

ADDIS ABABA UNIVERSITY

SCHOOL OF LAW

Stream of Study:- Public International Law

A Comparative Analysis of the Protection of the Right of Children of Divorced Parents: Ethiopian Law Versus International and Regional Human Rights Standards

By: Bethelehem Mekonnen Kebede

ID GSE-7414-14

Advisor:- Zelalem Mogessie Teferra (Ph.D.)

July 2025

Addis Ababa, Ethiopia

ADDIS ABABA UNIVERSITY

SCHOOL OF LAW

A Comparative Analysis of the Protection of the Right of Children of Divorced Parents: Ethiopian Law Versus International and Regional Human Rights Standards

By: Bethelehem Mekonnen Kebede

Department of Public International Law

Advisor	**Signature**	**Date**
Internal examiner	**Signature**	**Date**
External examiner	**Signature**	**Date**

Declaration

I, Bethelehem Mekonnen, hereby declare that this work is my original work and it has never been presented in any other institution. To the best of my knowledge and belief, I also declare that any information used here has been duly acknowledged.

Name of LL.M Candidate: Bethelehem Mekonnen

Signature _____

Date _____

I, Zelalem Mogessie, have read this paper and approved it for examination.

Advisor: Zelalem Mogessie Teferra

Signature 

Date 14 July 2025

Acknowledgment

Most of all, I thank God for His unconditional guidance, strength, and blessing in this path of study. Without the blessings, this would have remained merely a goal.

1 am immensely grateful to my advisor Zelalem Mogessie Teferra (Ph.D), for his irreplaceable guidance, expertise, and encouragement. His support has been instrumental in shaping the outcome of this thesis.

I am so grateful to my family for their love, support, and encouragement. To my parents, whose faith in my dreams has been my constant source of motivation, thank you for being my rock.

To my husband, the companionship, understanding, and laughter it takes to overcome any difficulty were easier because of your presence. Your belief in me kept my spirits high even at
times when situations were very tough. This thesis is as much yours as it is mine

Table of Contents

DECLARATION ..... **I**

ACKNOWLEDGEMENT ..... **II**

ACRONYMS/ABBREVIATION ..... **V**

ABSTRACT ..... **VI**

CHAPTER ONE: INTRODUCTION ..... ERROR! BOOKMARK NOT DEFINED.

1.1. BACKGROUND OF THE STUDY 1

1.2. STATEMENT OF THE PROBLEM 2

1.3 OBJECTIVES OF THE STUDY. 3

1.4. RESEARCH QUESTION 4

1.5.RESERACH METHODOLOGY 4

1.6. SIGNIFICANCE OF THE STUDY 4

1.7 LITERATURE REVIEW. 5

1.8.LIMITATION OF THE STUDY 6

1.9 ORGANIZATION OF THE STUDY 7

CHAPTER TWO: NORMATIVE FRAMEWORKS AND THEORETICAL UNDERPINNINGS **8**

INTRODUCTION 8

2.1 THEORETICAL UNDERPINNINGS 8

2.2 GLOBAL AND REGIONAL NORMATIVE FRAMEWORKS 10

2.3 BASIC PRINCIPLES REGARDING CHILD RIGHTS DURING DIVORCE PROCEEDINGS 12

2.4 The Implementation of International Standards into National System 19

2.5 State Parties' Obligations Regarding Child Rights During Divorce Proceedings 20

CHAPTER THREE: CHILD RIGHTS PROTECTION DURING DIVORCE CASES UNDER ETHIOPIAN LEGAL SYSTEM **21**

INTRODUCTION 21

3.1 OVERVIEW OF ETHIOPIAN NORMATIVE FRAMEWORKS 21

3.2INSTITUTIONAL SETTINGS 23

3.2.1 THE JUDICIARY 23

3.2.2 MINISTRY OF WOMEN, CHILDREN, AND YOUTH AFFAIRS (MOWCYA) 24

3.2.3 THE ETHIOPIAN HUMAN RIGHTS COMMISSION (EHRC) 25

3.3INSTITUTIONAL COORDINATION AND CAPACITY CHALLENGES 25

CONCLUSION 26

CHAPTER FOUR: THE COMPARATIVE ANALYSIS: ETHIOPIAN LEGAL SYSTEM VS. INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS 27

INTRODUCTION 27

4.1 CHILD CUSTODY DETERMINATION 27

4.2 VISITATION (ACCESS) RIGHTS 28

4.3 CHILDREN'S PARTICIPATION IN THE PROCEEDINGS 29

4.4 CHILD MAINTENANCE 30

4.5 COMPLIANCE WITH THE PRINCIPLE OF BEST INTERESTS OF THE CHILD 32

4.6 THE POSITIVE ASPECTS OF ETHIOPIAN LEGAL SYSTEM IN CHILD RIGHTS PROTECTION 32

4.7 GAPS UNDER THE ETHIOPIAN LEGAL SYSTEM 34

CONCLUSION 38

CHAPTER FIVE: CONCLUSION AND RECOMMENDATION 39

CONCLUSION 39

RECOMMENDATIONS 41

BIBLIOGRAPHY 44

Annex 48

Similarity Report 48

Acronyms/Abbreviation

ACHPR- African Charter on Human and Peoples' Rights

ADR- Alternative Dispute Resolution

AU- African Union

ACRWC- African Charter on the Rights and Welfare of the Child

CEDAW- Convention on the Elimination of All Forms of Discrimination Against Women

CESCR- United Nations Committee on Economic, Social and Cultural Rights

CRC- United Nations Convention on the Rights of the Child

EHRC- Ethiopian Human Rights Commission

FDRE- Federal Democratic Republic of Ethiopia

ICCPR- International Covenant on Civil and Political Rights

ICESCR- International Covenant on Economic, Social, and Cultural Rights

NGO- Non-Governmental Organizations

SDG- Sustainable Development Goals

UDHR- Universal Declaration of Human Rights

UN- United Nations

UNFPA- United Nations Population Fund

RFC- The Revised Family Code of Ethiopia

Abstract

Divorce often ruins a family – the very fundamental unity of every society. Among the primary, if not, most severely affected victims of divorce are children. Divorce entails significant emotional and at times, physical harm to children. In recognition of this fact, many international human rights instruments as well as domestic legal systems provide legal provisions aiming at minimizing such harm. In Ethiopia, too, there are several key instruments, which offer protection to children during and after divorce of their parents. However, the protection accorded in the domestic legal systems does not always must to international human rights standards and Ethiopia is no exception. Accordingly, this study seeks to make a comparative analysis of the protection of the rights of children of divorced parents under Ethiopian law and international human rights jurisprudence, comparing Ethiopian normative and institutional setups vis-a- vis international standards under the UN Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). By employing a qualitative methodology, the research draws upon primary legal materials and secondary sources to assess legal protection, identify implementation gaps, and make recommendations for reform.

Findings reveal that while Ethiopia has made promising moves toward aligning its legal with international norms through the Constitution and the Revised Federal Family Code, their implementation is weak. Some of the key challenges include the absence of specialized family courts, ineffective child participation mechanisms, failure to enforce custody and maintenance orders, and inadequate integration of child welfare professionals in the judicial process. In contrast, global best practices are marked by strong institutional supports, clarity of procedures, and child-sensitive adjudication. The study concludes that although Ethiopia has a foundation normative framework, it requires extensive reform in the existing institutional settings as well as creating new ones, multidisciplinary coordination, enforcement of the law, and child participation to fully realize the best interests of the child. Some of the recommendations made include the establishment of specialized family courts, standard maintenance guidelines, domestication of international standards, and public sensitization.

Keywords:

Child Rights, Divorce-Proceedings, Best Interest of the Child, Child Custody, RFC, CRC, ACRWC

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Different legal frameworks have emerged globally to protect the rights of children during parental separation. For example, international treaties like the United Nations Convention on the Rights of the Child[1] have emphasized that the best interests of the child should be a primary consideration in all actions concerning them. Indeed, comparative studies have echoed this principle, indicating the role of legislations in ensuring that the welfare of children is prioritized during divorce proceedings.[2] Research indicates that children of divorced parents often face emotional distress and behavioural issues, which can be exacerbated by inadequate legal protections.[3] Thus, understanding the interplay between legal frameworks and the lived experiences of children is essential for effective policy formulation.

The protection of the rights of children, both in the process and as a consequence of the parents' divorce is an important issue across cultural and legal boundaries. The Ethiopian legal frameworks, influenced by both traditional norms and modern legal principles, acknowledges the need to protect the rights of children after divorce, though it faces challenges in effectively doing so. In Ethiopia, the legal frameworks as well as the judicial practice on divorce often fails to address the peculiar needs of children, who are usually the most vulnerable during these transitions. However, it is the state's obligation to ensure that the rights of children are protected, especially regarding divorce issues, since their feelings and emotions may be severely affected during this period.[4]

In Ethiopia, the legal provisions for children's rights during divorce are outlined in the Family Code.[5] These provisions are put in place to ensure that the rights of children in maintenance, education, and emotional support are preserved even after divorce. However, the application of these provisions falls short in practice, and children's rights are often abused because of

[1] United Nations, Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3. (hereinafter referred to as CRC)
[2] Nyaata, V. (2022). Situating children in divorce mediation in south Africa and Australia: a comparative study. Journal of Policy and Development Studies (Jpds), 1(1), 30-41. https://doi.org/10.51317/jpds.v4i1.226.
[3] DeAnda, J., Langlais, M., Anderson, E., & Greene, S. (2020). After the marriage is over: mothers' separation distress and children's post-divorce adjustment. Family Relations, 69(5), 1113-1127. https://doi.org/10.1111/fare.12434.
[4] Jambunanda, A. (2023). Marriage law in religious court: regulation and decision on marital property in sustainable legal development. Journal of Law and Sustainable Development, 11(10), e1759. https://doi.org/10.55908/sdgs.v11i10.1759.
[5] Revised Family Code of Ethiopia, Proclamation No. 213/2000. (hereinafter referred as RFC)

socio-economic challenges and parental conflicts on the ground.[6] Moreover, the cultural context in Ethiopia may also influence how these laws are interpreted and enforced, often leading to outcomes that do not align with the best interests of the child.[7]

Globally, the discourse surrounding children's rights in divorce has evolved, with a growing emphasis on joint custody arrangements and the importance of maintaining relationships with both parents. Studies show that children's benefit from active involvement with both parents' post-divorce, which may reduce some of the negative effects related to parental separation.[8] This perspective is increasingly reflected in legal reforms within various jurisdictions where laws are being adopted to accommodate shared parenting arrangements toward the best emotional and psychological interests of the children.[9]

1.2 Statement of the Problem

The question of children's rights in the context of divorce is an important issue that deserves detailed consideration, especially in comparing the Ethiopian legal system with the rest of the world. In Ethiopia, the legal framework on divorce and child custody is still developing and, more often than not, reflects traditional societal norms that may not fully consider the best interests of the child. This deficiency could also be a big source of children's emotional, psychological, and social issues resulting from the divorce of their parents. Apparently, serious behavioural problems, emotional problems, and academic failure were greater in the case of children with divorced parents compared to their counterparts residing with the whole family.[10] Even when we see the operandi around divorce proceedings the fate of the children is simply associated with their economic needs which neglects other needs as human being. These challenges are exacerbated in cases where parents have lower educational backgrounds, as the negative impacts of divorce on children's school engagement are notably more pronounced in such demographics.[11]

---

[6] Fihehiwot Girma Alemu, *The Protection of the Rights of Children of Divorced Parents in Ethiopia* (LLM thesis, Addis Ababa University 2017) 36–38.

[7] Ayele, D. G. (2020). Challenges to children's rights: Experiences from Ethiopia. *Global Studies of Childhood*, *11*(3), 221-229. https://doi.org/10.1177/2043610619900178 (2021), p 7.

[8] Bastaits, K. and Pasteels, I. (2019). Is joint physical custody in the best interests of the child? parent–child relationships and custodial arrangements. Journal of Social and Personal Relationships, 36(11-12), 3752-3772. https://doi.org/10.1177/0265407519838071.

[9] Nielsen, L. (2011). Shared parenting after divorce: a review of shared residential parenting research. Journal of Divorce & Remarriage, 52(8), 586-609. https://doi.org/10.1080/10502556.2011.619913.

[10] DeAnda (n 3).

[11] Havermans, N., Swicegood, G., & Matthijs, K. (2020). Floor effects or compensation of social origin? the relation between divorce and children's school engagement according to parents' educational level., 355-370. https://doi.org/10.1007/978-3-030-25838-2_17.

The international trend in children's rights within the divorce processes and afterwards has promoted the protection of such rights through different instruments which prioritise the best interest of the child in all decisions, including those on divorce issues, to be considered first.[12] However, in reality, many of the protective factors are breached and the best interests of children from differing jurisdictions may become uneven. It is observed, for instance, that some children from divorced parents show a higher risk of experiencing depression and anxiety, especially when parental conflict persists beyond the separation itself.[13] This therefore calls for legal systems to not only recognize the rights of children but also ensure that such rights are effectively enforced.

Although the national laws including the constitution and the Family Code[14] legally protect the rights of children in cases of divorce in Ethiopia, their application usually reveals enormous loopholes. Most of the time, violations occur because of socioeconomic factors and cultural attitudes, among others, while some failure on the part of law enforcement was also to blame. Furthermore, the lack of awareness among parents regarding their obligations towards their children post-divorce can lead to inadequate support systems for the affected children.[15] This situation calls for a critical analysis of the Ethiopian legal framework in comparison to global and regional standards to identify areas for improvement.

1.3 Objectives of the Study

The general objective of this study is to examine the international and normative frameworks regarding the protection of children of divorced parents in Ethiopia. It also tries to see how the institutional frameworks entertain the issue. The study aims to identify international standards and norms concerning children's rights in divorce cases, examine the relevant national legal framework, and assess the practical implementation of these standards based on existing literature. It further seeks to identify gaps in the protection of children's rights in Ethiopia and to propose recommendations for improvement.

[12] CRC.
[13] Liu, H. (2022). The influence of parental divorce on depression symptoms in adolescence and early adulthood: a systematic review and meta-analysis, https://doi.org/10.2991/assehr.k.220110.092
[14] RFC.
[15] Son, S. (2014). Korean divorced mothers' experiences with child support from noncustodial fathers. International Journal of Human Ecology, 15(1), 38-50. https://doi.org/10.6115/ijhe.2014.15.1.38.

1.4 Research Question

This research seeks to answer the following general question: Does the protection of children's rights in cases of divorced parents in Ethiopia align with the international as well as African regional human rights instruments?"

Under this general question, the study also specifically addresses:

- What protections does the Ethiopian law provide for children of divorced parents?
- How do international human rights conventions protect children in the same context?
- What can be learned from a comparative analysis of Ethiopian law and international human rights conventions?
- How can any disparities in the Ethiopian laws be harmonized with international and regional human rights standards, to strengthen the protection of children's rights regime in Ethiopia?

1.5 Research Methodology

The research methodology employed to conduct this research is qualitative research method. The reason for selecting this type of methodology is that it is the suitable for answering the research questions, which relate to analysing gaps in the existing laws as primary data sources, and working of scholars on the area as secondary sources.

The researcher will consult Federal and international legislative frameworks and also soft laws such as resolutions, general comments, and reports relevant to the issue. And specifically, to answer the question aimed at addressing the institutional gaps and cultural and religious challenges, the researcher will further conduct a desk review of literature, published and unpublished books, academic thesis and other reports specific to the issue prepared by the relevant authority. Furthermore, the researcher will rely on existing studies, literatures and reports to inform the analysis and support the formulation of recommendations and conclusions.

1.6 Significance of the Study

The study aims to evaluate the effectiveness of the Ethiopian legal framework in safeguarding the rights of children from divorced families, especially in comparison to the global standards. Given that divorce often leads to complex challenges for children, including emotional and psychological distress, this study can provide valuable insights into how well the Ethiopian legal system is aligned with global practices in protecting children's best interests.

This research is significant as it sheds light on potential gaps or shortcomings within Ethiopian law and practice. Furthermore, it has the potential to inform policymakers, child protection agencies, and legal professionals on how to improve the system to provide better protection and care for children of divorced parents.

1.7 Literature Review

Many studies have proved the negative impacts of divorce on the children's emotional, psychological, and academic performances. For instance, Havermans et al. reported that in school engagement among children from low-educated families, divorce negatively affects more strongly than in those from higher-educated families, suggesting that the socio-economic status remains a critical factor in determining how divorce affects children.[16] This is in line with the findings of Liu, who indicated that children of divorced parents are at a heightened risk of depression and anxiety, especially when their parents continue to fight.[17] Another research by Ashenafi and Ayenew demonstrated that such emotional disturbances adversely affect the academic performance of children students after divorce.[18]

Others also went on to say that one must consider pre-divorce behaviours in order to understand post-divorce adjustment, with children often exhibiting behavioural problems even before the divorce has occurred.[19] This would suggest that the consequences of divorce are added onto pre-existing familial issues and further complicate the landscape of children's rights and protections. Similarly, Robbers et al. demonstrated that the children of divorced parents consistently reported more behavioural problems than those from intact families, further supporting the idea that divorce can be a complicating factor on pre-existing vulnerabilities.[20]

To address these issues there are different legal frameworks designed across jurisdictions. At least in theory, Ethiopia has laid a basis for protecting the rights of a child through the Family Code, although real-life applications have often remained deficient. Studies show that due to socioeconomic factors and cultural attitude, which at times seems to favour parental right

[16] Havermans N. (n 11).
[17] Liu H. (n 13).
[18] Ashenafi, A. and Ayenew, E. (2021). The impact of divorce on student's academic performance in secondary school students of Arba Minch town, Ethiopia. Education Journal, 10(3), 78. https://doi.org/10.11648/j.edu.20211003.12.
[19] DeAnda (n 3).
[20] Robbers, S., Bartels, M., Beijsterveldt, C., Verhulst, F., Huizink, A., & Boomsma, D. (2010). Pre-divorce problems in 3-year-olds: a prospective study in boys and girls. Social Psychiatry and Psychiatric Epidemiology, 46(4), 311-319. https://doi.org/10.1007/s00127-010-0199-x.

over children's welfare, most children lack the necessary assistance following a divorce.[21] This is particularly concerning because the CRC states that the best interests of the child should be a primary consideration in all decisions that affect them.[22]

In contrast, research from other jurisdictions reflects more solid frameworks in protecting the rights of children. For instance, Son's study on divorced mothers reveals how parenting education can enhance awareness of the needs of the children and foster healthier co-parenting relationships.[23] This is something that could be used to enhance the responsiveness of the Ethiopian legal system to the rights of children in the cases of divorce.

The comparative analysis between the Ethiopian legal system and the global jurisprudence shows severe gaps in the protection of children's rights. Though the global frameworks call for children's involvement in decision-making processes, in most instances, Ethiopian laws as well as practices are devoid of such mechanisms that will ensure that children's voices are heard.[24] This discrepancy should raise the importance of legal reforms in the area of children's emotional and psychological interests, especially in the aftermath of divorce.

Furthermore, studies such as those by Amato and Anthony indicate that the consequences of parental divorce extend beyond immediate emotional distress, affecting long-term educational and social outcomes.[25] This highlights the need for a comprehensive approach to legal protections that not only address immediate needs but also consider the long-term implications of divorce on children's holistic development.

The literature hence indicates the need for a comparative analysis in regard to the protection of children's rights within the context of divorce, particularly in the Ethiopian legal as well as institutional frameworks. This study, therefore, will attempt to look into the gaps that exist between the local and global standards to propose active reforms that can best serve the interest of the child both during and after the divorce of the parents.

[21] Freedman, B., Kalb, L., Zablotsky, B., & Stuart, E. (2011). Relationship status among parents of children with autism spectrum disorders: a population-based study. Journal of Autism and Developmental Disorders, 42(4), 539-548. https://doi.org/10.1007/s10803-011-1269-y.
[22] Cashmore, J. (2023). Children's participation in care and protection decision-making matters. Laws, 12(3), 49. https://doi.org/10.3390/laws12030049.
[23] Son (n 15).
[24] Pian, H. (2024). The role of high religious courts in the bengkulu area in safeguarding children's interests regarding post-divorce living expenses and civil rights. Ulul Albab Jurnal Studi Dan Penelitian Hukum Islam, 7(1), 34. https://doi.org/10.30659/jua.v7i1.36594.
[25] Amato, P. and Anthony, C. (2014). Estimating the effects of parental divorce and death with fixed effects models. Journal of Marriage and Family, 76(2), 370-386. https://doi.org/10.1111/jomf.12100.

1.8 Limitation of the Study

While this research adopts a comparative approach, it is not without limitations. First, the study primarily focuses on the analysis of normative frameworks and does not extensively incorporate empirical data or case law from court practice, which could have provided more practical insights. Furthermore, the research largely relies on existing studies and secondary literature produced by other scholars. Second, due to time and resources constraints, the study confines its global focus to key instruments such as the UN Convention on the Rights of the Child (CRC), African Charter on the Rights and Welfare of the Child (ACRWC), and some selected General Comments of treaty bodies and international human rights jurisprudence. This might have some implications on its comprehensiveness. Lastly, while the study is attempting to identify gaps and recommend remedies, it does not go very far in exploring the socio-cultural, institutional, or political barriers that may affect the practical application of international standards within the Ethiopian context.

1.9 Organizations of the Study

The paper will be organized into five chapters. The first chapter will deal with the background of the study and the essential structure of the study including the research objectives, research questions, significance of the study, methodology, literature review, and limitation of the study.

The second chapter discusses the global and National normative frameworks and theoretical underpinnings regarding the rights of children from divorced families toward assessing the global standards.

The third chapter focuses on the general overview of Ethiopian legal system to identify the real picture of the existing protection regime toward rights of children from divorced families.

The fourth chapter presents the comparative analysis of the Ethiopian legal system *vis-a-vis* the global standards to identify the gaps in implementation of bare minimum standards toward the rights of children from divorced families.

The last chapter offers conclusion and recommendations for the realization of the rights of children from divorced families in Ethiopia.

CHAPTER TWO

NORMATIVE FRAMEWORKS AND THEORETICAL UNDERPINNINGS

Introduction

Recognition and protection of children's rights within the context of parental divorce is one of the areas which has got attention both nationally and internationally. Divorce generally entails a drastic effect on family structures, and in that process, a basic focus for every stakeholder is that such the best interests and needs of the child are guaranteed. Regarding this, theories have been developed to set some basic firm standing point. These theories emphasise on the stability of child's relationships with both parents and on the impact of divorce on children and parents in relation to custody arrangements and financial support.

As to give effect to such theoretical foundations, normative frameworks have been introduced in major human rights instruments at global and regional level, especially in instances where child's well-being is disrupted by parental separation. This is underpinned at global level within child centred legal doctrines and principles, which underscore the right of the child to protection, care, and access to both parents, where possible.[26]

This chapter is dedicated to discuss how children's rights are entertained during divorce proceedings in the international as well as regional human rights instruments. In doing so, theoretical grounds that brings legal protections, drawing from interdisciplinary perspectives including law, psychology, and sociology will be highlighted. And the provisions from major human rights instruments at global and regional level regarding the issue will be analysed. It will also deal with basic principles drawn from these normative frameworks as standard for provision of protection schemes. Finally, the chapter will present the complications that persist in incorporation of such standards into national legal system.

2.1 Theoretical Underpinnings

The rights and well-being of children during divorce proceedings have been an area of interdisciplinary research, drawing upon theories from developmental psychology, sociology, legal theory, feminist scholarship, and therapeutic jurisprudence. These theories cumulatively, bring a basis for dealing with child rights in the human rights context and for developing underlying principles to ensure children's rights during divorce proceedings.

[26] CRC, Art 7, 9, & 18; and ACRWC art 18 & 20.

2.1.1 Developmental Psychology and Attachment Theory

Developmental psychology with the premise that children need stable, loving relationships to develop well, advocates for a firm protective regime. In addition, attachment theory, emphasises on the children's need to secure attachments with both parents.[27] This is due to the effect of divorce as it can disrupt these bonds and cause emotional and behavioural issues in child development. Therefore, these theories stress the importance of ensuring and prioritizing children's emotional needs during the divorce process, that they can have a meaningful relationship with both parents.

2.1.2 Sociological Theories

These theories are composed of perspectives based on family systems and social environment and examine the effects of divorce generally on family dynamics and the child's social setting. In this regard, the family systems theory define a family as a system and is interdependent, and changes like divorce impact all the individuals involved in it.[28] The theory emphasizes that children's interaction in their environment, such as with family, school, and society, is critical.[29] Since divorce can alter these environments, affecting the child's access to such settings, it is a must to address these changes and nurturing resilience in children.

2.1.3 Legal Theory

Legal theory, which mainly comprises the rights-based approach, recognizes children as rights-holders, deserving a voice on issues that affect them. It is reflected under article 3 of the United Nations Convention on the Rights of the Child, which states that children have the right to be heard and that their best interests must be a paramount consideration. Here, the views of children should be taken into account as active actors in their own lives, as opposed to passive recipients of care. In divorces, this is a matter of enabling children to communicate what they feel and think, depending on their maturity and age.[30] It is essential to consider the child's needs from emotional, social, and legal perspectives to ensure that children continue to feel safe, supported, and heard throughout the process.

[27] J Bowlby, A Secure Base: Parent-Child Attachment and Healthy Human Development (Basic Books 1988).
[28] M Bowen, Family Therapy in Clinical Practice (Jason Aronson 1978).
[29] U Bronfenbrenner, The Ecology of Human Development: Experiments by Nature and Design (Harvard University Press 1979).
[30] CRC.

2.1.4 Feminist Legal Theory

This theory, a subset of legal theory, focuses on how divorce affects men, women, and children differently as it examines the effect from gender perspective. It argues that the law can sometimes be unfair to mothers over fathers or vice versa, for example, in making decisions about custody arrangements, the law often presumes that mothers will be the main carers, with the possibility of fathers having less responsibility.[31] It also highlights the need to address power inequalities within families. As per this theory, divorce can intensify these inequalities, especially where there has been domestic violence. It advocates for legal changes to bring equal treatment for men and women as to provide protection for children from such harm.

2.1.5 Therapeutic Theory

This theory examines the impacts of laws on people's emotions and mental health in general.[32] It proposes stakeholders in divorce proceedings to consider the emotional effects of their decisions and to make choices that promote mental and emotional health like by fostering cooperation between both parents. In also underscores the importance of resolving conflicts and using mediation to help parents make decisions that benefit their children.

2.2 International and Regional Normative Frameworks

As a foundational human rights document, the Universal Declaration of Human Rights provides a framework, emphasizes the principle of equality and non-discrimination and the right to family life for everyone, including children.[33] In addition, the International Covenant on Civil and Political Rights (ICCPR) strengthens the importance of family life and the protection of children's rights.[34] From these parent human rights documents we can conclude the need to ensure children to enjoy aspects of family life as of their human rights to the extent possible.

[31] C Smart, The Ties That Bind: Law, Marriage and the Reproduction of Patriarchal Relations (Routledge & Kegan Paul 1984).
[32] D B Wexler, Therapeutic Jurisprudence: The Law as a Therapeutic Agent (Carolina Academic Press 1990).
[33] UDHR, adopted and proclaimed by the UN General Assembly in resolution 217 A (III) of 10 December 1948 at Paris, Art 2 and 16.
[34] International Covenant on Civil and Political Rights (adopted 16 December1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Art 24.

Protection of children's rights in the context of divorce has reached the plane of not simply a legal, but also a psychological and sociocultural issue. Bearing in mind this, efforts has been made to address the issue specifically at global and regional level through instruments such as the United Nations Child Right Convention (CRC). It lays down basic frameworks aimed at ensuring the full and equal enjoyment of human rights for all children, irrespective of their parental status or family situation. Under Article 9 it explicitly addresses the issue of parental separation: *"in any proceedings concerning the custody of a child, the child shall be afforded an opportunity to express his or her views freely in all matters affecting him or her."* This makes certain that children should not be just a passive recipients of decisions made about their lives but they should get a chance to be active participants in processes, including those that come as a result of divorce. Article 3, requires decisions made about the child's custody or access to parents shall prioritize their best interests.

In addition to the CRC, the Hague convention on the Civil Aspects of International Child Abduction,[35] provides an important framework so as to ensure that children are not wrongfully moved from their habitual residence by one parent after divorce. It provides a protection regime toward the rights of a child in continuing contact with both parents and avoiding situations where a child may be moved or retained in a way that disrupts an already established parental relationships.

As to give clear picture on these provisions, the UN Committee on the Rights of the Child adopted a General Comment No. 14, which provides valuable guidance. In this General Comment, emphasis was given on the child to have his or her best interests taken as a primary consideration.[36] It provides detailed interpretations of the principle and its application in various contexts, including divorce.

There are also regional human rights instruments calls for the protection of children's rights in cases of parental divorce. The African Charter on Human and Peoples' Rights (ACHPR), while not specifically dealing with child rights, it provides a broader human rights framework and includes provisions related to family life and the protection of the family.[37] In African

[35] Hague Conference on Private International Law, The Hague Convention on the Civil Aspects of International Child Abduction (Hague Conference on Private International Law 1980) <https://www.hcch.net/en/instruments/conventions/full-text/?cid=24> accessed 22 February 2025.
[36] United Nations Committee on the Rights of the Child, 'General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art. 3, para. 1)' (2013) UN Doc CRC/C/GC/14, Para 1.
[37] African Charter on Human and Peoples' Rights (1981) OAU Doc CAB/LEG/67/3 rev 5, 21 ILM 58 (1982), Art 18.

context we have the African Charter on the Rights and Welfare of the Child (ACRWC)[38], which provides that in cases of divorce, maintaining the child's relationship with both parents shall be given attention. In addition, Article 19 of the Charter mandates that the best interests of the child shall be a primary consideration in all matters affecting the child, including in the case of separation, and encourages states to take appropriate legislative and administrative measures to protect children from undesirable outcomes of parental separation.

In addition, the American Convention on Human Rights (ACHR),[39] also protects the rights of children in such situations. It emphasizes the right of the child to protection from violence, the right to maintain contact with both parents, and the importance of considering their views in proceedings that affect them.

While the global and regional frameworks provide such standards their practical application can be complex due to the realities at national level. Bodies under national system including courts and authorities may apply these standards differently, thereby leading to inconsistency in recognition and protection of the rights of the child. The fact that different countries have different legal systems and cultural attitudes toward parenting and political tensions can affect their implementation.

2.3 Basic Principles Regarding Child Rights During Divorce Proceedings

2.3.1 The Principle of the Best Interests of the Child

The best interests of the child principle is a central concept in family law regarding children's rights, and it is the guiding principle for decision-making that concerns children, particularly during divorce. The principle is recognized under global as well as domestic laws, and mandates the welfare, protection, and development of the child should be the paramount consideration in all actions and decisions concerning them.

This principle is explicitly provided under art 3(1) of the CRC, which states that *"in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."* This provision asserts the paramountcy of the child's welfare in all matters pertaining to them, including divorce and custody disputes.

[38] African Union, African Charter on the Rights and Welfare of the Child (OAU 1990). (hereinafter referred to as ACRWC)
[39] American Convention on Human Rights (1969) OAS Treaty Series No 36.

Besides the CRC, this principle got recognition under article 8 of the European Convention on Human Rights (ECHR), safeguarding the right to respect for private and family life which suggest that the child's best interests should be an immediate consideration in family law cases. Likewise, the ACRWC explicitly states that the children's best interests must be the primary consideration in any action concerning the them.

This principle has a number of benefits such as promotion of the emotional and psychological well-being of the child by ensuring that decisions are made with his or her welfare as a priority. In cases where a child's best interests are taken into account during divorce, the chance to adapt well to the new family setup is high. The principle also provides stable and meaningful relationships with both parents, something of prime significance in the child's upbringing. In addition, taking the best interests of the child into account limits the possibility of adverse long-term consequences of divorce such as behavioural problems, academic under achievement, and emotional adjustment.

Meanwhile to ensure best interest of the child in cases like divorce and custody arrangements, courts shall consider issues such as the age of the child, physical and emotional needs, and the relationship with both parents in determining whether to grant sole or joint custody. Here, the principle requires the courts to examine the financial status of the parents to make sure that it is sufficient to support the child and maintain them at their current level of living or better. This includes considering both parents' and the child's own financial ability and the child's specific needs, such as education, health, and activities. Through ensuring that decisions are made with regard to the child's welfare, legal systems can guarantee decreasing negative outcomes of divorce and contribute to improving the overall well-being of the child.

2.3.2 The Principle of Keeping in Touch with Family

This principle mainly is about the maintenance of the significant relationships between the child and the different family members, including the parents, siblings, and extended family, regardless of a breakdown in marriage. It is concerned with preserving family ties as a necessity for a child's emotional, psychological, and social growth.

Article 9 of the CRC provides that children have the right to enjoy personal relations and direct contact with both parents on a regular basis, except where such contact is not in the best interests of the child.[40] This provision emphasizes the preservation of family ties, even

[40] CRC, art 9.

when parents are separated or divorced. Furthermore, article 8 of the CRC gives importance to the right of the child to preserve their identity, including their family relationships, from illegal interferences.[41] Similarly, the ACRWC recognizes the importance of family living together and children's right to maintain relationships with their parents as well as wider family.[42]

Since divorce is among one of the major causes which affect children's intimacy with their parents, at least both at the same time. In such cases orders regarding custody, visitation, and contact can have strong impacts on a child's relationship with his or her family. Bearing this in mind, the appropriate application of the principle help to ensures their psychological and emotional well-being by providing them with a sense of stability and continuity when all else is changing so drastically.[43] When the children can enjoy good relationships with both parents and other members of their family, they are more likely to adapt well to the changes divorce brings.[44] In addition, family relationships can assist children in developing a sense of identity and belongingness. Having parental, sibling, and extended family relations add some value to a child's sense of heritage, as well as his or her personal history and culture.[45] Such relationships can be a source of emotional support and resilience, assisting children in coping with the adversities of divorce.[46] And also, preserving the relations of families may reduce the long-term harmful outcomes of divorce such as problem behaviours, underachievement in education, and psychopathology.[47]

To give effect to this principle, it is encouraged to maintain shared parenting plans, including joint custody or co-parenting, which enable children to have good relationships with both parents.[48] Courts usually prefer arrangements that enable regular and quality time with each parent considering the age, wishes, and particular needs of the child.[49] The other important consideration is keeping sibling and extended family ties, such as grandparents rather than only father and mother. Because sometimes sibling relationships, might be the major source of stability and emotional support for children in the divorce and post-divorce process.[50] The

[41] ibid, art 8.
[42] ACRWC, art 19
[43] Amato (n 25), 1275.
[44] ibid, 1280.
[45] Smart (n 30) 380.
[46] ibid, 385.
[47] Amato (n 25) 1285.
[48] Patrick Parkinson, 'The Idea of Family Relationship Centres in Australia' (2006) 20 International Journal of Law, Policy and the Family 1, 5.
[49] ibid.
[50] Smart (n 30) 370.

courts can become involved in ensuring that siblings are not unjustly separated and can permit siblings to stay in contact with one another.[51] Similarly, grandparents and other extended family members can have a significant influence on a child's life, and the courts shall grant them visitation rights to provide continuity in such relationships.[52]

Despite these, certain issues can deter the proper enforcement of issues related with parental conflict which can disrupt contact arrangements, which tend to be affect smooth visitation schedules, with one parent attempting to limit the other from seeing the child.[53] Such kinds of conflicts engender emotional harm for children and undermine the aim of maintaining significant family relationships.[54] The other issue is related with logistic and practical barriers to maintaining contact, especially when parents are remote or have schedules that conflict with one another.[55] In such cases, courts should consider balancing need for frequent contact against the daily reality of parents' lives such that arrangements need to be pragmatic and tangible.[56] Also, there are scenarios where keeping the child in touch with a parent or relative becomes not in the best interests of the child, like in cases where there is abuse, neglect, or domestic violence.[57] In these instances, courts have to weigh the risks and advantages of contact carefully, with the child's safety and well-being being paramount.[58]

2.3.3 The Principle of the Right to be Treated Fairly

This principle is about the need to have fair treatment, to ensure child's safety from harm, and putting the child's best interests first. It is reflected provisions of both regional and universal human rights instruments. Article 2 of the CRC states that children should not face discrimination and that all their rights apply equally to every child.[59] This means children deserve to be treated fairly and without bias, including in cases of divorce. Similarly, the ACRWC lay down the need to ensure protection of children from discrimination and injustice, especially during family crises.[60]

---

[51] ibid, 375.
[52] Linda D Elrod and Milfred D Dale, 'Paradigm Shifts and Pendulum Swings in Child Custody: The Interests of Children in the Balance' (2008) 42 Family Law Quarterly 381, 392.
[53] Joan B Kelly, 'Children's Living Arrangements Following Separation and Divorce: Insights from Empirical and Clinical Research' (2007) 46 Family Process 35, 40.
[54] ibid, 45.
[55] Nicola Taylor and Bronwyn Galloway, 'Hearing Children's Voices in Family Law Disputes' (2013) 27 International Journal of Law, Policy and the Family 283, 288.
[56] ibid, 290.
[57] Cashmore (n 22) 205.
[58] ibid, 210.
[59] CRC, Art 2.
[60] AFCWC, art 3.

Application of the principle helps to maintain child's emotional and psychological health by minimizing conflict and ensuring their needs come first.[61] Such fair treatment improve their ability to handle the changes in their family settings.[62] In addition, fair arrangements for custody and visitations helps them to maintain stable and meaningful relationships with both parents as a key for their holistic development.[63] It helps us to make sure that children's basic needs are met, which helps lower the risk of poverty and its negative effects.[64]

There are issues that needs to be taken in to account when we apply this principle cases like divorce. Primarily, it requires to make sure that parental responsibilities are shared fairly. To do so, courts need to create joint custody arrangements when possible, as to keep children in close ties with both parents which is often seen as fair and more beneficial than sole custody arrangements.[65] The other aspect is protection of the child from harm during divorce, which can certainly hurt their emotional and mental health.[66] Due care must be done to keep conflicts low and ensure that children aren't caught in the middle of parental disagreements.[67] The other aspect here is related to financial issues, because children deserve to have proper financial support from both parents, and it's essential that courts make sure child support arrangements are financially fair and enough to meet their needs.[68] Child's standard of living before the divorce shall be assessed to able to maintain it or make it better as much as possible.[69]

In general, by focusing on what's best for the child and ensuring they are treated fairly, legal systems can lessen the harsh impacts of divorce and support children's long-term well-being.

2.3.4 The Principle of the Right to be Heard

This principle is concerned with the importance of considering children's opinions during divorce proceedings. It holds a position toward listening to their opinions, wishes, and fears is crucial to ensure their well-being.

[61] Kelly (n 52), 45.
[62] Amato (n 25) 1280.
[63] William V Fabricius and Jeffrey H Hall, 'Young Adults' Perspectives on Divorce: Living Arrangements' (2000) 38 Family Court Review 446, 455.
[64] Marsha Garrison, 'Child Support Policy: Guidelines and Goals' (1999) 33 Family Law Quarterly 157, 175.
[65] Fabricius and Hall (n 62) 450.
[66] Kelly (n 52), 40.
[67] Cashmore (n 22).
[68] Garrison (n 63), 160.
[69] ibid, 165.

The principle is articulated under article 12 of the CRC, where it is provided that a child capable of expressing his/her own opinions should be given the right to express them freely in all matters affecting them, with their opinions giving due weight *vis-a-vis* their age and maturity level.[70] The provision recognizes children as right-holders and not objects, and as active participants in decisions relating to their own lives. The Committee on the Right of Child provided an interpretive guideline under General Comment no. 12/2009, the right to be heard in all cases including family disputes.[71]

The application of this principle enables the empowerment of children through a recognition of their autonomy and authenticity, which will enhance their self-esteem and psychological state.[72] As a result of feeling respected and heard by virtue of taking part in their family's decision-making process regarding divorce, children could be in a better position adapt with changes in the status of their household.[73] In addition, consideration of children's perspectives can lead to more informed and just decisions that better reflect their interests and needs. For instance, a child's wish to have a close contact with both parents may lead courts to favour joint custody arrangements.[74] And also engaging children in decision making can balance feelings of helplessness and isolation and create a sense of ability and continuity in changes.[75]

Notwithstanding these benefits, a number of factors challenge the effective implementation of this principle. The primarily challenge is associated with determining a child's maturity and ability to make reasoned opinions. In most cases, it is hard to determine if a child's expressed preferences are truly their own or are a result of some external influence, i.e., pressure or manipulation from one or both parents.[76] Regarding the age, children may lack the verbal or intellectual capacity to express their opinions well, so decision makers cannot know what their actual preferences are.[77]

The other challenge is the potential emotional burden for children when asked to offer their opinions in contentious divorce proceedings. For instance, children in high conflict divorce may feel caught in the middle and worry that if they express their wishes, they will be

[70] CRC, art 12.
[71] UN Committee on the Rights of the Child, *General Comment No. 12: The Right of the Child to be Heard* (20 July 2009) CRC/C/GC/12.
[72] Anne B Smith, 'Children's Rights and Early Childhood Education' (2007) 35 Australian Journal of Early Childhood 1, 6.
[73] Paul R Amato, 'The Consequences of Divorce for Adults and Children' (2000) 62 Journal of Marriage and Family 1269, 1275.
[74] ibid.
[75] Smart (n 30) 372.
[76] ibid, 370.
[77] Galloway B (n 54), 288.

rejected.[78] This indicate the need to have child-friendly and sensitive mechanisms, such as the presence of child psychologists or guardians' *ad litem*, to facilitate the communication of children's views in a safe and amicable environment.[79]

2.3.5 The Principle of Protection against Neglect and Abuse

This principle is concerned with provision of protective mechanisms for children from neglect and abuse during divorce proceedings which is caused by different factors as to ensure their well-being, emotional health, and their physical, mental, and psychological development.

The CRC, under article 19, obliges states to enact all the legislative, administrative, social, and educational measures towards the achievement of a set of protective measures for preventing children from all forms of physical or mental violence, injury or abuse, neglect or maltreatment, or exploitation, including sexual abuse.[80] In divorce proceedings, this principle requires courts and other concerned authorities to provide special care in favour of the best interests of the child so that they should not be exposed to harmful environments or abusive treatment.

There are factors which affect the application of the principle during the divorce proceedings. The first one is the adversarial nature of the divorce process which can increase parental conflict and provide a setting where children become a bargaining chip. There are also divorce cases with high conflict that result in psychological abuse, where one parent alienates a child from the other parent or becomes manipulative.[81] This can cause emotional neglect and exposes children to long-term mental disturbances.

The second problem is the inability to recognize and determine what is abuse or neglect in such cases. Children fail to report abuse since they are afraid, loyal to a parent, or simply do not know. In addition, more subtle emotional neglect, such as the failure to provide proper support or affection, is harder to detect and prove in court.[82] It also points to the value of judges, social workers, and attorneys being provided with specialized training to detect and combat these issues effectively.

---

[78] Kelly (n 52), 40.
[79] Cashmore (n 22), 205.
[80] CRC, art 19.
[81] Janet Johnston and Vivienne Roseby, In the Name of the Child: A Developmental Approach to Understanding and Helping Children of Conflicted and Violent Divorce (2nd edn, Free Press 2009) 45.
[82] Michael Freeman, *The Rights and Wrongs of Children* (Francis Pinter 1983) 45.

In order to safeguard the protection principle from abuse and neglect in divorce proceedings, multi-dimensional intervention is required. In the first place, there must be widespread utilization of alternative modes of dispute resolution, i.e., mediation, to prevent confrontation and provide the basis for a more conciliatory environment for determining custody and visitation schedules. Experience confirms that mediation will yield improved amicable solutions and decreased possibilities for exposing children to their parents' wars.[83]

Second, child-focused interventions, such as the assignment of a guardian ad litem or child advocate, can assist in guaranteeing that the voice of the child is heard and his or her interests represented in court. These are professionals who can assess the child's needs, observe his or her well-being, and make suggestions to the court.[84]

Third, post-divorce monitoring and support services must be mandated to ensure ongoing protection. Parenting plans, counselling, and access to community resources should minimize the risks of abuse and neglect. For example, supervised visitation may be ordered when a parent threatens the child's safety.[85]

2.4 The Implementation of International Standards in National System

The above discussed global and regional instruments are at the core of national legal system development by providing basic standards, particularly in the fields of individuals' rights and the corollary state obligations. The existence of basic standards as well as normative frameworks become meaningless unless there is a platform to implement them on the ground. So, it is a must for the global system to shape the national system since states are the primary actors of these frameworks. These frameworks are found in the form of binding treaties, customary international law or practice, and through enforcement and monitoring bodies.
However, even though mechanisms for enforcement can be of different intensity, they are largely based on state cooperation and agreement. These global frameworks have a significant impact on national systems of member states. They can bring positive impact in terms of harmonization and accountability; they also can create problems and have negative repercussions like tensions in internal systems related to the sovereignty of the nation. For

[83] Kelly (n 52) 15.
[84] Children Act 1989, s 41.
[85] Joan Kelly and Michael Lamb, 'Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children' (2000) 38 Family and Conciliation Courts Review 297, 301.

instance, Ethiopia's ratification of the CRC in 1991 and the ACRWC in 2002 has prompted legislative reforms aimed at harmonizing domestic laws with international standards.[86]

2.5 State Parties' Obligations Regarding Child Rights During Divorce Proceedings

Generally, states are the primary duty bearers toward rights of their subjects and their duties are mainly classified into four; namely, the duty to respect, protect, promote, and fulfill the rights.[87] When we come to the case of child rights during divorce proceedings the committee on child rights listed out some of the core obligation of states as per the general human rights frameworks as well as from article 3 of the CRC.[88]

As their core obligation, states must respect and implement the child's rights through integration of basic standards into all actions by public institutions. They are obliged to demonstrate every judicial, administrative, policy, and legislative decisions were assessed and weighed toward the child's best interests. In addition, they are obliged to ensure that the child's best interests are considered in decisions by the private sector.

The other duty is related to taking implementation measures such as reviewing and amending the existing domestic legislations, upholding basic standards in policy coordination, resource allocation, and implementation, establishing complaint and redress mechanisms when there are violations. The shall provide accessible information to children as well as to their families as to ensure children's voices are heard.

To give full effect to the right of children, state shall recognize child as right holders and the universal, indivisible, interdependent, and interrelated nature of children's rights. And based on these considerations to have well planned and targeted short, medium, and long term goals to ensure their rights are fully implemented in all cases. effects on the child's development.

[86] United Nations Treaty Collection, 'Status of Treaties: Convention on the Rights of the Child' (United Nations 2023) https://treaties.un.org accessed 10 October 2023.

[87] UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1, of the Covenant)' (14 December 1990) UN Doc E/1991/23, para 8. See also African Commission on Human and Peoples' Rights (ACHPR), *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights* (2011) para 5. And African Committee of Experts on the Rights and Welfare of the Child (ACERWC), *General Comment No. 5 on State Party Obligations under the ACRWC* (2022), para 18.

[88] CRC Committee Gen. Com no. 14, pars 13-16, and Gen. Com. No. 12 paras 48-67.

Chapter Three

Child Rights Protection during Divorce Cases under Ethiopian Legal System

Introduction

In Ethiopia, there are some normative frameworks governing divorce and child custody to enhance the well-being of children but raises several challenges in its application. The protection of children's rights during divorce is one of the priority concerns under Ethiopian Family law regime. Due to divorce, children are exposed to immediate as well as long-lasting consequences resulting from the collapse of their parents' marriage.

The existing normative, structural and institutional challenges and the lack of appropriate resources have hindered the full enjoyment of children's rights in divorce cases. Issues such as the inadequacy of child support systems and the difficulty of enforcing court decisions, are responsible for the weaknesses of the Ethiopian legal system in ensuring the full protection of the rights of the child in divorce cases.

This chapter is dedicated to analysing the intersection of child protection and divorce procedures under the Ethiopian legal framework, focusing on normative frameworks, institutional settings, achievements, and challenges. The provisions from the existing laws, rules, and policies to protect children's rights in divorce situations will be discussed based on their applicability. This includes reviewing constitutional provisions as well as family law provisions toward recognition and ensuring of children's best interests.

3.1 Overview of Ethiopian Normative Framework

The development of family law in Ethiopia is affected by the interplay of traditional practices, religious traditions, and contemporary legal evolution. Customary law and religious tradition previously governed issues of marriage and divorce across the country. The introduction of the Civil Code of 1960[89] was a major step towards codification, but its family law provisions were still a reflection of the existing traditional and religious norms. So, these provisions of the civil code were amended by the Revised Family Code of Ethiopia (RFC),[90] which is designed based on the global basic principles of family law. In this code there are specific provisions that deal with the protection of children's rights in cases of divorce. The

[89] Civil Code of Ethiopia, Proclamation No 165/1960.
[90] RFC.

Constitution[91] also provides basic framework of protection of the rights of the child, confirming the state duty to provide welfare to children.

The Constitution under Article 36 of guarantees the rights of the child to be safeguarded against dangerous practices, exploitation, and to have equal rights in all issues related to family life. It also provides that a child is entitled to grow up in a family environment with due care, protection, and support.[92] Specifically, article 36(2) stipulates that courts and administrative bodies should grant paramount consideration to the child's best interests in all actions concerning children. Although the Constitution does not directly discuss divorce or child custody, its general terms on the best interests of the child guide the interpretation of Ethiopian family law provisions and other human rights standards as the supreme law of the country.[93]

The Revised Family Code contains provisions which deal with specific family matters such as divorce and related child issues in the country. Article 113 specifically addresses child custody and rights of visitation, and Articles 215 and the following provisions are devoted to maintenance and guardianship issues.

> *Article 113. Custody of Children.*
>
> *1) The Court shall, when deciding the dissolution of marriage, also decide as to which spouse shall have custody of the children, care of their education, health, maintenance and the rights of the parents and the children to visit each other.*
>
> *2) When giving decision under Sub-Article (1), the court shall take into account the income, age, health, and condition of living of the spouses as well as the age and interests of the children.*
>
> *3) The court may, on application and taking into account the change of circumstances, revise or reverse its decision given under this Article regarding the custody and maintenance of the children.*
>
> *Article 221. Divorce of Parents.*
>
> *1) Where the spouses decide to divorce by mutual consent in accordance with Article 77 of this Code, they shall decide by agreement regarding the tutor and guardians of their children.*
>
> *2) Where, in any case of divorce, the spouses did not agree on the tutorial and guardianship of their children, the court which decides the divorce shall also decide the tutor and guardian of children.*

As per art 215 (1) of the RFC, in case when the divorce is up on agreement between the spouses, the law requires the custody issues to be decided by agreement. But when they failed

[91] Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.
[92] FDRE Constitution, Art. 36.
[93] FDRE Constitution, Art 9 (4).

to do so it is up to the court to decide. In deciding such issues, the court shall take in to account the circumstances including the financial and living conditions of the parents which are essential toward ensuring the best interests of the child. Here, the code also prioritizes safeguarding the child's well-being in any custody or visitation decision, expressly reflecting the principle that the child's best interests are to be the paramount consideration.[94] This allows the court to consider the age, sex, emotional attachment to both parents, and moral conduct of the parents before deciding on custody. It also provides that the court can alter custody decision if circumstances change and the child's best interests dictate.[95]

As we can see from these provisions, there is a significant departure from traditional paternalistic standards to more levelled, child-focused legal standards in the country as a reflection of the global standards. In the meantime, their effective implementation in domestic divorce proceedings remains a challenge due to gaps in enforcement mechanisms and institutional limitations.

In general, the normative frameworks seek to keep the child connected with both parents whenever possible, emphasizing the rights of both custodial and non-custodial parents to be involved in the life of the child.[96] And as for child maintenance, the non-custodial parents are required to provide financial support for the upbringing of their children, such as education, health costs, and sustenance.[97] As of rights, their visitation rights are also expressly preserved, such that the non-custodial parents have an ongoing presence in the lives of their children, which is essential for children's psychological growth.[98]

3.2 Institutional Settings

Regarding recognition and protection of child rights in divorce cases, there are direct and indirect role-players under the Ethiopian legal system.

3.2.1 The Judiciary

The judiciary specifically family benches, plays a central role in deciding divorce cases, child custody, visitation, maintenance, and other related matters based on the laws of the country as well as standards from global jurisprudence.[99] However, the record of these courts in safeguarding children's rights during divorce proceedings has been a point of concern. Studies indicate that even though judges are required to prioritize children's best interests,

[94] RFC, Art. 113 (2).
[95] Ibid, Art. 113 (3).
[96] Ayele, D. (n 6).
[97] ibid.
[98] Bosisio, R. (2012). Children's right to be heard: what children think. The International Journal of Children S Rights, 20(1), 141-154. https://doi.org/10.1163/157181811x573462.
[99] FDRE Constitution, Art 13.

decisions vary extensively depending on the judge's personal interpretation of this concept.[100] The practices of the courts with respect to children's rights and child custody reflect social attitudes as well as cultural values on gender and family roles.

The court orders can also be disregarded in the enforcement of maintenance and visitations, where a non-compliance by the non-custodial parent is frequent, compounded by economic pressures that render it difficult to sustain such an enterprise.[101] There are further reported discriminations in the judicial process that can predispose the mother to custody, adversely affecting the rights and access of the fathers.[102]

Moreover, court decisions tend to be blamed for being too concise in their grounds, particularly for the best interests' standard. And also, judges are inclined to focus on economic security or parental moral conduct without adequately emphasizing the psychological and emotional interests of the child.[103] This judicial tendency signals a gap between *de jure* (legal) obligations and *de facto* application. Problems like deficiency in public awareness about children's legal rights and lack of training among judges and legal practitioners on the issue have contributed to the difficulties in enforcing domestic laws as well as standards from global jurisprudence. Cases are prolonged and complicated by the absence of sufficient legal resources or relevant support services for families going through separation.[104]

3.2.2 Ministry of Women, Children, and Youth Affairs (MoWCYA)

In addition to courts, the Ministry of Women, Children, and Youth Affairs (MoWCYA) is also there to ensure the rights of children are safeguarded. It develops policies, promotes awareness of children's rights, and provides counselling for children undergoing divorce. The majority of the efforts is directed towards prevention by way of advocacy, sensitization campaigns, and providing a legal framework for safeguarding vulnerable children. However, institutional deficiencies such as scarcity of resources and skilled manpower have limited the Ministry's capacity to effectively intervene in child protection issues in divorce cases.[105]

---

[100] Mulugeta Amsalu, 'The Implementation of the "Best Interest of the Child" Principle in Ethiopian Family Courts: A Critical Analysis' (2016) 29 Journal of Ethiopian Law 101-120.
[101] Ayele, (n 6).
[102] Tekeba, B., Zegeye, A., & Tamir, T. (2024). Prevalence of children living with non-biological parents and its determinants among children under 18 in Ethiopia: a multi-level mixed effect analysis. Frontiers in Public Health, 12. https://doi.org/10.3389/fpubh.2024.1420002.
[103] Tura, H and Jemal, D, 'Judicial Protection of Child Rights in Divorce Cases: A Study in Oromia Courts' (2020) 9(1) Oromia Law Journal 51.
[104] Ayele (n 6).
[105] Ministry of Women, Children, and Youth Affairs, Annual Report (Addis Ababa, 2020).

3.2.3 The Ethiopian Human Rights Commission (EHRC)

The EHRC is another key institution in the child protection system that, although not directly involved in divorce cases, monitors human rights abuses, including those affecting individuals including children. It works to ensure children's rights to maintenance, custody, and protection from harm as their human rights. As it is mandated, the EHRC is required to investigate complaints, issue recommendations, and ensure that children's rights are not violated during family law proceedings. Despite its mandate, the EHRC has severe capacity limitations, lack of adequate public awareness, and enforcement of its recommendations.[106]

3.3 Institutional Coordination and Capacity Challenges

The protection of the rights of the child during divorce proceedings shall not be left to courts only. Rather, it requires the coordination of stakeholders from different societal settings including governmental and non-governmental as well as cultural and religious institutions. In addition to their strong coordination, the capacity of the institutions involved also matters in ensuring full realization of child protection in general and in divorce cases specifically. In Ethiopian context, one among the significant concerns is the lack of inter-institutional collaboration between family courts, social services, and other child protection agencies. Although these institutions are legally bound to promote children's rights as a priority, their fragmentation and failure to communicate with each other have created inefficiencies in the delivery of holistic child protection. For instance, while courts may rule in favour of a mother or father in a custody dispute, enforcement of visitation or maintenance decisions may be delayed or ignored due to a lack of coordination with law enforcement bodies as primary concern.[107]

In the Ethiopian context, the existing gender stereotypes and socio-cultural factors also affect the effectiveness of institutional actions on child protection during divorce proceedings. The society is patriarchal in nature, and this most frequently results in a bias towards awarding custody to the fathers, assuming that the father is financially in better position. This is true particularly if the mother is deemed unfit on social or cultural grounds. These biases are sometimes also reflected in court decisions, where fathers are given priority even if it is not in

[106] Ethiopian Human Rights Commission, Annual Human Rights Report 2020 (Addis Ababa, 2020).
[107] Basha Tadesse, 'Challenges in Child Custody and Child Welfare Laws in Ethiopia' (2019) 12 Ethiopian Family Law Review 44-59.

the best interests of the child. Such practices expose mothers to limited access to legal remedies, thus affecting the well-being of the child.[108]

Further, social attitudes toward divorce and child custody also complicate the protection of the rights of the child in such settings. In rural areas, where cultural norms have more acceptance, there is a tendency to pursue reconciliation rather than legal recourse, thereby neglecting the legally recognized rights and interests of children. In these cases, children are subjected to decisions based solely on community norms than on the child protection provisions of the law. Such social and cultural resistance to divorce and stigmatization of single-parent households often leads to decisions that disregards children's rights.[109]

Conclusion

In conclusion, while the Ethiopian legal system has enabling normative frameworks toward protecting the rights of children in divorce proceedings, the effectiveness of such protection is consistently undermined by structural and institutional hurdles. Some of the key challenges include the absence of inter-institutional coordination, limited resources for child welfare officers, the overburdened judiciary, and socio-cultural biases. This dictates the need to have strong coordination between concerned institutions, conducting special training as well as awareness creation programs for legal practitioners including the judges, and building the capacity of child protection services as crucial steps towards ensuring children's rights are indeed safeguarded in divorce proceedings.

[108] ibid.
[109] Mekonnen Berhanu, 'Cultural Challenges in Implementing Family Law in Rural Ethiopia' (2015) 6 African Journal of Family Law 33-49.

Chapter Four

The Comparative Analysis: Ethiopian Legal System vs. International and Regional Human Rights Standards

Introduction

The protection of child rights in divorce setting is a universal concern due to the fact that the dissolution of the family has serious consequences for the children's holistic development. Globally, issues related to divorce are dealt differently as per the national realities and social setting of each nation. For instance, child custody arrangements vary significantly, driven by the existing cultural, social, and legal norms. Some jurisdictions prefer joint custody to maintain parental involvement; others prefer sole custody in line with the best interests of the child. In this regard, the CRC emphasizes the right of the child to maintain contact with both parents, a principle reiterated in AU instruments. Regarding maintenance and provisions as one of the most crucial thing to maintain children's financial well-being and regular parental bonds post-divorce, the international human rights standards are premised on the parental responsibility to provide economic support and the child's right to regular contact with each parent. On the involvement of children in decision making processes, the CRC advocates for children being heard in respect of decisions affecting them, a stance that has been widely adopted in various jurisdictions.

This chapter provides a comparative analysis, drawing on existing literature and studies, to examine how the Ethiopian legal system conforms to or diverges from United Nations (UN) and African Union (AU) standards in the protection of children's rights during divorce. It considers key factors such as the determination of custody, the role of the child in decision-making processes, and post-divorce care arrangements. The chapter also assesses how cultural and institutional factors influence these aspects. Focusing on gaps and areas of strength, the chapter seeks to add value in the harmonization of Ethiopian legal system with international and regional child rights standards. And also, the more general theme of children's rights will be discussed to examine how diverse legal systems balance parental responsibility with the best interests of the child.

4.1 Child Custody Determination

The process of determining child custody in divorce proceedings varies rather significantly from one jurisdiction to another. Under Ethiopian law, the Revised Family Code provides for

the courts to make a determination about custody primarily based on the best interests of the child. While the principle is acknowledged, its application in many instances fails to incorporate procedural specificity and child-centeredness as contrasted with international and regional practice.[110]

However, the legal framework provides limited guidance on how these interests are to be assessed, and in practice, courts often prioritize parental fitness or customary norms over the expressed views or psychological needs of the child.[111] This is different from international human rights standards, stated under Article 3(1) and Article 12 of the CRC, which urges governments to make the child's best interests a primary consideration and ensure the child's right to be heard in all legal proceedings which affects the child. Furthermore child's engagement in custody cases is also rare which also reflects the existing gap between the country's legal commitments under the CRC.[112]

Similarly, under the ACRWC Articles 4 and 7 oblige states to make custody decisions in the best interest of the child and to provide the right of the child to take part. However, when we come to enforcement, it remains uneven between African nations owing to capacity and resources.[113]The same is true when we come to the case of Ethiopian, here child participation in custody cases to be low due to institutional and cultural barriers.[114]

In comparison to other countries, Ethiopia lacks a proper out-of-court settlement mechanism or parental agreements mediated by professionally trained personnel. The absence of specialized family courts and lack of cooperation of psychologists or social workers during custody evaluations also eroded the chance to set child-centred custody determination process.[115] That is, while Ethiopian law on paper guarantees commitment to child interests, its implementation is still behind the global best practice.

[110] Alemu D, 'The Protection of Children in Divorce Proceedings in Ethiopia: A Case Study of the Addis Ababa Courts' (2018) Addis Ababa University School of Law, LLM Thesis.
[111] Abebe, A. M., 'The Best Interests of the Child in the Ethiopian Family Law: A Normative Analysis' (2009) 5(2) *Mizan Law Review* 255, 266–268.
[112] ibid.
[113] African Committee of Experts on the Rights and Welfare of the Child, Agenda 2040: Fostering an Africa Fit for Children (2016).
[114] Gebru, B. H., 'Child Custody in Ethiopian Law: A Comparative Analysis with International Norms' (2016) 10(1) *Jimma University Journal of Law* 39.
[115] UN Committee, General Comment No. 14 (n 35).

4.2 Visitation (Access) Rights

After custody determination is done, access or visitation rights are critical in maintaining the child's ongoing relationship with the non-custodial parent. In Ethiopia, technically such rights are said to exist but are hard to enforce. The RFC does not have a particular enforcement mechanism for visitation orders, and consequently, violations are prevalent with no consequences.[116]

In contrast, nations with advanced protection scheme such as New Zealand and the United Kingdom have laws to enable post-custody parenting arrangements and visitation enforcement programs. In these countries, the judges can pass sanction when there is visitation interference or order supervised visitation where there is extreme conflict between the parents.[117] In other jurisdiction like Australia, there is an institution established as intermediary which offers separated parents help to achieve reasonable working visitation arrangements, minimizing unnecessary court intervention.[118]

UN Committee on the CRC gave emphasis on the child's right to have frequent contact with both parents, unless it is not in their best interests.[119] This is also reflected in ACRWC, which emphasizes continuity of child-parent relations following divorce.[120] These instruments also encourage state parties to adopt administrative measures to force compliance.

When we come to the case of Ethiopia, the practice is undermined by weak enforcement mechanisms. Even courts are not much concerned about tracking visitation violations, and there is minimal institutional support to resolve disputes whenever it occurs.[121] As a result, non-custodial parents most of the time, fathers, may become isolated, with negative impacts on the child's psychological well-being due to such deprivation. Other jurisdictions offer enforcement mechanisms which Ethiopia lacks currently, such as family and child contact centres.[122]

---

[116] Sloth-Nielsen J, 'Children's Rights in the South African Courts: An Overview since Ratification of the UN Convention on the Rights of the Child' (2002) 10(2) The International Journal of Children's Rights 137.
[117] Fekadu B, 'Judicial Discretion in Ethiopian Family Law: Analysis of Divorce and Custody Cases' (2020) 13(1) Ethiopian Bar Review 45.
[118] UNICEF Ethiopia, Family Law and Children's Rights in Ethiopia: An Assessment (2015).
[119] UN Committee, General Comment No. 14 (n 35).
[120] Fehlberg B and Kelly F, 'Family Law in Australia: Enforcing Contact and Parenting Orders' (2016) 30(1) International Journal of Law, Policy and the Family 1.
[121] UNICEF Ethiopia (n 120).
[122] ibid.

4.3 Children's Participation in the Proceedings

As discussed under chapter two, child participation during divorce proceedings is a key principle of modern family law, founded on Article 12 of the CRC, which entitles children who are able to form views, to hold, and to express their views freely on all matters concerning them. This has evolved into a norm in many jurisdictions, whereby courts are required to consider the child's views when deciding on issues affecting their rights.

In this regard, there are some states that have institutionalized child participation as a guiding procedure which enables them to communicate their view or interests through child advocates or court-appointed guardian *ad litem*. For instance, children in Norway and Germany, are regularly interviewed by child-friendly professional interviewers during divorce cases.[123] And such process is backed by careful analysis to ensure children are heard in legal proceedings better emotionally.[124]

Regionally, the AU system also promotes child participation, urging state parties to enact procedures that allow children to present their views in a safe way.[125] When we see the South African system, it allows children to be represented in family matters through state-appointed legal representation where it is in need.[126]

When we come to the case of Ethiopia, child participation remains limited. While the RFC permits children to be heard in some cases, there is no structured process or mechanism for how it should be done. Judges rarely give the chance to children's testimonies, as these are often substituted by parental testimony.[127] Even in most cases children are not invited into the court room either by their parents or the courts. The societal values attaching immaturity to children's views also stand in the way of effective realization of children's right to participate. As a result, Ethiopia falls far behind the global and regional realities.

[123] Degu T, 'Children's Right to be Heard in Family Proceedings in Ethiopia: Challenges and Opportunities' (2022) 7(1) Jimma University Law Journal 91.
[124] Parkes A and Kilkelly U, 'Children's Participation in Family Law Proceedings: The Role of the Judge' (2019) 27(3) International Journal of Children's Rights 456.
[125] Lansdown G, The Evolving Capacities of the Child (UNICEF Innocenti Research Centre, 2005).
[126] United Nations Office on Drugs and Crime (UNODC), Handbook on Child-Friendly Justice (2021).
[127] Sloth Nielsen J and Du Toit Z, 'Accountability and the Role of Legal Representation in Ensuring Child Participation in South African Family Law' (2015) 19 Law, Democracy and Development 126.

4.4 Child Maintenance

Uninterrupted financial support toward a child's upbringing is an important aspect of child protection following divorce. Children should get the bare minimum support as much as possible, as if they are living with both of their parents in a healthy family. In Ethiopia, the RFC puts such obligation on parents to maintain their children in the normal family setting, but its enforcement remains a long-standing problem in divorce settings. The Code simply requires the courts to require maintenance from one non-custodial parent, but establishes no formula for calculating levels, nor a systematic enforcement mechanism.[128] The only measurement in the determination of the financial support is the financial position of the non-custodial parent, without detailed evaluation of the child's need or interests. Even there is no thorough evaluation of the economic status of the parents; judges just accept what is said by the parents as standing point to determine the amount of maintenance.[129]

The practice of jurisdictions, in contrast, demonstrates the formal and institutionalized ways of establishing and enforcing maintenance obligations. For instance, in Canada there is a clear income-based guidelines to compute child maintenance; so predictability and consistency of the outcomes in such process are guaranteed.[130] And also in the United Kingdom, there is a Child Maintenance Service (CMS) which is responsible for enforcement and administration of maintenance orders, such as deductions from income and penalties for non-compliance.[131] These sorts of systems make maintenance arrangements more secure and accountable toward ensuring undisputed provision of support to the children.

In this regard, the CRC obliges states to ensure parents, particularly non-custodial parents, assume financial obligations toward their children.[132] Similarly, the ACRWC obliges both parents to contribute toward the upbringing and development of the child.[133]

In Ethiopia, as mentioned above, maintenance amounts are determined arbitrarily and inconsistently by courts.[134] Even non-conformity toward these court orders is frequent, particularly from the father, and there is no central authority for monitoring or enforcement.

[128] Fekadu B (n 119).
[129] Nigussie Afesha, *'Legal and Practical Aspects of Child Custody, Visitation and Maintenance: A Case Study in SNNP Regional State'* (2017) 11 *Mizan Law Review* 300–316
[130] Bala N (n 114).
[131] Fehlberg B (n 122).
[132] CRC, art 27.
[133] ACRWC, art 20.
[134] Alemu D (n 197).

This often exposes custodial parents and children to experience delays and low payments, contributing to economic distress and uncertainty.[135] In contrast to the more developed jurisdictions, Ethiopian legal system lacks automatic payroll deduction, arrears penalties, or state assistance in case of default.

4.5 Compliance with the Principle of Best Interests of the Child

The "best interests of the child" is a cornerstone principle under children's rights protection regime. Relevant human rights treaties like the CRC and ACRWC require that the best interests of the child are the first consideration in all decisions or action concerning children in general including in divorce setting.[136] This principle has evolved as a substantive, procedural, and interpretative principle at global level.[137] The CRC Committee in its General Comment provided a guidance on how the best interests would be determined, including the views of the child, identity, family environment, safety, and development.[138] Based on such guidance, the courts in each jurisdictions have to make sure, to the maximum extent, the best interest test was upheld in each cases involving child rights protection.[139]

In Ethiopia, this principle is formally enshrined in the Constitution and the RFC.[140] However, its application is always incomplete and fitful. The jurisprudence has developed less on what represents a child's best interest in specific contexts. There is no list of evaluation criteria or of a formal test to check this principle is well observed in decision making process, with the courts instead making use of discretionary judgment.[141] Compared to courts that have institutionalized best interests assessment criteria like having mandatory psychological evaluations or best interest reports, courts in Ethiopia do not have technical tools and the human resources to conduct thorough assessments.[142] This undermines the enforcement of the best interest principle, particularly in custody determination and visitation arrangements.

[135] UNICEF Ethiopia (n 120).
[136] CRC art 3; ACRWC art 4.
[137] UN Committee, General comment No. 14 (n 35), Para 6.
[138] ibid.
[139] Sloth J (n 118); and Sloth D (n 129).
[140] FDRE Constitution, art 36; and RFC, art 113.
[141] Fekadu B (n 119).
[142] Alemu D (n 97).

4.6 The Positive Aspects of Ethiopian Legal System in Child Rights Protection

In general, Ethiopia's legal system has shown commendable progress in according child protection within the existing socio, economic, and cultural setting. Such progress is manifested in the normative frameworks as well as in the existing institutional and structural settings, though with unresolved harmonization and implementation gaps.

The Ethiopian legal framework enshrines child rights both in the Constitution and in family code. Article 36 of the FDRE Constitution accords constitutional guarantee in line with Article 12 of the ACRWC and Article 3 and 12 of the CRC. The RFC deals with specific issues such as child custody, visitation, and child support in family setting including during divorce proceedings. The code makes it mandatory for any action taken by the relevant body to prioritize the best interests of the child, a stipulation consistent with international norms. The courts are required to consider the emotional bond between the child and both parents, the capacity of each to raise the child, and, where relevant, the child's own preference. As per the RFC the responsibility of maintaining the children is rest on both parents, even subsequent to divorce, as it is reflected in the international standards under Article 27(4) of the CRC. The Code also have a provision (Art 113 (3)) for the amendment of custody and maintenance orders by the courts subsequent to divorce, in view of changing circumstances, which reflects legislative sensitivity on the issue.

Regarding the institutional framework, Ethiopia has put in place institutions for child rights protection in addition to the judiciary. The Children's Justice Project Office has been established under the supervision of Federal Supreme Court with specialized benches and procedures for addressing child cases.[143] As discussed above, the Ministry of Women and Social Affairs has also playing a leading role in coordinating protection initiatives for children and implementing policies concerning children of divorced parents. Other efforts have been made to decentralize child protection services at Woreda and Kebele levels via community child protection committees, as to make the service accessible for the society.[144]

There are structural and procedural mechanisms aimed toward the betterment of the protection realization process. Structurally, the country has yet to consolidate a family court system, and this diminishes the efficiency and specialization of child custody cases. While

[143] Federal Supreme Court of Ethiopia, Children's Justice Project Annual Report 2022 (Addis Ababa, 2022).
[144] UNICEF Ethiopia, Community-Based Child Protection Mechanisms in Ethiopia: A Review of Practices and Gaps (2019).

there are family benches within the judiciary system, there is a growing effort toward utilizing alternative dispute resolution (ADR) mechanisms in family disputes, often through elders or community structures.[145] This is in line with the CRC on the child's right to be heard because ADR offers space for informal opportunities where children are listened to.[146] Procedural mechanisms like mandatory mediation before divorce proceedings are also dealt under the RFC as to protect family dissolution in general and to protect children from the effects of divorce.

The comparison of Ethiopian Legal system with that of the international and regional commitments revels gaps regarding incorporation and implementation of those standards.[147] The FDRE Constitution and the RFC overall reflect these global norms, notably, the best interests of the child and the right to be heard enforcement mechanisms.

4.7 Gaps under the Ethiopian Legal System

Despite a relatively clearly established normative framework, the legal and institutional response of Ethiopia to child rights in divorce cases is seriously inadequate relative to international and regional expectations. Among the challenges some of them are discussed as follows.

4.7.1 Absence of Specialized Family Courts

Regarding family proceedings in general and child rights specifically, one of the most tenacious issues in Ethiopia is the absence of special family court arrangements, which undermines effective and child-sensitive hearing of divorce and custody cases.[148] Currently, family cases are heard by ordinary courts assigned as family benches, which also hear a range of other civil and criminal cases. These lacks judicial specialisation in family matters and child psychology, and which also delays the result of proceedings.

In contrast to Ethiopia, most jurisdictions have either family courts or court divisions which specifically deal with family cases only. For instance, in South Africa Children's Courts are established which guarantee the surroundings as to be child-oriented and judges are specially

[145] Federal Judicial Administration Council, Report on Specialized Family Benches in Ethiopia (2021).
[146] CRC art 12; UN Committee, General Comment No 12 (n 70), para 34.
[147] Ratification Proclamation No 10/1992 (CRC); Ratification Proclamation No 10/2002 (ACRWC).
[148] Etmet Assefa, *Post Divorce Effects on the Rights of Children: A Case Study…* (Addis Ababa University 2012) (reasonable child-sensitive mechanisms such as social worker involvement only recently introduced and not institutionalized; recommends specialized family courts)

trained in family law and child psychology.[149] Similarly, in the United Kingdom, there are family courts with trained judges and supporting staff with facilities for speedy and child-centred case handling skills.[150] The absence of such specialization and expertise in Ethiopia often lead to uninformed decisions, failure of psychological assessment, and failure to prioritize the best interests of the child as enshrined in the CRC.

4.7.2 Lack of Institutional Support

The other challenge is lack of institutional support during divorce proceedings, which is one of the most critical issue toward coordinated protection of children in divorce cases. This is aggravated by, lack of multidisciplinary institutions like child protection agencies, social workers, and psychologists who are actively involved during divorce proceedings in Ethiopia. Due to this, the courts are required to make decisions solely based on the legal evidence without the support of psychosocial assessment that can provide insight into the best interests of the child.

In other jurisdictions such as Australia and Canada, they have a multi-agency framework, where courts work with family consultants, child psychologists, and welfare agencies to gain relevant information about the situation of the child in detail.[151] In Ethiopia, there is no such chance of making decisions based on expert advice. In fact, the Ethiopian Women and Children Affairs Offices is legally obliged to help the children in need, but its effectiveness is hampered by poor funding arrangement and inadequate resource to bring a valuable input into family cases.[152]

4.7.3 Weak Enforcement Mechanisms

The other challenge is related to the existing weak enforcement mechanisms for court orders on child custody, maintenance, and visitation rights. Even when protective or maintenance orders are given by courts, their enforcement is unpredictable due to administrative inefficiencies, the lack of follow-up procedures, and lack of coordination between the courts and the enforcement agencies. For instance, maintenance orders are often breached by non-

[149] Children's Act 38 of 2005 (South Africa), ss 45-49.
[150] Family Justice System, Ministry of Justice, UK, 'Family Courts' (2021).
[151] Australian Law Reform Commission, 'Family Law for the Future: An Inquiry into the Family Law System' (ALRC Report 135, 2019).
[152] Federal Ministry of Women and Social Affairs (Ethiopia), 'Annual Report on Child Protection Systems' (2023).

custodial parents due to lack of punitive enforcement or monitoring mechanisms. Among the most nearest enforcement organs like police officers and kebele officials rarely enforce family court orders except under repeated coercion from courts up abnormally frequent complaints.[153]

On the other hand, there is tight enforcement procedures in countries like Germany through youth welfare offices (Jugendamt) that monitor compliance and apply legal sanctions whenever it is necessary.[154] This is one among enforcement frameworks lacking in Ethiopia. In addition, the RF provides a general discretion in determining maintenance, leading to inconsistency in court orders. Even there is no standard formula or defining rules, rendering judgments uncertain and usually insufficient to meet the child's needs.

4.7.4 Limited Child Participation

In Ethiopia, child participation during divorce proceedings is restricted which is against article 12 of the CRC, which obliges governments to ensure children capable of reaching their own opinion can express such opinions in proceedings affecting them. This principle remains partially unfulfilled in Ethiopia. In addition, there are cultural norms in Ethiopia that perceive children as passive recipients of adult decisions, not as rights holders. This same cultural issue hinders institutional readiness toward meaningful engagement with children throughout the proceedings.

4.7.5 Urban-Rural Disparity

In Ethiopia, the existing system is also characterized by geographical disparity. There is a gap between the rural and urban areas regarding access to child protection services and access to justice. Urban centres such as Addis Ababa have relatively better access to courts, legal aid, and social workers, but the same services are not available in rural areas. Despite its positive aspect, domination of traditional dispute resolution mechanisms in rural area is greatly influenced by customary laws which are characterized by their patriarchal nature. For instance, in certain rural societies orders regarding child custody are decided more according to religious leaders or clan elders rather than legal considerations and interests of the child.[155]

[153] Ethiopian Human Rights Commission, 'Assessment on the Implementation of Family Court Decisions' (2021).
[154] Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (Germany), 'Youth Welfare Services' (2022).
[155] Save the Children Ethiopia, 'Traditional Justice Mechanisms and Child Protection in Rural Ethiopia' (2020).

While in countries like Kenya, they have sought to integrate community justice mechanisms into formal child protection schemes in order to enhance cultural integration,[156] Ethiopia has not yet sought to adopt similar integration approach in narrowing such the rural-urban disparity.

4.7.6 Gender Bias

The prevailing gender bias specially in custody determination poses another challenge in Ethiopia. Courts generally assume that mothers are the natural custodians of children below the age of five, irrespective of the overall analysis of the case and persons in the case. This assumption can lead to ignorance of the potential suitability of the father as a custodian and neglect the child's best interests.[157] Although maternal preference is sometimes reasonable, the global standards are more of toward careful assessments of every parent's capability, economic standing, emotional tie with the child, and ability to cooperate with the other parent.[158] Continuing to make such decisions on gender based assumptions affects objectivity and contravenes the best interests principle, requiring decision-making on a case-by-case basis, unbiased.

4.7.7 Delay of Court Proceedings

The other prominent challenge in Ethiopia is delay of court proceedings, which primarily affects the well-being of children during divorce proceedings. Court cases often take months or years to resolve, and in the process, children might not get due attention, even they may be subjected to uncertainty, emotional instability, or hostile environments. This problem basically results from case backlog, insufficient judges, and lack of family case prioritization in the judiciary system. There are cases in certain courts where a single judge is responsible to handle hundreds of cases, resulting in unwarranted and prolonged adjournments.[159] Globally, most legal systems have introduced "fast-track" or expedited proceedings for child custody matters which promote the prompt determination of family conflicts to reduce harmful effects on children.[160] In Ethiopia, there is no such statutory prioritization or procedural direction specially in family proceedings.

---

[156] Kenyan Judiciary, 'Court Users Committees and Access to Justice' (2022).
[157] Fikremarkos Merso, Family Law in Ethiopia (Addis Ababa University Press 2016).
[158] CRC, art 3; UN Committee, 'General Comment No. 14 (n 35)
[159] Ethiopian Federal Supreme Court, 'Judicial Performance Report' (2023).
[160] European Convention on the Exercise of Children's Rights (adopted 25 January 1996, entered into force 1 July 2000) ETS No 160.

4.7.8 Lack of Legal Aid and Insufficient Representation

The other most important thing the Ethiopia legal system lacks is sufficient legal aid and representation agencies. Children and economically disadvantaged parents often do not have access to legal aid in Ethiopia even where there is the access, it is congested around urban areas. While the FDRE Constitution provides for legal aid in criminal cases as government's duty, civil and family matters are often excluded from mandatory legal representation. In practice, NGOs and university legal clinics offer some support, but their scope is limited and uneven.[161] In contrast, in other jurisdictions like in South Africa there is an openly funded legal advocacy in custody and divorce proceedings to ensure protection of children's rights.[162] While representation of the interests of children ensures adequate formulation of the issue and safeguarding of such interests in the outcome of the proceedings, the Ethiopian legal system does not have it.

Conclusion

In general, despite the systemic limitations, Ethiopia has shown a remarkable advancement in aligning its national legal frameworks with international as well as regional child rights standards. The RFC introduced significant provisions regarding the best interests of the child, rules for custody, and maintenance obligations of the child. The Constitution also guarantees the right of the child to protection from any form of abuse and neglect, reflecting the central idea of the CRC. Furthermore, Ethiopia's accession to the CRC and ACRWC demonstrates constitutional and policy level commitment toward ensuring the children's well-being at all including during divorce proceedings.

However, significant gaps continue to exist between protection frameworks and enforcement of these rights. Absence of specialized family courts, non-enforcement of custody and maintenance orders, and absence of institutional involvement of social workers and psychologists continue to be hindering child-sensitive adjudication. In addition, the legal system is affected by insufficient child involvement, rural-urban disparity in accessing the existing services, and delay of judicial processes, all of which negatively impact the child's experience and overall well-being throughout family dissolution cases.

In comparison to global best practices, Ethiopia's enforcement of child rights in divorce proceedings remains underdeveloped in both infrastructural and procedural terms. Countries

[161] Ethiopian Legal Aid Center Network, 'Access to Justice Report' (2022).
[162] South African Legal Aid Act 39 of 2014; Legal Aid Ontario, 'Family Law Services' (2023).

with dedicated family courts, integrated child protection services, and well-defined enforcement mechanisms have more comprehensive approaches. Therefore, even if the country has enabling normative frameworks that provides an important foundation, there must be extensive reform particularly in institution building, capacity building, and procedural upgrading to ensure that the child's best interests are not ambitious but to be realistic and always ensured.

Chapter Five

Conclusion and Recommendations

5.1 Conclusion

The comparative analysis, drawing on existing literature and studies of the Ethiopian legal system in relation to international and regional norms on the protection of children's rights during divorce proceedings, reveals a complex landscape of progress, as well as difficulties, which need strategic action. While progress has been made in according recognition of the rights of the child in the judicial system, there are extensive gaps weakening the effective implementation of those rights, especially during divorce proceedings. Based on international and regional norms such as the CRC and the ACRWC, this analysis reveals the status as well as how Ethiopian legal system lags behind best international practices in some major areas, including the determination of child custody, maintenance, access, child participation, and conformity with the best interests of the child principle.

The Ethiopian child rights regime are mainly found in the Constitution and the Revised Family Code, both of which orient towards the best interest of the child. But the practical application lacks adequate procedural and institutional mechanisms to consider the needs and opinions of the child. Compared to the CRC and ACRWC provisions, the Ethiopia's system is narrow and less child-oriented. In this regard, The RFC introduces joint parental responsibility and acknowledges children's rights to maintenance and participation, but remains poorly interpreted and applied in reality.

There is no clear guideline on how the best interest standard is to be evaluated in custody and visitation cases, and court rulings thus become subjective and irregular. Furthermore, the absence of specialized family courts or appropriately trained professionals also hinders the proper application of child-centred judicial process. In comparison, international and regional instruments such as the CRC and ACRWC have developed elaborate and intensive standards for children's protection amongst family disputes. Similarly, the ACRWC points out the participation of children and offers a model which is adopted by Ethiopia to enhance its legal system.

One of the gaps in the Ethiopian legal system is the lack of specialized family courts, which limits the quality and uniformity of child-focused judicial decisions. In other jurisdictions, such issues are managed to make it function through expert family courts that guarantee court

staff and judges possess the ability to manage children's needs in divorce proceedings. Ethiopian courts, in contrast, handle family cases alongside an extensive range of other cases, resulting in inadequate attention to the specificities of child welfare.

The second key issue relates to the enforcement of child rights frameworks. While the Ethiopian legal system has provisions for maintenance, custody, and visitation rights for children, the enforcement of these norms is weak, and there are limited mechanisms for monitoring compliance. Other nations with more robust family law frameworks have developed enforcement agencies using social workers, family liaisons, and even enforcement directly in the form of wage garnishment or other administrative means. In Ethiopia, however, there is no institution that has been assigned with such responsibility of following up and enforcing child visitation and maintenance, and children are subject to neglect and violations of their rights.

Child participation in divorce proceedings also remains underdeveloped in Ethiopian jurisprudence. There has been global acknowledgement of the right of children to be heard in proceedings concerning them for decades, with established cultured mechanisms for engaging children in decisions affecting their overall wellbeing. In Ethiopia, there are no such open ended procedural frameworks in which children's views can be formally heard in divorce cases. This has created a huge gap between the legal right to participation and the limited reality of being engaged.

The status of Ethiopia regarding child maintenance also highlights the necessity for reform. The existing law provides inadequate guidelines or an established procedure to determine provision of uninterrupted maintenance. In contrast, countries with more developed family law systems, employ clear criteria based on both parents' financial capacity and the child's needs, resulting in more predictable and fairer outcomes. In case of Ethiopia, excessive reliance on the discretion of the courts has resulted in unpredictable and sometimes inadequate outcomes, often not addressing the full financial needs of the child.

International and regional treaties, offer some standards as a lesson that Ethiopia can follow in enhancing its child protection systems including in divorce cases. These instruments affirmed the best interests of the child as a guiding principles in decisions, including custody, visitation, and maintenance, ensuring compatibility with the child’s emotional, psychological, and material well-being. This approach goes beyond simple parental rights and emphasizes on a holistic view of the child’s well-being.

Furthermore, these instruments urge the need to have rigorous multidisciplinary procedures in ensuring the realization of child rights. For instance, the presence of child psychologists, social workers, and other child welfare professionals in custody hearings is required to ensure that a child's best interests are adequately assessed and addressed in the outcome of the proceedings. Ethiopia's current system, lacks such involvement of specialized professionals within judicial process. In addition, Ethiopia could make significant contributions towards provision for the children that they are not mere objects of the judicial process but also participants who get to contribute their opinion in matters that will heavily influence their future.

5.2 Recommendations

After the comparative study on the Ethiopian justice system and international standards for children's rights under the case of divorce, certain key reforms are proposed to bridge the gaps and protect children's rights. The proposals stress reinforcing the legal framework, judicial processes, enforcement, and children's participation in divorce proceedings. Through the adoption of these reforms, Ethiopia can bring its law system more in line with international best practice, so the child's best interests will always be at the forefront of all divorce cases.

- **Establishment of Specialized Family Courts**

Ethiopia really needs to set up specialized family courts that focus solely on family issues like divorce, child custody, and maintenance cases. This would mean having judges and legal professionals who truly understand the complexities of child welfare. Family courts would create a dedicated space to tackle the specific needs of children during divorce proceedings, leading to more thoughtful and child-centered decisions. By looking at successful models from other countries with well-established legal systems, Ethiopia could introduce a specialized court structure that enhances the protection of children's rights.

- **Enhanced Child Engagement in Court Proceedings**

In Ethiopia, some brave steps need to be taken to strengthen children's participation in decision-making regarding their rights, especially during divorce proceedings. This can be through creation of a formal procedure that acknowledges children's opinions as valuable input, with an eye on enabling them to have a say in the ultimate decisions. The country should have a set of guidelines on how to engage the children in an age-appropriate manner,

e.g., using video recordings or writing down their views. Lawyers would also need training on how to conduct these interviews in a way that is respectful of the children's ages and level of maturity. This approach guarantees that their voices are being heard and have a significant role in the creation of the decisions that dictate their lives.

- **Adoption of Multidisciplinary Approaches**

Ethiopia must create a clear process that guarantees a multidisciplinary approach in an effort to make the best interests of the child evident in court orders in divorce proceedings. The services of professionals who work with children such as social workers, child psychologists, and other experts are needed. Critical evaluations of psychological, emotional, and social needs of the child can give the court sharp information based on sound scientific evidence. This led to an informed choice that prioritized the child's overall well-being by applying their knowledge of child development.

- **Improving Enforcement of Court Order Mechanisms**

For the purpose of giving protection to children's rights in divorce processes, enforcement of court orders must be efficiently carried out. Along this line more aggressive measures for enforcement, like setting up a family support office or child welfare specialized units in the judiciary to monitor compliance with the court orders, must be considered by the nation for the purpose of filling the gap in doing so. The country can learn methods like wage garnishment, penalties, or criminal prosecution for noncompliance with a court order from other countries' observation.

- **Adoption of Clear and Uniform Child Maintenance Guidelines**

In Ethiopia to address courts tendency toward making arbitrary decisions on there must be a consistent and unambiguous rules. The needs of the child, both parents' financial circumstances, and other pertinent aspects should all be taken into account in setting up these guidelines. This can guarantee that maintenance orders are reasonable, open, and trustworthy toward ensuring children’s interests. Additionally, since the judiciary currently lacks the resources to make informed decisions, would be less burdened if these guidelines were in place.

- **Training Judges and Legal Practitioners**

Highlighting the training of legal professionals and judges about child rights and the principle of prioritizing the best interest of the child in divorce processes is a very important suggestion. The judges should be sensitive to the psychological and social effects of divorce on children and the importance of child welfare in family proceedings. They must also be able to assess the quality of parent-child relationships and their impact on the well-being of a child, as well as dealing with cases of child abuse or neglect. Training programs in countries that consistently offer training to judges in family law and child protection might serve as blueprints for this kind of training. Ethiopia needs to prioritize the implementation of uniform training guidelines that are up to international standards in a bid to do this.

- **Implementing Public Awareness Campaigns on Child Rights in Divorce**

The fact that the majority of people in Ethiopia are simply ignorant of their rights or even how the law can be applied to promote them is one of the largest challenges to children's rights protection in divorce cases. Ethiopia can address this gap by having public sensitization campaigns that educate parents, children, and communities about children's rights and the legal options a person has when such rights are violated. Emphasizing the importance of the child's best interests being placed first in each situation, but especially in a divorce, these programs ought to address significant concerns like maintenance, visitation, and the child's participation in the divorce process. These campaigns have the potential to reach the masses by utilizing the community organizations, schools, and media, so that families learn the legal protections for children.

- **Incorporation of International Standards into Ethiopian Family Law**

Ethiopia is led to impose conformity to the divergences from its current family law regime, encompassing customary laws, after a critical examination of it. Incorporating regional and international standards in the family law of the country is also required. This means applying treaty provisions in their entirety within the local legal system along with ratifying them. In order to make sure that children's rights protection always takes top place in family matters, we should observe an increased commitment to international standards. By integrating these standards into most of the regional family codes, Ethiopia should also take into account its international commitments and ensure that they are upheld at the national level consistently.

In conclusion, by pursuing these and other positive steps based on the global and regional human rights standards, Ethiopia can enhance its legal system's ability to promote and protect children's rights, especially in divorce cases. Setting up specialized family courts, boosting child participation, using multidisciplinary approaches, and ensuring clear enforcement measures will not only strengthen the legal framework but also empower the effective implementation of child rights.

Bibliography

❖ Academic Sources

- Amato, P. and Anthony, C. (2014). Estimating the effects of parental divorce and death with fixed effects models. *Journal of Marriage and Family*, 76(2), 370-386. https://doi.org/10.1111/jomf.12100.
- Amato, P. R. (2000). The Consequences of Divorce for Adults and Children. *Journal of Marriage and Family*, 62, 1269-1275.
- Ashenafi, A. and Ayenew, E. (2021). The impact of divorce on student's academic performance in secondary school students of Arba Minch town, Ethiopia. *Education Journal*, 10(3), 78. https://doi.org/10.11648/j.edu.20211003.12.
- Ayele, D. (2020). Challenges to children's rights: experiences from Ethiopia. *Global Studies of Childhood*, 11(3), 221-229. https://doi.org/10.1177/2043610619900178.
- Bala, N. and Birnbaum, R. (2017). Canadian Judicial Approaches to the Determination of Child Custody and Access: Legal and Psychological Perspectives. *Family Court Review*, 55(2).
- Basha, T. (2019). Challenges in Child Custody and Child Welfare Laws in Ethiopia. *Ethiopian Family Law Review*, 12, 44-59.
- Bosisio, R. (2012). Children's right to be heard: what children think. *The International Journal of Children's Rights*, 20(1), 141-154. https://doi.org/10.1163/157181811x573462.
- Bowlby, J. (1988). *A Secure Base: Parent-Child Attachment and Healthy Human Development*. Basic Books.
- Cashmore, J. (2023). Children's participation in care and protection decision-making matters. *Laws*, 12(3), 49. https://doi.org/10.3390/laws12030049.
- Cashmore, J. (2011). Children's Participation in Family Court Litigation. *International Journal of Law, Policy and the Family*, 25, 198–205.
- DeAnda, J., Langlais, M., Anderson, E., & Greene, S. (2020). After the marriage is over: mothers' separation distress and children's post-divorce adjustment. *Family Relations*, 69(5), 1113–1127. https://doi.org/10.1111/fare.12434.
- Degu, T. (2022). Children's Right to be Heard in Family Proceedings in Ethiopia: Challenges and Opportunities. *Jimma University Law Journal*, 7(1).

- Fabricius, W. V. and Hall, J. H. (2000). Young Adults' Perspectives on Divorce: Living Arrangements. *Family Court Review*, 38, 446-450.
- Fekadu, B. (2020). Judicial Discretion in Ethiopian Family Law: Analysis of Divorce and Custody Cases. *Ethiopian Bar Review*, 13(1).
- Getachew, A. (2015). Implementation of International Human Rights Conventions in Ethiopia: Challenges and Prospects. *Journal of Ethiopian Law*, 9(2), 45-67.
- Havermans, N., Swicegood, G., & Matthijs, K. (2020). Floor effects or compensation of social origin? The relation between divorce and children's school engagement according to parents' educational level. In *Parental Life Courses after Separation and Divorce* (pp. 355–370). https://doi.org/10.1007/978-3-030-25838-2_17.
- Johnston, J. and Roseby, V. (2009). *In the Name of the Child: A Developmental Approach to Understanding and Helping Children of Conflicted and Violent Divorce* (2nd edn, Free Press).
- Jambunanda, A. (2023). Marriage law in religious court: regulation and decision on marital property in sustainable legal development. *Journal of Law and Sustainable Development*, 11(10), e1759. https://doi.org/10.55908/sdgs.v11i10.1759.
- Kelly, J. B. (2007). Children's Living Arrangements Following Separation and Divorce: Insights from Empirical and Clinical Research. *Family Process*, 46, 35-40.
- Liu, H. (2022). The influence of parental divorce on depression symptoms in adolescence and early adulthood: a systematic review and meta-analysis. https://doi.org/10.2991/assehr.k.220110.092.
- Malmquist, A. et al. (2020). Post-Divorce Custody Arrangements and Child Adjustment in Sweden. *Nordic Psychology*, 72(2).
- Mekonnen, B. (2015). Cultural Challenges in Implementing Family Law in Rural Ethiopia. *African Journal of Family Law*, 6, 33-49.
- Mulugeta, A. (2016). The Implementation of the "Best Interest of the Child" Principle in Ethiopian Family Courts: A Critical Analysis. *Journal of Ethiopian Law*, 29, 101-120.
- Nielsen, L. (2011). Shared parenting after divorce: a review of shared residential parenting research. *Journal of Divorce & Remarriage*, 52(8), 586–609. https://doi.org/10.1080/10502556.2011.619913.
- Nyaata, V. (2022). Situating children in divorce mediation in South Africa and Australia: a comparative study. *Journal of Policy and Development Studies (JPDS)*, 1(1), 30-41. https://doi.org/10.51317/jpds.v4i1.226.

- Parkes, A. and Kilkelly, U. (2019). Children's Participation in Family Law Proceedings: The Role of the Judge. *International Journal of Children's Rights*, 27(3).
- Pian, H. (2024). The role of high religious courts in the Bengkulu area in safeguarding children's interests regarding post-divorce living expenses and civil rights. *Ulul Albab Jurnal Studi Dan Penelitian Hukum Islam*, 7(1), 34. https://doi.org/10.30659/jua.v7i1.36594.
- Sloth-Nielsen, J. (2002). Children's Rights in the South African Courts: An Overview since Ratification of the UNCRC. *International Journal of Children's Rights*, 10(2).
- Sloth-Nielsen, J. and Du Toit, Z. (2015). Accountability and the Role of Legal Representation in Ensuring Child Participation in South African Family Law. *Law, Democracy and Development*, 19, 126.
- Smart, C. (1984). *The Ties That Bind: Law, Marriage and the Reproduction of Patriarchal Relations*. Routledge & Kegan Paul.
- Smith, A. B. (2007). Children's Rights and Early Childhood Education. *Australian Journal of Early Childhood*, 35, 1–6.
- Tafere, Y. (2015). Intergenerational relationships and the life course: children-caregivers' relations in Ethiopia. *Journal of Intergenerational Relationships*, 13(4), 320-333. https://doi.org/10.1080/15350770.2015.1110511.
- Taylor, N. and Galloway, B. (2013). Hearing Children's Voices in Family Law Disputes. *International Journal of Law, Policy and the Family*, 27, 283-288.
- Tekeba, B., Zegeye, A., & Tamir, T. (2024). Prevalence of children living with non-biological parents in Ethiopia. *Frontiers in Public Health*, 12. https://doi.org/10.3389/fpubh.2024.1420002.
- Wardani, D. (2024). Exploring the fulfilment of children's hadhanah and conformity with the 2014 child protection law. 448–455. https://doi.org/10.2991/978-2-38476-218-7_75.
- Wexler, D. B. (1990). *Therapeutic Jurisprudence: The Law as a Therapeutic Agent*. Carolina Academic Press.

❖ **International, Regional, and National Instruments and Reports:**

- African Committee of Experts on the Rights and Welfare of the Child, Agenda 2040.

- African Union, African Charter on the Rights and Welfare of the Child (ACRWC) (1990).
- American Convention on Human Rights (ACHR).
- Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.
- Hague Convention on the Civil Aspects of International Child Abduction (1980) https://www.hcch.net/en/instruments/conventions/full-text/?cid=24.
- Inter-American Convention on the Rights of the Child (IACRC).
- International Covenant on Civil and Political Rights (ICCPR) (1966), Art 24.
- Revised Family Code of Ethiopia, Proclamation No. 213/2000.
- UN Committee on the Rights of the Child, General Comment No. 12 (2009) and General Comment No. 14 (2013).
- UNICEF Ethiopia, Family Law and Children's Rights in Ethiopia (2015).
- UNICEF, Child Marriage in Ethiopia: A Review of the Evidence (2018).
- United Nations, Convention on the Rights of the Child (CRC) (1989) 1577 UNTS 3.
- Universal Declaration of Human Rights (UDHR) (1948), Arts 2 and 16.
- UNODC, Handbook on Child-Friendly Justice (2021).

Annex

Similarity Report

Bethelehem Mokonnen-A Comparative Analysis of the Protection of the Right of Children of Divorced Parents: Ethiopian Law Versus International and Regional Human Rights Standards

ORIGINALITY REPORT

22%	17%	19%	8%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	dokumen.pub Internet Source	1%
2	hdl.handle.net Internet Source	1%
3	repository.up.ac.za Internet Source	1%
4	aran.library.nuigalway.ie Internet Source	1%
5	ebin.pub Internet Source	1%
6	repository.ju.edu.et Internet Source	<1%
7	aws.edu.pl Internet Source	<1%
8	pure.rug.nl Internet Source	<1%
9	Spijker, Gerarda Hermina Andrea. "The Placement of Children in Need of Care and Protection : A Comparative Study Between South African Law and Dutch Law in the Light of International Standards", University of Pretoria (South Africa), 2023 Publication	<1%
10	chilot.me Internet Source	<1%
11	Abegaz, Solomon Tekle. "A Rights-Based Approach to Reducing Child Mortality in Ethiopia", University of Pretoria (South Africa), 2023 Publication	<1%
12	Submitted to University of Birmingham Student Paper	<1%

Zelalem Teferra (Ph.D.)