiopia has been taking legislative measures to stop child prostitution and the sexual exploitation of children. The Revised Penal Code and even the old Penal code incorporate provisions that penalize persons who sexually abuse children with or without remuneration. Article 627 of the Revised Penal Code prescribes imprisonment ranging from 13 years to 25 years on a man guilty of inducing a child below the age of 13 to engage in sexual activities. The penalty for a woman who commits exactly the same offence is imprisonment for a maximum of ten years. The sentence will be up to 15 years of rigorous imprisonment where the induced child is between the age of 13 and 18 as per Article 626 of the Code. Articles 635-8 of the Revised Penal Code also penalize trafficking in children for prostitution and sexual exploitation.

According to the 4th and 5th combined periodical report of Ethiopia, Pursuant to the Committee's Concluding Observations and recommendation on paragraphs 73 and 74(a-d) on the third periodic report (CRC/C/129/Add.8), the Government made efforts to implement awareness raising and educational measures, to support physical and psychological recovery of victims through training of professionals, resource allocations, and implementation of a comprehensive policy.

The Federal First Instance Court (FFIC) has also established a victim-friendly bench that handles cases involving victims of VAWC using a closed circuit TV to protect child victims

from facing the perpetrator and public while testifying in court. The FFIC has also established a family court to adjudicate, among other cases, family disputes affecting the best interests of children, and custody, and adoption proceedings. Though the legal framework seems to be in compliance to both instruments and other international agreements to which the country is a party, the writer believes that the case on the ground is somewhat different in the sense that children still suffer from sexual exploitation of different sorts. The researcher argues that there is a need to implement the provisions that protect the child from sexual exploitation and to do this the institutional capacity of stakeholders need to be strengthened in addition to other measures.

Abduction and Illicit Trafficking (Art. 35 of the CRC and Art. 29 of the ACRWC).

Article 35 of the CRC and Article 29 of the ACRWC enjoin state parties to take all appropriate measures at national and international level to prevent the abduction of or traffic in children for any purpose. The Revised Penal Code has several provisions dealing with abduction and trafficking in persons. Art 589(2) deals with abduction of minors and imposes prison sentence of up to twenty years where the minor is retarded, feeble minded or has been rendered incapable of rendering resistance. Where the offence of abduction is aggravated like because the abduction is committed with a view to using the minor for debauchery or prostitution or to exploit him/her or hold him in especially cruel conditions the Art 590(2d) provides the penalty could be up to 25 years of rigorous imprisonment. The Revised Penal Code also penalizes trafficking in children. Art 597 makes the offence punishable with rigorous imprisonment from five years to twenty years and fine not exceeding 50,000 Birr. The foregoing provisions imposing severe penalties were incorporated into the Revised Penal Code due to the public outcry and efforts of human rights activists because abduction of children is a widespread phenomenon in Ethiopia. Particularly, in some parts of the country it is condoned as a legitimate

means of taking a ‘woman’s’ hands in marriage. The victims may be girls as young as 11 to 12 years of age.

J. Protection against Harmful Traditional Practices

Article 24(3) of the CRC requires States Parties to abolish traditional practices prejudicial and detrimental to the health of children. The same protection is also mirrored in Article 21 of the African Charter on the Rights and Welfare of the Child. The provision calls for States Parties to the African Children’s Charter to discourage any custom, cultural or religious practice affecting the welfare, dignity, normal growth and development of the child. Article 16 of the FDRE Constitution stipulates the right to the security of person. Harmful Traditional Practices (HTPs) are contrary to this right since they cause permanent or temporary injuries on the body of the victims. Article 35(4) of the FDRE Constitution also provides that the state shall enforce the right of women to eliminate the influences of harmful customs. The provision goes on to state that laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited. Article 91(1) of the FDRE Constitution concerns itself with cultural values. The provision affirms that protection is accorded to cultural values on condition that they are not detrimental to basic human rights and to the dignity of the human person. In view of the obligation to eliminate harmful traditional practices, the Criminal Code has included several provisions to proscribe various forms of HTPs. These provisions in the 2004 Criminal Code mark a break from the previous Penal Code which in effect condoned many forms of HTPs.

Female Genital Mutilation and Infibulations

Article 565 of the Criminal Code criminalizes female genital mutilation (FGM). It provides that “whoever circumcises a woman of any age is punishable with simple imprisonment for not less than three months, or fine of not less than five hundred Birr.” Below is a summary of data

with regard to sexual exploitation and harmful traditional practices and the accompanying measures taken by the appropriate organ in Ethiopia during the indicated period.

1. Cases of abuse and violence against children, including all forms of corporal punishment, with information on the type of assistance given to child victims and the follow-up provided, including prosecution of the perpetrators and the sentences handed down in the State party;

- In 2011/12 (half-year report) there were 854 complaints and accusations regarding Child related cases including Child abuse.
- In 2012/13 there were 1534 cases reported to the authorities and passes through the formal investigation and prosecution procedures.
- In 2013/14, (9-month report) records show 1260 cases related to child rights and child abuse. In the same Year in Gandhi Integrated Care Center 668 complaints were lodged regarding child abuse and all received the services provided by the center. Further 76 girls, 2 boys and 4 disabled children benefited from the psychological treatment given by the Center. In addition, 29 girls were placed in foster cares.
- In general from 2011-2014 3348 cases were investigated and different decisions were rendered, including acquittal and conviction
- Regarding Sentences, it is governed by the Supreme Court Guideline and the maximum penalty, to date, is life imprisonment. On the other hand, in minor/petty offences the prosecutors play a significant role reconciliation process between the victim and the offender. This help to secure

compensation for the victims of violation and help to educate the society. Nevertheless, this is done only for minor/petty offences punishable up on complaint.

The number of girls who have become victim to FGM

FGM is widespread across Ethiopia and is carried out in the majority of regions and ethnic groups. It is most prevalent, depending on which statistics are used for reference in the Afar region, in the north east of Ethiopia, where the rate of FGM is 87.4% (EGLDAM, 2007); in the Somali region, in the south east bordering Somalia, where the rate is 70.7% (EGLDAM, 2007); and Dire Dawa. The prevalence rate is lowest in Gambela, and Tigray where the rate of is as low as 21.1% (EGLDAM, 2007).

The number of child- and teenage pregnancies;

According to EDHS 2011 child and teenage pregnancy is 12% and 34 % of women were either mothers or are pregnant with their first child by age 19. Teenagers in rural areas are much more likely to have started childbearing than their urban counterparts (15 and 4 percent, respectively), due mainly to the high prevalence of early marriage in rural Ethiopia. Among regions the percentage of women age 15-19 who have begun childbearing ranges from 3 percent in Addis Ababa to 21 percent in Gambela regional state. Source: -*Official reply of Ethiopia to the issues raised by Child Rights Committee based on the 4th & 5th periodic Report to the UN Child Rights Committee.*

Following are lists of policies and strategies adopted and at drafting stages as of May 2015. The data is collected from an official document prepared as a reply by MOWCYA to the issues raised by the child rights committee (CRC/C/ETH/Q/4-5) in 2015.

<i>NEW POLICIES/ STRATEGIES</i>	<i>DRAFT POLICIES / STRATEGIES</i>
1. National Human Right Action Plan	1. The General Education Law and Education Sector Development Plan-V
2. Social Protection Policy and Social Protection Strategy	2. Comprehensive National Children Policy
3. National Strategy On Human Trafficking	3. National Plan Of Action For Children
4. National Strategy On Harmful Traditional Practices	4. The Second Growth Transformation Plan
5. General Education Quality Improvement Program-Phase II	5. Adolescent and Youth Reproductive health Strategy
6. New National Malaria Strategy 2014 – 2020	7. Child Survival Strategy
7. New National Malaria Strategy 2014 – 2020	8. Legal aid Strategy
	9. Health Sector Development Plan

Table 7. Lists of new and draft policies and strategies related to children.

K. The CSO Regulation

As it has been expounded in the previous chapter about the history of Civil Society Organization in Ethiopia, civil society organizations have undergone through a variety of environments during each rule. The contemporary state of civil society in Ethiopia is governed by the “infamous” proclamation called ‘Charities and Societies Proclamation (CSP)’ that came out in 2009. The law classifies the NGOs into three major categories: Ethiopian Charities, Ethiopian Resident Charities, and Foreign Charities. Under Art. 2(2) it defines Ethiopian Charities or Ethiopian Societies as to mean those charities or societies that are formed under the laws of Ethiopia; all of whose members are Ethiopians; generate income from Ethiopia; and are wholly controlled by Ethiopians. Whereas Ethiopian Resident Charities or Ethiopian Resident Societies shall mean those charities or societies that are formed under the laws of Ethiopia, and

that consist of members who reside in Ethiopia, and that receive more than 10 percent of their funding from foreign sources (Article 2(3)).

It is stated under Art. 2(4) that Foreign Charities shall mean those charities that are formed under the laws of foreign countries or which consist of members who are foreign nationals or are controlled by foreign nationals or receive funds from foreign country source. This law prohibits foreign NGOs, and local NGOs that receive more than 10 percent of their funding from abroad, from involving in the advocacy of human rights and governance issues; puts a restriction on the ratio of administrative cost of SCOs not to exceed 30 percent of the total budget; sets out required standards of the CSO governance and fiscal administration; and establishes a government agency named Charities and Societies Agency that oversees the operations and management of the CSOs. This law has been a subject of fierce debate and contention between the government, on one hand, and the Ethiopian civil society and other interested parties, on the other hand (Hailegebriel, Debebe, 2010, p.18-27). The controversies surrounding the legislation are multi-dimensional and relate to various aspects of the Proclamation. The focal point, of much of the controversy has been the restrictions on foreign funding (Hailegebriel, Debebe, 2010, p.18-27). The government claimed that the new law addresses the inadequacies in the existing legal regime, promotes financial transparency and accountability, and provides proper administration and regulation of civil society (Hailegebriel, Debebe, 2010, p.18-27). In justifying the need for the law, the government officials argued that the leaders of externally funded NGOs are not accountable to the staff of the organizations and the beneficiaries, and therefore, it is an obligation of the Government to ensure such accountability. From the perspective of the government and other supporters of the law, without such regulations on the externally funded CSO/NGO activities concerning national politics,

governance, and security, it would be difficult for them to balance their loyalty between their two clients: the international funders as agenda- setters and the interest of the people and country they serve (Ethiopian People Revolutionary Democratic Front Support Forum (EPRDFSF, 2010).According to Hailegebriel (2010, p.18-27).At the extreme end, some also tend to take the issue up as an important element of the implicit rivalry between the west, particularly the US and the China on Africa.On the contrary, the CSOs generally have not considered the new legislation as a positive move. They contested its cause and provisions. According to the CSOs, the most revealing indicator underlying the enactment of the CSP is the generally skeptical attitude adopted by the State regarding the role and participation of CSOs in the national political space. The government displays a hostile attitude towards rights watchdogs and human rights organizations, which it brands as funnels for civil and political discontent and mouthpieces of the opposition (Hailegebriel, Debebe, 2010, p.18-27).Others argued that it is contradictory to not only the international human rights laws but also the constitution of the country (Hailegebriel, Debebe, 2010, p.18-27). The writer argues that the restrictions on access to foreign funding and operational areas will likely have an unprecedented effect not only on the development of CSOs and the protection of child rights but also on the democratization processes in the country.The CSOs responded to this legislation in a coordinated manner by establishing a special taskforce that pursued continuous dialogue with the Government (Hailegebriel 2010, p.24).The international community also tried wielding influence on the Ethiopian Government to reconsider the controversial provisions of the law. Many also agree that, beyond the alleged prejudices and misconceptions from the government, the realities of the NGO sector itself contributed to the enactment of such a disputed and believed to be 'draconian' law (Hailegebriel 2010, p.27). These include: weak accountability and transparency of CSOs to their constituencies

and the public; weak or no self-regulation system; weak institutional development; absence of internal democratic administration; programs and projects being mostly fund-driven; lack of focus and commitment on organizational objectives; and poor networking and collaboration culture. However, the writer argues that despite the aforementioned problems on the part of the civil societies, governments also need to understand, accept, and appreciate that qualities of some NGOs which include among other things enabling good governance promoting effective, honest, legitimate, and responsive government through public scrutiny and advocacy-based activities.

By ratifying and domesticating the CRC, the Ethiopian government is obliged to comply to the recommendations of the CRC Committee too. The Committee recommends that state parties need to respect autonomy of the NGOs. The Committee also approves of the development of NGO coalitions and alliances committed to promoting, protecting and monitoring children's human rights and urges governments to give them non-directive support and to develop positive formal as well as informal relationships with them (CRC/GC/05/2003).

As a result of this proclamation the number of civil societies engaged in human rights advocacy generally and in child rights protection in particular has shrunk considerably. Some organizations have decided to close down branch offices and laid off their human resources. The government also confiscated bank accounts of some civil society organizations like EWLA and Ethiopian Human Rights Council (EHRCO). The data from the International Center for Not-for-Profit Law indicates that there were 3181 CSOs as of December 2014. In 2014, 174 new CSOs registered while 158 were closed including 133 involuntarily for failing to implement projects due to lack of funds. The same source considered Art. 14j-n as a barrier to CSO activities. The indicated provision restricts participation in activities that include the advancement of human and democratic rights the promotion of the rights of the disabled and children's rights. Participation

in essentially all human rights and advocacy activities. The country ranked 91 out of 102 world countries scoring 0.42 from the scale of 0.0 -1.0 in Rule of Law Index prepared by world justice project in 2015

4.1.2. Child Rights Protection Institutional Frameworks in Ethiopia.

A. Institutional Frameworks for Child Rights Protection in Ethiopia

State parties to the convention are expected to establish permanent self-monitoring mechanism in order to follow up the implementation of the CRC (General Comment No 5, 2003, p.35-41). Accordingly, in Ethiopia the institution that is entrusted to follow up the implementation of CRC so as to protect the right of children in MOWCYA. As per Article 10 of Proclamation No. 691/2010, which defines the common powers and duties of Federal Executive Organs (Ministries) among other MOWCYA has the power and duty to initiate policies and laws, prepare plans and budgets, and upon approval implement same, to ensure the enforcement of the federal government laws, and to undertake study and research; collect, compile and disseminate information. Among others, the Ministry is entitled to create awareness and movement on the question of women, children and youth, to collect, compile and disseminate to all stakeholders information on the objective realities faced by women, children and youth, to coordinate all stakeholders to protect the rights and well-being of children, and to follow up the implementation of treaties relating to women and children and submit reports to the concerned bodies (FDRE Proclamation No.691/2010: Article 10 &32).

In addition to self- monitoring mechanism, Children need independent NHRIs to protect their human rights. Children rights should be given due consideration and special attention because of children's vulnerability. Thus, every state party to the CRC needs an independent and effective human rights institution with responsibility for promoting and protecting children's rights.

Moreover, these NHRI should be constitutionally entrenched and must at least be legislatively mandated (General Comment No 2, 2002:8). Accordingly, Ethiopia has provided constitutional base for the establishment of these NHRI via Article 55(14) & (15) of its constitution, which empowers the House of Peoples Representative (HPR) to establish the Human Rights Commission and the institution of the Ombudsman determining their power and function (FDRE Constitution,1995: Article 55(14) & (15)). The legislative organ of the government established these institutions by promulgating two proclamations: “Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000” and “Institution of the Ombudsman Establishment Proclamation No. 211/2000” defining their mandate and powers.

The Establishment Proclamation of the Ethiopian Human Rights Commission (EHRC) states that the Commission is established in order to “educate the public to be aware of human rights, to see that human rights are protected, respected and fully enforced as well as to have the necessary measure taken where they are found to have been violated. It is also established in order to ensure the enforcement of human rights as enshrined in the Constitution by all citizens, organs of a state, political organizations and other associations as well as by their respective officials. Thus, the Commission is empowered to investigate cases of violation of human rights enshrined in the Constitution, in its own initiative or upon a complaint submitted to it, to release reports on different human rights conditions like prison conditions and to “provide consultancy service on matters of human rights (FDRE proclamation No.210/2000).

The Establishment Proclamation of the Institution of the Ombudsman (EIO) states that the Commission is established to bring about good governance that is of high quality, efficient and transparent, and are based on the rule of law, by way of ensuring that citizens' rights and benefits provided by law are respected by organs of the executive. It is also established to

receive, investigate and supervise action taken by any Ministry or department of Government or any member of such Ministry or department of Government and non-state institutions in order to conduct studies and research on ways of avoiding maladministration. Thus, the basic function of the Ombudsman is to protect citizens against administrative injustices and bureaucratic oppression and to provide citizens with accessible avenue for complaint when such injustices and oppressions occur. The Institution is much important especially in redressing human rights violations which occur in work places/ administrative areas (FDRE proclamation No.211/2000). In addition to NHRI, non-state actors play a significant role in child protection. ANPPCAN indicates that non-state actors have a crucial role in child protection often complementing government efforts in key priority areas. Some of the services granted by these organizations include provision of care and support, access to justice for abused children, educating parents on child rights, providing educational support and offering assistance to trafficked and abused girls through provision of shelter and family re-union services. They also conduct advocacy, capacity building and awareness creation concerning child protection. Non-state actors, whether local or international, have assisted countries to make considerable progress in terms of child protection (African Network for the Prevention and Protection against Child Abuse and Neglect. (2012, p.33).

Accordingly, NGOs and CSOs in Ethiopia have impact in three areas: advocacy on behalf of children, empowerment of marginalized groups, and providing emergency assistance. However, their impact was limited (Haggstrom, H. 2003, p.58). Moreover, the government of Ethiopia promulgated CSO proclamation as stated in the preamble with good intention of ensuring “the realization of citizens’ rights to association enshrined in the constitution and to aid and facilitate the role of civil society in the overall development of the Ethiopian people” (FDRE proclamation

No 621/2009). Of those provisions of the proclamation, as Hopkins and his colleagues argued, the provision that hinder foreign NGOs from engaging in activities pertaining to human rights in general and child rights in particular has detrimental consequence (Hopkins, C. et al. 2009, p.4). Moreover, CSOs are supposed to function effectively in cooperation with NHRIs for they are the main actors in child rights protection (General Comment No.2, 2002:11). However, the shift of these organizations from working on child rights due to the CSO law put this assertion to doubt and it also reduces the participation of non-state actors like CSOs and NGOs in child rights protection in Ethiopia.

B. Extent of Policy Coordination for Child Protection.

The CRC cannot be successfully implemented without government's accountability and coordination between government ministries and departments. Child rights issues are often dealt with by a particular department or scattered over different departments, without adequate coordination. Ideally, every State should have a specific coordination and monitoring body for children, at a central and strategic position within the government. This body's purpose is to make children visible in government actions, ensure coordination of relevant activities, monitor progress and promote a comprehensive and integrated agenda for realization of children's rights. In General Comment No. 5, the Committee notes that in examining States parties reports the Committee has almost invariably found it necessary to encourage further coordination of government to ensure effective implementation: coordination among central government departments, among different provinces and regions, between central and other levels of government and between Government and civil society (CRC/GC/2003/5, para 37). The Committee added that it was not the intention to attempt to prescribe detailed arrangements appropriate for very different systems of government across States Parties since there are many

formal and informal ways of achieving effective coordination, including for example inter-ministerial and interdepartmental committees for children (CRC/GC/2003/5, para.38). Further, the Committee noted that, since each department affects at least one aspect of children's lives it is not practicable to bring responsibility for all children's services together into a single department, and in any case doing so could have the danger of further marginalizing children in Government but a special unit, if given high-level authority reporting directly, for example, to the Prime Minister, the President or a Cabinet Committee on children can contribute both to the overall purpose of making children more visible in Government and to coordination to ensure respect for children's rights across Government and at all levels of Government. Such a unit can be given responsibility for developing the comprehensive children's strategy and monitoring its implementation, as well as for coordinating reporting under the Convention (CRC/GC/2003/5, para.38). While making one single department responsible may not always be the most appropriate approach, civil society organizations have often expressed their dissatisfaction with the coordination arrangements in place.

MOWCYA is currently designated as the supreme authority to nationally coordinate activities on the rights of the child (Proclamation No. 691/2010). Accordingly, based on a Business Process Re-engineering (BPR) study, the Ministry restructured and re-equipped its human and financial resources to effectively execute its mandates. The Ministry has setup various working strategies to coordinate and monitor the performance of the Federal Ministries and Regional Bureaus in accordance with the principles of CRC and ACRWC. One of the strategies was collecting annual plans and performance reports of Federal Ministries and Regional Bureaus, organizing common platforms for stakeholders to evaluate the overall performance and identifying challenges and solutions on a mid-term and annual basis.

The other strategy is building the capacity of all regional, Zonal and Woreda level Women, Children and Youth Affairs Bureaus to respond to their duties and mandates with regard to the protection of the rights of children. In relation to the financial resource allocation, the Ministry, as well as the Regional Offices are entitled to obtain funds from the Government, the UN and other donor agencies.

The Directive on the Responsibilities and Functions of Executive Committees of the Convention on the Rights of the Child issued by MOLSA in 1995 and amended in 2002 was further revised by MOWCYA in 2009/2010. The Directive calls for the establishment of Federal/National, Regional, Zonal, Woreda and Kebele level CRC Executive Committees and an Inter-Ministerial Committee which has the overall mandate of overseeing the implementation of the CRC by coordinating, monitoring and evaluating efforts at both federal and regional levels. The Committee also provides policy support and mainstreaming CRC in sectoral strategies and development plans. Following the development of a National Orphans and Vulnerable Children (OVC) Plan of Action for 2004-2006, relevant actors have collectively taken measures towards an integrated, holistic and coordinated response to address the issue of OVC. In addition, a taskforce was established to oversee the work of all partners and has branched out to almost all regions and in some Zonal, Woreda and Kebele levels.

As a step to ensure the institutionalization, mainstreaming and coordination of the CRC, various coordinating structures are established and action plans are formulated and adopted. These structures are given the tasks to oversee the coordinated implementation of these national action plans. Some of the committees that collaboratively work to promote and protect the rights of the child include the National CRC Committee, National OVC Task Force, the National Steering Committee against Sexual Abuse and Exploitation of Children, the National Steering

Committee on Child Labor, the Inter-Institutional Management Team Working on Gender Based Violence (GBV) and Violence against Women and Children, and the National Committee on Trafficking in Women and Children.

According to the combined 4th and 5th report to the UN Child Rights committee a national coordinating body composed of 18 higher officials including ministers, court presidents, police commissioners, director general of prison authority and three regional justice bureaus was established with the objective of setting up a multi sectoral and integrated approach to prevent and respond to violence against women and children. Moreover, the report states that MOJ has drafted a 5-year national strategic plan and a 3-year action plan that are ready for endorsement.

4.2. Part Two: Findings and Analysis of the Perception of Major Child Rights Actors

In the first part of this chapter, a detailed analysis of the major child rights legal frameworks of the country Vis a Vis the two major child rights international instruments in the shape of the UN CRC and the African charter for the rights and welfare of the child have been provided in a detailed manner. In this part of the research paper, the researcher tries to analyze, and compare and contrasts the findings of the perception of major child rights actors towards the child rights legal frameworks of the country. This is mainly done based on the belief that Ethiopia has already ratified most of the international child rights instruments and the mere analysis of the domestication effort and national laws in relation to CRC and ACRWC may not explicate the reality on the ground or the perception of those stakeholders engaged for the cause of the child. The instruments used to gather their perception is based on the child rights protection policy framework indicators designed by UNICEF and the African Child Policy Forum child friendliness indexes. Thus, the finding will be analyzed in the same fashion to what has been done during the part one of this chapter.

To begin with, one of the criteria to measure the child friendliness of a countries legal framework is to quantify the number of international child rights legal instruments a country has ratified or incorporated into its legal system and the consistency of domestic child rights laws set out before or after such act of ratification or incorporation. In this respect, the Pan-African continental Not for Profit Organization engaged in child rights protection is the African Child Policy Forum (hereinafter ACPF). The Forum ranks African countries in terms of their law's child friendliness and publishes its reports on five-year basis. For example, ACPF listed out those treaties a country should have at least ratified that range from the UNCRC to the Hague convention on inter-country adoption. In addition, UNICEF's child protection policy framework grades countries based on the number of child rights instruments a country have ratified.

Accordingly it gives a value of 'A' for ratifying all of the international child related instruments, 'B' for ratifying 70–99% of international child related instruments, 'C' for ratifying 50–69% of international child related and 'D' for ratifying less than 49% of international child related instruments. According to this grading Ethiopia gets 'B' grade for ratifying most of child related international instruments. On the other hand, based on the 2013 African child wellbeing report of the 2013 Ethiopia was described among the less child friendly countries by getting a score of 0.6037 out of 1 and ranked at 37 out of 52 African countries based on the child friendliness indexes that range from ratification to domestication and implementation related indicators. Though the country has improved from the 2008 rank by 5 levels, it is described as consistently below average.

Regarding the perception of child rights actors towards the consistency of the Ethiopian child rights legal frameworks with the UNCRC and ACRWC, a considerable number of respondents from the ministry of justice and prosecutors working at the child friendly justice at the Federal supreme and higher court expressed the view that the country's child rights legal framework is moderately child friendly and consistent with UNCRC and ACRWC. Others also acknowledged this fact though they additionally expressed that there is a room for improvement even at the standard set with the two instruments. Of course, the writer wants to remind that both these two international child rights instruments are appreciative of highly favorable child rights protection regimes than the minimum set out by these instruments. The same perception is corroborated with the respondents from the child, women and youth affairs standing committee at the House of Peoples Representative (hereinafter the standing committee). Here, the respondents expressed the belief that the Ethiopian child rights legal framework sets an example for other African countries. This is rather in contradiction with the ranking given by the African

Child Policy Forum that puts the country among the less child friendly countries. Besides, the UN child rights Committee has repeatedly called for an improvement in the regulatory frameworks in its country general comments. Based on this, the writer concurs to the fact that though the country has gone a long way to ratify and harmonize its laws in relation to child rights protection, there is still a room for improvement in terms of laying a favorable child rights frameworks especially at a policy and implementation level. Quite exceptionally, child rights experts at the ministry of Child, Women and the Youth affairs (hereinafter MWCYA) expressed the view that though Art.9 of the Ethiopian Constitution provides that the CRC and the Charter are part and parcel of the national legal system, these instruments are not widely treated as such and that there needs to be an improvement in some provisions of the criminal code, the family code (especially regional family codes) and in the Labor Law. They noted that the labor law does not incorporate provisions that regulate the informal sector. In this regard, the UN child Rights Committee noted in its General comment that the informal economy engages an important part of the economically active population in many countries and contributes significantly to gross national product. However, children's rights can be particularly at risk from business activities that take place outside of the legal and institutional frameworks that regulate and protect rights. For example, products that are manufactured or handled in this context, such as toys, garments or foodstuffs, can be unhealthy and/or unsafe for children. In addition, a concentrated number of children are often found in hidden areas of informal work, such as small family enterprises, agricultural and hospitality sectors. Such work frequently involves precarious employment status, low, irregular or no remuneration, health risks, a lack of social security, limited freedom of association and inadequate protection from discrimination and violence or exploitation. It can prevent children from attending school, doing schoolwork and having

adequate rest and play, potentially infringing articles 28, 29 and 31 of the Convention. Moreover, parents or caregivers working in the informal economy often have to work long hours to obtain subsistence-level earnings, thus seriously limiting their opportunities to exercise parental responsibilities or care for children in their charge. This view has also been shared by the researcher under part one of this chapter. Apart from this, they are appreciative of the domestic child rights frameworks of the country.

Regardless of this, respondents from the NGO side conveyed the perception that though the country has incorporated most of the international child rights instruments, the fact that there is no culture of publishing the provisions of these international child rights instruments specifically and other human rights treaties, conventions and agreements on the official *Negarit Gazette* as per the provisions of Proc.3/1995 is making them difficult for implementation at national level. As discussed in length in the literature review part of this research, the Ethiopian practice with regard to incorporation does not appear to have a theoretical basis. The practice however seems to suggest the monist method is followed even though that is not at all certain. International agreements are incorporated into Ethiopian law by a single act of ratification without reproducing the text of the treaty. The treaty making practice of the country shows that it is only the OAU Establishment Charter that was reproduced in the *Negarit Gazette* (*OAU Establishment Proclamation No. 202/1963*). In all other cases, statement of ratification is the only information that is published in the *Negarit Gazette* after the legislative body decides to ratify a treaty. Arguably, this in effect means that a treaty in the original version automatically becomes the law of the land, and binding, as soon its ratification is published. Though the theoretical framework is somewhat as described above, the lack of court decision on disputes arising from treaties makes the assertion open to doubt. When a treaty is ratified this way, the

courts are left without a clue as to its contents. To begin with, obtaining the text of the treaty is difficult. What is more, even if that difficulty is surmounted the treaty will not be available in the languages in which the courts do their job. It is quite proper at this juncture to recall that courts in Ethiopia are required by law to take as law only those letters that appear in the official law gazettes, (Proclamation No. 3/1995, Article 2(3)). This worsens the confusion since only the statement of ratification is published. As a result, courts may hesitate to apply human rights treaties. Even if courts wish to apply international human rights treaties including the CRC and ACRWC, the lack of implementing legislation, or some means of making official versions of treaties available, will pose a serious problem unless the legislature makes the necessary intervention. Generally, they articulated that when seen from the implementation side the legal framework of the country is well below the effort seen to ratify and incorporate international child rights instruments and demanded that the government show its commitment in equally treating these child rights instruments in the same manner as the domestic ones. The writer concurs that though incorporating and harmonizing ones laws to international level is a good endeavor, the mere fact of doing this is no near to materializing ones international obligations to respect, protect and fulfill children's rights. In order to achieve this giving due attention to the implementation side of the obligation is of a paramount importance. the fact that our courts do not refer to and cite the provisions of international instruments is lack of access to the said instruments and the belief that judges only interpret laws that are published on the Official Negarit Gazette and that is the only way of taking judicial notice. To achieve a comprehensive harmonization and discharge international obligations and protect, respect and fulfill the rights of the child, the government needs to take consideration of this aspect of implementation endeavor too. The writer also wants to highlight the fact that there are contradictions of perceptions among

different actors showcases the truth that the country still lags behind in the attempt to lay down a conducive child friendly legal frameworks which is in the best interest of the child not an act of laying down legal lacunas for Foreign NGO's to embezzle money and bowing down to the interests of neoliberals which the government often propagates.

Closely related to child friendliness of legal and policy frameworks is the fact that laws and policies need to be first assessed of their possible impacts on the life of children. General Comment No.5, Committee on the Rights of the Child, CRC/GC/2003/5 under note 10 paragraph 48 noted that undertaking of a child impact assessment before any proposed law or regulation is put into effect and a child impact evaluation after the same is implemented with the view to monitor and determine the implementation of the convention is one of discharging the obligations enumerated under Art.4 of the convention. Different methodologies and practices may be developed when undertaking child-rights impact assessments. At a minimum, they must use the framework of the Convention and the Optional Protocols thereto, as well as relevant concluding observations and general comments issued by the Committee. When States conduct broader impact assessments of business-related policy, legislation or administrative practices, they should ensure that these assessments are underpinned by the general principles of the Convention and the Optional Protocols thereto and have special regard for the differentiated impact on children of the measures under consideration (General comment No. 14, para. 99.). Child-rights impact assessments can be used to consider the impact on all children affected by the activities of a particular business or sector but can also include assessment of the differential impact of measures on certain categories of children. The assessment of the impact itself may be based upon input from children, civil society and experts, as well as from relevant government departments, academic research and experiences documented in the country or elsewhere. The

analysis should result in recommendations for amendments, alternatives and improvements and be publicly available (General comment No. 14, para. 99). In this respect, respondents from the standing committee expressed the view that undertaking a thorough impact assessment before promulgating any law or designing any policy is the culture at the standing committee and this is mainly done by experts in the subject matter and by participating the concerned stakeholders including children. This effort also includes making sure that the new law or policy does not contradict other superior laws or international obligations. In addition to impact assessment, the concerned organ mainly the Ministry undertakes an evaluation assessment of the effect of active laws and policies in collaboration with other sectoral offices. However, the NGOs opinion is that the said act of undertaking an impact and evaluation assessment is not well developed to the extent that most of the time relevant stakeholders are invited for participation and that if invited their opinion and expertise is not considered. For example, during the drafting of what to be the infamous charities and societies proclamation, many experts from the NGOs side voiced their fear that the law would ultimately affect the interests of children and after the coming into effect of the said law many NGOs expressed their view that it has indeed curtailed their natural activities hence affecting children and called for an improvement but all in vain. This shows that the government engages its activities almost unilaterally without taking into consideration other views of the possible impacts and evaluations of policies and laws. The writer reckons that many provisions of the Charter and the convention to name a few provide that any potential activity should be studied in advance and that the reality on the ground should be taken into account for further improvement and that this be done in collaboration with stakeholders including children who are the ultimate beneficiaries. One respondent from the standing committee even suggested that there is no law that has ever been promulgated found to negatively affect the life of children.

However, the writer argues that the reality on the ground does not warrant such assumption, that there is no perfect legal system, and that there is always room for an improvement. This evident in the NGOs cry for more positive development in the area, that even the ministry mainly concerned with the life of children admits of shortcomings and that it strives to advancement of the welfare of children to the extent of the countries capacity and contemporary developments in the area because the life of children is one that evolves and develops through time much like their life. Another example to the aforementioned belief that the country's legal frameworks are flawless is the continuous concluding observations provided by the UN child rights Committee and the African committee of experts upon the periodic reports the country prepares and reports to the same of its obligation and developments in relation to the life of child. For example, the African committee of experts, based on Ethiopia's initial report which was submitted in accordance with the State Parties obligation under Article 43 of the African Charter on the Rights and Welfare of the Child (ACRWC), observed and recommended that while the Committee appreciates that definition of the child in the State Party Report as it is in line with the Charter. However, the Committee notes with concern the emancipation provision which is provided under the Revised Federal Family Code for marriage at the age of 16 by the approval of the Ministry of Justice. This is in clear contradiction with articles 2 and 21 of the Charter, and hence the Committee strongly urges the Government of Ethiopia to revise this provision. In similar fashion the UNCRC committee in its concluding observations of the fourth and fifth periodic report of the country, was very concerned about the very low age of criminal responsibility – only nine years of age, prosecution of children aged 15 to 18 as adults, and the lack of separation of children from adults in places of detention. In addition, the committee welcoming the revision and adoption of the Family Law and other laws which ensure the

protection of children's rights, notes with concern that there is no separate, comprehensive child law and thus recommends for the adoption of such law by the State Party. Though the family Laws try to cover a number of issues, the Committee would like to bring to the attention of the State Party the fact that not all children are in a family setting; the Family Laws therefore cannot fully address the concerns of all children in different settings. The Committee is convinced that the elaboration of a comprehensive children's law, complemented by detailed regulations, which has the implementation of children's rights and the protection of their welfare as its primary concern will contribute to child protection systems' strengthening. However, these recommendations have not been take into account and the necessary amendment is not undertaken yet. Besides, the UN Child Rights Committee has also communicated its concluding observations up on the state's periodical reports. Nevertheless, the respondents are of the opinion that there is no encouraging initiative to incorporate these feedbacks into the legal framework though they admit that at policy level there is some endeavor to incorporate it. The problem is that policies are designed at each sectors and the problem is that the inter-sectoral communication and coordination is not up to the level. In addition to incorporating the General Comments and Concluding Observations of the Committee into the policy and legal frameworks of the country, the Committee has also urged state parties to the convention to widely disseminate the its General Comments and Concluding Observations to the public. This obligation has also been provided under Article 44(6) of the UNCRC. When we see what Ethiopia has done in respect of its duty under Article 44(6), we find it to be rather poor. There is no report or any study indicating that Ethiopia has done its best to make its reports, summary records of issues and the committee's concluding observations or the country's report widely

available. In view of what the convention envisions under Article 44(6) the writer can safely say that Ethiopia's effort is almost zero.

Speaking of the coordination and cooperation between government institutions in the activities that affect the life of children, the researcher found out that for example the perception of child rights experts at the MoWCYA is that the coordination and cooperation amongst government institution is one that can be described as poor and if there is one it is characterized by disorganization, intermittent and frustrating. One respondent from the same Ministry could only single out the police department from among the rest of government institutions. In the same fashion respondents from the standing committee also expressed the view that in terms of coordination and cooperation between and among government institutions concerning any activities that is carried out at each institutions which could positively and negatively affect the life of children the country is way behind the commitment the state is showing in other areas of children's life. In addition, they also responded that the standing committee undertakes a field assessment with other standing committees in the house and that they often prepare and distribute checklist in the house. In addition to the preparation and distribution of checklists, the committee also prepares symposiums, panel discussions and the like to raise consciousness about the issue of children. They also added that they have been working hard to create awareness about the cause of children in the build up to the preparation of the GTP2 document to the effect that the interest of children is taken into consideration. Despite their effort, the commitment shown by other institutions to safeguard the interest of children in their activities is poor and this ultimately affects the overall endeavor of the country to create a conducive environment for children. Respondents from the ministry of justice and courts conveyed the view that concerning the cause of children in general and the protection of their rights in particular due regard is being

given and that though there is still a long way to go the initiative very encouraging. The respondents added that they are coordinating and cooperating with the MoWCYA. Conversely, respondent from the NGO side heavily criticized the poor coordination and communication between and among government institutions (especially among the Police, the court and the public prosecutors (Ministry of justice) is very poor that it is common to see children affected and exposed to danger on a daily basis. For example in cases that involve the commission of criminal activity on the child like rape, these departments would not jointly act in the manner that safeguards the best interest of the child, the psychological trauma of living again with the perpetrator. They also acknowledge that this could be traced back to the gap in the law itself. The case of children as addressed by the UN convention and the African Charter is clearly a multi-sectoral case, and hardly can a government office or any sector of the society escape being involved in matters affecting children. It is indeed very difficult for a mere department to have a controlling say over the activities of hierarchically higher government organs. It seems to be in view of this that the Committee on the Rights of the Child has always favoured an organ close to the core of a government so that activities of various sectors could, not only be centrally coordinated, but sanctioned as well. For example according to the 2004 Final Report on Ethiopia's National Plan of Action for Children (1996 - 2010 and beyond) prepared by the Ministry of Labor and Social Affairs (MOLSA), in order to coordinate child related activities three organs have been created. These are the inter-ministerial committee at the federal level, inter-bureau committees at Regional level and lastly the CRC committees, which were established at Woreda and kebele level. The federal inter-ministerial committee is composed of relevant sector ministries at the federal level while the regional inter-bureau committees are made up of relevant sector bureaus at regional level. The CRC committees are established at

lower administrative organs of the government both in regions and those federally administered areas of the country. They draw their members from the different sector offices of those levels of administration. The pertinent sectors in all of these committees are the education sector, labour and social affairs sector, health, justice, water resources, and economic planning sectors. Nevertheless, these organs never performed the way they were anticipated to perform due to several problems like lack of sufficient budget and poor staffing. The UNICEF child policy framework indicator also provides that regular consultations with sub-national stakeholders engaged in policy implementation, respective sub-national legislation (where this is applicable in the context of the country's decentralization setting), and clear and well-defined communication, instructions and guidelines of national policies and legislation to other tiers of government are a requisite for the implementation of the UNCRC and by analogy, of the African children's Charter. In addition the UN Child Rights Committee noted in its General comment No.5, para. 37 that full implementation of the convention and the Optional Protocols thereto requires effective cross sectoral coordination, among government agencies and departments and across different levels of government, from local to regional and central. In this regard, the country's fourth and fifth combined periodical report stressed that concerning coordination, issues concerning children were cross-sectoral and were not implemented by one sole entity, but was in the mandate of many Ministries. Sectors were obliged to send in their reports on issues affecting children to the Ministry of Women, Children and Youth Affairs.

Policies and services for children are delivered by people, and the way in which they are organized, trained and motivated has an obvious profound effect on outcomes in child protection. But thinking of human resources as assets in child protection whose inputs can be maximized and employed strategically is not indispensable to many institutions that their activities directly

and indirectly relates to children. In child protection, perhaps as in few other fields, making sure that people involved in working with children have proper skills, values and motivation is of critical importance to whether proper outcomes are achieved, given the major responsibility and advantage placed on staff engaged in service delivery, whether directly or indirectly. In this respect the UNICEF Human resources management indicators provides the following benchmarks in relation to human resources who are involved in the day-to-day activities of children. In this respect, the regulatory framework for child protection includes:

- A definition (in training or other institutions or in policy) of the professional responsibilities, skills and required training and/or standards to which social workers will be held accountable;
- Within the above: specific requirements and standards for social workers working with children;
- A certification, accreditation or licensing process for social workers and other professionals who work within child protection; and
- A system of regular performance evaluation for all civil service staff working on child protection linked to practical measures affecting staff compensation and continued training.

The finding of the research with respect to the human resource reveals that a considerable number of respondents in the MoWCYA and NGOs perceive that although assigning a skilled human resource with the relevant professional expertise like Social Workers, Psychologists and other related professions would leverage the overall endeavor, a special attention to this effect is not being undertaken both at the government and NGO level. They expressed the view that for example social workers are not sought and employed at a position that requires so and as a result

that work is not handled with appropriate expertise. The data gathered shows that when a vacancy is announced at a government bureaus or NGOs a sufficient study as to what professions would rightly fit the position is not conducted rather Social Science graduates are generally looked for. This is also evident in the fact that even at the higher position that requires a considerable amount of expertise and experience in child related activities civil servants are appointed through unrelated other criteria. In addition to this, the salary level at the government and local NGOs is one that does not attract, retain and promote well-qualified and experienced human resources. The writer notes that the lack of sufficient number of qualified Social workers, despite the unmatched demand in the market on one hand and the demand for education on the other, might have contributed to this general problem. The data shows that the role Professional Social Workers could play in this field is no well recognized. To this effect, the UNICEF Professional training for personnel working on child protection service delivery states that education and continued development system contains:

- A university degree program in social work whose curriculum includes courses on social services, developmental issues, protective and preventive topics, and therapeutic interventions;
- A vocational qualification program in social work or child development whose curriculum is approved by relevant authorities;
- A system of accreditation of social work skills which is based on competency tests within relevant training programs;
- Training for education workers (such as teachers), health professionals and/or other professionals on abuse, violence and exploitation;

- Specific training program for staff within the ministries with lead interior and home affairs role and lead justice roles on children and justice.

However, the grass is somehow greener on the court administrations side. The data at hand shows that the expertise, skill and experience that social workers and psychologists could offer to the protection of the rights of the child in particular and to the welfare of children in general. The practice in the courts shows that during criminal and family proceedings the opinion of social workers and psychologists are given consideration in lieu of respecting the best interest of the child principles. The respondents at the ministry of justice and courts revealed that as part of the justice reform, the Ministry of Justice and court administrations have completed the necessary preparation to recruit social workers, psychologists and other Social Science professionals and provide them with trainings for two years that relates with the business of courts and in relation to child rights protection just like the judges and public prosecutors are recruited and trained nationwide. In addition, one respondent from the ministry of justice claimed that in 2006 the ministry in collaboration with the courts administration trained 560 judges, public prosecutors and other supporting personnel in relation to the protection of Child Rights. This is quite a big move and needs to be appreciated.

In relation to the composition of the human resource of childcare providing NGOs, the Ethiopian Alternative Child Care Guideline provides that the organization at least have the following staff:

- A. Manager/Administrator;
- B. Secretary Cashier;
- C. Finance Officer;
- D. Purchaser/Store Keeper;
- E. Guards ;
- F. Health Assistant;
- G. Counselor;
- H. Home Mothers.

While enlisting the profile of the Manager and the Councilor where the profession of Social Work would only fit from among the categories, it provides that the Manager/Administrator shall have at least his/her first degree in sociology, psychology or other related fields of study with, at least, two years of relevant experience and that Counselor shall, at least, have his/her first degree in psychology with a minimum experience of two years in the area without specifically referring to the profession of Social Work in both cases. The UNICEF's indicator of the Overall size of civil service/public sector staff with responsibility for child protection (all social workers across all ministries, qualified and unqualified) provides a Benchmark Ratio of social workers with responsibilities for child protection (service delivery personnel) per head of the child population and sets the standard as:-

- 'A' for 1:20,000
- 'B' for 1:50,000
- 'C'. for 1:100,000 and 'D' for Greater than 1:100,000

Given the fact that children occupy a considerable percentage of the country's young population and the low number of Social Work Professionals, the ratio of Social Workers per head of the child population would be very higher than any of the standards set out above.

The respondents from MoWCYA expressed the view that though the Guideline sets the standard for the human resource composition, experience and qualification, the supervision and monitoring of whether or not these NGOs are abiding the provision of the Guideline is intermittent if not absent altogether. Indeed if the government has to discharge its responsibility from a holistic perspective, the MoWCYA needs to step up its monitoring supervisory obligations.

Finally yet importantly in the Child Rights Protection policy and regulatory framework is the relationship between the government and civil societies organizations engaged in the children's affairs. Accordingly, the UN child rights committee under paragraph 26 of its General Comment 2 provided that Non-governmental organization play a vital role in promoting human rights and children's rights. The role of NHRIs, with their legislative base and specific powers, is complementary. It is essential that institutions work closely with NGOs and that Governments respect the independence of both NHRIs and NGOs (CRC/GC/2002/2).

Historically, CSOs have predominantly focused their work on implementation and service delivery, and much less so on advocacy (Commonwealth Foundation, 2013). This pattern now appears to be changing. The growth in the number of CSOs has also been accompanied by an expanding CSO advocacy role (USAID Uganda, 2011). Today there are a number of organizations that engage in advocacy for policy reform to benefit children throughout the world, mobilizing communities, and monitoring the resourcing and implementation of social protection policies and programs.

In relation to the experience of Ethiopia in this aspect, the UNCRC Committee in its concluding observation of the country's third periodic report under paragraph 22-23 on the role of NGOs in the following manner. While appreciating that in its report, the State party acknowledges the importance of the contribution of non-governmental organizations (NGOs) in the implementation of the Convention, the Committee is seriously concerned over restrictions placed upon civil society since the elections in 2005 and, in particular, regrets the arbitrary mass detentions, including of children, that place severe restrictions upon the freedom of expression which is a fundamental element of a free civil society.

The Committee further strongly recommended that the State party respect the role played by civil society in furthering the implementation of the Convention in Ethiopia and encourages the active, positive and systematic involvement of civil society, including NGOs, in the promotion of children's rights, including their participation in the follow-up to the concluding observations of the Committee.

Despite the committee's recommendation to lay down a more conducive regulatory framework that governs the relationship of the state with civil societies, the country legislated the 'infamous' Charities and Societies Proclamation 621/2009. According to the Fourth and Fifth periodic report of the country, the government's stance concerning Civil Society and Charity proclamation is that the Law had been designed to fill gaps in legislation and to develop an effective and efficient civil society at all levels. The Ethiopian delegate to the Committee's meeting stressed that there are different types of civil society organizations, international and local; international ones do not have any restriction on funding but have the requirement to be completely transparent about their use, and they had to sign a specific agreement with the Government to be able to operate in the country. As far as Ethiopia was concerned, democracy and human rights must be home grown, and there was no interest in having others coming in and telling the country how to do things; therefore, international civil society organizations working on those issues were not allowed to operate for the time being.

Concerning the participation of civil societies during the drafting stage of the said law, respondents from the standing committee articulated that since the cause of children is one that demands the involvement of diverse stakeholders in the society and various sectors from the civil society and the government institution including the private sector, the government had prepared enough forums for their participation and consultation to this effect. The law was promulgated

after their input has been taken into account and the government still values their contribution. A law that has passed through this kind of procedure would only be enabling and conducive for every ones activities, expressed the respondents. This quite contradictory compared to the finding collected from respondents at the MoWCYA and the NGOs themselves. The data gathered from the respondents at the MoWCYA reveals that the Government had not laid down adequate ways to satisfactorily sanction the participation of civil societies and did not consider their concern towards the proclamation sufficiently. Even after the coming into effect of the proclamation, the government failed to evaluate the laws effect on the work of these organizations nor did it evaluate it in its own so as to make it more conducive. Hence, according to the view expressed by them, it is safe to conclude that the cooperation between the government and civil societies engaged in childcare activities and child rights protection activities is inconsistent with both the intention of the UN Child Rights Conventions and the African Child Rights Charter. It does not also reflect the obligation the state has assumed in other international instruments related to children.

All of the respondents from the NGO side (Ethiopian, Resident and Foreign) expressed the view that cooperation and collaboration between the government and childcare NGOs is characterized as a sporadic and unsystematic one. They characterized the relationship as more of a Controlling and Fear rather than as an important partnership in the achievement of a better world for children. The researcher has devoted a detailed analysis of the extent of the proclamations permissiveness or conduciveness to the natural mandate of civil societies, all respondents conveyed that the law harshly narrows the activities of civil societies especially in the area of human rights and democracy. Hence, the legal regime in Ethiopia severely hampers

the natural advocacy role of civil society and this is all the more prejudicial to the disadvantaged and vulnerable sector of the society especially the Children.

CHAPTER FIVE

5. Social Work Implications

The internationally agreed up on definition of Social Work profession indicates that ‘Principles of human rights and social justice are fundamental to social work’ (IFSW/IASSW, 2000). In this regard, the introduction to the IFSW policy paper stipulates that ‘social work has, from its conception, been a human rights profession, having as its basic tenet the intrinsic value of every human being and as one of its main aims the promotion of equitable social structures, which can offer people security and development while upholding their dignity’ (IFSW, 1988). Social workers are by definition human rights workers. It has been discussed at length in the theoretical frameworks according to which children are rights holders by themselves. Social workers help individuals realize their rights everyday and are ideally placed to help communities claim their collective capacity. Social work is a profession that is built on, according to the AASW’s code of ethics; the pursuit and maintenance of human wellbeing. Based on the definition set by the IFSWs (International Federation of Social Workers, 2004), three key action areas can be characterized as follows:

- **Promoting social change:** on the basis of its findings regarding the needs and the avoidable causes of problems confronted by individuals and groups seeking or requiring assistance;
- **Problem-solving in human relationships:** whether interpersonal, intra-familial, within the wider community or vis-à-vis the authorities and their agents;
- **Empowering people to enhance their own well-being:** as opposed to creating ongoing dependency and thus maintaining inherent vulnerability.

The IFSW also stresses that the profession draws on theories of human development, social theory and social systems to facilitate individual, organizational, social and cultural changes, and that social work is founded on the principles of human rights and social justice.

The UN manual 'Human rights and social work' also states that more than many professions, social work educators and practitioners are conscious that their concerns are closely linked to respect for human rights. They accept the premise that human rights and fundamental freedoms are indivisible, and that the full realization of civil and political rights is impossible without enjoyment of economic, social and cultural rights, UN, 1994, p. 5). The document further asserts that 'Human rights are inseparable from social work theory, values and ethics, and practice.

The record of social work in the children's rights movement is strong, especially in the earlier years of the efforts to recognize children as worthy of rights and to challenge the abuses to which children were subjected in the workplace (Healy, 2008, p.48). According to the same author, Social work efforts to protect children have led to the establishment of government agencies and an array of laws and special services in many, if not most, countries. More recently, there has been social work involvement, although not leadership, in the efforts leading up to the Convention on the Rights of the Child and more so to its implementation around the world (Healy, 2008, P.49).

The history of social work profession worldwide depicts that effective implementation of child rights legal and policy framework relies on the efforts of social workers. Therefore, the researcher argues that strong social work practices and the use of social workers is paramount to ensuring that children are safe and protected.

In Ethiopia as it has been pointed out so far in the paper, there are many intervention areas for social work professionals. The country, for example, has enacted legislation with

implications for social work practice. Among these are the Revised Family Code, the Labor Proclamation, the Revised Criminal Code, and the Proclamation for Registering and Regulating Charities and Societies all currently in effect. However, Ethiopia does not have legislation to regulate the development and management of social service professionals. Consequently, service providers do not have statutory requirements for the level and type of professionals that could work with various categories of clients. Only in relation to childcare provision does the Alternative Guideline require service givers to employ professional of some type. Nevertheless, even in the guideline Social work profession has not been mentioned explicitly. It is internationally agreed that the profession of Social Work is one of the greatest Helping Professions especially in the area of child rights protection, though.

With respect to the regulation of the social work profession, the writer argues that the Ethiopian Association of Social Workers, Sociologists and Social Anthropologists (ESSSWA) could have played this role. Furthermore, despite recent improvements in its capacity and increased access to international resources, ESSSWA does not appear to have sufficient recognition and appreciation of its distinctive role as regulator of the development and management of social work professionals. Furthermore, because the association is an amalgamation of three different but related professions -social work, sociology, and social anthropology -the social work's distinctive needs and assets might not be given sufficient recognition and attention. In addition to this, the association in collaboration with the school of social work of AAU should strive in order for the profession to be fully and for the officially recognized. The government also, within the country's resources and civil servant regulations set up an environment where by social work and other helping professional are sought after, retained and promoted because the finding shows that the human resource aspect of the child rights

protection system is one that does not attract, retain and promote social workers who are among the prominent stakeholders in the child rights protection endeavor.

It can be assumed from the finding that in Ethiopia, the market has yet to demand general practitioners, let alone specialists in the various fields of social work. In fact, Ethiopia has so far standardized only one occupation relevant to social workers; namely, the Community Service Works. The writer thinks that this might be partly due to an absence of statutory requirements attached to practice relating to different categories of the population. If, for example, organizations working with children were mandated/obliged by the MoWCYA or by law to assign social workers specializing in mental health, this would generate demand for clinical social workers. Similarly, if the justice system required that the state and its partners ensured the social and emotional well-being of alleged and convicted criminals and their victims, it would significantly increase the demand for forensic social workers. The finding reveals that a host of the state's policies and strategies as well as the practice in many government and non-governmental organizations do not adequately appreciate the services of trained social workers, which are indispensable if policies and strategies are to maximize their aggregate outcomes. In a country where the role of Social Work profession is not appreciated and other professionals engage in a typical area that requires the expertise of social workers, the beneficiaries would not get what they deserve or what the problem at hand demands. The writer argues that the ESSWA and the School of Social Work of Addis Ababa University need to take the lions share in advertising the profession and creating awareness about the profession

Unlike in the legal arena, where, as the finding of this research paper reveals, some legal protections do not necessarily take into account the best interest of the child, in social work when working with children, the primary focus is finding solutions in the best interest of children. The

concept of the ‘best interest of the child’ is covered explicitly in Article 3 of the Convention on the Rights of the Child. In addition, the work of the International Social Service (ISS), an international social work federation that works in the best interest of children and family separated across international borders, is based on the Convention on the Rights of the Child as well as on the principles articulated in other International and National Child related Legal Instruments enumerated under the literature review part of this research paper.

Using these core principles, and in particular, the best interests of the child, to guide the social work profession, social workers aim to protect children’s interests in three specific ways. They are, as articulated by the International Federation of Social Workers, (IFSW, 2006, pp.6)

- **Social analysts**- helping people understand,
- **social catalysts** - helping people achieve change for themselves, and
- **Social activists** - working through social relationships to sustain change.

Thus according to the IFSW’s manual (IFSW, ND. pp.8) there are five building blocks to working from a children’s rights perspective.

- First, the acceptance that children are people now, not people-in-the-making. It is critical that social workers respect and value children as complete human beings from the moment they are born. This does not deny that children will change and develop over the years. However, it does accord them full human status from birth.
- The second building block follows on from the first and is the acceptance that childhood is valuable in its own right and is not simply a stage towards adulthood. This has major implications for social programs and services, shifting the emphasis of work with children to the here and- now of their experience.

- Third, working from a children's human rights perspective acknowledges that children are active agents of their own lives. Every person can only live one life. Social workers must not underestimate children's accumulated knowledge and insights into their own needs and life history.
- Finally, a commitment to working from a children's human rights perspective requires social workers to address the special vulnerability of infants and children, arising from their smaller size and physical strength and from their low status and dependency on adults. Children are vulnerable because they do not have the physical strength, experience or psychological capacity to withstand pressure from adults. This can easily lead to situations of exploitation and abuse.

The findings of this research show that there is no effective collaboration between child rights actors and the sector does not fully involve social work professionals. In order to have an effective system of child protection, it is imperative that all the actors are working cooperatively with the single aim of ensuring the best interest of the child. This collaboration and cooperation must occur between the fields of social work and law as well as with the many levels of government and nongovernmental organizations often involved in a child welfare case. In order to create mutually supportive, sustainable cooperation between social work professions and other helping professions including Law with the aim to protect the best interests of children the writer recommends that:

1. **The child as the focus:** Regardless of discipline or role, when working on child protection issues the best interest of the child needs to be the priority. Especially in Ethiopia as it has been dealt with in the part I of this chapter, actors need to be realistic about the strengths and weaknesses of the legal and social work remedies available to us

in any given situation. If the legal remedy does not take into account the best interests of the child then that dimension needs to be added and potential social remedies should be considered. Similarly, if the social remedy does not take into account the best interest of child, one must search for legal or other remedies that do.

2. Social Work Professionals as social analysts, social catalysts, and social activists:

Regardless of one's role or job title, as someone who works in the child protection field, part of the responsibilities is to improve the lives of children. This includes helping children and families to assess the situation and understand their options, achieve change for themselves, and advocate and work to sustain change at all levels.

3. Joint consideration of policy and practice:

While domestic laws and international conventions and treaties are very important to establish policy and laws related to child protection, they often focus on the big picture and do not consider the logistics of who will ultimately be implementing them. Similarly, in order to create services that will be consistent to applicable law, it is necessary to that Social Work Professionals get conversant with all the domestic and international laws that are meant to regulate children's affairs. In addition to the laws, social workers are expected to be acquainted with the policies of the country designed at every sector and that affect children's life. The writer argues that without full appreciating these instruments it is difficult to provide full-fledged services

4. Appropriate training and resources:

Programs at the undergraduate and graduate levels need to include courses on international and domestic human rights and child rights instruments. It must be must recognized that while knowing about applicable laws and services is helpful, understanding what laws and services are available and how to

apply them is critical in order to provide better services and keep oneself from unwarranted liability. Despite a course about children and family, the writer testifies that there is no course currently being given to post graduate students at the school of social work, AAU. This has partly contributed to the lack of awareness about the human rights of children. The writer argues that a profession that claims to promoting social justice and the protection of human rights needs to fully appreciate the regulatory frameworks, the theories about justice and human rights and the fundamental principles of the legal system in which the social work professionals operate.

5. Dialogue and knowledge sharing between Helping Professions, lawyers, and judges: Opportunities and forums need to be created so that social workers, lawyers, and judges can exchange ideas, share expertise, and explore best practices and potential remedies. When conducting social worker training, representatives from the legal profession should be included and vice-versa. When resources are being created on a child protection topic, all groups should receive the same information even if the delivery or particulars are adapted for each stakeholder's specific role and responsibilities. Contrary to what the finding reveals, when drafting new legislation, social workers and other helping professions that are directly related to the cause of children should be invited to join the conversation and provide comments.

6. ADVOCACY: Advocacy is an integral and essential part of child rights protection activities that contribute to strengthen the already functioning legal framework. Through advocacy, stakeholders like social work professionals work to address the key structural and underlying root causes of vulnerability by changing the policies, systems, practices and attitudes of duty-bearers that maintain inequalities and deny justice and human rights.

Advocacy includes all efforts that attempt to influence the formal parts of the child protection system to fulfill their responsibilities. Though the current legal regime(Proc.621/09) of the country forbids any sort of advocacy for human rights protection, the writer argues that Social Workers as social activists should live up to the professions values and struggle to create an atmosphere where by their voice is heard and that the human rights of vulnerable segments of the society especially children be respected, protected and fulfilled.

CHAPTER SIX

6. Conclusion and Recommendations

6.1. Conclusion

Research on child rights related issues is part of the implementation requirement of both CRC and the African Children's Charter. For instance, in its General Comment No 5 on the General measures of implementation of the Convention on the Rights of the Child', the CRC Committee stated that the 'collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realization of rights, is an essential part of implementation and thus the committee urges states to collaborate with appropriate research institutes and aim to build up a complete picture of progress towards implementation, with qualitative as well as quantitative studies. Thus, as part of an individual contribution to endeavor, this research paper is conducted from an interdisciplinary perspective to assess the child rights protection regulatory framework of the country and its social work implication.

The research found out that the country has gone very far in incorporating the CRC, the ACRWC and other child rights related international instruments into the Ethiopian legal system at various times. While the ACRWC is publicised on the Official Negarit Gazette the CRC did not. The research has also pointed out the implications of the difference in the mode of ratification. Though that is the case, the research has found out that there are arguments that support the view that since Ethiopia is a party to the two conventions they are deemed part and parcel of the law of the land by virtue of Art 9(4) of the FDRE Constitution without the need for any domesticating legislation. Besides, the Constitution and other subsidiary domestic laws

reproduce many provisions of the two conventions in their very texts. Cases in point are the rights the constitution vests in the child under Art 36.

As regards the hierarchy of the two conventions in the Ethiopian legal system, the prevailing argument supports the view that both the CRC and the ACRWC are at par with the FDRE Constitution itself. This is so because the two conventions are human rights covenants and Art 13(3) of the FDRE Constitution requires its Human Rights provisions be interpreted in light of the international treaties to which Ethiopia is a party. From this, one may infer that the conventions have constitutional status. That means all the regional states have the duty to respect the rights the two conventions confer on the child, as they are duty bound to respect and implement the Federal Constitution.

Despite this, it should be noted that as it has been discussed in detail in the first part of chapter four, there are some major problems obstructing the implementation of the conventions. To begin with, the two conventions have not been published in the *NegaritGazetta*, the official legal gazette. Besides throwing some doubt on the legal force of the two Conventions, this makes them unavailable in the local languages, hence greatly hampering their application in official forums like courts.

When it comes to legislating laws and policies the researcher found out that the state does not participate stakeholders including children themselves to the extent envisaged by the Conventions. An attempt to institute child impact assessment in all pertinent organs before the issuance of any law, policy and decisions has to be made in order to better avail children and the society. In addition the findings revealed that conducting child impact evaluation after the issuance of laws and policies to ensure that the best interests of the child have not been accorded due weight. It has been noted agreed that child rights protection necessitates the collaboration

and cooperation between different stakeholders and actors and that the government could not discharge its responsibility only in its own. Nevertheless, the finding showed that the experience of the country lags way behind the intention of the provisions of both instruments. The major obstacle that hampered the relationship between the government and the NGOs is the proclamation 621/09 that governs charities and societies and their activities in this respect. Without coordination between government institutions and consistencies between different state policies, which is the case in Ethiopia, the rights of the child would not be respected, protected and fulfilled in a manner set out in the international agreements and national laws. Although legislating laws that protect children's human rights is fundamental, a competent and skilled human resources is required to put the law into practice. One of such human resources is the social work profession. The research found out that in the respondent government and nongovernmental organizations, the availability of social workers engaged in the child rights protection is severely low. The human resource policy of the country also does not attract, retain and promote social workers.

Besides the above mentioned general conclusions, the study has revealed various specific discrepancies between the clear provisions and spirit of the two conventions and Ethiopian laws. Some of such provisions pertain to cut-off age for criminal responsibility and military duty. For instance, the starting age for criminal responsibility under the Criminal Code is nine yrs., which has been found contrary to the spirit of the CRC by the Committee. Further, children aged 15 to 18 are considered as adults under the criminal law of Ethiopia for purpose of a penalty. This is contrary to the terms and spirit of the two conventions. Regarding the age of voluntary enlistment and conscription, the Ethiopian law seems to lack clarity. The defence proclamation

does not set a minimum age. Therefore, the law should clearly prohibit enlistment and conscription of persons who are under 18 years of age.

Regarding civil rights Ethiopian law does not seem to comply with the two Conventions. Particularly, in relation to the laws that concern the rights of the child to name, nationality, to know his/her parents and to preserve his/her identity the study has revealed that the existing laws are either deficient or not fully implemented. A case in point is the failure to implement, despite recent efforts, the provisions of the 1960 Civil Code on birth registration and naming of children, thus adversely affecting implementation of other Convention rights of children.

The laws pertaining to the family environment too seem to contravene some Convention principles. For instance, the power of the guardian over the child regarding the upbringing and education of the child is not subject to appeal when parents exercise such power. This is so irrespective of the views of the child and could be contrary to the best interests of the child. Besides, the Revised Family Law and Criminal Law seem to authorise corporal punishment by parents or legal guardians contrary to the provisions of the two conventions requiring state parties to protect children from all forms of abuse such as mental and physical violence by persons who have the care of them.

As regards the right of the child to education, attempt has been made in the Ethiopian laws and policy documents to comply with the two conventions. There are, however, serious impediments to implementation. This is so because the implementation of obligations such as equal opportunity to disabled children, girls etc., boil down to the allocation of resources for the purpose. Given the decentralized fiscal system the country follows, lack of awareness and different priorities in Regional States the provision of education to the disabled children seems to have been forgotten altogether.

The practice in the administration of juvenile justice is far from the expectations of both instruments. Particularly, the provisions of Ethiopian laws on the prosecution and custody of children awaiting adjudication as well as convicted children are rarely complied with because of a variety of reasons.

6.2. Recommendations

Under this topic, the researcher forwards recommendations that would fit into policy, practice and research purposes.

6.2.1 Policy recommendations

It should be noted that the initiative the country has undertaken to harmonize its child related legal frameworks is commendable. However, the study found out that there is still way to go to create a child friendly legal framework that fits the standards set out by the international child related legal instruments that the country has so far ratified. The researcher recommends that, in order to create awareness for all those involved in the child rights protection system and especially the judiciary, the current international child related legal instruments especially the UNCRC and the ACRWC be publicized in the Official Negarit Gazette. Because, legally speaking that is the only lawful means for the judiciary to take judicial notice of the countries laws. Apart from this, the contents of many international agreements, conventions and declarations that the country ratified are in accessible for most parts of the Ethiopian society that would in turn hamper its proper enforcement and implementation. To avoid this the researcher recommends that the relevant Negarit gazette that governs the publication of laws be amended in such accordingly. Besides, as per the provision of the constitution, since international conventions that the country has ratified are already part and parcel of the Ethiopian legal system, judges and other enforcement organs can safely resort to the provisions of these

international legal instruments lacking proper official publication. In this way, the writer believes that the practice of identification, implementation and enforcement of the relevant provisions to the case at hand would be developed.

Besides, though the effort to harmonize the domestic child rights legal frameworks is praiseworthy, the research has found out that there persists a considerable gap between the domestic legal framework and the UNCRC and the ACRWC. Hence, the writer recommends that the laws that fall behind this standard be amended and the inconsistency be avoided. It should be noted that the provisions enumerated in both documents is the minimum legal requirement and to create a favorable legal environment for children much is expected from the government of Ethiopia.

It is known that developing states like Ethiopia require huge financial assistance and expertise in the area of child rights protection. Such financial assistance and expertise could be gained from civil society organizations especially foreign civil society organizations. Nonetheless, the research found out that the cooperation between the government and civil society organization is one that is characterized as very poor. In order to strengthen such cooperation and avail from the crucial role the civil society organizations play especially in the area of child rights protection, human rights advocacy and capacity building of law enforcement organizations, the government needs to take an urgent measure. Such measure could take be in the form of amendment of the charities and societies proclamation that governs the activities of the civil society organizations.

Moreover, the writer recommends that the state needs to undertake a rigorous impact analysis of laws and policies before they come into effect, and in such activities the state should

involve and participate stakeholders including children themselves when laws and other policies that affect the life of children are being undertaken.

During my stay at the school of Social Work for this MSW program, the researcher has never come across a course that aims to equip students about the human rights and international and national human rights documents and the legal system that would affect social workers in their practice. The life of children is not fully addresses with the sole emphasis on theories that relate to therapy and the like. At macro level, laws generally regulate our rights and impose duties up on us. Social work is highly related to human rights advocacy and justice. Unless a social worker has proper knowledge of laws, rights and duties, one cannot achieve its role and responsibility let alone advocate and stand as an activist for the rights of others especially for children. Hence, the researcher recommends that the MSW program be redesigned in such a way that it constitutes courses that deal about justice, human rights and their relationship with the social work profession

6.2.2 Research Recommendations

It has been mentioned somewhere in this research paper that a research that studies the perception of child rights stakeholders with regard to the Ethiopian child rights framework has not been sufficiently conducted. Hence, the researcher recommends that in order to generate sufficient knowledge about the state of child rights legal framework from an interdisciplinary perspective, the academics, students and other stakeholders need to engage in this endeavor. In this respect, the writer recommends research topics in the area of evaluating the impact of the Charities and Societies Proclamation No.621, 2009 on the activities of child rights stakeholders/actors, an assessment of the cooperation and relationship of civil society organizations and the government, a study about the role of civil society organizations in child

rights protection in Ethiopia, an assessment of the human resources engaged in the child rights protection or activities and the like.

6.2.3 Practice Recommendations

With regard to practice, the researcher recommends that in order to best fulfil obligations and standards and create a favorable environment for children the government and the civil societies need to engage smoothly but regularly. The government should facilitate the procedure necessary for such cooperation and engagement.

In addition, the judiciary and other law enforcement organs should refer, in addition to the domestic child rights frameworks, the international child rights legal frameworks that the country has ratified while engaging in child rights activities. Upon inconsistencies between the domestic and the international instruments, one can resort to the full application of the later because the later as a human rights document is superior to any other laws per the provision of chapter of the FDRE constitution.

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ANNEXES 1.

1.1 STRUCTURED QUESTIONNAIRES

Description

The following questionnaires are developed with the aim to collect data for the research questions No. 2 & 3 of this research paper. These research questions are basically adopted based on the Child Protection and Policy Framework and Human Resources Child Protection Indexes developed by UNICEF for measuring and monitoring child rights protection. Besides, these questionnaires has been presented to external child rights experts working in the Ministry of Justice, Child development training and research centre and private child based researcher and an instructor from the school of social work in AAU. Up on gathering and incorporating their feedback, the initial questionnaire was modified and validated by the aforementioned individuals. Thus, these questionnaires are tailored through improvisation and contextualisation with the aim of fitting them into local setting and in such a way that they answer the basic elements of indicators listed in each category of the above mentioned child protection indexes from the perspective of organizations working on children.

1.2 Characteristics of Respondents: - Domestic, Resident and Foreign Child Care Organizations.

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- 1) How child friendly is the Ethiopian child rights legal framework compared with the UNCRC and ACRWC?
 - 2) How do you evaluate the cooperation between the Ethiopian government and charity organizations working on children's affairs in general and on protection specifically?
 - 3) What is the positive and negative effect of charities and societies proclamation no. 621 on those charity organizations working on children's affairs?

- 4) How do you weigh the legal framework that governs the overall activities of domestic and foreign charities and societies working for children's' cause?
- 5) How do you evaluate the involvement, participation and the influence of charity organizations' working on children in the official process of enacting laws affecting the interest of children?
- 6) How do you evaluate the consistency of policy guidelines between each levels and branches of government with regard to child rights protection?
- 7) How do you evaluate your organizations commitment to attract, involve and retain qualified social work professionals for the child rights protection endeavour?

ANNEXE 2

2.1.STRUCTURED QUESTIONNAIRES

Description

The following questionnaires are developed with the aim to collect data for the research questions No. 2 & 3 of this research paper. These research questions are basically adopted based on the Child Protection and Policy Framework and Human Resources Child Protection Indexes developed by UNICEF for measuring and monitoring child rights protection. Besides, these questionnaires has been presented to external child rights experts working in the Ministry of Justice, Child development training and research centre and private child based researcher and an instructor from the school of social work in AAU. Up on gathering and incorporating their feedback, the initial questionnaire was modified and validated by the aforementioned individuals. Thus, these questionnaires are tailored through improvisation and contextualisation with the aim of fitting them into local setting and in such a way that they answer the basic elements of indicators listed in each category of the above mentioned child protection indexes from the perspective of Ministry of Women, Children and the Youth.

2.2.Characteristics of Respondents: - FDRE Ministry of Women, Children and the Youth.

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- 1) How child friendly is the Ethiopian child rights legal frame work compared with the UNCRC and ACRWC?
 - 2) How do you evaluate the consistency of policy guidelines between each levels and branches of government with regard to child rights protection?

- 3) How do you evaluate the condition of incorporating and applying the general comments and observation, and feedbacks given by the respective committees of the UN and AU in domestic policy and legislations?
- 4) How do you evaluate the cooperation between the Ethiopian government and charity organizations working on children's affairs in general and on protection specifically?
- 5) How do you evaluate the overall capacity and commitment of the civil service /public sector/ in attracting, involving and retaining qualified social work professionals in the child rights protection endeavour?
- 6) How enabling is the charities and societies proclamation in allowing domestic, resident and foreign charities and societies to work on child rights protection?
- 7) How do you evaluate the Ministry's controlling mechanism in regulating the requirements and standards of the human resources of charities and societies working on child rights?

ANNEXE 3

3.1.STRUCTURED QUESTIONNAIRES

Description

The following questionnaires are developed with the aim to collect data for the research questions No. 2 & 3 of this research paper. These research questions are basically adopted based on the Child Protection and Policy Framework and Human Resources Child Protection Indexes developed by UNICEF for measuring and monitoring child rights protection. Besides, these questionnaires has been presented to external child rights experts working in the Ministry of Justice, Child development training and research centre and private child based researcher and an instructor from the school of social work in AAU. Up on gathering and incorporating their feedback, the initial questionnaire was modified and validated by the aforementioned individuals. Thus, these questionnaires are tailored through improvisation and contextualisation with the aim of fitting them into local setting and in such a way that they answer the basic elements of indicators listed in each category of the above mentioned child protection indexes from the perspective of judicial bodies/benches working on children.

3.2.Characteristics of Respondents: - FDRE Ministry of Justice and Federal Courts.

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- 1) On matters related to child rights protection, how do you evaluate the devotion, readiness and capacity of the courts of justice?
 - 2) How do you evaluate the human resource of courts of justice in their stride to attract, involve and retain qualified social worker professionals in the child rights protection endeavour?

- 3) How do you explain the domestication process and the place of international child rights instruments / conventions/ in the Ethiopian legal system?
- 4) How do you evaluate the extent of capacity building being offered by the justice administration to those professionals and personals working on child rights protection?
- 5) How child friendly is the Ethiopian child rights legal frame work compared with the UNCRC and ACRWC?
- 6) How do you evaluate the overall justiciablity of international child rights instruments/ conventions/ in Ethiopian courts?
- 7) How enabling is the charities and societies proclamation in allowing domestic, resident and foreign charities and societies to work on child rights protection?

ANNEXE 4

4.1.STRUCTURED QUESTIONNAIRES

Description

The following questionnaires are developed with the aim to collect data for the research questions No. 2 & 3 of this research paper. These research questions are basically adopted based on the Child Protection and Policy Framework and Human Resources Child Protection Indexes developed by UNICEF for measuring and monitoring child rights protection. Besides, these questionnaires has been presented to external child rights experts working in the Ministry of Justice, Child development training and research centre and private child based researcher and an instructor from the school of social work in AAU. Up on gathering and incorporating their feedback, the initial questionnaire was modified and validated by the aforementioned individuals. Thus, these questionnaires are tailored through improvisation and contextualisation with the aim of fitting them into local setting and in such a way that they answer the basic elements of indicators listed in each category of the above mentioned child protection indexes from the perspective of Women, Children and Youth Standing Committee .

4.2.Characteristics of Respondents:- Women, Children and Youth Standing Committee of HPR, FDRE.

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- 1) How do you evaluate the culture and experience of undertaking an impact assessment before any law that directly or indirectly affects the rights and interest of the child, is promulgated?

- 2) How do you evaluate the commitment of the government in participating civil societies and children themselves and incorporate their voice in the process of legislation and policy design affecting children's rights?
- 3) How do you evaluate the culture and experience of undertaking an evaluation assessment after any law that directly or indirectly affects the rights and interest of the child is promulgated and put into effect?
- 4) How do you evaluate the condition of incorporating and applying the general comments and observation, and feedbacks given by the respective committees of the UN and AU in domestic policy and legislations?
- 5) How do you evaluate the communication and cooperation of the standing committee in the parliament with other standing committees in the area that directly or indirectly affects the rights and interests of children?
- 6) How child friendly is the Ethiopian child rights legal frame work compared with the UNCRC and ACRWC?
- 7) How do you evaluate the overall capacity and commitment of the civil service /public sector/ in attracting and retaining qualified social work professionals in the child rights protection endeavour?.
- 8) How enabling is the charities and societies proclamation in allowing domestic, resident and foreign charities and societies to work on child rights protection?

Annex 5: Consent Form

Description of the student

Name:-Menelik Solomon

Institution:- Addis Ababa University, School of Social Work

Academic programme:- Postgraduates

Degree type:- Master of Social Work (MSW)

Short description of the Thesis:-At the international level, an attempt has been made to safeguard and protect the rights and interests of children. This effort could be explained by ratification of the two major child rights instruments, United Nations Child Rights Convention at the international level and the African Charter of the Rights and welfare of the Child. These child rights instruments impose duties upon those states that have ratified these and other child related legal instruments. One of these obligations is the duty to harmonize domestic legislations in the spirit of the UN convention and the African charter. This research paper aims to identify major child related legislations and assess their child friendliness, Assess the opinion of major organizations, as to the child rights legal framework, working on children's cause and Study the social work implication of the state of child rights in Ethiopia. As such, the paper tries to accomplish the research purpose by investigating primary and secondary data.

This research paper is solely aimed for academic purpose and the opinion and personal information of respondents will not be used for or exposed to any purpose other than mentioned above.

This questionnaire is to be filled voluntarily and the respondents hereby consent to this effect.

Respondent's general information

Institution:-

Position:-

e-mail or phone Address (optional):-

INDICATORS USED TO MEASURE QUESTION # 1

African Child Policy Forum: Child friendliness index

Child Protection Legal and Policy Framework

1. Ratification of relevant treaties relating to children

- UNCRC
- ACRWC
- The two Optional Protocols of the CRC
- ILO Convention No. 138
- ILO Convention No. 182
- International Convention on the Rights of Persons with Disabilities
- The Hague Convention on Inter-country Adoption

2. Existence of domestic laws, policies and mechanisms on:

- Child trafficking
- Sexual exploitation of children and pornography
- Prohibition of corporal punishment
- Harmful practices
- Policy for free education
- Minimum age for admission to employment
- Minimum age for criminal responsibility
- Minimum age for marriage (both for boys and girls)

INDICATORS USED TO MEASURE RESEARCH QUESTION # 2 .

UNICEF: MEASURING AND MONITORING CHILD PROTECTION

INDEX 2. Child protection policy frame work

INDICATORS:-

- Ratification of relevant UN conventions salient to children's rights
- Domestic mechanisms to give effect to international instruments ratified by the country
- Extent of policy coordination for child protection
- Consistency of policy guidelines across levels of government
- Vitality of existing civil society for child protection
- Effective cooperation between the government and civil society for child protection
- National government support to civil society for child protection
- Government's capacity to attract, retain and promote qualified Child protection professionals