

**ADDIS ABABA UNIVESITY**  
**SCHOOL OF GRADUATE STUDIES**  
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**The Realization of Socio-economic Rights of the Child:  
the Case of Street Children of Addis Ababa**

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## ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights
ACWRC	African Charter on the Rights and Welfare of the Child
CEDAW	Convention on Elimination of All forms of Discrimination against Women
CEDC	Children living in Exceptionally Difficult Circumstances
CERD	Convention on Elimination of all forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CYFO	Child, Youth and Family Organization
ESCR	Economic, Social and Cultural Rights
ESS	Education Sector Strategy
ETP	Education Training Program
FDRE	Federal Democratic Republic of Ethiopia
FSCE	Forum for Street Children Ethiopia
GNP	Gross National Product
GSS	United Nations Global Shelter Strategy to the Year 2000
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
HSDP	Health Sector Development Program
HSEP	Health Sector Extension Program
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IMCI	Integrated Management of Child Illness
MDG	Millennium Development Goals
MOLSA	Ministry of Labour and Social Affairs
NGO	non-governmental Organization
NPA	National Plan of Action
OHCHR	Office of High Commissioner for Human Rights
SDPRP	Sustainable Development and Poverty Reduction Program
TB	Tuberculosis
UDHR	Universal Declaration of Human Rights

UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
US	United States
WHO	World Health Organization
WWII	World War Second

## **KEY WORDS**

- Children of the Street
- Children on the Street
- Human Rights
- Realization of Rights
- Right to Education
- Right to Health
- Rights of the Child
- Socio-economic Rights
- States' Obligations
- Street Children

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## **Abstract**

*Children constitute an example of marginalized section of the society. Providing special safeguard for the human rights of children is one of the basic means of protecting vulnerable children. The aim of this work is to investigate the real problems in realization of socio-economic rights of the child and to forward solutions in this regard. What are the socio-economic conditions of street children in Addis Ababa and the government responses to alleviate these problems? For this purpose, data are collected regarding the conditions, problems faced, health status and educational level of street children and the government response by using observation, interviews and questionnaire for those participants, and concerned organs. The respondents are chosen by using simple random sampling method. Ultimately, analysis of the cases, data and information collected are made with respect to obligations nationally and internationally. Based on this, street children are growing up in poverty and difficult socio-economic conditions without having access to education, health care, adequate food, water and sanitation facilities. The living and working conditions of these children, shelter problem, and lack of access to adequate food, water and sanitation facilities are found to be the major factors that create negative impact on their health and participation in education. This in turn affects their survival and development that is basic rights of the child.*

# CHAPTER ONE

## 1. Introduction

### 1.1 Background of the Study and Literature Review

As it is known children are the most vulnerable and marginalized section of the society. They are vulnerable to abuse, violence, neglect and evils of different kinds in their lives. Accordingly, it is recognized that the child by reason of his physical and mental immaturity, needs special safeguard and care including appropriate legal protection, before as well as after birth.

After the Genocidal massacre and extermination of considerable number of peoples in WWII, the world community moved towards setting international standards and norms for the protection of human rights and freedoms. As a result, the UN General Assembly adopted Universal Declaration of Human Rights (UDHR) on 10 December 1948, to protect rights and freedoms of all mankind. This declaration as the initial foundation of human rights contains civil and political rights as well as economic, social and cultural rights in a consolidated way.

Then latter the terms of the declaration was transformed in to legally binding obligations by adoption of two separate international covenants, one on Civil and Political rights (ICCPR) and the other on Economic, Social and Cultural rights (ICESCR) in 1966. This two twin covenants i.e. ICCPR and ICESCR incorporates the protection of the rights all individuals including children under its provisions.

The general human rights instruments specified above are provided in a way to be applicable to all. Thus, children as human beings are entitled to the rights and freedoms provided in all human right instruments.

Internationally, the first child specific legal standard, formally known as Declaration of Geneva, was adopted by League of Nations in 1924. Later on the UN General Assembly adopted a Declaration on the Rights of the Child on 20 November 1959. Both of the two declarations incorporate certain principles formulated in terms of the rights of the child.

Subsequently, Convention on the Rights of the Child (CRC) was adopted in 1989 by giving special emphasis to the protection of rights of the child. The convention incorporates the full range of human rights of children including civil, political, economic, social and cultural rights of the child in a single document. As a result, state parties are assumed an obligation to respect and ensure the rights set forth in the convention to each child within their jurisdiction.

As mentioned earlier, children being vulnerable groups are entitled to fundamental rights and freedoms. Among rights and freedoms recognized and provided under various international instruments, socio-economic rights of the child constitute as one part. Economic, social and cultural rights being fundamental and indispensable rights of the child are enshrined under both ICESCR and CRC. These rights include, right to health, right to education, social security, an adequate standard of living, right to food and right to housing. Consequently, states have undertaken legally binding obligations to implement and realize bestowed socio-economic rights.

Regarding the nature and types of states' obligations under socio-economic rights, they have undertaken both immediate as well as progressive obligations. While the constraint due to limit of available resource is acknowledged, at the same time, states are obliged regardless of their level of economic development, to ensure respect for minimum subsistence rights for all.

At regional level, the African Charter on Human and Peoples' Rights (ACHPR) of 1981 recognizes socio-economic rights in addition to civil and political rights, including rights to work, health and education. More specifically, the African Charter

on the Rights and Welfare of the Child (ACWRC) of 1990 recognizes economic, social and cultural rights of the child and African states are further committed to take all appropriate measures to realize those rights of the child.

Ethiopia being state party to ICESCR, CRC, ACHPR and ACRWC are under obligations to realize socio-economic rights of the child. These obligations include taking any appropriate steps towards achieving the full realization of rights of the child. Though the realization of socio-economic rights depends on the availability of resources, the government is expected to take steps to the maximum extent of available resource to achieve full realization.

Furthermore, the FDRE Constitution of 1994, under its third chapter recognizes economic, social and cultural rights of all including children. Under this the government has assumed an obligation to take measures that are deemed necessary to implement such rights.

Despite the existence of rights and state obligations with respect to it, children suffer from poverty, homelessness, different diseases and lack of sufficient access to education and health facilities. The situations become more severe when we consider the situations of street children. Those children who are living and working in the street are more exposed and vulnerable to different problems. They live in extreme poverty and difficult socio-economic conditions. They are vulnerable to effects of poverty, poor housing, environmental pollution and diseases of many kinds. Though these children need special concern and attention, their rights are neglected; their needs are unfulfilled, their scene become in danger by conditions that threaten their health and undermine their development.

## **1.2 Statement of the Problem**

As mentioned earlier, the socio-economic rights of the child are recognized and provided under various international human rights instruments. Consequently states has assumed legal obligation to realize such rights of the child. Though there exist a

right and states obligations to realize socio-economic rights of the child, children are still suffering from preventable disease, lack of sufficient health care and educational facilities and unequal access to justice system. There exist a number of children who are living in extremely difficult socio-economic conditions. Especially when we come across to the situations of street children their socio-economic status are worse.

Ethiopia being state party to various international human rights instruments protecting socio-economic rights of the child has assumed legal obligations to take legislative, administrative, judicial and any other appropriate measures to realize such rights of the child. More than that of ratification of treaties and incorporation of socio-economic rights of the child in the constitutional provisions, there needs a commitment to realize such rights. Recognition of rights is meaningless unless realized practically. The government gives less concern and attention to the most disadvantaged groups including children living and working in the street.

In Addis Ababa, there exist a number of street children who are growing up in extremely difficult socio-economic conditions. As estimated there are around 60,000 street children living and working in the streets of the city. Growing up in poverty and difficult socio-economic conditions undermines children's wellbeing; threaten survival and development to the extent of affecting their basic right to life. Obviously, right to survival and development can only be implemented through the enforcement of certain indispensable rights including right to health, an adequate standard of living, adequate nutrition, healthy environment and education. The less concern and emphasis accorded to rights of vulnerable child especially to street children finally leads in making the generation and the future of the country at stake. Generally, lack of commitment and failure to act according to binding obligations are clear violations of international human rights law and also tends to violate socio-economic rights of the child.

Since human rights are indivisible and interdependent, violations of socio-economic rights of the child affects the enjoyment of their civil and political rights. As socio-economic rights are survival rights, denial of such rights leads to death of a number of

children because of malnutrition, disease, lack of sufficient health care and housing facilities. A child who even didn't get sufficient food once a day how could he able to express his ideas, associate with others and exercise his freedoms of thought, conscience and religion. Violations of indispensable socio-economic rights affect the enjoyment of their civil and political rights and to the extent affecting the right to life,

The existing laws and practices related to access to justice and remedies in cases of socio-economic right violations lacks clarity. When there are violations of socio-economic rights, either substantive or procedural remedies should be available to victims. Rights lose their meaning if victims are not remedied in cases of violations.

In addition, lack of sufficient efforts to asses and solve the causes of streetism increases the numbers of street children and exacerbates the human rights situations of the country.

### **1.3 Research Questions**

Having the above specified problems in mind, the researcher got a keen interest to do the research on this area and framed the following as research questions:-

- What is the legal framework related to the protections and realizations of the rights of the child?
- Where does the problem lie in the realization of socio-economic rights of the child? Is it from the law or the practice?
- What did the government do in response to international as well as national obligations of realization of the rights of the child?
- What are the current socio-economic conditions of street children and the protection accorded to their rights?
- What steps have the government taken in order to realize such rights and alleviate existing problems?
- What practical problems hinder the protection and realization of rights of the child?

## **1.4 Objective of the Study**

The main objectives of the thesis are:-

- To investigate problems in the realization of socio-economic rights of the child.
- To assess and identify measures taken by the government for the purpose of realizing socio-economic rights of the child with particular emphasis to the case of street children.
- To assess and analyze the socio-economic conditions of street children and the government responses to alleviate these problems.
- To ascertain the sufficiency of measures taken.
- To evaluate the compliance of government to obligations of realization.
- To analyze what fundamental rights of street children become at stake due to lack of sufficient measures on part of the government.

## **1.5 Significance of the Study**

This work on its part by elaborating problems related to protection and realization of child rights will direct the government and its organs towards rectifying the wrong and making efforts for the better protection and promotion of the rights of the child.

It will help the government, NGOs, civil societies and any interested organs to know the current socio-economic conditions of street children and make efforts to alleviate and tackle existing problems with the aim of better protection of human rights of vulnerable children. The work will have contribution in improving the less attention accorded to vulnerable street children.

It will also serve as an initiation for further investigations and research of the situations of street children. Ultimately, it will have contribution for the better protection, promotion and enforcement of fundamental rights of the child.

## **1.6 Scope of the Study**

This work deals with realization of socio-economic rights of the child by giving particular emphasis to street children. The researcher tries to explore the main socio-economic rights of street children. As dealing with all of their socio-economic rights is not manageable, effort was made to become selective and choose indispensable rights including the rights to health and education of the child. Since these rights are indispensable for the survival and development of the child, they are accorded special emphasis. Other socio-economic rights, except their brief discussion in the literature part, are excluded in the analysis part due to limitations of time and resources. Again owing to resource and time constraints, the researcher limits the scope of practical analysis to the city of Addis Ababa.

## **1.7 Research Methodology**

The methodologies employed in this work include principally review of relevant literatures related to the concept of the protection of the rights of the child, socio-economic rights and its realization. In addition, review of different human rights instruments, principles and guidelines, general comments, recommendations in particular policies, legislations, directives and documents of the government is also made. Data is collected regarding the conditions, problems faced, health status and educational level of street children and government response by using observation, interviews and questionnaire for those participants, and concerned organs. Ultimately, analysis of the cases, data and information collected are made with respect to obligations nationally and internationally.

## **1.8 Limitation of the Study**

This work tries to deal with realization of socio-economic rights of the child and the measures taken by the government to address the existing socio-economic conditions of street children. Though efforts are made to deal with the current conditions of street children and government response, the researcher has encountered problems in

getting the good cooperation of those concerned organs. Even in the data collected from those street children, difficulties has faced related to their willingness to cooperate and credibility of information since they are children. The survey conducted as it takes sample of street children, may not absolutely indicates the findings of the research.

## **1.9 Organization of the Study**

The thesis is organized in four chapters. The first part is introduction and includes background of the study and literature review, statement of the problem, research questions, objectives, significance, scope of the study, limitations, methodologies of the study, definition of ‘child’ and ‘street child’.

Chapter two deals with the legal framework of the protection of socio-economic rights of the child and incorporates the of rights of the child as provided under various international and African regional human right instruments, the two sets of rights of the child, socio-economic rights and the type and nature of states’ obligations and some other socio-economic rights of the child including the right to adequate standard of living, the right to social security and the right to water.

Chapter three is devoted to deal with the realization of socio-economic rights of the child and integrate under its sections specific socio-economic rights of the child i.e. the right to education and health, means and methods of realizations of socio-economic rights of the child including legislative, judicial, administrative and other appropriate measures.

The fourth chapter is devoted to deal with the realization of the right to education and health of street children of Addis Ababa; data collection and analysis, socio-economic conditions of street children in Addis Ababa, reasons for street life involvement, problems faced by street children, realization of right to health and education of street children, needs of street children, means to get out from street life, activities implemented by the government in view to realize the right to health and education of

street child and assessments of compliance of government with respect to obligation of realizations.

Finally the last part of the paper includes conclusions and recommendations as a result of assessment and findings of the research.

## **1.10 Definition of ‘Child’ and ‘Street Child’**

### **Definition of ‘Child’**

All the rights and protections provided to children center on definition of children. For this sake, it is imperative to define who is considered as ‘child’. Art 1 of CRC states that:

*“A child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”*

As noted from the wording of this provision, it can be said that it fails to set the starting point of childhood. Based on this, it can be argued that it allows for several interpretation of when childhood might begin under the convention: at conception, at birth or at some other point between conception and birth.<sup>1</sup> Thus, it can be said that the convention leaves for individual states to define the beginning of childhood and to settle matters related to this issue.

Regarding the end of childhood, the convention clearly specifies the upper age limit for childhood as 18 years. However, it emphasizes the concept of attainment of majority at earlier age depending on applicable domestic law. Therefore, noticeably, the convention paves the way for states to determine the age of majority of child under their law.

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<sup>1</sup> ‘Rights of Pregnant Child Vs Rights of the Unborn under the Convention on the Rights of the Child’, *Boston University International Law Journal*, Vol. 22:163, 2004. p.164-165.

In similar way, art 2 of African Children's Charter also defines a child to mean:

*"A child means every human being below the age of 18 years."*

As observed, the charter without providing any specification emphasized the definition of the child to extend for every one below the age of 18 years. Hence, it can be said that the African Charter is more protective than CRC as it does not allow attainment of majority before 18.

### **Definition of 'Street Children'**

Since this paper focuses on the practical case of street children, we need to define who is going to be considered as street children. The most common definition of a street child or youth is any boy or girl who has not reached adulthood, for whom the street( in the broadest sense of the word including unoccupied dwellings, waste land, etc) has become his or her habitual abode and or sources of livelihood, and who is inadequately protected, supervised or directed by responsible adults.<sup>2</sup>

In Ethiopian context, street children are also defined in similar fashion but what makes it differ from the above stated definition is that street children implies 'children of either sex falling with in the age group of 5-17....'<sup>3</sup> As observed this definition is in contrary with the definition of child adopted by CRC. Thus, the writer argues contrary that the definition should extend to the age limit of 18 to comply with the standards of CRC. Therefore, for the purpose of this research the age limit of 18 is used to determine street children.

In relation to this, UNICEF has suggested a distinction between two categories of street children, as those 'of the street' and 'on the street';

**Children of the street:** - are homeless children who live and sleep on the streets in urban areas. They are totally on their own, living with other street children or

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<sup>2</sup> [http://www.unicef.org/evaldatabase/files/ZIM\\_01-805.pdf](http://www.unicef.org/evaldatabase/files/ZIM_01-805.pdf) accessed on 25/06/2010.

<sup>3</sup> Zenebe Mamo, 'Street Children: Nature and Magnitude of the Problem and Methods of Interventions' in Habtmaw Wondimu (ed.), *Research Papers on the Situation of Children and Adolescents in Ethiopia*, Addis Ababa University printing Press, Addis Ababa, Ethiopia, 1996, p.27..

homeless adult street people.<sup>4</sup> These children have little or no contact with relatives, are homeless and fully lack potential, emotional and psychological support.<sup>5</sup>

**Children on the street:** - earn their living or beg for money on the street and return home at night to sleep. They have regular contact with their families<sup>6</sup> but they spend most days and some nights working and socializing on the street because of poverty, overcrowding, sexual or physical abuse at home.<sup>7</sup>

Other kind of street children includes;

**Children who are part of street family:** - these children live on the streets with the rest of their families. They may be displaced due to poverty, wars or natural disasters. The families often live a nomadic life, carrying their possessions with them. Children in this case often work on the streets with other members of the families.<sup>8</sup> For the purpose of this work the two major distinctions stated above will be used.

### **Streetism**

The term is used to denote that the life style of children who for various reasons work and/ or live in the street with all of its sub-group cultural values, norms, customs and experiences.<sup>9</sup>

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<sup>4</sup> Ibid.

<sup>5</sup> Sweta Shah, Georgina Graidage and Josephine Valensia, *Youth on the Street*, International Development's Displaced Children and Orphans Fund, USA, 2005, p.19.

<sup>6</sup> Supra note at 2.

<sup>7</sup> Zenebe, Supra note at 3, p.27.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

## CHAPTER TWO

### **The Legal Framework of the Protection of Socio-Economic Rights of the Child**

As known, human beings pass through different stages of physical and mental development in their lives. Among those stages childhood is a period of immaturity, vulnerability and incapacity. Therefore, it can be said that more than those in other stages, children need special care, safeguard, protection and assistance. Paradoxically, past experiences witnessed that children were deprived of their fundamental rights and freedoms. Even these days in the world, children continue to be primary victims of human rights violations.

Usually, it is children who are mainly affected by poverty, preventable diseases and deprivations. This fact is further affirmed by the World Summit for Children in emphasizing that each day countless children around the world are exposed to dangers that hamper their growth and development. -Each day millions of children suffer from scourges of poverty and economic crisis – from hunger and homelessness, from epidemic and illiteracy, from the degradation of the environment. -Each day thousands of children die from malnutrition and disease, including HIV/AIDS, from lack of clean water and inadequate sanitation.<sup>10</sup> As observed, poverty and lack of sufficient care and protection hampers the development of children every where and force them in to situations that expose them to harm and exploitation.<sup>11</sup>

Therefore, it is undeniable that the legal protection of the rights of the child is a prerequisite for giving a better life for children. Taking this into account, various international human rights instruments ranging from declarations to conventions recognizes and articulates the rights and freedoms of the child.

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<sup>10</sup> The World Summit for Children, World Declarations on the Survival, Protection and Development of Children, United Nations, New York, 1990, pp. 5-6.

<sup>11</sup> Mark Ensalaco and L.C. Majka (eds.), *Children's Human Rights; Progress and challenges for Children Worldwide*, Rowan and Little Field Publishers, USA, 2005, p.2.

## **2.1 Framework of the Protection of Rights of the Child under International Law**

Though, our main concern is the protection of socio-economic rights of the child, at the primary stage we need to have a clear picture of the protection of rights of the child in general. It also helps us to know those international laws that lay down the basic foundations for the existing socio-economic rights protection.

Children, as human beings, are the beneficiaries of a range of provisions contained in all other international human rights covenants.<sup>12</sup> The general human rights instruments do not exclude children. They are directly or indirectly affected by the standards of many international human rights treaties.<sup>13</sup> Alleging the application of these rights to children as well stems from the basic fact that children are human beings.

There is no doubt that the legal basis of human right protection under international law is laid down by the Charter of United Nations. It was the Charter that elevated human rights to the plane of international law and stipulated legal obligation on the part of member states of United Nations.<sup>14</sup> To begin with, the preamble of the United Nations Charter explicitly mentions the notion of fundamental human rights.

Further, art 1(3) of the charter states one of the purposes of United Nations is ‘the achievement of international cooperation in solving international problem of an economic, social, cultural and humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedom for all without

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<sup>12</sup> Laura Lundy, ‘Schoolchildren and Health; The Role of international Human Rights Law’ in Neville Harris and P. Meredith (eds.), *Children Education and Health: International Perspectives on Law and Policy*, Ashagte Publishing, England, 2005, p.4.

<sup>13</sup> Cynthia P. Cohen, ‘The Relevance of Theories of Natural Law and Legal Positivism’ in Michael Freeman and P. Veerman (eds.), *The Ideologies of Children’s Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 1992, p.61.

<sup>14</sup> Hans J. Heintze, ‘The UN Convention and the Network of International Human Right Protection by the UN’ in Michael Freeman and P. Veerman (eds.), *The Ideologies of Children’s Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 1992, p.72.

distinction as to race, sex, language or religion.’ As one can infer from the terms of the charter, it does not define what is meant by human rights and a fundamental freedom under international law. As regards children, though, the Charter fails to contain any explicit reference to them, it is possible to argue that the primary obligations imposed on states to ‘universal respect and observance of human rights and fundamental freedoms for all’ would enable us to include children in such obligations.

Further, the Universal Declaration of Human Rights of 1948 proclaims and recognizes the fundamental rights and freedoms of all mankind. As a result, it can be said that the rights provided in UDHR are equally applicable to children as well without any questions. Importantly, this declaration clearly emphasized the need of special care and assistance for childhood. Therefore the declaration can be taken as an important international human rights instrument protecting rights of the child as it highlights the needs of special care for children. But on the negative side, the declaration as an international human rights law fails to impose binding obligations on states.

More importantly, the two subsequent covenants i.e., International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights<sup>15</sup> of 1966, articulates the rights of all members of human family including children. These instruments further impose obligations on state parties to respect and ensure rights of all individuals with in their territory. Its provision can apply to every one in general and children in particular. Though, these instruments are legally binding, it could be said that it fails to sufficiently address all the questions of children as it is framed in general ways to be applicable to all.

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<sup>15</sup> International Covenant on Civil and Political Right and International Covenant on Economic, Social and Cultural Rights, UN/DOC/GA/R/2200 A/XXI, 1966.

In sum, children being human are entitled to all human rights and fundamental freedoms enshrined under various international human rights declarations and covenants like specified above.

As stated before, children are amongst the most vulnerable and powerless member of our societies. In addition to generally recognized human rights, children need special attention, care and assistance on grounds of their special needs.<sup>16</sup> It is acknowledged that the child by reason of his or her physical and mental immaturity needs special safeguard and care, including appropriate legal protection before as well as after birth.<sup>17</sup> The realization of the fact of their special need and vulnerability made it crucial to create special human rights treaties. However, this should not be understood as those generally recognized human rights are not applied to children. Rather, children remains to be the beneficiaries of all the entitlements provided under general human rights instruments.

The efforts to set child specific standards at international level can be traced back to League of Nations with the adoption of Convention Prohibiting Trafficking in Women and Children in 1921. Another result was the Convention on Slavery and the Slave Trade (1926). Parallel to these activities the International Labour Organization (ILO) adopted numerous instruments against the exploitation of child labour and for the protection of working children.<sup>18</sup>

When we came to look comprehensive international child right instruments; there stage of development can be divided in to three phases.

1. League of Nation Declaration of the Rights of the Child 1924
2. United Nation Declaration of the Rights of the Child 1959
3. United Nations Convention on the Rights of the Child

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<sup>16</sup> Mike D. Langen, 'The Meaning of Human Rights for Children' in Michael Freeman and P.Veeraman (eds.), *The Ideologies of Children's Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 1992, p.257.

<sup>17</sup> Convention on the Rights of the Child, UN/DOC/GA/R/ 44/25, 1989, Preamble pp.9.

<sup>18</sup> Hentize, Supra note at 14, p.73.

### **2.1.1 League of Nations Declaration of the Rights of the Child**

The first comprehensive international children's rights declaration was adopted by the League of Nations in 1924, also known as Declaration of Geneva.<sup>19</sup> This instrument is the first child rights specific declaration adopted by any intergovernmental organization.<sup>20</sup> The declaration contained only five paragraphs, but it covered important concerns like food, health care, delinquency, shelter, emergency relief and work exploitation. Although the declaration is entitled the 'Rights of the child', it is principally concerned with the provision of children's economic, psychological and social needs.<sup>21</sup> Here it can be argued that that the terms used in the declaration gives more concern to the economic and social interests of children.

By engaging in careful analysis of text of the declaration one can understand that the declaration doesn't intend to create binding legal obligation up on states. Even the preamble does not mention of state obligations rather than placing duties directly up on men and women of all nations. In this regard, the declaration can be criticized in its failure to impose binding obligations on states as it made the declaration less valuable in achieving its intended results.

### **2.1.2 United Nations Declaration of the Rights of the Child**

Tragically, the decade that followed the League of Nations' Declaration of the Rights of the Child saw the rise of fascism, the extinction of the League of Nation, and outbreak of world war with catastrophic consequence for children. In the aftermath of the Second World War, the international community would strive to place the protection of human rights on par with the maintenance of peace and security. The survival, protection and development of children would be an integral part of that effort.<sup>22</sup>

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<sup>19</sup> Ibid.

<sup>20</sup> Geraldine V. Bueren, *The International Law on the Rights of the Child*, Kluwer Law International, Netherlands, 1998, .p.6.

<sup>21</sup> Id. p.7.

<sup>22</sup> Ensalco and Majka, *Supra* note at 11, p.10.

As a result, the UN General Assembly finally adopted a revised Declaration of the Rights of the Child in 1959. In the declaration, the Assembly urges parents, men and women as individuals, and voluntary organizations, local authorities and national governments to recognize the rights of the child provided in the declaration and go all-out for their observance by taking legislative and any other appropriate measures.

On substance, the declaration consists of a preamble and ten principles. The principles are formulated in terms of rights of child, the child's immaterial needs and the civil rights of the child, are expressly recognized.<sup>23</sup> As inferred, the declaration is a non-binding resolution of General Assembly. However, some scholars argues that the fact that it was adopted unanimously accords it a greater weight than other General Assembly Resolution since unanimous adoption implies the approval of all member states of United Nations. Thus, it has a moral force on member states as its principles have got wide acceptance.<sup>24</sup> Here, although its moral force and approval is unquestionable, losing legal force made the declaration less credible in protecting rights of the child like its predecessors.

### **2.1.3 The Convention on the Rights of the Child**

Subsequently, the Convention on the Rights of the Child (CRC) was adopted by General Assembly Resolution 44/25 of 20 November 1989, after a ten years preparation period.<sup>25</sup> The convention is said to be the first international legal instrument giving independent human rights to children.<sup>26</sup> Unlike the declarations specified above, the rights of the child provided in the convention are not merely an

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<sup>23</sup> Sharon Detrick, *A commentary on the UN Convention on the Rights of the Child*, Martinus Nijhoff Publishers, The Hague, 1999 , p.14.

<sup>24</sup> Bueren(1998), *Supra* note at 20, p.12.

<sup>25</sup> The Convention on the Rights of the child (hereinafter referred as "the Convention"), entered in to force on 2 September 1990. It has been supplemented by two Optional Protocols: the Optional Protocol on the Involvement of Children in Armed Conflict and the Optional protocol on the Sale of Children, Child Prostitution and Child Pornography. These two Optional Protocols were adopted and opened for signature, ratification and accession by General Assembly Resolution 54/263 of May 25, 2000 and entered in force on Feb 12, 2002 and Jan 18, 2002 respectively.

<sup>26</sup> Joachim Wolf, 'The Concept of 'Best Interest' in Terms of UN Convention on the Rights of the Child' in M. Freeman and P. Veerman (eds.), *The Ideologies of Children's Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, p.130.

explanation of a moral belief. However, they express first and foremost the legislative will of state parties to the convention.<sup>27</sup> Surprisingly, CRC remains the most rapidly and widely ratified international human rights treaty, currently ratified by 193 state parties.<sup>28</sup>

When we look the substance of the Convention on the Rights of the Child, it can be referred as the most appreciable document in protection and promotion of rights of the child. For one thing, it is said to be comprehensive child rights instrument. What makes the CRC comprehensive child rights document is that it incorporates the whole range of civil, political, economic, social and cultural rights that is essential for safeguarding fundamental rights of the child. On the other hand, it adds up value to the protection and promotion of rights of the child under international law.

Beyond listing rights of the child, CRC also comprises list of obligations on state parties. As a consequence, state parties are legally obliged to respect and ensure the rights set forth in the convention to each child with in their jurisdiction. As argued by Ensalaco, state incur two set of actionable obligations under CRC, which parallel the differing obligations under the Covenant on Civil and Political rights (ICCPR) and the Covenant on Economic, Social and Cultural rights (ICESCR). First, states are obliged to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present covenant. Second, with regard to economic, social and cultural right, states are obliged to undertake such measures to the maximum extent of available resource and, where needed, with in the framework of international cooperation.<sup>29</sup> Admittedly, this fact makes sense and can be evidenced from the wording of art 4 of CRC. The latter one i.e. socio-economic right as main concern of this work, its respective obligations will be discussed latter.

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<sup>27</sup> Adam Lopatka: 'The Rights of Child are Universal: The Perspective of the UN Convention on the Rights of the Child' in M. Freeman and P. Veerman (eds.), *The Ideologies of Children's Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 1992, p.51.

<sup>28</sup> Africa Child Policy Forum, *In the Best Interest of the Child: Harmonizing Laws in Eastern and Southern Africa*, 2007, p.11.

<sup>29</sup> Ensalaco and Majka, *Supra* note at 11, p.15.

In general, irrespective of kinds of rights, binding obligations are incumbent upon states to realize the rights spelled out for every child within their territory. Regarding the general structure, the convention consists of 54 articles, and it is divided into a preamble and three parts. Part I (art 1-41) contains provisions relating to the rights of children: part II (art 42-45) provisions relating to implementation: and part III (art 46-54) includes final clauses.

Like other core international human rights instruments, implementation of the Convention and its Optional Protocols is monitored by a committee: the Committee on the Rights of the Child, established by art 43 of treaty. It comprises 18 members, their number increases, from 10 to 18 following an amendment to art 43 in November 2002.<sup>30</sup> It is elected by state parties to serve on their personal capacity. The function of the Committee on the Rights of the Child is to monitor the implementation of convention. Accordingly, the committee examines the initial and periodic reports submitted to it by state parties under art 44 of the convention and submits its concluding observation to the state concerned. In addition to monitoring convention's implementation, the committee issued General Comments on articles and matters under the convention.

### **2.1.3.1 Categories of Rights under CRC: the Three P's**

The rights set out in the CRC can be grouped into three categories, i.e. provision, protection and participation. This common overall classification of rights contained in the convention is known as the 'three Ps'.<sup>31</sup>

**Provision:** - this is to include children's right to get their basic needs like food, health care, education and adequate standard of living.

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<sup>30</sup> An Amendment to Art 43 of CRC, General Assembly approved the amendment in its Resolution 50/155 of 21 December 1995, and came in force in November 2002.

<sup>31</sup> Supra note at 28, p.14.

**Protection:** - this right embraces children's right to be protected and shielded from all kinds of violent acts including abuse, neglect, commercial, sexual and other forms of exploitation; torture and arbitrary detention and unwarranted removal from parental care.<sup>32</sup>

**Participation:** - it incorporates children's right to participate in all matters and decisions affecting them.

### **2.1.3.2 Underlying/ Cardinal Principles of CRC**

The convention lays down four guiding principles to be considered and applied in the implementation and interpretation of its provisions, i.e. the best interest of the child, non-discrimination, right to life, survival and development and respect for the views of the child. These principles are designed to be guiding when we talk of the protection of rights of the child under the convention. Therefore, knowing the relevancy of these principles, discussing its content and meaning is found to be essential for our purpose. In the next section we will have a look of each principle in relation to the convention and rights of the child.

#### **Best Interest of the Child**

The Committee on the Rights of the Child provides the best interest of the child as one of the guiding principles in the protection of the rights of the child together with art 2, 6 and 12. The standard of best interest of the child was set up for the first time in the UN Declaration on the Rights of the Child of 1959. It articulates that in the enactment of laws relating to protection of the child the best interest to be taken as paramount consideration.<sup>33</sup> Similarly the CRC underlines the best interest of the child in art 3(1), which reads:

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<sup>32</sup> Id. p.16.

<sup>33</sup> Principle 2 of the UN Declaration of the Rights of the child, 1959.

*“In all action concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”<sup>34</sup>*

As easily observed from this provision, the convention does not provide any specification regarding the content and scope of the best interest standard. Though the convention fails to define the concept of best interest, it emphasized that government, public and private bodies need to give primary consideration to the best interest of the child while acting on areas concerning children. As noted, the language of the provision is very wide to be able to cover not only government actions but also private actions as well. This could be recorded as good achievement of the convention as it goes beyond to the extent of incorporating private actions too and diverts from usual means of controlling government actions.

Further, in its general comments and examination of states parties reports the Committee on the Rights of the Child has underlined the best interest as fundamental principle for the purpose of implementing the convention. From this we can understand that states need to consider what is best for the child when they take any measures to implement the rights of the child. This by itself necessitates assessment of measures and actions in line with best interests of the child.

### **Non-discrimination**

As with other key human rights instruments, non-discrimination has also been identified as fundamental principle for the implementation of the convention. Art 2 of CRC obliges state parties to respect and ensure all the rights sets out in the convention to all children without discrimination of any kind. For this purpose, governments must take what they deemed appropriate measures to ensure that all the rights in the convention apply to all children without discrimination.

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<sup>34</sup> Art 3(1) of Convention on the Rights of the Child.

It is important to know that addressing the issue of discrimination could not be accomplished overnight it may further require continuous efforts like assessing and changing legislations that tend to be discriminatory. In addition, administrative, educational and financial measures may also be indispensable for this sake. It seems that the convention underlines this principle by taking in to consideration of the fact that children are more prone to the evils of discrimination and need special protection for the purpose of realizing their rights. Therefore, considering the negative effects of discrimination in the enjoyment of rights of the child and taking effective measures and actions in response are expected on part of states.

When we talk of non-discrimination, at the same time we need to comprehend the situations of Children living in Exceptionally Difficult Conditions (CEDC) which are more vulnerable and needs special assistance. Without special nurturance, such children like street children (i.e. main target area of this work), orphans and displaced children are more likely than others to face discrimination in the exercise of their rights.<sup>35</sup> Thus, adopting preferential treatment for those most vulnerable would not be taken as discrimination rather it is legitimate differentiation based on rational grounds. This is to mean that states could take special measures in order to diminish or eliminate conditions which cause or help to perpetuate discrimination.<sup>36</sup>

### **Right to Life, Survival and Development**

The other key principle underlined in the implementation of the rights recognized in the convention is right to life, survival and development (Art 6 of CRC). Right to life of all individual including children is a fundamental right recognized in various human rights instruments. The protection of this right requires states to adopt positive measures, specifically measures to reduce infant and child mortality, increase life expectancy, to eliminate malnutrition and epidemics, improve prenatal care for mothers and babies and promote well being of all children.<sup>37</sup>

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<sup>35</sup> Sarah Muscroft (ed.), *Children's Rights: Equal Rights?*, International Save the Children Alliance, 2000, p. 27.

<sup>36</sup> Human Rights Committee, General Comment No 18, 1989, HRI/GEN/1/Rev.8, pp.10, p.187.

<sup>37</sup> See Human Right Committee General Comment No 6, 1982, HRI/GEN/REV 8, pp. 5, p.167.

The child's inherent right to life set forth in article 6 of the convention is given additional emphasis and amplified in the second paragraph of this provision, which places state parties "to ensure the survival and development of the child". Here, as with other economic social and cultural rights contained in the convention, the obligation is tempered by a qualifying phrase – to the maximum extent possible.<sup>38</sup> It seems as the convention acknowledges the fact that the survival and development of the child significantly depends on the fulfillment of different economic, social and cultural rights.

Undeniably, child survival is inextricably linked to child development. The right to maximum survival and development are related in sense that survival is the beginning point that leads progresses of the child to optimum development. Children therefore have the right to survival under conditions that enable them to develop their full potential.<sup>39</sup> Here, the term development in the context of the convention can be extended to include child's physical, mental, spiritual, moral and social development as explicitly referred in art 27 of the CRC. Thus, the survival right is the base for children to enjoy the other sets of rights of the child. Beyond this, the right to survival and development of the child is closely related with the right to health and education of the child, which is the main focus area of this work that will be discussed latter on.

Bearing this in mind, it can be argued that that the right to survival and development can not be implemented solely as it relies on the implementation of all the other provisions of the convention, including rights to health, adequate nutrition, social security, an adequate standard of living, a healthy environment, education and play (arts 24,27,28,29 and 31), as well as through respect for the responsibilities of parents and the provision of assistance and quality services (art 5 and 18).<sup>40</sup>

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<sup>38</sup> A. Glenn Mower, *The Convention on the Rights of the Child: International Law Support for Children*, Greenwood Press, 1997, p. 31.

<sup>39</sup> M. Dutschke and K. Abrahams, *Children's Right to Maximum Survival and Development*, Children's Institute, University of Cape Town, 2006, p.1.

<sup>40</sup> Committee on the Rights of the Child, General Comment No 7, 2005, HRI/GEN/1/Rev.8, pp.10.

## **Respect for the Views of the Child**

The last general principle that is relevant for the implementation and interpretation of the convention provisions is guaranteed under art 12. It provides that all children have the right to express their views on all matters affecting them. Additionally, it recognizes child's right to be heard in specific affairs like judicial and administrative proceedings affecting their interest.

In this regard, the Committee highlights three phases that describe the sequence of the enjoyment of the right to participate from a functional point of view, which is to speak, to participate and to have their views taken in to account.<sup>41</sup> This is to mean that the child's participation right goes beyond mere expression of views and extends to include giving of weight to terms of expression.

### **2.1.3.3 General Measures of Implementation**

Here, it is found to be imperative to discuss the general measures of implementation of the convention as it have direct link with the main area of our discussion i.e., realization of right to education and health of the child

As discussed previously, the Convention on the Rights of the Child has recognized and guaranteed different sets of rights of the child. In fact, recognition necessitates implementation in practice. Obviously, when a state ratifies human rights instruments recognizing the rights of the child, it takes on obligation under international law to implement it. For this purpose, article 4 of CRC sets out the over all obligation to take appropriate legislative, administrative and others measures to implement the rights guaranteed by CRC. Hence, beyond mere ratification of the convention the obligation to take measures of implementation are incumbent up on states.

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<sup>41</sup> Committee on the Rights of the Child, Report on the forty-third session, September 2006, Day of General Discussion, preamble, (see [www.ohchr.org/english/bodies/crc/discussion.htm](http://www.ohchr.org/english/bodies/crc/discussion.htm)).

In addition, the other general obligations of implementation is provided under art 2 of CRC that obliges states to respect and ensure the rights guaranteed in the convention to each child without discrimination of any kind. Further, art 3(2), underlines states obligation to take all appropriate legislative and administrative measures for the purpose of ensuring protection and care necessary for child well-being.

Though there are no single legislative and administrative measures for implementing the rights of the child, the Committee highlights major means to be adopted for this purpose. The concept in relation to means of implementation will be dealt in next chapter.

Together with art 4, the Committee emphasized art 42 and 44(6) to be general measures of implementation of the convention.<sup>42</sup> While the first articulate the obligations to make the principles and the provisions of the convention widely know to adults and children alike, the latter deals with making the reports widely available to public.

## **2.2 The Rights of the Child under African Regional Human Rights System**

African human rights system is one of prominent regional human rights regimes comprising African states. The vital and notable document of the African regional human rights system is the African Charter on Human and Peoples' Right (ACHPR) of 1981. On substance, the African charter covers civil, political, economic, social and cultural rights as well peoples and group rights.

However, as argued by Kaime, the charter did not provide extensively for children's rights. This is to emphasize that children are only referred to one occasion, as an after thought in the context of women's rights in article 15(3) of the ACHPR.<sup>43</sup>

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<sup>42</sup> See Guidelines for Periodic Reports, adopted by Committee on the Rights of the Child at its thirty-ninth session, 2005 HRI/GEN/2/Rev.4, pp.9, p. 87.

<sup>43</sup> Thoko Kaime, 'The Foundations of Rights in the African Charter on Rights and Welfare of Child; A historical and philosophical account', *African Journal of Legal Studies*, 2009, p.2.

The African Regional Human Rights System also encompasses other human rights convention that explicitly guarantying rights of the child, the African Charter on Welfare Rights of the Child (ACWRC), which was adopted in 1990 and entered in to force in1999.<sup>44</sup> The Charter was the first regional treaty to address child rights; it spells out the rights that African states must ensure for children living in their jurisdiction.<sup>45</sup>

Initially, the Charter was adopted in view of the critical situations in which most African children find themselves in terms of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger.<sup>46</sup> Therefore, the charter is significant as each region has its own unique human rights problems and priorities that it wishes to address, often difficult to tackle in international agreements due to the background disparities of each region.<sup>47</sup> Taking in to account the above specified situations, the Charter in its provisions emphasizes the need of special safeguard and protection of the child for their mental and physical development.

Just like CRC, the African Charter is a comprehensive instrument that sets out rights and defines universal principles and norms for the status of children. It incorporates a whole range of civil, political, economic, social and cultural rights.<sup>48</sup> Generally, the Charter contains 48 articles divided in to two parts of four chapters. While first part (I), deals with rights, freedoms and duties of the child, part II deals with implementation and monitoring mechanisms and includes final clauses.

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<sup>44</sup> Christof Heyns and M. Killander (eds.), *Compendium of Key Human Rights Documents of the African Union*, 3<sup>rd</sup> ed., Pretoria University Law Press, 2006, p.97.

<sup>45</sup> [www.crin.org/rm/acrwc.asp](http://www.crin.org/rm/acrwc.asp) accessed on 15/08/2010.

<sup>46</sup> <http://www.kas.de/upload/ausladshomepages/nambia/children.Rights/Childrene.pdf> accessed on 15/07/2010.

<sup>47</sup> Amanda Lioyd, 'A Theoretical Analysis of the Reality of Children's Rights in Africa: An Introduction to African Charter on the Rights and Welfare of the Child', *African human Rights Law Journal*, Vol. 2 No 1, 2002, p.14.

<sup>48</sup> *Supra* note at 28, p.12.

The implementation of the Charter is supervised and monitored by separate body, the African Committee of Experts on Rights and Welfare of Child. The Committees have the mandate of protecting and promoting rights under the Convention, formulating rules and principles, monitoring implementation and interpreting provisions of the Charter. Additionally it addresses issues of particular importance to children in Africa.

### **2.3 Socio-economic Rights and States' Obligations**

Socio-economic rights, being survival rights, have recognized in notable international human rights instruments like ICESCR and CRC. These rights among others includes the right to health, right to education, right to food, rights to water, social security and adequate standard of living. Since the main part of this work deals with socio-economic rights and its realization by giving particular concern to the rights to health and education, detail discussion will be held in the next sections.

#### **2.3.1 Sets of Rights of the Child**

Before passing to discussion with regard to socio-economic rights, it is prominent to deal with sets of rights of the child, since rights are interrelated. Human rights in general and rights of the child in particular encompasses two sets of rights namely, civil and political rights and socio-economic rights. To begin with, the Universal Declaration of Human Rights, which is the initial foundation of human rights, without making a distinction between two sets of rights, enumerates both civil and political rights as well as economic, social and cultural rights. Thus, it can be said that the declaration adopts a holistic approach in rights recognition.

Afterwards, at the time of transforming UDHR in to legally binding obligations, the original intention of the UN was to draft one covenant, a legally binding document that was to contain both sets of rights. However, the ideological difference of the time between east and west, thus led to conflict of views on such issues among UN

members.<sup>49</sup> Thereafter, the western states that contested the adoption of one single covenant were able to reverse the decision of General Assembly and finally adopted two Covenants one Civil and Political right (ICCPR) and the other on Economic, Social and Cultural rights (ICESCR). After this, it happens to be considered that international human rights law consists of two separate sets of human rights.

Differently from the above specified covenants, in more recent global instruments, the two sets of rights have been reintegrated in one common text. The Convention on the Rights of the Child (CRC) is one example of an instrument where both sets of rights are found side by side.<sup>50</sup>

Likewise I mentioned before, the rights of the child contained in international bill of rights also encompass the two sets of rights i.e. civil and political rights as well as socio-economic rights.

## **1. Civil and Political Rights of the Child**

Civil and political rights are one important set of rights of the child enshrined under various international human rights instruments including ICCPR and CRC. Like I said before, children could be one eligible beneficiary of the civil and political rights provided in international bill of rights.

This rights to mention includes; right to name and nationality, right to preserve identity, freedom of expression, freedom of thought, conscience, and religion, freedom of association and of peaceful assembly, right to privacy, right not to be subject to torture or other cruel, inhuman or degrading treatment and access to appropriate information. As a result, states assume an obligation to implement the rights recognized for all individuals without distinction of any kind.

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<sup>49</sup> Kitty Arambulo, *Strengthening the Supervision of International Covenant on Economic, Social and Cultural Rights: Theoretical and Procedural aspects*, Intersentia, Antwerpen-Oxford, 2009, p.16.

<sup>50</sup> Asbjorn Eide and A. Rosas, 'Economic, Social and Cultural Rights: A Universal Challenge' in A.Eide et al, (eds.), *Economic, Social and Cultural Rights*, 2<sup>nd</sup> ed., Martinus Nijhoff Publishers, Dordrecht / Boston/ London, 2001, p.6.

## 2. Socio-economic Rights of the Child

The other set of rights of the child i.e. economic, social and cultural rights also known as socio-economic rights, are an essential part of international human rights. They have become part and parcel of international human rights law, not only at universal but also at regional level.<sup>51</sup> They are generally those rights that include claims to an adequate standard of living, the right to work, right to social security, the right to health, the right to housing, the right to food and the right to education.<sup>52</sup> The source of this rights i.e., socio-economic rights of the child in international law can be found in several declarations and conventions. In this regard, the UDHR comprises initial foundations and the ICESCR constitute a more elaborate framework for these rights, they are also contained in numerous other instruments, importantly on CRC.<sup>53</sup> Consequently, state parties are committed to realize the rights recognized there in to all individuals by taking appropriate means. This set of rights of the child as main concern of this paper, will be dealt in more detail in the next sections.

### 2.3.2 Typologies of States' Obligations

Undoubtedly, under international law, obligations for human rights are primarily held by states. Accordingly human rights in general and socio-economic rights in particular impose three types or levels of obligations on state parties; the obligation to respect, protect and fulfill.<sup>54</sup> Hence, these obligations of governments in relation to social and economic rights are commonly referred as a tripartite typology of obligation.

As noted, the notion of various obligations engendered by rights was first pinpointed by Henry Shue in his 1980 work, *Basic Rights: Subsistence, Affluence and US foreign policy*. Shue suggested that, 'every basic right and most other moral rights as

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<sup>51</sup> Id. p. 4.

<sup>52</sup> Sisay Alemahu, 'The Constitutional Protection of Economic and Social Rights in the Federal Democratic Republic of Ethiopia', in *Journal of Ethiopian Law*, Vol. 22, 2008, p.135.

<sup>53</sup> Supra note at 50, p.9.

<sup>54</sup> Asbjorn Eide, 'Economic, Social and Cultural Rights as A Human Rights' in A.Eide et al.(eds.),*Economic, Social and Cultural Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 2001, p.22-23.

well, could be analyzed using a very simple tripartite typology of independent duties of avoidance, protection and aid'.<sup>55</sup> This set of duties discerned by Shue has formed the basis for the evolution of the typology of state obligations ensuring from economic, social and cultural rights.<sup>56</sup> Then latter, the UN Report on the Right to Adequate Food as A human rights, submitted by special Rapporteur Asbjorn Eide, in 1987, employed the terminology of respect, protect and fulfill. The Committee on Economic, Social and Cultural Rights subsequently adopted and employed the tripartite typology to respect, protect and fulfill as its interpretive framework for analyzing the rights contained in ICESCR.<sup>57</sup>

**Obligation to Respect:** - this obligation requires states to refrain from interfering directly or indirectly with the enjoyment of rights in question. At this level, human rights require governments to abstain from acting or refrain from deliberate infringement of those rights.<sup>58</sup> Thus, it entails negative duty on states since it requires in-action or non-interference.

As regards the application of this obligation with respect to specific rights, to begin with, right to education; this duty requires state parties to avoid measures that affect the enjoyment of the right to education. In relation to the right to health, it requires states to refrain from denying equal access for all persons and to abstain from enforcing discriminatory practice as a state policy. Therefore, in this case the obligation to respect is violated when a state intentionally interfere with access to medical treatment and health facilities and adopts laws and policies contrary to the recognized standards of right to health. .

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<sup>55</sup> Aoife Nolan, *Addressing Economic and Social Rights Violations by Non-state actors through the Role of the State: A Comparison of Regional Approach to the Obligation to Protect*, Human Rights Law Review, Oxford University Press, 2009, p.222.

<sup>56</sup> Lilian Chenwi, 'Correcting the Historical Asymmetry between Rights: The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights', *African Human Rights Law Journal*, 2009, p.120.

<sup>57</sup> Nolan (2009), *Supra* note at 55, p.222.

<sup>58</sup> David Marcus, 'The Normative Development of Socio-economic Rights through Supranational Adjudication', *Sanford Journal of International Law*, 2006, p.57-58.

**Obligation to Protect:** - requires states to prevent interference and violations of the enjoyment of such rights by third parties, it entails positive obligations on states to take all necessary measures – legislative or otherwise to prevent and forbid the violation of rights by third parties.<sup>59</sup> Here, one can notice that the obligation is not to act positively in the sense of providing money or resources directly to individuals but to protect individuals by creating the framework in which they will be able to realize their protected rights without interference from others.<sup>60</sup> In sum, this obligation requires ensuring individuals and communities do not suffer from violations of rights by non-state actors or others, investigation of violations and affording remedies to victims.

**Obligation to Fulfill:** - This obligation extends beyond states' non-interference and will require the state to take action. It requires states to adopt appropriate legislative, administrative, budgetary, judicial, and other measures towards the full realization of the rights.<sup>61</sup> Thus, states are required to take further positive steps to facilitate and provide what is necessary for the enjoyment of rights when an individual or group is unable to realize the rights themselves.<sup>62</sup> In relation to the right to health, states are obliged to provide vaccinations, allocate sufficient resources in their national budget for health care and take steps to prevent the spread of infectious diseases, reduce infant mortality and promote the healthy development of infants and children.

Furthermore, the Committee on Economic, Social and Cultural rights elaborates the obligation to fulfill the right to health to include the duty to facilitate, provide and promote. Regarding the first one i.e. the obligation to fulfill (facilitate), it encompasses state obligations to take positive measures that enable and assist individuals and community to enjoy the right to health. The second, the obligation to

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<sup>59</sup> Peter R. Bacher, *Human Rights Universality in Practice*, Macmillan Press, Printed in Great Britain, 1999, p.33.

<sup>60</sup> Pieire.De. Vos, 'Pious Wishes or Directly Enforceable Human Rights?: Social and Economic Rights in South Africa's 1996 Constitution', *South Africa Journal of Human Rights*.08, 1997, p.83.

<sup>61</sup> Elisabeth Koch: 'The justiciability of Indivisible Rights', *Nordic Journal of International Law*, Kluwer Law international, printed in Netherlands, 2003, p.9.

<sup>62</sup> A. Nolan, B. Porter and M. Langford, 'The Justiciability of Social and Economic Rights: An Updated Appraisal': *Center for Human Rights and Global Working Paper*, NY School of Law, 2007, p.20.

fulfill (provide), under this state parties are obliged to fulfill/ provide a specific rights in question when individuals or a group are unable to realize the right themselves by the means at their disposal. The third one i.e. obligation to fulfill/promote the right to health requires states to undertake actions that create, maintain and restore the health of the population including provision and dissemination of appropriate information relating to healthy lifestyle, nutrition and harmful traditional practice.<sup>63</sup> Hence, it can be argued that the classification of the obligation to fulfill that we discussed above would possibly applied for other socio-economic rights in general and the rights under our concern in particular.

### **2.3.3 The Nature of State Parties' Obligation under Socio-economic Rights**

As dealing with the nature of states' obligations under socio-economic rights has clear connection with the realization of the right to health and education, having a clear picture about it is found to be imperative. It has been repeatedly stated that economic, social and cultural rights have different nature and character in contrast with civil and political rights. It is common to hear different views of scholars regarding distinct nature of the two sets of rights.

The first and most commonly drawn distinction is between positive and negative rights. Accordingly, civil and political rights require non-interference on part of the state, whereas the implementation of economic, social and cultural rights requires active intervention by the state. The former are, therefore, said to create negative obligations, whereas the latter create positive obligations.<sup>64</sup> However, this argument does not seem tenable in some instances where certain civil and political rights actually demands active intervention on the part of the state, such as the right to fair trial. By the same token, there exist some rights under the catalog of economic, social and cultural rights that do not need active intervention. In this instance, freedom to form trade unions comprises the typical example.

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<sup>63</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 14, 2000, HRI/GEN/1/Rev.8, pp.36. p.95.

<sup>64</sup> Philip Alston and G. Quinn, 'The Nature of State Parties Obligations under International Covenant on Economic, Social and Economic Rights', *Human Rights Quarterly*, Vol. 9 1987, p.159.

The other alleged distinction is between resource intensive and cost-free rights. Thus it is said that civil and political rights can be realized without significant cost being incurred, whereas the enjoyment of socio-economic rights requires a major commitment of resources. Largely for that reason the former are considered to be capable of immediate and full realization whereas the latter constitute no more than long term aspirational goals.<sup>65</sup> Even this argument has its own drawbacks since not all civil and political rights are cost free. As regards this, we can take the example of right to vote, in this sense the state has to facilitate certain means for people to participate in election matters.

The Committee on Economic, Social and Cultural Rights provided various categories of obligations imposed by socio-economic rights including immediate/ progressive obligations, obligations of conduct/ result and minimum core obligations. More specifically, states' obligation under socio-economic rights will be dealt in the next sections.

### **A. Progressive/ Immediate Obligations**

States' obligations under socio-economic rights mostly could be regarded as having progressive nature; this is to mean that states are committed to achieve the realization of such rights progressively. This fact could be easily grasped from ICESCR which obliges states to take all appropriate steps with a view to achieve progressively the full realization of rights guaranteed. The progressive nature of covenant obligations seems as emanating from the concept that the realization of socio-economic rights depends on the availability of resources.

Even if the covenant provides for progressive realization and acknowledges the constraint due to limit of available resources it also imposes obligations which are of immediate effect. This means that, though the full realization of the relevant rights may be achieved progressively, steps towards the goal must be taken within a

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<sup>65</sup> Ibid.

reasonable short time.<sup>66</sup> Therefore, taking steps towards the full realization of the rights is immediate obligation of states. Further certain obligations require immediate implementation in full by state parties, such as the prohibition of discrimination in the enjoyment of economic, social and cultural rights.

By the same token, art 4 of CRC obliges states to implement economic, social and cultural rights recognized by taking appropriate measures to the maximum extent of their available resources. Hence, it can be said that the convention acknowledges the limit of the resource constraint in realization of economic, social and cultural rights by incorporation of the term ‘to the maximum extent of available resources, where needed, within the framework of international cooperation’. Though this article avoids direct reference to the term ‘progressive realization’, it emphasizes commitment of states to take steps to the maximum extent of their available resources. Here, noticeably, the convention acknowledges that state obligations extend only to the extent of resource permit. Therefore, it can be argued that convention made clear that socio-economic rights could be implemented progressively to the extent of states’ available resources. Particularly, provisions relating to rights to health and education of CRC, made reference to progressive realization of such rights, this means it entails progressive obligations on states to achieve full realization of those rights.

In sum, obligations of states under socio-economic rights could be immediate or progressive obligations. Taking steps towards the goal of realization can be regard as immediate obligations and including prohibition of discrimination in the enjoyment of rights. Whereas, full realization of socio-economic rights is to be achieved progressively, therefore it entails progressive obligations.

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<sup>66</sup> Committee on Economic, Social and Cultural Rights, General Comment No 3, 1990, HRI/GEN/Rev.8, pp.1 and 2, p.15.

## **B. Obligations of Conduct/ Result**

The general legal obligations under socio-economic rights can also be regarded as obligation of conduct and obligation of result based on the nature of obligations emphasized. Regarding the first category i.e. obligation of conduct, International Law Commission understood it as one where an organ of the state is obliged to undertake a specific conduct whether through act or omission. It is to be contrasted with an ‘obligation of result’ which requires a states to achieve a particular result through a course of conduct (which again can be act or omission), the form of which is left to state discretion.<sup>67</sup> Obligation of result is less concerned with the choice of the line of action, but concerned with the result which the duty holder should follow or abstain from.<sup>68</sup> In other words, obligation of result requires states to reach at specific targets to realize the standards related to the rights in question.

When we look such obligations in light of specific socio-economic rights of the child, for instance right to health, taking any steps for the enjoyment of the highest attainable standard of health can be regarded obligation of conduct. Whereas achieving certain target in such right like diminishing infant and child mortality is obligation of result.

## **C. Minimum Core Obligations**

The other category of states’ obligations under socio-economic rights is referred as minimum core obligations. At first, the Committee on ESCR has used the term “minimum core” to give substance to the covenant’s enumerated rights to water, food, health, housing and education.<sup>69</sup> Minimum core obligation is to mean an obligation to ensure the satisfaction of at the very least, minimum essential levels of each of the

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<sup>67</sup> Matthew C. R. Craven, *The International Covenant on Economic, Social and Cultural Rights*, Oxford University Press, New York, 1995, p.107.

<sup>68</sup> B. Anders, A. Alan and G. Smith, ‘Compliance with Economic and Social Human Rights: Realistic Evaluation and Monitoring in Light of Immediate Obligations’ in A. Eide and B. Hagret(eds.), *Human Rights in Perspective: Global Assessment*, Blackwell Publishers, 1992, p.256.

<sup>69</sup> K. G.Young, ‘The Minimum Core Obligation of Economic and Social Rights: A concept in Search of Content’, *Yale Journal of International Law*, Vol.33: 113, 2008, p.120.

rights are incumbent upon every state.<sup>70</sup> In turn, minimum essential level of each right is to imply the essential elements without which a right loses its substantive significance as a human right. These essential levels constitute the ‘minimum core content’ of each right and the ‘minimum core obligations’ are those obligations necessary to satisfy these minimum essential levels.<sup>71</sup>

Therefore, each right has its own minimum core content that needs to be satisfied by the state, and its failure would tantamount to violations of the obligation under the covenant. Thus, for example, a state party in which any significant number of individuals is deprived of essential food stuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is *prima facie*, failing to discharge its obligations.<sup>72</sup>

As emphasized, such minimum core obligations apply irrespective of the availability resources or any other factors and difficulties. The failure to comply with the minimum essential level of each right is *prima facie* a violation of the covenant and the burden of proof would then be on the state to justify such situations.<sup>73</sup>

Further, Hammarberg proposed minimum content as a concept to guide the interpretation of socio-economic rights protected in CRC, suggested that poor countries to ensure minimum essential levels of rights of the child as a matter of priority.<sup>74</sup> Though CRC does not provide explicitly about minimum core content it can possibly be incorporated by interpretation since it is basic for the purpose of monitoring the realization of socio-economic rights. Therefore, the writer supports the argument raised by Hammarberg, as it is desirable for ensuring the realization of rights and ascertaining the implementation by state parties.

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<sup>70</sup> Supra note at 66, pp.10.

<sup>71</sup> Magdalena Sepulveda, *The Nature of Obligations under the International Covenant on Economic, Social and Cultural Rights*, Intersentia, 2003, p.366.

<sup>72</sup> Supra note at 66, pp.10.

<sup>73</sup> Ibid.

<sup>74</sup> Thomas Hammarberg, ‘Children’, in A. Eide et al (eds.) *Economic, Social and Cultural rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 2001, p.301-302.

### **2.3.4 Standards Related to Socio-economic Rights of the Child**

As mentioned before, socio-economic rights constitute important set of rights of the child. They are an indispensable part of International Bill of Human Rights. In general, various international instruments affirms socio-economic rights notably; Universal Declaration of Human Rights, Convention on Elimination of all forms of Discrimination against Women (CEDAW) of 1981 and Convention on Elimination of all forms of Racial Discrimination (CERD) of 1979 are noticeable one. These treaties are legally binding in sense that they create legal obligations to their state parties.

More specifically, socio-economic rights of the child are incorporated and recognized in both ICESCR and CRC. As said, these rights of the child i.e. socio-economic rights contain and include the rights to health, education, housing, food, water, work and social security. These instruments impose legally binding obligations on states to protect and enforce the recognized socio-economic rights of the child.

The African Charter protects economic, social and cultural rights of individuals including children. Further, it affirmed the indivisibility and interdependence of human rights, in assertion of a statement that civil and political rights cannot be disassociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.<sup>75</sup> The charter enshrined list of socio-economic rights such as rights to work under equitable and satisfactory conditions and equal pay for equal work, health and education and family rights.

Moreover, the Charter guaranteeing rights of the child, African Charter on the Rights and Welfare of the Child (ACRWC), also known as African Children's Charter, provides the right to education and the right to health and health services of the child. Under these two charters, the African states are obliged to respect and ensure socio-economic rights of the child enshrined for all children without any discrimination.

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<sup>75</sup> Preamble of African Charter on Human and Peoples' Rights, pp. 7.

As known, Ethiopia is state party to ICESCR, CRC, ACHPR and ACRWC. All these instruments impose legally binding obligation to take all appropriate measures including the adoption of legislative measures for the implementation of the rights recognized under such instruments. Among others, the adoption of legislative measures necessitates the entrenchment of bill of fundamental rights in the constitution.

Taking in to account, the Constitution of Federal Democratic Republic of Ethiopia (FDRE) of 1994 under its third chapter, Bill of Rights Section, spells out human and democratic rights under the heading 'Fundamental Rights and Freedoms'. It comprises of civil, political, economic, social and cultural rights and solidarity rights. It can be said that the constitution adopts a holistic approach since it recognize civil, political, economic, social and cultural rights and solidarity rights together in its bill of rights section. Significantly, the chapter on fundamental rights begins by imposing duty and responsibility on all federal and state legislative, executive and judicial organs at all levels to respect and enforce the provisions under it.

Socio-economic rights as one part of bill of rights are enshrined under the FDRE constitution. It lumps a list of socio-economic rights in one article (art 41) and categorized such rights in one heading as 'economic, social and cultural rights'. However, rights to property and labour are exception to this, as the constitution accorded separate recognition under article 40 and 42 respectively.

As inferred, the terminologies in which socio-economic rights are illustrated in more generic form and create ambiguity as to the rights protected under it. Further, art 41 does not provide for all the rights falling with in the realm of economic and social rights in black letters as one would hope by looking at its title. As said, its provisions are so crude that it is difficult to identify the rights guaranteed and the extent of protection afforded to them.<sup>76</sup> Nonetheless, the right to engage freely in economic activity and to pursue a livelihood of his choice, right to choose means of livelihood

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<sup>76</sup> Sisay (2008), Supra note at 52, p.139.

and profession, occupation and profession, and the right to equal access to publicly funded social services are identified in the constitution.<sup>77</sup> Moreover, it stipulates states obligation to allocate ever increasing resources to provide the public health, nutrition and other social services under art 41(4). This provision does also provide indicative listing of the socio-economic rights, which the state should realize progressively with in the limits of available resources. As argued by Sisay the usage of the phrases like “publicly funded social services” allows us to read many of conventional economic and social rights in to art 41.<sup>78</sup>

Based on the indicative listing under art 40(4), we may say that the right to health and the right to education are guaranteed. One may also add the rights to housing, to social security, to safe and portable water, to food etc, from the open- ended phrase..... and “other social services”<sup>79</sup>

Moreover, Art 13 (2) of the constitution stipulates that those rights and freedoms specified in the constitution to be interpreted in manner conforming to the principles of UDHR, International Covenants on Human Rights and International Instruments adopted by Ethiopia. This provision can be taken as an interpretative guideline for those rights specified in the constitution. Possibly, socio-economic rights provided in the constitution can be interpreted in a manner conforming to UDHR, ICESCR and CRC.

Therefore, based on the above underlined facts (interpretative guideline of the constitution), socio-economic rights of individuals including children in the constitution can be interpreted to include rights to education, health, housing, food, water, social security and the like.

Furthermore, art 43 (1) states that “the peoples of Ethiopia as a whole, and each Nation, Nationality and People of Ethiopia in particular have the right to improved living standards and to sustainable development. This provision is more general as to

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<sup>77</sup> Art 41 of FDRE constitution

<sup>78</sup> Sisay (2008), Supra note at 52, p.139-140.

<sup>79</sup> Id. p.140.

what kinds of rights to be included in ‘improved living standards’. In this regard, some argues that this article may be interpreted as including such socio-economic rights as the rights to food, clothing and housing that are listed to define “adequate standard of living” under art 11(1) of ICESCR.<sup>80</sup> This could be one imperative means to expand socio-economic rights guaranteed under the constitution.

In addition to inclusion of socio-economic rights, the constitution incorporates national policy principles and objectives to be guiding for any organ of the government in the implementation of the constitution. Under its social objectives provides that to the extent of the country’s resource permit, to provide all Ethiopians access to public health and education, clear water, housing food and social security.<sup>81</sup> Though these principles are not directly enforceable, they may affect the interpretation of other rights by being ‘read into’ these rights or may be relevant in the interpretation of legislation.<sup>82</sup> So, generally these principles can be taken as guiding principles in the implementation of the provisions of the constitution including socio-economic rights provisions for government organs. Here, it is possible to argue that this principles and objectives (under art 89 and 90) as imposing other additional obligations on part of government to implement socio-economic rights.

The FDRE constitution further guaranteed right to life of every child under its art 36. Since rights are indivisible and interrelated, the enjoyment of this basic right to life can not be disassociated with the enjoyment of the rights to access of sufficient food, water, and health care. The Human Right Committee, monitoring the implementation of ICCPR, also hold the view that “right to life” cannot properly be understood in a restrictive manner, and the protection to this connection, the committee considers that it would be desirable for states to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate

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<sup>80</sup> Ibid.

<sup>81</sup> Art 90(1) of FDRE Constitution.

<sup>82</sup> Rakeb Messele, ‘Enforcement of Human Rights in Ethiopia’, Action Professionals Association for the People, 2002, p.29.

malnutrition and epidemics.<sup>83</sup> Here, the committee emphasizes the connection and direct link between the right to life and the right to health. Thus, even in the absence of explicit recognition of right to health, it may reasonably be argued that the right to health, at least as it concerns efforts to reduce infant mortality and increase life expectancy, is implicit in the right to life.<sup>84</sup> Therefore, broad interpretation of right to life of child would enable us to give recognition to basic socio-economic rights indispensable for the enjoyment of right to life including right to health, right to food and right to water.

To Sum up, socio-economic rights of all including children, though not clear, are recognized in the constitution. While some rights have got clear recognition, others can be inferred by interpretation of provisions of the constitution. As socio-economic rights are the main concern of this research, the next sections will be devoted to deal with specific socio-economic rights of the child in light of international standards. Although this work gives more emphasis to rights to health and education of the child, discussing other related socio-economic rights is imperative. The section below deals with other related socio-economic rights of the child, and the rights to education and health will be discussed in detail in next chapter.

#### **2.3.4.1 Right to Adequate Standard of Living**

The right to an adequate standard of living being indispensable socio-economic rights has recognized in major international human rights instruments namely UDHR, ICESCR and CRC. However, any of these instruments has provided the specific definition of this right. To begin with, art 25 of the UDHR proclaims the right to adequate standard of living to include the rights to food, clothing, housing and medical care and necessary social services and the right to security.

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<sup>83</sup> Supra note at 63, pp.5.

<sup>84</sup> Lynn Smith, 'Right to Health' in K. Mahoney and P. Mahoony; *Human Rights in the Twenty-first Century: A Global Challenge*, Kluwer Academic Publishers, Printed in Netherlands, 1993, p.486.

Similarly, art 11 of the ICESCR affirms the right to an adequate standard of living as including adequate food, clothing and housing and to continuous improvement of living conditions. Though both UDHR and ICESCR explicitly mention this right, fails to provide definitional aspects save enumerating what rights could be included under it.

Particularly, the UN Declaration on the Rights of the Child made the first specific reference to the rights of the child to an adequate standard of living. In this regard, the Declaration asserts the child's rights to adequate nutrition, housing, recreation and medical services.

Furthermore, the rights of the child to an adequate standard of living are also enshrined under art 27 of the CRC. This provision goes further to impose obligations on state parties to take all appropriate measures to assist parents and other responsible for the child to implement this right and provide material need and assistance and to support programmes, particularly with regards to nutrition, clothing and housing.

However, as I said before, the term 'adequate standard of living' has not been given specific definition in any of the above relevant human rights instruments. What is meant by 'standard of living adequate' is something needs to be defined. Noticeably, one may assert the ambiguity created in relation to the scope of the term. But its meaning can be understood from the subsequent words of the provisions that underline this right. Significantly, in art 25 of the UDHR the term means 'adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services'; and in art 11 of the ICESCR it includes 'adequate food, clothing and housing'; whereas in CRC, the right of the child is to 'a standard of living adequate for the child's physical, mental, spiritual, moral and social development'. Thus, the right to an adequate standard of living incorporates other more socio-economic rights under it. As one could observe from the terms in which the right are expressed it goes to the extent of including the rights to housing, food and clothing.

## **A. Right to Housing**

At first glance, it might seem unusual that a subject such as housing would constitute an issue of human rights. However a closer look at international and national laws, as well as at the significance of a secure place to live for human dignity, physical and mental health and overall quality of life, begins to reveal some of human rights implications of housing. So, adequate housing is universally viewed as one of the most basic human needs.<sup>85</sup>

The right to adequate housing has identified as significant socio-economic rights of the child. Human rights instruments namely, UDHR, ICESCR and CRC recognize the rights of every one to an adequate standard of living including adequate food, clothing and housing. Though the right to housing does not get independent recognition in all these instruments specified above, it is provided as part of the right to adequate standard of living.

As regards the meaning and scope of housing rights, none of the above specified instruments define what is the meant by housing right and the extent of its application except putting it as a right. In relation to this, the UN Global Strategy for Shelter to the year 2000 (GSS), defined ‘adequate housing’ to mean: adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost.<sup>86</sup>

To rectify the defect specified above, the Committee on the Rights of the Child specified that the right to housing should not be interpreted in a narrow or restrictive sense, but has to be interpreted as a right to live somewhere in security, peace and dignity.<sup>87</sup> It also emphasized the interdependent and interrelatedness of rights to housing of children with nearly every other right in the convention.

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<sup>85</sup> *The Human Right to Adequate Housing*, United Nations Human Rights Fact Sheets No 21, 1993,. p.405.

<sup>86</sup> Global Strategy for Shelter to the Year 2000, UN doc, A/43/8/Add.1, General Assembly Resolution 42/191, 1988.

<sup>87</sup> Committee on the Rights of the Child, Report on the eleventh session, 1996, CRC/C/50, pp.77 and 79.

Therefore, the legal content of housing rights issues can extend to include security of tenure (protection from forced eviction from lands or dwellings), housing affordability, popular participation and control over housing resources, guarantees against any form of discrimination, harassment or abuse in housing sector, housing resources worthy of the term ‘adequate’, access to public services such as portable drinking water, sewage disposal, drainage, electricity, infrastructure, roads and lighting.<sup>88</sup>

## **B. Right to Adequate Food**

Markedly, the right to food constitutes as essential part of socio-economic rights of every individual. As inferred, the right to adequate food emanates from, and forms part of the more general right to adequate standard of living.<sup>89</sup> This is evident in notable international instruments recognizing socio-economic rights of the child, i.e., UDHR, ICESCR and CRC. Differently from the above specified instruments, art 11(2) of ICESCR recognizes the right to be free from hunger.

Concerning the substantive content of the right to adequate food, the Special Rapporteur on Economic and Social Council of the UN on the Right to Food in 1987 gave the following formulation, “Everyone requires food which is (a) sufficient, balanced and safe to satisfy nutritional requirement (b) culturally acceptable (c) accessible in a manner which doesn’t destroy one’s dignity as a human being. As well, food which is adequate quantitatively, qualitatively and culturally, should be accessible in sustained way.”

Similar formulation is also made by the Committee on Economic, Social and Cultural Rights by defining the right to adequate food as entailing; “The availability of food in a quantity and quality, sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable with in a given culture, the accessibility of such

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<sup>88</sup> Scott Leckie, ‘The Right to Housing’, in A. Eide et al (eds.), *Economic, Social and Cultural Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 2001, p.18.

<sup>89</sup> Anders, Alan and Smith (1992), *Supra* note at 68, p.306.

food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.”<sup>90</sup>

Taking this two formulations in conjunction, one can infer the content of the right to adequate food as including the provision of available, accessible and sufficient food in quality and quantity and acceptability in the culture of the community.

Besides, the need to ensure a safe and nutritionally adequate food supply at the national and international levels as well as physical, social and economic access to enough food for all is affirmed by World Summit for Social Development of 1995.<sup>91</sup>

To conclude, the right to food is inalienable and indispensable right for the realization of all other rights of the child. Further it is crucial for child’s mental, physical, social and moral development. Thus, a child who did not get sufficient food could not able to learn and do other activities. So that, the lack of food and malnourishment leads to health disorder and finally goes to the extent of affecting the survival of individual child.

### **C. Right to Clothing**

Although the right to clothing is explicitly mentioned as rights forming part of adequate standard of living, no further elaboration was made as to the scope and content of this right. Even the committees’ both on ICESCR and CRC failed to make reference in their reporting guidelines.

#### **2.3.4.2 Right to Social Security**

Social security is another relevant socio-economic right of the child that has got a place in International Bill of Rights. Particularly, the UDHR, which is the initial foundation of human rights, pledges the right of individual to got benefit of social

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<sup>90</sup> Committee on Economic, Social and Cultural Rights, General Comment No 12, 1999, HRI/GEN/1/Rev.8, pp.8, p.64-65.

<sup>91</sup> World Food Summit, Program of Action, A/CONF/166/9, 1995, p.51.

security scheme. Furthermore, ICESCR, comprehensive socio-economic rights' instrument affirms the right of everyone to social security including social insurance.

Moreover, the International Convention on the Rights of the Child (CRC) articulates the rights of every child to benefit from social security and impose obligations of realization on states. This provision i.e. art 26 concerns financial support for children provided by the state in cases of inability of the adults responsible for the child because of circumstances beyond their control like illness, disability and old age. Thus, in these instances, the state has an obligation to ensure that the child has some form of financial support either paid directly to the child or via a responsible adult.

Basically, the provision of ICESCR as well as CRC dealing with right to social security is some how general. It does not provide any specification as regards scope of social security schemes. Even the kind of social security schemes and benefits a person is entitled are not enumerated in sufficient detail.

Thus, with in the broad notion of social security, several classifications can be made. As argued by Scheinin, one may draw a distinction between general and situation-based social security. Based on this, old age, disability, unemployment, illness, child birth and widow- or orphaned forms typical conditions in which situation-based social security schemes have been created. Mostly, international treaties entails from their state parties a system of social security are understood as covering specific forms of social security.<sup>92</sup>

Though the instruments specified above fails to guarantee the type of social security a person is entitled, a reference to such classification could be made from the Social Security (Minimum Standards) Convention of ILO. This instrument lists different forms of social security including medical care, sickness benefit, unemployment

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<sup>92</sup>Martin Scheinin, 'The Right to Social Security', in A. Eide et al (eds.), *Economic, Social and Cultural Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 2002, .p.159-160.

benefit, old age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit.<sup>93</sup>

Similar listing of these nine specific branches of social security is also made by the reporting guidelines of Committee on Economic, Social and Cultural Rights on art 9 of the ICESCR. Though this reporting guideline does not have a binding effect on state parties, it could be used as directing tools for adopting social security scheme.

Thus it can be argued that the classification adopted by ILO possibly will be used to explain social security in other human rights instruments including ICESCR and CRC.

#### **2.3.4.3 Right to Water**

The other equally important socio-economic right of the child is the right to water. As the right to water is the most fundamental for survival of human beings, has been recognized in a wide range of international documents, including treaties, declarations and other standards.

Though ICESCR does not explicitly refer the right to water the committee interprets the right to an adequate standard of living as including right to water. As noted the covenant specifies a number of rights emanating from, and indispensable for the realization of the right to an adequate standard of living “including adequate food, clothing and housing”. From the word “including” one can comprehend that this catalogue of rights was not intended to be exhaustive. Thus, it could possibly be argued that the right to water clearly falls with in the category of guarantees essential for securing an adequate standard of living.<sup>94</sup>

Moreover, the right to water is a human right inextricably related to the right to highest attainable standard of health, the right to adequate housing and adequate food.

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<sup>93</sup> ILO Convention, Social Security (Minimum Standards) Convention No 12, 1952.

<sup>94</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 15, 2002, HRI/GEN/1/Rev.8, pp.3, p.106.

Therefore this right should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights.<sup>95</sup>

Actually, a human right to water only gained explicit expression in two UN human right treaties, the CEDAW and CRC as well in one regional treaty; the African Charter on the Rights and welfare of child.<sup>96</sup> In addition, the right to water is an implicit part of the right to an adequate standard of living and the right to the highest attainable standard of physical and mental health both of which are protected by ICESCR and CRC.<sup>97</sup>

As regards the substantive content, the right to water as with other socio-economic rights contains entitlements which could extend to provision of access to water that is safe, sufficient, accessible, acceptable and affordable.

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<sup>95</sup> Ibid.

<sup>96</sup> Art 14(2)(e) of CEDAW, Art 24(2)(c) of CRC and art 14(2)(c) of ACWRC

<sup>97</sup> [www.worldwatercouncil.org](http://www.worldwatercouncil.org) accessed on 17/08/2010

## CHAPTER THREE

### The Realization of Socio-economic Rights of the Child

Since this work principally focuses on the realization of the rights to health and education, it needs in depth discussion in relation to these rights before moving to the concept of realization of rights.

#### 3.1 Right to Health

##### 3.1.1 Standards Related to Right to Health

The right to health is one of the vital human rights of the child which is indispensable for the exercise of other human rights. Internationally, the first explicit reference of the right to enjoyment of highest attainable standard of physical and mental health was made in the constitution of World Health Organization (WHO) of 1946. Besides, this constitution defines the term 'health' to mean as a state of complete, physical, mental and social wellbeing and not merely the absence of disease or infirmity.<sup>98</sup> Then after, various international and regional human right instruments have acknowledged the right to health.

To begin with, Universal Declaration of Human Rights, which is the foundation of all human rights, ensures the right to health of individual in connection with list of other economic, social and cultural rights.<sup>99</sup> Though the rights provided in this declaration do not have binding force, it remains to be considered as standard of achievement for states. Thus, the provisions of this instrument that guaranteed the right to health could be taken as one standard in relation to the right to health.

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<sup>98</sup> Constitution of World Health Organization adopted by International Health Conference, 1946, New York, Preamble, pp.1.

<sup>99</sup>, CETIM Brochure, The Right to Health, 2006, available at <http://www.cetim.ch/en/publications-details.php?pid=122>, p.5.

In addition, ICESCR, which is comprehensive socio-economic rights instrument, also guaranteed the right to health under its art 12. It affirms the rights of every member of human family to the enjoyment of highest attainable standard of physical and mental health. As this instrument has binding effect, it creates coercive obligations on member states for realization of the right to health.

Specifically, by affirming the fundamental nature of this right, the Convention on the Rights of the Child (CRC) assures the right to health of every child. It states that:

*“State parties recognize the right of the child to the enjoyment of highest attainable standard of health and to facilities for treatment of illness and rehabilitation of health. State parties shall strive to ensure that no child is deprived of his or her access to such health care services.”<sup>100</sup>*

Paragraph 2 of this provision further provides list of appropriate measures that states must take in pursuing full implementation of this right including; to ensure necessary medical assistance and health care with emphasis on development of primary health care, to diminish infant and child mortality, to combat disease and malnutrition, to ensure appropriate pre-natal and post-natal health care for mothers and to ensure that all segments of the society, in particular parents and children, are informed and have access to education of child health and nutrition, hygiene, environmental sanitation and the prevention of accidents. Therefore, this could be taken as specific obligations under the right to health in which states are assuming.

Besides the above specified instruments, regional human rights instruments also incorporate explicit reference to the right to health. Notably, the African Charter on Human and Peoples’ Rights ensures the right to the best attainable state of physical and mental health of every one in general,<sup>101</sup> and the ACWRC identified the right to best attainable state of physical, mental and spiritual health of children in

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<sup>100</sup> Art 24 of CRC.

<sup>101</sup> Art 16 of ACHPR.

particular.<sup>102</sup> Though it is similar with international standards provided above, it could be used to cumbersome African state's obligations to realize the right to health.

Normatively, the right to health does not mean as a right to be healthy. It should be interpreted as a right which contains both freedoms and entitlements. The entitlement on basic right to health includes the enjoyment of highest attainable level of health which provides equal opportunity for all individuals. By contrast the freedoms include the right to control one's health and body.<sup>103</sup> So that, the right to health like other socio-economic rights discussed before, incorporates both entitlements and freedoms that could be claimed as of part of the right.

Further, the Committee on Economic, Social and Cultural Rights interprets the right to health, as an inclusive right extending to incorporate the underlying determinants of health, such as access to safe and portable water and adequate sanitation, an adequate supply of safe food, nutrition and housing. It further comprehends the right to health to embrace healthy occupational and environmental conditions, and access to health related education and information.<sup>104</sup> Therefore, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.

Hence, it can be said that the right to health is closely related to and dependent up on the realization of other human rights contained in the international Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality and access to information. These and other rights and freedoms constitute integral component of the right to health.<sup>105</sup> Thus, the right to health should not be interpreted as mere enjoyment of health protection; it further extends to incorporate the enjoyment of other indispensable rights for its realization.

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<sup>102</sup> Art 14 of ACWRC.

<sup>103</sup> Supra note at 63, pp.8.

<sup>104</sup> Id. pp.11.

<sup>105</sup> Id. pp.3.

Moreover, different criteria and elements could be used to evaluate the right to health, including;

- a. **Availability:** - this is to mean that public health and health-care facilities, goods and services, as well as programs, have to be available in sufficient quantity within the state party. In addition, it includes availability of underlying determinants of health, such as safe and portable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings;
- b. **Accessibility:** - it includes accessibility of health facilities, goods and services to every individual without any discrimination. Accessibility further has four overlapping dimensions:
  - **Non-discrimination:** - it emphasizes the need of accessibility of health facilities, goods and service to all especially to the most vulnerable or marginalized sections of the population, without discrimination on any of the prohibited groups. Thus, states needs to ensure that health services and other related matters to be accessible to all on equal manner. Here, it could be said that much more is expected from states to avoid discrimination on the enjoyment of the right to health by the most marginalized members of the society like street children.
  - **Physical accessibility-** this is more about physical reach of the health facilities, goods and services for all sections of the population, especially to vulnerable or marginalized groups. Accessibility also implies that medical services and underlying determinants of health, such as safe and portable water and adequate sanitation facilities, are within safe physical reach;

- Economic accessibility (affordability): - under this guise health facilities, goods and services must be affordable for all;
  - Information accessibility: - accessibility is not only limited to the access of health services, facilities and goods. It further incorporates accessibility of information on health related matters including the right to seek, receive and impart information and ideas concerning health issues;
- c. **Acceptability:** - all health facilities, goods and services must be respectful of medical ethics and culturally appropriate, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned;.
- d. **Quality:** - this is to mean that health facilities, goods and services must be scientifically and medically appropriate and of good quality.<sup>106</sup>

Besides, the above underlined issues are also emphasized by the Committee on the Rights of the Child in that it urges states to provide health services to adolescent, by paying particular attention to Availability, Accessibility, Acceptability and Quality health facilities, goods and services.<sup>107</sup> Thus, these underlined issues can be used as an instrument to evaluate the realization of right to health by state parties.

Other health-related standards are also articulated in various international instruments. Remarkably, Alma Ata Declaration on Primary Health Care expressed primary health care to include among others; promotion of food supply and proportion, an adequate supply of safe water and basic sanitation, maternal and child health care, including family planning, immunization against the major infectious

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<sup>106</sup> Id. pp.12.

<sup>107</sup> Committee on the Right of the Child, General Comment No 4, 2003, HRI/GEN/1/Rev.8, pp.37, p.386.

diseases, prevention, control and treatment of diseases.<sup>108</sup> The declaration is important as it underlines maternal and child health care and basic determinants of health as component of primary health care.

In addition, the declaration urges all governments to formulate national policies, strategies and plan of action to launch and sustain primary health care as part of comprehensive national health system.<sup>109</sup> This could be taken as one of the important standard setting document in relation to health rights of the child since it addresses essential health care systems which need to be adopted by states.

Beneficially, the World Declaration on the Survival, Protection and Development of Children and its Plan of Action sets out both general and specific commitments for child health in relation to convention's standards. Under this, enhancement of child health is provided as a primary task in which states are committed. Though this instrument lack coercive power, its acceptance by most nations of the world made it to have moral force on states.

Strikingly, the Millennium Declaration adopted in 2000, provides key development goals, -Millennium Development Goals, that gives prominence to health related goals such as reducing child and maternal mortality, controlling HIV/AIDS, Malaria and Tuberculosis, providing access to sanitation and safe drinking water.<sup>110</sup> Though health-related goals are provided in terms of targets to be achieved, it could be considered in the context of right to health since achieving the goal is unthinkable without effective, sufficient and accessible health care for all. So that, the declaration can be taken as important standard setting instrument in relation to health rights of the child.

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<sup>108</sup> Declaration of Alma-Ata, International Conference on Primary Health Care, 1978, pp.VII.

<sup>109</sup> Ibid.

<sup>110</sup> United Nations Millennium Declaration, GA Resolution 55/2, 2000 available at [www.un.org/millenniumgoals/documents.html](http://www.un.org/millenniumgoals/documents.html)

### 3.1.2 State's Obligations

When we read art 24 and art 4 of CRC in conjunction with art 12 and 2 of ICESCR, possibly we can understand the general as well as specific obligations of states towards the right to health of a child. While these instruments emphasized the resource constraint on the realization of right to health, it imposes both immediate as well as progressive obligations.

As discussed previously, socio-economic rights in general imposes three types of obligations on states, possibly, this would have application on the right to health. Accordingly, the right to health imposes three types or levels of obligations on state parties including obligations to respect, protect and fulfill.

Regarding minimum essential levels of the right to health, the Committee on Economic, Social and Cultural Rights emphasizes minimum core obligations to include the following;

- To ensure the right of access to health facilities, goods and services on non-discriminatory basis, especially for vulnerable or marginalized groups like children
- To ensure access to the maximum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone
- To ensure access to basic shelter, housing and sanitation, and adequate supply of safe and portable water
- To provide essential drugs, as from time to time defined under the WHO Action Programmers on Essential Drugs
- To ensure equitable distribution of all health facilities, goods and services
- To adopt and implement national public health strategy and plan of action.<sup>111</sup>

Importantly, the committee also emphasized that child health care is an obligation of comparable priority.<sup>112</sup>

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<sup>111</sup> Supra note at 63, pp.43.

### 3.1.3 Health Indicators

As a matter of fact, human rights bring in to focus the relationship between the government, which is the first line provider and protector of human rights, and individuals (who hold these rights as human beings). As observed, every country in the world is party to at least one human right treaty protecting the right to health of everyone including children.<sup>113</sup> This necessitates the implementation and giving effect to treaty obligations at domestic level. But to what extent states are adopting means of realization (complying) with their obligations is a question needs to be answered. To this end monitoring mechanisms for states performance is a thing relevant to be adopted.

It is often emphasized that the mere ratification of international human right treaties does not necessarily reflect government's commitment to human rights. Therefore, one needs to adopt further measures to determine the real commitment.<sup>114</sup> Thus, in this regard, indicator can be one mechanism used to assess states' compliance with human rights norms and standards.

Before discussing the concept of health indicators, we need to have a clear picture in relation to indicators in general and human rights indicator in particular. In general, indicator is a factor or a means used for measuring government performance. In other way, indicator is to mean a quantitative or a qualitative factor or variable that provides a simple and reliable means to measure achievement.<sup>115</sup> Hence, it can be used for monitoring compliance by state parties with international human rights treaties.

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<sup>112</sup> Id. pp.44.

<sup>113</sup> S. Gruskin and L. Ferguson, *Indicators of Human Rights and Public Health*, Harvard School of Public Health, USA, 2009, p.2.

<sup>114</sup> Katarina Tomasevski, 'Indicators' in A. Eide et al(eds.), *Economic, Social and Cultural Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 2002,p.534-535.

<sup>115</sup> Indicators MDF Tool, available at [www.mdf.nl](http://www.mdf.nl), accessed on 16/082010.

Concerning particular human rights indicators, it connotes specific information on the state of all event, activity or outcome that can be related to human rights concerns and principles used to assess and monitor promotion and protection of human rights.<sup>116</sup> Accordingly, human rights indicators can be used to evaluate the performance of states in relation to the realization of rights in question.

In this regard, Office of High Commission for Human Rights (OHCHR) makes a distinction between three kinds of indicators namely Structural, Process and Outcome indicators.

**Structural Indicators:** - such kind of indicators as its name implies ascertains whether necessary structures and mechanisms that are crucial for the realization of right to health are subsisting. Hence, as it is concerned with fulfillment of structural mechanisms, it principally deals with the ratification/ adoption of legal instruments and existence of basic institutional mechanisms deemed necessary for facilitating realization of the human rights concerned.<sup>117</sup>

Accordingly, structural indicators mainly focuses whether national laws, policies and strategies, integrate international human rights standards related to specific right in question. In addition, it further determines the existence of necessary institutional mechanisms for the implementation of concerned rights.

**Process indicators:** - this kind of indicators primarily focuses on monitoring the progressive fulfillment of states' obligation with respect to the realization of the rights in question. It mainly refers to all measures including public programs and specific interventions that a state is willing to take in order to give effect to its intent/ acceptance of human rights standards to attain outcomes identified with the realization of a given human right.<sup>118</sup> Therefore, process indicator is used to evaluate states' efforts towards achieving certain outcome in rights' realization.

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<sup>116</sup> Report on Indicators for Monitoring Compliance with International Human Rights Instruments, eighteenth meeting of chair persons of human rights treaty bodies, 2006, HRI/MC/2006/7, pp.7, p.3.

<sup>117</sup> Id. p.7.

<sup>118</sup> Ibid.

**Outcome indicators:** - this indicators capture attainments, individual and collective, that reflect the status of realization of human rights in a given context. Mostly, outcome indicators incorporate the impact of various underlying processes.<sup>119</sup> So that, this indicator is used principally to assess the realization of rights in question, as it focus on the outcome of processes adopted for the purpose of realizing a right.

When we come to look health indicators, it refers to those indicators that are used for monitoring states' compliance with obligations of realization of the right to health. Specifically, explicit reference of quantitative health indicators can be evidenced from ICESCR and CRC. Both of these instruments incorporate 'reduction of infant and child mortality rate' as one step that has to be taken by states to achieve full realization of the right to health.

Taking a further look of specified health indicators, the Committee (ESCR) on its reporting guideline urged states to incorporate list of indicators in their reports, such as;

- Adoption of national health policy
- Percentage of GNP as well as national and regional budget spent to health
- Infant mortality rate
- Population access to safe water
- Population access to adequate excreta disposal facilities
- Infants immunized against diphtheria, pertussis, tetanus, measles, poliomyelitis, and tuberculosis
- Life expectancy
- Proportion of population having access to trained personnel during pregnancy and proportion attended by such personnel for delivery.<sup>120</sup>

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<sup>119</sup> Ibid.

<sup>120</sup> Committee on Economic, Social and Cultural Rights, Reporting Guidelines, 1990, HRI/GEN/2/Rev.4, pp.50, p.40.

Most of the indicators specified above are also incorporated in the WHO list of health indicators.<sup>121</sup> Similarly, the Millennium Development Goals (MDG) as well, sets some of these health related indicators like under five mortality rate, infant mortality rate, and proportion of births attended by skilled health personnel's. These sets of indicators on health matters have significant contributions as it guide states' action towards fulfilling their international obligations.

On the same way, the Health Strategy Development Program (HSDPIII) of Ethiopia also sets out detailed list of indicators like reduction of maternal mortality ratio, reduction of under five mortality rate, infant mortality rate, proportion of health facilities, proportion of fully immunized children and so on.

For the purpose of this work, it is relevant to sort out health indicators specified above in light of kinds of indicators (structural, process and outcome).

**Structural Indicators of Health-** it includes;

- Ratification of international treaties recognizing the right to health.
- Inclusion of right to health in the state constitution.
- Recognition of right to health in the state legislation.
- Adoption of national strategy and plan of action that expressly recognizes the right to health, - including to benefit vulnerable groups like children.
- Having laws protecting the right to receive, seek and impart information on health of children.
- Having national human rights institution with a mandate that includes health rights of children.
- Adopting strategy and plan of action to reduce infant mortality and their causes, - for care, treatment and support for HIV infected children.
- Having laws prohibiting discrimination in access to health..
- Adopting laws prohibiting harmful traditional practice.
- Existence of basic institutional mechanisms that facilitate the realization of right to health.

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<sup>121</sup> See WHO Statistics 2010, *Indicator Compendium*, Interim Version, 2010.

**Process Indicators of Health-** This kind of health indicators mainly includes;

- Proportion of government budget allocated to health.
- Percentage of government health expenditure directed to health or per capita health expenditure.
- Collection of data adequate to evaluate performance under strategy (plan of action) particularly in relation to vulnerable groups.
- Proportion of people provided with information on health related matters.
- Number of training programs that has run on public health.
- Percentage of births attended by skilled health personnel.
- Percentage of primary healthcare facilities with essential drugs.
- Proportion of people who have received comprehensive health education.
- Proportion of people with access to safe water or other facilities of underlying determinants of health (adequate food and housing).

**Outcome indicators-** are those indicators including;

- Percentage of people who know about basic health matters.
- Under five mortality rate
- Infant mortality ratio
- Prevalence of major communicable or non-communicable disease among children.
- HIV prevalence rate
- Percentage of people who know how to prevent communicable diseases.
- Percentage of people with access to health care facilities.
- Percentage of people who have access to preventive care.
- Prevalence of harmful traditional practice prejudicial to health of individuals.

## **3.2 Right to Education**

### **3.2.1 Standards Related to Right to Education**

Education is one of the indispensable socio-economic rights of the child that could be used as a means of realizing other human rights. The first explicit reference of the children's right to education in an international human rights instrument is proclaimed in principle 7 of the 1959 UN Declaration of the Rights of the Child. It states that the child is entitled to receive education, which shall be free and compulsory, at least in elementary stages.

Moreover, right to education of every individual has got clear recognition in Universal Declaration of Human Rights. This right has also got its own place in subsequent ICESCR and CRC in more clear and elaborated forms. Besides affirming the right of everyone to education, both ICESCR as well as CRC further emphasizes states' obligations with respect to the three levels of education; i.e. primary, secondary and tertiary education.

Accordingly, primary education as basic education ought to be compulsory and available free to all. Secondary education that includes technical and vocational has to be generally available and accessible to all. Education at tertiary level, higher education, should be equally accessible to all by every appropriate means in particular by the progressive introduction of free education.

Though the right to education has explicitly recognized in the above specified instruments, none of them defines what is meant by education. In this regard, United Nations Educational Scientific and Cultural Organization (UNESCO) defined education to mean:

*Education implies the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge. This process is not limited to any specific activity.<sup>122</sup>*

As it could be easily grasped from the above definition, education is not a short term activity rather it is persisting process of social life, which could help one to develop in his/her personal understanding, capability, skills and attitudes.

Therefore, education by developing children's understanding could play a vital role in safeguarding them from different forms of hazard and exploitation. It further serves as a primary vehicle for enduring participation in economic aspects.<sup>123</sup> Thus, it can be said that education plays main role in enabling most marginalized children to lift out from the scourges of poverty.

In addition, UNESCO adopts a Convention against Discrimination in Education in 1960 that gives emphasis not only to proscribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education.

Taking in to account the importance of education for the development of world's children, the World Summit sets a goal of universal access to basic education and achievement of primary education. The subsequent World Fit for Children as well also sets a target to expand and improve comprehensive early childhood education, for girls and boys, especially for the most vulnerable and disadvantaged children, to reduce number of school dropouts, improve all aspects of quality education.<sup>124</sup> Plus to

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<sup>122</sup> Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, 1974, part I.

<sup>123</sup> Committee on Economic, Social and Cultural Rights, General Comment No 13 1999, HRI/GEN/1/Rev.8, pp.1, p.71.

<sup>124</sup> A World Fit for Children, Report of the Ad Hoc Committee of the whole of the twenty-seventh Special Session of GA, 2002, A/S-27/19/Rev.1, p.39.

that it calls for universal inclusive basic education. Ensuring sufficient access to education is also putted as one target in the Millennium Development Goals (MDG). Thus, education being indispensable for the development of a child is provided as one of the target areas of various international programs.

As discussed in the previous section, educational institutions and programmes as well ought to be available, accessible, acceptable and adaptable. Further, the realization of right to education depends on the fulfillment of the above mentioned conditions.

### **3.2.2 State's obligations**

International human rights law defines universal human rights obligations corresponding to the right to education, which prioritize each child's right to free and compulsory education.<sup>125</sup> The right to education, like other socio-economic rights, is subject to the concept of progressive realization. This is to mean that states parties are not obliged to realize these rights immediately rather, states may fulfill these rights over time. Though the right to education is to be progressively realized, states have an obligation to move expeditiously and effectively towards full realization of this right. Therefore, taking steps towards realization of right to education is an immediate obligation of states. As well ensuring non-discrimination and equality in the enjoyment of the exercise of such right are also immediate obligations incumbent upon states. Whereas, achieving full realization of the right to education remains to be the progressive obligations of states.

In addition, states obligations extends to ensuring of minimum essential levels (minimum core) of the right to education for all irrespective of availability of resources.

As with other socio-economic rights, right to education entails three kinds of obligations on state parties, namely obligations to respect, protect and fulfill. The first requires state parties to avoid measures that hinder enjoyment of the right to

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<sup>125</sup> Katarina Tomaevski, 'The State of Right to Education World Wide Free or Fee': Global Report, 2006, p.1.

education. The second requires state parties to take measures that prevent third parties from interfering with the enjoyment of the right to education. The last i.e. obligation to fulfill requires states to take positive measures that enable and assist individuals and communities to enjoy the right to education.

### **3.2.3 Education indicators**

As I mentioned earlier, there can be three kinds of indicators that could be used for monitoring compliance of states with international human rights standards. Even recently, the OHCHR 2008 Report affirms the relevance of the three indicators (structural- process- and outcome) framework which reflects the duty bearer's commitments, efforts and results, respectively to select indicators for various human rights instruments. The right to education being part of essential human rights instruments, the application of aforementioned indicators is unquestionable. Having said this, in the next section detail discussion will be made in relation to each indicator in light of right to education.

**Structural Indicator of Right to Education-** as it is concerned with the adoption of necessary mechanisms for realization of the right to education, it can include;

- Ratification of international as well as regional instruments recognizing the right to education.
- Existence of constitutional provisions recognizing the right to education.
- Adoption of national legislation affirming right to education and requiring states to fulfill such right.
- Existence of national plan of action and strategy for education.
- Existence of national provisions for; providing equal access to education, free and compulsory primary education for all, free secondary and tertiary education recognizing the importance of accessibility and availability.
- Having appropriate national institutions mechanisms that facilitate the realization of right to education.

**Process Indicators of Right to Education-** deals with measures and programmes of government to realize right to education and includes;

- Proportions of government budget allocated to education, primary, secondary, vocational training and higher education.
- Proportion of government expenditure that is spent on education and expenditure per pupil.
- Proportion of funding that is allocated to provide for construction of schools at primary, secondary and tertiary levels.
- Collection of data to assess the positive and negative aspects of plans and programs.
- Making assessment of educational needs.
- Existence of policies and programs that is inclusive of all.
- Adopting curriculums incorporating certain human values and education.
- Having mechanisms in place for receiving complaint on the right to education.

**Outcome indicators of right to education-** it is concerned with the impact of programmes and actions of states and suggests both possible compliance and non-compliance with right education<sup>126</sup> and includes;

- Number of schools per capital through the country and proportion of schools available at primary, secondary and tertiary levels.
- Proportion of teachers at primary, secondary and tertiary levels.
- Proportion of teachers with pupil at all three levels.
- Proportion of schools with necessary facilities like adequate sanitation facilities, water and learning materials.
- Proportion of eligible children attending school.
- Proportion of students paying for primary education.
- Proportion of children with lack of educational facilities.

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<sup>126</sup> S. Kalantry, J. Getgen and A.kon, 'Measuring State Compliance with the Right to Education using Indicators- A Case Study of Colombia's Obligations under ICESCR', *Cornell Law Faculty Working Paper*, 2009, p.87.

- Dropout rates at all primary, secondary and tertiary levels including dropout rates of children with special needs.
- Proportion of children with special needs attending schools.
- Literacy or illiteracy rates throughout the country.

### **3.3 Means and Methods of Realization of Socio-economic Rights of the Child**

Since the main concern of this work is on the realization of socio-economic rights of the child, identifying its means and methods is found to be crucial. As it is known, when a certain state ratifies human rights instruments recognizing socio-economic rights of the child, it takes obligation under international law to implement it. Here comes the issue of making reality of socio-economic rights of children. For this purpose, such state needs to take measures in view of realizing recognized rights for children under its territory. Though there is no single road of realization of socio-economic rights of the child, major means and methods for its realization are indicated in human rights instruments. Here, it is also essential to know that the means and methods to be adopted may vary depending on its appropriateness for the rights in question.

In this regard, international human rights instruments recognizing socio-economic rights of the child notably ICESCR and CRC points out the means which should be used in order to realize socio-economic rights. Specifically, art 2 of ICESCR underlines states obligation to realize the rights provided by taking all appropriate means, including particularly the adoption of legislative measures. From this point of view one can infer that the covenant provides the means of realization in more generic term by stating ‘taking of all appropriate means’. It is also important to make a note of explicit recognition of legislative measures as one method under what regards appropriate measures.

Having a look of the above underlined facts, it is possible to say that legislative measures is not the only way of realization provided under the covenant since it does not use exhaustive listing. Rather, the word ‘appropriate means’ could be interpreted widely to include other necessary measures. In relation to this, as the covenant uses indicative listing of legislative measures, it can be argued that other necessary measures including administrative, budgetary and educational measures are recognized as part of ‘all appropriate measures’.

Similar way also used by CRC to indicate the means by which state parties are required to fulfill their basic obligations. It underlines the means of realization by the phrase ‘all appropriate legislative, administrative and other measures’. However, the CRC differently from ICESCR incorporates explicit reference to administrative measures. As discussed previously, the inclusion of the term ‘other appropriate measures’ paves the way for broad interpretation to include judicial, financial, social and educational measures. As regards this, other provisions of CRC also pertain to incorporate certain means of realization explicitly including legislative, administrative, social and educational measures.

As inferred from the wording of the provisions of both instruments specified above, it fails to explicitly list out necessary means of realization save citing one or two means. It seems as it leaves for states discretion to adopt the means what they deemed necessary. This in turn, leads to interpretation discrepancy. This can be regarded as the major weakness of such instruments as it creates ambiguity as regards what other measures would be taken as necessary.

On the contrary, one can argue that what is appropriate /necessary depends on nature of rights so it should be left for states discretion as it relies on the circumstance of the case. Though, the writer agrees that the measures should be adjusted based on nature of rights, the instruments at least expected to specifically stipulate means and methods of realization to avoid ambiguity. However, prominently subsequent General

Comments on ICESCR and CRC tries to rectify this problem by incorporating certain explicit means of realization.

In general, by interpretation and cross reference with other provisions, the means of realization discussed above can be extended to incorporate legislative, administrative, judicial, financial, educational, social and other necessary measures. For the purpose of our discussion, means and methods of realization of socio-economic rights can be grouped in to three categories namely Legislative measures, Administrative and Other Appropriate measures, and Judicial measures. For better understanding further discussion will be held in the next sections regarding each means of realization.

### **3.3.1 Legislative/Policy Measures**

Legislative/policy measures are one of the indispensable means for realizing socio-economic rights of the child. It can be said that it lays down the foundation for domestic application of socio-economic rights. Differently from the other means, legislative measure necessitates complying national laws and standards in line with specified instruments recognizing socio-economic rights. It further facilitates national implementation of rights recognized by incorporation or inclusion of relevant standards.

As I mentioned earlier, the need to undertake legislative measure is underlined in both ICESCR and CRC. In relation to this, the Committee on Economic, Social and Cultural Rights emphasized that in many instances legislation is highly desirable and in some cases may even be indispensable. For example, it may be difficult to combat discrimination effectively in the absence of a sound legislation for necessary measures.<sup>127</sup> As regards rights to education and health that are the main focus of this work legislation may also be indispensable for their implementation.

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<sup>127</sup> Supra note at 66, pp.3.

There can be two major ways of adopting legislative measures for the purpose of realization of rights, namely legislative review and giving legal effect to rights in national legislations.

The first means used to be adopted as legislative measure is legislative review. It encompasses comprehensive and holistic legislative review that requires a state party to examine the whole spectrum of domestic legislation and regulations that affect the realization of children's rights. It needs the review of all domestic legislation to be fully compatible with the principles and provisions of ratified treaties dealing with socio-economic rights of the child.<sup>128</sup> Specifically in relation to our case i.e. the rights to education and health, states are required to revise and review its laws and policies in line with recognized standards of such rights.

The other ways need to be adopted in legislative measure is giving legal effect to socio-economic rights of the child in national legislations. As regards this, two key means can be used by states to give effect to rights in domestic laws. This is either by incorporation of ratified treaties dealing with socio-economic rights of the child or by inclusion of sections on socio-economic rights in national constitutions. From this two means, incorporation is most welcomed by different treaty bodies as it enables international law to be directly invoked and applied before domestic courts and other authorities. Further, it can also be said that it amounts as acknowledging such international laws will prevail in case of conflict with domestic laws.

The second one i.e. inclusion of sections on socio-economic rights is also be regarded as one methods for adopting legislative measures. However when we compare this one with that of incorporation, it can be said that the latter one is more effective means as it allows automatic application of international standards in domestic legislation without any further step. In contrast, the earlier one that is inclusion may require states to take further additional steps for its application.

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<sup>128</sup> Committee on the Rights of the Child, General Comment No. 5, 2003, HRI/GEN/1/Rev.8, pp.18, p.392.

### 3.3.2 Administrative/ Institutional and Other Appropriate Measures

The other categories of measures required to be adopted by states to satisfy their obligations is what regard as ‘administrative and other appropriate measures’. Since these kinds of measures are provided in general terms, it will enable one to incorporate different measures by interpretation. The Committee on the Rights of the Child further emphasized measures that could be regarded as administrative and other appropriate measures under its General Comment No 5, which among others include:

- **Developing Comprehensive National Strategy:** - in relation to this issue, the Committee on the Rights of the Child commends the development of a comprehensive national strategy or national plan of action for children, built on the framework of the convention.<sup>129</sup> Mostly, such kinds of national plan of action and strategies are used to set goals and targets to be achieved. Therefore, national plans of action and strategies need to set goals and strategies in relation to economic, social and cultural rights of the child.
- **Coordination of Implementation of Children’s Rights:** - this needs effective coordination of government organs at different levels to ensure respect for all of the rights of the child within state jurisdiction.<sup>130</sup> This measure requires the government to facilitate means like institutions having the mandate of monitoring the implementation of rights of the child.
- **Impact Assessment and Evaluation:** - the impacts of laws, policies and different government actions on enjoyment of socio-economic rights of the child should be assessed. Specifically, actions/activities that affect rights of the child needs assessment. Not only this, evaluation of impact should also need to be done.

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<sup>129</sup> Id. pp.29.

<sup>130</sup> Id. pp.37.

- Data Collection and Analysis: - data on children should be collected, having the aim of assessing the progress made and problems faced in the implementation of child rights.
- Establishing Independent Human Right Institution: - this measure could be one of the essential steps needs to be taken to protect and promote the rights of the child. Such human rights institution should be established independently having the mandate of ensuring respect for child rights and monitoring the government compliance with child right standards.<sup>131</sup> It could be regarded as one of the most important institutional measures that the government needs to adopt for the purpose of implementing child rights in general and socio-economic rights of the child in particular.
- Budgetary Measures: - this is also one of the necessary measures to be adopted for realization of child rights. As discussed before, realizing rights of the child necessitates adopting positive measures, this in turn, requires allocation of sufficient budget. This measure further requires giving budgetary priorities to fulfill the basic necessities of children like education and health facilities.
- Cooperation with Civil Society – as it is already known, civil societies working in promotion of human rights in general and those working specifically on child rights, could play promotional role for human rights of children. Therefore, the government needs to work in cooperation with NGO's.
- Information Dissemination: - as it could be easily understood, creating awareness have unquestionable role to implement rights of the child. Such information dissemination activity on the rights of the child should be done by the government to different sections of the society including children

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<sup>131</sup> Id, pp.65.

themselves. Since children are mostly dependent up on their parents or guardians, disseminating information to those having active role in child's life, is essential to ensure respect of their rights.

- Developing Training: - training should be developed for those government organs at all levels particularly to law enforcement agencies that supposed to have impact in ensuring respect for the rights of the child.

### 3.3.3 Judicial Measures

Different human rights instruments emphasized that effective remedies should be available to redress human rights violations. Back to our case, constitutional incorporation or recognition of socio-economic rights does not of itself ensure compliance, states further requires ensuring appropriate mechanisms for remedying violations of these rights.<sup>132</sup> Any person or a group who is victims of violations of economic, social and cultural rights should have access to effective judicial and other appropriate remedies at both national and international levels.<sup>133</sup> Therefore, accessible and effective judicial remedies are the primary means of protecting economic, social and cultural rights.

However, in relation to this case there exists dominant debate regarding justiciability of socio-economic rights (i.e. the ability of courts to provide a remedy for aggrieved individual claiming a violation of these rights).<sup>134</sup> Many scholars argued that it is not appropriate to consider economic, social and cultural rights as justiciable. On the contrary, others also argued that alleging civil and political rights as justiciable and considering socio-economic rights as non-justiciable will become contrary to the principle that all human rights are indivisible, interdependent and interrelated. The

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<sup>132</sup> Dianne Otto and David Wiseman, 'In Search of Effective Remedies', *Australian Journal of Human Rights*, 2001, p.26.

<sup>133</sup> Sandra Liebenberg, 'The Protection of Economic, social and Cultural Rights' in A. Eide et al (eds.), *Economic, Social and Cultural Rights*, Martinus Nijhoff Publishers, Dordrecht/ Boston/ London, 2001, p.58.

<sup>134</sup> Henery. J. Steiner, *International Human Rights in Context, Law, Politics, Morals*, 2<sup>nd</sup> ed., Oxford University Press, 2007, p.295.

writer supports the second argument since the two sets of rights are indivisible and interdependent. Further, rights will lose their meaning if remedies are not available in case of violations. Therefore, making socio-economic rights justiciable or granting remedies to their violations are the most effective judicial measures that need to be adopted to realize socio-economic rights.

In connection with the above underlined facts i.e. the issue of justiciability or granting remedies as part of judicial measures demands further additional legislative or institutional measures like putting rights and entitlements in clear terms. In addition, remedial institutions and procedures for their access are also a prerequisite. For instance when we test this in light of rights that are principal to this work (rights to education and health), for a person to claim violations of right to health/education; firstly, what constitute right to health/education or its standards should be defined in sufficient detail. Secondly, the right to access to court in case of violations should be guaranteed and finally courts should be empowered to grant range of remedies when there is allegation of violations of right to health/education. Here it does not necessarily mean that all these three conditions fulfilled cumulatively to claim violations but it is to show certain conditions that should be existed for claimant to bring its claim of violations and get remedy to redress alleged violations of rights.

## CHAPTER FOUR

### The Realization of Right to Education and Health of Street Children of Addis Ababa

#### 4.1 Data Collection and Analysis

As discussed previously, the phenomena of street children/streetism becomes the common features of towns and cities of the world countries. Addis Ababa being capital city is experiencing the phenomena of streetism more than other parts of the country. It is estimated that there are around 60,000 street children living and working in the streets of the city.<sup>135</sup> It is common to observe street children who live and work in different areas of the city. Most of them are engaged in activities of begging, carrying goods, loitering, car watching and washing, collecting and selling metals and small items and shoe shining to get their livelihood.

The data consists of 50 street children in total with in the age range of 5 and 18. Sample of 50 children is found to be sufficient to represent the conditions of street children in Addis Ababa. The respondents are chosen by using simple random sampling method in which the samples are taken by simple random selection. Regarding the place of stratification, the data are collected from ten sub-cities of Addis Ababa, namely Addis Ketema, Arada, Gulele, Kofe/Keranio, Kirkos, Bole, Nefas Silk Lafto, Ledeta, Yeka and Akaki Kaliti sub-cities. Concerning the size of sample children from each sub-city, as observed the proportion of children varies from place to place. Therefore, the researcher uses her own personal judgment to fix size of sample respondents from each sub-city based on prevalence of number of street children on the area concerned.

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<sup>135</sup> Consortium for Street Children, Street Children Statistics, 2009, available at [www.streetchildren.org.uk/-uploads/](http://www.streetchildren.org.uk/-uploads/). Street-children-state-final. Pdf.

For the purpose of this work those children with in the age range of 5-18 are used as main participants. The researcher chooses this age limit because of two reasons; firstly those children below the age of five are not in a way to give sufficient and reliable information regarding our concern since they are less matured. Secondly, these children are living under the care, supervision and guidance of others and have less possibility to test the reality by their own.

Though the researcher wants to take relative numbers of male and female respondents, the proportions of female street children is found to be much lesser than male. Hence, 82% of the total sample children are represented by male respondents and the remaining 18% of them are female respondents.

This work gives emphasis to both categories of street children i.e. children of the street and children on the street. It is also evident from the observation and data collected that their case and living conditions slightly varies. Therefore, for the purpose of this work discussion regarding their cases will be made separately.

Concerning the age and sex composition of total sample participants, 37.6% of them are under the age range of 5-10, 42.8% of these children are between the age ranges of 11-15. The remaining 19.7% are between the ages ranges of 16-18(see the table below).

**Table 1 Age and Sex Composition of Sample Participants**

Age	Sex		Total (%)
	Male (%)	Female (%)	
5-10	19.5	55.6	37.6
11-15	63.4	22.2	42.8
16-18	17.1	22.2	19.7
	100	100	100

Survey Results

Among total sample children, children of the street constitute 72% of total participants, encompassing 77.8% of male and 22.2% of female. Where as the remaining 28% is represented by children on the street encompassing 85.7% of male and 14.3% of female. As regards the age structure of both kinds of participants, discussion will be held later on.

## **4.2 Socio-economic Conditions of Street Children in Addis Ababa**

Observing the current status and socio-economic conditions of street children is relevant as it helps to grasp the realization of rights in question. Based on this, the writer determines two main factors that reflect the socio-economic conditions of the respondents i.e. living conditions and working condition (income generating means).

### **4.2.1 Living Conditions**

#### **Children of the Street**

As discussed in the first chapter, children of the street are homeless and live and work in the streets. The socio-economic conditions of children of the street particularly their living conditions are more severe than children on the street.

The table below shows the age and sex composition of sample children of the street.

**Table 2 Ages and Sex Structure of Children of the Street**

<b>Age</b>	<b>Sex</b>		<b>Total (%)</b>
	<b>Male (%)</b>	<b>Female (%)</b>	
5-10	21.5	12.5	17
11-15	57.1	62.5	59.8
16-18	21.4	25	23.2
	100	100	100

Survey Results

As the above table shows 17% of children of the street are between the age ranges of 5-10. 59.8% of them are between the age ranges of 11-15, the remaining 23.2% are under the age ranges of 16-18.

Concerning the living conditions of these children, most of them sleep near road sides, around churches, under bridges and bus stations, while some of them live in slums or plastic shelters. In relation to this, most of the respondents reported that one of the major problems faced in the street is shelter related problems.

As the following table indicates, more than half of children of the street (51.8%) are found to rest on the floor areas of different places. Some of them, 44.65%, are living in plastic shelters. Others (3.55%) rent resting places to sleep on daily basis.

**Table 3 Living conditions of Children of the Street by Sex and Age Composition**

Living conditions	Sex		Total (%)
	Male (%)	Female (%)	
Living in Plastic Shelter	14.3	75	44.65
Sleeping on floor areas of different places	78.6	25	51.8
Others	7.1	-	3.55
	100	100	100

Survey Results

Those children of the street living in plastic shelter seem to have more protective environment than those who sleep on floor areas of different places. However, natural hazardous particularly, rain and wind are the major evils for those children living under this condition. As reported by one respondent, stones are used by most of them to protect the shelter from destruction especially in rainy seasons. This shows that the house couldn't shelter them from the harms of the extreme weather.

In relation to living conditions, as observed, most of them did not have adequate clothes, while others have extra clothes to be used during night times.

## Children on the Street

As said before, children under this category have a place/home to live. The reason that they are on the street is for income generating purpose. So, their living condition is better than that of children of the street.

The table below shows the age and sex composition of sample children on the street

**Table 4 Ages and Sex Composition of Children on the Street**

Age	Sex		Total (%)
	Male (%)	Female (%)	
5-10	16.7	50	33.35
11-15	75	50	62.5
16-18	8.3	-	4.15
	100	100	100

Survey Results

As the above table indicates, 33.5% of them are between the age ranges of 5-10, whereas, 62.8% of those children are under the age ranges of 11-15, the remaining 4.15% of them are under age ranges of 16-18.

**Table 5 Living Conditions of Children on the Street**

Living conditions	Sex		Total (%)
	Male/%	Female (%)	
Living with families/ guardians	45.45	100	72.72
Living with relatives	36.36	-	18.18
Living with friends	9.09	-	4.5
Others	9.1	-	4.6
	100	100	100

Survey Results

As the above table shows, among respondents under the category of children on the street, 72.72% of them are living with their families or guardians. Others (18.18% of them) are living with their own relatives. Some 4.5% of children on the street are living with their friends. The remaining 4.6% of these children are living in rented houses.

#### 4.2.2 Working Conditions/ Income Generating Means

In relation to working conditions of children of the street, they engaged in activities of begging, carrying different goods and selling small items to generate their daily income.

**Table 6 Working Conditions of Children of the Street**

Working Conditions /Income Generating Means	Sex		Total (%)
	Male/%	Female (%)	
Begging	42.8	100	71.4
Carrying Goods	28.6	-	14.3
Others	28.6	-	14.3
	100	100	100

Survey Results

As indicated in the above table considerable numbers of the children of the street (71.4%) are generating their income through begging. 14.3% of them carry different goods to generate income. This category of work is beyond the capacity of most children and tends to have impact on their health. Whereas others, including those who are engaged in selling of small metals and items, car watching and washing constitute 14.3% of the respondents.

As provided in the following table, majority (37.5%) of sample children on the street are engaged in begging. The second largest group (25%) are selling small items to get their daily incomes. 16.6% from the total children on the street are getting their money by carrying goods. The other children who are estimated 12.5% of total respondents are working as shoe shiners. The remaining 8.4% of total respondents of children on the street used loitering as a means to generate their daily income.

**Table 7 Working Conditions of Children on the Street**

Working Conditions	Sex		Total (%)
	Male/%	Female (%)	
Begging	25	50	37.5
Carrying Goods	33.3	-	16.6
Shoe Shining	25	-	12.5
Loitering	16.7	-	8.4
Selling Small Items	-	50	25
	100	100	100

Survey Results

### **4.3 Reasons for Street life Involvement**

The major reasons that lead higher numbers of children to involve in street life are death of parents/guardians, family breakdown, poverty of family, survival needs, abuse and violence at home and peer pressure influence (see table 8).

**Table 8 Reasons for Street life Involvement of children of the street**

Reasons for street life involvement	Sex		Total (%)
	Male (%)	Female (%)	
Death of one or both parents	10.7	50	30.35
Family breakdown	3.6	-	1.8
Poverty	10.7	-	5.35
Survival needs and lack of support	25	25	25
Abuse and violence at home	3.6	-	1.8
Peer pressure influence	3.6	-	1.8
Disagreement with families	21.4	12.5	16.95
Born in the street	7.1	12.5	9.8
Others	14.3	-	7.15
	100	100	100

Survey Results

As the finding in the above table indicates, death of parents (30.35%) constitutes the reason for most children to go to the street. Whereas, the survival needs and lack of support (25%) found to be at the second level as a reason that pushes many children to the street. The other reason, disagreement with parents comprise the third level that made some male and female respondents (16.95%) to join street life. 9.8% of children of the street were born in the street. Other reasons, poverty (5.35%), family breakdown (1.8%), abuse and violence at home (1.8%) and peer pressure influence (1.8%) are also found to be reasons that made certain children of the street to involve in street life.

**Table 9 Reasons for Street life Involvement of Children on the Street**

Reasons for street life involvement	Sex		Total (%)
	Male (%)	Female (%)	
Poverty of family	16.7	50	33.35
To support family	16.7	50	33.35
To satisfy their needs	66.6	-	33.3
	100	100	100

#### Survey Results

Regarding children on the street, poverty of family and the need to support family are found to be the main reasons that lead considerable number of children to involve in the street life. As shown in the above table, 33.35% of participants responded that they engaged in street life to support their family. While other 33.35% of respondents alleged that poverty of family is the reason for being on the street. The remaining 33.3% of children on the street reported that the need to satisfy their basic needs necessitate their involvement in street life.

#### **4.4 Problems faced by Street Children**

In this section the respondents' response in relation to problems faced because of their involvement in street life are analyzed. Although their responses includes all types of problems, having a discussion helps to grasp the existing problems in relation to rights under our discussion i.e. rights to health and education.

It is also observed that the problems faced are related in sense that failure to realize child's basic rights has effect on the realization of the rights to health and education.

As regards the issue under our discussion i.e. problems faced by street children, majority of the respondents under category of children of the street raised almost similar problems. Therefore, the researcher prefers to list out the problems in their

orders, starting from the problems raised by highest numbers of respondents to the lowest. It includes

- Shelter problems
- Food problems
- Health problems
- Lack of access to education
- Lack of access to water and sanitation
- Cloth for exchange and shoe
- Attack and theft by street gangers and others
- Attack/abuse by the police
- Lack of work to be engaged
- Sexual violence

In relation to the first one, almost all children of the street raised shelter problem as main problem faced in the street. Some respondents revealed that being on the street is the main cause for different health problems that they are experiencing. Hence, it can be concluded that living in the street where there is no sufficient means of protection exposed children at risk of different health problems.

The other problem faced by children of the street is the difficulty of getting sufficient food for survival. As reported by most respondents, getting adequate food is one of the major problems that they faced in their street life. Further, since these children gets their means of livelihood through begging and carrying different goods, eating sufficient food depends up on their gain. Thus, it can be said that getting sufficient food is conditional for most street children. Consequently, this will have negative impact on their health status and ultimately on child's survival and development.

Health problems and lack of educational access is also raised by considerable numbers of female and male respondents. Since realization of rights to health and education of street children is the main concern of this work, more detail discussions will be held latter.

The other related problem to our case is lack of water and sanitation facilities. Some said that drinking water could be easily accessed either by buying or begging from different hotels and cafeterias. In relation to this, the main problem experienced by most children is getting access to water to ensure their personal hygiene. As reported by some respondents, they used the same river for washing and sewage purpose. As a result, it can highly expose these children to different health problems.

Lack of additional clothes and shoe for exchange is also raised by some of the respondents. This problem creates difficulty for protecting themselves from the extreme weather conditions. In addition, it creates complexity in maintaining their cleanliness. Ultimately, these problems likely will lead to disorder in children's health.

Further, being on the street also creates open environment for others to attack and take what they have. Many of the respondents alleged that since they are children other street gangsters suppress and take our food, money and clothes. As some respondents revealed, they are always in fear of losing what they get a hold. Attack or abuse by the police is also raised by some respondents as a problem faced in their street life. They alleged that the police will beat them if there is any report of alleged crime around.

In addition, lack of work is also raised by some respondents as a problem that hinders them from satisfying their basic needs. Moreover, sexual abuse is the other problem which street children are experiencing in their daily life. Especially female street children are more exposed to this problem. Some female respondents reported they are experienced continuous attempt of rape. Others also affirm that they were raped while they are living in the street.

Concerning the cases of children on the street, most of the respondents reported that they are unable to get sufficient income to satisfy their needs though they spent their day times in the street. Whereas, others responded that they are unable to attend

regular schools since they are working during day times. Some also alleged that traveling long distances daily for the purpose of selling small items will have disastrous effect on their health.

#### 4.5 Realization of Right to Health

As discussed in the previous chapter, the right to health extends to incorporate access to health care facilities and underlying determinants of health. Hence, assessing the realization of right to health necessitates analysis of health status, access to health care facilities, access to underlying determinants of health (safe and portable water, adequate sanitation, adequate supply of safe food, nutrition and housing), and access to health related education. In addition the realization of right to health depends on the fulfillment the above underlined facts. Therefore discussing such things is found to be crucial for the purpose of this research.

#### Access to Health Services

For analysis of the situations, the respondents in children of the street were asked questions in relation to their access to medical services. As shown in the following table, among total sample children of the street, 49.95% of them responded as they have access to health services. Whereas 33.35% of them alleged that they don't have access to health services. The remaining 16.7% are not completely sure whether they do have access or not.

**Table 10 Access to Health Services of Children of the Street**

Access to Health Services	Sex		Total (%)
	Male (%)	Female (%)	
Have access to health service	33.3	66.6	49.95
Do not have access to health service	50	16.7	33.35
Does not know	16.7	16.7	16.7
	100	100	100

Survey Results

As regards children on the street, 75% of the respondents mentioned that they do have access to health services. 12.5% of these children had said that they don't have access. The remaining 12.5% of them are not certain to give a response about the accessibility of health service.

### **Health Status**

As mentioned previously, street life is alleged to have impact on child's health status. The living conditions and the environment where they are living expose the children to different diseases. In this section analysis of respondents' response in relation to their health status after the involvement of street life will be made.

**Table 11 Health Status of Children of the Street after Joining Street Life**

<b>Health Status</b>	<b>Sex</b>		<b>Total (%)</b>
	<b>Male (%)</b>	<b>Female (%)</b>	
Sick	75.85	75	75.43
Not sick	24.13	25	24.57
	100	100	100

Survey Results

As shown in the above table, highest proportion of children of the street (75.43%) reported that they were sick. Whereas, 24.57% of the respondents alleged that they were not suffered from diseases. This shows that many of children had faced health problem after joining street life.

**Table 12 Health Status of Children on the Street after joining Street life**

<b>Health Status</b>	<b>Sex</b>		<b>Total (%)</b>
	<b>Male (%)</b>	<b>Female (%)</b>	
Sick	84.6	100	92.3
Not sick	15.4	-	7.7
	100	100	100

#### Survey Results

With regard to the health status of children on the street, as indicated in the above table, highest proportion of children on the street (92.3%) had suffered from diseases after joining of street life. Whereas the remaining 7.7% of them reported as they were not suffered from diseases.

#### **Types of Health Problems**

Based on the issue raised by the respondents about the status of their health it is important to identify the type of health problem they are faced with. Those children of the street who are reported that they were sick while they are living in the street, further asked questions regarding the types of health problems.

**Table 13 Types of Health Problems of Children of the Street**

Types of Health Problem	Sex		Total (%)
	Male (%)	Female (%)	
Abdominal Problem	15.0	16.7	15.8
Pneumonia Infections	30.0	8.3	19.2
Respiratory Problem	12.0	16.7	14.3
Headache	6.4	8.3	7.3
Typhoid and Typhus	9.6	16.7	13.1
Malaria	3.0	8.3	5.6
Cholera	12.0	8.3	10.2
Others	12.0	16.7	14.5
	100	100	100

Survey Results

In this regard, the finding in the above table shows that among those participants who reported that they had health problem, considerable number of children had suffered from pneumonia infection. This can be related with the effects of extreme weather. The second largest group encompassing 15.8% of respondents have abdominal problem, which is likely caused by lack of personal hygiene or contaminated food (leftovers). 14.3% of total respondents also revealed that they have respiratory problem, which as well resulted from extreme weather conditions and poor nutrition. 13.1% of the respondents also responded for the question they have asked on kinds of diseases, as they had been infected with Typhoid and Typhus. Others 10.2% of children of the street experienced Cholera while they are living on the street. This could also be the result of infected water, contaminated food and poor personal hygiene. The remaining 5.6% stated that they are sick/ infected with Malaria. Hence, this clearly shows these children are experiencing diverse health problems while they are living in the street.

**Table 14 Types of Health Problems of Children on the Street**

Types of Health Problem	Sex		Total (%)
	Male (%)	Female (%)	
Abdominal Problem	18.1	33.3	25.7
Pneumonia Infections	27.4	33.3	30.35
Respiratory Problems	27.4	33.4	30.4
Heart Case	9.0	-	4.5
Typhoid and Typhus	9.0	-	4.5
Others	9.1	-	4.55
	100	100	100

Survey Results

As regards children on the street, the finding in the above table shows that the highest proportion of children (30.4%) have respiratory problem. Relatively equal proportion of these children (30.35%) also reported that they had been infected with pneumonia infections. 25.7% of them have abdominal problem. Some 4.5% of total respondents also reported that they have suffered from heart problems. Whereas, 4.6% of them revealed that they had been infected with Typhoid. The remaining 4.6% of the children on the street reported as they experienced other kinds of diseases than specified above. This shows that most of the health problems faced by street children are the effects of contaminated food, infected water, extreme weather and poor personal hygiene.

Taking in to account the problems raised by the respondents on the status of their health conditions, it is essential to determine the availability of medical assistance. Our respondents who were responded that they had health problems were also further asked whether they have received medical treatment or not. As indicated in the following table among those children of the street who were interviewed sick, 66.7% of them have received medical assistance, while 33.3% have not received any medical assistance. In relation to this income can be cited as one factor that hampers these children from getting medical assistance.

## Medical Assistance

**Table 15 Medical Assistance of children of the street during their sickness**

Medical Assistance	Sex		Total (%)
	Male (%)	Female (%)	
Have received medical assistance	61.9	71.4	66.7
Have not received medical assistance	38.1	28.6	33.3
	100	100	100

Survey Results

Concerning children on the street, among those who have health problem 88.9% of them have received medical assistance. The remaining 11.1% could not receive any medical assistance. The findings in relation to this can be referred from the following table.

**Table 16 Medical Assistance of children on the street during their sickness**

Medical Assistance	Sex		Total (%)
	Male (%)	Female (%)	
Have received medical assistance	77.7	100	88.9
Have not received medical assistance	22.3	-	11.1
	100	100	100

Survey Results

## Place where Medical Service Received

Further analysis of the situation necessitates assessment of the place where medical services have been received. The table below shows the place where children of the street have been receiving medical services. Among those children of the street who have received medical assistance during their sickness, 66.9% of them have got free medical services. 33.1% of them have received paid medical services. Among those children who have received free medical service, 31.5% of them have got the service from government hospitals/health institutions. The remaining 35.4% of these children could able to get medical assistance from NGOs.

Whereas, among those children who have received paid medical assistance, 25.4% of them has got medical treatment from government hospitals/health institutions. The remaining 7.7% of those children have received the service through payment from private health institutions.

**Table 17 Place where Medical Service have Received by children of the Street during their Sickness**

Place where medical service have received	Sex		Total (%)
	Male (%)	Female (%)	
Free medical service from government hospitals/health institutions	23	40	31.5
Free medical service from NGOs	30.8	40	35.4
Paid medical service from governmental hospitals/health institutions	30.8	20	25.4
Paid medical service from private health institutions	15.4	-	7.7
	100	100	100

Survey Results

As the findings in the following table shows, most of children on the street (53.6%) have received paid medical assistance from government hospitals/health institutions during their sickness, while 39.3% of them are getting the medical assistance freely from government hospitals. Only small portion of them (7.1%) were able to cover the expenses of the service at private hospitals.

**Table 18 Place where Medical Service have Received by Children on the Street during their Sickness**

Place where medical service have received	Sex		Total (%)
	Male/%	Female (%)	
Free medical service from government hospitals/health institutions	28.6	50	39.3
Free medical service from NGOs	-	-	-
Paid medical service from governmental hospitals/health institutions	57.1	50	53.6
Paid medical service from private health institutions	14.3	-	7.1
	100	100	100

Survey Results

### **Access to Necessary Medicines**

Taking a further look of the realization of the right to health necessitates assessment of access to necessary medicines after treatment. Among those children of the street who have received medical assistance, 43.1% of them could able to get necessary medicines freely. 25.4% of them have bought necessary medicines after medical examination. The remaining 31.5% of these children did not get any medicines after treatment (see table below).

**Table 19 Access to Necessary Medicines of Children of the Street**

Access to necessary medicines	Sex		Total (%)
	Male (%)	Female (%)	
Have got free medicine	46.2	40	43.1
Have bought medicine	30.8	20	25.4
Didn't get medicine	23.0	40	31.5
	100	100	100

Survey Results

As shown in the following table, from the total respondents who have received free medical service from government hospital/health institutions, 33.3% of them have got free medicines as well. The remaining 66.7% of these children did not get necessary medicines at all. Besides, these children could not able to cover the expenses of necessary medicines as they have no sufficient means. Here it can be said that medical treatment which is not supported by necessary medicines does not bring the intended results.

**Table 20 Access to Necessary Medicines of those Children of the Street who have received free medical assistance from government hospitals/health institutions**

Access to necessary medicines	Sex		Total (%)
	Male (%)	Female (%)	
Have got free medicine	66.7	-	33.3
Did not get any medicine either freely or in paid	33.3	100	66.7
	100	100	100

Survey Results

Concerning the case of children on the street almost all of those children who were received medical services have bought necessary medicines. There is no any respondent who have received free medicines.

**Table 21 Access to Necessary Medicines of Children on the Street**

Access to necessary medicines	Sex		Total (%)
	Male (%)	Female (%)	
Have got free medicine	-	-	-
Have bought medicine	100	100	100
Didn't get medicine	-	-	-
	100	100	100

Survey Results

## Manner of Treatment

Regarding medical treatment received from NGO (Sister Bet), as expressed by some respondents, if one of them is getting sick/ill they will call and get necessary assistance including Ambulance Services. Further it is revealed that there is no discriminatory treatment as it is giving services for street children having health problems. Others also expressed that they were getting good treatment.

As regards medical treatment from government hospitals/health institutions, the treatment is expressed by many children as of good. But, some expressed that certain medical professional's act contrary and do not have willingness to treat them. Among those respondents who have received either paid or free medical service, 31% of them were experienced discriminatory treatments in government hospitals/health institutions. The remaining 69% reported that they have received good treatment without discrimination. Though it seems good, still much have to be done for realization of right to health of the child. In this regard, as mentioned in chapter three, training and other necessary measures addressing concerned organs needs to be adopted.

**Table 22 Manner of treatment of Children of the Street in governmental hospitals/health institutions**

Manner of Treatment	Sex		Total (%)
	Male (%)	Female (%)	
Received good treatment without discrimination	71.4	66.6	69
Experienced discrimination	28.6	33.4	31
	100	100	100

Survey Results

In relation to the treatments of children on the street in government hospitals/health institutions, most of the respondents (90%), reported that they have received good treatments without discrimination. No respondents reported as experiencing discrimination.

**Table 23 Manner of treatment of Children on the Street in governmental hospitals/health institutions**

Manner of Treatment	Sex		Total (%)
	Male (%)	Female (%)	
Received good treatment without discrimination	80	100	90
Experienced discrimination	–	–	–
Does not know	20		10
	100	100	100

Survey Results

### **Access to Underlying Determinants of Health**

As we have discussed in the previous chapter, the right to health encompasses the fulfillment of what we referred as ‘Underlying Determinants of Health’. It includes adequate food and nutrition, adequate water and sanitation facilities. Since the realization of the right to health depends on the fulfillment of the above underlining facts, assessing its access to our participants is found to be imperative.

### **Access to Adequate Food**

As it is known, the healthy functioning of one’s body needs access to sufficient food. As regards our participants, beginning with children of the street, only 13.5% of them have responded as getting daily sufficient food for their survival. Whereas most of children of the street (86.5%), reported that the food they get is insufficient for their

survival. This might be related with lack of sufficient income to cover their daily food expenses. Possibly it is a result of the kinds of work they are doing (begging, carrying goods and car washing). Ultimately this ends in making the chance of getting sufficient food conditional.

**Table 24 Access to Adequate Food of Children of the Street**

Access to adequate food	Sex		Total (%)
	Male (%)	Female (%)	
Sufficient	14.3	12.5	13.5
Not sufficient	85.7	87.5	86.5
	100	100	100

Survey Results

As the findings in the above table shows considerable numbers of children are not in a position to get adequate food. As a consequence, lack of sufficient food affects the survival and healthy development of a child. This in turn, makes the child more vulnerable to different diseases.

Here, shelter problem also have great impact in this regard. Lack of secured place to keep food will increase the chance of contamination of the food. The devastating effect of contaminated food on one's health is unquestionable. Accordingly, one can notice the cause and effect relationships existed between shelter problem and hygienic food. It is also evident from the fact that food which lacks hygiene has grievous consequences on child health. Therefore it can be concluded that shelter problem have negative consequence on the health of the child.

In relation to the above underlined facts the interrelatedness and interdependence of rights is easily visible. Thus, the realization of the right to health demands further the fulfillment of its underlying determinants.

### Source of Daily Meals

The source of daily meals of these children is either by buying foods from small cafeterias or begging leftovers. As emphasized by most respondents, they get sufficient food once in a while. Mostly, as they could not able to cover their food expenses they beg leftovers from different cafeterias and hotels. Further, it is emphasized that the leftovers gathered from hotels and cafeterias have high chance of getting spoiled. In this instance the facts raised above regarding the contamination of food, i.e. its health consequences needs to be considered. What makes the children to eat such kinds of food is lack of other sources to get their daily meals.

Concerning the access to food of children on the street, as the findings in the following table shows among total sample children on the street, 16.7% of them get sufficient food. While the majority of them i.e. 83.3% of these children, does not get sufficient food. Since most of them work engaged in street life to satisfy their survival needs, it can be said that the means they get is insufficient to cover their daily meals.

**Table 25 Access to Adequate Food of Children on the Street**

Access to adequate food	Sex		Total (%)
	Male (%)	Female (%)	
Sufficient	33.3	-	16.7
Not sufficient	66.7	100	83.3
	100	100	100

Survey Results

### Source of Daily Meals

There can be different sources for children on the street to get access to daily food, including, begging leftover food, buying from small cafeterias or from their home.

## Access to Water and Sanitation Facilities

As mentioned in the previous chapter, access to adequate water is one of the integral components of the right to health. In this regard, most respondents revealed that getting sufficient access to water is somehow difficult. As the interview with most children of the street discloses, getting sufficient water access for personal hygiene is more difficult than drinking. Drinking water could be easily accessed either by buying in a least cost or begging from different hotels and cafeterias. But, as said before, getting sufficient access for cleaning and sewage purpose is found to be more difficult. As reported by some respondents, due to lack of access to adequate water and sanitation facilities, they use the same river for cleaning and sewage purpose. One can imagine what disastrous consequence it will have on the health status of these children. Hence, it can be concluded that lack of access to adequate water and sanitation is the main factor for the health problems of many children.

As indicated in the following table, 98.25% of children of the street do not get sufficient access to adequate water and sanitation. Only the remaining 1.75% of these children could get sufficient access to adequate water and sanitation facilities. This shows that majority of them are not in a position to access sufficient water and sanitation facilities.

**Table 26 Access to Adequate water and sanitation facilities of Children of the Street**

Access to adequate water and Sanitation facilities	Sex		Total (%)
	Male (%)	Female (%)	
Sufficient	3.5	-	1.75
Not sufficient	96.5	100	98.25
	100	100	100

Survey Results

The negative consequence of lack of adequate water on the health of children can be evidenced from the findings in the table 13. As indicated on that table, some of the children reported that they have abdominal problem. This could be as a result of lack of access to clean water for drinking and washing purposes.

Sample participants were further asked questions in relation to their source of water facilities, accordingly,

The means used to get access to drinking water includes either

- Begging from different cafeterias, hotels and others
- Or buying from different places

The source of water facilities for cleaning purposes includes;

- Rivers
- And other places by paying of small amount of money

**Table 27 Access to Adequate water and sanitation facilities of Children on the Street**

Access to adequate water and sanitation facilities	Sex		Total (%)
	Male (%)	Female (%)	
Sufficient	91.7	50	70.85
Not sufficient	8.3	50	29.15
	100	100	100

Survey Results

As the above table shows, 70.85% of children on the street are in a position to get sufficient access to water. While remaining 29.15% of these children does not get access to water that is sufficient. Majority of the respondents under the category of children on the street have better access to adequate water and sanitation facilities. As most respondents revealed their source of water is either from home or buying it from different places. Regarding sanitation facilities, most of them reported that they could get the access from their living home.

## **Awareness on Health Related Matters**

As said before, creating awareness on health related matters is one of the means of realizing the right to health. Thus, it is crucial to have a discussion on the awareness of sample children on health related matters.

Before that it is imperative to grasp the respondents' response in relation to awareness on rights of the child. Among total respondents of children of the street, 56.75% of them do not have awareness on the rights of the child. The remaining 43.75% of these children do have awareness on the rights of the child. As regards children on the street, 58.15% of them knew about the rights of the child, while the remaining 41.8% of these children are not aware of it.

Concerning awareness of children of the street on health related matters, 40.2% of them do have awareness on health related matters. The remaining considerable numbers of children under this category (59.8%) do not have basic awareness in this regard.

When we come to look the case of children on the street, 66.7% of them do not have awareness in relation to health matters. The rest that constitute 33.3% of sample children on the street do have awareness.

As observed most street children who have access to education are in a better position to get awareness on health related matters. Others who are unable to get educational access have less possibility to grasp this related awareness. This shows the connection between access to education and the right to health.

## **4.6 Realization of the Right to Education**

Assessing the realization of right to education of street children demands examining their current educational level, access to education and problems faced in the enjoyment of the right. Further ascertaining the extent of realization of the right in question necessitates taking in to consideration of the above mentioned facts.

## Educational Level

Concerning educational level of children of the street the finding will be illustrated in next table.

**Table 28 Educational level of Children of the Street**

Educational level	Sex		Total (%)
	Male (%)	Female (%)	
Attending	21.5	12.5	17
Dropouts	64.2	87.5	75.85
Never attending	14.3	–	7.15
	100	100	100

Survey Results

As the finding shows among those participants of children of the street, 17% of them responded that they are attending the school. The majority of them i.e. 75.85% reported that they are dropped out of school. The remaining 7.15% revealed that they have never attended school. This shows that the largest proportions of children of the street are not able to attend school after they had joining the street. From this we can conclude that the types of work they have done, insufficient incomes at their disposal, lack of necessary education aid facilities and lack of access to education are the major factors that hinder most of these children from attending the school. While some of them could able to attend the school, they faced difficulty in their participation due to the problems that will be raised latter on.

As inferred from the findings below, considerable numbers of children on the street are still attending school. Equally largest portion of these children are dropped out of school due to different factors. The lowest numbers of children in this category have never attended at all.

**Table 29 Educational level of Children on the Street**

Educational level	Sex		Total (%)
	Male (%)	Female (%)	
Attending	25	50	37.5
Dropouts	25	50	37.5
Never attending	50	–	25
	100	100	100

Survey Results

As the above table shows, 37.5% of children on the street are attending school. 37.5% of these children are dropped out of school. The remaining 25% of them do not have the opportunity to go to school.

Taking a further look of the situation of those attending school necessitates assessing how many of them are attending free education and education with fee.

**Table 30 Access to Education of Children of the Street**

Access to education of children of the street	Sex		Total (%)
	Male (%)	Female (%)	
Free education	100	100	100
Education with fee	–	–	–
	100	100	100

Survey Results

As the table above shows, all of the respondents who are attending school are able to get the access to free education. This shows the inability of these children to attend education with fee and cover other related expenses.

In relation to the attainment of free or paid education of children on the street, most of the respondents (83.35%) are enrolled in free education without fee. The remaining, 16.65% are attending education with fee.

**Table 31 Access to Education of Children on the Street**

Access to education of children on the street	Sex		Total (%)
	Male (%)	Female (%)	
Free education	66.7	100	83.35
Education with fee	33.3	–	16.65
	100	100	100

Survey Results

Moreover, those who are attending school were asked questions relating to the problems faced in their participation of educational systems. Most of them reported that the main problems they are facing are lack of education aid materials; uniforms and exercise books.

**Table 32 Problems faced in Educational Participation (children of the street)**

Problems faced	Sex		Total (%)
	Male (%)	Female (%)	
Lack of education aid facilities/materials	75	100	87.5
Lack of educational fee	–	–	–
Experiencing discrimination	25	–	12.5
	100	100	100

Survey Results

As indicated, 87.5% of the total children who are attending the school are reported as they are facing problems related to lack of education aid facilities/materials like uniforms, necessary books and exercise books. The remaining 12.5% of them are

responded as they are experienced discrimination. Since all of them are attending free education, lack of educational fee is not raised as a problem.

As regards the problems faced by children on the street who are attending the school, some of them revealed that they are facing health problems due to the type of work they are doing. This in turn affects their performance in education. Others also raised that the time they spent while working on the street has negative impact on their educational participation.

**Table 33 Problems faced in Educational Participation (children on the street)**

Problems faced	Sex		Total (%)
	Male (%)	Female (%)	
Health problems	28.6	33.3	30.95
Lack of access to education aid facilities	28.6	33.3	30.95
Lack of sufficient time for effective follow up of their education	42.8	33.4	38.1
	100	100	100

Survey Results

As indicated in the above table, the largest portion of these children (38.1%) are faced the problem of lack of time for effective follow up of their education. 30.95% of these children are reported as they had faced health problem. The remaining 30.95% of the respondents raised lack of education aid facilities as a problem faced.

**Table 34 Those Children of the street who get support from government**

Get support from government	Sex		Total (%)
	Male (%)	Female (%)	
Get support from government	33.4	–	16.7
Get support from NGOs	16.6	–	58.3
Do not get support	50	100	25
	100	100	100

Survey Results

As inferred from the above table, 58.3% of these children get support in relation to educational facilities like exercise books, pens and pencils from NGOs. 16.7 % of them get support from government. The remaining 25% of these children do not get any support.

**Reasons for dropout of school**

Those children of the street who could not go on learning/dropouts were asked the reason for their inability to continue schooling.

**Table 35 Reasons for dropout of school (Children of the Street)**

Reasons for dropout of school	Sex		Total (%)
	Male (%)	Female (%)	
Lack of money for fee or other expenses	22.2	42.9	32.6
Lack of access	11.1	14.3	12.7
Lack of support for educational facilities	55.6	28.5	42.05
Treatment at school	–	14.3	7.15
Failed exam	–	–	–
Others	11.1	–	5.5
	100	100	100

Survey Results

From the above table we can infer that most of the children (42.05%) dropped out of the school because of lack of support for schooling and educational facilities. The second largest group, 32.6% of these children failed to attend schooling due to lack of money for fee and other expenses. Some of them (7.15%) also alleged that the treatment at school made them to dropout of the school. Other reasons like lack of interest and inability to register at school due to need of family/guardians for this sake also raised by 5.5% of respondents.

As the finding shows, considerable numbers of respondents reported that the reasons for dropout of school are lack of support for schooling and educational facilities. Thus, this demonstrates that the major impediments for attending the school are financial problem and lack of support for necessary things like food and education aid materials.

**Table 36 Reasons for dropout of school (Children on the Street)**

Reasons for dropout of school	Sex		Total (%)
	Male/%	Female (%)	
Poverty of family	33.3	100	66.65
Lack of access to education aid facilities	33.3	–	16.7
Family is not interested	33.4	–	16.65
	100	100	100

Survey Results

In relation to those children on the street who are dropped out of school, considerable number of respondents (66.65%) dropped out school due to poverty of their family. Lack of access to education aid facilities is also raised by 16.7% of the total respondents. The remaining 16.65% reported that lack of interest of family is the reason for not attending school.

The finding in the table 28 shows 7.15% of sample children of the street have never attended school. For further analysis of the situation these children were asked questions in relation to the reasons for not attending the school.

As the following table shows, the main reasons for not attending school for considerable numbers of children are poverty/financial problem and lack of support. 50% of respondents answered as poverty is the reason for their inability to attend schooling. The other half also raises lack of support as rationale for never attending the school.

**Table 37 Reasons for not attending the school (children of the street)**

Reasons for not attending the school	Sex		Total (%)
	Male (%)	Female (%)	
Poverty/financial problem	50	–	50
Lack of support	50	–	50
Lack of access	–	–	–
	100	100	100

Survey Results

Regarding the case of children on the street, the findings in the following table shows that almost half of the respondents under this category reported that poverty or financial problem is the main reason that hinders them from attending school. 33.3% of these children also raised lack of support as a problem faced in their participation in education. The least one i.e. 16.7% of these children responded that lack of access to education and its aid facilities is a reason for their inability to attend school.

**Table 38 Reasons for not attending the school (children on the street)**

Reasons for not attending the school	Sex		Total (%)
	Male (%)	Female (%)	
Poverty/financial problem	50	–	50
Lack of support	33.3	–	33.3
Lack of access	16.7	–	16.7
	100	100	100

Survey Results

The above underlined facts demonstrates that though street children are highly in need of attending the school, they could not make it real due to the problems already mentioned. Hence, taking in to account the indispensability of education, it can be said that the non-realization of it would have effect on child’s future development and deters them from utilizing their potential.

#### **4.7 Needs of Street children**

So far, we are discussing the socio-economic rights of street children, health status and participation in education and problems faced in this regard. To forward solutions, hearing the voice of street children regarding their basic needs is highly desirable. To this end, questions has forwarded for sample respondents in relation to their basic needs which required to be fulfilled.

In this regard, basic needs raised by majority of them includes shelter, adequate food, education and access to education aid facilities, work/means of income, cloth and shoe and water and sanitation facilities.

In relation to the case of children on the street, the basic needs emphasized includes adequate food, education and access to education aid facilities and cloth and shoe.

#### **4.8 Means to get out from street life**

Moreover, the respondents were also asked questions in relation to their willingness to get out from street life. All of those children in both categories are responded as they are willing to get out from street life. For further assessment those sample participants were asked questions concerning what means could help them to get out from street life involvement. The means raised includes;

- Satisfaction of their survival needs
- Getting shelter
- Getting access to education
- Getting better means of income
- Reunification with families
- Getting supportive environment

The above underlined facts demonstrate that the responses of the children are related with the specific causes that lead them to join street life. Thus, it can be said that addressing the cause of streetism would enable us to move for better realization of rights to education and health of the child and minimize the adverse effects of street life.

#### **4.9 Activities Implemented by the Government in view to realize the Right to Education and Health**

Though this section is devoted to assess the measures taken by the government specifically to realize the rights to health and education of the child, analyzing the measures taken to realize socio-economic rights in general is found to be highly desirable. Since human rights are indivisible, interdependent and interrelated steps taken to realize certain rights will have impact on the realization of other rights of the child. Moreover any steps taken by the government to implement human rights have principal significant for children as they are primary beneficiaries. Taking this in to account, the researcher tries to incorporate and analyze both the general as well as specific measures taken by the government to realize socio-economic rights.

## **Legislative/ Policy Measures**

Ethiopia has acceded ICESCR in 1993 and CRC in 1991 without reservation. Beyond ratification, Ethiopia has taken some legislative measures to realize socio-economic rights of the child. It can rightly be said that the endeavor to conform national laws with international human rights law has began in the constitution itself, which incorporate a section entirely committed to recognize fundamental rights and freedoms. Prominently, the constitution adopts an intrinsic mechanism for integrating international human rights law. In this regard, art 9(4) of FDRE constitution stipulates that all international agreements ratified by Ethiopia are integral part of law of the land. So that ICESCR and CRC that has ratified by Ethiopia can be considered as part and parcel of law of the country. Therefore, this can be taken as one of the important legislative measures as it paves the way for domestic application of socio-economic rights of the child.

Beyond incorporation as part of law of the country, the constitution made those international instruments ratified by Ethiopia like CRC and ICESCR to be interpretive guidelines for those rights and freedoms under it. Thus, it can be said that CRC and ICESCR are not only incorporated as part of law of land but also considered as interpretive guidelines for those rights recognized under the constitution.

Besides, the FDRE constitution incorporates a provision dealing with economic, social and cultural rights in its bill of rights section. This provision among others, recognize the rights of everyone to equal access to publicly funded social services, education, health and other social services.<sup>136</sup> Though the provision expressed such rights in more generic term, we can infer as it recognize the rights of everyone to equal access to publicly funded social services, education and health.

Moreover, the constitution incorporates a specific provision pertaining to rights of children. Although it seems as giving special place to children due to their special

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<sup>136</sup> Article 41 of FDRE Constitution.

needs, it fails to explicitly mention indispensable socio-economic rights of the child. However, recognition of children's basic right to life may help us to give recognition to implicit rights in right to life such as right to health. As well, the recognition of children's right not to be subjected to exploitative work which may be harmful or hazardous to his/her education, health and wellbeing (art 36(1) (d)) can be taken as it is affirming the need to protect children's right to health and education. Hence, this can be regarded as one of the shortcomings of the constitution as it fails to give specific concern to the indispensable child rights notably rights to education and health.

Apart from this, Ethiopia's Developmental Social Welfare Policy of 1996 affirms appropriate and comprehensive care and service to be extended to children to ensure their all round and harmonious development. This policy has the main objective of creating a social condition conducive to a healthy life and sustainable development.<sup>137</sup> It has also emphasized the need to create an environment conducive to addressing problems of Children in Especially Difficult Circumstances. Importantly, this policy document urged commitment of the government to implement international legal standards concerning children.<sup>138</sup> So that, this document could be taken as relevant policy measures to protect the health and education rights of the child as it call attention to the healthy life and sustainable development of a child. Further, the emphasis it gives to Children in Especially Difficult Circumstances (CEDC) would enable us to include our main target areas i.e. street children as part of CEDC and to accord the protection regarding their rights to health and education. In sum, it can be said that this policy takes good concern of rights to health and education of the child in general and street child in particular.

Specifically, following ratification of CRC and in reaction to mandate of the World Summit's Declaration and Plan of Action the government of Ethiopia commenced in October 1995 the National Plan of Action for Children and Women to be

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<sup>137</sup> FDRE Ministry of Labour and Social Affairs, Developmental Social Welfare Policy, 1996, p.51-52.

<sup>138</sup> Id, p.68.

implemented during the period of 1995/96-2000. This National Plan of Action (NPA) expressed actual commitments with detailed goals, policies and strategies to improve the conditions and wellbeing of children and women. The plan consists of sectorial programmes on health, nutrition, food, water supply and education. Generally, this Plan of Action undoubtedly can be taken as one of the important measures taken by the government to comply with obligations of realization of rights of the child.

Based on “A World Fit for Children”, 2002, which urged states to adopt National Plan of Action (NPA), the Ministry of Labour and Social Affairs (MOLSA) prepared National Plan of Action for Ethiopian Children (2003-2010) in context of the goals, targets and strategies stated out in the document. The major components of NPA are providing quality education, providing health facilities, clean water and sanitation, and food and nutrition, combating HIV/AIDS and protecting children against abuse, exploitation and violence.<sup>139</sup> This National Plan of Action is still in function. Thus, NPA under our discussion can be regarded as positive achievements in improving the implementation of child right in general and rights to health and education in particular.

Further, Ethiopia has adopted Poverty Reduction Strategy formally known as Sustainable Development and Poverty Reduction Program (SDPRP), 2002/03-2004/05, having the objective of poverty reduction through enhancing rapid economic growth. It has been built on sector development programs formulated and being implemented on education, health, water and sanitation and food security.<sup>140</sup> Addressing poverty from its source necessitates giving priority to those sector areas. Prominently, this sector strategy adopts the goal of poverty reduction that has been set out as main targets of MDG. Therefore, the strategy is pertinent and can be used as a means to achieve education and health related MDG goals.

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<sup>139</sup> Ministry of Labour and Social Affairs, National Plan of Action, 2003, p.49.

<sup>140</sup> FDRE, Sustainable Development and Poverty Reduction Program, 2002.

Since the main concerns of this work are the rights to health and education of child, we need to look adopted legislative/policy measures regarding these rights. In relation to right to education, the government of Ethiopia has introduced new Education Training Policy (ETP) together with Education Sector Strategy (ESS) in 1994, having the objective of providing good quality primary education. Afterwards, Education Sector Development Program (ESDP) was started in 1997/98 for the purpose of translating the policies and strategies in to action. The second program, ESDP II was launched in 2002 covering the period of 2002/03-2004/05. The third program ESDP III was launched in 2005 covering the period 2005/06-2010/11. The overall goals of ESDP III are in line with SDPRP and Millennium Development Goals i.e. good quality universal primary education by 2015. Further it also has overall goals to increase access to educational opportunities, to improve the quality of education and narrowing the gap between male and female, among regions and rural and urban areas.<sup>141</sup> Therefore, it can be said that the policy and its strategic plan is remarkable steps taken to realize the right to education of a child. Further, as mentioned in the previous chapter, it could be regarded as structural indicator for the realization of the right to education.

As regards the right to health, the government formulated Health Policy in 1993 which focus on primary health care. To implement the policy, Health Sector Development Program (HSDP) was launched in 1998 with objective of achieving universal access to essential primary health care. The second, HSDP II also started in 2002 to cover the period 2002/03-2004/05. The HSDP III is launched in 2005 (2005/06-2009/10) in line with SDPRP and MDGs with major areas of focus in child health, maternal health, prevention and control of HIV/AIDS, TB and Malaria. Further, the government came up with National Policy on HIV/AIDS in 1998 with aim of preventing the spread of HIV/AIDS and reducing the adverse socio-economic consequence of it. Like wise the steps taken in educational sector these health policies and its strategies can play tremendous role in promoting and realizing health rights of the child.

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<sup>141</sup> Ministry of Education, Education Sector Development Programme (ESDP III), 2005, p.36.

Moreover, the ministry of Health adopts National Strategy for Child Survival having the main objective of ensuring availability of quality essential health care for children and reducing infant and child mortality. The prominence of this strategy as a measure to improve the health status of children is undeniable. As said before, this is also a kind of structural indicator for realizing the right to health.

### **Administrative/Institutional Measures**

As mentioned in the previous chapter, administrative measure is one of the means of realizing socio-economic rights of the child. Concerning the institutional measures taken, formerly, it was the Ministry of Labour and Social Affairs (MOLSA) that has the mandate of monitoring the implementation of the Convention on the Rights of the Child (art 3 of Proc. No 10/92). Based on this the ministry was coordinating and studying the means and ways of implementing the rights of the child (art 29(9) of Proc No. 4/1995). To this end, the Child, Youth and Family Organization (CYFO) were established under the ministry to look for child rights and welfare. It was undertaking advocacy and awareness raising activity to promote rights of the child. In this regard, one remarkable achievements of CYFO that has been cited is the reproduction of the CRC in various languages of the country.

Currently, this mandate was taken over by Ministry of Women's Affairs, which becomes government organs in charge of children's affairs. The proclamation empowering the ministry to monitor the implementation of child rights states that:

*Ministry of Women's Affairs shall have the power and duties to:*

- 8) Following up the implementation of treaties concerning women and children and submit periodical reports to the concerned organs*
- 10) Undertake studies to promote the wellbeing of mothers and children and implement the same in cooperation with other organs.<sup>142</sup>*

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<sup>142</sup> Art 8 and 10 of Proclamation No 471/2005, Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of Federal Democratic Republic of Ethiopia, 2005.

Based on this, the ministry established Department of Children to have a mandate of looking child affairs. This could be regarded as one valid institutional measure taken by the government to realize the rights of the child.

Besides monitoring the implementation of the rights of the child, the ministry engaged in promotion and awareness raising activity regarding the rights of the child.

Furthermore, the government established Justice and Legal Research Institute having the objective of undertaking studies and research activities with a view to strengthening and modernizing the justice and legal system.<sup>143</sup> This institute has the power and duty to review existing laws of the country and design revision research programmes. It further undertakes studies and research with a view to initiating legislation of new laws necessary for the full-fledged development of the country legal system.<sup>144</sup> Indeed, this institute revised laws that affect children; Federal Family Law of 2000 and Criminal Code of 2004 are notable examples. Since this institution plays major role in checking the existing legal frameworks compliance with the standards of protection of rights of the child, it could have great significance for the implementation of rights of the child in question.

The other worthy step taken by the government is the establishment of Human Rights Committee and Institution of Ombudsman. The FDRE constitution under its art 55(14) and art 55(15) provides that House of People's Representatives to establish Human Rights Commission and Institution of Ombudsman with a view to protect and promote human rights. As a result, these two institutions i.e., Human Rights Commission and Institution of Ombudsman were established by proclamation No 210/2000 and 211/2000 respectively. The Proclamation for the Establishment of Human Rights Commission gives the right to any victims of human rights violation who have vested interest to compliant before it. Further, the Commission has the power and duty to ensure laws, regulations and directives as well as government

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<sup>143</sup> Article 4 of Council of Ministers Regulation Number 22/1997, Justice and Legal Research Institute Establishment, 1997.

<sup>144</sup>Id, article 5.

decisions and orders do not contravene the human and democratic rights of citizens guaranteed by the constitution. These institutions can play great role in the promotion and protection of human rights. But the problem is that these institutions do not have enforcement powers and its decisions are not binding. This made the role to be played by these institutions in the promotion and protection of human rights less effective.

### **Judicial Measures**

Though the performance of the country in this regard is not promising, we need to look controversies in relation to it. For one thing, taking of judicial measure necessitates recognition of rights and entitlements in sufficient detail. Conversely, the socio-economic rights provided in the constitution lacks clarity even as to rights incorporated under it. There is also lack of implementing legislation with regard to rights provided under the constitution. On the other hand, although economic, social and cultural rights should be regarded as justiciable, there exists uncertainty as to justiciability of socio-economic rights. Interview with Ato Solomon Biereda, judge of Federal First Instance Court reveals that there were less or no cases before the court regarding violations of socio-economic rights. This stems from the existed ambiguity concerning the justiciability of socio-economic rights. In relation to this, the Committee on Rights of the Child emphasized that both civil and political rights as well as economic, social and cultural rights ought to be justiciable.

The other problem that aggravates the situation of the country in relation to practical judicial measures is lack of clarity as to the jurisdiction of courts to entertain cases related to constitutional matters. This is as a result of power provided to House of Federation to decide on all constitutional disputes under art 83(1) of the constitution. This creates debate as to whether courts have jurisdiction to entertain cases related to constitution. But the power under art 83(1) is to interpret constitutional provisions in case of dispute between the constitution and other law. So, this should not be taken as exclusion for courts to enforce constitutional provisions including socio-economic rights.

Although the constitution paves the way for the domestic application of international instruments by making part of law of the land, some contrary arguments appear. The argument is that courts only have to take judicial notice of laws published in Negarit Gazeta.<sup>145</sup> Consequently, certain treaty to be applied by courts has to be published in Negarit Gazeta. On the contrary, the writer argues that the constitution, which is supreme law of the country, clearly made this treaties integral part of law of the land and together with courts have jurisdiction over cases arising under international law. So courts can apply ICESCR and CRC to give effect to socio-economic rights of the child.

The other necessary judicial measures is affording of remedies in case of violation of socio-economic rights. The obligation to afford remedies for violations of human right requires in the first place the existence of remedial institutions and procedures by which victims may have access. In this regard, the right of access to justice i.e. the right to bring justiciable matter to, and to obtain a decision or judgment by a court of law is provided under art 37(1) of the constitution. Therefore, it can be said that constitution guarantees procedural remedies to socio-economic rights violations. Regarding substantive remedies, still there lacks clear and comprehensive laws that provide range of remedies to guide courts. This should be criticized because of the fact that recognizing a right without guarantying clear remedies in case of violations amounts as making the enforcement of the right less valuable.

In the discussions above we just tried to look the steps taken by the government of Ethiopia to realize rights of the child in general and socio-economic rights of the child in particular. Here, we need to look what specific measures/activities the Addis Ababa City Administration are taking to realize rights to health and education of street children. Since we gave particular concern to the case of street children of Addis Ababa, activities implemented in relation to realization of rights to our concerned groups needs assessment.

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<sup>145</sup> This argument is based on article 2 of Proclamation No 3/1998 that provides the establishment of Negarit Gazeta.

As known, child rights concern in relation to education and health, demands coherent and integrated move by different sectorial organs. Addis Ababa City Administration executive organs are currently reformed by Proclamation 15/2001 that provides the mandate of different sectorial bureaus under the City Administration. Among those bureaus, Addis Ababa City Administration Women's and Children Affairs, Education Bureau, Health bureau and Civil and Social Affairs are organs having mandates highly related to our case. Thus, we will have a look of each organ with respect to underlying activities in next sections.

### **Addis Ababa City Administration Bureau of Women's and Children Affairs**

As one executive organ of the City Administration, the mandate of bureau of women's and children affairs are specified in Proclamation No 15/2001. Accordingly, the bureau is mandated to follow up whether the rights of children are respected in the implementation of policies and laws in the city government, coordinate activities for solving social problems of children, establish agreement with NGOs operating on projects related to children and follow up and submit reports regarding such projects to the concerned bodies.<sup>146</sup>

Particularly under this bureau, there is a department on child rights called, Child Right Resections, Support and Protection giving Services. This department undertakes study on situation of children, give advocacy and create awareness in relation to child rights, welfare and protection to children themselves and the society as well. Further, this department gives service and material support for vulnerable children including those children living in difficult circumstances/street children.

As the interview with Ato Mustefa Reshad, Research Project Advocacy Officer in Addis Ababa City Administration Women's and Children Affairs Bureau, reveals that the department in collaboration with UNICEF is currently preparing a project that

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<sup>146</sup> Article 36 of Proclamation No 15/2001, Addis Ababa City Government Executive and Municipal Service Organs Establishment Proclamation, 2009.

devises solutions to the problem of street children including reunification with families, sending to their home towns and assisting their participation in education and work.

However, there is no any research and study conducted in relation to street children till recently. This is because of the fact that the collaboration of child issues under the Bureau of Women and children Affairs is a recent phenomenon. On the promising side, the Bureau of Civil and Social Affairs, the former organ in custody of child issues, is currently conducting ongoing study on situation of street children in Addis Ababa. Even formerly this bureau was conducting and rendering various services for children and youth under difficult circumstances. As street children falls under the category of CEDC, the program in relation to them were undertaken by this organ. Thus, assigning certain organ to control children's can be considered as institutional measures taken by the government.

### **Bureau of Health**

Bureau of health is an organ under the city administration that regulates matters related to the health of children. According to Proclamation No 15/2001 that provides for the Establishment of Addis Ababa City Administration Executive Organs, the Health Bureau of the city is mandated to provide or cause provision and supervision of children health care services. For this purpose the health bureau has different sectorial offices under it. To note in relation to children, there exists department of Family Health, under this there is one sector office called Children Health. This office sets plans of actions to be achieved in relation to child health and acts accordingly. The main tasks conducted by this office, among others include supervision of health care institutions and awareness raising activity in relation to health of child.

In addition, the city government has issued a Proclamation to provide for the Addis Ababa City Government Health Service Delivery, Administration and Management (Proc No 10/2003). This proclamation enumerates the manner in which medical services may be provided. It further provides services that public can use for free or

exempted health services. Hence, this could benefit the public in general and children in particular as it allows certain services free of fee.

Moreover, the Bureau of Health has a scheme in which those who can produce evidences of their inability to afford expenses of health services are entitled to a Waiver Scheme.<sup>147</sup> This is to mean that those who could produce such evidences are entitled to get free medical services from health institutions. In this arena, if any of street children produces such evidences can enjoy the waiver scheme. Mostly, these evidences are claimed from Kebeles or Civil and Social Affairs Bureau. Regarding Kebeles, there is a requirement that the person should have Identification Card that expresses his/her being residence of that specific Kebele. As regards this, children of the street could not get Identification Card. Hence, there is a problem of getting evidences of inability to afford medical expenses. So, their enjoyment of Waiver Scheme becomes questionable.

Further, the city government health service delivery institutions renders exempted health services free of charge.<sup>148</sup> These categories among others, includes expanded program of immunization for children under five and immunization to prevent expansion of epidemics.

As said, health services provided in the city by health institutions are undertaken in line with National Strategy known as Integrated Management of Childhood Illness (IMCI). This strategy have main objective to reduce childhood mortality and morbidity and promote childhood development. This strategy is designed to implement child health care service in an integrated manner. In line with this strategy health institutions of the city give health services to children.<sup>149</sup>

In addition, immunization of children against six childhood illness is provided free of charge in public institutions of the city. As emphasized, this is provided based on the

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<sup>147</sup> Article 18 of Proclamation No 1/2003, A Proclamation to Provide for the Addis Ababa City Administration and Management, 2003.

<sup>148</sup> *Id.*, article 19.

<sup>149</sup> Interview with Sister Helen Adugna, Child Health Officer of Addis Ababa City Administration Health Bureau.

national health strategy which focuses on promotive, preventive and basic curative aspects of health care. Further these institutions provide appropriate medical treatments to children.

In relation to manner of treatment in such institutions, as emphasized by Sister Helen Adugna, Child Health Officer in Health Bureau, all children are treated on equal basis. Priority is given on severity of health problem faced.

There is also a programme called Health Service Extension Program (HSEP) which provides community based health service delivery. This program has the objective of improving access and equity to preventive essential health. The main target area of this program is rendering house to house services. Under this system the Health Extension Workers, beyond giving health services are also engaged in awareness raising activities to the community.

Regarding awareness creating activities there is no any program conducted for street children under this bureau.<sup>150</sup> As mentioned above though there is HSEP, its area of target is a major impediment for creating awareness to street children on health matters.

The government also provides vaccinations either for children only or adults as well to prevent epidemics. The government tries to give such services to street children by mobile team. But as the interview with such children reveals most of them were not able to get vaccine, this seems due to insufficiency of services which made inclusive of street children.

### **Education Bureau**

The other organ of the city that is related to our case is education bureau. It is mandated to accord affirmative measures as regards to educational services given to women, children, adults and for persons with special needs. Particularly there exist

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<sup>150</sup> Id.

departments dealing with the education of children and adolescent by giving particular concern to the educational needs of children and adolescents respectively.

Under the Bureau there is a programme called Alternative Basic Education for children under the age range of 7-14. It is prepared for those children who have desire to learn but unable to get its access.<sup>151</sup> It can be concluded that this instances paves wide opportunity for street children to involve in such education. It further amounts as increasing the access to basic education.

Recently, free pre-school education access is facilitated by the government. Formerly, there has no such kind of free pre-school education. Regarding this, Education Bureau established thirty pre-school institutions to increase children's access to free education. This could also be commended as good achievement.

As inferred from the interview with Ato Solomon Wondemu, Curriculum Preparation Expert of Education Bureau, in collaboration with UNICEF the Bureau facilitates provision of necessary education aid materials for those who could not cover its expenses, including exercise books, pens, pencils and books.

Further, it is revealed that the works are undertaken to expand education access of all children. There is no any work done to expand the sole education access of street children since it amounts to discrimination. In addition, treating them differently alleged to raise the issue of equality. Though it seems right, there is a need to take special measures for the most disadvantaged street children.

As emphasized, concerning awareness creating activity there is what they call "Yehitsanat Mebet Kebeb" in primary schools, in which awareness related to right to education and other rights could be grasped. But this only covers those children who are attending school, not inclusive of most street children who are not attending.

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<sup>151</sup> Interview with Ato Solomon Wondemu, Curriculum Preparation Expert of Addis Ababa City Administration Education Bureau.

It can be said that though there is access to free primary and secondary education at government schools, lack of access to necessary education aid materials hinders the participation of street children. Especially those children of the street could not be able to attend regular schools as they face difficulty of covering other basic necessities like food.

#### **4.10 Assessment of Compliance of Government with respect to Obligations of Realization**

It is stated that government has immediate as well as progressive obligations to realize rights to health and education of the child. As said in the first chapter of this work, street children due to difficulty of their living conditions, needs special concern and attention in implementation of their rights.

The government takes some positive steps towards realizing rights under our discussion. Among this, policy and strategic measures in relation to education and health are commendable steps. This could be taken as structural indicator for measuring performance of the state.

Concerning institutional measures, separate working department on child health and education is established at the Addis Ababa level. Such organs work for the implementation of sectorial plans and strategies related to rights to health and education of a child. Undeniably, this will have contribution for the better realization of rights to health and education of the child. However, there exists a gap in giving particular priority to the needs of street children. As known, though these children could be beneficiaries of what is provided for all, policies and strategies should visibly give particular concern to the special needs of these children.

Concerning awareness creating activities, most of our respondents were not aware of the rights they have particularly the rights to education and health. As regards health, only some of them knew very well how to protect themselves from preventable health problems. Though the realization of the right to health of the child highly demands

creating awareness to children concerning basic health related matters, the work in this arena is not promising.

Conducting study and research in relation to situations of street children can be a back up towards the movement of realization of their rights. Further, it can also be considered as one valid step in rights realization. In relation to this, their living conditions, educational level, health status and related problems need to be assessed to rectify the existing problems. On the negative side, there is no any study conducted in relation to the participation of street children in education and health by concerned organs of the city. As government organs, they supposed to ascertain the existing situations to undertake obligations of realization.

As I mentioned in the previous chapter, giving budgetary priority to the case of children under difficult circumstances is one means of realizing their rights. Thus, budgetary analysis has to be done in a way that gives some priority to vulnerable street children. As the interviews' conducted reveals, the budget concerning education and health is allocated to all children in equal manner. This problem must be rectified as it helps in our way of solving the problems of street children.

In cases of violations of rights to health and education of the child, there needs to be certain arrangements to hear the complaints of violations. Mostly, socio-economic rights violations seem to be out of the role of courts. Since judicial measures are indispensable as a means of rights realization, modification in this regard has to be done.

Though working with some organs of UN like UNICEF on existing issues of street children is commendable, there exist some impediments for NGOs working in this issue. As said before, Women's and Children Affairs Bureau of Addis Ababa establish agreements with NGOs operating in the city on child related projects. Even if it seems good efforts, these days there exists certain practical constraint for such NGOs. Some informal talk with worker of certain NGO reveals that there is less encouraging environment from the sides of the government.

## I. CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

As a matter of reality, the situation of children in the society is not as good as the other members. Children owing to their immaturity and vulnerability need nurturance, protection and care. Thus, as member of human family, children are entitled with fundamental rights that are bestowed in International Bill of Rights. In fact, the general human rights instruments, notably, UDHR, ICCPR and ICESCR at international level and the ACHPR at regional level are equally applicable to children as well.

Above all, taking into account the special need of children, specific child right instruments have also been adopted. In this regard, the Convention on the Rights of the Child (CRC) that sets out a range of rights of the child is the most notable one, with its comprehensive list of child rights incorporating civil, political, economic, social and cultural rights and addressing the whole concern of children.

Generally, there can be two sets of rights of the child, one is civil and political rights and the other is economic, social and cultural rights. Socio-economic rights are recognized both in ICESCR and CRC. This set of rights among others, includes, the right to health, education, right to adequate food, right to water, right to adequate standard of living and right to social security.

As a consequence of getting international recognition, states parties assume an obligation to realize socio-economic rights of the child. States' obligations generally include the obligations to protect, respect, fulfill, progressive/immediate obligations, obligation of conduct/result and minimum core obligations.

The rights to health and education among others are the most indispensable and inalienable rights of the child that has obtained universal acceptance. As with other

socio-economic rights, these rights include both entitlements and freedoms. Here the issue of accessibility, sufficiency, acceptability and affordability are included. Besides, the right to health in particular needs the fulfillment of underlying determinants of health i.e., food, water and housing rights. Thus, the realization of the right to health is heavily dependent up on the fulfillment of access to adequate food and nutrition and water and sanitation facilities. The relevancy of the above underlined facts is also evident in case of the right to education. Hence, participation in education being basic for child's development, demands the fulfillment of access to adequate food, water and sanitation facilities.

Based on its international obligations, the government of Ethiopia entrenches socio-economic rights in the bill of rights section of the constitution. Though this is the case, the provisions of the constitution fail to sufficiently incorporate rights that are to be regarded as socio-economic rights. Even the terms used to express rights are crude and lack clarity. In fact, the recognition of some rights in the constitution is promising, but still, in generic term without having any specification. Besides, even if the constitution made those international instruments ratified by Ethiopia integral part of law of the land, still there exist controversies in domestic application of international instruments.

In actual fact, there exist children who are living in extremely difficult socio-economic conditions that deserve special concern. Street children are one category of Children under Exceptionally Difficult Circumstances that need heightened protection.

Currently, the phenomena of street children/streetism become the concern of major cities of the world. Addis Ababa being capital city is experiencing this phenomenon in a great extent. As estimated there are around 60,000 street children in the city. As street is their major living and working area, these children are vulnerable to evils of different kinds ranging from, shelter, food and health problems, lack of access to

education and water and sanitation facilities, lack of cloth for exchange and shoe, and attack and abuse by others.

Most street children in the city live in difficult socio-economic conditions that could be perceived either from their living or working conditions. As the finding shows, considerable numbers of children of the street sleep on the ground areas of the city without having any protective environment. Relatively lower numbers of children under this category are living and sleeping in plastic shelters that are not able to shield them from the evils of extreme weather and other related problems.

As regards their working conditions, larger proportions of street children are engaged in begging to generate their daily income. Carrying of goods and selling of small items are the categories of work in the second stage in which higher numbers of street children participate. Hence, it can be concluded that these kinds of work have negative impact on the health of children as it encompasses exertion of effort beyond child's capacity.

The majorities of children are involved in the street because of survival needs, poverty, death of family and lack of support. Sizable portion of street children are involved in the street as a result of disagreements with family, need to support their families, born in the street, abuse and violence at home and peer pressure influence.

As the finding shows majority of sample children have faced health problem after joining street life. Among those children many of them had infected of Pneumonia Infections, followed by Respiratory Problems and Abdominal Problems. The lesser portion of these children was getting infected of Typhoid and Typhus and other diseases like Malaria and Heart Case. As noted, most of these health problems are the effects of, extreme weather, lack of hygiene (hygienic water and food) and communicable diseases due to sophisticated environment.

Many of these children that had faced health problems were able to get medical assistance. However, most of them could not get necessary medicines. Here, it can be said that medical assistances which are not backed by necessary drugs does not bring the intended result.

Only some of these children are in a position to get access to health care facilities. The remaining others have no access to such facilities. Some of sample children are also experienced discrimination while accessing treatment in governmental hospitals.

The major problem in which many of sample children are facing is lack of access to underlying determinants of health. As indicated in the findings, considerable proportion of street children does not get adequate food. As regards the source of their daily meals, many of these children get by begging leftovers that have high chance of being contaminated, which in turn leads to health problems.

Lack of sufficient water and sanitation facilities is another problem experienced by most sample children. This is found to be the cause for the health problems experienced by most children.

Regarding awareness of sample children, more than half of them do not have awareness concerning rights of the child and health related matters. These exacerbate the health situation of those children since they do not have sufficient information on how to protect themselves from different diseases.

Though some positive measures are taken by bureau of health, most of them is found to be less inclusive of street children. Even the exempted health service and the waiver scheme are not in away to benefit most street children.

As said, most of these children are not able to attend school after joining street life because of lack of support, access to education aid facilities, money for fee, poverty of family, lack of access to necessary facilities, health problem and treatments

experienced at school. Among those children who are not attending school, the number of children who are dropped out of school is much higher. Relatively sizable portion of these children have never attended school.

Only lower portion of sample children are attending school; while most of them got free education, the remaining lesser portion are attending paid education. Relatively lower portion of children have never attended school owing to poverty/financial problem, lack of support, and lack of access to education.

Though education is the most indispensable for the development of the child, considerable number of street children remains beyond the reach of access to education. Further, undertaken activities by the bureau of education fail to sufficiently tackle the existing problems of street children in this regard.

Though most of sample children are in need of shelter, adequate food, access to schooling, and better access to education aid facilities, work/means of income, sufficient access to water and sanitation facilities, their needs are left unmet.

Even if the government assumes an obligation to realize the rights of the child, the situations of street children remains non-observed. Though protections accorded to children in general are encompassing street children, their circumstance necessitates special concern. The measures and steps taken by sectorial offices are found to be insufficient to address the problems of street children. Despite the existence of institutional mechanisms to deal with the issue of children, the problems of street children remain less observed.

Since solving the problems of street children presupposes well undertaken studies or researches, there exist less researches and studies on this area. This could be one of the major problems that hinder the collaborated efforts towards the realization of rights of street children.

The other problem for realizing the rights of the child is lack of clarity in law and practice regarding remedies in case of socio-economic rights violations. It could be said that the existence of rights is meaningless unless backed by remedies in case of violations.

The situations of street children are persisted to be less visible in sectorial policies and strategies. This could be one step to be taken to realize the rights of street children and fulfill state obligation under international law. Failure to act according to binding obligations tends to violate the human rights of these children and becomes in contrary with international law.

Giving less priority to the situation of street children in allocation of budget and other forms of treatment is also one major problem that made that realization of rights of street children beyond reach.

## Recommendations

1. It seems as the government is giving less concern to the situations of street children. Though there exists some form of measures still much has to be done to realize their rights. Thus, the government in collaboration with concerned organizations has to move as effectively as possible towards realizing their rights.
2. As socio-economic rights provision in the constitution are provided in more generic term with less clarity, realizing such rights effectively necessitates the adoption of additional legislative measures. Thus, implementing legislation is essential to made rights guaranteed in the constitution directly enforceable.
3. Mostly, laws and policies are framed in a way to be applicable generally to all or particularly to children. In the existing laws and policies the concern of street children are found to be less visible. Though such laws and policies are pertinent to street children as well, their urgent situation needs special legislative response from the government. Thus, the government should frame laws and policies that visibly address the situations of street children.
4. The budgets in sectorial offices are assigned for children as a whole. There is no scheme of giving budgetary priority to children under Especially Difficult Circumstances/street children. The budget should be analyzed in a way to give priority to the most disadvantaged street children.
5. Solution devising programmes that basis the needs of street children have to be adopted. As regards this, different interventions mechanisms like reunifying with families, facilitating foster care families and adoption has to be espoused.

6. In relation to realization of the right to health of street children, as the finding shows, most of them are exposed to different diseases after joining street life. Though some of them have got medical assistance, most of those children were not able to get necessary medicines. Even if the waiver scheme and exempted health services are commendable, most street children could not participate in these schemes due to different impediments. Thus, laws related to waiver scheme and exempted health service delivery has to be framed in a way that would benefit street children.
7. Sectorial programmes undertaken by the government particularly in education and health should noticeably give particular concern to special needs of street children.
8. The problems of street children could not only be relieved by the activities of government organs, it further calls for the collaboration of concerned NGOs. As inferred there is less encouraging environment for the participation of such organizations. This problem has to be rectified as better realization necessitates creation of cooperative environment.
9. Awareness raising activity in relation to the rights of the child particularly the rights to education and health has to be given for children themselves and other concerned organs as well.
10. Laws and practices related to remedies in cases of socio-economic rights violations are not clear. Though the government assumes an obligation in this regard, the achievements recorded are not promising. Therefore, realizing socio-economic rights requires actual move towards avoiding such problems.
11. Domestic application of international instruments that recognizes socio-economic rights prerequisite the translation of such laws in different languages of the country. Relevant human right instruments are not translated

to local languages for the purpose of their application by courts. Much work has to be done either by the government or NGOs to rectify the existing problems related to the enforcement of international laws in domestic courts.

12. One of the factors that impede the enforcement of socio-economic rights in courts is the revolving controversies in relation to the mandate of courts. This ambiguity has to be avoided either by adopting further legislative measures or other effective measures.
13. Training and other awareness raising activities should be given for judges and other law enforcement agencies in relation to enforceability of socio-economic rights.
14. Urgent problems in which children are experiencing currently demands special institutional response on part of the government. Thus, independent human rights institutions for children having the mandate of receiving complaints' of socio-economic rights violations ought to be established.
15. Since moving towards solving the problems of street children presupposes well undertaken study in relation to their current situations. In this regard, there is no sufficient data in relation to the numbers and existing conditions of street children. The government as well as concerned NGOs has to undertake substantial work in relation to this matter.

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Interview with Ato Mustefa Reshad, Research Project Advocacy Officer of Addis Ababa City Administration Women's and Children Affairs Bureau on 15/10/2010.

Interview with Ato Solomon Wondemu, Curriculum Preparation Expert of Addis Ababa City Administration Education Bureau on 13/10/2010.

Interview with Sister Helen Adugna, Child Health Officer of Addis Ababa City Administration Health Bureau on 6/10/2010.

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## Annex 1 Questionnaire for Sample Street Children

1. Name \_\_\_\_\_ 2. Gender \_\_\_\_\_ 3. Age \_\_\_\_\_

4. Address

Sub-city \_\_\_\_\_

5. Place of Birth \_\_\_\_\_ Addis Ababa

Other places

6. For those who came from other places, why you leave your area?

7. Reasons for street life involvement

Death of one or both parents

To support families

Divorce

Lack of support

To satisfy basic necessities

Lack of shelter

Drop out of school

Disagreement with parents

Lack of work

Poverty of family

Others

8. How do you explain life in the street? What looks likes living in the street?

\_\_\_\_\_

9. How long have you been in the street? \_\_\_\_\_

10. What problems do you face in the street?

\_\_\_\_\_  
\_\_\_\_\_

11. What are your basic needs?

\_\_\_\_\_

12. Where do you usually sleep?

\_\_\_\_\_  
\_\_\_\_\_

13. Where do you get your clothes? Are they warm or comfortable?

\_\_\_\_\_

14. How do you get your daily income? Do you work? What type of work do you do? \_\_\_\_\_

15. How often do you eat your meal? Where do you usually get your daily meals? Is it sufficient?

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16. Have you ever been so sick/ injured?

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17. What problems have you had with your health?

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18. How has your general health in the past been?

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19. Have you ever required medical treatment? Have you ever been admitted to a hospital? If yes, do you received free or paid medical service? From where did you receive the service? How accessible is the hospital service?

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20. Have you ever accessed necessary drugs/ medicines after treatment? If yes, from where did you get it?

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21. Are you receiving any treatment now? Are you satisfied with your medial treatment?

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22. Did you benefit from government aid/ support to alleviate your health problem? If yes, in what way did you get the service? Are you treated well there?

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23. Did you experience discrimination while receiving health services? If so, in what and where?

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24. What immunization and vaccination have you received?

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25. Where do you get water and sanitation facilities? Where do you go to wash/clean yourself? How often? Is it sufficient?

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26. What kind of medical information do you get? Do you aware of the rights of the child in general and rights to health and education in particular? If so, how did you get the information? In what way you protect yourself from different disease?

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27. Educational level

27.1 Attending       27. 2 Drop outs       27.3 Have never attending

28. For those children who are attending school, are you attending free or paid education? Where do you learn? What kinds of problems are you facing in your educational participation?

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29. For those children who are dropped out of school and have never attending school, what is the reason for your inability to attend schooling?

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30. Is there any support by the government to enable you to be beneficiary and participatory of education? If yes, in what way? If no, what do you think is the reason?

31. Do you have access to education around your locality?

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32. Do you want to get out from street life? What means could help you to get out from this life?

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## **Annex 2 Interview with Sister Helen Adugna, Children Health Officer of Addis Ababa City Administration Health Bureau**

1. What appropriate measures have been taken by the government to ensure equal access of health services particularly to children?
2. In what way the health policy and strategy of the country gives concern to children in general and street children in particular?
3. Taking in to account that street children face different kinds of health problems, which efforts have been taken to improve delivery of health services to street children?
4. Has any training been offered to street children? What means have been undertaken to raise awareness of street children? Has any health related education that addresses street children been conducted by the bureau?
5. Has any research been conducted on the vulnerability of street children to health problems and their access to health services?
6. Does the country's health policy and strategy have been fully accessible enough to meet street children's needs on health services?
7. If not, what measures shall be undertaken to facilitate/ enhance the accessibility of health services?
8. What measures undertaken by the government to assist street children in getting medical treatment with due regard to their available means?
9. Currently which projects are being implemented to increase the coverage of health services?
10. Does the deployment of the budget system prioritize the delivery of health services to children? If so, in what way it addresses the issue of children?
11. What progress registered in expanding the delivery of health services to children? And what problems faced in this regard?

**Annex 3 Interview with Ato Solomon Wondemu, Curriculum  
Preparation Expert of Addis Ababa City Administration Education  
Bureau**

1. What appropriate measures have been taken by the government to ensure equal access of education particularly to children?
2. In what way the education policy and strategy of the country gives concern to children in general and street children in particular?
3. Taking in to account the vulnerability of street children to different problems and the difficulty faced, which efforts have been taken to improve their participation in education?
4. Has any training been offered to street children? What means have been undertaken to raise awareness of street child regarding the relevancy of education? Has any education that addresses street children been conducted by the bureau?
5. Has any research been conducted on the educational participation of street children and their access to education?
6. Does the country's education policy and strategy have been fully accessible enough to meet street children's access to education?
7. If not, what measures shall be undertaken to facilitate/ enhance the accessibility of education?
8. What measures undertaken by the government to assist street children's participation in education?
9. Currently which projects are being implemented to increase access to education of all children particularly street children?
10. Does the deployment of the budget system prioritize the accessibility of education to street children? If so, in what way it addresses the issue of children?
11. What progress registered in expanding converges of education to children?  
And what problems faced in this regard?

**Annex 4 Interview with Ato Mustefa Reshad, Research Project  
Advocacy Officer of Addis Ababa City Administration Women's and  
Children Affairs Bureau,**

1. What are the listed duties and responsibilities of this sector with regard to children?
2. When did the bureau begin to follow up the issue of children?
3. Until now, which activities/ projects have been undertaken by the bureau that addresses the issue of children?
4. Which supportive environment were designed and implemented to meet the needs of street children particularly in areas of education and health? If so, in what way?
5. Has any research or baseline survey been conducted in the area of street children? If yes, when and in what basis?
6. Are there any human rights awareness raising activity been conducted to street children? If so, when and in what way?
7. On what basis the bureau undertakes its program and projects? /Whether it is based on the rights of the child provided in the constitution or international standards related to rights of the child /?
8. What frameworks have been developed for the constructive engagement of NGOs working on the affairs of street children?
9. Is any assistance given to stakeholders to enable their participation in such programmes? What schemes/ mechanisms/ have been established to monitor and evaluate their programs?
10. How the arrangement of the budget gives priority to the affairs of children?
11. Currently which programs are being implemented to practically ensure the realization of the rights of children?  
And what problems faced in this regard?