



ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
FACULTY OF LAW



**STATE RESPONSIBILITY FOR THE
PROTECTION OF RIGHTS OF CHILDREN
DEPRIVED OF THEIR FAMILY
ENVIRONMENT: THE ETHIOPIAN
PERSPECTIVE**

BY

SOLOMON TEKLE

Addis Ababa

March 2009

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SOLOMON TEKLE



A Thesis Submitted to the Faculty of Law of Addis Ababa University in Partial Fulfillment of the Requirements for the award of the Degree of LL.M in Human Rights

Addis Ababa University

March 2009

Declaration

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

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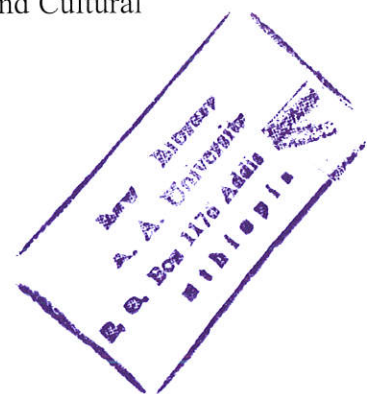
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ACRONYMS

ACRWC	African Charter on the Rights and Welfare of Children
AIDS	Acquired Immuno-Deficiency Syndrome
BOLSA	Bureau of Labour and Social Affairs
CEDAE	Convention on Elimination of Discrimination Against Education
CDFE	Children Deprived of their Family Environment
CEDAW	Convention on Elimination of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
CSA	Central Statistical Authority
DRC	Declaration on the <u>Rights of the Child</u>
ECHR	European Convention on Human Rights
EPRDF	Ethiopian People's Revolutionary Front
FDRE	Federal Democratic Republic of Ethiopia
FSCE	Forum for Street Children-Ethiopia
HIV	Human Immuno-deficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDP	Internal Displaced Persons
ILC	International Law Commission
ILO	International Labour Organization
INS	Immigration and Naturalization Service
MOLSA	Ministry of Labor and Social Affairs
MOWA	Ministry Of Women Affairs
NGOs	Non-Governmental Organizations
NPA	National Plan of Action
OVC	Orphan and Vulnerable Children



RBOLSA	Regional Bureau of Labour and Social Affairs
RCDEF	Rights of Children Deprived of their Family Environment
SCSE	Save the Children Sweden-Ethiopia
SNNPR	Southern Nation Nationalities and People's Region
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNAIDS	United Nations Joint Program for HIV/AIDS
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Emergency Fund
USA	United States of America
USD	United States Dollar
VOA	Voice of America
WFP	World Food Organization
WHO	World Health Organization
WWII	World War Two

Executive Summary

The international, regional and national systems recognize the right of children deprived of their family environment and the right to special protection and assistance to be provided by states. However, in many countries, weak infrastructure and limited distribution systems complicate the right to access to proper alternative care mechanisms as stated under the CRC and ACRWC. This has resulted in the realization of children's right to alternative care setting a difficulty.

Ethiopia has ratified a variety of international and regional human right instruments and has adopted constitutional provisions on the rights of the child. However, mere ratification and adoption of treaties does not warrant the application of the right itself.

CDFE in Ethiopia wonder on the streets because they have no families, food, home or shelter, sometimes abused by adults, and/or other children. All what these children have in common is the total absence of the special safeguard and care which they need by reason of their physical and mental immaturity. In the presence of these grim realities about CDFE, the country cannot be said to have discharged its responsibility under international and regional human rights laws.

CDFE are vulnerable. They are vulnerable because they are deprived of a natural environment for their growth and well being. In view of this, they are in more need of protection by governmental and non-governmental organizations. The recognition of this need emanates from the numerous legal and non-legal instruments adopted at domestic, regional and international level. There is an abundance of mechanisms and machinery in place, both on the national as well as on the international scene.

However, further has to be done to make the rights of CDFE a reality. Ethiopia has to study, analyze, and attack causes and factors that give rise to human rights violations of CDEF. To that effect, revision and implementation of laws, policies and programs that combine the provision of services and social and economic opportunities, the protection of the vulnerable and their meaningful participation are essential to address the current crisis of children deprived of parental care.

There is no single blueprint for success - no "one size fits all" approach to find answers to these complex issues. Responses must be adapted to the individual child in his or her unique circumstances.

CHAPTER ONE

Introduction

1.0 Background of the Study

The preamble of the CRC states: “*that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.*”¹

But, how far is this true? In its formative stage, a child is a human being, and is entitled to special protection in order to enable him/her deploy his/her personality, talents and aptitudes.² An atmosphere of happiness, love and understanding seems to be an essential prerequisite for this.

However, various socio-economic and political factors have been a challenge to children. War, disease, forced displacements and others leave children in especially difficult circumstance or in a condition of moral danger. Children, owing to their mental and physical immaturity, are the most vulnerable to such tragedies. Often children are left without their natural families as a result of which they find themselves out of their biological care takers. Since the time of the CRC itself, the world seems to have become grim for children and adults alike, but in particular for children.³ An increasing number of countries completely lack the conditions under which the child can be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

Children in Congo, Rwanda, Somalia and Bosnia may be considered as the most gruesome examples of countries where millions of children have become without families either temporarily or permanently on account of ethnic cleansing and

¹ Preamble, Paragraph 6, *CRC* (1989)

² Jaap Doek et.al (eds.), *Children on the Move*, (1995)pp.18

³ *Ibid.*

wanton killing.⁴ In Russia alone, children were abandoned to the state at a rate of more than 100,000 per year.⁵ Millions of children world wide are still facing deprivation of their family environment due to reasons beyond the control of their parents. Nevertheless, as war, famine, displacement and others are common in Africa and Asia, the problem is greater in magnitude in the developing world.

In Ethiopia too, millions of children became deprived of their parents on account of HIV/AIDS, abject poverty, drought, war and others thereby being left without families to support them. A great many of such categories of children are often found to be on the streets lacking their basic needs of food, shelter, education, the necessary health care and exposed to abuse, exploitation and others.

An attempt for addressing the problem of such children, at the international level, started during the period of League of Nations. The 1924 Geneva Declaration on the Rights of the Child incorporated five principles. In one of its principles declaration recognized that *...the orphan and the waif must be sheltered and succored.*⁶ The 1959 Declaration on the Rights of Children also recognized that *Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support.*⁷ Moreover, under the CRC, such children without families, inter alia, have the right to special protection and assistance (alternative care) provided by states.

Other human right instruments, including the UDHR (Art. 25) and Regional human rights instruments (Art. 15 of ACRWC) also provide for the right to special protection and assistance of children by states.

Despite the recognition, in international and Regional law, of the vulnerability of children in different circumstances and the corresponding duty of states towards

⁴ Ibid.

⁵ *Orphan and Abandoned Children-Free on line library*, <http://www.thefreelibrary.com/orphans+abandoned+children>

⁶ Principle 2, *DRC* (1924)

⁷ Principle 6, *DRC* (1959)

such children, children deprived or separated from their families are more vulnerable still world wide.

Ethiopia has subscribed to most of international and Regional human rights treaties including the CRC and ACRWC. Nevertheless, when one sees the situation of such children in Ethiopia, it has become a matter of ridicule that whether the Ethiopian state has tried to ensure to the maximum extent possible the survival and development of such children by discharging its responsibility under human rights laws. The country still occupies a significant place in reporting by non-governmental organizations on violation of the international rules it has already ratified.⁸

Consequently, such children could not have their basic needs met, wander on streets, become vagrant, abused, exploited or could not fully assume responsibility within the community they are in. In spite of the country's positive legislative and social reforms over the past decade, the number of children deprived of parental care continues to grow.

1.1 Statement of the Research Problem

Today, the issue of state responsibility for the right of CDFE is one of the most sensitive issues in the world, and a number of scholars and organizations recognize that the problem requires a genuine response. The sources of the problem of the CDFE, inter alia, are war, drought, displacement, death or incapacity of parents. States have the responsibility to provide alternative care settings for such children. However, some states seem to pay no proper attention to the recognition and protection of the right of CDFE. Hence, CDFE suffered from inadequate food,

⁸ *Concluding Observations of the Committee on the Rights of the Child :Ethiopia 21/02/2001*, [http://www.unhchr.ch/\(Symbol\)/CRC.C15.Add.144.En?Opendocument](http://www.unhchr.ch/(Symbol)/CRC.C15.Add.144.En?Opendocument)

housing, clothing, medical care, lack of stimulation or education, abuse, and neglect.

For many years, Ethiopia has been among those developing countries having a chronic problem of children with deprivation of family atmosphere. Although determining of the exact figure is difficult, research shows that there are millions of CDFE in the country owing to HIV/AIDS, war, poverty, displacement and others.

Among children without parents, UNICEF lists the number of orphans in Ethiopia in 2005 to be 4.8 million.⁹ The Ethiopian AIDS Campaign lists 5.4 million orphans in Ethiopia for 2007.¹⁰ This figure tells the possibility of presence of many children without family care. The problem with such categories of children is not the increase of their number alone, but also many of them do not have access to food, caretakers, shelter, medical care, to education and school fees, inheritance, clothing, security, grief reaction, and family affection. Similar human rights problem is faced by street and displaced children.

Since children are the economic assets of the country and their future development can be influenced by their proper care, the consequences of deprivation of family care need to be understood better. International, Regional and domestic laws recognize that the state is responsible for the care of children once they have faced with loss of parental care.

CDFE have the same rights enshrined in the international Bills of rights and other core international human rights instruments. Based on these instruments governments are responsible for not violating rights directly, as well as for ensuring the conditions that enable people to realize their rights as fully as possible. Hence,

⁹ *Adopting Ethiopian Orphans May Not be the Best Solution*, <http://news.newamericamedia.org/news/view>

¹⁰ *Ibid.*

as for every human right, governments have three levels of responsibilities towards CDFE. These include:

- *Respect*
- *Protect* and
- *Fulfill* the right

As an illustration, consider governmental obligations in the context of CDFE, using one right--the right to education:

Respecting the right means that states cannot violate the right directly.¹¹ This means that the right to education is violated if children, by the state action, are barred from attending school.

Protecting the right means a state has to prevent violations of rights by non state actors and offer some sort of redress that people know about and have access to if a violation does occur.¹² A state has to ensure, for example, that private schools do not stop CDFE from accessing education considering their family background.

Fulfilling the right means states have to take all appropriate measures-legislative, administrative, budgetary, judicial, and otherwise-toward fulfilling the right.¹³ If a state fails to provide essential fund where education can be accessible free of charge to CDFE, this itself could be understood to be a violation of fulfilling the right to education.

In most countries, resource and other constraints can render it impossible for a government to fulfill all rights immediately and completely. The mechanisms responsible for monitoring governmental compliance with human rights obligations recognize that, in practical terms, a commitment to the right to protection and

¹¹ *State responsibility for abuses by 'non-state actors'*, Amnesty International, <http://www.amnestyusa.org/women/humanrights.htm/>

¹² Ibid.

¹³ Ibid.

assistance will require more than just passing a law.¹⁴ It will require earnest commitment on proper utilization of resources, trained personnel, facilities, textbooks, and a sustainable infrastructure. Limited political commitment of governments and absence of meaningful intervention of other stake holders makes the realizing of the rights less practical to developing countries like Ethiopia. Hence, under general human right instruments, the measure of state responsibility for the right of CDFE is dependent up on the extent to which states and others try to implement rights of such children.

As far as state responsibility for the rights of CDFE under the CRC is concerned, the obligation to provide alternative care is unqualified. It seems that it is not dependent on states maximum available resource. CRC does not state so. This is mainly because if a given state does not have the means to protect CDFE, it has a right to require the cooperation of the international community and the latter is legally bound to assist.¹⁵

Despite those rights of CDFE both under international, Regional and domestic laws more than thousands of them in Ethiopia live without protection and assistance of the state being subjected to a shocking level of neglect and abuse. The thesis attempts to uncover Ethiopia's responsibility from the perspective of protection of the rights of CDFE that require proper consideration if the present situation CDFE in the country is be improved.

1.2 Objectives of the Study

The main objective of this research is to explore on state responsibility for the protection of the Rights of CDFE. The emphasis is on the Ethiopian perspective towards the issue.

¹⁴ Committee on Economic, Social, and Cultural Rights: General Comment 14, The Right to the Highest Attainable Standard of Health (Twenty-second session, 2000) <http://www1.umn.edu/humanrts/gencomm/escgencom14.htm>

¹⁵ Article 4 CRC (1989)

In order to identify the area of the study on a more designed fashion, international, Regional instruments and domestic laws on the issue will be analyzed. The specific purposes of the study are to:

- Clearly point out the human rights of CDFE,
- Explore international instruments on the issue of state responsibility and rights of CDFE,
- Show to the reader the relationship between state responsibility and rights of CDFE,
- Explore international as well as Regional responses and solutions to the problem faced in the implementation of human rights in the context of CDFE and suggest ways of integrating those responses to Ethiopian situation,
- Find out why human rights of CDFE are not respected in certain instances
- Identify the reasons behind the problem on the rights of CDFE, and
- Show the gaps in the implementation of the human rights of CDFE in Ethiopia and to propose possible solutions to the same.

1.3 Significance of the Study

Compared with the International Bills of Human Rights, the CRC and ACRWC are recent developments. Hence, relatively speaking, the issue of state responsibility for the protection of CDFE from the above stated conventions perspective, is a recent one. Hence, the study will have the following significance to:

- Contribute its part to the pool of research works done on similar issues,
- Enhance knowledge on the issue of state responsibility for the protection of rights of CDFE to interest groups like, academics, policy makers, judges, public prosecutors, advocators of human rights, students who

- pursue their research, NGOs, and other institutions, groups or persons,
- Show to the reader the efforts done on the subject about the issue under consideration,
 - Serve as a resource material on the issue of state responsibility for the protection of the rights of CDFE and,
 - Promote other researchers to undertake further studies in the area.

1.4 Research Questions

The research question that an endeavor was made to answer in the process of this research includes:

- Are there human rights which make sense in the context of CDFE?
- Are governments responsible for the rights of CDFE?
- Are the human rights of CDFE respected, protected or fulfilled by Ethiopian government? and
- If the human rights of such children have not been implemented in Ethiopia, what are the basic problems of implementation and reasons for such kind of problems?

1.5 Scope of the Study

The scope of this study is limited to investigating the responsibility of states for the rights of CDFE in the international level in general and Ethiopian context in particular. The research includes analysis of the relevant international as well as national legislations in light of Children and the investigation of the real practice in the Ethiopian society. In order to achieve this task quantitative and qualitative data collection is conducted in selected areas of the country to show the reality from first hand information.

This research, however, will not try to uncover the causes and effects of children's deprivation of family environment and the responsibility of states thereof, nor does it try to solve the social and other effects of deprivation of family care. It is specifically limited to see the problem from the legal point of view, and most importantly from the point of view of human rights.

Moreover, though CDFE could include orphans, street children, refugee children, displaced children and many more, this thesis focuses to investigating the practical problems pertaining to CDFE in institutions of child care and some of them wondering on the streets.

The research generally tries to cover the rights of children affected by deprivation of family environment, in particular the rights to alternative care the provision of which is the responsibility of states.

The research area is designed to include from BOLSA of the nine regions and the two self-administrating cities of Ethiopia. This is designed to collect diversified and representative information in order to show the prevalence of the problem and to provide inputs to different Regional bodies and NGOs towards the promotion, protection and fulfillment of the human rights of those CDFE.

1.6 Limitations

The study intends to analyze the situation of CDFE in Ethiopia and the responsibility of the country under human rights laws. But understanding every group of children who fall under the category is difficult. This in turn poses a limitation on easily defining the target groups. Furthermore, analyzing the cause and nature of problem of every child under the category is easier said than done. This, by itself, ultimately creates a problem on identifying the specific

responsibility of states towards particular group of children under discussion.

On the other hand, although it is an important area to put in to taste whether the Ethiopian state has discharged its obligation under treaties and national laws, inter alia, getting a reliable data on the exact number of CDFE and those who get state protection was not possible.

On the other hand, children in care institutions were not easily accessible for interview. Even if accessible, for one or another reason, they were not willing to tell what really has happened to them in the institutions. This has hindered the researcher to receive a wealth of information both from governmental and non-governmental sources, on the overall state of children in care institutions in different parts of Ethiopia. In general, obtaining reliable data concerning the exact status of CDFE in Ethiopia is problematic.

1.7 Research Design and Methodology

Due to the fact that the issue of human rights of CDFE is sensitive and the lack of adequate data system of our legal system, a multi-methodology approach was adopted. The researcher's previous observation of the study area helped him in identifying who the majority of CDFE are. Moreover, it was during the pilot field survey that I was able to get better understanding in identifying the resident areas and the conditions in which CDFE find themselves. Attempts were also made to get better insights about the problem to be studied by observing the realities, and through informal conversation with CDFE. I talked with some of them about how they became without families and the challenges they face. The researcher, also, had the chance to communicate with different people who have relevant experience with CDFE.



The researcher has also interviewed officials of MOWA, the CSA and employees of NGOs working on child issues whether they have documented the population of CDFE. Unfortunately, they don't have registered data on the population of the target groups. In order to estimate the number of CDFE in our country, the researcher had to ask the Regional Social and Labor Affairs Bureau's of the 9 Regional states and the two self-administrative units. Admittedly, the figure obtained is not exact as to show the true number of CDFE; it is rather to show the complexity of data and how far the researcher has attempted to include reasonable number of children in the study.

In addition to the researcher's observation and contacting government officials and employees, the researcher has also consulted literatures related with the issue; particularly relevant international, regional, domestic laws, commentaries of UN treaty bodies, books, journals, Articles and electronic media are reviewed.

Therefore, in order to carry out the research, data were collected primarily from first hand sources through interviews, observation, and questionnaire. As regards the questionnaire prepared for organs responsible for the rights of CDFE, the sample size (random sampling from Federal, Regional, Zonal Bureaus and Kebeles) and the distribution is as follows:

Table 1.1 Sample taken for the study: by Region/Office, Frequency, and Percentage

<i>Ser. No.</i>	<i>Region/Office</i>	<i>Frequency</i>	<i>%</i>
<i>1</i>	<i>Tigray</i>	<i>5</i>	<i>6</i>
<i>2</i>	<i>Afar</i>	<i>5</i>	<i>6</i>
<i>3</i>	<i>Amhara</i>	<i>11</i>	<i>13</i>
<i>4</i>	<i>Oromiya</i>	<i>22</i>	<i>25</i>
<i>5</i>	<i>Somali</i>	<i>4</i>	<i>5</i>
<i>6</i>	<i>Benshangul G.</i>	<i>2</i>	<i>0.22</i>
<i>7</i>	<i>SNNP</i>	<i>10</i>	<i>11.11</i>
<i>8</i>	<i>Gambella</i>	<i>3</i>	<i>3.45</i>
<i>9</i>	<i>Harari</i>	<i>2</i>	<i>0.22</i>
<i>10</i>	<i>Addis Ababa</i>	<i>15</i>	<i>17</i>
<i>11</i>	<i>Dire Dawa</i>	<i>5</i>	<i>6</i>
<i>12</i>	<i>MOWA</i>	<i>6</i>	<i>7</i>
	<i>Total</i>	<i>90</i>	<i>100</i>

In similar manner, sample for interview was also taken from 60 employees of child care institutions from different regions.

On the top of the above sources, secondary sources like literatures were also thoroughly reviewed in order to achieve the objectives of the study. Taking this in to consideration, I have employed both qualitative and quantitative methods as the basic tools of this research to explore the rights and the realities of CDFE in Ethiopia. This enabled us to provide an interpretive measurement in assessing whether the country has discharged its responsibility for the enforcement of human rights of CDFE.

1.8 Organization of the Thesis

This thesis has attempted to explore the ways in which international, Regional and

Ethiopian state. In so doing it has aimed at approaching the subject in the following sequence. This thesis is organized in to five Chapters each of which has its sections and sub-sections. As a prelude to the study, the First chapter introduces background of the study, statement of the problem, objective of the study, significance, scope, limitation and methodology of the research. The Second Chapter deals with human rights in a nutshell, definitional analysis and rights of CDFE. It looks the matter from the perspective of international conventions, declarations and Regional human rights laws. Besides, this part tries to discuss the international responsibility of states towards the rights of CDFE.

In the Third Chapter, the legal regime for protecting the RCDFE and the responsibility of the Ethiopian state towards the right is dealt. Here, the legal and institutional devises furnished by the FDRE constitution, the revised Federal Family and criminal law and other laws and policies will be analyzed in the light of the various legal and institutional frameworks put in place to guarantee the protection of rights of CDFE. .

In the Fourth Chapter, the paper tries to discuss some of the practical problems in implementing the rights of CDFE in Ethiopia. Finally, the paper draws some conclusions based on identified problems of rights of CDFE in Ethiopia and elsewhere with similar problem and provides recommendations.

CHAPTER TWO

Review of Related Literature

2.0 Human rights in a Nutshell

Among the most important issues in the contemporary world order, the issue of human right is the predominant one if not the only one. In the modern world every scholar, philosopher, politician and other social thinker believe that at least in theory every human being is entitled to some basic and fundamental rights. These so called human rights are due to every human being by the mere fact of being born as human. And they are widely considered to be those fundamental moral rights of the person that are necessary for a life with human dignity.¹

Human rights are characterized to be inalienable with the individual. However, even if human rights are thought to be inalienable, that the state cannot contravene, rights have still have to be identified by human beings and codified in the legal systems.²

In the present time there seems to be no country or government which does not recognize human rights to some degree. No nation ignores the issues of human rights at least in theory. And almost all the constitutions in the world, written or otherwise, make mention of human rights. No country or government dares to say that it does not recognize the basic human rights of the people.

The term human right is given different designations or names in different legal systems. Some of the terms include human rights, fundamental rights, natural rights, civil liberties, bill of rights, basic rights, etc..., depending on the legal system under consideration. Although there are numerous names of the term human rights, almost

¹ David P. Forsythe, *Human Rights In International Relations*, (2003) pp.3

² Jack Donnely, "The Social Construction of International Human Rights", in Tim Dunne and Nicholas J. Wheeler, (eds.), *Human Rights in Global Politics* (1999) pp.71-102

all of them signify or express the same or similar concept.

Ethiopia, being a member of the world, i.e.; the UN, has recognized the basic human rights of its citizens.

The recognition of human rights in the Ethiopian legal system is made under two methods, namely by the embodiment of the rights in the constitution and other laws; the other by ratifying international instruments which govern the human right regime.

Under the FDRE constitution basic human rights are recognized under chapter III. Under this chapter there are some 31 Articles which enumerate human rights in the constitution under the title *Fundamental Right and Freedoms*.

If we see the FDRE constitution we can easily understand that almost one third of it is dedicated human right provisions. This can show us the special emphasis given to human rights by the government of Ethiopia.

Another source of human rights principles in the Ethiopian legal framework is the international human right documents ratified by Ethiopia. Ethiopia has ratified the basic human right instruments which include ICCPR of 1976, ICESCR of 1976, CRC of 1989 etc...³

International instruments ratified by Ethiopia are considered as the integral part of the law of the land.⁴ Hence, any person can argue or enforce his/her rights by citing these international instruments. Generally speaking, human rights in the Ethiopian legal framework can draw their source from the constitution as the supreme law of the land, or international instruments ratified by Ethiopia.

Children's rights are human rights. By the very fact of being humans, children have the same rights that are recognized under the above human rights instruments. Like

³ Major International Instruments Status as at 31 May 1996, UNESCO, (1996)pp.26

⁴ Article 9(4), *FDRE Constitution* (1995)

all others, their rights are characterized by their universality, inalienability, fundamentality and indivisibility.

2.1 Definition of the Child

The application of a certain law requires a proper identification of the subject it is meant to address.⁵ Given this, the law should define those subjects of a right to which a state is responsible. The subjects of this paper are CDFE. Let us, then, first define what the term child is.

The ordinary dictionary meaning of the term child is a young human being below the age of puberty.⁶ Black's Law Dictionary, on the other hand, defined child as, progeny offspring of parentage: unborn or recently born human.⁷ This definition extends the limits of scope of application of the term to include the unborn child.

In some countries domestic law, the word infant/child refers to a person who has not arrived at his majority as fixed by law. An infant's incapacity is removed at the time he/she attains majority. Hence, attaining majority results in the entitlement to the management of his/her affairs and to enter into various juridical acts.

Nevertheless, it should be noted that the term infant does not necessarily go in synonym with the term child, mainly because infant could mean a period between early infancy and youth.

2.1.1 CRC

The CRC defines the word child as every human being below the age of 18 years unless, under the law applicable to the child majority is attained earlier.⁸ The Convention defines only the upper age limit thereby avoiding the issue of the

⁵ *Ethiopian Law and the Convention on the Rights of the Child: A Comparative Study* (2006)PP.4

⁶ Della Thomson, *the Oxford Dictionary of Current English* (1993) pp.141

⁷ Henry Campbell Black, *Blacks Law Dictionary*, (1990) pp.239

⁸ Article 1, CRC (1989)

foetus. In the preamble, however, it is stated that the child needs legal protection "before as well as after birth".

The convention by taking in to account different cultural, social, and economic variations of countries, gives recognition for the possibility of a child attaining majority before 18 years. Therefore, states parties to the CRC are at liberty in determining a particular age below which one shall be considered as a child in their own jurisdiction.

2.1.2 ACRWC

The charter states that "for the purpose of this charter, a child means every human being below the age of 18 years."⁹ The definition seems to be similar with that of the CRC in that both recognize a child must be below the age of 18 years.

It is also clear from the above definitions that the threshold age of majority varies from country to country. However, it could be said, the age limit given by the convention and the charter can serve as a universal reference.

2.1.3 Ethiopian Laws

The term "hitsan" and "Muchaa" are the Amharic and Oromiffa words, respectively, used to connote a child. No serious action was taken by Ethiopian laws regarding child rights prior to the period of codification of laws.¹⁰ The provisions of the Civil Code define a minor as a person below the age of 18 years old.¹¹ Currently, children appear in several laws that do have different purposes and the way they are treated, or to be more specific, the way they are defined, in these laws are not found to be uniform.

⁹ Article 2, *ACRWC* (1990)

¹⁰ This period includes 1957-1965. The period witnessed a serious of measures that have resulted in the codification of six codes of Ethiopia that have to a greater extent improved the legal status of children in Ethiopia. Some of these laws are being revised and some others are on the process of revision.

¹¹ Article 198, *Civil Code of the Empire of Ethiopia* (1960)

According to the Revised Family Code of 2000, a child or in the parlance of the law a minor, is every person below the age of 18 years.¹² This definition, obviously, allies with that of the CRC and ACRWC. But the definition is subject to one exception; when minority comes to an end by emancipation.¹³ Possibility of attaining majority before the age of 18 years under the law still goes in warm with the CRC, since there is a possibility of be attaining majority below 18 years under the CRC so long as the domestic law of a states party says otherwise. Once a child is emancipated, she/he loses the special protection afforded to children.

We do have another conception of attaining majority under the Penal Code of 2005. There are three levels of age category for criminal liability under the code for children; below 9, 9-14 and 15-18. Persons under the age of nine are not criminally liable.¹⁴ Hence, the legal minimum age of criminal responsibility is 9 years. For the purpose of criminal liability a person is said to have attained majority if he/she attains the age of 9 years. The Committee on the CRC is concerned with this as a very low legal minimum age of criminal responsibility.¹⁵

On the other hand, according to Article 56(1) of the code, the criminal liability and guilt of a person between 15 and 18 years of age is determined as though he/she were an adult. Between these ages, a person is not exonerated from liability of the criminal provisions of the code. What makes the person different from adults is that he/she is entitled to a privilege treatment as to the nature or extent of the penalty. For instance, death penalty cannot be imposed against the person under the age 15-18 years.

However, it can be generalized the fact that attaining majority at the age of 15 is in harmony with under Article 1 of the CRC based on which a child is below the age of 18 unless, under the law applicable to the child, majority is attained earlier.

¹² Article 215, *Revised Family Code of Ethiopia* (2000)

¹³ Id., Articles 7(2) and 377

¹⁴ Article 52, *Criminal Code of Ethiopia* (2005)

¹⁵ *Concluding Observations of the Committee on the Rights of the Child* :Ethiopia 21/02/2001, [http://www.unhchr.ch/\(Symbol\)/CRC.C15.Add.144.En?Opendocument](http://www.unhchr.ch/(Symbol)/CRC.C15.Add.144.En?Opendocument)

Proclamation No.377/2003, on the other hand, provides for two categories of minors: persons under 14 years of age and those persons who have attained the age of fourteen but less than eighteen years.¹⁶ The age limit for employment under this law is fourteen years.¹⁷ It totally prohibits employing persons less than fourteen. The prohibition also applies to contract of apprenticeship. The proclamation referred children between the ages of fourteen to eighteen as young workers.

In short, our laws do not share a single definition of the term child that is applicable to all. It appears in several laws lacking uniformity with variety of purposes.

2.2 Who are CDFE?

CDFE, as members of the general family of children, have a similar age limit. Hence, the age wise definition of the child as discussed in section 2.1 above also applies to CDFE. However, under no international or Regional human rights instrument are children deprived of their family environment defined. Many literatures also state as to the presence of millions of children in many parts of the world who are deprived of their family environment without defining the same.

Regarding CDFE, the CRC reads as follows:¹⁸

1. *A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.*
2. *States Parties shall in accordance with their national laws ensure alternative care for such a child.*
3. *Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.*

¹⁶ Article 89(1), *Labour Proclamation* (2003)

¹⁷ *Id.*, Article, 89(2)

¹⁸ Article 20, *CRC* (1989)

The provisions of the CRC apply with respect to a child temporarily or permanently deprived of his/her family environment, or in whose best interest cannot be allowed to remain in that environment. It does not, however, define the subject CDFE.

According to UNICEF's Implementation Book of the CRC, CDFE are those children who are temporarily or permanently unable to live with their families, either because of events such as death, abandonment or displacement, or because the state has determined that they must be removed for their best interests.¹⁹ The reference to children who in their best interest cannot remain in their family environment should be interpreted in the light of Art.9(1) of the CRC.

The above definition of CDFE is not exhaustive. It envisages possibilities of deprivation of family environment other than the above stated scenarios. The non-exhaustiveness is important mainly because the context in which children might be deprived of their family environment may differ from one country to another even though there are commonalities. For instance, there are numerous children in India that are deprived of their family environment because of social exclusion such as secluded casts and tribes.²⁰ In general, children of orphans, street children, refugee children, children of some tribe and others fall under the category of CDFE.

It could be entailed from the above discussion that a number of factors could cause children to become deprived of their family environment. Factors such as death of parents, poverty, social exclusion, war, urbanization, family disintegration, child abuse and exploitation and a different others are the main cause of the deprivation of family life. In short, economic, social and political problems are the main sources of the problem for children to become without a family environment.

¹⁹ Hodgkin R. and Newell P, *Implementation Hand book For the Convention on the Rights of the Child* (1998) pp.257

²⁰ *Children's Issues*, India, <http://www.unicef.org/India/children.html>

2.3 Rights of the Child: Legal Framework

In a world of rights, where it exists, there is a remedy. Rights are valuable commodities not only to their bearers but also to the whole society made of the individuals who bear the rights.²¹ Societal life would be meaningful when rights are recognized and protected at every level. This is mainly because as *Thomas Hobbes* tried to describe a state of nature as solitary, poor, nasty, brutish and nasty.²² Similarly, the same would happen in a world that could not recognize and protect rights.

Having emphasized the importance of rights, it is equally important to see what the term 'right' means before discussing what the rights of children are.

According to *Webster's New International Dictionary* a right is: "Something to which one has a just claim, the power or privilege to which one is justly entitled as upon the principles of morality, religion, law, or custom." ²³

The above definition simply signifies a right as a just claim. It does not state against whom the bearer has a valid claim.

A right is also defined as: "Claims that individuals or groups such as indigenous peoples or minorities hold against states and the obligations of states to comply." ²⁴

The above definition seems to be better than the former in that it explicitly states as to rights and their correlation with respect to the corresponding obligation of states. It also recognizes the presence rights called individual and group which can be claimed against states.

²¹ Michael Freeman, *The Moral Status of Children* (1997) pp. 21

²² Tigist Gossaye, *the Non-Observance of the Rights of Street Children in Addis Ababa* (2001) pp.47

²³ David B. Guralic (editor), *Webster's New World Dictionary* (1979) pp.634

²⁴ Freeman Supra note 21, pp.23

Child rights are enshrined in different international, regional and in the national laws of many countries. Children, hence, are subjects of the rights stated in those instruments. As a result, they have a valid claim against states based on the above definition of a right. But what are those rights of the child?

Children's rights have been argued about for well over a century, and by a variety of different professionals and perspectives. We can observe the different values that have attached to children at particular historical movements. In earlier times, concerns for children and their rights were voiced by child savers.²⁵ They had served as instruments in establishing separate institution for children, juvenile courts, distinct penal systems and a system of compulsory education.²⁶ In the light of this, it could be said that the early movements of child rights was emphasized on protection or welfare.

Since the 20's of the twentieth century, however, child rights have been recognized in a number of international declarations, conventions, and Regional human rights instruments and in the national laws of many countries. The next issue is what are those international declarations, conventions and Regional instruments that protect children?

2.3.1 Declarations

Child rights have been addressed in a number of international conventions and declarations. Child rights have also their historical development. In this part of the paper, however, the writer tries to analyze those instruments that are widely recognized.

The first comprehensive international instrument was the Geneva Declaration of 1924, also known as the DRC of 1924. It introduced five principles, in general,

²⁵ Michael Freeman and Philip Veerman, *The Ideologies of Children's Rights* (1992) pp.3

²⁶ Ibid.

aimed at promoting the physical, moral and emotional development of the child.²⁷ It was essentially an aspiration document. It did, however, prepare the ground for the progressive development of international norms.

A different child rights Declaration came true in 1959. The 1924 Geneva Declaration, was somewhat outdated, especially in view of the changes that had taken place in the field of health care and child-welfare that necessitated a new child rights Declaration.²⁸ The 1959 Declaration contains six preambular paragraphs and ten principles. That the reference made to principles rather than Articles derives from the non-binding character of the Declaration.

In its preamble, like many conventions, the Declaration makes reference to the charter of the UN and the UDHR. It, most importantly, recognizes non-discrimination of children based on different ground thereby trying to avoid patterns of discrimination. Paragraph 3 of the preamble is equally important in expressing consensus that the child needs special protection “by reason of his physical and mental immaturity.”

In its principles, the Declaration tries to protect children from discrimination and exploitation. Besides, the principles provide for the child’s right to name and nationality, non-separation from parents, special protection and treatment, social security, education and the right to receive first protection and relief in all circumstances.²⁹

Compared to the 1924 Declaration, the 1959 one is a progressive development in that it tries to address many child right issues taking cognizance of the developments in the human rights movement since World War II. The Declarations were similar in that they were aspirations and non-binding documents. However, they have served as stepping zones for modern developments in the recognition of

²⁷ Philip E.Veerman, *The Rights of the Child and the changing Image of Childhood* (1992)pp.157-158

²⁸ Id., pp.161

²⁹ Principles 3-8 DRC (1959)

rights of the Child.

The UDHR is another Declaration the provisions of which are applicable children as human being and children as vulnerable groups requiring special protection. Although child rights are human rights and as result all the provisions of the UDHR are applicable to them, considering their special needs the UDHR states that: *‘Motherhood and Childhood are entitled to special care and assistance.’*³⁰

The above are the widely recognized child specific Declarations in the international system. Once again, although they are non-binding documents, they have contributed as a sound basis for a later development of a comprehensive child rights document.

2.3.2 International Conventions

Parallel to the above Declarations, we have also international conventions addressing children’s rights as human being and on account of their vulnerability.

Regarding children, the *ICCPR* provides that:

"... Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age.... Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.... The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.... Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. Every child shall be registered immediately after birth and shall have a name. Every child has the right to acquire a nationality."(Articles 6, 10, 23, and 24)

Regarding socio-economic and cultural rights of the child, the *ICESCR* provides:

³⁰ Article 25(2), *UDHR* (1948)

"The States Parties ... recognize that ... special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law.... States Parties ... recognize the right of everyone to an adequate standard of living....; to the ... highest attainable standard of physical and mental health.... The steps to be taken ... to achieve the full realization of this right shall include those necessary for ... the reduction of the stillbirth-rate and of infant mortality, and for the healthy development of the child.... States Parties ... recognize the right of everyone to education...." (Articles 10, 11, 12, and 13)

A different human rights instrument that addresses child rights is CEDAW. It states that:

"States Parties condemn discrimination against women in all its forms, agree ... to take all appropriate measures, including legislation, to modify or abolish existing laws, ... customs and practices which constitute discrimination against women.... States Parties shall take all appropriate measures ... to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.... States Parties shall ... eliminate discrimination against women ... in the field of education....; in the field of health care...." (Articles 2, 5, 10, and 12)

The CEDAE also provides that:

"The States Parties ... undertake ... to ... discontinue any ... practices which involve discrimination in education....; to formulate, develop and apply a national policy which ... will promote equality of opportunity and of treatment in ... education and in particular:...To make primary education free and compulsory; make secondary education in its different forms

available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law...; To encourage and intensify ... the education of persons who have not received any primary education or who have not completed the entire primary education.... It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and ... the use or the teaching of their own language...."(Articles 3, 4, and 5)

International humanitarian law also provides general protection for children as persons taking no part in hostilities, and special protection as persons who are particularly vulnerable.³¹ The Fourth Geneva Convention comprises a great many provisions in favor of children. It declares that children should be especially protected against warfare and many of the provisions take into account the particular needs of children. In addition, Protocol I states that "Children shall be the subject of special respect and shall be protected against any form of indecent assault."³² Protocol II also made a similar provision by stipulating that Children shall be provided with the care and aid they require.³³ This includes provision of adequate food, health and shelter.

A further important provision of the Fourth Geneva Convention and Protocol I relates the protection of family and children during armed conflicts. They subscribe that, in international armed conflicts, children should benefit from an environment as close as possible to that to which they are accustomed.³⁴ Thus, children under fifteen who are orphaned or separated from their families may continue "the exercise of their religion and their education"; as far as possible, their education shall "be entrusted to persons of a similar cultural tradition".³⁵ The Occupying Power shall make arrangements for the maintenance and education of children who are orphaned or separated from their parents, "if possible by persons of their own

³¹ International Review of the Red Cross, [http://www.icrc.org/web/eng/sisteen0.nsf/\\$\\$advsearch?OpenForm](http://www.icrc.org/web/eng/sisteen0.nsf/$$advsearch?OpenForm)

³² Article 77, I *Protocol to the Four Geneva Convention* (1977)

³³ Article 4, II *Protocol to the Four Geneva Convention* (1977)

³⁴ See *Supra* note 31

³⁵ Article 24, *the Fourth Geneva Convention* (1949)

nationality, language and religion" if they "cannot be adequately cared for by a near relative or friend".³⁶

The *ILO* also states:

"Each Member... undertakes to pursue a national policy ... to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.... The minimum age ... shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.... The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years...." (ILO Minimum Age Convention (No. 38), Articles 1, 2, and 3)

The CRC is the most crucial child rights instrument that has tried to hold together what is already put here and there by the above stated provisions of different conventions and Declarations. It codifies under one title those provisions of international law pertaining to children.³⁷

The Convention's draft was submitted by Poland in 1979. The construction of the Convention took over ten years and the final version is much different than the Polish draft.³⁸ The framers of the Convention worked hard to formulate the wording of the treaty in such a way that would make it acceptable to the majority of member states.³⁹

The Convention on the Rights of the Child was adopted by the UN General Assembly on November 20, 1989. It came into force upon ratification by 20 states, on September 2, 1990. States-Parties were allowed to submit reservations, declarations and comments which made it easier for the states to decide on signing the Convention. A considerable number of states took advantage of this option,

³⁶ Id., Article 50

³⁷ Supra note 27, pp.184

³⁸ The United States's Compliance Decisions with regards to the UN CRC and the two protocols : Reflections on the Theories of International law, <http://kb.osu.edu/aspace/bitstream/1811/32208>

³⁹ Ibid.



Poland as well.

Today, the CRC is ratified by all countries of the World except USA and Somalia.⁴⁰ It is the most widely ratified convention ever in history and suggests that it acquires the status of customary international law. It covers the whole range of child and human rights. Traditionally these have been classified as civil and political, on the one hand, economic, social and cultural on the other. Although reference is made to this classification in Article 4 of the CRC, the substantive rights are not explicitly divided this way. In the overall, the rights in the CRC are classified as the “3 Ps”.⁴¹ They are as follows:

- **Provision** – *children have the right to be provided with certain things and services, ranging from a name and nationality to health care and education.*
- **Protection** – *relates with children’s right to be protected from acts including abuse, torture, exploitation, arbitrary detention and unwarranted removal from parental care.*
- **Participation** – *refers children’s right to do certain things and to have their say be heard, to participate both in decision making affecting their lives and in society as a whole.*

2.3.3 Regional Instruments

Regional human rights systems were developed to reflect Regional values and offer a more specific framework than the UN system.⁴² Such a framework can resonate more strongly with local realities and allow for different approaches to enforcing standards.⁴³

Regional mechanisms have so far been established for Africa, the Inter-Americans, and Europe. Unlike the UN system, both the Inter-American and the African human rights systems spell out the duties that individuals have to society, as well as their rights.

⁴⁰ Somalia has not ratified the CRC for lack of a functional government. USA claims it affords better protection for children than the CRC does.

⁴¹ *Realizing Rights for Children, Harmonization of Laws on Children Eastern and Southern Africa* (2007) pp.12

⁴² *What are Regional Human Rights Mechanisms?*, <http://www.crin.org/RM/introducion.asp>

⁴³ Ibid.

The Regional systems provide varying degrees of protection for child rights. Some have specific instruments and mechanisms to challenge breaches of child rights; others rely on a monitoring body to interpret how a particular treaty applies to child rights. Where there are gaps in the protection of rights, all three Regional systems may draw on the UN or other Regional systems to interpret how the provisions of human rights instruments apply to children.

Following this, let us try to see briefly the position of the human right of CDFE under the three systems.

I Africa

The Regional African Human Rights System is based on the African Charter on Human and Peoples' Rights. It is the youngest of the three functioning human rights regimes.⁴⁴ It has earned a distinction of being innovative on its recognition and recognition of the so called third generation rights.⁴⁵ Following the Charter, there are a variety of declarations and conventions that are meant to address the rights of specific groups that include women and children in Africa. Ethiopia is party to the charter and the various African human rights instruments.

All the various declarations and conventions are applicable to all Africans also apply to CDFE. However, the ACRWC is the most important document on African children in general and African CDFE in particular. Alike the CRC, it recognizes the right of CDEF, for any reason, to special protection and assistance to be provided by African states which includes, among others, foster placement, or placement in suitable institutions for the care of the child.⁴⁶ However, different from that of CRC, it is not only deprivation of family that can entitle to the right to alternative care but also loss of parents. In addition, the ACRWC does not mention adoption as an alternative care. Adoption is not recognized in the Sharia. As a

⁴⁴ Gizachew Admasu, *Protection of Minorities Under the Banjul Charter*, in Ethiopian Journal of Legal Education (2008) pp.71

⁴⁵ Ibid.

⁴⁶ Article 25, ACRWC (1990)

result, the researcher believes, those African states with high population of Islamic religion might have domination over others in passing vote over the specific provision of CDFE. Otherwise than this, the provisions of Art. 25 of the ACRWC give a similar protection with that of the CRC.

On the top of that, there are institutional frameworks for the promotion of the rights of CDFE. It includes the African Commission on Human and People's Rights, the African Committee of Experts on the Rights and Welfare of the Child, and the African Court on Human and People's Rights. They serve as mechanisms for monitoring African child rights.

II Europe

Based on principles of pluralist democracy, human rights, and the rule of law, some European countries established the Council of Europe.⁴⁷ Hence, the European human rights system dates back to the Council of Europe itself. In order to make efforts in promoting human rights, the Council ratified what simply known as the ECHR (1950). The ECHR was the first legal treaty to protect human rights, as well as the first international human rights treaty with enforceable mechanisms.⁴⁸ However, the Convention is "adult oriented".⁴⁹ It focuses on protecting civil and political rights and does not explicitly recognize the specific requirements of children. But, in balancing parents' and children's rights to family life, the European Court of Human Rights has attached particular importance to the best interest of the child.⁵⁰

Although the whole convention can apply to children, the right to respect for private and family life has had the greatest influence on children's lives.⁵¹ The convention has also led to major changes in child care law in the different member states to it including Britain.

⁴⁷ *European Human Rights System*, <http://www.hrea.org/index.php?base.-id=143>

⁴⁸ Ibid.

⁴⁹ Judith Masson et.al, *Principles of Family Law* (2008) pp.509

⁵⁰ Id., pp.510

⁵¹ Article 8, *ECHR* (1950)

III Inter-American System

Unlike the case of Africa, there is no single instrument that deals specifically with children's rights in the Inter-American System. However, the American Convention on Human Rights, the various Protocols to it and declarations in the system can be invoked to report violations of children's rights and to seek reparations for these.⁵² For instance, Article 19 of the American Convention stresses that children have the right to special protection from the state. Such kind of provisions and other rights that are applicable to all human beings in the region are also applicable to CDFE in the Inter-American states parties.

2.4 Rights of CDFE

2.4.1 General

The rights of CDFE are human rights. Thus, every CDFE, no matter where he is and no matter who's taking care of him, has the right to fully enjoy all the rights accorded to her or him in those international and Regional treaties on human rights including the CRC as discussed in section 2.4 of this paper. This includes, inter alia, the right to food, housing, education, to the highest attainable standard of health and an adequate standard of living. It includes also the right – to the maximum possible extent – of a full and harmonious development, the right to express her/his views, to be listened to and to take part in decision making processes, to be protected from abuse, neglect and exploitation for any purpose or in any form etc. etc. etc.

2.4.2 Specific

Children deprived (temporarily or permanently) of parental care and a family environment are entitled to special protection and assistance by the State. This

⁵² Supra note 42

protection and assistance comprises – according to art 20 paragraph 3 CRC– foster placement, Kafalah adoption or if necessary placement in suitable institutions for the care of children.

2.5 State Responsibility

In the discussion above, we have tried to see the rights of CDFE by categorizing them as general and special. The recognition of these rights by states entails the responsibility of states to enforce them. But, what constitutes state responsibility?

The theory of the law of state responsibility is the principle governing breach of its obligation by a state and the legal consequences of that violation, without setting any particular obligation.⁵³ It has its own historical development. Traditionally, the term "state responsibility" refers only to state responsibility for injuries to aliens.⁵⁴ Early efforts by the League of Nations and private bodies to codify the rules of "state responsibility" reflected the traditional focus on responsibility for injuries to aliens.⁵⁵ Hence, it can be said the early development of the laws of state responsibility is concerned only how a given state can treat the citizen of other countries. It only limits the sovereignty of a state to do what ever it wishes on things, persons and circumstances in its own jurisdiction except it cannot cause injuries to aliens. As such, international law of state responsibility did not include how states could treat the rights of their nationals in their own domestic jurisdiction.

With the adoption of the *Draft Articles on the Responsibility of States for Internationally Wrongful Acts* ("Draft Articles") by ILC in August 2001, the position of international law as regards state responsibility has now changed. "State responsibility" was distinguished from a separate topic on the "treatment of aliens", reflecting the growing view that state responsibility encompasses the breach of an

⁵³ Ian Brownlie, *Principles of Public International Law* (2003)pp.422

⁵⁴ *State Responsibility*, http://en.wikipedia.org/state_responsibility/

⁵⁵ Ibid.

international obligation.⁵⁶

However, the Draft Articles do not necessarily apply in all cases of state responsibility, such as, particular treaty regimes that have established their own special rules of responsibility. This may come true in case of human rights treaties that have laid down particular obligation on the part of a state party the breach of it may entail responsibility. So what are those human rights treaty obligations the non observance of which entails international responsibility of states?

2.6 State Responsibility for RCDFE

State responsibility under human rights instruments is a relatively recent phenomenon since the charter of the UN Charter following WWII. Since then, human rights treaties spell out the obligations of the State. They are summarized as the obligation to protect, respect and ~~protect~~ ^{Fulfill}.

2.6.1 Respect, Protect and Fulfill

The obligation *to respect* focuses directly on what the government does through its organs, agents and the structures of its law.⁵⁷ States must refrain from directly infringing human rights. This corresponds more closely to the traditional conservative view, which argues that the obligation of the State is to abstain from arbitrary intervention on the freedom and autonomy of the individual. This level provides a shield for citizens from unjust interferences by political authorities. Both categories of rights have this negative dimension in a sense that they require the State to respect the autonomy of the individual in the exercise of his/her rights

The State is also required to *protect* children's human rights. This principle 'requires from the state and its agents measures necessary to prevent other individuals or

⁵⁶ Draft Articles on the Responsibility of States for Internationally wrongful Acts, Reports of the ILC on the works of its Fifty third Session, UN GAOR, 56 Session, Supp No. 42, UN Doc A/56/10(2001) pp.43 .

⁵⁷ Bright Toebes, "The Right to Health" in Asbjorn Eide, Catarina Knause Allan Rosas (eds.), Economic, Social and Cultural Rigts- A Text Book. (2001)pp.179-180

groups from violating the integrity, freedom of action, or other human rights of the individual.⁵⁸ Here the State is required to take positive steps towards the effective enjoyment of rights. This includes the obligation to enact legislation and create the framework to prevent violations of rights and enable citizens enjoy their protected rights without the interference from others. Thus governments have to enact a set of minimum standards for the working conditions in order to prevent third parties from violating human rights. By this, for example, the state has to undertake to prevent acts of direct and indirect discrimination against children.

In general, an analysis of international (eg. Art. 2 of the ICCPR) and Regional human rights instruments suggests the duty to protect has two limbs. The first is the duty to take preventive measures against the occurrences of violation of human rights by way of enactment of legislation, and the establishment of regulatory and monitoring mechanism.⁵⁹ The second is the duty to take remedial measures once the violation has occurred.⁶⁰ Most importantly, these obligations do not only relate to civil and political rights; they are also applicable to economic, social and cultural rights.

The obligation *to fulfill* requires the state to take the measures necessary to ensure, for each person within its jurisdiction, opportunities to obtain satisfaction of those needs, recognised in the human rights instruments, which cannot be secured by personal efforts.⁶¹ This obligation for children covers everything from providing a healthy environment and clean water to, more generally, upholding the conditions necessary for children's NGOs to form and function.

The above are the three duties of states that each has the responsibility to ensure for persons within its jurisdiction. Do all these obligations apply to CDFE?

As has been discussed elsewhere in this thesis, CDFE have the same human rights

⁵⁸ Id., pp.180

⁵⁹ *State responsibility for abuses by 'non-state actors'*, Amnesty International, <http://www.amnestyusa.org/women/humanrights.htm/>

⁶⁰ Ibid.

⁶¹ *What are Human Rights*, <http://www.ohchr.org/en/issues>

that other human persons have. As a result, states have a similar obligation to respect, protect and fulfil the rights of CDFE as enshrined international and Regional human rights instruments. But, how does the CRC, in particular, address the obligation states towards such and all other children? How does a court interpret state responsibility for rights of CDFE?

In the context of CRC, states have the responsibility for general measures of implementation that encompasses level of duties as stipulated under Articles 4, 42, and 44. It is provided that for the full implementation with regard to economic, social, and cultural rights of children, states parties are required to undertake all appropriate legislative, administrative, and other measures.⁶² The obligation to undertake appropriate legislative measure refers to the duty of states to make a comprehensive review of all domestic legislation and policy in order to harmonize them with the convention.⁶³ The CRC also requires states parties shall take all appropriate legislative measures to protect the child from all forms abuse, neglect and exploitation.⁶⁴ Such protective measures, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of maltreatment of CDFE.

Furthermore, states are responsible that no child is deprived of his or her right of access to such health care services. In this regard states, inter alia, shall take appropriate measures to diminish infant and child mortality, to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care, to combat disease and malnutrition, including within the framework of primary health care, through the application of readily available technology and through the provision of adequate nutritious foods and

⁶² Article 4, *CRC* (1989)

⁶³ *Supra* note 41, pp.1

⁶⁴ Article 19 (1), *CRC* (1989)

clean drinking water etc.⁶⁵

Again, as a duty of the state to protect the right of CDFE, it has the duty to publicize the convention and to submit periodic report to the Committee on the Rights of the Child.⁶⁶ In this regard, states are obliged to translate, whenever appropriate, and publicize provisions relating to CDFE. On the top of that, state parties, while making the report, have to collect sufficient and reliable data on CDFE. This serves as a meaningful action geared towards the implementation of CDFE.

States responsibility for RCDFE was entertained in the *Villagrán Morales and Others vs. Guatemala*.⁶⁷ The case was the first ever case involving a violation of children's rights to be heard by the Inter-American Court.⁶⁸ The case was that five street children were murdered by police officers of Guatemala in June 1990. Four were kidnapped, tortured, and shot dead by State officials. The fifth was shot in the street by the same officials.

The case was brought before the Court by Casa Alianza and CEJIL after two years of trying to have the case dealt with in Guatemala. In 1999 the Court found the State of Guatemala guilty of violating the following rights enshrined in the American Convention: the right to life, physical integrity, personal freedom, judicial guarantees, judicial protection and the rights of the child (Articles 4, 5,7,8,25,19 and 1.1 respectively). It went further stating that the State has violated their physical, psychological and moral integrity, and even their life. Again, it stated that the State has not protected them from poverty and has deprived them of minimum standards of living, impeding the "full and harmonious development of their personality...".⁷⁰ The court also declared the State violates the rights of children 'at risk'.⁷¹ As a result, on 26 May 2001, the Court ordered the State of

⁶⁵ Id., Article 24(2)

⁶⁶ Id., Article 42 and 44(1)

⁶⁷ Website Cited at note 42

⁶⁸ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

Guatemala to:

- *build a school with a plaque in memory of the victims;*
- *pay compensation to the victims' families;*
- *investigate the facts of the case and identify and sanction those responsible; and*
- *change its domestic legislation in accordance with Article 19 of the American Convention.*

The above decision is important in the context of state obligation for the rights of CDFE. Firstly, it asserts the obligation of states to respect the rights of street children by condemning Guatemala's police officials' violation of the physical integrity or life of these children. Secondly, the ordering of the state of Guatemala to change its domestic legislation in accordance with Article 19 of the American Convention ascertains the duty of states to protect street children by enacting legislation and create the framework to prevent violations of rights and enable citizens enjoy their protected rights without the interference from others. Thirdly, the fact that the court in deciding that the State has not protected them from poverty and has deprived them of minimum standards of living recognizes Guatemala's failure to fulfill to take the measures necessary to ensure, for those street children within its jurisdiction, opportunities to obtain satisfaction of those needs of adequate housing, food and others, recognised in the human rights instruments, which cannot be secured by personal efforts of the street children.

On the top of signaling an important change towards protecting children's rights, the above case adopted the definition of CDFE like, 'street children' as children 'at risk'. A different impact is once the right of CDFE is found to have violated by state agents, it has the duty to investigate the facts of the case and identify and sanction those responsible and should pay compensation to the victim or victims' families in

case an occurrence of damage.

2.6.2 Establish Alternative Care

In the normal course of events, the biological parents of the child are considered the primary responsible organs for the proper upbringing of the child. This is mainly because no institution, no matter how humane or well equipped, can replace parents of the child. Realising the need for a meaningful physical, psychological and emotional development of the child, the CRC obliges the child to remain in a family environment in an atmosphere of happiness, love and understanding.⁷³ Similar obligation was also made by the 1959 DRC stating that the child, wherever possible, shall grow up in the care and under the responsibility of his parents.⁷⁴

Parallel to parental responsibilities, states have obligations towards the protection of the rights of the child. As stated under Article 20(1) of the CRC, CDFE shall be entitled to special protection and assistance. The word 'entitled' highlights the obligation of the state towards children who cannot be cared by their families.⁷⁵ This general obligation is established by Article 3(2) of the CRC which states that: states parties undertake to ensure the child such protection and care as is necessary for his/her well being... The protective and assistance measures in which states have the obligation to provide pertains to the obligation to establish alternative care.

Alternative/substitute Care refers providing care and upbringing away from a child's home.⁷⁶ Substitute care can take in the form of foster care, residential care, adoption, kafalah or any other appropriate arrangement.

Under the CRC, states have the obligation to establish alternative care mechanism in the form of, inter alia, foster families, adoption, kafalah of Islamic law and institution of care.⁷⁷ This shows that as to determination of the different ways alternative care settings is depends upon a particular state's concern. Hence, the

⁷³ Preamble, Paragraph 5 CRC (1989)

⁷⁴ Principle 6, DRC(1959)

⁷⁵ Hodgkin R. and Newell P Supra note 19, pp.259

⁷⁶ Child welfare 2006, *Concepts and definitions*, <http://www.stakes.fi/EN/tilastot/statisticsbytopic/>

⁷⁷ Supra note 73, Article 20(3)

effective implementation of the provision is left to the states parties.

Following this, let us try to see the meaning and nature of those alternative care mechanisms stated under the CRC in which states are obliged to provide for in accordance with their national laws.

2.6.2.1 Adoption

The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family.⁷⁸ However, adoption as a human right concept has no universal acceptance in all societies. As the late Professor Kinfe Abraham wrote, alternative approaches to human rights have different strengths and vulnerabilities in facing challenges posed by relativism.⁷⁹ This hold true to the case of adoption. It was not welcomed by all Muslim societies. The result was that Egypt, Jordan, Brunei and other countries from the Islamic world made a reservation on the CRC provisions dealing with adoption.⁸⁰

A longer but a pertinent provision of the CRC regarding adoption states:⁸¹

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be

⁷⁸ Article 13, *UN Declaration on Foster Placement and Adoption* (1986)

⁷⁹ The Horn of Africa, *The Relativity of Human Rights: An Afro-Centric Perspective* (2008) pp 23-24

⁸⁰ *Neutral Law and Eurocentric Law making: A Post Colonial Analysis of the UN CRC*, <http://www.brooklaw.edu/students/journals/>

⁸¹ Article 21, *CRC* (1989)

- cared for in the child's country of origin;*
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;*
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;*
- (e) Promote, where appropriate, the objectives of the present Article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.*

The above Article deals with the safeguards and standards to be ensured by those state parties that recognize and/or permit the system of adoption as an alternative means of child care, constituting both national and inter-country adoption. It provides thereby that the best interests of the child shall be the paramount consideration. To that effect, it requires states parties to put in place laws, procedures and trained authorities that have adequate knowledge to execute these laws. But, why is the need to have provisions concerning international adoption?

Understanding of a dramatic increase in international adoption; the fact that inter-country adoptions deny the child's right to preserve his/her identity by interrupting the continuity of the child's religious, cultural and linguistic background; and taking note of the fact that children constitute a highly prized commodity in some countries for abuse, and exploitation, were the reasons behind the need for regulating inter-country adoptions.⁸² In addition, with a view to protecting problems of international adoption, the above Article obliged state parties to consider international adoption if the child cannot be placed in a foster care or adoptive family or otherwise in the country of origin. Furthermore, it requires states parties to promote inter-country adoption by concluding bilateral or multilateral arrangements or agreements as a result of which the 1993 Hague convention In

⁸² Professor Gonzalo Parra-Aranguren, *History, Philosophy and General Structure of the Hague Adoption Convention (1993)*, in *Children on the Move (1996)*pp.63

Respect of Inter-country Adoption became a reality.

2.6.2.2 Kafalah

Kafalah finds its origin in the Sharia. By definition, Kafalah is “the commitment to voluntarily take care of the maintenance, of the education and of the protection of a minor, in the same way as a father would do it for his son”.⁸³ Kafalah creates exercise of the parental authority and the obligation of maintenance of the caregiver on the one hand, and persistence of the family bonds and preservation of the child’s family status on the other.⁸⁴

Kafalah’s meaning, its origin and the variety of its practices within the Muslim world remain quite unknown for most Western professionals.

It is Kafalah rather than adoption recognized as a way for creating filiation in the Islamic world. The prohibition of adoption, as a means to create new filiation bonds, is based on an interpretation of the Koran and is seen by Sharia law as a falsification of the natural order of society.⁸⁵ It is declared *haram* in order to preserve blood ties as the only way of creating filiation.

The Koran gives an important place to orphans and to their protection; it values the care of an orphan in one’s home.⁸⁶ The child should be treated as a biological child, but he/she is not entitled to the right to family name and inheritance.

2.6.2.3 Foster Care

Neither the CRC nor the ACRWC define what foster care means. Both instruments simply state foster as one alternative care that state parties have the duty to provide to CDFE. However, the preambular provisions of the CRC make recognition of the UN Declaration relating to Foster and Adoption (1986). Based on this declaration, it

⁸³ *International Reference Centre for the Rights of Children Deprived of their Family*,
http://www.issssi.org/Resource_Centre/Tronc_DI/documents/FactSheetNo51ENG.pdf.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.



can be understood to mean placing a child in the temporary care of a family other than its own as the result of problems or challenges that are taking place within the birth family.

The relevant provisions of the above declaration state that foster placement of children should be regulated by law. Hence, governments ratifying the CRC and ACRWC have the responsibility to establish legislation, policy and effective supervision of children involved in foster care.

In the Ethiopian context, foster care is a planned, goal-directed alternative family care where an unaccompanied child is placed temporary and get adequate care till he/she is either reunified with his/her biological parent/s placed in other permanent care, or institution.⁸⁷ It shows that foster placement has a temporary nature. Once a foster family care organization retains unaccompanied children, it should implement a foster family care placement, which is selected by a foster family care organization to provide a temporary physical care and emotional support and protection for an unaccompanied child placed through foster family care program. In Ethiopia, foster care is claimed to have carried by organizations like GOAL Ethiopia.

2.6.2.4 Institutional Care

Neither the CRC nor other human rights instruments define as to what constitutes an institution for the care of children under Art. 20 of the CRC. Hence, it is the competent national authorities that determine the status of an institution of care. It, in turn, entails that the structure and regulation of the same could differ from one jurisdiction to another. In Ethiopia, a child care institution is an establishment founded by a governmental or a non-governmental organization to give care for unaccompanied children.⁸⁸ Although not exactly the same, it is generally agreed

⁸⁷ Guidelines on Alternative Childcare Programs (2001) pp.46

⁸⁸ Id., pp.3

that institutional care provides as a substitute care for children who can not be cared by their own families.⁸⁹ States have also the responsibility to provide such alternative care mechanism in their own jurisdiction.

However, institutional care is considered as a last alternative care setting in the order of hierarchy. According to the 1986 Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, “when care by the child’s own parents is unavailable or inappropriate, care by relatives of the child’s parents, by another substitute foster or adoptive family or, if necessary, by an appropriate institution should be considered.” This hierarchy of options suggest: first, family relatives; second, substitute family through fostering or adoption; and third, an appropriate institution.⁹⁰ A similar approach can be perceived under Art. 20 of the CRC and Art. 25 of the ACRWC. The reason behind is, among other things, institutional care is inappropriate for young children. At one time, the plight of large numbers of children in inappropriate institutional care has led the committee on the Rights of the Child to refer to institutionalization as a *last resort*.⁹¹

In addition, it is believed that institutions can undermine the child’s psychological, physical and emotional development.⁹² This can be observed at a particular story of Ethiopian orphans as follows:

*Meseret and her brother were homeless for about three years. The brother started stealing and got addicted to chat, a popular local drug. Meseret was given at the Woliso orphanage, and she wanted her brother to join her, but the Orphanage decided he was uncontrollable.” Over the years she's suffered emotional problems, often going to bed for a week at a time.” “She says she has lost not one mother, but two, and she worries constantly about her brother.”*⁹³

⁸⁹ Research on Institutional Care of Vulnerable children, <http://www.nacac.org/policy.researchchart.PDF>

⁹⁰ Hodgkin R. and Newell P Supra note 19, pp.259

⁹¹ Id., pp.260

⁹² *Report of the Regional Conference on Children Deprived of Parental Care: Rights and Realities*: UNICEF (2000) pp.9-10

⁹³ *Anchorage nurse starts home for Ethiopian orphans*, <http://www.adn.com/life/story/423685.htm>

The above story of Meseret shows the negative side of putting CDFE in institutions of care. Those children who have lived their time in an institution are really special. They can be exposed to sensory deprivation after years.⁹⁴ As a result they have no social skills and don't grow that well. There's a high risk of disability, attachment disorders.⁹⁵ That's the big impact.

Moreover, children in the institutions of care have nothing of their own i.e, they always live in a collective place.⁹⁶ Everything is always done altogether in line, never in private, to sit at a table or eat. This public “grown-up” behavior affects the child's mind. It affects the development of their nervous system.⁹⁷

For such and other reasons care institutions are not considered as a first, second or third priority. Rather states have the obligation to use it as a last resort protection measure.

2.6.3 Ensure continuity in a Child's Upbringing and Maintain Identity

The CRC establishes that those children temporarily or permanently removed from their family environment shall be entitled to care which gives due regard “to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.”⁹⁸

The above provision of the CRC imposes two obligations on the part of states parties when considering solutions concerning alternative care settings. They are paying regard to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

The first proviso relates with Article 7 of the CRC (right to know and be cared for by parents). Continuity of upbringing implies continuity of contact, wherever

⁹⁴ *The Gilded Cage of the Dom Rebyouka: Infancy to Fours 116*, [http://www.igloo.org/library services/download-nocache/library/students/humanita/children/abandone](http://www.igloo.org/library/services/download-nocache/library/students/humanita/children/abandone)

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ *CRC Supra note 81*, Article 20(3)

possible, with parents, family and the wider community-achievable even when the child is adopted.⁹⁹ Continuity of upbringing also implies finding a foster or adoptive home from the same cultural background, or ensuring that all or some members of the staff in an institution are from the same culture, and, preferably, that the institution itself is located in an appropriate community.¹⁰⁰ Again, it implies that the state should take all measures to avoid multiple placements of children in its care.¹⁰¹ When children have suffered the trauma of losing their family, they may present behavioral problems that could result in them being passed from one foster home to another, or in their spiraling downwards, through increasingly restrictive institutions, which could then lead to further behavioral problems. Care must be taken to avoid such disruption in children's lives.

The other proviso relates to Article 8 of the CRC (preservation of the child's identity). It should be noted that the issue of preservation of identity reflects the right of children of minority or indigenous background as stated under Article 30 of the CRC to enjoy their culture, practice their religion and to enjoy their languages. The specifying of "linguistic" background, is very important. Fluency in language is best-and often only-obtained during childhood. Thus, every effort should be made to ensure that children learn their mother tongue even when placed with speakers of another language.¹⁰² Unfortunately, a number of countries have histories of violating this right, compulsorily removing children from indigenous or minorities groups and settling them with well-off childless parents.¹⁰³

2.4.4 Right to Periodic Review

Regarding the right to periodic review of placements the text of CRC reads:

*States parties recognize the rights of a child who has been placed by the competent authorities for the purpose of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.*¹⁰⁴

⁹⁹ Hodgkin R. and Newell P Supra note 19, pp.275

¹⁰⁰ Ibid.

¹⁰¹ Id., pp.264

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ CRC Supra note 98, Article 25

Children are often placed in foster or adoptive placements, hospitals, children's homes, detention centers and boarding schools by state authorities with a view to help them. Nevertheless, such children are exposed to such abusive measures.¹⁰⁵ It is with a view to protecting children from such possible abuse that this Article entitles such children to periodic review of their placement and all other circumstances relevant to their placement.

The review should encompass both the appropriateness of their placement as well as their progress of the treatment and its efficacy.¹⁰⁶ This provision differs from Article 3 of the CRC, which also requires an ongoing monitoring, in that the latter emphasizes the importance of monitoring the institution and the staff while Article 25 focuses particularly on the situation and progress of each child.

In conclusion, it can be said that the above provisions of international human rights and humanitarian law establish and develop the principle of special protection for all children. In addition, they provide a sufficient legal framework to protect children against the risk of being deprived of parental care and provide for those who are.

¹⁰⁵ Supra note 5, pp.115

¹⁰⁶ Ibid.

CHAPTER THREE

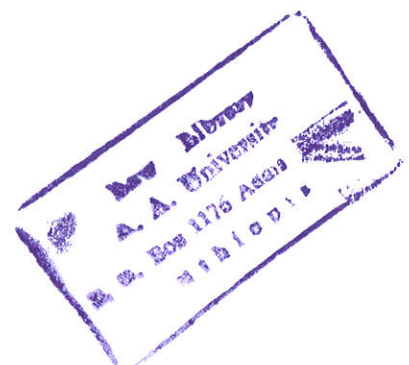
The RCDFE in Ethiopia and the Responsibility of the State

The rights of CDFE, in Ethiopia, are human rights. Hence, like all other men, the country has the obligation to undertake appropriate legislative, administrative and other measures in order to realize their rights. However, there is no separate regime of law or policy, in the country, that is dedicated to the rights of child in general or for those without families in particular. One may find scattered laws addressing the rights of children here and there. These laws address quite a good number of child rights issues, some adopted from the old laws with or without amendment and others being new introductions to the country's legal plane.¹ Parallel to these laws, there are institutional mechanisms put in place to realize the rights of all children.

This chapter analyzes the different laws, policies and institutional mechanisms regarding the RCDFE in Ethiopia and the responsibility of the state towards them. However, before trying to deal with the relevant legislations, let us try to see, first, the status of children in country.

3.0 Status of Children

In order to see the situation of children, let us try to see their census among the total population of the country.



¹ Tilahun Teshome and Getnet Alemu, *Good Governance and Budget Tracking From Child Rights Perspective* (2005)pp.16

Table 3.1 Total Pop. of Ethiopia by Age Group, Sex, Urban and Rural: 2007

Age	Urban			Rural			URBAN + RURAL		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
COUNTRY TOTAL									
Total	5,942,170	6,014,000	11,956,170	31,354,487	30,607,848	61,962,335	39,691,000	36,621,848	73,918,505
<1	100378	97207	197587	780687	763209	1543896	881065	860418	1741483
1-4	497058	478676	975734	4099168	3968718	8067886	4596226	4447394	9043620
5-9	645961	653136	1299097	5471320	5234320	10705640	5742553	5887456	12004737
10-14	668524	721352	1389876	4768794	4299511	9068305	4983414	5020863	10458181
15-19	944887	1022422	1967309	3529491	3290940	6820431	4146348	4313362	8787740
20-24	756529	764756	1521285	2354146	2549733	4903879	3777710	3314489	6425164
25-29	601559	639881	1241440	2029643	2409486	4439129	3269384	3049367	5680569
30-34	435846	385295	821141	1656086	1752241	3408327	2677346	2137536	4229468
35-39	358508	340446	698954	1466882	1608663	3075545	2112022	1949109	3774499
40-44	261562	215175	476737	1204043	1195331	2399374	1663907	1410506	2876111
45-49	190024	175692	365716	959486	922128	1881614	1292456	1097820	2247330
50-54	138817	151251	290068	789512	812764	1602276	1045893	928329	1892344
55-59	89608	89525	179133	543801	447754	991555	844895	633409	1170688
60-64	84909	94508	179417	561381	495394	1056775	649306	646290	1236192
65-69	59677	61805	121482	386661	298052	684713	471805	446338	806195
70-74	47738	56394	104132	311633	260650	572283	318537	359371	676415
75+	60585	66477	127062	430136	289161	719297	313753	490721	846359

Source: FDRE CSA, Population of Ethiopia, 2008(pp.3)

The above figure shows that out of the total population of 79,221,000, 33,870,239 constitute those children below the age of 15 alone. In addition, those categories between the ages of 15-19 consist of 42,048,912 of the total population. Hence, it can be analyzed that children in Ethiopia comprise more than 50% of the country's population. This figure urges us to give emphasis on issues of children in Ethiopia. But, what does the status of our children look like?

According to *the State of the World's Children 2007* report, Ethiopia's under-five mortality stands at 164 per 1,000 live births.² There has been an encouraging 1.8 per cent decline in the under-five mortality rate every year since 1990 (Demographic and Health Survey 2005, preliminary results), but preventable conditions still account for the bulk of the deaths of young Ethiopian children.³ Malaria, diarrhoeal diseases, pneumonia and neonatal complications each account for nearly a quarter of under-five mortality.⁴

Severe acute malnutrition remains one of the most critical issues facing children. The drought that hit south-eastern Ethiopia in the first half of 2006 was the latest reminder of how vulnerable the country's children and women are to water scarcity and sudden nutritional shocks. Data collected through the nationwide UNICEF-backed Enhanced Outreach Strategy 1 and other surveys uncovered alarming pockets of severe acute malnutrition amongst under-fives across the country.⁵

A total of 44 nutritional surveys carried out between January and September 2006 recorded global acute malnutrition levels as high as 23.5% and severe acute malnutrition levels as high as 3.9 %, both rated critical.⁶ Up to 130,000 children under-five are estimated to be suffering from severe acute malnutrition at any given time in Ethiopia.⁷ Malnutrition remains the underlying cause of more than half of all child deaths in the country.

² *UNICEF Humanitarian Action Ethiopia in 2007*, http://www.unicef.org/french/har07/files/Country_chap_Ethiopia.pdf

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

On the top of that, drought, floods, famine, and disease have pushed many thousands of Ethiopian children into the streets and institutions, because their parents are either no longer living or are unable to care for them.⁸

CDFE, in the country, do not have a different history. They are the first, among others, to face malnutrition, health care deficiencies and others. But who are they under the Ethiopian context?

3.1 CDFE in Ethiopia

Neither the FDRE constitution nor special legislations clearly state as to who CDFE in Ethiopia are. According to a certain researcher, in Ethiopia, CDFE are classified in to three categories; orphan bereft of both parents, children who do not live with their biological mothers and children who reside in single adult household.⁹ This classification, however, seems to be narrower. For instance, there are children on the streets of Addis Ababa who are with their biological parents but lacking a family environment; lacking basic food, shelter, education, health and others. Such children, for this writer, are considered children without a family environment. A child who cannot be fed, educated, or cannot be in any way properly cared by his parent or family is the same as a child deprived of his/her family environment.

Again, the above classification is narrower in that it overlooks the presence of children who are homeless on account of abandonment, abject poverty and displacement. This includes a great many of street children in many cities of the country.

Despite the absence of a single defining such children, many researches in the area show that the context in which CDFE in Ethiopia mainly includes the following:

⁸ *Adoption in Ethiopia, An Overview*, http://www.adoptivefamilies.com/ethiopia_adoption.php

⁹ *Realizing Rights for Children, Harmonization of Laws on Children Eastern and Southern Africa* (2007)pp.90

I. Orphans

Traditionally, an orphan child is a child of either sex who has lost his/her parents owing to war, disease, or natural calamities or any other similar reason.¹⁰ But, today, the concept of orphan is a social construct that varies from society to society and from one culture to another.¹¹ For some, children are categorized as social orphans who still do have both or at least one of their parents but abandoned by their parents and placed in institutions.

The problem of orphans is mainly associated with the prevalence of HIV/AIDS and hence it becomes a global problem.

According to a joint report released by the UNAIDS more than 13 million children under the age of 15 have lost one or both parents to AIDS, and most of these children are found in sub-Saharan Africa.¹² In those African states with severe epidemics, 30-70 percent of households are accommodating an orphan.

Different researches are made regarding orphans in Ethiopia. UNICEF lists the number of orphans in Ethiopia in 2005 to be 4.8 million.¹³ The Ethiopian AIDS Campaign lists 5.4 million orphans in Ethiopia for 2007.¹⁴ This figure is subject to increase given the prevalence of HIV and cost of living. In a joint report of USAID/UNICEF/UNAIDS, by the 2010 among the entire orphan children, the percentage of orphaned due to AIDS in Ethiopia will reach 43%.¹⁵

The magnitude of the problem with orphans is not only with the increase of their number, but also the actual problems they are facing. To support their lives, some

¹⁰ *Orphan*, <http://en.Wikipaedia.org/children/orphan>

¹¹ Debebe Ero, *The Situation of OVC and Selected Program Interventions in Ethiopia* (2007) pp.2

¹² Ibid.

¹³ *Adopting Ethiopian Orphans May Not be the Best Solution*, http://news.newamericamedia.org/news/view_article.html

¹⁴ Ibid.

¹⁵ *Orphans of AIDS-Ethiopia*, <http://www.foaa-fosa.org/FOAA-Ethiopia.pdf>

are engaged in beggary, working in bars, shoe shining, working as domestic work, migrate to other places, and became thieves and commercial sex workers.

II. Street Children

No definition of street children is explicitly addressed under the CRC, ACRWC and in our laws. According to a certain scholar, street children are small, visible and not necessarily the most needy population.¹⁶ This definition has a problem in that it relates the definition to the mere existence of children on the streets whereby they naturally are not expected to be.

Conventionally, street children are classified into the following groups:¹⁷

- **Children on the Street:** *refers to those children who spend most of their time on the streets or market places usually as workers. They have strong ties with their families. However, these children may join the rank of children of the street if situations do not change in a positive direction.*
- **Children of the Street:** *are those children who have chosen to fully participate in street life not just an economical level. They usually have a family accessible to them who they may visit from time to time, but the street is their principal home.*
- **Children at the Risk:** *are those children who, because of extreme poverty and deprivation in their homes or inadequate care and supervision, and because parents are working are at high risk joining street life.*
- **Abandoned Children:** *are homeless children because of either the death of their parents or rejection by their parents or extended families.*

The number of children living or working on the street of cities in almost all countries of the world is large and growing and a source of great concern. Research shows that there are about more than 100 Million street children world wide, 5 Million of them being in Africa.¹⁸ The circumstances of street children may change

¹⁶ Fitsum Tarekegn, *The Situation of the CRC in Ethiopia and How it Affects Street Children* (1999) pp.12

¹⁷ Tedla Dessie, *Children in Especially Difficult Circumstances in Ethiopia* (1996) pp.6

¹⁸ Tigist Gossaye, *the Non-Observance of the Rights of Street Children in Addis Ababa* (2001) pp.17

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any time. This makes judging their number difficult.

In Ethiopia according to MOLSA, some 150,000 children live on the streets in Ethiopia, about 60,000 of them in the capital.¹⁹ However, NGOs estimated that the problem might be far more serious with nearly 600,000 street children countrywide and over 100,000 in Addis Ababa.²⁰

III. Refugee and Displaced Children

In Ethiopia, many children have been separated from their families in the context of population displacement caused by natural disasters or armed conflict. The precise number of displaced/refugee children are uncertain because most fled to remote areas only accessible by foot and unreachable to humanitarian agencies.²¹ Although with a fluctuation in volume, each year drought, famine and war causes many children in the Somali and Afar Region to be deprived of their family either permanently or temporarily.

Children displaced on different grounds face different hazards. Children, displaced by years of drought, are dying from malnutrition and disease, in a situation that is likely to get worse.²² Mortality rates among IDP children in Ethiopia's Somali region are alarming. The problem is more acute in Denan (Gode zone), Hartishek, and Fafan Valley (both Jijiga zone).²³

The needs of such children may not, however, be same as that of orphans. In addition to a demand for an assistance to obtain their daily needs of basic food, shelter, medicine and education, such children may require reunification with their families. In this regard, the country will have a responsibility to strengthen its efforts to ensure family reunification, providing assistance to displaced/refugee children and that assistance be sought from UNICEF and the UNHCR in this regard.

¹⁹ <http://www.irinews.org/reports/>

²⁰ Ibid.

²¹ US Committee for Refugees and Immigrants, <http://www.unhcr.org/refworld/country>

²² *Crisis looms among internally displaced children in Ethiopia's Somali region*, <http://www.reliefweb.int/w/rulb.nsf/480fa8736b88bbc3c1>

²³ Ibid.

In short, there remains staggering numbers of children without a family environment in the country owing to social, economic and political reasons. Nevertheless, there is no systematic data and exact figure available on CDFE. Regarding this, the CRC Committee is concerned of and stated: “*the absence of essential data on the situation of children and that, in this regard, insufficient progress has been made*”.²⁴

During its promulgation estimate in 2003, the NPA acknowledges that, about three million children in the country, in one form or another, are deprived of their family environment.²⁵ Evidence suggests that figure number is expected to increase owing to HIV/AIDS, the current increase in the cost of living, chronic poverty and other socio, economic and political factors.

3.2 Laws, Policies and Guidelines on RCDFE

As per the relevant provisions of the CRC, states parties have the responsibility to adopt, inter alia, legislative measures in order to ensure the realization of the rights of children as enshrined in the different provisions of the convention. On the top of that, they are duty bound to carry out a comprehensive review of all domestic legislations and related administrative measures to ensure compatibility with the provisions of the convention.²⁶

In the light of this, Ethiopia has adopted its constitution in 1994 that constitutes a number of human rights provisions including rights of children. A series of law reform has also occurred in the area of family, criminal and labor codes that incorporated child rights. There is, however, no specific law or policy that is designed to protect the interest of children without a family environment. Nevertheless, like all other children, CDFE are also beneficiaries of those laws

²⁴ *Concluding Observation of the Committee on the Rights of the Child: Ethiopia*, 21/02/2001, Second Report, [http://www.unhchr.ch/tbs/doc.n/ \(Symbol\)/CRC.C15.Add.144.En?OpenDocument](http://www.unhchr.ch/tbs/doc.n/ (Symbol)/CRC.C15.Add.144.En?OpenDocument)

²⁵ Tilahun and Getnet Supra note 1, pp.59

²⁶ Article 3(2), *CRC* (1989)

applicable to children. A brief survey of these laws is made in the forthcoming sections.

3.2.1 FDRE Constitution

The constitution guarantees the rights of the child as follows:²⁷

1. *Every child has the right;*
 - a. *to life;*
 - b. *to name and nationality;*
 - c. *to know and be cared for by his/her parents or legal guardians;*
 - d. *not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his/her education;*
 - e. *to be free of corporal punishment or cruel and inhuman treatment in schools and other institutions responsible for the care of children.*
2. *In all actions concerning children undertaken by public and private institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interests of the child.*
3. *Juvenile offenders admitted to corrective or rehabilitative institutions and juveniles who become wards of the state or who are placed in public or private orphanages shall be kept separately from adults.*
4. *Children born out of wedlock shall have the same rights as children born of wedlock.*
5. *The state shall accord special protection to orphans and shall encourage establishment of institutions which ensure and promote their adoption and advise their welfare, and education.*

Like all other children, the above provisions of the FDRE constitution are also applicable to CDFE. They have the right to life, name, nationality, best interest of the child, not to be subject to exploitative practices, to be free of corporal punishment or cruel and inhuman treatment and others. Sub Art. 5 of the above provision is by far the most important. In the light of this sub Article, CDFE have the right to be accorded with special protection which shall ensure and promote

²⁷ Article 36, *FDRE Constitution* (1994)



their adoption and advise their welfare, and education. The recognition of the right to special protection for children without families under the constitution makes the latter in harmony with the CRC. Nevertheless, the provision does not seem to address the needs of all CDFE. In view of the different causes of deprivation of the family environment, the constitution deals only with orphans. It does not widen the situation of deprivation of family environment on account of drought, war, separation and abandonment.

3.2.2 The Revised Family Code of 2000

Different provisions of the revised family law address quiet a number of child rights issues. The area of adoption is given particular attention for the purpose of discussion in this section. This is mainly because adoption is considered as one of the protection measures for CDFE.

The Family Code contains a chapter that constituted 17 provisions regarding adoption. It defines adoption as a relationship between a man and a child that comes out as a result of contract.²⁸ According to the said law, an agreement of adoption is of no effect unless approved by the court.²⁹ And the court is required to verify that the adoption is to the best interest of the child.³⁰ In addition, before the court has to decide on adoption, it has to consider the following:³¹

- I. The opinion of the child about the adoption
- I. The opinion of the guardian or tutor of the child where these are different from parents
- II. The capacity of the adopter to raise and take care of the child
- III. Where the adopter is a foreigner, the absence of an option of raising the child in Ethiopia; and
- IV. The availability of information which enables the court to know that the

²⁸ Article 180, *Revised Family Code of Ethiopia* (2000)

²⁹ *Id.*, Article 194

³⁰ *Ibid.*

³¹ *Ibid.*

adopter will handle the adopted child as his own and that he/she will not abuse him.

Besides, courts are not allowed to approve adoption by a foreigner unless an authority empowered to follow the well-being of children, after collecting and analyzing information regarding the personal, social and economic position of the adopter forwards its opinion that the agreement shall benefit the child.³² The public authority, presently, empowered to implement the rights of the child is the Adoption Team in the Children and Youth Affairs Office, which is under the MOWA. If, however, the court is not convinced that the adoption by the foreigner is not in the best interest of the child, it may order further investigation by the above stated authority or some other organization or even disapprove the adoption agreement in spite of the positive recommendation.³³ The law also provides for the conditions for revocation of adoption incase the adopter grossly mistreats or abuses the child.³⁴

Prospective adoptive parents must meet the legal adoption requirements of their country of residence and those of the country in which the child was born. The requirements differ from one system to another: some require stringent procedures others not.

According to the directives of MOWA, in order for foreigners to adopt Ethiopian children, the following requirements should be fulfilled:³⁵

- I** Information on the economic status of the applicant from a recognized source.
- I.** Police clearance.
- II.** Medical certificate from a recognized health establishment.
- III.** Birth and marriage certificates.
- IV.** Information on the agency that does the psychosocial study and

³² Id., Article 193(1)

³³ Id., Article 193(1)(2)

³⁴ Id., Article 195(2)

³⁵ Supra note 25, pp.13-14

recommendation thereto that is accepted by the concerned government body from the respective country.

- V. A short statement as to why an Ethiopian child is preferred.
- VI. Two passport-size photographs of the prospective adoptive parent (s).
- VII. Obligations of the adoption or the social welfare agency form to be forwarded together with psychosocial study.
- VIII. Verification by the adoption agency on the qualification for naturalization under the nationality law of the applicant.
- IX. Authentication of all documents by the nearest Ethiopian embassy or consulate to be submitted or forwarded directly by the concerned person(s) or agency of MOWA.

The above requirements seem to be stringent. However, they are quit clearly important in guiding public authorities to determine the best interests of a child when the adopter is a foreigner.

All in all, the Revised Family Code provisions governing the area of inter-country adoption seem to embody the rules and principles enshrined in Art. 21 of the CRC.

3.2.3 The Criminal Code of 2005

The Criminal Code, which came in to force on May 2005, has made significant improvements in the area of child rights. Although there are no specific provisions dedicated to CDFE, the general provisions that apply to all persons and children are also applicable to them.

Numerous provisions of the Code are important in protecting the well being of CDFE from abuse, neglect, exploitation, failure to bring up, abduction, trafficking,

rape, sexual outrage, abandonment, and criminal responsibility are given due emphasis.

Regarding child abuse the said code states that:

Whosoever, having the custody or charge of a minor, ill-treats, neglects or over-tasks him, or inflicts corporal punishment upon him for any reason is punishable with simple imprisonment not exceeding three months.³⁶ (Translation customized from the old criminal law)

The above provision of the law is designed to protect the child's right to life and security of person. Article 32 of the CRC also prohibits child abuse. In the light of this, the code seems to be compatible with the rules and principles laid down in the CRC.

Concerning failure to bring up children, the Code maintains:³⁷

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

Another act that is made punishable regarding children is failure to notify children found to be abandoned. The law provides that:

‘Whosoever fails to notify the finding of an abandoned child to

³⁶ Article 576(1), *Criminal Code of Ethiopia* (2005)

³⁷ *Id.*, Article 659

*the concerned Public authority, shall be punishable by fine not exceeding birr 500.00 or simple imprisonment not exceeding one month.*³⁸ (**Translation mine**)

Many children are left without families when they are abandoned by their biological mothers. They are left in hospitals during birth, around city garbages and unexpected places. In order to protect such children, the above law provides for an obligation to notify to concerned public authorities whosoever finds a child abandoned, subject to punishment if no observance of the duty. This way, the law tries to protect children without a family environment.

Another area that the Code tries to protect children relates to criminal responsibility. The law tries to make distinction between children found to have infringed the law and adult offenders. Children under the age of nine are fully exonerated from what ever crimes they may commit.³⁹ Secondly, regarding children between the ages of nine to fifteen, they are treated under special procedure when they commit crimes.⁴⁰ They shall neither be subjected to the ordinary penalties applicable to adults nor will they be kept in custody with adults.⁴¹ In view of this, the law goes in harmony with Art. 37 of the CRC that requires special treatment of children in conflict with the law. Thirdly, regarding children between the ages of fifteen to eighteen, the law considered them as responsible to stand trial whenever they infringe the prohibited acts.⁴² However, they may benefit from the legal provisions concerning extenuation of penalties.⁴³ In addition, the law prohibits imposition of death penalties against such children. In view of this, the law goes in harmony with Art. 37 of the CRC.

Furthermore, in the area of the security of persons of children, the new law prohibits and imposes penalty on abduction of a minor (Art. 589), crime of rape on a child (Art. 620), sexual outrage against children (arts. 594, 595, 626 and 627), trafficking in children (Art. 597). Such provisions are equally important to CDFE similar to all

³⁸ Id., Article 656(1), (2)

³⁹ Id., Article 52

⁴⁰ Id., Article 53(1)

⁴¹ Ibid.

⁴² Id., Article 56(1)

⁴³ Id., Article 56(2)

other children.

3.2.4 The Labour Code

Children are easily exploited groups. This is mainly because they are mentally immature and incapable to defend themselves. Some times, children as members of poor families are exposed to different hazardous works.

In order to combat child labour and its consequences, the ILO has been adopting a number of conventions and recommendations on child labour. According to Art. 3 of its minimum age convention No.173, the minimum age for employment in any country, in any case, shall not be less than 14. On the other hand, according to ILO's Worst Form of Child Labor Convention, states parties are required to eliminate the worst forms of child labour. In a similar manner, Article 32 of the CRC urges states parties to protect children from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual or social development.

Ethiopia has ratified the above discussed ILO conventions and the CRC. They are, therefore, part and parcel of domestic laws of the land by way of Article 9(4) of the FDRE constitution. On the top that, Ethiopia has a Labour law that provides principles governing worker-employee relation including provisions that set minimum age limits for employment.

Our labour law provides for the prohibition of employment of persons less than 14 years of age.⁴⁴ The law also defines workers between the ages of 14-18 as young workers.⁴⁵ Such categories of persons are not physically and mentally mature as adults. Taking cognizance of this, it seems, the law prohibits for working hours of such children not to exceed seven hours of a day and for the prohibition of night and overtime work.⁴⁶ In addition, it also empowers MOLSA to issue regulations

⁴⁴ Article 89(2), *Labour Law of Ethiopia* (2003)

⁴⁵ Id., Article 89(1)

⁴⁶ Id., Article 90

prescribing the list of activities in which young workers may not participate. Some of the prohibited lists of activities are stated under Article 89 of the said law.

In short, the above the relevant laws that protect the rights of the child in general, and CDFE in particular. But, the above are not the only laws addressing rights of children. For instance, the law of succession that states “adopted children shall be assimilated to other children”⁴⁷, is another regime of that protects the Right of CDFE. In a similar manner, the Pension law guarantees to an orphan child 30% of the pension pay to which the deceased was or would have been entitled.⁴⁸

3.2.5 National Policy

In the area of national policy instruments, there is no comprehensive national policy on children in general, and on CDFE in particular. However, there are policy instruments in other areas that constitute relevant statements to child rights and to the promotion of programs for child welfare and development. The Social Policy, the National Policy on Women, the Education Sector Strategy and the Cultural Policy are some of them. Regarding homeless children, the Social Policy reiterates;

*Particular care and protection shall be extended to children to ensure their physical, spiritual, psychological and social development; conditions shall be facilitated to give special support to homeless children. And, appropriate support shall be extended to the youth to enhance their physical and mental development so as to make them good and productive citizens.*⁴⁹

The above policy statement recognizes the needs of some groups of vulnerable children. It provides for special care and protection to be provided for homeless children. Many children of the country, owing to abandonment and loss of parents, have become homeless and such children have the right to special care to be provided by states. In view of this, the above policy statement seems to go in

⁴⁷ Article 836(2), *Civil Code the Empire of Ethiopia* (1960)

⁴⁸ Article 36, *Public Servants Pension Law of Ethiopia* (2003)

⁴⁹ *Social Policy of Ethiopia*, Item 8.6.3 and 8.6.4 (1994)

harmony with Art. 20 of the CRC. But, the real issue is how far the government has lived up to this commitment? A response to this issue is discussed in the subsequent chapter.

3.2.6 National Plan of Action

The National Plan of Action for children was drafted by MOLSA, in collaboration with the concerned organizations, for the period 2003-2010 and beyond.

The NPA emphasizes on the principles of putting children first, eradicate poverty, leave no child behind, care for every child, educate every child, protect children from harm and exploitation, protect children from war, listen to children and ensure their participation, and protect the earth for children.

The major components of the NPA are:⁵⁰

- Providing quality education
- Providing health facilities, clean water, sanitation, food and nutrition
- Combating HIV/AIDS, and
- Protecting children against abuses, exploitation and violence

Protecting children from abuse, exploitation and violence includes providing assistance to children in especially difficult situations.

Concerning the budget, the total financial requirement of the implementation of the NPA is 1.6 billion USD. Out of this, 60% is expected to be funded by the government, 35% by NGOs and the rest 5% by the community. The NPA predicts that the anticipated resources are within the reach of the country's economy.⁵¹

⁵⁰ *Ethiopia's National Plan of Action on the Rights For Children, (2003-2010 and beyond)* (2004)

⁵¹ *Supra* note 35, pp.29

However, the realization of it requires a commitment and strong political will on mobilization of knowledge, skill, material, manpower and other resources of the country.

3.2.7 Guidelines

In order to promote the necessary protection of children under difficult circumstances, the country, through MOLSA, has formulated guidelines on alternative childcare programs. The guidelines were prepared by private consultants and discussed by representatives of RBOLSA, Child Rights Committees as well as line ministries including the Ministries of Education, Health and Justice, and by representatives of international organizations and local NGOs.

The guidelines are five in number that include; guidelines on Institutional Child Care, Community Based Child Care, Reunification, Foster Family Care and Adoption. There is a hope that they will contribute to the quality of services provided by governmental and NGOs involved to advance the care and welfare of children.

The guidelines consist of mainly provisions on introduction, definition, mission and objective, and other procedures and legal matters. Among the guidelines, the one that deals with institutional childcare constitutes detailed rules, requirements and procedures. It has a mission of catering for unaccompanied children and enabling them to become self-reliant individuals valued by the community; enabling children to develop their potentialities with particular attention to the gender perspective; and provision of basic needs for unaccompanied children, i.e. food, shelter and clothing.⁵²

The guideline on adoption is by far important, given that adoption constitutes a

⁵² *Guidelines on Alternative Child Care Programs*, (2001) pp.6



prominent place recently. It is defined as a child care and protection measure that enables unaccompanied child to benefit from a substitute and permanent family care.⁵³ The guideline recognizes both domestic and inter-country forms of adoption. It requires MOLSA, now MOWA, and other accredited organizations, to make inter-country adoption as a last resort.⁵⁴ The writer, here, is interested in the word 'as a last resort.' It shows that the guideline wants to discourage inter-country adoption. It is concerned to maintain the child identity as can be manifested in his/her religion, culture, language and others. In this regard, the guideline is in harmony with the CRC and ACRWC that require states parties to give due regard to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background, when considering alternative childcare solutions. But, how far is inter-country adoption discouraged by promoting domestic adoption? This remains a little far from reality as discussed in chapter four of this study.

In general, however, the country has detailed guidelines on alternative childcare program and little research in the area shows that community based child care program is said to have been given priority among others. Moreover, discussion with concerned officials of BOLSA tells that the guidelines have been subjected to revision and discussion.

3.3 Institutional Framework

The presence of different laws and policies on CDFE does not warrant that such children's well being is secured. Laws and policies should be backed by enforcement mechanisms.

The present governmental arrangements for implementing child-related activities include the formation of national steering committees or task forces, reviewing

⁵³ Id., pp.59

⁵⁴ Id., pp.60

plans of action, and supervising the overall implementation of nation wide activities.

MOWA is the present government's Ministry that has the main responsibility for implementing, coordinating and monitoring programs for children in especially difficult circumstances, such as, CDFE.⁵⁵ In addition, it organizes monitoring and evaluation activities and prepares the required progress reports. It also reviews all child care projects submitted by NGOs.

BOLSAs are also responsible for the overall implementation of any action plan at Regional, and Woreda level.⁵⁶ They have also the responsibility of coordinating activities at Regional and Woreda levels. In carrying out their functions, they would be represented by the chairperson of the Regional and Woreda steering committees, and with a representative of MOWA serving as a secretary. Relevant Regional/Woreda Bureaus /Offices, NGOs and community based organizations are source areas for selection of members of steering committee.

Each Regional and Woreda office, under BOLSA, has also its own responsibility to discharge. Regional level responsibilities would include, understanding the nature and extent of deprivation of family environment, initiating awareness raising activities and co-coordinating with law enforcement officials to deal with problems of children without families; and undertaking the relevant monitoring and evaluation activities.⁵⁷ At Woreda level, the representatives would be responsible to gather data and report on instances of family deprivation of children; work on community mobilization and information campaigns on the problem and others.⁵⁸

In addition to Regional and kebele responsibilities, there are responsibilities at kebele and community level. Kebele's serve as mechanisms on instituting reporting on instances on children found without a family and implementing awareness

⁵⁵ Dawit Abraham, *Review of The Legislative, Policy And Institutional Frameworks for Addressing Child Labour Abuse in Ethiopia* (2008) pp.80

⁵⁶ Id., pp. 81

⁵⁷ Ibid.

⁵⁸ Ibid.

raising activities and action plans on CDFE. At community level, women, youth organizations and self-help associations, like Iddirs and Mahbers, would undertake community sensitization, and assisting CDFE.

There are also Ministries, other than MOLSA and other sectors that have direct and indirect responsibility for the protection of CDFE, like all other children. It includes the following:

I Ministry of Justice

The Ministry would provide mechanisms for the legal protection for victims of child abuse, neglect and exploitation of CDFE, and undertaking awareness raising and training activities for the judiciary on improved handling of cases concerning CDFE. It would also seek to strengthen the office of public prosecutor to better handle the case of CDFE, when they are found to be victims of crime.

II Ministry of Health

The Ministry would provide to implement programs to meet the health needs of CDFE. It would counter violence against victims of child abuse of children without a family environment, and train health personnel on better and sensitive handling of their cases.

III Ministry of Education

It would undertake an assessment of the conditions of CDFE not attending schools; review curricula to include the concerns of street children; improve access to education for such children; and to provide a safe environment, particularly, girl children of such group. Such would consist of informal education activities designed to teach children skills that would provide immediate economic alternatives.

IV The CSA

In order to properly plan and address the problem of CDFE, knowing the exact number of them is important. The CSA would conduct national and localized surveys on CDFE, establish a national data base on CDFE and train staff on CDFE-related data collection, tabulation and analysis.

V The Public Media, Police and NGOs

The media would disseminate information on the situation of CDFE to the public; undertake sensitization activities and train media staff on homeless and street children issues, and how to communicate these to the public.

There are also police commissions at different regions of the country that are involved in the implementation programs of child rights. The Addis Ababa Police Commission co-ordinates the activities of Child Protection Units set up in police stations in all 10 sub-cities of the city. Protection of abused children, improving their treatment within and outside police stations, and promotion of fair court hearings preoccupy the staff of the child protection units. These units consist, in addition to police personnel, psychologists and social workers. Such protection units could serve as rehabilitative centers for those abused children without a family environment.

In addition to Addis Ababa, the police commission in Oromia, Amhara, SNNPR and Dire Dawa are currently establishing Child Protection Units in various geographical locations. However, due to resource constraints, the process has been limited to set up the structures for training of the required staff.⁵⁹

⁵⁹ Id., pp.36

Lastly, but not least, while only states parties are ultimately obliged to implement it, the full realization of the RCDFE has been predicted to be ineffective unless it allows the active participation of other role players.⁶⁰ This includes, but not limited to, pertinent NGOs and human right institutions (the Ethiopian Human Rights Commission and the Office of Ombudsman). In Ethiopia, there are thousands of local and foreign NGOs that claim to be working on human rights concerns. FSCE and Save the Children are the widely known local and foreign NGOs, respectively, working on CDFE. According to the Committee on the Rights of the Child, these actors can play their roles only if and when state parties provide a suitable environment that facilitates the discharge of respective responsibilities.

⁶⁰ *Ethiopian Law and the Convention on the Rights of the Child: A Comparative Study*, (200?) pp.29

CHAPTER FOUR

Practical problems in Discharging State Responsibility For the RCDFE in Ethiopia

Ethiopia has ratified most of international instruments discussed in chapter two, including the most important treaty on children; the CRC. It has also translated the text of the CRC in many languages of the country. In addition, as discussed in chapter three, the country has a constitution, legislation, plan of actions, guidelines and institutional frameworks for the enforcement of the rights of CDFE. But, how far are such children's rights are realized?

Despite the ratification of human rights instruments by the country, adoption of national laws, and the presence of central and Regional bodies to protect children, CDFE in the country lose their ability to realize their rights. Why?

4.0 Limited Access to Alternative Care

As has been discussed elsewhere in this thesis, CDFE have the right to special assistance to be provided by states in the form of alternative care settings. It is all CDFE and not some other groups that have this right.

Nevertheless, all CDFE do not have a protection and assistance from both governmental organizations and NGOs. According to the survey on whether all CDFE have assistance and protection from governmental and NGOs, 98 % of the respondents made their response that only limited number of CDFE have an

opportunity for alternative care settings provided by governmental and NGOs.

Many CDFE remain in dire need of special protection and assistance. This shows that there is a mismatch between needs and services provided for CDFE. Limited access has resulted in many children to become homeless. The following table depicts the situation of homelessness all over the country.

Table 4.1 Distribution of Population (Ethiopia) By Age Group, Sex, and Place of Residence: 2007(Homeless)¹

Age Group	Urban + Rural			Urban			Rural		
	Both Sexes	Male	Female	Both Sexes	Male	Female	Both Sexes	Male	Female
Country Total									
Total	10,016	9,143	873	8,341	7,794	547	1,675	1,349	326
under 1	42	26	16	30	20	10	12	6	6
1 -4	206	104	102	129	64	65	77	40	37
5 – 9	451	333	118	268	219	49	183	114	69
10 – 14	3,028	2,806	222	2,581	2,423	158	447	383	64
15 – 19	6,289	5,874	415	5,333	5,068	265	956	806	150

Source: CSA, January 2009

The above figure, however, seems to very small and a little far from the reality. Information from other sources working on child rights shows that there are hundreds of thousands of CDFE, if not in millions, without home.

But what causes the mismatch between much need of protection and limited access to care? It is maintained that lack of resource is a constraint to enforce rights of such children.² The word resource refers to natural, human, financial or technology.³ Although, the country has rich water resource and vast arable land that can be used for production of food, they are not being utilized. Each year food shortage and drought affects millions of the country's population. In terms of economy, reports

¹ The data was customized according to need. The full one is attached (See Annex C).

It was not published during first draft preparation stage of the research.

² *Country Reports on Human Rights Practices-Ethiopia*, <http://www.state.gov/gldr/rls/hrrpt/2006/78734.htm>

³ Tilahun Teshome and Getnet Alemu, *Good Governance and Budget Tracking From Child Rights Perspective* (2005)pp.31

reveal the country is found to be one poorest in Sub-Saharan Africa and the government is heavily dependent on donor agencies. Only little resource is available from its treasury.

Moreover, even though, resource might be a limitation upon states to implement their obligation, they are obliged to undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.⁴ Various organizations including, UNICEF, SAVE the Children, UNHCR, WFP, WHO and others that are working and providing support to the government for Vulnerable children. However, it is questionable whether the fund from such organs is being allocated to the purpose it was meant to be addressed.

The following recommendations of the Committee on the CRC shows that the country has not undertaken such measures to protect CDFE to the maximum extent of its available resources:⁵

The Committee on the CRC once noted that Social Policy addressing the special protection requirements of, inter alia, children, which have yet to be implemented. The committee noted, further, the State party's limited progress in implementing the national plan of action for women and children. In addition, and particularly in the context of high military expenditure, the Committee is deeply concerned that the State party has not sought to implement the Convention to the maximum extent of available resources.

The result is that, there remain large numbers of children living or working on the streets of the main cities in the State party, and at their lack of access to education, health care, essential nutrition and housing.⁶ One can see crowds of them begging for food and money. They lie by the roadside, sick and dirty, or idle their days away in alleys, because they can't pay the required basic needs.

⁴ Article 4, CRC (1989)

⁵ Concluding Observation of the Committee on the Rights of the Child: Ethiopia, 21/02/2001, Second Report, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C15.Add.144.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C15.Add.144.En?OpenDocument)

⁶ Ibid.

4.1 Weak Institutional Care

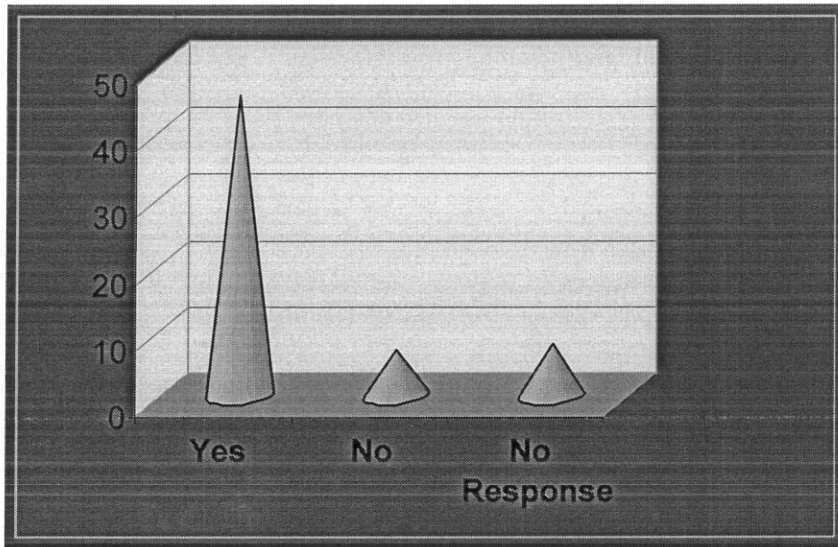
Regarding inadequacies of our child care institution at Woliso, Sarah Henning observed that:

The orphanage isn't an adequate home by American standards -- there's rarely electricity, no hot water, no refrigerator. The orphanage has four holes in the ground that serve as toilets. In the rainy season, the open pits overflow and become a breeding ground for mosquitoes. Hence, the outdoor "toilets" are hotbeds for malaria. Children also sleep in bunk beds, and take turns on the only swing set in the city.⁷

Although all care institutions cannot be said to have unsuitable, as I have observed some private child care institutions like Family Home Society Ethiopia and Sele Enat Adoption center, they remain unbefitting at large. Many care institutions do not have the necessary financial and manpower resource to provide for children in the institutions. According to whether care institutions have appropriate capacity to protect the rights of CDFE, a response was made as follows:

⁷ Anchorage nurse starts home for Ethiopian orphans, <http://www.adn.com/life/story/42-.html>

Figure 4.1 Capacity of Care Institutions



Source: Own Survey, 2008

From the above data, it is shown that 45 out of the 60 or 75% of the respondents respond that care institutions do not have capacity in protecting CDFE. The problem they state include, but not limited to, financial shortages, lack of the necessary support from government agencies. As a result children become lost in care.

On top of that, in an interview made with a nanny at Kebebe Tsehai adoption institution regarding the problem of institutions, she told the researcher that the institutions do not have the capacity to protect children learning out side the center. She told the researcher that some children join the institution from street life. After some time they start living in the institution and following up their education, some of them could not return back from school. They disappear from the institution

forever. She stated that the institution does not have a mechanism to control in and outs and the whereabouts of the lost.

4.2 Increased Dependence on Inter-Country Adoption

At one time (2001), the Committee on the Rights of the Child was concerned at the predominant use of institutional responses to provide assistance to children in difficulty.⁸ But, this assertion seems little far true today. A significant number of children from disadvantaged families are left for American, French, Italian and other foreign adoptive parents from year to year.

The following table shows the number of adopted children to the U.S alone from years 2000-2007.

Table 4.2 Ethiopian Adoptees to the US (Numerical)

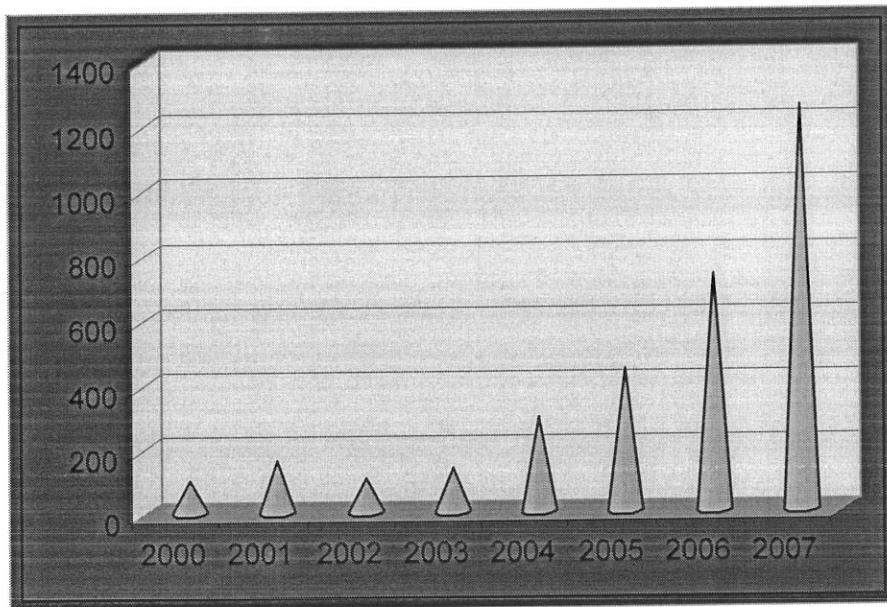
<i>S. No</i>	<i>Year (G.C)</i>	<i>Count</i>
<i>1</i>	<i>2000</i>	<i>95</i>
<i>2</i>	<i>2001</i>	<i>158</i>
<i>3</i>	<i>2002</i>	<i>105</i>
<i>4</i>	<i>2003</i>	<i>135</i>
<i>5</i>	<i>2004</i>	<i>289</i>
<i>6</i>	<i>2005</i>	<i>441</i>
<i>7</i>	<i>2006</i>	<i>732</i>
<i>8</i>	<i>2007</i>	<i>1255</i>
<i>Total</i>		<i>3,210</i>

Source: INS Immigration Statistics (2008)

In terms of figure, the trend is shown as follows;

⁸ CRC Committee Concluding observation, cited at note 4

Figure 4.2 Ethiopian Adoptees to the US, 2000-2007
(Graphical)



Source: INS above

As can be seen from the above table, the number of U.S adoptees has increased from year to year. It has increased by more than thirteen times in seven years. Research also shows that among those of the adoptee, 50% of them are women.⁹ On the other hand, 34% of them are 1-4 years of age, and 29 of them are under 1 year of age.¹⁰

In addition, according to government source, the situation of inter-country adoption from Ethiopia to other countries is shown as follows:

⁹ *Adoption in Ethiopia, An Overview*, http://www.adoptivefamilies.com/ethiopia_adoption.php

¹⁰ *Ibid.*

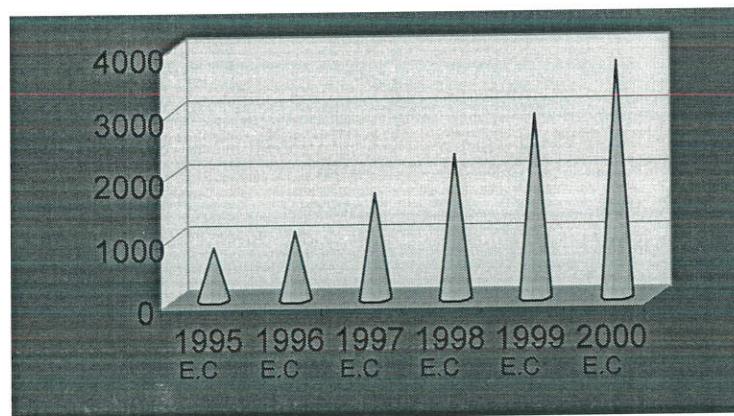
Table 4.3 Response to the trends of inter-country Adoption (Numerical)

<i>S. No</i>	<i>Year (E.C)</i>	<i>Count</i>
<i>1</i>	<i>1995</i>	<i>835</i>
<i>2</i>	<i>1996</i>	<i>1066</i>
<i>3</i>	<i>1997</i>	<i>1692</i>
<i>4</i>	<i>1998</i>	<i>2272</i>
<i>5</i>	<i>1999</i>	<i>2913</i>
<i>6</i>	<i>2000</i>	<i>3749</i>
<i>Total</i>		<i>12,527</i>

Source: MOWA (Unofficial)

In terms of figure, the trend is shown as follows;

*Figure 4.3 Inter-country Adoption from Ethiopia (1995 E.C-2000 E.C)
(Graphical)*



Source: MOWA (Unofficial)

On top of that, according to this survey on the trend of inter-country adoption, response was made as follows:



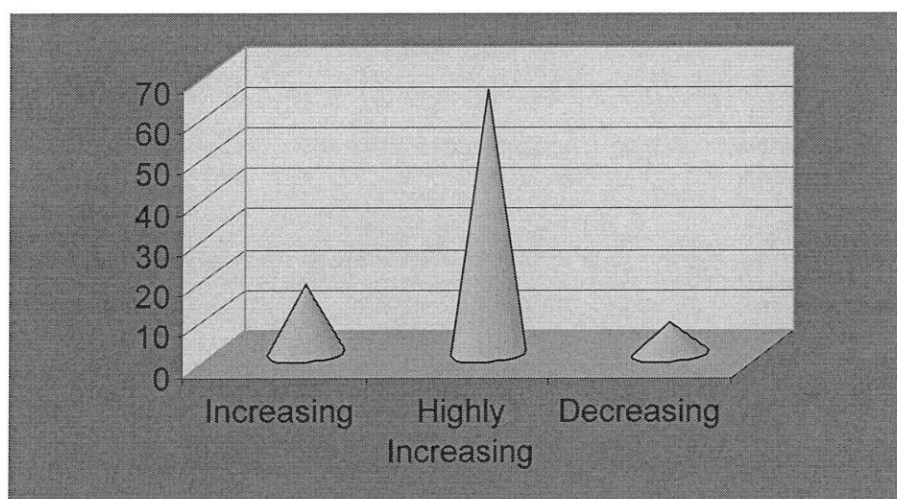
*Table 4.4 Response to the trends of inter-country Adoption
(Numerical)*

<i>S.No</i>	<i>Response Suggested</i>	<i>Frequency</i>	<i>In %</i>
<i>1</i>	<i>Increasing</i>	<i>18</i>	<i>20</i>
<i>2</i>	<i>Highly Increasing</i>	<i>66</i>	<i>73</i>
<i>3</i>	<i>Decreasing</i>	<i>6</i>	<i>7</i>
<i>Total</i>		<i>90</i>	<i>100</i>

Source: Own Survey, 2008

In terms of figure, the trend is shown as follows;

Figure 4.4: Response to the Trends of Inter-country Adoption in Ethiopia (Graphical)



Source: Own Survey, 2008

As can be seen from the above two figures, the number of children leaving the

country in search of a better family environment is increasing at an alarming rate each year. The current situation of inter-country adoption makes a social worker at the Addis Ababa BOSLA to question “is it ever sinful to our people (Ethiopia) to adopt children domestically?” Another person also suggested it is interesting that Ethiopia has now become a Mecca for adopting children.¹¹ But, the issue is why inter-country adoption is rising?

Researches in the area show different responses to the issue. Some argue that, it is cheap and easy.¹² Others give their reason that many of them are adopted by their own relatives in the US who are Ethiopians by birth.¹³ Some others argue that it is the big heart and mind of expanding business by adoption agencies; a mission to raise more money.¹⁴ These facts, however, tell that the move is not best done in the best interest of the child. Rather it leaves such children in conditions of physical and moral danger.

The Committee on the Rights of the Child is concerned that children in the State party may be vulnerable to abuses of their rights in the context of inter-country adoption. A number of reports support this issue. According to VOA, a four-year-old child and an eighteen-month kid were sexually molested by their adoptive father in St. Etienne, France.¹⁵ The two had been sodomized until the four-year-old child’s chance visit to a hospital brought the case to light. The man who allegedly committed the crime was detained.

According to an Ethiopian living in France, named Dawit Daniel, the disclosure of the illegal act came when the 37 year-old unnamed adoptive father took the child to hospital to get him a treatment for a wound on his leg caused by a beating.¹⁶ He had to bring him again a week later when it got worse. This had got the doctors

¹¹ Responses to “*Children adopted from Ethiopia molested*”, <http://arefe.wordpress.com/2008/06/17/children-adopted-from-Ethiopia-molested>

¹² Ibid.

¹³ Opinion given by Profoessor Tilahun Teshome in his capacity as University and this thesis advisor, January (2009)

¹⁴ *Adopting Ethiopian Orphans May Not be the Best Solution*, http://news.newamericamedia.org/news/view_article.html?

¹⁵ <http://www.voanews.com/Amharic/>

¹⁶ Ibid.

suspicious, which led them to examine the child and they alerted the police when they got confirmation. The suspect was arrested on the hospital ground. The eighteen-month toddler was brought to hospital by his adoptive mother and was found abused with a far more harm. The abusive act occurred a month after the children were taken to France by Tukul adoption agency found in Addis-Ababa.¹⁷ Similar stories are also heard from the media.

The current trend of inter country adoption can also be analyzed from different perspectives. The country is not a member of the Hague Convention on Inter-Country Adoption. Despite this, there is a high dependence on inter-country adoption. These two are contradictory. Children being adopted abroad will be much more protected, in law, when the country becomes state party to the said convention. Moreover, CRC provides that it is as a last resort that international adoption be opted when national adoption or placement in other alternative care settings is not a possibility. 21(b) However, the law and the practice are different. There are only, not more than hundreds of, national adoptions but increasingly thousands of international adoptions. Again, under the CRC when choosing a particular alternative care setting public authorities are under obligation to give due regard to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, linguistic and cultural background of children without parental care.¹⁸ However, thousands of Ethiopian children are being taken to a culture new to them and their family background. They have been ripped off from their root. This is mainly because their family, country and the people can not take care of them.

4.3 Abuse and Neglect

Child abuse constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, or commercial or other exploitation resulting in actual or potential harm to

¹⁷ Website cited at note 11

¹⁸ Article 20(3), CRC (1989)

the child's health, survival, development or dignity in the context of a relationship of responsibility, trust, or power.¹⁹

The CRC also provides that states parties shall protect the child from all forms of physical or mental violence, injury or abuse, or neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of the child by any person who has the care of the child.²⁰

In Ethiopia, the problem of sexual abuse is a common practice in almost all towns especially in Addis Ababa. Poverty, lack of social service, urbanization, industrialization, unemployment and crime are the factors that contribute to the problem of child abuse. Child abuse and neglect often results in the loss of the child's physical and emotional development.

The problem of abuse makes no exception regarding CDFE. Research shows that child abuse and exploitation occurs in institutions or orphanages for the care of the child.²¹ And that children who are cared by institutions for many years, and until the age of 18, are not given the educational and vocational skills necessary for them to make an independent living once they leave the institution.

Some CDFE have been 'rescued from poverty' yet find themselves the victims of continuing poverty. In some parts of the country, children in institutions face with diets that are inadequate and making illness a hazard.²² It is a gross betrayal; increasing their poverty in terms of lack of life opportunities.

In addition, research also shows that there is a significantly high risk of sexual abuse, a lack of stimulation and harsh discipline for children institutional care.²³

¹⁹ FSCE- Ethiopia, *Information on Child Abuse in Ethiopia*, (200?)pp.1

²⁰ CRC note 18, Article 19(1)

²¹ FSCE cited note 19, pp.2

²² See Supra note 9

²³ *Fitha Hetsan*, Federal Supreme Court Juvenile Justice Project Magazine (2005) pp.12

According to the true story of RD, child sexual abuse in fact occurs in child care institutions. The story goes as follows and a pseudo name is used to avoid prejudice:

RD was child born in a town in North Gondar. Unfortunately, at the age of 8, she was bereft of both parents due to HIV/AIDS pandemic. Even worse, she had no families to assist her. She had no alternative, but to join a nearby non-governmental care institution.

At the age of 15, she was in grade nine and was attending her schooling at Fasiledes comprehensive secondary school. Some time, she disappeared from class for unknown reasons though her class mates know she lives in an orphanage. One day, one of her teachers met her at a certain place in the town. She was seen as pregnant. The teacher, who told the story to the researcher, has asked what happened to the student. The student responded that because of the pregnancy at that stage, she could not dare to go to school being ashamed of her classmates and teachers. The problem happened due to a rape by one of the employees of the orphanage. No criminal action has yet been taken against the violator.

The above and other similar stories tell CDFE are vulnerable even in the care institutions that are meant places of their protection. For this reason, care institution can not be granted as abuse free centers. Even worse, fear of retaliation and immaturity may not allow such children to report the violation. The result would be, many CDFE continue to be abused without notification of concerned authorities.

During the course of the research, the researcher was also able to hear from different people that many CDFE are also exposed to sexual, including homo-sexual attack in orphanages and out side the streets. The researcher believes that there are

many cases of child molestations that are not publicized.

4.4 Institutional Incapacity

In a variety of its provisions, the CRC states as to the responsibility of states parties to make administrative measures to make the rights of the child a reality and mentions as national competent authorities that have the responsibility on child rights issues.²⁴ Through the adoption of laws, Ethiopia has established its organ that has a responsibility for the welfare and protection of children at a national level. Such is the MOWA that has been delegated the responsibilities of MOLSA concerning child rights issues. It has the duty to ensure the implementation of the rights of the child including those of CDFE.²⁵ In addition to MOWA, there are BOLSAs⁷ at the different Regions, Zones, Woredas and Kebeles that have the responsibility to implement/co-ordinate the rights of CDFE.

Despite the presence of MOWA and BOLSA, the Committee on the CRC noted the absence of a government body with the necessary capacity and profile to coordinate and develop State policy with regard to children's rights.²⁶ The Committee notes, in particular, that the current Department for Children's Affairs, within the Ministry of Women's Affairs, has insufficient financial and human resources to accomplish its task.²⁷ The committee's examination of the status of MOLSA, thus, shows that there is institutional incapacity at the national level that ensures child rights are implemented in the country. A close examination of man power of the child unit of MOWA shows that there are only ten (ten) professionals on child rights constituting one (1) Department Head, two (2) team leaders and seven (seven) experts at the national level.

At the Regional level, Regional governments are directly responsible for the

²⁴ CRC cited at note 18, Article 3(2)

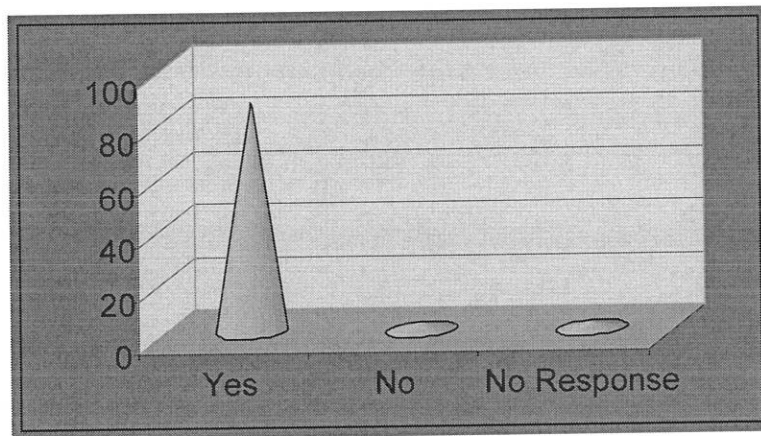
²⁵ Dawit Abraham, *Review of The Legislative, Policy And Institutional Frameworks for Addressing Child Labour Abuse in Ethiopia* (2008) pp.80

²⁶ CRC Committee Concluding Observation, Cited note 4

²⁷ Ibid.

practical implementation of programs and policies. The Regional BOLSA are vested with the responsibility of implementing programs and policies on children's affairs. However, due to insufficient manpower and budget tracking, these organs are not capable of discharging their responsibilities. According to the survey on whether the BOLSAs' have the necessary manpower to discharge their responsibility towards the rights of the CDFE, a response was made as follows:

Figure 4.5 Response on whether BOLSA's have the Necessary Manpower



Source: Own Survey, 2008

From the above table, more than 80% of the respondents respond as to shortage of manpower on the part of government responsible for the rights of CDFE. There is no call in question as to the need for trained and sufficient number of man power on the part of government in order to implement the legal and policy frameworks, regulate and coordinate activities, to undertake intervention activities and many more. Such are unavailable in practice.

On the other hand, the role that can be played by national human rights institutions for the promotion, protection and enforcement of human rights in a given country is

very important. Ethiopia has Human Rights Commission and the Office of Ombudsman established for the same purpose.

While noting that the country has the position of independent human rights commissioner, with a deputy commissioner for children and women's rights, and an office of ombudsperson for human rights, these mechanisms are not yet fully operational throughout the country.²⁸ Similar with that of MOWA, these institutions do not have the necessary man power and finance to carry out their responsibility.

4.5 Lack of Co-ordination

As we have seen in chapter three, various organs are responsible for protecting the rights of children. It starts at MOWA, BOLSAs, and NGOs to Kebeles. However, due to reasons of autonomy of regions there is no organ that regulates, at a national level, the whole situation of CDFE. Although MOWA seems to have responsibility for child issues at national level, it does not have a power to coordinate, look in to or to take appropriate measures on what is going on CDFE at the different parts of the country. According to a questionnaire distributed to six employees of MOWA, working on child issue, all of them respond that their Office does not have data on the status of CDFE, national adoptions, issues of periodic review of care institutions and others. They respond that all such and other related issues are left to the regions. They are preoccupied only on issues of inter-country adoption and dissemination of information or raising awareness concerning child right issues.

Moreover, according to the response made on whether there are problems related to the discharge of their responsibility to the RCDFE, 67 % of employees of the BOLSAs respond that there is information gap and coordination among the

²⁸ *The researcher's other unpublished survey on Human Rights Institutions in Ethiopia, Presented to the Faculty of Law of Addis Ababa University (2008) pp.24. Based on that survey, it is found that the two human rights institutions don't have their own office. They are providing the service to which they are responsible in rented rooms at Friendship (Ethiopian Human Rights Commission) and Dembel City (Ethiopian Ombudsman) centers. They could not be reached easily to all people as they have branches only in some selected parts of the country.*

different organs responsible for the rights of CDFE. The case of Bizuayehu Sele Enat and Sintayehu Sele Enat is worth nothing here.

Figure 4.6 Photograph of Abandoned Twins with their Nannies



Source: Own Survey, 2008

The above is a photograph taken by the researcher from an orphanage in Addis Ababa around the locality of Saris. The two children are identical twins. To the left is Bizuayehu Sele Enat, and to the right is Sintayehu Sele Enat. They are with their nannies.

While the researcher was distributing questionnaire at the Addis Ababa BOLSA, a certain woman was standing and crying. I was permitted to approach her in support of the research. She told the researcher that she had a neighbor six months ago who was living alone and pregnant. That one day a voice came from the neighbor and when she entered the same's room, the neighbor had given a birth to the above

children but there was no body with the mother except the woman. The woman told the researcher, that she provided all she had. She used also to assist the mother and her twins. Some days after, the mother started work and used to leave children with the woman to be look-after. Unfortunately, one day the mother did not return back from work having left children in the hands of the woman. The woman told the researcher that she was surprised and called the nearby neighbors to assist her for provisions of food and clothing to the abandoned children. Days after it becomes difficult to bear the responsibility of feeding and sheltering. As a result she had to report the problem to her Kebele. The Kebele could not resolve the problem as a result she was forced to look for child care institutions. She had to request an orphanage to take care of the children. The orphanage had accepted her request, subject to a precondition that the woman has to legalize that the children are abandoned ones and be registered with concerned authorities.

However, the woman did not know how to do her home work. She went to the nearest Kebele which in turn referred her to go to the concerned Sub-City Administration. The Sub-City in turn had referred the matter to the Sub-City's Police Department. The Police Department in its turn advised the woman to go to BOLSA of the city of Addis Ababa. It was while she was in the BOLSA that the researcher had met the woman crying. The woman told the researcher that she is being warned by the orphanage to take back the children unless she makes known to the concerned authority. It is only when BOLSA and/or police acknowledged that the children could be said to have lawfully entered in the orphanage. The matter, however, is not solved during the preparation of this thesis and the children remain in the orphanage for eight months without lawful procedure.

The above first hand observation of the story shows a clear case of lack of coordination among the different organs responsible for child rights issues; one

organ referring a problem to another. Had it not been, the children would not have been for months without lawful process. The children, as I observed them, are in good condition. But, since they are not lawfully admitted, who is responsible if they die, are disabled or their body parts sold?

On the top of lack of coordination, the above problem seems also to have stemmed from another dimension. Firstly, when children are found to be abandoned, as discussed in section 3.6.3, whosoever finds them should notify the concerned authorities, i.e., mainly the police. The woman did not do that. It could be ignorance of the law or for some other reason. Secondly, the orphanage should not have received the children from the woman unless through the process of intervention of the nearest Sub-City's BOLSA. Although orphanages have the mission to provide protection and assistance to parentless children, this requires compliance of the regulations of BOLSA. All such have contributed to the problem.

4. 6 Others

The problems with implementation of rights of CDFE are not limited to the above. According to the data collected on whether BOLSA has any time received or reached on information on the difficult circumstances that CDFE might face in institutions of child care, 88 % of the respondents give no response. These respondents were also made similar response, i.e., give no response as to they have knowledge whether children in care institutions could get basic food, clothing, education, shelter and whether their religious rights are respected. This mainly shows that problems of child abuse, neglect and exploitation are not reported to the responsible government authorities. Hence, lack of reporting on violence against CDFE is another problem in protecting such children's rights against abuse.

A different problem pertains to periodic review of placements. As discussed in section 2.8.5, children placed by the competent authorities for the purpose of care, protection or treatment of his or her physical or mental health, have a right to a periodic review of the treatment provided to the child and all other circumstances.²⁹ Despite this provision of child rights law, more than 74% of respondents of this work respond that they don't review placement of children periodically with regularity. They make visitation of institutions whenever they feel appropriate and not periodically. The source of the problem, as per informants, relates to shortage of manpower, transportation facilities, absence of relevant legislations in the area and finance.

²⁹ CRC cited at note 18, Article 25

CHAPTER FIVE

Summery, Conclusions and Recommendations

5.1 Summery and Conclusions

This study has evaluated the extent to which the rights of CDFE are entrenched in the international, Regional and domestic laws of Ethiopia. It finds out that a number of human rights instruments protect CDFE. Although CDFE, like all other children have the right to special protection and assistance, the meaning attached to the latter concerning CDFE encompasses the right to alternative care, inter alia, in the form of foster care, adoption, kafalah and institutional care.

Like all human beings under human rights laws, states have the obligation to respect, protect, and fulfill the rights of CDFE. States may not directly violate the rights of CDFE through their organs, agents and the structures of its law. They are required to undertake all appropriate legislative, administrative, and other measures. On the other hand, states are required to take measures necessary to prevent other individuals or groups from violating the integrity, freedom of action, or other human rights of CDFE. At tertiary level, the state is obligated to take the measures necessary to ensure, for each CDFE within its jurisdiction, opportunities to obtain satisfaction of those needs (to fulfill), recognized in the human rights instruments, which cannot be secured by personal efforts.

States, also, have particular obligation for CDFE. They shall, in accordance with their national laws, ensure alternative care for such children. When choosing a particular care setting, they are under obligation to give due regard to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background. Moreover, once states' administrative organs

have chosen a particular treatment, they have to undertake a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Ethiopia has ratified most of the international instruments discussed in chapter two, including the most important treaty on children; the CRC. It has also been translated into many languages of the country. In addition, as discussed in chapter three, the country has a constitution, legislation, plan of actions, guidelines, and institutional frameworks for the enforcement of the rights of CDFE. But, how far such children's rights are realized or how far Ethiopia has discharged its responsibility towards the rights of such children?

The study has attempted to evaluate the extent to which Ethiopia has succeeded in putting in place the foundations of legal and political accountability set out in the CRC, other human rights instruments and its domestic laws that are essential component of efforts to make a reality of rights of CDFE.

This thesis finds out that:

- There is no single legal document that tries to address the problem of CDFE in the country. Although Article 36(5) of the FDRE constitution is dedicated to children without a family environment, the provision does not seem to address the needs of all CDFE. In view of the different causes of deprivation of the family environment, the constitution deals only with orphans. It does not widen the situation of deprivation of family environment on account of drought, war, separation, abandonment and others.
- Meaningful implementation of the rights of CDFE across the country requires presence of data. Data is highly important to analyze a problem, formulate a policy and as a guide for action. Yet, there is no comprehensive and reliable

data and information that shows the status of CDFE in the country. Hence, that any current action that is being under taken is without necessary data.

- CDFE have the right to special assistance to be provided by states in the form of alternative care settings. It is all CDFE and not some that have this right. Nevertheless, only limited number of CDFE have an opportunity for alternative care settings provided by governmental and NGOs. There is a mismatch between needs and services provided for CDFE. Limited access has resulted in thousands of children to become homeless. There remains large numbers of children living or working on the streets of the main cities in the country, and lack of access to education, health care, essential nutrition and housing.
- Child care institutions are envisaged as one form of alternative care mechanism for children without parental care. Albeit, many care institutions are incapable to provide sufficient protection for children in the institutions. The problems include, but not limited to, financial shortages, man power and lack of the necessary support from government agencies.
- It is national adoption that is encouraged under child rights laws. It is as a last resort that international adoption be opted when national adoption or placement in other alternative care settings is not a possibility. Nevertheless, there is an increased dependence on inter-country adoption in the country.
- Child abuse and neglect occurs in institutions or orphanages for the care of the child. Children, who are cared for in institutions for many years, are not given the educational and vocational skills necessary for them to make an independent living once they leave the institution. Some CDEF who are being adopted internationally are proved to have been sexually abused, molested and beaten in the hands of their adoptive families.

- MOWA and BOLSA at different level have prior institutional responsibility towards the implementation of rights of CDFE. Nevertheless, these institutions have insufficient financial and human resources to accomplish their task.
- Implementation of the RCDFE requires proper coordination of the various organs responsible for such children's rights. However, this thesis has shown that there is lack of coordination among the various units responsible for the protection right of CDFE.
- No relevant legislative provisions have been found in respect to the right to periodic review of child care institutions and other centers. Practically, if it is done, it will be done arbitrarily. Neither there are sufficient mechanisms for reporting occurrences of child abuse and exploitation.

Therefore, in view of the above findings, the thesis concludes that the Ethiopian state, in reality, fails to provide sufficient protection and opportunities to thousands or even more children who are abandoned, bereft of their parents or become without a family environment for any other reason. In the presence of the above realities, the country cannot be said to have discharged its responsibility to make the rights of the child a reality in general, the rights of CDFE in particular. The evidence gathered reveals several systematic disadvantages imposed on Ethiopians orphans and other CDFE, which violate their fundamental rights to survival and development.

5.2 Recommendations

- Article 36(5) of the FDRE constitution does not seem to address the needs of all CDFE. It deals only with orphans. Therefore, it should be amended in a manner

harmonized with Article 20 and 25 of the CRC and ACRWC, respectively, so as to make it applicable in respect of all CDFE.

- The country should strengthen its institutional capacity to coordinate and implement children's rights policies effectively. In particular, that the national-level mechanism with responsibility for coordination and implementation of children's rights policy, currently the Department for Children's Affairs, within the Ministry of Women's Affairs, be provided with adequate resources to perform its task. Further, that BOLSAs, and child's rights committees at the Regional, "zonal" and "Woreda" levels should be strengthened.
- Studying, identifying the root cause and to cope up the problem of CDFE requires data. Hence, the country should pursue its efforts to establish a database project, with a view to the implementation of the rights of CDFE across the country. In addition, that data collected should be analyzed and used in the elaboration of policies and programs, as well as for follow-up and evaluation purposes.
- This research noted there is a greater reliance on inter-country adoptions. Such institutions could not only address the number of children in dire need of special protection, but research in many jurisdictions show that when children are isolated from their community and put in to foreign adoptive families, their cultural religious and social identity development is undermined. Hence, emphasis should be given on the importance of building support for national-centred approaches with a special focus on preventive measures to ensure that children are not placed in foreign adoptive families. To that effect the country should adopt policies and procedures that encourage domestic adoption. Besides, as the present trend of international adoption is highly rising, the country should better be a party to the Hague Convention on Protection of

Children and Cooperation in respect to Inter-country adoption.

- Once placing in a child care institution is taken, the country should ensure that children cared for by State or private institutions are given all the assistance they need, including an education and suitable vocational training, to enable them to establish a life for themselves after leaving the institution. As one scholar has said, “these institutions can not be eliminated, but we must make them humane.”
- The country should make urgent efforts to protect the rights of children currently living and/or working on the streets, including through the provision of education, health care, nutritional aid and alternative care assistance. In addition, that the country should address the causes of children falling into a situation of street life. This can be addressed by strengthening and fully implementing its poverty alleviation programs and development programs to strengthen family unity, providing assistance to the poor and displaced populations.
- The state should take preventive action in order to tackle deprivation of family environment. Some form of early intervention is necessary. Many children become without families because of death of their parent due to HIV/AIDS. Therefore, strong prevention mechanism should be devised. Education or creation of awareness about the problem is mandatory. Moreover, children wonder and beg on streets because they can not be cared by their parents due to poverty. In order to minimize the problem family support, in the best interest of children, is necessary. But, family support services must be responsive to the needs. In order to do that, firstly, there must be an attempt to assess what specific needs are. Second, the state must have a legal obligation to intervene early to meet child needs through available resources and, where needed, within

the framework of international co-operation. Third, the roles of central and Regional governments on funding, service delivery and standard setting must be clearly defined.

- Pertinent legislations should be adopted in order to ensure periodic review of all children in child care institutions, prisons, hospitals and detention centres. Again, proper administrative guidelines for the determination of components of review should be adopted.
- Lastly, but by no means least, while the country is ultimately obliged to implement, its responsibility for the RCDFE has, partly, been predicted to be ineffective unless it allows the active participation of other role-players. These include NGOs, lawyers, academic institutions, families, local communities as well as community leaders. However, in order for these actors to play their roles, the country should provide a suitable legal and political environment that facilitates the discharge of respective responsibilities.

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ANNEXURES

Annex- A

**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
FACULTY OF LAW**

Government Officials'/Employees' Questionnaire

This questionnaire is prepared to serve as an input for a thesis proposal approved by AAU on a title, "State Responsibility for the Protection of Rights of Children Deprived of Their Family Environment: The Ethiopian Perspective"

Therefore,

- A In order to identify the root causes of the problem and to look for solutions pertaining to the target groups, I appreciate if due responsibility shall be had while filling the questionnaire.
- B Respondents could use the back side of the questionnaire or use additional attachments in case shortage of space.
- C Please be confident that the data you provide will be handled confidentially and used only for the intended purpose. And you do not need to mention your name.
- D I, thank you, in advance for your cooperation in filling the relevant information.

Solomon Tekle

**Addis Ababa University
Faculty of Law
October 2008**

1. Name of the Office: _____

Address:

Region _____

Zone _____

Kebele _____

2. Does the office has the responsibility for protecting and assisting children deprived of their family environment?

A. Yes

B. No

N. Unknown

3. How many trained officials exist, in the office, for upholding protection and assistance for those categories of children stated under 2 above?

A. Exactly _____

B. About _____

4. Are the number of officials stated under 3 sufficient to address the measures necessary to such children?

A. Yes

B. No

C. Unknown

5. How many CDFE are estimated to be found in the Region/Zone/Sub-city?

A. About _____

B. Unknown

6. Do all children stated under 5 above avail special and protection and assistance from governmental and NGOs?

A. Yes

C. Only some

B. No

D. If your response is different, please state _____

7. Are there measures to be taken by the office when the same finds CDFE left unprotected?



A. Yes

B. No

C. No response

8. If your answer under 7 is yes, state those measures being undertaken.

A. _____

B. _____

C. _____

D. _____

E. _____

9. Are there child care institutions in the Region/Zone/Kebele that are established for the protection and assistance of CDFE?

A. Yes

B. No

N. Unknown

10. If your answer under 9 is yes, what is their number?

C. Government _____

D. NGOs _____

11. What are the numbers of children who are found under child care institutions in the Country/Region/zone/sub city?

A. Exactly _____

B. Approximately _____

C. Unknown

12. How many of the CDFE have availed the protection and assistance of child care institutions in the Country/Region/zone/sub city?

A. Some

B. Majority

C. All

D. The care institutions do not have the capacity to hold all

E. A and D

F. If your response is different, please
state _____

13. Do children in the care institutions get basic food, shelter, education

and health care service?

- A. Yes B. No C. Unknown

D. If your response is different, please
state _____

14. Do children's right to express their opinion, follow their families' religion and culture respected in the care institutions?

- A. Yes B. No C. Unknown

D. If your response is different, please
state _____

15. Does children's right to body security respected in the institutions of care?

- A. Yes B. No C. Unknown

D. If your response is different, please
state _____

16. Among the following alternative care mechanisms which one holds the greatest share?

- A. Adoption B. Institutions of child care C. Kafalah

- D. Foster Care E. Community based Service

17. Compared to national and international adoptions, which one holds greater in number?

- A. National B. International

18. How does the trend of international adoption look like?

- A. Increase B. Decreasing C. Highly increasing

D. Highly decreasing E. If your response is different, please state _____

19. Are there any guidelines for review of child care institutions in the Country/Region/Zone/Sub city?

A. Yes B. No C. Unknown

20. If your response under 19 is yes, how often the review occurs?

A. _____ times a year
B. _____ times in two years
C. If your response is different, please state _____

21. Does the office have the knowledge that workers in the institutions of care have trained personnel to protect children?

A. Yes B. No C. Unknown

22. What are the limitations, for the office, that hinders periodic review of placements?

A. Man power C. All
B. Transportation D. If your response is different, please state _____

23. Have the office ever received reports or information on instances of child abuse or neglect in the institutions of child care?

24. If your response under 23 is yes, state those instances;

A. _____
B. _____
C. _____
D. _____
E. _____

25. Are there problems that the office may face while trying to implement the rights of CDFE?

- A. _____
- B. _____
- C. _____
- D. _____
- E. _____

26. If you have stated problems under 25 above, what do you think is the next action/s to be taken?

- A. _____
- B. _____
- C. _____
- D. _____
- E. _____

Thank you very much

Annex- B

**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
FACULTY OF LAW**

Employees of Child Care Institutions' Interview

This Interview is prepared to serve as an input for a thesis proposal approved by AAU on a title, "State Responsibility for the Protection of Rights of Children Deprived of Their Family Environment: The Ethiopian Perspective"

Therefore,

- A. In order to identify the root causes of the problem and to look for solutions pertaining to the target groups, I appreciate if due responsibility shall be had while responding the Interview.
- B. Please be confident that the data you provide will be handled confidentially and used only for the intended purpose. And you do not need to mention your name.
- C. I, thank you, in advance for your cooperation in filling the relevant information.

Solomon Tekle

**Addis Ababa University
Faculty of Law
October 2008**

1. Name of the Child Care Center: _____

Address:

Region _____

Zone _____

Kebele _____

2. Does the institution has the responsibility for protecting and assisting children deprived of their family environment?

A. Yes

B. No

C. Unknown

3. How many trained employees exist, in the institution, for upholding protection and assistance for those categories of children stated under 2 above?

A.Exactly _____

B.About _____

4. Are the number of employees stated under 3 sufficient to address the measures necessary to such children?

A. Yes

B. No

C.Unknown

5. How many CDFE are found in the institution?

A.Exactly _____

B. About _____

6. Do children in the care institutions get basic food, shelter, education and health care service?

A. Yes

B. No

C. Unknown

D. If your response is different, please state _____

7. Do children's right to express their opinion, follow their families' religion and culture respected in the care institutions?

A. Yes

B. No

C. Unknown

D. If your response is different, please
state _____

8. Does children's right to body security respected in the institutions of care?

A. Yes

B. No

C. Unknown

D. If your response is different, please
state _____

9. Among the following alternative care mechanisms which one holds the greatest share?

A. Adoption

B. Institutions of child care

C. Kafalah

D. Foster Care

E. Community based Service

10. Compared to national and international adoptions, which one holds greater in number?

A. National

B. International

11. How does the trend of international adoption look like?

A. Increase

B. Decreasing

C. Highly increasing

D. Highly decreasing

E. If your response is different, please
state _____

12. Are there problems that the institution may face while trying to implement the rights of CDFE?

A. _____

B. _____

C. _____

13. If you have stated problems under 12 above, what do you think is the next action/s to be taken?

- A. _____
- B. _____
- C. _____

Thank you very much

Annex C

DISTRIBUTION OF POPULATION BY AGE GROUP, SEX, REGION AND PLACE OF RESIDENCE: 2007 (Homeless) (Ethiopia)

Region and Age Group	Urban + Rural			Urban			Rural		
	Both Sexes	Male	Female	Both Sexes	Male	Female	Both Sexes	Male	Female
Total	24,680	22,578	2,102	20,527	19,148	1,379	4,153	3,430	723
under 1	42	26	16	30	20	10	12	6	6
1 -4	206	104	102	129	64	65	77	40	37
5 - 9	451	333	118	268	219	49	183	114	69
10 - 14	3,027	2,805	222	2,580	2,422	158	447	383	64
15 - 19	6,280	5,865	415	5,324	5,059	265	956	806	150
20 - 24	4,526	4,240	286	3,641	3,483	158	885	757	128
25 - 29	3,061	2,838	223	2,499	2,362	137	562	476	86
30 - 34	1,875	1,688	187	1,537	1,407	130	338	281	57
35 - 39	1,403	1,274	129	1,175	1,081	94	228	193	35
40 - 44	1,123	1,012	111	974	889	85	149	123	26
45 - 49	749	681	68	641	591	50	108	90	18
50 - 54	579	519	60	520	473	47	59	46	13
55 - 59	325	287	38	283	256	27	42	31	11
60 - 64	357	314	43	324	290	34	33	24	9
65 - 69	258	231	27	230	210	20	28	21	7
70 - 74	189	170	19	172	154	18	17	16	1
75 +	229	191	38	200	168	32	29	23	6
TIGRAY Region									
Total	1,170	972	198	916	833	83	254	139	115
under 1	4	1	3	1	-	1	3	1	2
1 -4	18	6	12	6	2	4	12	4	8
5 - 9	23	17	6	15	13	2	8	4	4
10 - 14	232	227	5	229	224	5	3	3	-
15 - 19	405	363	42	340	329	11	65	34	31
20 - 24	184	123	61	101	90	11	83	33	50
25 - 29	82	65	17	47	42	5	35	23	12
30 - 34	54	46	8	38	33	5	16	13	3
35 - 39	35	27	8	26	20	6	9	7	2
40 - 44	33	25	8	30	22	8	3	3	-
45 - 49	22	19	3	15	13	2	7	6	1
50 - 54	26	17	9	23	15	8	3	2	1
55 - 59	14	9	5	13	9	4	1	-	1
60 - 64	14	7	7	13	6	7	1	1	-
65 - 69	6	5	1	5	4	1	1	1	-
70 - 74	10	8	2	6	4	2	4	4	-
75 +	8	7	1	8	7	1	-	-	-
AFFAR Region									
Total	1,209	1,185	24	1,078	1,060	18	131	125	6
under 1	-	-	-	-	-	-	-	-	-
1 -4	1	-	1	-	-	-	1	-	1

5 - 9	5	4	1	2	2	-	3	2	1
10 - 14	47	47	-	34	34	-	13	13	-
15 - 19	279	270	9	260	252	8	19	18	1
20 - 24	390	389	1	357	356	1	33	33	-
25 - 29	234	230	4	210	207	3	24	23	1
30 - 34	106	104	2	89	87	2	17	17	-
35 - 39	44	42	2	37	36	1	7	6	1
40 - 44	45	44	1	34	33	1	11	11	-
45 - 49	20	19	1	20	19	1	-	-	-
50 - 54	15	13	2	14	13	1	1	-	1
55 - 59	4	4	-	4	4	-	-	-	-
60 - 64	13	13	-	11	11	-	2	2	-
65 - 69	2	2	-	2	2	-	-	-	-
70 - 74	4	4	-	4	4	-	-	-	-
75 +	-	-	-	-	-	-	-	-	-
AMHARA Region									
Total	3,092	2,926	166	2,707	2,589	118	385	337	48
under 1	4	3	1	3	3	-	1	-	1
1 - 4	11	5	6	7	4	3	4	1	3
5 - 9	27	20	7	14	11	3	13	9	4
10 - 14	370	362	8	336	330	6	34	32	2
15 - 19	1,154	1,117	37	1,072	1,045	27	82	72	10
20 - 24	625	608	17	545	531	14	80	77	3
25 - 29	325	308	17	270	260	10	55	48	7
30 - 34	169	148	21	125	111	14	44	37	7
35 - 39	119	105	14	93	81	12	26	24	2
40 - 44	78	70	8	63	57	6	15	13	2
45 - 49	59	51	8	50	45	5	9	6	3
50 - 54	45	37	8	38	32	6	7	5	2
55 - 59	26	20	6	21	16	5	5	4	1
60 - 64	21	18	3	18	15	3	3	3	-
65 - 69	21	18	3	19	16	3	2	2	-
70 - 74	15	14	1	14	14	-	1	-	1
75 +	23	22	1	19	18	1	4	4	-
OROMIA Region									
Total	7,116	6,702	414	5,971	5,627	344	1,145	1,075	70
under 1	8	5	3	5	3	2	3	2	1
1 - 4	39	14	25	33	13	20	6	1	5
5 - 9	73	55	18	60	48	12	13	7	6
10 - 14	806	780	26	696	677	19	110	103	7
15 - 19	1,469	1,428	41	1,235	1,203	32	234	225	9
20 - 24	1,111	1,074	37	888	858	30	223	216	7
25 - 29	880	835	45	696	657	39	184	178	6
30 - 34	646	600	46	537	499	38	109	101	8
35 - 39	523	484	39	445	416	29	78	68	10
40 - 44	469	441	28	404	379	25	65	62	3
45 - 49	292	266	26	248	225	23	44	41	3
50 - 54	229	211	18	204	187	17	25	24	1
55 - 59	116	106	10	103	93	10	13	13	-
60 - 64	164	149	15	149	136	13	15	13	2
65 - 69	112	102	10	101	92	9	11	10	1
70 - 74	79	70	9	76	67	9	3	3	-
75 +	100	82	18	91	74	17	9	8	1

SOMALI REGION									
Total	993	672	321	235	202	33	758	470	288
under 1	6	5	1	3	3	-	3	2	1
1 - 4	41	26	15	7	4	3	34	22	12
5 - 9	86	52	34	10	6	4	76	46	30
10 - 14	130	95	35	20	19	1	110	76	34
15 - 19	199	141	58	51	38	13	148	103	45
20 - 24	128	99	29	39	38	1	89	61	28
25 - 29	104	64	40	25	23	2	79	41	38
30 - 34	77	45	32	19	18	1	58	27	31
35 - 39	56	36	20	16	12	4	40	24	16
40 - 44	36	22	14	15	14	1	21	8	13
45 - 49	30	21	9	8	7	1	22	14	8
50 - 54	22	13	9	6	5	1	16	8	8
55 - 59	21	12	9	1	1	-	20	11	9
60 - 64	14	8	6	4	4	-	10	4	6
65 - 69	16	12	4	5	5	-	11	7	4
70 - 74	10	10	-	2	2	-	8	8	-
75 +	17	11	6	4	3	1	13	8	5
BENISHANGUL-GUMUZ Region									
Total	187	176	11	79	68	11	108	108	-
under 1	-	-	-	-	-	-	-	-	-
1 - 4	-	-	-	-	-	-	-	-	-
5 - 9	5	4	1	4	3	1	1	1	-
10 - 14	21	20	1	21	20	1	-	-	-
15 - 19	62	60	2	27	25	2	35	35	-
20 - 24	36	36	-	6	6	-	30	30	-
25 - 29	27	25	2	6	4	2	21	21	-
30 - 34	9	9	-	-	-	-	9	9	-
35 - 39	7	6	1	1	-	1	6	6	-
40 - 44	6	6	-	2	2	-	4	4	-
45 - 49	5	4	1	3	2	1	2	2	-
50 - 54	2	2	-	2	2	-	-	-	-
55 - 59	-	-	-	-	-	-	-	-	-
60 - 64	2	2	-	2	2	-	-	-	-
65 - 69	2	-	2	2	-	2	-	-	-
70 - 74	2	1	1	2	1	1	-	-	-
75 +	1	1	-	1	1	-	-	-	-
S.N.N.P Region									
Total	3,808	3,345	463	2,836	2,523	313	972	822	150
under 1	3	2	1	3	2	1	-	-	-
1 - 4	36	19	17	23	13	10	13	6	7
5 - 9	125	98	27	81	72	9	44	26	18
10 - 14	866	754	112	735	641	94	131	113	18
15 - 19	1,167	1,057	110	845	782	63	322	275	47
20 - 24	639	575	64	386	354	32	253	221	32
25 - 29	351	314	37	265	240	25	86	74	12
30 - 34	200	171	29	155	130	25	45	41	4
35 - 39	146	127	19	113	97	16	33	30	3
40 - 44	92	67	25	76	57	19	16	10	6
45 - 49	59	51	8	42	37	5	17	14	3
50 - 54	47	43	4	43	39	4	4	4	-
55 - 59	17	14	3	14	11	3	3	3	-

60 - 64	25	22	3	25	22	3	-	-	-
65 - 69	10	10	-	9	9	-	1	1	-
70 - 74	9	7	2	8	6	2	1	1	-
75 +	16	14	2	13	11	2	3	3	-
GAMBELLA Region									
Total	418	370	48	81	79	2	337	291	46
under 1	2	1	1	-	-	-	2	1	1
1 -4	7	6	1	-	-	-	7	6	1
5 - 9	11	5	6	-	-	-	11	5	6
10 - 14	17	14	3	1	1	-	16	13	3
15 - 19	50	43	7	14	14	-	36	29	7
20 - 24	110	102	8	18	18	-	92	84	8
25 - 29	93	83	10	16	16	-	77	67	10
30 - 34	52	48	4	12	12	-	40	36	4
35 - 39	35	34	1	7	7	-	28	27	1
40 - 44	21	17	4	7	5	2	14	12	2
45 - 49	10	10	-	3	3	-	7	7	-
50 - 54	4	4	-	1	1	-	3	3	-
55 - 59	-	-	-	-	-	-	-	-	-
60 - 64	2	1	1	-	-	-	2	1	1
65 - 69	3	1	2	1	1	-	2	-	2
70 - 74	1	1	-	1	1	-	-	-	-
75 +	-	-	-	-	-	-	-	-	-
HARARI Region									
Total	123	99	24	123	99	24	-	-	-
under 1	-	-	-	-	-	-	-	-	-
1 -4	4	-	4	4	-	4	-	-	-
5 - 9	2	2	-	2	2	-	-	-	-
10 - 14	9	9	-	9	9	-	-	-	-
15 - 19	16	10	6	16	10	6	-	-	-
20 - 24	11	10	1	11	10	1	-	-	-
25 - 29	13	11	2	13	11	2	-	-	-
30 - 34	16	13	3	16	13	3	-	-	-
35 - 39	21	18	3	21	18	3	-	-	-
40 - 44	11	10	1	11	10	1	-	-	-
45 - 49	6	6	-	6	6	-	-	-	-
50 - 54	8	7	1	8	7	1	-	-	-
55 - 59	-	-	-	-	-	-	-	-	-
60 - 64	1	1	-	1	1	-	-	-	-
65 - 69	3	1	2	3	1	2	-	-	-
70 - 74	1	-	1	1	-	1	-	-	-
75 +	1	1	-	1	1	-	-	-	-
ADDIS ABABA CITY ADMINISTRATION									
Total	5,178	4,830	348	5,178	4,830	348	-	-	-
under 1	13	7	6	13	7	6	-	-	-
1 -4	41	22	19	41	22	19	-	-	-
5 - 9	64	49	15	64	49	15	-	-	-
10 - 14	388	362	26	388	362	26	-	-	-
15 - 19	1,238	1,153	85	1,238	1,153	85	-	-	-
20 - 24	1,042	991	51	1,042	991	51	-	-	-
25 - 29	742	701	41	742	701	41	-	-	-
30 - 34	425	391	34	425	391	34	-	-	-
35 - 39	321	302	19	321	302	19	-	-	-

40 - 44	257	242	15	257	242	15	-	-	-
45 - 49	183	173	10	183	173	10	-	-	-
50 - 54	128	124	4	128	124	4	-	-	-
55 - 59	103	98	5	103	98	5	-	-	-
60 - 64	77	72	5	77	72	5	-	-	-
65 - 69	68	66	2	68	66	2	-	-	-
70 - 74	47	44	3	47	44	3	-	-	-
75 +	41	33	8	41	33	8	-	-	-
DIRE DAWA CITY ADMINISTRATION									
Total	1,345	1,260	85	1,282	1,197	85	63	63	-
under 1	2	2	-	2	2	-	-	-	-
1 - 4	8	6	2	8	6	2	-	-	-
5 - 9	30	27	3	16	13	3	14	14	-
10 - 14	140	134	6	110	104	6	30	30	-
15 - 19	232	214	18	217	199	18	15	15	-
20 - 24	243	226	17	241	224	17	2	2	-
25 - 29	201	193	8	200	192	8	1	1	-
30 - 34	119	111	8	119	111	8	-	-	-
35 - 39	93	90	3	92	89	3	1	1	-
40 - 44	71	64	7	71	64	7	-	-	-
45 - 49	62	60	2	62	60	2	-	-	-
50 - 54	51	46	5	51	46	5	-	-	-
55 - 59	22	22	-	22	22	-	-	-	-
60 - 64	24	21	3	24	21	3	-	-	-
65 - 69	15	14	1	15	14	1	-	-	-
70 - 74	11	11	-	11	11	-	-	-	-
75 +	21	19	2	21	19	2	-	-	-
Special Enumerating Areas									
Total	41	41	-	41	41	-	-	-	-
under 1	-	-	-	-	-	-	-	-	-
1 - 4	-	-	-	-	-	-	-	-	-
5 - 9	-	-	-	-	-	-	-	-	-
10 - 14	1	1	-	1	1	-	-	-	-
15 - 19	9	9	-	9	9	-	-	-	-
20 - 24	7	7	-	7	7	-	-	-	-
25 - 29	9	9	-	9	9	-	-	-	-
30 - 34	2	2	-	2	2	-	-	-	-
35 - 39	3	3	-	3	3	-	-	-	-
40 - 44	4	4	-	4	4	-	-	-	-
45 - 49	1	1	-	1	1	-	-	-	-
50 - 54	2	2	-	2	2	-	-	-	-
55 - 59	2	2	-	2	2	-	-	-	-
60 - 64	-	-	-	-	-	-	-	-	-
65 - 69	-	-	-	-	-	-	-	-	-
70 - 74	-	-	-	-	-	-	-	-	-
75 +	1	1	-	1	1	-	-	-	-