

Addis Ababa
University
(Since 1950)



**An Assessment to the Protection of Refugee
Children from Child Neglect, Abuse and
Exploitations in Ethiopia: The Case of
Kebribeyah Refugee Camp**

**Submitted in Partial Fulfilment of the
Requirement of Degree of Master of Art in Human
Rights at Institute of Human Rights
(Addis Ababa University)**

By

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Addis Ababa
University
(Since 1950)



ADDIS ABABA UNIVERSITY

INSTITUTE OF HUMAN RIGHTS

Thesis (HTRS 794)

Questionnaire to Residents of Kebribeyah Refugee Camp

“Any form of denial offered by the offenders seems a logical response. However, the denial of the behaviour by the child victims themselves or people who know about the abuse, such as families and professionals, are illogical!” Jackie Turton

Introduction and Consent Statement

This questionnaire is designed to gather information and data on Child Abuse, Neglect and Exploitations in Kebribeyah Refugee Camp. Thus, your honest response to answer the following questions will help me to discuss and recommend measures towards the combat against child abuse, neglect and exploitation.

In addition, the information you provide me will be kept confidential and will not be shared with other persons under what so ever condition and will exclusively be used for academic research purpose only. Hence, participation in this questionnaire is voluntarily and you can choose not to answer any individual question. However, I hope that you will participate in the questionnaire since your views are very essential for the success of this study as it is you who know about your residential experiences and situations.

With Regards

Caleb Alebachew

Declaration

I, Caleb Alebachew, declare that the work presented in this thesis is original. It has never been presented to any institution. Where the work of other persons has been used appropriate citation and quotation are used. In this regard I declare this work as originally mine.

Name _____

Signature _____

Date of Submission _____

Place: Addis Ababa, Ethiopia

Approval Sheet – 1

I, Ato Getahun Kassa, declare this study has been conducted under my supervision and further declare that I have approved its submission for the partial fulfilment of the requirement for the degree of Master of Art in Human Rights at the Graduate Program of the Institute of Human Rights, Addis Ababa University.

Name of Advisor

Signature

Date

Approval Sheet – 2

We, the undersigned, members of the Board of Examiners of the final defence by Caleb Alebachew Abrham have read and evaluated his thesis entitled “An Assessment to the Protection of Refugee Children from Child Neglect, Abuse and Exploitations in Ethiopia: The Case of Kebri Beyah Refugee Camp” and examined the candidate. This is therefore to certify that the thesis has been accepted in partial fulfilment of the requirements for the degree of Master of Art in Human Rights.

Name of Advisor

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Date

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Acronyms

ACHPR- African Charter on Human and Peoples' Rights

ACRWC-The African Charter on the Rights and welfare of the Child

AIDS-Acquirem Immune Deficiency Syndrome

ARRA-Administration for Refugee and Returnee Affairs

CANE-Child Abuse, Neglect and Exploitation

CEDAW- Convention on the Elimination of all forms of Discrimination against Women

CERD- Convention on the Elimination of All Forms of Racial Discrimination

CHW-Community Health Worker

CRC-Conventions on the Rights of the Child

CSE-Child Sexual Exploitation

DRC-Danish Refugee Council

DEVAW- Declaration on the Elimination of all forms of Violence against Women

DICAC-Development Inter Church Aid Organization

FDRE – Federal Democratic Republic of Ethiopia

FGC/M/-Female Genital Cutting or Mutilation

HIV-Human Immunity Virus

HPR-House of Peoples Representatives

HR's-Human Rights

IBR-International Bill of Rights

ICCPR- International Covenant on Civil and Political Rights

ICESCR- International Covenant on Economic, Social and Cultural Rights

ILO- International Labour Organization

IPs-Implementing Partners

IRC-International Rescue Committee

KBRC-Kebri Beyah Refugee Camp

MCDO-Mother and Children Development Organization

NGO's- Non Governmental Organizations

No-Number

OUA-Organization for African Unity

Procn.- Proclamations

RCC-Refugee Central Committee

RFC-Revised Family Code

SA-Sexual Abuse

SGBV-Sexual and Gender Based Violence

SIRAA-Security, Immigration and Refugees Affairs Authority

UN- United Nations

UNFPA-United Nations Population Fund

UNHCR-United Nations High Commissioner for Refugees

WA-Women Association

WFP-World Food Program

WHO- World Health Organization

YA-Youth Association

List of Tables

Table -1- Socio-Demographic Characteristics.....	48
Table -2- Socio-Economic Characteristics of the Surveyed Participants.....	49
Table -3 - Level of Knowledge(Awareness) on Child Neglect.....	52
Table -4- The Level of Practice on Child Neglect.....	52
Table -5- Reasons for the Practice of Child Neglect.....	53
Table -6- Knowledge/Awareness/ about Child Abuse.....	55
Table -7- The Level of Practice of Child Abuse in KBRC.....	56
Table -8- Level of the Practice of Corporal Punishment in KBRC.....	57
Table -9- The Usual Perpetrator(s) of Light Corporal Punishment in KBRC.....	57
Table -10- The Usual Perpetrator(s) of Excessive Corporal Punishment in KBRC.....	57
Table -11- Level of the Practice of Child Labour Abuse in KBRC.....	60
Table -12- The Usual Perpetrators of Child Labour Abuse in KBRC.....	60
Table -13- Summary of the Prevalence of Child Sexual Abuse in KBRC.....	63
Table -14- The Place Where most of Rape Abuse Cases Takes Place.....	64
Table -15- The Prevalence of Child (Early) Marriage in KBRC.....	65
Table -16- Married at the age of ____.....	67
Table -17- Prevalence of FGM in KBRC.....	69
Table -18- Knowledge/awareness/ about Child Exploitation in KBRC.....	70
Table -19- The Practice on Child Labour Exploitation in KBRC.....	71
Table -20- Reason(s) for the Practice of Child Labour Exploitation in KBRC.....	72
Table -21- The Practice on Child Sexual Exploitation in KBRC.....	72
Table -22- Level of awareness about child rights Laws of International, regional and national laws.....	73
Table -23- Awareness conducted by IPs.....	74
Table -24- Level of report on CANE to the concerned body.....	76
Table -25- Level of government responses to the Reports on CANE.....	77

Table of Contents

Titles	Pages
Declaration	i
Approval Sheet 1	ii
Approval Sheet 2	iii
Acknowledgement.....	iv
Acronyms.....	v
List of Tables.....	vii
Chapter 1: Introduction	
1.1. Background of the Study	1
1.2. Statement of the Problem	3
1.3. Research Objectives	4
1.4. Research Questions	5
1.5. Methodology	5
1.6. Scope /Delimitation of the Study/	5
1.7. Limitation of the Study.	6
1.8. Structure of the Study	6
Chapter 2: Review of Related Literatures	
2.1. The Child as Interdependent Agents of Human Dignity	8
2.2. Vulnerability of Children	8
2.3. Concepts and Definitions of Terms	9
2.3.1. The Concept of Child Neglect, Abuse and Exploitation	9
2.3.1.1. Child Neglect	10
2.3.1.2. Child Abuse	12
2.3.1.2.1. Corporal Punishment/Physical Punishment/.....	13
2.3.1.2.2. Child Labour	15
2.3.1.2.3. Child Sexual Abuse	16
2.3.1.2.3.1. Early(Child) Marriage	17
2.3.1.2.3.2. Female Genital Mutilation/Cutting/.....	18
2.3.1.3. Child Exploitation	19
2.3.1.3.1. Child Sexual Exploitation	20
2.3.1.3.2. Economic Exploitation of a Child	20
2.4. Refugee	21
2.4.1. Reasons to leave their home.....	22
2.4.2. Persecution that are Specific to Children.....	22
2.4.3. Camps and Settlements	23
2.4.4. Sexual and Gender Based Violence (SGBV) in Camps	22
2.5. Refugees in Africa	22
2.5.1. Refugees in Kebribeyah Refugee Camp	25
Chapter 3: Legal and Institutional Framework in the Protection of Refugee Children's Rights	
3.1. Protection of Children under International and Regional legal Instruments	28
3.1.1. The International Bill of Rights	28
3.1.2. The UN Convention on the Rights of the Child	30

3.1.3. CEDAW and CERD	31
3.1.4. International Labour Documents	33
3.1.5. The 1951 Convention relating to the Status of Refugees and Its 1967 Protocol.....	34
3.2. Regional Legal Instruments	35
3.3. The Ethiopian Legal Framework and Policies for the Protection of Children from CANE.....	36
3.3.1. The Constitution of the Federal Democratic Republic of Ethiopia, 1995 and the Constitution of the Revised Somalia Regional State, 2002.....	36
3.3.2. The Criminal Code of FDRE, 2004.....	37
3.3.3. The Civil Code of 1960 and the Revised Family Code of 2000.....	38
3.3.4. The Criminal Procedure Code of 1961.....	39
3.3.5. The Labour Proclamation No. 377/2003	40
3.3.6. Policies	41
3.4. International Specialized Agency, Civil Society Organizations, National Child Right Protection Institutions and Democratic Institutions	41
3.4.1. UNHCR	41
3.4.2. Civil Society Organizations	42
3.4.3. Ethiopian Children Rights Protection Institutions	43
3.4.3.1. The Legislative	44
3.4.3.2. The executive	44
3.4.3.3. The Judiciary	45
3.4.4. Democratic Institutions	45
Chapter 4: Finding and Discussion	
4.1. Methodology Narration (Data Sources).....	47
4.2. Socio-Demographic Characteristics of the Study Participant	48
4.2.1. Background Characteristics of the Study Population.....	49
4.3. Findings and Discussions on Knowledge, Practice and Reasons for CANE in KBRC.....	51
4.3.1. Knowledge, Practice and Reasons for Child Neglect in KBRC.....	51
4.3.2. Knowledge, Practice and Reasons for Child Abuse in KBRC.....	55
4.3.2.1. Corporal Punishment.....	57
4.3.2.2. Child Labour Abuse.....	60
4.3.2.3. Child Sexual Abuse	63
4.3.3. Knowledge and the Practice of Child Exploitation in KBRC.....	70
4.3.3.1. The level of Awareness on Child Exploitations.....	70
4.3.3.2. The Practice of Child Exploitation.....	71
4.4. Awareness Regarding Child Right Laws and Level of Reports of CANE.....	73
Chapter 5: Conclusions and Recommendations	
Conclusions.....	79
Recommendations.....	81
Bibliography.....	viii
Appendix.....	ix

Chapter 1

Introduction

1.1. Background of the Study

Political instability, ethnic conflicts, famine, the arm trade, and increased militarism have been constant uses of turbulence of human beings. Each of these factors, in addition to having a variety of consequences of their own, also has one effect in common: they all contribute to greater mass movement of population in the world. That is why Anne F. Bayefsky and Joan Fitzpatrick said that “Violation of human rights is a major cause of forced displacement”.¹

The problem of refugee is a global problem, but that does not mean it is equally dispersed on all shoulders of the world. The developing countries host ninety percent of the world’s refugees. This shows that the poorer countries like Ethiopia bear the current problem of refugees’.²

One category of displaced people is children. It has been estimated that, in 1996, of the more than 43 Million people worldwide that were either displaced within their countries or of fleeing across borders as refugees at least half were children.³ The same people who are forcibly displaced by the end of 2012 are said to be the highest since 1994 and are estimated to be 47 million people out of which refugees cover 15.4 million people.⁴ Out of this No. both in the year 2011 and 2012 refugee children constitute 46%.⁵ The vast majority of the world’s refugee children seek sanctuary in poor countries. The proportion of children among population of concern was 54% in Africa, 46% in Asia, but only 25% in Europe.⁶

Children need special care and assistance because children are vulnerable. Thus, since children are dependent they need the support of adults, not only for physical survival, particularly in the early years of childhood, but also for their psychological and social well-being.⁷

¹ Anne F. Bayefsky and Joan Fitzpatrick , Refugee and Human Rights: Human Rights and Forced Displacement (2000), Kluwer Law International, Hague, Nezerlands, p.ix

² Kibret Markos, The Somali Refugees in Ethiopia and their Treatment Under Ethiopian and International Law, AAU, FOL, May 1995,p.2 [Unpublished]

³ UNICEF Facts & Figures of 1997 (New York, UNICEF, 1997, cited at Anne F. Bayefsky and Joan Fitzpatrick (Eds.), Human Rights and Forced Displacement (2000), Martinus Nijhoff Publishers, P.89

⁴ UNHCR Global Trends, Displacement the New 21st Century Challenge, (2012), p.3

⁵ Ibid.

⁶ UNHCR, Statistical yearbook 2003, P.54 from the book UNHCR, The State of the World’s Refugees: Human Displacement in the New Millennium (2006), Oxford University Press, P. 20

⁷ Ibid.

Refugee children face far greater dangers to their safety and wellbeing than the average child. The sudden and violent onset of emergencies, the disorder of families and community structures as well as the acute shortage of resources with which most refugees are confronted, deeply affect the physical and psychological well-being of the refugee children. It is a sad fact that infants and young children are often the earliest and most frequent victims of violence, disease and malnutrition which accompany population displacement and refugee outflows.

Helping refugee children to meet their legal, physical and social needs often means providing support to their families and communities at large. Children are physically and psychologically less able than adults to provide for their own needs or to protect themselves from harm. Consequently, they must rely on the care and protection of adults. Refugee girls are often even more vulnerable than refugee boys. In some cultural and social contexts, girls are less valued than boys and, consequently, are more often subject to child neglect, abuse and exploitation (CANE). Therefore, they are subject to sexual abuse, assault and exploitation in greater numbers than boys are.⁸

Although children share with adult refugees the need for protection and assistance, children however, have needs and rights additional to those of adults. Hence, care must be taken to ensure that these special needs and rights are perceived, understood, attended and practiced by those who seek to protect and assist refugees generally.

Accordingly, attempts to assess the studies conducted in the relevant study area are made and to mention some of these relevant researches are: “The Somali Refugees in Ethiopia and their Treatment under Ethiopian and International Law”, which was conducted by Kibret Markos AAU, FoL, in May 1995, was a research carried out without specific research topic; “The Legal Protection for Women and Children in Refugee and Conflict Situations under International Law” by Uchenna Biebele Okiwelu, AAU, FoL, in June 1999, was a research written with the general explanation on the protections of the above vulnerable groups and not with the specific child issue and specific refugee camp; “The Legal Protection of Refugees in Ethiopia” by Yonatan Yehdego, AAU, FoL, June 2002, which is once again too general, without specific study group and refugee camp.

⁸ Supra Note 3, P.100

Thus, with due respect and recognition to the above researchers who've given me the roadmap in the researchable area, this research is conducted in an attempt to fill the gaps observed by those research areas, the implementing partners (IPs) reports and indicating studies by different INGO's for the above mentioned unpublished researches were too general in issues such as the study area, group, types of abuse, neglect and exploitation (ANE) besides the clear indications for the existence of CANE in Ethiopian refugee camps. Thus, the further study of assessing the level of protection of the refugee children's living in Ethiopia from selected aspects of child abuse, neglect and exploitation of the Kebribeyah refugee camp (KBRC) is a must.

1.2. Statement of the Problem

The wealth of human resource of a nation plays a significant role in its overall social, cultural, economical and political aspects and this in turn depends on the welfare of its child population. Children especially vulnerable refugee ones need a safe and conducive environment for healthy growth and development in terms of social, cultural, psychological, ecological, legal and political aspects. They need and deserve special attention and consideration by all concerned actors including government, family and community. Thus, children due to their age and level of maturity could easily be affected by adverse manmade and natural disasters and the damage that occurs to them may have long term effects on their growth and development.

An initial report of UNHCR on the issue at hand recognizes the fact that the protections of the refugee children against ANE, in Ethiopian refugee camps in general are not satisfactory.⁹ Similarly, an assessment made by UNFPA indicated for the existence of GBV such as sexual abuse and exploitation, domestic violence, early marriage, FGM, abduction, child trafficking, child labour leading to sexual exploitations which are the explicit forms of CANE are taking place.¹⁰

The 1995 FDRE Constitution extended to all children's including refugee children the right to liberty from arbitrary detention, due process in criminal prosecutions, and access to justice in civil matters. According to UNFPA, however, there appears to be little legal recourse for child protection issues in Kebribeyah refugee camp. Similarly, UNHCR's 2006 Standards and

⁹ UNCHR, Ethiopia 2007 Annual Protection Report, p.4 Besides, please note that, the researcher was forced to use a data of 2007 as I was not allowed to get the most recent relevant data due to the reason of confidentiality.

¹⁰ UNFPA, GBV Assessment Report in Kebri Beyah Refugee Camp, Somali Region, and Shimelba Refugee Camp Tigray Region, Ethiopia (February 19th- March 6th 2007), p.5

Indicators Report indicated that refugee reporting of sexual abuse and exploitation was less than 40 percent. Besides the above facts, the same report shows that there were no proper functioning and follow-up on GBV incidents in Somali camps unless exceptionally brutal or involving minors. In KBRC for Somalis, UNHCR further reported that FGM, sexual violence, and denial of girls' education are common.¹¹

Besides the above facts the researcher has further tried to assess on the prevalence of CANE in Ethiopian refugee camps. Thus, as per the response gathered from the concerned major Ethiopian refugee children's implementing organs such as ARRA, UNHCR and IRC the availability of the issue of CANE in KBRC is high. Hence, in order to surely speculate such prevalence and from new research topic, methodology and subject, the study on the issues in relation to international (protection) standards is a must.

1.3. Research Objectives

The general objective of the study is to assess whether or not the protection and the overall frameworks against some aspects of CANE of the refugee children in Ethiopia in general and KBRC in particular are protected according to the international standards. In line with this general objective, the study attempts to:

- Examine whether the protection against some aspects of CANE of KBRC's are according to the international, regional and domestic laws or not; and
- Assess the KBRC's communities level of awareness, the practice, the reporting and the level of responses by IPs to the selected aspects of CANE.

1.4. Research Questions

The research tries to investigate the level of protection of some aspects of CANE of KBRC and in particular will try to attempt to forward recommendations through the following research questions:

- Do the protections against some aspects of CANE of KBRC's are implemented in accordance with the international, regional and domestic laws or not? And

¹¹ Ethiopia-United States Committee for Refugees and Immigrants; available at www.refugees.org last accessed on 09/11/2013

- What are the levels of awareness, practice, the reporting of the communities of KBRC and the responses of IPs to the selected types of CANE?

1.5. Methodology

The methodology adopted for the study are analytical review of available literatures and an assessment of international, regional and national norms and standards on refugees from some aspects of CANE by referring to books, legal materials, articles in scholarly journals, laws and other official and unpublished documents have been employed.

In addition, semi structured questionnaire, an interview with selected government agencies and NGO's such as (MWCA, ARRA, UNHCR, IRC, PPO, judges) and other relevant focal persons, FGD with the selected participants from the youth group, school teachers, and implementing stake holders and personal observation is conducted.

1.6. Scope /Delimitation of the Study/

An assessments against the selected aspects of CANE, more specifically Child neglect; such as: burns, drowning, poisoning and traffic accidents; Child abuse: corporal punishment, child labour; sexual abuses such as FGM, early marriage, rape both against female and male child, touching the sexual organs of the female and male child; and child exploitation: Labour and Sexual exploitation areas of refugee children will be conducted. Hence, it should be noted that the research does not address other types of CANE which are not addressed above.

In addition, it would be good to consider that though there are other vulnerable groups in the study area such as women, elderly and disabled people; the research paper is limited to children and the above mentioned research topics only. Besides, the paper gives more emphasis to the legal and the psychosocial aspects to a smaller extent.

1.7. Limitation of the Study

The research tries to address the researchable problems at hand but almost all the child refugee protection or service implementing agencies such as UNHCR office in Ethiopia, ARRA, NGO's such as IRC were not willing to give their data of the incidences of CANE specifically to the data on child sexual abuses for they consider the issue as "sensitive" and confidential. Let alone the under reported nature of CANE's which do takes place in the study area, the accuracy of the

available data on such matters could be unreliable. Hence, the sensitive nature of the research topic has led hindrance to make accuracy to the research output.

Though the researcher has the courage, determination and the commitment to take time to make the research at the study area even to eastern border of Ethiopia, Somali region where insecurity of the area, hardship of the weather and similar factors, the available shortage of money allotment for the research from the university are some of the limitations of this paper.

Accordingly, the data used for the study from the study area are very small (0.61%); the findings of this paper should be interpreted very carefully whenever they are inferred to the population of the refugee community at large or to KBRC in particular.

In addition, due to the personnel's in the research areas believe that a research in the area of human rights are linked with human rights watchdogs such as the Human Rights Watch¹², the researcher of this paper was not only imprisoned but also they took my recorded tapes, photos and other relevant documents of the FGD as they considered me as a spy of human rights defenders.

1.8. Structure of the Study

The research paper encompasses five chapters. The first chapter deals with the introductory section for the study(major aspects of research proposal). The second chapter strives to identify the general introduction of the meanings of important terms/concepts of the research and overview of relevant literatures. In the third chapter it will try to glance the international, regional, and national legal instruments. The fourth chapter endeavors to survey the practical assessments on the protection from CANE with the analysis of the available cases of the study and interpretation of the data. Finally, the fifth and the last chapter cover the brief conclusion and recommendations.

¹² According to David P. Forsythe (Editor in Chief), Encyclopedia of Human Rights (2009), pp.160-161; national and international human rights organizations are taken as an enemy of EPRDF(the leading party) for they very often publicize human rights violations that takes place in Ethiopia.

Chapter 2

Review of Related Literature

Children have been abused throughout human history. But only recently, and only in particular countries and cultures, has the abuse of children come to be seen as a major social problem and a main cause of many people's suffering and personal problems.¹³

2.1. The Child as a Foundation Human Dignity

“The child is the father of man,” which refers to that it is during childhood that foundations of the personality of an individual are laid. It will require a generation of thinking, courageous, democratic and socially responsible citizens. S/He will have to begin rearing them in our nurseries, schools and playgrounds;¹⁴ that is why “Childhood is considered as the time when minds, bodies, values and personalities are being formed. And it is a time when even temporary deprivation is capable of inflicting lifelong damages on human development. It follows that the vital, vulnerable years of childhood must be protected at all costs”.¹⁵ Grant added that, the reason behind is “because they are paying with one chance to grow normally in mind and body”.¹⁶

The nation's children are supremely important assets. Their nature and concern are our responsibility. Children's programme should find a prominent part of our national plans for the development of human resources, so that children grow up to become healthy citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivations needed by society. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our large purpose of reducing inequality and ensure social justice.¹⁷

2.2. Vulnerability of Children

Onora O'Neill said “Young children are completely and unavoidably dependent on those[adults] who have power over their lives”¹⁸. Though this statement is true to the first 6-8 years of

¹³ Rekha Shrivastava, International Encyclopedia of Women Rights and Children's Rights(2009), 305

¹⁴ Id. P. 457

¹⁵ UNICEF's Executive Director James P. Grant stated in the UNICEF's contribution in the speech of The State of World's Children in 1995 in the Copenhagen Summit

¹⁶ Ibid.

¹⁷ Supra Note 13, p. 488

¹⁸ Burns H. Weston, Child Labour and Human Rights: Making Children Matter (2005), P.11 Citing Onora O'Neill

childhood, we do not respectfully disagree, as would also most modern anthropologists, historians, and sociologists of childhood. While usually dependent on adults when very young, children are no longer “completely and unavoidably” dependent on adults as they mature in age and in experience.¹⁹

As children do not have legal autonomy or the right to make decisions on their own for themselves. Instead their adult caregivers, including parents, social workers, teachers, youth workers and others are vested with that authority depending on the circumstances of the child.²⁰

2.3. Concepts and Definitions of Terms

‘Child/Children/’: are persons under the age of 18 years unless, under the law applicable to the child, majority is attained earlier.²¹ Many countries laws, policies, directives and many researchers have adopted the definition adopted and forwarded by the UNCRC.²² Similarly, Article 215 of the RFC of the FDRE defines a ‘child’ as every individual of either sex who has not attained the full age of eighteen. The ACRWC also defines the term as: “for the purpose of this charter, a child means every human being below the age of 18 years.”²³ This is the definition used in this research because the ACRWC goes further than the CRC in some aspects such as in prohibiting child marriages.²⁴

2.3.1. The Concept of Child Neglect, Abuse and Exploitation

There are thousands of different and conflicting definitions of “child neglect”, “child abuse” and “child exploitation” with even the different types of abuse in use today. Some describe child maltreatment in terms of proscribes parental conduct; some focus on the harm to the child and many are contained in both or other. While many definitions share common approaches, elements and even phraseology, the different combinations and variation seem endless. That is why Besharov considers that this kind of definitional inadequacy has had harmful effect on research.²⁵

Accordingly, it is to be stressed that there may be overlaps and connection between different forms of abuse and the problem associated with their definitions. Thus, a child may be physically

¹⁹ Ibid.

²⁰ Supra Note 13, P.302

²¹ Article 1 of the United Nations Convention on the Rights of the Child, 1989

²² Supra Note 13, pp.302-308

²³ Article 2 of the African Charter on the Rights and Welfare of the Child, 1990

²⁴ Ibid. Article 21(2)

²⁵ A.K.JHA, Child abuse and Human Rights, (2006), VOL.1, P.16 Citing Besharov (1981) p.384

and sexually abused, physically abused and neglect, physically/sexually abused and emotionally abuses and so on. This is because for instance emotional abuse is theoretically able to occur by itself, it also almost certain to accompany or be a consequence of the other forms of abuses.

2.3.1.1. Child Neglect

The word ‘neglect’ originates from the Latin *neglectus* ‘the fact of taking no notice.’ Similarly, the World Health Organization (WHO) defined the term neglect to refer to:

“the failure of a parent to provide for the development of the child where the parent is in a position to do so in one or more of the following areas; health, education, emotional development, nutrition, shelter and safe living conditions. Neglect is thus distinguished from circumstances of poverty in that neglect can occur only in cases where reasonable resources are available to family or caregiver”.²⁶

Worrying, as evidenced by the publicity given to the horrific death of Victoria Climbié²⁷ as a result of neglect, even now public attention focuses on sensational cases of severe physical

²⁶ World Health Organization (2002), p.60. Similarly, England’s government gives a more detailed definition of child neglect starting from the mothers’ pregnancy as: “The persistent failure to meet a child’s basic physical and/or psychological needs, likely to result in serious impairment of the child’s health or development. Neglect may occur during pregnancy as a result of maternal subsistence abuse. Once a child is born, neglect may involve a parent or carer failing to provide adequate food and clothing, shelter including exclusion from home or abandonment, failing to protect a child from physical and emotional harm or danger, failure to ensure adequate supervision including the use of inadequate care-takers or the failure to ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child’s basic emotional needs.” Unlike the above definition types Lawrence and Irvine from Australia expressed child neglect as having no uniform legal definition but to generally have 8 aspects of neglect covered by different states and territories. These include abandonment, physical neglect, medical neglect, psychological neglect, developmental neglect, supervisory neglect, failure to provide guidance (fostering delinquency) and educational neglect. See Lawrence, R., and Irvine, Redefining fatal child neglect. Child Prevention Issue, (2004), P.4; While, Jha, has classified Child Neglect in to physical, emotional or educational. See A.K.JHA (Editor-in-chief), Child abuse and Human Rights, (2006), P. Vii. Thus, an analysis of these definitions indicates that there is general agreement that child neglect as can be summed as: an ‘omission’, ‘an inherent omission of behavior’, ‘failure to act’, ‘inadequate care’, ‘failure to provide’, and ‘failure to care on the part of the parent or carer’. That indicates that neglect has its roots in ignorance and competing carer priorities. See Jan Horwath, Child Neglect, Identification and Assessment, (2007), p.14

²⁷ Victoria Climbié was born in 1991 in Ivory Coast and was taken to France then to England for education purpose by a person namely Kouao (Legal guardian). And On 24 February 2000, Victoria Climbié was taken to hospital as a result of many serious organ failures and died the following day. The pathologist who examined her body noted 128 separate injuries and scars on her body, and described it as the worst case of child abuse she had ever seen. Climbié had been burnt with cigarettes, tied up for periods of longer than 24 hours, and hit with bike chains, hammers and wires among many abuses. Accordingly, the website victoria-climbié-inquiry.org.uk was created, where all the evidence and documents in relation to her abuses and the conviction were made available freely, a statute in the Children Act 2004, NGO’s and articles in her name was formed. Her case is highly known/associated for its child neglect. See _____: Managing Cases of Neglect-Multi-Agency Practice Guidance, (2008), P.2 and Jan Horwath, Child Neglect, Identification and Assessment (2007), p.xi

neglect and injuries²⁸ which are easily observable. However, less attention is given to other forms of neglect which do not show obvious physical marks such as emotional neglect.²⁹ It should be noted that, this is considered to be even more damaging than physical neglect if consistent and persistent.³⁰ In a controlled retrospective follow up study of abused and grossly neglected children conducted by Kent³¹ indicated that the neglected children were described as even more aggressive than the abuse children. Besides the concluding result from the literature review of child neglect is that if neglect occurs early on in life then the consequences are most severe and can be irreversible.³²

Regardless of the above fact, neglect has high prevalence amongst maltreated children, has been abandoned and marginalized by many practitioners, policymakers, managers of resource allocation and the Courts.³³ That is why a Community Pediatrician once said “Child neglect is the worst kind of child abuse and yet the one that gets the least attention”.³⁴ The possible reason for such ignorance or confusion are despite the prevalence of child neglect, incidents of abuse, such as sexual abuse, receive far more attention in both the literature and research.³⁵ However, the percentage of papers reporting on child neglect remained low at 9%.³⁶ In addition, most published studies refer to child ‘abuse’ and ‘neglect’ failing to distinguish between the two.³⁷

The fact that many people relating child neglect with poverty is not a shock. However, neglect is not necessarily associated with poverty. We also tend to focus on poorer families, when we think about neglect. It is important to remember that neglect can also occur in seemingly affluent families for neglect is not all about outward appearance; it is about carers being psychologically

²⁸ Physical neglect which includes inadequate nutrition of clothing, and unhygienic and/or dangerous living conditions. See Jan Horwath, Child Neglect, Identification and Assessment (2007), p.xi

²⁹ Emotional neglect being one type of neglect has been defined in the Department of Health as “Actual or likely severe adverse effect on the emotional and behavioral development of a child caused by persistent or severe emotional ill-treatment or rejection.” See A.K.JHA (Editor-in-chief), Child abuse and Human Rights(2006), VOL.1, Anmol Publications PVT.LTD, New Delhi, India, P.24

³⁰ Jan Horwath, Child Neglect, Identification and Assessment (2007), p.42

³¹ J.T. Kent, A follow-up study of abused children, (1976)

³² C. Hildyard , and D. Wolfe, Child Neglect: developmental issues and outcomes (2002), pp. 679-695

³³ Supra Note 30, p.Xi

³⁴ Id., p.1

³⁵ C.J. Hobbs and J.M. Wayne, Neglect of Neglect (2002), pp.144-150

³⁶ Note that if a proper study like the U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau, Child Maltreatment, (2012), Available from <http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research/child-maltreatment> are conducted the prevalence of child neglect is very high.(last accessed on 11/9/2013) According to the same study conducted in the USA in the year 2012 shows that: child Neglect 78.5%, physical abuse 17.6%, sexual abuse 9.1%, psychological maltreatment 9.0% and other unknown 10.6%.

³⁷ J. Burke, The Parental Environment Cluster Model of Child Neglect: An Integrative Conceptual Model. Child Welfare, (1998). P.389-405

available for children which would let children feel that they are not the most priority.³⁸ That is because “Living on a low income in a rundown neighborhood does not make it impossible to be the affectionate, authoritative parent of healthy, sociable children. But it does, undeniably, make it more difficult.”³⁹ Hence, it is not surprising that poor carers find it difficult meeting the needs of their children and that child neglect is frequently associated with poverty.⁴⁰

In a similar situation Ericson and Egeland’s analysis which states that the failure of a society such as in the refugee community to provide support and service enabling parents to adequately meet the needs of children, known as societal or collective neglect recognizes that family and environmental factors to affect the carer’s capacity to meet the needs of their child and these factors includes the availability of preventive health care for children; the quality of the social welfare system most notably to support of the vulnerable families; the nature and extent of social protection and the responsiveness of the criminal justice system.⁴¹ Hence, it is impossible to provide for children without providing direct and indirect benefits to their families as the welfare of the child is highly dependent and interwoven on the well being of their families.⁴²

2.3.1.2. Child Abuse

Child Abuse is “Any physical or emotional trauma to a child for which no reasonable explanation, such as accidental or ordinary disciplinary practices can be found”.⁴³

Child abuse can be caused by parents, guardians, relatives or even friends of the child. A number of child abuse cases have been found to have occurred in institutions revolving around kids, like schools, residential schools, churches and even in government agencies.⁴⁴

Almost 80 percent of persons having experienced child abuse are at the risk of developing severe psychiatric problems. Besides, it’s good to consider the fact of the difficulty to estimate the actual number of child abuse cases, since so many incidents are never reported to the police. In

³⁸ J. Garbarino and C. Collins, Child Neglect: The family with a hole in the middle (1999), PP. 1-23

³⁹ D. Utting, Family and Parenthood: Supporting Families, Preventing Breakdown (1995), P.40

⁴⁰ Ibid.

⁴¹ M.F. Ericson and B. Egeland, Child Neglect: Hand book on Child Maltreatment, (2002), PP.3-20

⁴² Supra Note 13, P.50

⁴³ Ruth S. Kempe and C. Henry Kempe, Child Abuse, (1978), p.77

⁴⁴ Id., p.82

general, boys are more frequently abused than girls until age 12. Among teenagers, girls are more frequently the object of abuse.⁴⁵

Some of the issues of child abuse include: neglecting the child or their needs, corporal punishment, Child labour, verbal abuse such as insulting and shouting, sexual related abuses such as incest, molestation, showing and submitting children for sexual related activities (pornography), touching their sexual organs unnecessarily, rape both to the female and male child, traditional practices such as FGM, early marriage, traditional birth practices; son preference; female infanticide and dowry price.⁴⁶

We will here in after try to see some of these abuses.

2.3.1.2.1. Corporal Punishment/Physical Punishment/

Corporal punishment is defined by the Committee on the Rights of the Child as “any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light”.⁴⁷

While growing global concern over the prevalence of corporal punishment in the home perpetuated by its widespread legality and social approval has fostered interest in understanding its prevalence and forms, it has also generated debate.⁴⁸

The Committee on the rights of the child comments: “In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment which are also cruel and degrading and thus incompatible with the CRC include, punishment which belittles, humiliates, denigrates, threatens, scares or ridicules the child”.⁴⁹

⁴⁵ Larry J. Siegel, (5th Ed), Criminology, (1995), P.313

⁴⁶ Fact Sheet No.23, Harmful Traditional Practices Affecting the Health of Women and Children, (1979), General Assembly resolution 34/180, P.1

⁴⁷ Articles 19, 28(2) and 37 of the Committee on the Rights of the Child, General Comment No. 8, The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (2006), CRC/C/GC/8, para 11; Most corporal punishment involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement – whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices).

⁴⁸ Straus M.A. Identification of child maltreatment with the Parent: Child Conflict Tactics Scales: development and psychometric data for a national sample of American parents (1998), Child Abuse & Neglect, p.189.

⁴⁹ Supra Note 47, articles 19, 28(2) and 37

Estimates of physical abuse of children derived from population-based surveys vary considerably. A 2011 survey in the United States asked parents how they disciplined their children and an estimated rate of physical abuse contains 17.6%⁵⁰ using: hitting the child with an object, other than on the buttocks; kicking the child; beating the child; and threatening the child with a knife or gun. Available research suggests that the rates for many other countries are no lower, and may be indeed higher than the estimates of physical abuse in the United States.⁵¹ In Ethiopia, research has repeatedly revealed a high prevalence of corporal punishment of children. A survey of 485 young women in Ethiopia aged 18-24 concerning their childhood experiences of violence found that 84% had suffered one or more types of violence, most commonly beating with an object (71%). And interviews with 1,223 children from five regions were interviewed, only 17 children (1.4%) stated that they had never experienced corporal punishment in the home.⁵²

There are considerable variations in popular views about the use and effectiveness of corporal punishment, according to available studies. While a Canadian study found that 59% of people believed that spanking is harmful and 86% that it is non-effective,⁵³ research in the USA found that 84% agreed “that it is sometimes necessary to discipline a child with a good hard spanking”.⁵⁴ Similarly, a study in the Republic of Korea found that 90% of parents thought corporal punishment ‘necessary’.⁵⁵

In 1979, Sweden became the first country to prohibit all forms of corporal punishment of children. Since then, at least 10 further states have banned it. Judgments from constitutional or supreme courts condemning corporal punishment in schools and penal systems have also been handed down: including in Namibia, South Africa and Zimbabwe and, in 2000, Israel’s supreme

⁵⁰ Supra Note, 36.

⁵¹ Supra Note 48, pp.249–250.

⁵² J. Stavropoulos, Violence Against Girls in Africa: A Retrospective Survey in Ethiopia, Kenya and Uganda-Addis Ababa, (2006), and African Child Policy Forum and Save the Children Sweden, Report on Violence against Children (2005), cited in Peter Newell, End Corporal Punishment of Children, (2009), Briefing for the Human Rights Council Universal Periodic Review– 6th session, available at info@endcorporalpunishment.org accessed on 14/08/2013.

⁵³ Durrant JE, Maternal Beliefs about physical punishment in Sweden and Canada, (2003), *Journal of Comparative Family Studies*, NO. 34, pp.586-604. Cited in: Durrant JE, Corporal Punishment: Prevalence, Predictors and Implications for Child Behavior and Development, (2005), p.88

⁵⁴ Lehman BA., Making a Case against Spanking (1989), *The Washington Post*, 23 March 1989 Cited in: Straus MA. Identification of child maltreatment with the Parent: Child Conflict Tactics Scales; development and psychometric data for a national sample of American parents, 1998, p. 255

⁵⁵ Kim D.H., Children’s Experience of Violence in China and Korea: A Trans Cultural Study on Child Abuse & Neglect (2000), Cited in: Durrant JE, Corporal Punishment: Prevalence, Predictors and Implications for Child Behavior and Development(2005), p.90

court declared all corporal punishment unlawful. Ethiopia's 1995 constitution asserts the right of children to be free of corporal punishment in schools and institutions of care.⁵⁶ Nevertheless, surveys indicate that corporal punishment remains legal in at least 60 countries for juvenile offenders, and in at least 65 countries in schools and other institutions. Corporal punishment of children is legally acceptable in the home in all but 11 countries. Where the practice has not been persistently confronted by legal reform and public education, the few existing prevalence studies suggest that it remains extremely common.⁵⁷

Corporal punishment is dangerous for children. In the short term, it kills thousands of children each year and injures and handicaps many more. In the longer term, a large body of research has shown it to be a significant factor in the development of violent behaviour, and it is associated with other problems in childhood and later life. Note that the view of the scope of protection required goes far beyond torture as normally understood for it may not be necessary to draw sharp distinctions between the various prohibited forms of treatment or punishment.⁵⁸ These distinctions depend on the kind, purpose and severity of the particular treatment. Likewise, in the view of the Committee on the rights of the child the prohibition must extend to corporal punishment, including excessive chastisement as an educational or disciplinary measure.⁵⁹

2.3.1.2.2. Child Labour

It is unfortunate that until now no concrete definition of child labour has emerged. In fact, different acts have defined child Labour differently.⁶⁰ Burns H. Weston, defined "child labour" as: "works done by children that is harmful to them because it is abusive, exploitive, hazardous, or otherwise contrary to their best interests which is a subset of a large class of children's work, some of which may be compatible with children's best interests (variously expressed as 'beneficial', or 'harmless', children's work)."⁶¹

⁵⁶ Article 36(1)(e) of the FDRE Constitution

⁵⁷ Supra Note 53, p.89

⁵⁸ Id. p.91

⁵⁹ General Comment No. 07: Torture or cruel, inhuman or degrading treatment or punishment: sixteenth Session, 1982. 05/30/1982; ICCPR, Para. 2.

⁶⁰ Supra Note 13, P.387 and 18 pp. 27-50.

⁶¹ Supra Note 18, P.19. Similarly, Kulshreshtha has defined "Child Labour" as: "the employment of children in gainful occupations with a view to adding to the labour income of the family which are dangerous to their health and deny them the opportunities of development. Kulshreshtha (1978), p.82, cited at Rekha Shrivastava, International Encyclopedia of Women Rights and Childrens Rights (2009), Vol. 2, P.372; While the World Bank has defined "child labour" as: "a serious threat to the future humanity"; this is largely because of the harm done to long-term national investment rather than to children themselves.

Between the year 2000 and 2008 the number of child labourers worldwide fell by some 30 million. Notwithstanding this progress, at the end of that period there were still over 215 million child labourers, and over half of them were doing hazardous work.⁶² Similarly, children in almost all societies do one kind of work or another. But the extent and nature of their work are influenced by the structure of the economy and the level and pace of development. To some extent, comparable pattern may be found in workshops and small-scale services. Children assist their parents in subsidiary tasks, acquire skills and gradually become fully fledged workers in family establishments or trades. Work of this kind is not without its problems, especially in relation to the health and safety of the children and to their schooling. But it is not what we usually mean by child labour. But wage or quasi-wage employment is another matter altogether which is usually caused by poverty or unemployment of their parents forcing children to work in households as domestic servants or in small enterprises or in street trades.⁶³

Due to the above and other factors Child labourers lack the opportunity to experience the rights of the child that depends on the social and economic resources of laws, policies, and institutions with staff and budgets to commit to protecting children.⁶⁴ Thus, the wellbeing of children and families in developing and least developed countries is at risk because of economic distress and the insufficiency of local resources to meet children's basic needs.⁶⁵

2.3.1.2.3. Child Sexual Abuse (CSA):

Child Sexual Abuse involves “any sexual activity involving persons younger than 18 years of age. Most often perpetrated by an adult, activities including rape and molestation, showing pornography, and exposure of children to the sexual acts, touching the sexual organs of the child, abduction, early marriages, FGM of others”.⁶⁶ The growing incidence of sexual abuse is of particular concern when its long-term impact is considered. Sexually abused children's

⁶² ILO, World Report on Child Labour: Economic Vulnerability, Social Protection and the Fight against Child Labour, 2013, P.xiv. A similar study published by The State of the World's Children 2000, 250 Million, children below age 14 work; up to 60 Million of those are between ages 5-11 and work in hazardous conditions. See Supra Note 18, P.19

⁶³ Supra Note, 13, PP.403-404. Similarly, The 1998 World Bank study reported that 6 million work-related child injuries a year, resulting in around 2.5 million disabilities and 32,000 deaths, referring to “the economic implications of these health impacts on growth and development and the cost ... in terms of the statistical value of lives lost and in health costs.”

⁶⁴ Mark Ensalaco and Linda C. Majka (Editors), Children's Human Rights: Progress and Challenges for Children Worldwide (2005), p.81

⁶⁵ Id. p.83

⁶⁶ Richard J. Estes, The Sexual Exploitation of Children, (2001), p.5

experience a long list of syndromes, including fear, post-traumatic stress disorder, behavior problems, sexualized behavior, and poor self-esteem. The amount of force used, its duration, and its frequency are all related to the extent of the long-term effects and the length of time needed for recovery.⁶⁷ Among many types of sexual abuses rape takes greater attention. One of the reasons is because as the study conducted by Groth and Birnbaum and others found that 40% of the rapists they studied were sexually victimized as adolescents.⁶⁸ Hence, the issue of sexual abuse and rape in particular are serious not only from the victims point of view but also from its effect on the society at large.

2.3.1.2.4.1. Early(Child) Marriage

Child marriage, also known as early marriage, is defined as “Any marriage carried out below the age of 18 years, before the girl is physically, physiologically, and psychologically ready to shoulder the responsibilities of marriage and childbearing”.⁶⁹ Thus, it’s another serious problem which some girls, as opposed to boys, must face. The practice of giving away girls for marriage at the age of 11, 12 or 13, after which they must start producing children, is prevalent among certain ethnic groups in Asia and Africa especially Mozambique, Uganda, Somalia and Ethiopia as well as others in the Middle East, notably Yemen.⁷⁰

UNFPA has estimated that, globally, between 2011 and 2020, more than 140 million girls will become child brides before their 18th birthday.⁷¹ In some cases early marriage is following abduction and rape in order to avoid the bride price. In all such cases, the notion of consent to the marriage by either partner, especially the girl, and to the sex within it, does not apply.⁷² The

⁶⁷ Kathleen Kendall-Tackett, Linda Meyer Williams, and Davic Finkelhor, “Impact of Sexual Abuse on Children: A Review and Synthesis of Recent Imperical Studies,” (1993), psychological Bulletin No.133, pp.164-180

⁶⁸ A. Nickolas Groth and Jean Birnbaum, Men Who Rape (1979), P. 101

⁶⁹ The Inter-African Committee (IAC) on Traditional Practices Affecting the Health of Women and Children. (1993) Newsletter, December 2003 Cited in International Planned Parenthood Federation and the Forum on Marriage and the Rights of Women(IPPF) and Girls Ending child marriage, (2006), p.9, available at www.ippf.org accessed on 22/10/2012

⁷⁰ Forum on Marriage and the Rights of Women and Girls: Early Marriage and Poverty: Exploring the Links for Policy and Programme Development (2003), London, Forum on Marriage and the Rights of Women and Girls/IPPF, p.25

⁷¹ Supra Note 69. If current levels of child marriages holds, 14.2 million girls annually or 39,000 daily will marry too young. Of the 140 million girls who will marry before the age of 18, 50 million will be under the age of 15. Besides note on such data should be taken, for it is very difficult to get accurate data on the true extent of child marriages. This is because most marriages are not officially registered, and many parents resort to falsifying girls’ ages. Furthermore, such acts are made easier in rural areas where birth certificates are often non-existent or not properly recorded.

⁷² Paulo Sérgio Pinheiro’, World Report on violence against children (October 2006), Independent Expert for the United Nations Secretary-General’s Study on Violence against Children, p.81

principal reasons for this practice are the girls' virginity and the bride-price. Young girls are less likely to have had sexual contact and thus are believed to be virgins upon marriage; this condition raises the family status as well as the dowry to be paid by the husband.⁷³

2.3.1.2.3.2. Female Genital Mutilation/Cutting/ (FGM/C)

WHO has defined it as: "All procedures involving partial or total removal of the female organ whether for cultural or other non-therapeutic reasons".⁷⁴

Traditional cultural practices reflect values and beliefs held by members of a community for periods often spanning generations. Every social grouping in the world has specific traditional cultural practices and beliefs, some of which are beneficial to all members, while others such as FGM/C where the age at which mutilation is carried out varies from area to area and is performed on infants as young as a few days old, on children from 7 to 10 years old, and on adolescents which are harmful to a specific group, such as the girl child.⁷⁵

The reasons for such conduct are the belief and reasons of Sexual⁷⁶, Sociological⁷⁷, Hygiene and aesthetic reasons⁷⁸, Health⁷⁹, Religious reasons⁸⁰, virginity⁸¹.⁸²

There are between 100 and 140 million women and girls who have undergone mutilating operations on their external genitalia, suffering permanent and irreversible health damage.⁸³ Every year, two million girls are subject to mutilation, which traditional communities call "female circumcision" while the international community terms "female genital mutilation", or "female genital cutting".⁸⁴

⁷³ Supra Note 46, P.8

⁷⁴ WHO, FGM programs to date: what works and what does not a review department of women's health (1999), p.3

⁷⁵ Supra Note 46, p.3

⁷⁶ to control or reduce female sexuality

⁷⁷ for example, as an initiation for girls into womanhood, social integration and the maintenance of social cohesion

⁷⁸ where it is believed that the female genitalia are dirty and unsightly

⁷⁹ in the belief that it enhances fertility and child survival

⁸⁰ in the mistaken belief that FGM/C is a religious requirement especially in Islamic Religion as 'Suna' is permitted in the holly Curran

⁸¹ this reason is said to be above all the very reason to ensure a woman's virginity before marriage and chastity thereafter

⁸² Supra Note 46, p.3

⁸³ According to the UNICEF's FGM report of July 2013 this No. is 125 Million. See UNICEF, Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, (2013), p.3

⁸⁴ World Bank and UNFPA, Female Genital Mutilation/Cutting in Somalia, (2004), P.5

More specifically to Somali females, it is estimated that 98 percent of Somali women and girls have undergone some form of genital mutilation while about 90 percent have been subjected to the most drastic form (type III or Pharaonic circumcision)⁸⁵ which accounts for only 15 percent of cases in Africa.⁸⁶ FGM are also increasingly found in Europe, Australia, Canada and the USA, primarily among immigrants from Africa and southwestern Asia.⁸⁷

Despite their harmful nature and their violation of international human rights laws, such practices persist because they are not adequately questioned and take on an characteristic of morality in the eyes of those practicing them. A number of reasons are given for the persistence of traditional practices detrimental to the health and status of women, including the fact that, in the past, neither the governments concerned nor the international community challenged the evil implications of such practices, which violate the rights to health, life, dignity and personal integrity.⁸⁸ Accordingly, Harmful practices such as FGM were considered sensitive cultural issues falling within the spheres of women and the family. As a result for a long time, governments and the international community had not expressed sympathy and understanding for girls who, due to ignorance or unawareness of their rights, endured pain, suffering and even death inflicted on themselves and their female children.

2.3.1.3. Child Exploitation

‘Exploitation’ means unfair, if not illegal, treatment or use of somebody or something, usually for personal gain.⁸⁹

Similarly, ‘Child Exploitation’ refers to: “the use of children for someone else’s advantage, gratification or profit often resulting in unjust, cruel and harmful treatment of the child. These

⁸⁵ Types of circumcision or surgical operations being 3 namely ‘Circumcision or Sunna (“traditional”) circumcision’, ‘Excision or clitoridectomy’ and ‘Infibulation or Pharaonic circumcision’. The Infibulation or Pharaonic circumcision unlike the other two is the most severe operation, involving excision plus the removal of the labia majora and the sealing of the two sides, through stitching or natural fusion of scar tissue. What is left is a very smooth surface, and a small opening to permit urination and the passing of menstrual blood. This artificial opening is sometimes no larger than the head of a match. Among women in Djibouti, Ethiopia, Somalia and the Sudan, where circumcision is performed to reduce sexual desire and also to maintain virginity until marriage. Hence, a circumcised woman is considered to be clean. For more detailed explanation you may see Fact Sheet No.23, Harmful Traditional Practices Affecting the Health of Women and Children.

⁸⁶ Supra Note 84, P.10. and 83, P.3

⁸⁷ Ibid

⁸⁸ Supra Note 46, pp.3-4

⁸⁹ Supra Note 66, p.6 and Judy H. Wright (Mrs.), protecting our children from sexual abuse, 2006 available at <http://www.artichokepress.com/> last accessed on 09/11/2013

activities are to the detriment of the child's physical or mental health, education, moral or social emotional development.⁹⁰

There are two main forms of child exploitations that are recognized as:

2.3.1.3.1. Child Sexual Exploitation

Is practice by which a person, usually an adult, achieves sexual gratification, financial gain or advancement through the abuse or exploitation of a child's sexuality by abrogating that child's human right to dignity, equality, autonomy, and physical and mental wellbeing, i.e. trafficking, prostitution, prostitution tourism, pornography, stripping, battering, incest, rape and sexual harassment.⁹¹

The emerging statistical picture lays a cause for concern. Though estimates vary concerning the number of sexually exploited children, UNICEF believes their numbers to exceed 100,000 worldwide, not all of whom are located in "poor" or "developing" countries.⁹² Other estimates of child sexual exploitation suggest the numbers of such children to be even higher.⁹³

2.3.1.3.2. Economic Exploitation of a Child(Child Labour Exploitation)

It is the use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour. Economic exploitation implies the idea of a certain gain or profit through the production, distribution and consumption of goods and services. Thus, interest has an impact on the economy of a certain unit, be it the state, the community or the family. Some of these examples are child domestic work, child soldiers and the recruitment and involvement of children in armed conflict, child bondage, the use of children from criminal activities including

⁹⁰ Ibid.

⁹¹ Ibid

⁹² The first World Congress Against the Commercial Sexual Exploitation of Children Muntarhorn, 1996 confirmed that large numbers of child "sex workers" are to be found in rich countries, including in the U.S. for which the "End Child Prostitution, Child Pornography, and the Trafficking of Children for Sexual Exploitation" (ECPAT) estimated their numbers to be between 100,000 and 300,000 (ECPAT, 1996, p.70). Though some researches indicate the fact that the number of sexually abused and exploited children are decreasing; for example from 217,700 in 1993 to 135,300 in 2005-2006. See Child Sexual Abuse Statistics Fact Sheet available at http://www.stopitnow.org/child_sexual_abuse_fact_sheet?_kk=statistics, other study state that there is a lack of accurate and reliable statistics on the nature of the phenomenon and the numbers of children involved, mainly due to differences in national definitions of different child sexual abuse and exploitation offences. See Europol, Child Sexual Exploitation: Fact Sheet 2012, p. 2 available at <http://polis.osce.org/library/f/4063/3775/EU-EU-RPT-4063-EN-3775> accessed on 10/11/2013

⁹³ Supra Note, 66

the sale and distribution of narcotics, the involvement of children in any harmful or hazardous work.⁹⁴

Many of the children who suffer from exploitation do so because they have no other choice, their parents may need the added income, or the children may be orphaned or responsible for their siblings as a result of war or disease(particular HIV/AIDS). They may also have been trafficked or forced into slave labour, either in their own country or somewhere internationally, and may be living a life of struggle, suffering and invisibility within the community.⁹⁵

It has been estimated that 25% of the exploiters of children are other children. Teenaged regularly told researchers about a group of local middle school kids who have oral sex parties after school for money or drugs with contradiction that adolescents need freedom, but they need boundaries more.⁹⁶

2.4. Refugee

The UN definition which is the single most widely used formulation for defining refugee status today⁹⁷ defines the term ‘refugee’ as:

Any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.⁹⁸

⁹⁴ Supra Note 18, pp.27-50

⁹⁵ Ibid.

⁹⁶ Judy H. Wright(Mrs.), Protecting our Children from Sexual Abuse, (2006) available at <http://www.artichokepress.com/> a more recent study shows that the percentage of child sexual abusers and exploiters to be 50%. See Europol, Child Sexual Exploitation: Fact Sheet 2012, p. 2 available at <http://polis.osce.org/library/f/4063/3775/EU-EU-RPT-4063-EN-3775> accessed on 10/11/2013 and Do Children Abuse Other Children? Available at http://www.stopitnow.org/csa_fact_children accessed on 10/11/2013

⁹⁷ Elizabeth G. Ferris, Beyond Borders: Refugee, Migrants and human rights in post-cold war era (1993), WCC Publications, Switzerland, p.12

⁹⁸ Article 1A(2) of the 1951 Convention relating to the Status of Refugees. Besides, note that Ethiopia under Article 4(1-3) of the Refugee Proclamation No. 409/2004 adapted similar definition.

But note should be taken that this definition has shortcomings⁹⁹ like other definitions given by the convention of OAU (1969) or the Declaration of Cartagena (1984).

2.4.1. Reasons to Leave Their Home

Approximately 23,000 persons during the year 2012 per day were forced to leave their homes and seek protection elsewhere, either within the borders of their countries or in other countries.¹⁰⁰ The reasons to leave their home are because they cannot support themselves or their families at home, because the environment will no longer sustain them, because of war or persecution as a result of authoritarian governments, natural disasters such as earthquakes or volcanoes, because they want better life for their children etc.¹⁰¹

The presence of many refugees and migrants is a sign of a troubled world. Thus, the issue of refugees and migrants is justice issues for people are too often forced to flee their homes when they struggle for justice or confront the powers and principalities of the world. It's also a Peace issue for people are uprooted by wars; their fate depends on a resolution of the conflict which led to their displacement and to reconstruction of their war-torn communities.¹⁰²

UNHCR citing Kofi A. Annan, the then, UN Secretary General stated that most refugees are ordinary people living extra-ordinary lives driven from their own homes by fear, conflict and persecution; they have had to give up their jobs, possessions, dreams, even families in their struggle to survive.¹⁰³

2.4.2. Persecution that are Specific to Children

“Refugee children share certain universal rights with all other people but also have additional rights as children, and particular rights as refugees. Yet despite this, refugee children continue to suffer needlessly. Clearly, the problem cannot only be attached to inadequate legal instruments or national legislation”.¹⁰⁴

⁹⁹ Some of the shortcomings are: 1. Refugees who are of individual victims of persecution; 2. Internally displaced people (IDP); 3. Humanitarian law; 4. Asylum seekers are not included.

¹⁰⁰ UNHCR Global Trends 2012, Displacement The New 21st Century Challenge, (2013), p.2

¹⁰¹ Supra Note 97, p.xii

¹⁰² Ibid.

¹⁰³ UNHCR, The State of the World's Refugees: Human Displacement in the New Millennium (2006), Oxford University Press, P.ix

¹⁰⁴ Rachel Criswell and Melanie Gow; Displaced, uprooted and refugee children Back from the margins, (2004) World Vision International, Geneva Switzerland, P.51; that is why some scholars forward the idea that; the

For some children, however, the fact that they are children is central to their claim. In some cases, this arises because the persecution alleged only applied to children, such as infanticides, conscription as a child soldier, child abuse, incest, FGM, hazardous child labour, child sale, child marriage, religious sexual servitude, separation from family, deprivation of education, heightened vulnerability following civil upheaval, homelessness, prostitution and trafficking.¹⁰⁵

The large number of young people among displaced population has important implications for protection. Displaced children are particularly vulnerable¹⁰⁶ to threats to their safety and wellbeing.

2.4.3. Camps and Settlements

In protracted refugee situations, many of the displaced have remained confined to the refugee camps, some for decades. They are marginalized in the country of asylum, unable to return home in safety, and cannot look forward to resettlement elsewhere. In some situation, those located in camps lack many fundamental rights such as freedom of movement and the right to work due to their forced exclusion from mainstream society. They are often exposed to high levels of violence and human rights abuse because of poor security within or around the camps.¹⁰⁷ While the principle of asylum may be firmly established in normative, legal and institutional terms, their practical application remains imperfect. Accordingly, most refugees in such situations live in camps where idleness, despair and, in a few cases, even violence prevails. Women and children, who form the majority of the refugee community, are often the most vulnerable, falling victim to exploitation and abuse.¹⁰⁸

current adult-centered approach to asylum claims fails adequately to address the situations of children, just as the male-centered approach to asylum until recently neglected the specific gender-related claims of women asylum applicants. See Jacqueline Bhabha and Weddy Young, International Journal of Refugee Law (1999), Vol.11, No.1, p.103

¹⁰⁵ Jacqueline Bhabha and Weddy Young, International Journal of Refugee Law (1999), Vol.11, No.1, pp.101-103

¹⁰⁶ These included: separation from families, sexual exploitation, HIV/AIDS infection, forced labour or slavery, abuse and violence, forcible recruitment in to armed groups, trafficking, lack of access to education and basic assistance, detention and denial of access to asylum or family reunification procedures. Unaccompanied children are at greater risk, since they lack the protection, physical care and emotional support provided by the family.

¹⁰⁷ Supra Note 105, P107

¹⁰⁸ Id. P.115

Many of the displaced, especially those living in protracted refugee situations, are confronted with serious restrictions on their human rights in areas such as: Freedom of movement¹⁰⁹; civil and political rights¹¹⁰; legal rights¹¹¹; socio-economic rights¹¹² and freedom of choice.¹¹³

2.4.4. Sexual and Gender Based Violence (SGBV) in Camps

Unfortunately camps may not always be safe for girl child. Unaccompanied girls may be regarded by camp guards and male refugees as sexual prey. Besides attacks are more common when girls are forced to travel unprotected to remote areas in search of food, water and firewood.¹¹⁴ SGBA are an extremely under-reported crime in countries where crimes in countries where victims of sexual assault are stigmatized. Girls are remaining silent due to shame and the acute fear of being ignored by their families and communities. Moreover, traditional systems do not always provide the victim with protection: verdicts can sometimes result in further human rights violation.

2.5. Refugees in Africa

From a historical point of view, Africa has a tradition of migration, the present wave of refugee flows dates back from the mid-1960s of the independence movement in Africa. Thus, colonial policies largely contributed to the modern refugee phenomenon.¹¹⁵ Accordingly, more than 2/3 of the world's refugees and displaced people are in Africa.¹¹⁶ The reason is due to African's generosity in receiving the strangers in legendary; while some European governments complain at being "overwhelmed" by a few thousand asylum-seekers, most African countries have

¹⁰⁹ Refugees are often confined to come or to other designated areas and can leave only with special permission. They may be subjected to fines and even penal sentences if they fail to comply with such regulations

¹¹⁰ In many situations refugees are barred from engaging in political activities, from holding mass meetings and from establishing their own associations and organizations

¹¹¹ Refugees in developing countries often lack a clearly defined legal status, do not have long-term residence rights and have no prospect of seeking naturalization in their country of asylum

¹¹² A further right denied to many refugees is the ability to engage in agricultural, wage-earning and income generating opportunities. They do not have access to land, they are not allowed to enter the labour market, they cannot take out loans, and restriction on their freedom of movement makes it difficult for them to engage in trade.

¹¹³ Refugee living in camps frequently find themselves under the control of authoritarian political and military leaders within their community. This situation further limits their ability to exercise basic human rights, including the right to return to their country of origin at a time of their choosing. See J. Crisp, 'No solution in Sight: The Problem of Protected Refugee Situation in Africa,' New Issue in Refugee Research, Working Paper No. 75, Geneva: UNHCR, 2003, PP.11-12. cited at the book UNHCR (2006), The State of the World's Refugees: Human Displacement in the New Millennium, Oxford University Press, P.22

¹¹⁴ Supra Note 103, P. 67

¹¹⁵ Supra Note 97, P.131

¹¹⁶ Supra Note 103, P.30

provided a generous welcome to far large No. of refugees seeking protection and security.¹¹⁷ Thus, the hosting countries have paid economic, political, social and environmental costs for their generosity.¹¹⁸

2.5.1. Refugees in Kebribeyah Refugee Camp

KebriBeyah (also spelled as Kebri Beyah) is a town found in southeastern Ethiopia which is located in the Jijiga Zone of the Somali Regional State, and is about 55 kilometers south east of Jijiga and approximately 70 km from the Somali border hosts approximately 16,000 refugees.¹¹⁹ Accordingly, Kebribeyah has been the site of a refugee camp since 1989.¹²⁰ The refugees in KBRC are from the state Somalia.¹²¹

When we try to see the overall influx of the Somali refugees in Ethiopia and/or in Kebribeyah refugee camp are as follows.

The time of refugee flight from State Somalia varies greatly. A few people left before 1991, especially from northern Somalia to Ethiopia and Djibouti after the outbreak of violence in 1988.

¹¹⁷ According to UNHCR's 2012 data; developing countries hosted over 80% of the world's refugees, compared to 70% ten years ago.

¹¹⁸ Supra Note 97, P. 129

¹¹⁹ The total refugee community who live in Ethiopia at the time of December 31, 2009 were 133,485 of which 59,713 were in Somali Region and out of which Kebribeyah (16,495), Sheder (7,901), Awberre (TeferiBer) (12,169), Bokolmanyo (23,147) were the proportion of each Somali refugee camps in Ethiopia. See ARRA Update, Vol. 3, No. 13, December 2009, P.21, Note should be taken on the total population No. of the refugee population in Ethiopia for in the year 2013(as of January) is 376,393. See UNHCR-East Africa data available at, <http://www.unhcr.org/50cb29856> accessed on 11/11/2013

¹²⁰ Refugee Camp Life; Life in a Refugee Camp, From <http://www.springinstitute.org> last accessed on 10/06/2013

¹²¹ Somalia refers to the entire national territory as currently recognized by the international community. (i.e. region at independence). Although Somalis (i.e. nationals of Somalia). The difference between "Somali" and "Somalian" does not always find a consensus. In French, for example, the term Somali refers to ethnicity whereas in English it denotes either ethnicity or nationality. Hence, in the paper the writer may use either of them to refer to Somali people. See Joëlle Moret, Simone Baglioni and Denise Efonayi-Mäder, The Path of Somali Refugees into Exile: A Comparative Analysis of Secondary Movements and Policy Response; (2006), P.15. In addition, The Somali people considered themselves bound together by a common language, by an essentially nomadic pastoral culture, and by the shared profession of Islam. See also I. M. Lewis; Visible and Invisible Differences: The Somali Paradox, (2004), Journal of the International African Institute; Vol. 74, No. 4 pp. 489-515; available at <http://www.jstor.org/stable/3556839>. Somalis often live in extended families. Women are by no means considered equal to men. <http://www.settlement.org/cp/english/somalia/index.html>; Marriages in Somalia are valued more for their economic and political importance, rather than religious or romantic aspects. A man may have more than one wife. Families prefer arranged marriages; when matching a couple, lineage and bride-price (dowry) are of great importance. Somali women and girls are expected to have a sense of modesty. Before marriage, girls often undergo a ritual called infibulations. <http://www.settlement.org/cp/english/somalia/index.html> accessed on 10/11/20113

The majority, however, left their home country either in the months following the fall of Siyad Barre's regime or the full eruption of the conflict resulted in a devastating civil war in 1991.¹²²

The death of 500,000 the fact that more than 1.4 million people are internally displaced in Somalia three million people were displaced¹²³ and over 600,000 Somalis live as refugees in the neighboring countries which made Somalia the third largest refugee-producing country (After Afghanistan and Iraq) in the world.¹²⁴ The majorities of Somali refugees in the world fled to and are still residing in Somalia's four neighboring countries: Kenya, Ethiopia¹²⁵, Djibouti and Yemen.¹²⁶

The reasons that pushed the Somalis to leave their country are all related to the civil war and its consequences or the human rights violations such as murder, looting and destruction of property, use of child soldiers, kidnapping, discrimination of minorities, torture, unlawful arrest and detention and denial of due process by local authorities. Besides GBV including rape, FGM and domestic violence are prevalent".¹²⁷

At the peak of the Somali refugee crisis in the early 1990's, the Somali region of Ethiopia hosted nearly 630,000 Somali refugees in eight camps. The majorities were repatriated between 1997 and 2005 and all camps were closed except one camp in Kebribeyah.¹²⁸

The fact that Somali-Ethiopians and Somali refugees share the same cultural background and language and some even belong to the same clan or sub-clan makes it difficult to differentiate between genuine refugees and the local opportunists.¹²⁹

Camp confinement¹³⁰ is, in principle, compulsory in some countries (Djibouti, Ethiopia, and Kenya) but not in others like (Yemen). In Ethiopia and Kenya, only a limited number of refugees are allowed to live in the major cities, mainly for medical reasons.¹³¹

¹²² Joëlle Moret, Simone Baglioni and Denise Efonyai-Mäder, The Path of Somali Refugees into Exile: A Comparative Analysis of Secondary Movements and Policy Response (2006), SFM Studies Vol.46, P78

¹²³ UNHCR, Protection and Assistance to Somali IDPs and Refugees in Somalia, Kenya, Ethiopia, Yemen and Djibouti (2007–2008), p.1

¹²⁴ UNHCR, Issues warning over treatment of Somali refugees, Briefing Notes (23 July 2010), issues warning over treatment of Somali Refugees. But please note that by the end of 2012 the refugee contribution of Somalia has become the second(1,136,100) next to Afghanistan(2,585,600). See, www.Data on Refugee No./UNHCR/2012 Refugee.htm last accessed on 08/10/2013

¹²⁵ Ethiopia is the 6th largest country in hosting the worlds' refugees next to Pakistan, Iran, Germany, Kenya and Syria with 376400 No. See, www.Data on Refugee No./UNHCR/2012 Refugee.htm last accessed on 08/10/2013

¹²⁶ Supra Note 122, P.83

¹²⁷ Supra Note 123, p.1

¹²⁸ Id., p.4

¹²⁹ Supra Note 122, P.34

Camp refugees as well as experts report major hardship in the camps due to insufficient food rations¹³², scarcity of water and firewood¹³³ and insufficient or incompetent health service. For instance, the refugee communities agree that food rations are insufficient to meet the basic needs of refugees, especially those of the most vulnerable categories (mainly infants and children, the old and elderly).¹³⁴

Furthermore, the situation of youngsters above school age is also highly problematic, as they have no opportunity for employment. This leads to high levels of frustration amongst teenagers, often resulting in violent behavior.¹³⁵

¹³⁰ Ethiopia due to the encampment policy she follows and her legal regulations concerning access to the labour market for refugees are restrictive as she has reservations on the 1951 Geneva Convention concerning the right to work.

¹³¹ Supra Note 122, P.63

¹³² Different official and unofficial reasons are mentioned for the constant reductions of the food rations: budget reductions, lack of up-to-date statistics on family size, fraud and corruption surrounding food distribution.

¹³³ According to the released 2005 Report of UNHCR which exposed the heavy dependence of refugee women in Kebribeyah on firewood collection, both to secure fuel for cooking and to sell for a small profit as part of their livelihood. The camp's protection officer stated in the report that women spend 6 to 10 hours collecting firewood in a single outing which result in rape and physical abuse of women and children by locals while collecting firewood was uncontrolled.

¹³⁴ Supra Note 122, P.62

¹³⁵ Id., P.35

Chapter 3

The Legal and Institutional Framework in the Protection of Refugee Children's Rights

The troubles of refugees are fundamentally a human rights issue. Thus, we will consider the major human rights legal documents that are effective tools to use in the protection of children in general and to refugee children in particular.

3.1. The Protection of Children under International and Regional Legal Instruments

There are various international and regional human rights instruments either under the auspices of the United Nation (UN) and the African Union(AU) that are vital in the protection of children from CANE. In addition, children are also entitled to the protection laid down in international legal instruments relating to international criminal, humanitarian, refugee and labour laws. Taking into consideration the paramount importance of these instruments that have a direct bearing in combating CANE, a review will be made to identify the relevant provisions that afford protection to the rights of children.

3.1.1. The International Bill of Rights

The international bill of rights (IBRs) consists of the Universal Declarations of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR) which are considered as the international standard setting instrument in relation to human rights.¹³⁶ All are grounded in the concepts of non-discrimination, equality and recognition of the dignity of each and every individual and each makes it clear that the rights contained therein are available to all human family, including to children.

The rights of children notably the inherent right to life, liberty and security of person, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment proclaimed

¹³⁶ Ethiopia acceded to the International Bill of Rights, the ICCPR together with the ICESCR on June 11, 1993

under UDHR, which is exactly the same as the ICCPR recognizes¹³⁷ can be cited for combating child abuse, neglect and exploitation.

The ICCPR has special provisions particularly relevant for protection of the child not to be neglected by her/his parents due to the dissolution of marriage by imposing state parties to take appropriate measure.¹³⁸ Similarly, Article 24(1) of the ICCPR recalls the need for special protection for children and recognizes that ‘every child shall have, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.’ Hence, to prevent children from being subjected to acts of abuse and cruel and inhuman treatment or from being exploited by means of forced labour or prostitution, or by their use in the illicit trafficking of narcotic drugs, or by any other means.¹³⁹

The ICESCR also has relevant provision to the protection of children from exploitation. Article 10(3) of the ICESCR can be invoked, which explicitly states that:

... Children and young person’s should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law.

Thus, the above provision protects children from social and economic exploitation in a holistic approach, requires states to take legislative measure in combating such exploitation and specifically address protection from child labor which may be construed from it that child labour is likely to be harmful to their morals or health or dangerous to life or likely to hamper their normal development.

Every child without discrimination as to sex or any other grounds are entitled to the protection of any form of CANE by their minor status from their family, society and the state.

Article 8 of the UDHR entitles everyone including refugees to claim the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him/her by the constitution or by law of the asylum state.

¹³⁷ See Articles 3 and 5 of UDHR and Articles 6, 7 and 9 of ICCPR

¹³⁸ Innocenti Research Centre: UN Human Rights Standards And Mechanisms To Combat Violence against Children: A Contribution to the UN Secretary General’s Study On violence Against Children,(2005), p.25

¹³⁹ Id. P24

3.1.2. The UN Convention on the Rights of the Child (CRC)

Building on the above and other international of HRs instruments, adopted earlier, the CRC adopted in 1989 is the most widely ratified international HRs instrument. The CRC, to which Ethiopia is a state party¹⁴⁰, by far sets up a comprehensive framework of legal principles and detailed standards which should govern all law, policy and practice affecting children.

Article 19(1) of the CRC more specifically protects the child from all forms of physical or mental violence, abuse, neglect, exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Whereas, States are strongly obliged to take “all appropriate legislative, administrative, social and educational measures to protect all forms of abuse, neglect and exploitation...” Article 19 (1) (2) of the CRC in terms of discipline, the Convention does not specify what forms of punishment parents should use. However, any form of discipline involving violence is unacceptable.

Remarkably, parents have primary responsibility under Article 18 Of the CRC for “the upbringing and development of the child”; the child’s best interests will be their “basic concern”. In ensuring the rights set forth in the Convention, including the protection of children from all forms of violence, a state has a duty to support and assist parents in the task of upbringing to ensure the healthy growth and development of the child as an important element in the process of not only preventing violence against children but also preventing violence by children when they become adults. Furthermore, the state under Article 20 has an obligation to provide “special care and assistance” to children who are temporarily or permanently deprived of their family environment or are removed from it in their own best interests while Article 24 enshrines children have the right to good quality health care.

Specifically addressing the rights of children to protection from particular forms of abuse and exploitation, the provisions contained in Article 32 and 34 are quite relevant. Article 32 provides the child’s rights to protection from economic exploitation and from “any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”. Article 34 states the right of children from all forms of sexual exploitation and sexual abuse.

¹⁴⁰ Proclamation No. 10/1992, proclamation to ratify the UN Convention on the Rights of Child 1992 and Proclamation No.283/2002

Apart from the various rights guaranteed to children protection from all forms of child abuse, neglect and exploitation, Article 39 in clear and explicit manner set out the obligation of states to undertake measures, “to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, abuse, exploitation, torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.”

Besides the above entitlement articles, Article 22 specifically addresses the issue of refugee children to have the right to special protection and help once they are refugees. Thus, we can safely conclude that the CRC by far provides the rights of child to wide-ranging protection from CANE and also submit the width of states obligations not only to take actions in combating them but also to respond for victims.

3.1.3. CEDAW and CERD

i. CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)¹⁴¹, though contains no specific provision prohibiting CANE, it indirectly provides the right to girl child protection from all forms of violence including CANE. The CEDAW is fully applicable to girls under 18 years of age¹⁴² of the Convention provides that the betrothal and marriage of a child shall have no legal effect and that all necessary action, including legislative action, shall be taken by States to specify a minimum age for marriage, and to make the registration of marriages in an official registry compulsory. Obviously, child marriage constitutes another form of violence against girl child; and consequently, girl children have the right to protection from such kind of abuse and states are duty bound to take appropriate legislative and other measures in combating early marriage.

Moreover, Article 12 (non-discrimination in health care), the Committee on CEDAW again draws attention to violence against women, stating that they may be “exposed to different forms of violence which can affect their health. Girl children are often vulnerable to sexual abuse by older men and family members, placing them at risk of physical, psychological harm and

¹⁴¹ Ethiopia ratified the CEDAW on Dec. 10, 1981

¹⁴² Ibid. Article 16(2)

unwanted and early pregnancy. Some cultural or traditional practices such as FGM also carry a high risk of death and disability”.¹⁴³

The CEDAW under article 5(a) obliges states parties to take all appropriate measures “to modify the social and cultural patterns of conduct of men and women ... which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”; which impliedly obliges states to combat child abuse and exploitation or to protect rights relating to girl child’s health; and States should ensure such measures as legislation and health policies to address violence against girl child and sexual abuse of girl children, the enactment and enforcement of laws prohibiting FGM and marriage of girl children.¹⁴⁴

Similarly, DEVAW¹⁴⁵, (1993), states that violence against women(girl child) encompasses, but is not limited to, physical, sexual and psychological violence: (a) That occurs in the family, including battering, sexual abuse of female children in the household, dowry-related violence, FGM, and other traditional practices harmful to girl child, and violence related to exploitation; (b) That occurs in the community, including rape, sexual abuse, sexual harassment, in educational institutions and elsewhere, trafficking in girl child and forced prostitution; (c) That is perpetrated or condoned by the State, including during time of armed conflict.

ii. CERD

The other relevant legal instrument for the protection of child abuse is CERD¹⁴⁶ which was adopted in 1966. Though the convention contains no explicit provisions addressing child abuse, Article 4 of same can undoubtedly be invoked to argue that the right of children not to be racially discriminated indirectly guarantees the right to children protection from CANE as a form of discrimination.

In line with this argument, the Committee on CERD recommends on Article 4 states that “all racially motivated violence is unacceptable and should be prohibited, including “acts of violence

¹⁴³ Innocenti Research Centre: UN Human Rights Standards And Mechanisms To Combat Violence against Children A Contribution to the UN Secretary General’s Study On violence Against Children 2005,p.25 <http://www.unicef.org/>, last accessed On 09/11/2013, P39

¹⁴⁴ Ibid.

¹⁴⁵ Though the DEVAW is not a legally binding instrument, it sets standards or elaborate principles which are concerned with the eradication of violence against girl-child and it helps in understanding the protections guaranteed under the CEDAW, which also unequivocally address the right of girl child protection from all forms of violence against girl child or girl child abuse and exploitation whether in a family, in a community and by the state.

¹⁴⁶ Ethiopia acceded to the International Convention on the Elimination of Racial Discrimination on 23 Jun 1976

against any race or group of persons of another color or ethnic origin”. The committee further recommends on gender-related dimensions of racial discrimination recognizes that certain forms of racial discrimination may be directed towards women specifically because of their gender, including sexual violence in detention and abuse of women in the informal sector or domestic workers. This undoubtedly provides girl children the right to protection from sexual abuse, and obviously the convention under Art. 4 oblige state parties to adopt immediate and positive measures designed to eradicate all acts of such discrimination.

3.1.4. International Labour Documents

Child labour and the worst forms of child labour is an important aspect of economic exploitation, for it damage children’s health, threaten their education and lead to further exploitation and abuse.¹⁴⁷ Specific rights and protection for children in the context of work are provided by the numerous conventions elaborated by ILO, with particular protection being provided by the Minimum Age Convention (1973), No. 183 and the Worst Forms of Child Labour (1999), No. 182.¹⁴⁸

The Worst Forms of Child Labour, No. 182 is concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor together with ILO Recommendation No. 190, require states to the “immediate and effective measures” to secure their prohibition and elimination as a matter of urgency.¹⁴⁹

In addition, it is good to consider the ILO Convention No. 138 on the Minimum Age for Admission to Employment¹⁵⁰ consolidates principles gradually established in various earlier instruments and applies to all areas of economic activity, whether children are employed for wages or not.¹⁵¹

¹⁴⁷ www.ilo.org last accessed on 10/11/2013

¹⁴⁸ www.ilo-Ethiopia acceded on 2 September 2013

¹⁴⁹ National Steering Committee On Sexual Abuse And Exploitation Of Children In Ethiopia: National Action Plan On Sexual Abuse And Exploitation Of Children In Ethiopia (2006-2010), Addis Ababa, 2006 p.31

¹⁵⁰ adopted in 1973 together with Recommendation No. 146

¹⁵¹ Supra Note 143, P.46

3.1.5. The 1951 Convention relating to the Status of Refugees and Its 1967 Protocol

The two principal conventions governing the international refugee law matters are the 1951 Convention relating to the Status of Refugees¹⁵² and its 1967 Protocol. The Convention sets out the rights of refugees and the standards for their treatment in the countries that receive them. States agree to apply most of the articles of the Refugee Convention (Articles 2 through 34) to all persons covered by the Protocol's refugee definition. Yet the vast majority of States have preferred to accede to both the Convention and the Protocol. In doing so, States reaffirm that both treaties are central to the international refugee protection system.¹⁵³ Accordingly, Ethiopia is a party to both instruments.¹⁵⁴ The 1951 UN Convention on the Status of Refugees and its amending 1967 Protocol the central international instruments governing the treatment of refugees make no specific mention of child refugees.

3.2. Regional Legal Instruments

The African Regional System has been developed under the backing of the Organization of African Unity ("OAU")¹⁵⁵, established in 1963, which was transformed in 2001 into the African Union ("AU").¹⁵⁶

The central document of the African regional human rights system, the African Charter on Human and Peoples' Rights ("African Charter")¹⁵⁷, was opened for signature in 1981 and entered into force in 1986. It has been ratified by all member states of the OAU/AU.¹⁵⁸

¹⁵² Please note that Ethiopia has set a reservation to Article 8, 9, 17 and 22 of the Convention. United States Committee for Refugees and Immigrants, World Refugee Survey 2008 - Ethiopia, available at: <http://www.refworld.org/docid/485f50d171.html> accessed on 12/09/ 2013

¹⁵³ Erika Feller, Irene Khan, Stéphane Jaquemet and Philippe Leclerc (Editors), Refugee Protection: A Guide to international protection, (2001), p.12

¹⁵⁴ See the preamble (paragraph 2) of the refugee proclamation No. 409/2004

¹⁵⁵ The Charter of the OAU is reprinted in Human Rights Law in Africa. The Preamble stated adherence to the principles of the UDHR. See also Art. II(1)(e). The Charter of the OAU was nevertheless a human rights document in the sense that it was aimed at the abolition of colonialism and apartheid. On the OAU see G.J. NALDI: *The Organization of African Unity: An Analysis of its Role*, 1999, p. 109

¹⁵⁶ Constitutive Act of the African Union CAB/LEG/23.15, entered into force 26 May 2001. For an overview of the AU see C. HEYNS, E. BAIMU & M. KILLANDER: "The African Union," (2003), p.252.

¹⁵⁷ Supra Note 155, p.134

¹⁵⁸ See status of ratification of AU treaties, available on www.africa-union.org. Ratification status given for the treaties mentioned in this article) The sole supervisory body of the African Charter currently in existence is the African Commission on Human and Peoples' Rights ("African Commission").

The rights recognized in the African Charter are in many ways similar to those recognized in other international instruments such as the UDHR, ICCPR, and ICESCR. Hence, these rights have in practical terms received most of the attention of the African Commission. For example; the Charter recognizes, the prohibition of discrimination (Article 2); equality (Article 3); bodily integrity and the right to life (Article 4); dignity and prohibition from torture and inhuman treatment (Article 5); the right to health (Article 16) and a right to education (Article 17).

The African Charter has further been supplemented by other international legal framework for the promotion and protection of human rights and the standards that it provides in respect of CANE are reinforced by treaties which have been adopted regionally. To mention some of these are: The African Charter on the Rights and welfare of the Child (ACRWC) or (“African Children’s Charter”) of 1990¹⁵⁹, which came into force in 1999 and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (APRW)¹⁶⁰, are particularly relevant which contains provisions protecting children from all forms of violence and directed at the elimination of them.¹⁶¹ Besides, note should be taken from the outset that the author prefer to deal with only on few provisions of the two instruments since most of the provisions of the ACRWC are similar with the CRC, where as the APRW have similar provisions with the CEDAW.

The ACRW under Art.21 provides the rights of children to the protection not to be subjected to harmful social and cultural practices and clearly obliges states take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular: those customs and practices prejudicial to the health or life of the child; and those customs and practices discriminatory to the child on the grounds of sex or other status.

More interestingly, the APRW is the first human rights instrument that come up with definition of what harmful practice means as: “all behavior, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity;” and specifically identify all forms of FGM, scarification, medicalization and para-medicalisation of FGM as harmful practices. Moreover, the right of girl

¹⁵⁹ Supra Note 155, p.143.

¹⁶⁰ adopted in 2003 and entered into force in November 2005

¹⁶¹ Ethiopia acceded to the ACRWC in 2002 but not to the APRW

child to the protection who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance, is guaranteed.¹⁶²

Thus, the ACRWC and the APRW are quite relevant in addressing the right to protection to children not to be subjected to harmful traditional practices, which are in fact a form of violence (abuse) against children, and also in combating such practices since the obligation of states not only to protect but also to take measures in eliminating is stipulated.

In addition to the above regional instruments, the African regional human rights system is comprised of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969¹⁶³ which entered into force in 1974 is, to date, the only legally binding regional refugee treaty.

3.3. The Ethiopian Legal Framework and Policies for the Protection of Children from CANE

Several countries of the world, including Ethiopia, have adopted different laws to address the issues of CANE at large. This chapter deals with these Ethiopian laws addressing the issues.

3.3.1. The Constitution of the Federal Democratic Republic of Ethiopia (FDRE), 1995 and the Constitution of the Revised Somalia Regional State (CRSRS), 2002.

Ethiopia has constitutional provisions both at federal and regional level besides the substantive and procedural laws, policies, guidelines and action plans that deal with CANE. Thus, the provisions of the constitutions of both the federal and regional states are to be interpreted in conformity to and with facilitating the implementation of the norm and standard set by the above discussed international and regional legal frameworks as ratified by Ethiopian government.¹⁶⁴

¹⁶² see article 1(g) and 5(b) (d) of the protocol to the African charter on human and peoples' rights on the rights of women in Africa adopted in July 2003

¹⁶³ G. OKOTH-OBBO: "Thirty years on: A legal review of the 1969 OAU Refugee Convention" African Yearbook of International Law 8, 2000, p. 3

¹⁶⁴ See Article 13(2) of the FDRE and Art. 14(2) of RSRS Constitutions for which both identically says: "The fundamental rights and freedoms specified in this Chapter [chapter three] shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and international instruments adopted by Ethiopia." and Article 9(4) of the FDRE Constitution says: "All international agreements ratified by Ethiopia are an integral part of the law of the land.". Note that, the above mentioned sub-article (4) has been omitted under the RSRS Constitutions.

The fundamental rights and freedoms guaranteed under the FDRE Constitution especially from Arts. 14-28¹⁶⁵ can be enjoyed by children as adults, which are relevant to the protection of children from CANE. For example, Art.18¹⁶⁶ guarantees freedom from slavery and servitude prohibiting the holding of a child in slavery like practices or servitude as well as trafficking is a prohibited act.

The constitution has devoted a specific provision to the rights of a child considering the special condition of the children, under Article 36.¹⁶⁷ This provision directly addresses the issue of CANE. For instance, the rights of the child to be cared by his/her father/mother against negligent treatment by parents¹⁶⁸, the right of the child not to be exposed to exploitive practice¹⁶⁹ and the right to be free from abuses such as corporal punishment and inhuman treatment whether in school or other institutions responsible for the care of children are prohibited.¹⁷⁰ Sub-article (2) of the same article addresses the issue of the principle of “the best interest of the child”. Similarly, Art.35 deals with the rights of women (including the girl child), where the constitution also provides for the protection of women against harmful customs¹⁷¹ (practices).¹⁷²

3.3.2. The Criminal Code of FDRE, 2004

There are quite a number of provisions in the Criminal Code 2004 that directly address CANE. These include forms of child neglect: Exposure or abandonment of another¹⁷³, failure to lend aid to another.¹⁷⁴ Though these provisions are not specifically guaranteed for children, the word ‘another’ with specific reference to or “his/her age” is exposed to danger is provided protection for children like that of adults.

Similarly other provisions criminalize forms of CANE that include: maltreatment of minors (Article 576), HTPs in a holistic approach(Article 562), female circumcision (Article 565), Infibulations of the female genitalia (Article 566), abduction of another or woman minor(Art.586-589), trafficking of a child and women for the purpose of forced labour(Article 597), rape against a girl child(Article 620), sexual outrage on minor (for both the boy and girl)

¹⁶⁵ Articles from 15-29 of the RSRS constitutions of 2002 which are identical copies of the FDRE constitution

¹⁶⁶ Article 19 of the RSRS constitutions

¹⁶⁷ Note: both the FDRE and the RSRS constitutions have identical article No. or sub-articles and contents

¹⁶⁸ Art.36(1)(c) of the FDRE/RSRS constitutions

¹⁶⁹ Ibid. Article 36(1)(d)

¹⁷⁰ Ibid. Article 36(1)(e)

¹⁷¹ Ibid. Article 35 (4)

¹⁷² Ibid. Article 35(3)

¹⁷³ See Article 574 of the Criminal Code, 2004

¹⁷⁴ Ibid. Article 575

from 13-18 years age(Article 626), sexual outrages committed on Infants(Article 627), Homosexual and other indecent acts performed on minors(Article 631), habitual exploitation for pecuniary gain (Article 634), Seduction, inducing, inciting, procuring children for prostitution(Article 635), endangering children from crimes tending to corrupt morals using picture or film for pornography(Article 640(2)(b) and 644), prohibition of early marriage(Article 648), and failure to bring up (Article 659).

However, the criminal code criminalizes ill treatment, neglect, over-burdening and/or the beating of minors by parents, legal guardians and other custodians(Article 576(1)), it legitimatise the use of “violence” by parents or legal guardians against their children by entitling them to the “the right to take disciplinary measures that does not contravene the law for the purpose of proper upbringing” (Art.576(3) and 68(2)) which may give the chance for parents to negligently or intentionally abuse the child in care in contradiction with the constitution of Ethiopia, other international and regional legal instruments.¹⁷⁵

3.3.3. The Civil Code of 1960 and the Revised Family Code (RFC) of 2000

The Civil Code also recognizes specific form of CANE. For instance¹⁷⁶, failure to educate or supervise any person under one’s charge results in extra-contractual liability. Thus, the guardians and other persons in charged with the supervision of a child may be liable under this provision where the child’s neglect for which any sort of abuse or exploitation is taken against the child or by the child in their supervision as results from failure (negligent act) undertaken to the supervisory duties properly.

Apart from these, the civil code provides civil redress in the form of compensation to child victims of abuse, neglect and exploitation under its provisions relating to Extra Contractual Liability.¹⁷⁷ The perpetrator of any form of abuse, neglect and/or exploitation of a child will be condemned to compensate material damages sustained by the victim. Whereas, Article 2105 of the Civil Code provides compensation for moral harm though very minimal is to be awarded in

¹⁷⁵ See Article 36(1)(e) of the FDRE constitution, Art.19 of the UNCRC and Article 16 of the ACRWC

¹⁷⁶ The Civil Code which states that a person is at fault, and therefore liable under the law "... where as a consequence of his/her failure, damage is suffered/caused by the person in his charge/the person subject to his supervision causes damage to a third party, respectively" Article 2052(2-3) of the same.

¹⁷⁷ Ibid. Article 2028 that states “whosoever, by his fault, causes damage to another, shall make it good”

form of material damage for cases of intentional fault, bodily harm or death, rape and/or indecent assault.¹⁷⁸

Both codes¹⁷⁹ impose the obligation of the guardian to direct the upbringing of the minor. In the same token the civil code empowers the guardian “to inflict light bodily punishment on the minor for the purpose of ensuring the latter’s education”¹⁸⁰ and exempts parents from liability when s/he inflicts “reasonable corporal punishment” on her/his child.¹⁸¹ In the same manner, the RFC¹⁸² gives power to the guardian of a minor to take “necessary disciplinary measures” for the proper upbringing of the minor. Consequently, the authorization of parent(legal guardians) to “inflict light bodily punishment” in the civil code or to take “reasonable chastisement,” in the criminal Code or to take “necessary disciplinary measures” in the RFC against children seems to allow physical and mental child abuse.

The most significant contribution of RFC and other regional family codes is the setting of minimum marriageable age for girls at eighteen instead of fifteen years as it was provided under the repealed provision of the civil code.¹⁸³ In the same way as the old law (civil code), all the new Family Laws of Regional States provide for age dispensation for up to two years.¹⁸⁴ But it is the Ministry of Justice or Justice Bureau of the regions that is mandated to grant such an exemption.¹⁸⁵

The RFC has remarkable provisions that can serve in combating child abuse, neglect and exploitation. Primarily it has incorporated the corner stone principle: “the best interest of the child” to be the primary consideration in all actions concerning children that protects catalogues of interests of children not to be ignored.¹⁸⁶

3.3.4. The Criminal Procedure Code, 1961

Even though the Criminal Procedure Code is not expected to say much with respect to acts of violence against children, many of the procedural rules have positive implication for the

¹⁷⁸ Ibid. Article 2106, 2113 and 2114 respectively

¹⁷⁹ See Article 267(1) of the Civil Code and Art. 258(1) of the RFC

¹⁸⁰ Article 267 (2) of the Civil Code

¹⁸¹ Ibid. Article 2039(C)

¹⁸² Article 258(2) of the RFC

¹⁸³ See Article 581(1) and Article 7(1) of the RFC

¹⁸⁴ Article 7(2) of the RFC

¹⁸⁵ Ibid.

¹⁸⁶ See Article 194(2) which is in line with Article 3 of the UNCRC and Article 221(2), 266(2), 312(2) of the RFC which grant the court to decide cases with due regard to this principle.

prosecution of violence against children. Just to consider two situations, the criminal procedure code stipulates the circumstances where the accused will not qualify for bail. While every accused is presumed innocent from guilty in a court of law, s/he may be forced to stay under custody even before the conviction if there is likelihood that s/he leave abscond, interfere with the administration of justice or commits another crime.¹⁸⁷

Unlike the case of the old (Penal Code) where criminals /suspect/ used to take advantage of the bail¹⁸⁸ due to the insignificant No. of years of punishment for sexual offences against children especially towards girls the punishment under the Criminal Code has been rigorous sentence of fifteen years and above for which the person accused can legally be denied bail. This is especially important where violence is committed on children who can later be easily intimidated not to reveal what they have experience.

Under the criminal law, children are either exonerated from criminal liability or made subject to special measures which are inapplicable adults when found guilty under the law.¹⁸⁹ The Criminal Procedure Code as well treats children as a special category of persons and prescribes a special procedure in cases concerning them.¹⁹⁰

3.3.5. The Labour Proclamation No. 377/2003

Under the Ethiopian legal frame work, the current labour law¹⁹¹ is undeniably important in addressing the issue of child economic exploitation particularly through regulating the minimum age for employment and the time and conditions of works for children participation. Art. 89(2) prohibits to employ persons under 14 years of age although it permits to children of 14 to 18 years (which the proclamation calls ‘young workers’) to enter into a contract of employment while it has prohibited to employ young workers which on account of its nature in which it is carried out, endangers the life or health of the young workers performing it in general and the list of activities particularly described therein.¹⁹² In addition to the above protection on abuses and

¹⁸⁷ Article 67 of Criminal Procedure Code (CPC)

¹⁸⁸ Under Article 63 of the Criminal Procedure Code

¹⁸⁹ Article 52 and the ff. of Crim. Code

¹⁹⁰ For instance you may see Art. 171 and the ff. Crim. P.C where procedure to the right to be removed from chambers where any evidence or comments which are undesirable that young persons should hear are to be given or made and the right to have in camera hearings, whenever they are brought to court

¹⁹¹ It is known by name ‘Labour proclamation’ No.377/2003

¹⁹² See Article 89(3) and (4) of the Labour Proclamation No. 377/2003

exploitation on activities prohibited by young workers, limitation on hours of work and night and overtime work is guaranteed under the same law.¹⁹³

3.3.6. Policies

Laws alone are not sufficient to protect the rights of children. Appropriate policies, action plans, guidelines, institutional reform, training of professionals, social mobilization and the modification of attitudes and social values are essential to achieve child protection¹⁹⁴ and to come up with the policies one of the powers of ministerial offices of the country are to initiate policies, laws, prepare plans and upon approval to implement them.¹⁹⁵ Accordingly, Ethiopia has Developmental Social Welfare Policy (1960) in which the issues of children, youth (age 15-24)¹⁹⁶, and women (including the girl child) are included. Similarly, the National Health Policy, the Education and Training Policy, the National Policy on Ethiopian Women, the National Population Policy are the most related policies towards the protection of children's rights.

3.4. International Specialized Agency, Civil Society Organizations, National Child Right Protection Institutions and Human Rights Institutions

International specialized agencies who are working with refugee and refugee related matter are many. Just to mention some of these agencies are UNHCR, UNICEF, IOM, ILO and WFP. UNHCR being the refugee specialized and most relevant international organization to deal with the protection issues of refugees, this research paper will only address it in detail, for the other mentioned international agencies contribute to the well being of refugees in one way or the other by working in cooperation with the specialized agency (UNHCR) and not with a direct involvement.

3.4.1. UNHCR

UNHCR is the United Nations Refugee Agency created by the UN General Assembly in 1950 charged with helping governments to find 'permanent solutions' for refugees. Accordingly, UNHCR's statute was drafted simultaneously with the 1951 Refugee Convention, and as a result

¹⁹³ Ibid. Article 89(4)(a-d), 90 and 91(1-4)

¹⁹⁴ UNICEF, Child Protection: A handbook for parliamentarians, (2004), No. 7, P.22

¹⁹⁵ See Article 10(1)(a) of the Definition of Powers and Duties of the Executive Organs of the FDRE, Proclamation No. 471/2005

¹⁹⁶ See Ethiopian Developmental Social welfare policy, 1996, P.53

the key international legal instrument, and the organization designed to monitor it, are particularly well coordinated.¹⁹⁷

The agency therefore coordinates the provision and delivery of shelter, food, water, sanitation and medical care which can best help it to fulfill the basic needs of refugees for the provision of effective legal protection manages or helps manage individual camps or camp systems, and has designed specific projects for vulnerable women, children and the elderly who comprise 80 percent of a ‘normal’ refugee population.¹⁹⁸ Hence, the two main relevant to the topic functions of UNHCR are the protection and promotion of durable solutions to refugee’s problems with the additional role of coordinating material assistance for refugees.¹⁹⁹

In line with the above relevant principles of protection and safeguarding the rights of refugees UNHCR in particular addresses through: encouraging accessions by states to the basic international instruments relating to refugees, and ensure their implementation; ensure that refugees are treated in accordance with recognized international standards; help to ensure the personal security of refugees and asylum-seekers; promote the reunification of separated family members. Likewise assistances which make the action of protection ineffective if the person’s basic material needs are neglected and vice versa, the consideration of the site chosen for a local settlement is taking into account the security of those who will be accommodated there for the proximity of a border may be a source of danger and the construction of dwellings and camp buildings to ensure privacy and security for children and other vulnerable groups who may otherwise become victims of abuse such as sexual assault.

3.4.2. Civil Society Organizations

Though Ethiopia is recently recognized for its noticeable socioeconomic improvements, in 2008-2009 she is still positioned close to the bottom of the United Nations Human Development Index, which seeks to measure comparatively sustainable human development.²⁰⁰ This poverty level of the country forces her to accept enormous number of NGOs be established with the limited character of the democratic opening after May 1991.

¹⁹⁷ See Article 35 of the 1951 Convention which makes the relationship explicit, and requests states to co-operate with UNHCR in matters relating to the implementation of the Convention itself and to any laws, regulations or decrees that states might draw up that could affect refugees

¹⁹⁸ Supra Note 153, p.21

¹⁹⁹ Partnership: An Operations Management Handbook for UNHCR’s Partners, (2003), p.3-4

²⁰⁰ Supra Note 12, p.157

Unlike the assumption for the existence of vast civil societies in the country, Ethiopian government has vanished the sparkling of the promotion of human rights through the promulgation of Charities and Societies Proclamation which ban charities other than “Ethiopian charities” or “Ethiopian Societies” to involve in activities relating to the advancement of human rights, the promotion of gender equality, the promotion of the rights of the disabled and children’s rights and the promotion of efficiency of justice.²⁰¹ For the above reasons, Siegfried P. and Gunter S. concluded that “although in theory Ethiopia is a federal democratic country with extensive constitutional guarantees for human rights, in practice the government gives priority to control and maintenance of power of the ruling party leaving the Human rights remain vulnerable”.²⁰²

3.4.3. Ethiopian Children Rights Protection Institutions

Protection of human rights is done at various levels requiring various tasks and involving various steps. The level of protection are often expressed in terms familiar in the fields of international human rights law such as the duty to respect²⁰³, protect²⁰⁴, promote²⁰⁵ and fulfill^{206, 207}.

Ethiopian government comprises of federal and state governments where both the federal and state governments are entitled to have legislative, executive and judicial powers.²⁰⁸ Accordingly, the organs of the Federal and State legislative, executive and judicial at all levels are imposed with the responsibility and the duty to respect and enforce the provisions of the human rights provisions of the constitution.²⁰⁹ Similarly, Under Article 36(2) of the same, these organs are

²⁰¹ See Article 14(2)(j, k, l and n) with Article 14(5) of the Charities and Societies Proclamation, Proclamation No. 621/2009

²⁰² Supra Note 12, p.161.

²⁰³ The duty to respect requires that we do not abuse the rights or act to prohibit or deny the rights in any way or it could be understood as an ethic of non-interference

²⁰⁴ The duty to protect requires that we act in order to prevent violation or abuse of rights by others in the society. According to the explanation given by Tsegaye R. this duty might entail the duty to act at the legislative, executive and judiciary level of the state. In addition, it involves the power to proscribe abusive or violative acts or omission.

²⁰⁵ The duty to promote entails the responsibility to propagate the notion of rights to the wider society which may include: the responsibility to translate instruments in to local language, publication and dissemination of such instruments, organizing sensitization programs, running awareness trainings, expanding formal and informal human rights education; conducting researches on specific area of concern, advocating advancement of the human rights cause in the public sphere; networking with communities, civil society organizations, local regional and international actors etc where the manifestation of the knowledge of human rights is done

²⁰⁶ The duty to fulfill requires the state to go beyond the call of ordinary duties to ensure that people are capacitated to enjoy their rights. Accordingly, it calls from the part of the state to make sure that especially the most unfortunate sections of societies are brought to the level where they can enjoy a decent life of dignity

²⁰⁷ Tsegaye Regassa, Making legal sense of human rights: the judicial role in protecting human rights in Ethiopia, Mizan Law Review, St. Mary’s University College, Vol. 3, No.2, September 2009, pp.308-323

²⁰⁸ Article 50(1-2) of the FDRE Constitution, 1995

²⁰⁹ Ibid. Article 13(1)

ordered to make primary consideration to the best interest of the child. We will consider some of the protective duties of the organ of the government.

3.4.3.1. The Legislative

The legislative branch of government is responsible for enacting laws.²¹⁰ Similarly, the HPR of Ethiopia has the power of legislation in all matters assigned by this Constitution to Federal jurisdiction while the State Council does same on matters falling under States jurisdiction.²¹¹ In line with its mandate, the HPR and the State council made adjustments for national legislative standards to offer the best possible protection from CANE.

3.4.3.2. The executive

It is the branch of government responsible for effecting and enforcing laws.²¹² The major powers and duties of the executive branch of Ethiopia are: the follow up and ensuring of the implementation of laws, policies, directives and other decisions adopted by the HPR.²¹³

In line with the Constitutional provisions on the powers and duties of the Council of Ministers the relevant organs of the executive are: the Ministry of Education²¹⁴, the Ministry of Health (Article 9(17)), Ministry of Justice (Article 9(4)), the Ministry of Foreign Affairs (Article 9(3)), the Ministry of Women, Children and Youth Affairs (Article 9(20)), the Ministry of Labour and Social Affairs (Article 9(18)) who are entitled to initiate policies and laws and upon approval implement same (Article 10(1)(a)), ensure the enforcement of federal laws (Article 10(1)(b)) and to enter into contracts, to undertake study and research(10(1)(c)) and enter into international agreements (Art.10(1)(f)) are some of the relevant ministerial offices area of jurisdictions among many.

The adoption of national refugee legislation that is based on international standards is key to strengthening asylum, making protection more effective and providing a basis for seeking solutions to the plight of refugees.²¹⁵ Similarly, Ethiopia has come up with the Refugee Proclamation in line with the international refugee protection standard.²¹⁶ Thus, Ethiopia tries to

²¹⁰ Bryan A. Garner, Black's Law Dictionary, Eighth edition, 2004, P.919

²¹¹ Article 55(1) and 50(5).

²¹² Supra Note 210, p.610

²¹³ Article 74(3) of the FDRE Constitution, 1995

²¹⁴ Article 9(16) of Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 691/2010

²¹⁵ Supra Note 153, p.58

²¹⁶ See the preamble of Ethiopian refugee proclamation No. 409/2004 paragraph 3, which says "it is desirable to enact national legislation for the effective implementation of the aforesaid international legal instruments,

protect and respect the overall human rights and fundamental freedoms of the refugees under its protection through the Security, Immigration and Refugees Affairs Authority(SIRAA) established by (Proclamation No. 6/1995) or the National Intelligence and Security Service as per the amended designation made to federal executive organs and their heads²¹⁷ with the objective of executing policies and laws on state and public security, immigration nationality and refugees²¹⁸ through the delegation of its branch office, Administration for Refugees and Returnees Affairs (ARRA).

The Refugee Proclamation is the most relevant domestic law to deal with specific refugee matter which entitles refugees with rights and impose subjection to the duties contained in the Refugee Convention and the OAU Refugee Convention besides imposing the subjection of the laws enforced within Ethiopia.²¹⁹ In addition to the above facts the Refugee Proclamation provides for the special protection of vulnerable groups such as women refugees, refugee children, elderly refugees and handicap who needs special protection.²²⁰

3.4.3.3. The Judiciary

"The judiciary is the branch of government which administers justice according to law. The term is used to refer broadly to the courts, the judges, magistrates, adjudicators and other support personnel who run the system. The courts apply the law, and settle disputes and punish law-breakers according to the law. Citizens look to the judiciary to uphold their rights and governments look to the courts to interpret laws".²²¹

3.4.4. Democratic Institutions

The two major democratic institutions of the country are the Institute of Ombudsman and the Human Rights Commissions. The Ombudsman contribute to the protection of refugee children as the institutions have institutional children and women affairs heading and while it also conduct

establish a legislative and management framework for the reception of refugees, ensure their protection, and promote durable solutions whenever condition permit"

²¹⁷ See the Appendix of Proclamation No. 471/2005 of the Definition of Powers and Duties of the Executive Organs of the FDRE) and similarly amended at Article 33 (2)(a) of Proclamation No. 691/2010 of the same.

²¹⁸ See Article 4 of Proclamation No. 6/1995

²¹⁹ See Article 21 (1) (d-e) of the Refugee Proclamation No. 409/2004

²²⁰ Ibid. Article 22

²²¹ Available at: www.parliament.qld.gov.au accessed on 08/03/2013

supervision with a view of ensuring that the executive carries out its functions towards the prevention of maladministration.²²²

The other and relevant organ is the Ethiopian Human Rights Commission as it is specialized human rights institutions entitled to address the violation of human rights throughout the country.²²³ Its relevant powers and duties are to: ensure that the human rights and freedoms provided for under the Constitution of the FDRE are respected by all citizens, organs of state, political organizations and other associations as well as by their respective officials; educate the public using the mass media and other means, with a view to enhancing its tradition of respect for, and demand for enforcement of, rights upon acquiring sufficient awareness regarding human rights; undertake investigation upon complaint or its own initiation in respect of human rights violations; make recommendations for the revision of existing laws, enactment of new laws and formulation of policies; provide consultancy services on matters of human rights; forward its opinion on human rights reports to be submitted to international organs; and to translate into local vernaculars, international human rights instruments adopted by Ethiopia and disperse same.²²⁴ Similarly, the commission is entitled to have a commissioner heading for children and women affairs.²²⁵

²²² See Article 8(2)(c) with Article 6(3) of the Institution of the Ombudsman Establishment Proclamation No. 211/2000

²²³ See Article 4(1) with 9 of Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000

²²⁴ Ibid. Article 6 (1-8) and Article 8(2)(c)

²²⁵ Ibid. Article 8(2)(c)

Chapter 4

Finding and Discussion

4.1. Methodology Narration (Data Sources)

As it has been mentioned in the introductory part of the thesis, this research is conducted with qualitative type of research for this research is conducted mainly to describe factors related to child neglect, abuse and exploitation (CANE) where more emphasis is given to the reason why CANE is happening.

Following the necessary research procedure such as identifying the participants, arrangement of time and place, explaining the purpose of the research, promising the confidentiality of the opinions they give and with their consent the following information data collecting techniques were employed.

The research is conducted using semi-structured questionnaires to 100 participants of the residents of the Kebribeyah refugee camp(KBRC) where due consideration to the section of each community member, age, sex (gender) and educational level are given. Since all the respondents of the questionnaire are Somali's where all of them speak the language Somali, the questionnaire was prepared in English and is conducted by four(three male and one female²²⁶) experienced and trained(translators) young students refugees applying availability sampling technique for the available four zones but of course under the supervision of the researcher. Besides, maximum efforts were made to maintain privacy during data collection due to the sensitive nature of the issues. Thus, to assure confidentiality of information, name of the study subjects was omitted from the questionnaire.

The study was supplemented with qualitative data using FGD which was facilitated with a guiding notes and tape recorders during discussions. Three FGD groups each groups having 7 participants were conducted. The first group was a group of IPs; the second group was composed of refugee girls and women and the third group was composed of refugee boys and men. On average each FGD session took one hour period.

²²⁶ There were a problem of finding refugee girl (women) with the experience of data collection techniques and who is willing to conduct the act.

An in-depth interviews to key informants(23) of the representatives of the concerned government bodies such as: Administration for Refugee and Returnee Affairs (ARRA), Human Rights Commission, Ministry of Women, Children and Youth Affairs (MWCYA), United Nations Higher Commission for Refugees (UNHCR), NGO's representatives such as International Rescue Committee (IRC), Mother and Children Development Organization (MCDO), Danish Refugee Council (DRC), Development and Inter Church Aid Commission (DICAC), GAIA Association), school directors and community representatives/leaders/ such as Community Health Workers (CHW), Women's Association (WA), Refugee Central Committee (RCC) and Youth Association (YA) were conducted. In addition, in all the procedures a personal observation was carried out.

4.2. Socio-Demographic Characteristics of the Study Participant

Table -1- Socio-Demographic Characteristics

Zone	Age Group								Total
	0-4		5-11		12-17		≥18		
	M	F	M	F	M	F	M	F	
Total Zone 1	134	132	316	326	156	177	401	492	2134
Total Zone 2	219	209	618	637	290	281	718	865	3837
Total Zone 3	450	483	1194	1192	583	508	1752	1931	8093
Total Zone 4	128	133	352	340	174	155	455	493	2230
Total Refugees	931	957	2480	2495	1203	1121	3326	3781	16294

The selected background characteristics of the study population are aged generally varying from 0-over 59 were with the total population of 16294. Among these number children between 0-4 are 1888 (11.59%), between 5-11 are 4975 (30.53%), between 12-17 cover 2324 (14.26%), and ≥18 cover 7107 (43.62%). Thus, children hold 9187(56.38%) which makes the majority numbers while the adults cover only 7107(43.62%).²²⁷ This indicates the facts that, the No. of refugee children in KBRC are by 10% higher than the average No. of the refugee children of the world by the end of 2012.²²⁸

²²⁷ All the survey data on the refugee population are collected from UNHCR branch office(Jijiga) in the month of February 2011.

²²⁸ Supra Note 100, p.3

4.2.1. Background Characteristics of the Study Population

Table -2- Socio-Economic Characteristics of the Surveyed Participants

Sample Characteristics	Male	Female	Total
Religion			
Muslim	50	50	100
Others	0	0	0
total	50	50	50
Nationality			
Somali	50	50	100
Other	0	0	0
Total	50	50	100
Marital Status			
Single	27	28	55
Married	21	21	42
Widow/er/	02	01	03
Total	50	50	100
Level of Education(class)			
1-4	06	14	20
5-8	15	07	23
9-10	06	04	10
11-12	02	0	02
University	01	0	01
Not attending	20	22	42
Total	50	47	98
Number of Children in a Family			
0	0	06	06
1-4	10	06	16
5-10	12	12	24
≥11	0	0	0
Number of Years Lived in the Refugee			
0-7	0	0	0
8-10	0	08	08
11-15	18	13	31
16-20	30	27	57
≥21	0	0	0
Total	48	48	96
With Whom do the child live(with family/child headed family)			
With a Family			
With a child headed family	27	19	46
Total	0	03	03
	27	22	49
Reason(s) for leaving Your Country of Origin			
Conflict/Civil War/	50	48	98
Race	06	0	06
Political Opinion	04	0	04
other	0	0	0

Considering the total (100) individuals included in the survey both males and females cover 50(50%) each while children and adults cover 50% each of the surveyed population.

Based on the personal information gathered from the surveyed population all (100%) the population of the study participants are Muslims. Similarly, all the refugees in Kebribeyah refugee camp (KBRC) are from the country Somalia or born in the refugee camp.²²⁹

²²⁹ It is also confirmed by all FGD participants and the results of all key informants of the agents of the government, NGO's and the representatives of the refugee community.

The level of education of the study population compared between class level and sex comparison; students in between grade 1-8 male are 22(51.16%) while female 21(48.84%); grade 9-12 male are 8(66.67%) and female 4(33.33%). But only 1(1%) male have managed to join university/collage/ level. On the contrary, the survey shows 20(47.62%) of males and 22(52.38%) of females have not attended school. Note should be taken that in the year 2009, the school attendance rate for girls of all Ethiopian refugee camps were 30%.²³⁰

When we see the age of the population who has not attended school all of the males are above or equal to 18 years of age while 2(9.09%) of the female are (age 12 and 13) with the remaining 20(90.91%) of the females who are either 18 years and/or above. Hence, we can generalize that only 2(3.85%) of the children (female) has not exercised the right to education but all the male children has got this right fulfilled.

Taking the number of children who are living in the same house or family, 6(13.04%) of the respondents replied that there are no children in the house they live. Furthermore, 16(34.78%) has replied up to age 4 children live with them; while 24(52.17%) of them replied that 5-10 children live with them.

With regard to the number of years the respondents lived in Kebrebeyah refugee camp the surveyed data imply that the respondents lived in the camp varying from 6-20 years. But to clearly understand, we've to note the fact that the survey is not conducted for ages up to 4 years of age and the fact that the refugee camp is only 20 years of age. Hence, we can't get any respondent who lived in the camp for more than 20 years.

The majority of the child respondents 46(93.88%) has replied that they live with an adult family while only 3(6.12%) has replied that they live with a child headed family.

Similarly, the majority of the respondents 98(90.74%) has responded that they have left their country of origin for the reason of conflict/civil war/ in their country of origin. Thus, this is in line with the literature that states the reasons for the Somalis to leave their country are "related to civil war and its consequences".²³¹ 6(5.56%) of the respondents have replied (added) they left their country of origin for the reason of conflict relating to race, while 4(3.70%) responded for the reason of difference in political opinion. Therefore, other potential push factors such as

²³⁰ ARRA Update, Vol. 3, No. 13, December 2009, P.7

²³¹ Supra Note 123, P.1

involving into a membership of particular social groups, natural disaster, child trafficking/sale/, forced child labour, sexual abuse and/or exploitation, child abduction, smuggling for prostitution are not the explicit factors that forced the Somali's living in KBRC.

4.3. Findings and Discussions on Knowledge, Practice and Reasons for CANE of KBRC

To mention the different types of 'child abuses' that exists in KBRC are: child neglect such as burns, drowning; corporal punishment either light or excessive; verbal abuse such as insulting and shouting; different kinds of sexual abuses such as rape against the female child, FGM, early marriage, forced marriage; labour abuse and exploitations.²³²

In order to see the condition and causes of child neglect in KBRC, it is necessary to see its level of protection by using the parameters such as level of awareness, level of practice, reasons why it does exist and the level of responses from the IPs.

4.3.1. Knowledge, Practice and Reasons for Child Neglect in KBRC

Despite the fact that there are many types of child neglect, the researcher took only drowning, burns, poisons and traffic accidents from the different kinds of child neglects types of abuses.

Table-3 – The Level of Knowledge (Awareness) on Child Neglect

Knowledge on type of child neglect:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. & (%)
Drowning in holes	10	20.83	38	79.17	10	21.28	37	78.72	20	75
burns	7	14.29	42	85.71	8	16.67	40	83.33	15	82
poisons	14	28.57	35	71.43	18	37.50	30	62.50	32	65
traffic accidents	18	37.50	30	62.50	16	32	34	68	34	64

Table 3 shows, significant number of the refugee community does not have the knowledge of the occurrence of drowning, burns, poisons and traffic accident as a form of violation of the rights of

²³² These are different kinds of CANE's that takes place in KBRC as the response gathered from the questionnaire and from the interviews of the key informants.

the child. This reflects that, on average 71.50% of the refugee community does not have the awareness of the above types of child neglect as a form of children’s rights violations. When we compare the knowledge level of males with that of females; as the least known type of neglect burns account with 7(14.29%) for males while for females the it account 8(16.67%); and the highest known types of child neglect for males are traffic accident 18(37.50%) while for females are poisoning covering 18(37.50%). Accordingly, their average level of awareness is 25.25%.

Table-4- The Level of Practice on Child Neglect

If there are the Practice(s) of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. & (%)
Drowning in holes	16	32	32	64	14	28	36	72	30	68
burns	21	42	29	58	12	24	38	76	33	67
poisons	10	20	39	78	8	16	40	80	18	79
traffic accidents	5	10	43	86	3	6	45	90	8	88

When the refugee community are asked on the level of the existence (practice) of the above types of child neglect, on average 19.20% of the refugee community has replied that they have the knowledge of the practicing of those abuses. Accordingly, traffic accidents are the least practiced types of child neglect(8%) while the practice of burns (33%) are the highest forms of child neglect.

During FGD one of the FGD group said that “drowning is usual case in the camp” and they further added “there are frequent cases of drowning in the hole which has even resulted to the death of a child.” And the reasons forwarded by the discussants are because there no one to take care of the holes besides the fact that there are no fence around the holes. The researcher also observed that there are lots of holes in the different sections of the refugee camp and these holes are slippery. Besides, the holes are not with fences. Hence, since the people that fetch water are children it is causing them to a fall down and get injury and even has resulted to the death of the child.²³³

²³³ A result attained from the discussants of the 2nd group of the FGD, conducted on 20/01/2011

Similarly, as shown in the table 4, 33% of children experience burning through neglect and this is the most practiced type of child neglect. In the same manner, according to the interview conducted with Mr. Sahardid Ahmed Aden²³⁴ there are child neglect cases in KBRC. For example, with his knowledge of child neglect; “a 12 years old boy was badly burned as a result of trying to add an ethanol to a switched on stove and were taken to Addis Ababa for treatment by ARRA”.

Hence, the above types of neglects of the child becomes against the rights of the child to be free from neglect and serious violation of human right. i.e. the violation of the right to be free from neglect and inhuman/degrading/ treatment.²³⁵ Accordingly, as it’s stated in these international, regional and domestic laws, Ethiopia as a duty bearer has either promulgated a law protecting the right to life, protection of children against child neglect, abuse or exploitation or made a clear reference to the protection of CANE as per Article 9(4) and 13(2) of the FDRE constitutions. With this at hand, Ethiopia has laws protecting the rights of refugee children in many of its domestic laws. But the problem comes with the issue in practice.

Table-5- Reasons for the Practice of Child Neglect

Reasons:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
Ignorance by the families	44	88	4	8	12	24	36	72	56	40
Lack of resource by the families	46	92	3	6	42	84	7	14	88	10
Lack of resource by the government	37	54	10	20	28	56	21	42	65	33
Lack of concern by INGO’s	0	0	0	0	0	0	0	0	0	0
Lack of concern by NGO’s	12	24	37	74	20	40	28	56	32	65
Other	-	-	-	-	-	-	-	-	-	-

With regard to possible factors for the occurrence of child neglects in KBRC as responded by the refugee community are ranging from lack of concern by NGO’s(32%), ignorance by the

²³⁴ An Interview with Mr. Sahardid Ahmed who is one of the ten members of the refugee central committee (RCC); interviewed on 18/01/2011

²³⁵ See Article 5 of UDHR with Articles 7 of ICCPR, Article 16 of ACRWC and Article 16 of the FDRE Constitutions

families(56%), lack of resource by the government(65%), up to lack of resource by the families(88%).

From the reasons forwarded, one can speculate that the refugee community seems to believe that if they (specially the families) had enough resources to care for children, the families would have cared for the rights of a child to be free from neglect. Thus, in line with the definition forwarded by WHO²³⁶, one cannot boldly generalize that the guardians of the KBRC are strictly liable for the existence of child neglect for not protecting their children from neglect when they have no the access to the reasonable recourses such as adequate food, water and clothing in providing them. On the contrary, the KBRC’s guardians can be generalized to have neglected their children for the researched tested areas does not require the families’ additional resources but to give due consideration and attention towards the protection of their children.

Taking the second highly repeated reason for the existence of child neglect, the respondent’s reasons are related to the shortage of the government on resources to care for children. Consequently, it would create the question on what are these assets that they believe are holding them back from protecting their children’s to be free from the above kinds of child neglect abuses. Similarly, the publication from ARRA shows that Somali refugee camps remains very poor due to financial constraints and the financial assistance is required in order to put in place the necessary infrastructure including shelter, water, health care, and sanitation services. In addition, the same publication indicate the fact that ARRA have applied to the international community particularly to UNHCR and other donors that the shortage of budget are affecting the child protection and assistance given to the refugees in the country.²³⁷

4.3.2. Knowledge, Practice and Reasons for Child Abuse in KBRC

Table -6- The Level of Awareness about Child Abuse

Awareness on type of child abuse:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No	%	No. (%)	No. (%)

²³⁶ Supra Note, p.60

²³⁷ Supra Note 230, pp. 2-3

Corporal punishment		Light	5	10	43	86	6	12	43	86	11	86
		Excessive	38	76	10	20	43	86	6	12	81	16
Child labour			40	80	8	16	25	50	24	48	65	32
Sexual abuse	Abduction		20	40	29	58	18	36	30	06	38	59
	Early marriage		15	30	34	68	10	20	38	76	25	72
	FGM		38	76	10	20	43	86	6	12	81	16
	Rape against	Female child	30	60	19	38	40	80	8	16	70	27
		Male child	4	8	45	90	2	4	46	92	6	91
	Touching the sexual organ of female child		4	8	44	88	0	0	48	96	4	92
	Touching the sexual organ of male child		4	8	42	84	0	0	49	98	4	91
	Showing porno pictures or films		10	20	38	76	6	12	42	84	16	80

As one of the objectives of this paper is to make the assessment to the knowledge level of the above mentioned types of child abuse cases, we'll try to see them in as responded by the community of KBRC.

Taking the respondents' level of awareness on the above mentioned types of child abuses takes the ranging from the highest to the least aware types of child abuse; excessive corporal punishment and FGM(81%), rapes against the female child(70%), child labour(65%), abduction(38%), early marriage(25%), light corporal punishment(11%), showing porno pictures or films(16), rape against the male child(6%) and touching the sexual organs of the a female and male child(4%). Thus, excessive corporal punishment and the commission of FGM against the female child are the most known types of child abuses while touching the sexual organ of both for female and male child are the least known types of child abuse committed against children. Accordingly, the average level of awareness on child abuse by the community of KBRC is 36.45%.

Table -7- The Level of Practice on Child Abuse

The Practice of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No.(%)	No.(%)

Corporal punishment	Light	30	60	19	38	17	34	30	60	47	49	
	Excessive	6	12	43	86	3	6	46	92	9	89	
Child labour		40	80	9	18	18	36	30	60	58	39	
Sexual abuse	Abduction	3	6	46	92	2	4	47	94	5	93	
	Early marriage	27	54	22	44	30	60	18	36	57	40	
	FGM	48	96	1	2	49	98	1	2	97	2	
	Rape against	Female child	12	24	38	76	18	36	30	60	30	68
		Male child	0	0	49	98	0	0	49	98	0	98
	Touching the sexual organ of female child		0	0	48	96	0	0	47	94	0	95
	Touching the sexual organ of male child		0	0	47	94	0	0	48	96	0	95
	Showing porno pictures or films		0	0	49	98	0	0	47	94	0	96

The practice of child abuses varying from 0-97%; accordingly, the variations are FGM(97%) child labour(58%), early marriage(57%) to the none practiced kinds of child abuse being touching the sexual organ of female and/or male child and rape against the male child, showing porno pictures or films covering(0%). Similarly, the responses of the participants in questionnaire approve the 2007 assessment report of KBRC which was conducted by UNFPA and the 2007 report of UNHCR addressing the practice of the above CANE issues.²³⁸ And we will see each types of abuses separately.

4.3.2.1. Corporal Punishment

Table -8- Level of the Practice on Corporal Punishment

The Practice of:		Male				Female				Total	
		Yes		NO		Yes		NO		Yes	NO
		No.	%	No.	%	No.	%	No.	%	No.(%)	No.(%)
Corporal punishment	Light	30	60	19	38	17	34	30	60	47	49
	Excessive	6	12	43	86	3	6	46	92	9	89

²³⁸ Supra Note 9 and 10, p.5 and 12

Table -9- The Usual Perpetrator(s) of Light Corporal Punishment

Perpetrators of Light Corporal Punishment:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
The mother of the child	38	76	11	22	26	52	22	44	64	33
The father of the child	32	64	16	32	8	16	40	80	40	56
The male child	21	42	27	54	12	24	37	74	33	64
The female child	12	24	34	68	16	32	32	64	28	66
The police(government)	0	0	49	98	0	0	45	90	0	94
Teachers	0	0	48	96	1	2	48	96	1	96
Other(mention)	-	-	-	-	-	-	-	-	-	-

Table -10- The Usual Perpetrator(s) of Excessive Corporal Punishment

Perpetrators of Excessive Corporal Punishment:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
The mother of the child	0	0	49	98	2	4	47	94	2	96
The father of the child	0	0	48	96	3	6	46	92	3	94
The male child	8	16	42	84	12	24	39	78	20	41
The female child	0	0	46	92	0	0	48	96	0	94
The police	0	0	48	96	0	0	44	88	0	92
Teachers	0	0	49	98	0	0	48	96	0	97
Other(mention)	-	-	-	-	-	-	-	-	-	-

As table 8 shows corporal punishment are practiced by 47% light and 9% excessive which makes 56% cumulatively. And table 9 reflects, in case of light corporal punishment, the mother of the child taking the leading with (64%) followed by the father of the child (40%), the male child (33%), the female child (28%), teachers (1%) and the police with (0%) of the refugee community by take from the highest to the least and/or no contributions to the abuses of light corporal punishment.

Both the participants of the FGD and the respondents of the interviews replied the fact that light corporal punishments are commonly practiced while the excessive one is practiced in rare cases. The reasons they give for the practice of light corporal punishments are for the reason of teaching or disciplining or correction purposes of both at school and in the compound of KBRC and not with the intention of hurting them or so until it causes children severe scares.²³⁹ On the contrary, school directors of the schools where refugees are attending (both primary and secondary) have replied that there are no corporal punishment at school but they do have the information that the act of corporal punishments are practiced in the compound of KBRC.²⁴⁰

Unlike the case of light corporal punishment, the prevalence rate on the perpetrators of excessive corporal punishment are ranging from the male child (20%), the father of the child (3%) while mother of the child covering (2%) only. The police and the teachers of the refugee community contribute no portion of excessive corporal punishment. But when said that the community police has no contribution to physical punishment of the refugee children, care must be taken as this is may be because their contact with the refugee community is very much restricted and can only take place if permission is attained from ARRA.

Since researches shows that the exercise of excessive corporal punishment kills thousands of people each year, injures and handicaps many more, enables children to develop a violent behavior and is also associated with other problems in childhood and later life.²⁴¹ Though the prevalence of excessive corporal punishment in KBRC is 9%, the necessary measures to avert it if not minimize it should be taken.

On the other hand, pursuant to the views of the Committee on the CRC, the level of corporal punishment committed by the community of KBRC is 56%. That is because the Committee on CRC considers corporal punishment as a child abuse, however light. Unlike the views of the Committee on CRC, almost all the participants of the FGD or the respondents of the community of KBRC have the belief that light corporal punishments are important for corrective or disciplining purpose. But they all oppose the practice of excessive corporal punishment as it violated the dignity of the child.

²³⁹ Interview with Ato Sulleyman Haji (ARRA's Protection Officer in KBRC) on 22/01/11; Mr. Abdi Hakim (IRC Child Protection Social Worker) on 17/01/11 and Asha Osman Ibrahim (Chair Person of WA) on 17/01/11

²⁴⁰ Interview with Ato Ali Aden (the School Director of Dr. Ali Mejid Hussien Primary School) on 21/01/11 and Ato Kassa Mamo (the Vice-Director of Abdulahi Bede Kebribeyah Senior Secondary School) on 25/01/11

²⁴¹ Supra Note 50, p. 57

When we see the laws on corporal punishment, the researcher has not found any International, Regional or Domestic law that prohibits corporal punishment at all level with the view of however light. But Article 5 of UDHR, Article 7 of ICCPR, Article 5 of ACHPR, Article 16(1) with 17(2)(a) of ACRWC and Article 18(1) of the FDRE Constitution addresses corporal punishment to a serious form of it in relation with torture, cruel, inhuman, degrading treatment or punishment. Besides, though the CRC in Article 19(1) doesn't explicitly prohibit, it impliedly opposes the disciplining of children using violence. Of course, the level of 'violence' remains controversial. At a domestic level, it's only the Article 36(1)(e) of FDRE constitution that explicitly prohibit the use of disciplinary measure of corporal punishment and that limitation is only in school and other institutions responsible for the care of children. Thus, to the strict application of the above constitutional article both the government of Ethiopia (ARRA as an executive agent of the government organ) and the families of the communities of KBRC did violate the rights of the child to remain free from corporal punishment 'however light' for the children of KBRC lives in an institutions responsible for the care of children(refugee camp).

On the other hand, Article 274(2) of the Civil code of Ethiopia which allows light bodily harm on a minor(child), Article 258(2) of the RFC which allows the family to take the necessary disciplinary measures which is open for the families to decide as to what measures to take including corporal punishment. Similarly, families or other persons having similar responsibilities are given the protection of not be accountable by Criminal Law if they commit corporal punishment in the correction of children.²⁴²

In the view of the researcher, though the FDRE constitution Art. 36(1)(e) seems to totally bar the practice of corporal punishment in school and other institutions responsible for the care of children, such as refugee camps, the law impliedly permits the practice of light corporal punishment as the law that were supposed to penalize in the commission of the act prohibited in the law(the Criminal Code) gives the act as not constituting a crime. Thus, the law of Ethiopia practically allows light corporal punishment. Hence, the act of light corporal punishment in the refugee camp is according to the law while the excessive corporal punishment is a violation of the right of children's to be free from excessive corporal punishment.

4.3.2.2. Child Labour Abuse

²⁴² See Article 68(b) and 576(3) of the Criminal Code

Table -11- The Level of Practice of Child Labour Abuse

The Practice of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No.(%)	No.(%)
Child labour	40	80	9	18	18	36	30	60	58	39

Table -12- The Usual Perpetrators of Child Labour Abuse

Perpetrators of Child Labour:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
The mother of the child	36	72	13	26	15	30	34	68	51	47
The father of the child	34	68	15	30	8	16	40	80	42	45
The male child	5	10	43	86	0	0	48	96	5	91
The female child	3	6	46	92	0	0	47	94	3	93
The police	0	0	47	94	1	2	47	94	1	94
Teachers	0	0	47	94	2	4	42	84	2	89
Other(mention)	-	-	-	-	-	-	-	-	-	-

As Table 11 shows the prevalence of child labour abuse is 58%. The most frequent performer of child labour are the mother of the child, followed by the father of the child while the teachers and the police are least contributors.

According to the results of FGD, interviews obtained from IP's and from personal observation, Children in KBRC work duties such as fetching water, assisting their families in their house or do some domestic house works mainly for females, work as a shoe shine mainly for males, work in the market as a shop keeper for both. The usual reasons forwarded by both the participants of the FGD and the respondents of interview are because of the families of the child are not allowed to go out of the refugee camp and work; the foods refugees get from UNHCR which is actually from WFP are not enough, they don't get enough money for survival, the ethanol distribution they get from Gaia both for cooking and light purposes are not enough. Accordingly, the families

say that they force their children to work not because they want to abuse them but because they want their children to assist them and to learn for their future carrier.²⁴³

According to the interview conducted with W/ro Anchinesh Mahteme, “though all the refugees for food depend on aid from WFP, but still there is refugee’s ration distribution shortage.” She further added that “when WFP provides with food they do it according to standard. i.e. taking the standard per person, per calories ratio. But since the Somalis have the culture of sharing with their extended family, they very often report on participatory assessment that there is shortage of ration”.²⁴⁴ Similarly, the publication from ARRA shows that “Somali refugee camps remains very poor due to financial constraints and financial assistance is required in order to put in place the necessary infrastructure including shelter, water, health care, and sanitation services.” In addition, the same publication indicate the fact that ARRA have applied to the international community particularly to UNHCR and other donors that the shortage of budget are affecting the child protection and assistance given to the refugees in the country.²⁴⁵

The refugee community gets services such as shelter, education, water, health, kerosene distribution services for free. But the problem comes because some of the refugees sell their food ration to get some additional money to buy for women ointment for hair and to buy clothing for which they are not provided by any IPs as these things are considered as additional needs.²⁴⁶

There is no doubt that clothing are one of the three basic needs of human beings. Then, the point of controversy comes taking the fact that the refugee communities are not provided with cloths. This is because how can they get dressed if they are not provided with them? Surely, they either have to be provided with this basic need or should get the right to work and fulfill one of their basic needs. But the problem is the fact that Ethiopia follows the camp confinement principle which restricts refugees movement and to involve in the labour market.²⁴⁷ And this restriction has opened the door for children’s to work to assist their families and to fulfill their basic needs such as cloth.

²⁴³ Information gathered from the FGD conducted on 20/01/2011; An Interview conducted with Miss. Asha Osman(The Chair of WA) on 17/01/2011; Mr. Abdi Hakim Mohammed (IRC Child Protection Social Worker) on 17/01/11 and Mr. Sahardid Ahmed Aden(a member of RCC) on 18/01/2011

²⁴⁴ An interview conducted with W/o Anchinesh Mahteme (the Protection Officer of UNHCR’s sub office Jijiga) on 22/01/2011.

²⁴⁵ Supra Note 230, pp. 2-3

²⁴⁶ Supra Note 244

²⁴⁷ Ethiopia like the majority African States have placed reservations on the 1951 Geneva Convention concerning the right to work

Child labour abuse is mainly practiced by the children's parent.²⁴⁸ As information's gathered from the interviews of the refugee central committees²⁴⁹, the major reasons for the practice of child abuse by their families is due to the labour restriction policy that Ethiopia follows with the availability of shortage of basic needs. Though that is the major reason for the practice of child abuse, especially girls are not sent to school because they are forced to work as domestic servants in the nearby towns to help and supplement the family's income.

Similarly, according to the information gathered from Ato Kassa Mamo, the Vice Director of Abdulahi Bede Kebribeyah Secondary School, the girl children are not attending school like that of males for the reason of "in Somali culture, women are expected to do house hold tasks." An interview with Ato Ali Aden, School Director of Dr. Ali Mejid Hussien Primary School, also confirmed the fact that "children especially the girl child are discriminated from going to school on the ground that education is for boys and not for girls." Thus, in line with this argument the female refugee children become more vulnerable to child labour abuses than refugee boys.²⁵⁰

When we see the practice in relation with the respective laws, almost all laws both at international or national level does not directly prohibit the act of children assisting their families or children doing light works at home. But children's activity either at home or outside home of whatever form becomes prohibited only when the works performed by children are hazardous or has the potential to interfere with the child's physical, mental, spiritual, moral, or social development.²⁵¹ Therefore, as mentioned in the literature review, children assisting their parents in supplementary tasks which enable them to acquire skills and gradually become fully fledged workers like the girls in KBRC does in family establishments or trades are not prohibited by law unless they cause problems to the health, development and safety of the children and to their schooling.²⁵²

So, when we take the reality at KBRC children especially girls' development are affected as their right to attend school is highly affected for they are instructed by their families that education is

²⁴⁸ See table 12 that shows the perpetrators of child labour abuse in KBRC

²⁴⁹ An interview conducted with Mr. Sahardid Ahmed Aden, one of the Refugee Central Committees of 10 in No. on 18/01/2011. Please note that the RCCs are the highest body in the refugee community of KBRC and are elected by the refugee themselves. Among them, they elect the chair person, the vice chair person and the secretary. These committee works in collaboration with the Women Affairs Committee, the Youth Association Committee and the Elders and the Traditional Leaders.

²⁵⁰ Ato Kassa Mamo, the Vice Director of Abdulahi Bede Kebribeyah Secondary School on 25/01/2011 and interview with Ato Ali Aden, School Director of Dr. Ali Mejid Hussien Primary School on 21/01/2011.

²⁵¹ See Article 15(1) of the ACRWC and Article 10(3) of ICESCR

²⁵² Supra Note 13, pp.403-404

for boys only and girls duty is to stay at home to assist their families. Similarly, boys' right to attend school are affected while they are forced to work as a shoeshine boy or collection of sticks and dig holes for the construction of house. And to that extent, we can generalize that there is child labour abuse in KBRC. Thus, it's against the international laws and standards that are set to the protection children to be free from child labour.

4.3.2.3. Child Sexual Abuse

Table -13- Summary of the Prevalence of Child Sexual Abuse

The Practice of:		Male				Female				Total		
		Yes		NO		Yes		NO		Yes	NO	
		No.	%	No.	%	No.	%	No	%	No.(%)	No.(%)	
Sexual abuse	Early marriage	27	54	22	44	30	60	18	36	57	40	
	FGM	48	96	1	2	49	98	1	2	97	2	
	Rape against	Female child	12	24	38	76	18	36	30	60	30	68
		Male child	0	0	49	98	0	0	49	98	0	98
	Abduction	3	6	46	92	2	4	47	94	5	93	
	Touching the sexual organ of female child	0	0	48	96	0	0	47	94	0	95	
	Touching the sexual organ of male child	0	0	47	94	0	0	48	96	0	95	
	Showing porno pictures or films	0	0	49	98	0	0	47	94	0	96	

As its summarized under Table 13, the practice of FGM(97%), early marriage(57%) and rape against the girl child(30%) takes the highest practiced types of child sexual abuse; and showing pornographic pictures or films, touching the sexual organ of male child, touching the sexual organ of female child and rape against the male child are not practiced. Similarly, as tried to show the existence of some kinds of sexual abuses in chapter one of the paper, some of the types of sexual abuse types that are practiced in KBRC are early marriage, harmful traditional practices such as (FGM) and abduction.²⁵³

²⁵³ Supra Note 10, p.5

Almost all participants of FGD and based on interviews conducted from the community of KBRC, has approved that rapes against a male child, touching the sexual organs of both female and male child either by a male or female and showing pornography and/or films are not practiced in “Somalia community” and more importantly in KBRC, for such acts are considered as shameful act that has never been practiced and are not part of their culture.²⁵⁴

Even if some of the respondents of the questionnaire(5%) have marked for the practice of abduction in KBRC, the remaining(95%) of the respondents of the questionnaire and other respondents of interview has strictly opposed for the existence of abduction in KBRC. In the same manner, all the groups and participants of FGD has answered that “they have never heard” of the practice of abduction in their community. And the reply on the interview from the members of the refugee representatives such as WAs, RCCs and IRC’s Social Workers proves the same.²⁵⁵

Table -14- The Place Where most of Rape Cases Takes Place

problems of the girl child with Rape	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No.(%)	No.(%)
Within the refugee camp	6	12	44	88	9	18	40	82	15	84
Outside the camp	46	92	4	8	23	46	27	54	69	31
During exile	4	8	46	92	2	4	47	94	6	93
During repatriation	0	0	49	98	0	0	50	100	0	99
While looking for fire wood	12	24	37	74	16	32	34	68	28	71
Other – School	0	0	49	98	0	0	48	96	0	97
-Water places	0	0	48	96	0	0	49	98	0	97
-Play grounds	0	0	49	98	0	0	49	98	0	98

Table 14 shows the fact that rape is committed by the refugee community mainly outside the refugee camp(69%) while 15% of the incidence taken place in the refugee camp. Only few have

²⁵⁴ FGD conducted on 20/01/2011 and Interviews conducted with Miss. Asha Osman (the Chair Person of WA) on 17/01/2011, Interview conducted with Mr. Abdi Hakim (IRC Child Protection Social Worker) on 17/01/2011 and Interview conducted with Mr. Sahardid Ahmed (one member of the 10 RCC) on 18/01/2011

²⁵⁵ FGD conducted on 20/01/2011 and an Interview conducted with Miss. Asha Osman(The Chair of WA) on 17/01/2011; Mr. Abdi Hakim Mohammed (IRC Child Protection Social Worker) on 17/01/2011 and Mr. Sahardid Ahmed Aden(a member of RCC) on 18/01/2011

replied during exile (6%). Out of the rapes committed outside the refugee camp 28% of the abuses have taken place when the girls are going out of the refugee camp to look for fire woods. On the contrary, places such as school, water places, playing grounds and during the repatriation process have no share for the contribution of CSAs. You can imagine the above fact being observed leaving the 40% of rape cases in the refugee camps being unreported.²⁵⁶

During an interview with Miss Asha Osman, on the issue of the practice of the rapes in or around the KBRC, who commits, where and why are they still practicing it? She replied “these days rapes are committed very frequently. Around 10 rape cases ranging from age 15-25 are reported. You can imagine the same cases unreported due to shame or fear of dignity. Besides, there are some rapes cases unreported because they are not physically injured and fear of peoples insult and respect which has also resulted to be hidden by the families of the raped child. She further added the place where the rape is committed is outside the camp at distant place where they (by refugee youth rapists) hide themselves. And the reason for such commission is because the youths are not provided with vocational trainings and after completing grade 10 the youth of the refugee become chat chewers which finally result in the commission of rape.”²⁵⁷ Similarly, an interview with Ato Kassa Mamo approves the fact that “the majority of the Somali youths specially males chew Chat and are addicts”.²⁵⁸

Table -15- The Prevalence of Child (Early) Marriage

The Practice of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No.(%)	No.(%)
Early marriage	27	54	22	44	30	60	18	36	57	40

As table 15 shows the prevalence of early marriage in KBRC is 57% with the highest from the above mentioned types of sexual abuses practiced against the girl child. The same fact is approved by almost all participants of the FGD and the interviews from the key informants of the refugee community. Some of the reasons forwarded for the practice of early marriage in KBRC are:

²⁵⁶ Supra Note 10, p.22

²⁵⁷ Interview conducted with Miss. Asha Osman (the Chair Person of WA) on 17/01/2011

²⁵⁸ Ato Kassa Mamo, the Vice Director of Abdulahi Bede Kebribeyah Secondary School on 25/01/2011

1. Cultural: As per an interview with Ato Ali Aden, the justifications they give for that is, because a child of either sex in Somalia attains maturity (majority) when they reach 15. They further added that is not by law but that is what is culturally practiced. But for practical reason female get married starting age 15 but males get married at or above age of 17 for the reason of financial responsibility.
2. Religious: - in the religion Muslim, the holly Kuran allow females to get married at the age of 15. When the researcher has conducted an interview to the ‘Sheik’ or Muslim religious leader of KBRC namely Shake Muktar Abdi, he has confirmed that, the marriageable age in Islamic religion or according to sheria law is 15. He further added that before the year 2010 the community of KBRC used to practice the marriageable age of 15 by culture and not through Sharia court but currently they are doing it through the religious court.²⁵⁹
3. Opportunity: Because very often girls are not encouraged to go to school and they shouldn’t lose the opportunity. If that is the case, girls don’t have anything to be busy with. In that case, they wouldn’t excuse for the extension of marriage from getting married as marriage is also considered as an ‘opportunity’. Then it’s like the issue of the case addressed in the literature where it was properly said: “a girl who is not in school or in marriage is ‘doing nothing’, there is considerable pressure on the parents/guardians/ to settle them in marriage before they get ‘spoilt’”.²⁶⁰
4. Economical: The families of the girl want to benefit by giving their child to a rich person (to get the dowry price).²⁶¹ That is because the families of the girl get gifts such as money, cow, ox, and camels. This is said to be the major reason they are practicing it.

In line with this, the researcher has asked both the participants of the FGD and key informants²⁶² if the girls are of forced to get married at any cost? And the answers I get from the interviewee are yes and that is because the families of the girl first negotiate and even take the gifts of the rich person either from the local community and sometimes even from the

²⁵⁹ Interview conducted with Shake Muktar Abdi, the judge of Sheria Court in KBRC, on 24/01/2011

²⁶⁰ supra Note 70, p.33

²⁶¹ The refugee community claims that they are doing it because they are poor! Besides the same point is raised by Fact Sheet No.23, Harmful Traditional Practices Affecting the Health of Women and Children, P.8

²⁶² An Interview conducted with Miss. Asha Osman, on 17/01/2011; Abdi Hakim Mohammed, on 17/01/2011 and Mr. Sahardid Ahmed Aden, on 18/01/2011

refugees prior to informing the girl child.²⁶³ Hence, it becomes in line with the literature that says “Marriages in Somalia are valued more for their economic importance rather than religious or romantic aspects”.²⁶⁴

4. Social: The families of the girl give their girls to the person they love. It’s very often done to a respected people like the sheik and to the families’ best friend because they love them. In that case once again forced marriage of the girl child is commonly practiced;²⁶⁵ and
5. To avoid unwanted pregnancy: - Mr. Sahardid Ahmed added that the Somali community believes “if girls are late until they reach the age 18 or so, the girl child may get unintended pregnancy. Thus, to keep the ‘families dignity’ who would be ashamed as a result of the minor girl’s pregnancy, the families’ of the girl prefers to give her to a person they love or so”.

Table -16- Married at the age of ____?

married at the age of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%(25)	No.	%	No.	%(25)	No.	%	No. (50%)	No.(%)
Below 10	0	0	-	-	2	8	-	-	2(4)	-
11-12	2	8	-	-	3	12	-	-	5(10)	-
13-15	6	24	-	-	5	20	-	-	11(22)	-
16-17	11	44	-	-	10	40	-	-	21(42)	-
≥18	5	20	-	-	4	16	-	-	9(18)	-

As indicated in the table above(16), the majority of female refugee community get married at the age between 16-17(42%) followed by age between 13-15(22%). Cumulatively, 39(78%) of the female of KBRC gets married at the age of 17 or below. It’s only at the third highest level that the females (mothers) of the KBRC has the practice of getting married at the legally recognized marriageable age≥18(18%). The refugee community has the practice of involving the girl child in to marriage even at age of 11-12(10%) and there are also marriages taking place at the age below 10(4%).

²⁶³ Interview conducted with Miss. Asha Osman (the Chair Person of WA) on 17/01/2011 and Mr. Sahardid Ahmed (one member of the 10 RCC) on 18/01/2011.

²⁶⁴ <http://www.settlement.org/cp/english/somalia/index.html> accessed on 09/11/2013

²⁶⁵ Interview conducted with Mr. Sahardid Ahmed (one member of the 10 RCC) on 18/01/2011.

As indicated in GBV assessment report of UNFPA, in KBRC-Ethiopia in 2007, the practice of early marriage in KBRC is common. Similarly, as the literature from Forum on Marriage and the Rights of Women and Girls, approves Somalia and Ethiopia are amongst the prevalent countries contribute to the share of 82 million girls' who get marriage between 10–17 years of age before their 18th birthday.²⁶⁶

As it has been addressed in many international, regional and domestic laws that are enacted and adopted by Ethiopia to protect the right of the girl child to be free from early marriage; the practice of early marriage contravenes the girl child's human right and just to mention some of the rights that the practice of early marriage contravenes are: the principle of equality before the law and/or forbid gender discrimination²⁶⁷, the proper survival and development (physical, mental, spiritual, moral and social)²⁶⁸, the right to give their free opinion²⁶⁹, be free from violence and abuse²⁷⁰, to standard of health²⁷¹, education²⁷², to leisure and play²⁷³, free from unlawful sexual activity²⁷⁴, and be free from abduction²⁷⁵.

Even though the above laws are laws which explicitly prohibits child marriage, there are also other laws such as the articles permitting the emancipation of the child²⁷⁶ before the child reach majority or the Sheria Law which allows child marriage.²⁷⁷

Surely the above views that prohibit child marriage and that allow early marriage by way of exception and as of right in instances such as Sharia law allows child marriage contradict.

Table -17- The Prevalence of FGM

²⁶⁶ Supra Note 10, p.5 and Forum on Marriage and the Rights of Women and Girls: Early Marriage and Poverty: Exploring the Links for Policy and Programme Development, (2003), P.12

²⁶⁷ Article 2 and 27 of CRC, Article 7 of UDHR, Article 18(2) of the ACRWC

²⁶⁸ Article 6 of CRC, Article 22 of UDHR, Article 10(3) of ICESCR, Article 5(2) of ACRWC

²⁶⁹ Article 12 of CRC, Article 19 of UDHR, Article 23(3) of ICCPR, Article 10(1) of ICESCR, Article 30(1) of ICCPR, Article 7 of ACRWC

²⁷⁰ Article 19 of CRC, Article 16 of ACREC, Article 36(1)(e)

²⁷¹ Article 24 of CRC, Article 25 of UDHR, Article 14 of ACWRC, Article 16(1) of ACHPR, Article 25 of UDHR, Article 18(3) of ICCPR, Article 36(1)(d) of FDRE Constitution, Article 257(1) of RFC, Article 648 of the Criminal Code

²⁷² Article 28 of CRC, Article 26 of UDHR, Article 13(1) of ICESCR, Article 11 of ACRWC, Article 36(1)(d) of FDRE Constitution, Article 260 of RFC

²⁷³ Article 31 of CRC, Article 12(1) of ACRWC

²⁷⁴ Article 34(b) of CRC, Article 16(1) of ACRWC

²⁷⁵ Article 35 of CRC, Article 29(a) of ACRWC, Article 586 of the Criminal Code,

²⁷⁶ For example you may see Article 7(2) of the RFC

²⁷⁷ In Islamic law(sharia law) the marriageable age is starting from age 15

The Practice of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No	%	No.(%)	No.(%)
FGM	48	96	1	2	49	98	1	2	97	2

FGM/C/ being one of the serious chronic traditional customary practices on girls aged between 6-13 affects the health²⁷⁸ and the dignity of women in general and the girl child in particular is highly practiced in Somali people. According to an assessment conducted by Mother and Child Development Organization (MCDO)²⁷⁹ the prevalence of FGM in the Somali community of KBRC by December 2008 is 98%²⁸⁰ in which almost all have gone through a pharaonic (type III) type of circumcision.²⁸¹ Similarly, as table 17 shows the prevalence of FGM by January 2011 is 97%.

According to a reply gathered from key informant, the reasons for the practice of FGM in Somali culture in general and KBRC in particular are²⁸²:

1. The believes that it's a requirement under Muslim religion; Suna²⁸³ is permitted;
2. If the girl is circumcised the parents of the girl child gets gifts(money) by way of animals such as camels during marriage;
3. Somali men who are getting married to female prefer suna for: "if a girl is not circumcised, they may have had sexual act," but if they are circumcised, no one can use them like their saying "a covered food and an open food is not the same". Thus, it's to secure pre-marital virginity.

When we try to see it from legal's point of view, the practice FGM is a violation of human rights that is uniquely applied against a particular group, the girl child. Hence, it becomes the violation

²⁷⁸ As mentioned in chapter two of the paper; FGM/FGC inflicts serious physical, psychological, sexual and birth complication on both mother and child and sometimes leading to death and on the social, political and economic fabric at the individual and community levels.

²⁷⁹ MCDO are an NGO working to avert child labour and FGM in KBRC

²⁸⁰ An interview with Ato Mustefa Issa Worfa, (FGM coordinator of MCDO in KBRC), on 21/01/2011. Similarly, as mentioned in chapter two, according to the study of World Bank and UNFPA, FGM in Somalia, in November 2004 was 98% and the same figure is maintained even in the year 2013; see UNICEF: Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change (2013), P.3

²⁸¹ According to an explanations given by the HTPs Affecting the Health of Women and Children on Fact Sheet No.23; This is the most severe operation, involving excision plus the removal of the labia majora and the sealing of the two sides, through stitching or natural fusion of scar tissue leaving a very smooth surface, and a small opening to permit urination and the passing of menstrual blood.

²⁸² An interview with Ato Mustefa Issa Worfa, FGM coordinator of MCDO in KBRC, on 21/01/2011

²⁸³ According to an explanations given by the HTPs Affecting the Health of Women and Children on Fact Sheet No.23; It is a traditional circumcision involving the removal of the produce and the tip of the clitoris

of the human rights principles of the laws applied above against the principle of “equality and non-discrimination” based on sex and the health of the girl child. Besides, the violation may be even extended to the denial of the girl child’s education, recreation, economic opportunity and the right to choose her partner and even the right to life when the act is followed by death.²⁸⁴

4.3.3. Knowledge and the Practice of Child Exploitation

4.3.3.1. The level of Awareness on Child Exploitations

Table -18- Awareness about Child Exploitation

Knowledge about:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
Labour exploitation	22	44	23	46	18	36	30	30	40	53
Sexual exploitation	9	18	40	80	5	10	43	86	14	83

As table 18 represents, the fact that the level of knowledge of the refugee community on both kinds of exploitation as a violation of child rights is low. Similarly, the level of awareness on a gender base is alike though the level of awareness by males is slightly more than that of females. Labour exploitations level of awareness by the community of KBRC is more than their level of awareness about sexual exploitations. 27.0% is the average level of awareness on the issue of the above types of exploitations.

Comparing the level of awareness of the community of KBRC with regard to the above three areas of studies on average; i.e. child neglect covers 25.25%, child abuse 36.45% and child exploitation 27.0%. Thus, we can say that the KBRC communities level of awareness on the study area is below average (50%) and which can be generalized as discouraging.

4.3.3.2. The Practice of Child Exploitation

Table -19- The Practice on Child Labour Exploitation

²⁸⁴ Just to mention some of the laws violated with the practice of FGM are women’s right equality and non discrimination such as Article 7 of UDHR, Article 4, 24(1) and 26 of ICCPR, Article 2(2), 10(3) of ICESCR, Article 3 of CEDAW, Article 3 of ACRWC, Article 18(3) of ACHPR, Article 25 of the FDRE Constitution, Article 4 of the Criminal Code and with regard to the right to health are Article 24 of CRC, Article 25 of UDHR, Article 14 of ACWRC, Article 16(1) of ACHPR, Article 25 of UDHR, Article 18(3) of ICCPR, Article 12(1) of ICESCR, Article 36(1)(d) of FDRE Constitution, Article 257(1) of RFC, Article 565-566 of the Criminal Code.

The Practice of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
Labour exploitation	20	40	29	58	15	30	35	70	35	64

Like the assessment report made by UNFPA on Kebri Beyah Refugee Camp, Table 19 shows the level of the practice of child labour exploitation by 35%. Similarly, this fact is supported by all participants of FGD and by the key informants interviews²⁸⁵ conducted from the refugee community.

Unlike the issues of labour abuse addressed under the section of labour abuse, we'll consider the instances of the practical aspects of child labour exploitation. The types of labour exploitations practiced in the community of KBRC are children working as house maid (for females), children working as shoeshine (males), collecting of firewood²⁸⁶, the majority for females. In view of that, the house maid is practiced by sending the girl child to the Kebribeyah's local community, the shoeshine by the refugee boys is practiced to both the refugee and local community while the fire wood collection is by sending the female child to travel a very distant place up to 10km.

Table -20- Reason(s) for the Practice of Child Labour Exploitation

Reasons	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No.(%)	No.(%)
To support their family	46	92	3	6	21	42	24	48	67	27
To get their basic needs	42	84	6	12	13	26	35	70	55	41
To cover school fee	6	12	43	86	7	14	41	82	13	84
Our families are not allowed to work outside refugee camp	25	50	23	46	20	40	27	54	45	60
Other (mention)	-	-	-	-	-	-	-	-	-	-

²⁸⁵ The same result is collected from the FGD conducted on 20/01/2011 and the informations gathered from Miss. Asha Osman (the Chair Person of WA) on 17/01/2011 and Mr. Sahardid Ahmed (one member of the 10 RCC) on 18/01/2011.

²⁸⁶ According to an Interview conducted with Ato Desalegn Getaneh(GAIA Association Zonal Coordinator) on 22/01/2011; An assessment conducted by GAIA on ethanol/kerosene/ distribution in 2010 and their ethanol distribution to the household of the community of KBRC is by 18% less than what is required. During the interview he has added though they have evenly distributed the reason for that shortage is due to shortage of budget from their donors

The reasons for such practice as addressed from the above table(20) from the top to the least practiced type are to support their family(67%), to get their basic needs(55%), their families are not allowed to work outside refugee camp(45%) and to cover school fee(13%). Similarly, as mentioned under the child labour abuse section, the shortage of the basic needs such as the food rations distribution by WFP with UNHCR, to cover their additional needs such as clothing, and ointment for women because they are not provided by any of the IPs, families are not allowed to work (be employed) like that of the local communities, the fact that the refugees right of movement is limited and the shortage of the distribution of ethanol(kerosene) distribution by GAIA are the child exploitation cases that are reported to NGO's, ARRA and UNHCR though none of the exploiters had been penalized.²⁸⁷

According to the international, regional and domestic laws Article 18(3) of the ICESCR, Article 19(1), 32(1), 36 and 39 of CRC, Article 2(a) of DEVAW, Article 15(1) of ACRWC, Article 36(1)(d) of the FDRE constitution, Article 89(4)(a-d), 90 and 91(1-4) of Labour Procn. No. 377/2007 are some of the laws that ban children from child labour exploitations.

Table -21- The Practice on Child Sexual Exploitation

The Practice of:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
Sexual exploitation	0	0	47	94	0	0	49	98	0	96

Table 21 shows that the prevalence of the practice of child sexual exploitation is 0%. Likewise, all the participants of FGD and the interviews with the key informants of the community of KBRC has replied that there is neither the practice of child sexual exploitation nor have ever heard children being sexually exploited. Surely, the communities believe on the type of sexual exploitation are referring to child sexually being exploited through prostitution, pornographic material, the trafficking of females for any sexual purpose, “the inducement, coercion or encouragement of a child to engage in any of sexual activity”.²⁸⁸

²⁸⁷ FGD conducted on 20/10/2011 and Interviews conducted with Ato Ahmed Abdukerim(IRC Prevention Officer), Mr. Sahardid Ahmed(RCC) on 18/01/2011, Mr. Abdihakim Mohamed(IRC Child Protection Social Worker) on 17/01/2011 and Miss Asha Osman(Chair Person of WA) on 17/01/2011

²⁸⁸ These are the prohibition of child sexual exploitations covered under Article 34 of CRC, Article 6 of CEDAW and Article 27 of the ACRWC

Though that is the perception of the refugees of KBRC on child sexual exploitation the researcher believe that there are child sexual exploitations. And the reasons are because there are the practices of early marriage, FGM and abduction which are practiced and/or compromised against the girl child for the families of the exploited girl gets some sort of gift (dowry) from the exploiter. And this is in line with the definition of sexual exploitation, for the one who benefit as a result of the above mentioned types of exploitations are the family of the victim girl or some other third person and not the victim girl child.²⁸⁹

4.4. Awareness Regarding Child Right Laws, Level of Reports and the Level of Response on CANE

Table -22- Level of awareness about child rights Laws on International, regional and national laws

Level of awareness on child rights Laws:	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
None	14	28	-	-	10	20	-	-	24	-
Very Little	20	40	-	-	27	54	-	-	47	-
Good	12	24	-	-	7	14	-	-	19	-
Very good	4	8	-	-	0	0	-	-	4	-
Excellent	0	0	-	-	0	0	-	-	0	-

As can be seen from the table 22 the level of awareness on the relevant child related international, regional and domestic laws of the majority of the community of KBRC is 47%. Almost all the participants of the FGD and the interviewees' from key informants of the community of KBRC have replied that they never had the access to any of the laws.²⁹⁰ In the same manner, to the question if the refugee community has the access to any of the above laws in the language they understand and they have answered that they never had the access to any of the laws of any level in the language Somali. The duties of translating into local vernaculars of the

²⁸⁹ See the definition of child exploitation forwarded by Richard J. Estes, The Sexual Exploitation of Children, (2001), p.6

²⁹⁰ FGD conducted on 20/10/2011 and Interviews conducted with Ato Ahmed Abdukerim(IRC Prevention Officer), Mr. Sahardid Ahmed(RCC) on 18/01/2011, Mr. Abdihakim Mohamed(IRC Child Protection Social Worker) on 17/01/2011 and Miss Asha Osman(Chair Person of WA) on 17/01/2011

international human rights instruments adopted by Ethiopia and to disperse them are the duties of Human Rights Commission.²⁹¹

According to an interview conducted with W/o Aster Tadege²⁹² “The Misistry of Justice has prepared an interpretation of both international documents ratified by Ethiopia in Amharic and the Ethiopian Human Rights Commission has distributed them to all organs that the Commission is creating awareness.” She further added that “by the end of 2001 E.C. the above documents has been translated in to Tigrigna and Oromifa and distributed though they don’t have them in Somaligna.” Besides, the researcher has asked her if the Commission has any activity towards the protection of refugee children in Ethiopia and she replied that “so far as part of their monitory mandate, the commission has addressed the issues of prisoners, orphanages and factories but the commission has not dealt with issues of refugees.” The reasons she has forwarded are due to shortage of financial capacities and lack of man power.

Table -23- Awareness Conducted by IPs

If awareness sensitization program have been conducted or not? If yes, which organ of gov't /INGO's/ NGO's	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
Ministry of Education	0	0	50	100	0	0	50	100	0	100
Ministry of WCYA	0	0	50	100	0	0	50	100	0	100
ARRA	3	6	45	90	2	4	45	90	5	90
The Institute of Ombudsman	0	0	50	100	0	0	50	100	0	100
Human Rights Commission	0	0	50	100	0	0	50	100	0	100
UNHCR	0	0	50	100	0	0	50	100	0	100
IRC	28	56	22	44	34	68	16	32	62	38
MCDO	20	40	27	54	30	60	18	36	50	45
DICAC	0	0	50	100	0	0	50	100	0	100
Other	-		-		-		-		-	-

²⁹¹ See Article 6(8) of Ethiopian Human Rights Commission Establishment Proclamation, Proclamation No. 210/2000

²⁹² W/ro Aster Tadege is a researcher under Ethiopian Human Rights Commission and the interview was conducted on 06/02/2011

As table 23 shows the level of how the related organs of the government, NGO's and INGO's child rights sensitization programs are launched. As a result, only two NGO's (IRC and MCDO) and one government organ (ARRA) are the three institutions which are said to have given child right sensitizations programs. Unlike the respondents of the questionnaire, the responses of the interviews both from the key informants of the refugee community and the agents of the NGO's shows that the child rights sensitizations in general and specifically against CANE's are conducted by IRC and MCDO and not by any government body including ARRA.²⁹³

From the above paragraph we can understand that the act of sensitization on human rights issues in general and children's right in particular in KBRC are conducted by the above NGO's and not by any government organ including ARRA that makes the act of the promotion of child rights both by IRC and MCDO is against Article 14(2)(j, k, l and n) with Article 14(5) of the Charities and Societies Proclamation, Proclamation No. 621/2009 since IRC is not registered as "Ethiopian Charities".

To that end, we can generalize the fact that the government of Ethiopia or the Federal Government through its agent ARRA has not fulfilled its responsibility "to promote" directly for the act of child rights awareness creations are conducted mainly by international NGO's like IRC which is against the law.²⁹⁴

Table -24- Level of report on CANE by the Concerned Body

Report of CANE	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No	%	No	%	No	%	No. (%)	No. (%)
Rarely	18	36	-	-	25	50	-	-	43	-
Sometimes	21	42	-	-	12	24	-	-	33	-
Very often	2	4	-	-	0	0	-	-	2	-
Always	1	2	-	-	2	4	-	-	3	-

²⁹³ Interviews conducted with Mr. Sahardid Ahmed(RCC) on 18/01/2011, Mr. Abdihakim Mohamed(IRC Child Protection Social Worker) on 17/01/2011, Miss Asha Osman(Chair Person of WA) on 17/01/2011, W/ro Anchinesh Mahteme (Protection Officer of UNHCR's sub office Jijiga) on 22/01/2011, Ato Sulleyman Haji (ARRA's Protection Officer in KB) on 22/01/11; Ato Mustefa Issa(FGM Coordinator in KBRC) on 21/01/11 and Ato Ahmed Abdukerim (IRC Prevention Officer)

²⁹⁴ Ato Sulleman Haji (Protection Officer of ARRA in KBRC) believes that the act of promotions conducted by NGO's is in line with the law

Never	8	16	-	-	11	22	-	-	19	-
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According to the information gathered from both FGD and interviews from the key informants, cases of child neglect and child exploitations are rarely reported to any of the IPs. Thus, the reporting, if made are only for serious child abuse instances. Accordingly, information gathered from interviews with Miss Asha Osman, to her knowledge about 10 rape cases of females has been reported to ARRA but only one instances of the abuse were taken to court for the case was very serious as the girl was raped by 9 men and had suffered severe psychological problem. She has also added the fact that other child neglect cases to any of the researched areas, child abuse cases such as FGM, early marriage, child labour abuse, corporal punishment are never reported.²⁹⁵

The practice of traditional justice system²⁹⁶ within the Somali Refugee community where the perpetrator(s) families solve the problems of any kind including CANE with the payment of compensation is one of the highly practiced types of custom. For this reason, the local (State) police deployment in the refugee camp is only for serious violation of human rights and whenever they are called by ARRA.²⁹⁷

The traditional legal system of the refugees is organized by way of: 1st the traditional leaders(clan based elderly people administration) of the refugee which will handle the cases of abuses with an attempt of solving the problem and if that is not possible, then they will send the matters to the RCC; 2nd the 10 Refugee Central Committee(RCC) elected from each(4) zones handles the matter and once again if that is not possible; 3rd They will send the matter to ARRA/IRC/UNHCR depending on the type of support they need including taking the matter to be handled either by the State police or to take the case to the court.²⁹⁸ But the traditional system is not without its own short comings. As attested by Ato Ali Aden and W/o Anchinesh Mahteme, the refugee community doesn't consider Ethiopian law as a law governing them. And the reason they gave the researcher were due to the fact that: they think that they can solve any degree of violation of rights through a clan based administration which is highly based on the payment of

²⁹⁵ Interviews conducted with Mr. Sahardid Ahmed(RCC) on 18/01/2011 and Mr. Abdihakim Mohamed(IRC Child Protection Social Worker) on 17/01/2011, has approved the same.

²⁹⁶ Supra Note 244

²⁹⁷ Supra Note 244 and Ato Sulleyman Haji (ARRA's Protection Officer in KB) on 22/01/11

²⁹⁸ Ato Sulleyman Haji (ARRA's Protection Officer in KB) on 22/01/11 and Miss Asha Osman(Chair Person of WA) on 17/01/2011

compensation which has its source from a ‘Sheria’ law.²⁹⁹ Thus, they believe, the refugee community prefers to receive compensation to the violation of rights from CANE than taking the case through the formal justice system.

Due to the above belief that the refugee community has, their level of reporting on issues of child rights violation is very little and the incidence becomes more severe as the majority types of child neglect, abuse and exploitations are not considered as a violation of rights save serious child abuses such as rape and FGM.³⁰⁰

Table -25- The Level of Government’s Response to the Reported CANE

Response on CANE	Male				Female				Total	
	Yes		NO		Yes		NO		Yes	NO
	No.	%	No.	%	No.	%	No.	%	No. (%)	No. (%)
Excellent	3	6	-	-	11	22	-	-	14	-
Very good	3	6	-	-	7	14	-	-	11	-
Satisfactory	29	58	-	-	13	26	-	-	42	-
Fair	7	14	-	-	4	8	-	-	11	-
Poor	6	12	-	-	12	24	-	-	18	-

The duty to protect children from any sort of CANE are the primarily duty of the government (State)³⁰¹ and secondly the responsibilities of the families of the children as they have “the duty to educate and to supervise”.³⁰²

Since CANE are the violations of human rights, then the issue tried to be addressed are whether the already reported cases of CANE has been addressed by the concerned government body adequately or not? Table 25 shows the level of protection on the violation of child right laws are satisfactory by 42% and poor by 18%. Thus, ARRA being the delegate of the Federal

²⁹⁹ Interviews conducted with Ato Ali Aden (School Director of Dr. Ali Mejid Hussien, Primary School) on 21/01/2011(Supra Note) and W/ro Anchinesh Mahteme (Protection Officer of UNHCR’s sub office Jijiga) on 22/01/2011

³⁰⁰ See Table 24

³⁰¹ Article 18(1), 27(3-4) of CRC; Article 20(2)(a-c) of ACRWC; Article 5(b) of CEDAW; Article 13(1) and 36(2 and 5) of the FDRE Constitutions

³⁰² See Article 3(2), Article 5 Article 18(1), and 27(2) of the CRC; Article 13(3) of ICESCR; Article 9(2-3), 10 and 20(1)(a-c) of ACRWC; Article 27(4), of the FDRE Constitution; Article 204 and 2052(1-3) of the Civil Code with Article 258(1) of the RFC; Article 659 with 574 of the Criminal Code

Government responsible for the wellbeing of refugees in Ethiopia and KBRC in particular, it is surely, the primary responsible organ of government.

Accordingly to the results shown in the above tables and more specifically, table 25; the responses gathered from FGD, key informants and personal observations; there is a gap between the laws at international, regional and domestic level and the international standards to protect children from CANE. Hence, in line with the above argument, the responsible organs of the government who are not doing visible acts as per the mandates entitled by law(Procn. No. 691/2010) in relation to the protection of refugees in general and more specifically; the Ministry of Justice, the Ministry of Women, Children and Youth Affairs as part of the executive branch of the government and the Human Rights Commission as a democratic institutions have contributed nothing to the wellbeing of refugee children in Ethiopia in general and to the refugee children of KBRC in particular.³⁰³

³⁰³ See Article 9(4) and Article 9(20) of of the Definition of Powers and Duties of the Executive Organs of the FDRE (Proclamation No. 691/2010) and 6(8) of Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000

Chapter 5

Conclusions and Recommendations

Conclusions

Children due to their age, experience and level of development become one of the most vulnerable groups of society. And this fact becomes severe when backed by other factors such as of being refugee. Once again, the case becomes even worst when the child refugees are female. Accordingly, some of the types of child neglect, abuse and exploitation the research covered are: burns, drowning, poisoning and traffic accident from the different types of child neglect; corporal punishment, child labour and from different kinds of sexual abuses such as early marriage, FGM, rape, touching the sexual organ; and child labour and sexual exploitations considering the refugees' level of awareness, the practice and the reasons for the practice of the above CANE's with the specific cases of Somali refugees in Ethiopian Kebriabeyah Refugee Camp has been assessed.

Having the above points in mind this research had tried to address 3 specific research objectives, namely: the assessing of the protection of some aspects of CANE of KBRC's are according to the international, regional and domestic laws and standards; examine the refugee communities level of awareness, practice and on the reporting of the selected aspects of CANE; and find out the reasons for the existence of those selected types of CANE in KBRC's.

By using qualitative methods data was collected. Accordingly, besides analytical review of available literatures and an assessment of international, regional and national laws and on the abuse of refugee children; I had gathered information by taking 100 questioners, interviewed 23 key informants, conducted 3 FGD and personal observation was used. So, according to this study's result of the questioner child neglects level of awareness on average 25.25%, this can be termed as low. And the major reasons forwarded for the practice of child neglect are lack of resource by the families (88%) and lack of resource by the government (65%). With regards to child abuse, the refugees' levels of awareness on average are 36.45%. Excessive corporal punishment and FGM are the highest (81%) while touching the sexual organs are the least aware types of child abuses. But with regard to the practice, FGM is the highest (97%) while rapes against the male child, touching the sexual organs and Showing porno pictures or films are the least (0%) practiced types of child abuses. Child exploitation being the third type of study, the

refugee communities' level of awareness on child labour and sexual exploitation are on average are 27%. The refugee community replied that labour exploitation is practiced by 35% but with no practice of sexual exploitation.

The major reasons forwarded by the refugee communities for the practice of CANE are lack of awareness with the issues of the different types of CANE, ignorance on the side of the families, lack of hope, shortage of the provision of basic needs, the custom of the Somali with issues such as the age of maturity(15), the attitude that education for males and not females, the wrong perception of preserving females virginity, the believe system of educating/disciplining/ children with abuses such as corporal punishment even with excessive and verbal abuses, the fact that the refugees right of movement is bared and families are not allowed to engage in any employment resulting with child labour and exploitations, the youths of the refugee are not satisfactorily provided with vocational trainings which has began very recently or things to make them busy especially after they have completed grade 10 which tend them to become 'Chat' chewers and drug addicts leading to serious kinds of abuses such as group rapes.

The government of Ethiopia being the primary duty bearer for the violation of any of the human rights in the country (including for the refugees), Ethiopian government is responsible for the violation of human rights that are practiced in Ethiopian refugee camps in general and KBRC in particular. That is because though the level of report to the concerned government body is minimal (33-43%) but the level of the governments to respond even to the reported type of abuse is below average or the standard (25%).

Accordingly, some of the important points will be forwarded in a form of recommendations that are helpful to make the IPs more effective and efficient with their promotional as well as protective activities.

Recommendations

Any forms of CANE are a violation of the human rights of children which surely need to be eradicated. In order to eliminate if not decrease the number of different types of abuses of CANE and thereby protect the fundamental human rights and freedoms of refugee children, the writer believes the following should be considered.

- The Somalis refugees in Ethiopia, especially the families of the children should be given the awareness trainings on child rights issues and any form of child abuse whether child neglect or serious kind of child abuse such as rape or labour exploitation is not only the violation of children's human rights but also affect their future;
- Anti-HTP campaign like that has began by MCDO and IRC should be highly continued as the Somali refugees customary practices such as FGM, early marriage and males dominance are highly affecting children especially women children's rights such as the right to be equal and non-discriminated, health, education, development, to be free from inhuman treatment and even sometimes to life.
- Though the acts of Ethiopian government with the accession, ratification and adoption of major international and regional human rights instruments, refugee and children specializing laws is a good beginning, it should do much more than that and do more with its duties of respect, promote, prevent and fulfill until it noticeably decrease or eliminate the abuses of children's rights.
- Since practically the acts of awareness creation of child rights laws and other human rights issues in KBRC are conducted by International NGO's such as IRC, the Ethiopian Government should either undertake children rights sensitization programs as per the Charities and Societies Proclamation or it should amend the laws that ban the non-Ethiopian Charities and Societies from conducting child rights awareness programs.
- Though the researcher gives due respect to the difference such as religion and culture and the concepts of cultural relativism; the violation of children's rights to be protected from early marriage in customs like Somali culture or in the Muslim religion below the age of 18 should be eliminated as it violate the girl child's human rights.
- The due respect of Ethiopian government to the "traditional justice system" of the Somali culture is highly appreciated. But this system is not without a defect since the serious violations of children rights such as the rights to be protected from early marriage, FGM,

rapes are enclosed from getting the due consequence under the regular justice system. Thus, the writer believe that ARRA should make a close follow up to the resolving mechanism of the traditional justice system as it highly violates the victim children's right to get justice using the regular court.

- In order to highly minimize child labour abuses, ARRA and UNHCR should try hard to fill the gap with the financial limitations they have, for otherwise children will have to work to cover their and the families basic needs such as clothes, ointment for females and the kerosene distributions.
- The vocational trainings that has been started to be provided by IRC and DRC should be highly strengthened in order to empower the refugee youths with hope and professions that would later enable them to acquire with additional incomes besides having a share in contribution of minimizing the act of chat chewing and sexual abuses such as rapes.
- Since the translation of the international human rights instruments in to a local language is the duty of Ethiopian Human Rights Commission; they should find a way to do it in a language Somali as the Ministry of Justice has done it with languages such as Amharic, Oromifa and Tigrigna.
- Almost all IPs who are working with KBRC's doesn't have the data on the practiced types of child neglect, abuses and exploitations. Accordingly, the writer of the paper believes they all should do if they want to come up with the desired result that can be used as an input.
- NGO's such as IRC's should strictly employ qualified employees related to prevention and/or protection activities from fields of studies such as Law and may be other relevant fields such as Sociology and Psychology and not from non-relevant fields such as Management or IT.

Interview Questions to Field Protections Staff

General Introduction

1. Name: _____
2. Age: _____ Sex: _____ Organization: _____
3. Professional Qualification: _____
4. Position: _____
5. No. of years in that specific or related experience: _____
6. What are the mandates, objectives or values of your organization and more specifically towards refugee children's protection? May I gate your brochures?
7. Do you have a refugee and more importantly child protection policy (guideline)? How about gender based protective mechanisms? If so can I see/get them? And if not, why not?
8. What are the possible pull and push factors of Somalis towards Kebribeyah refugee camp?
9. Did the No. of refugee children increase or decrease in the last three-five years? Why?
10. Did you ever encounter CANE in/during the exile to the refugee camp? Yes: No: If your answer is yes, which type of abuse (s) are the major once? Can you tell me about the types of abuse you have been informed in detail (case by case)?
11. How far are children susceptible by their parents through accidents such as drowning, burns, poisons and road traffic accidents (did you encounter accidents such as drowning, burns, poisons and road traffic accidents due to the families negligence?)
12. What are the possible grounds that exemplify CANE?
13. How is the case of CANE of Kebribeya refugee camp in relation to other refugee camps in Ethiopia?
14. Who are the usual perpetrators to CANE? Why (your view)?
15. What was/is the response of the refugee community towards the existing CANE?
16. How are the facilities to a variety of leisure-time services and programmes towards the protection of young people (15-24) from being exposed to social problems by engaging themselves in socially harmful activities?
17. Are the youth of the refugee camp provided with appropriate vocational/technical trainings, job placement services and related support in order to enable them to make effective contributions to the development of their personalities?
18. What measures did your office take to ensure the protection of women refugees, refugee children who are vulnerable and needs special protection as per Article 21 of the Refugee Proclamation which granted a special protection to these groups of refugees?
19. Have you ever seen any health, legal and psychological (to deal with post-traumatic stress and depression) and other remedies to the victims of CAN&E? Besides what kind of legal action has been taken against the perpetrators? If your answer is, there were the abuses but no legal remedy, what is the reason behind?
20. How far are the juvenile delinquents and adult perpetrators rehabilitated?
21. What necessary efforts have been made to eliminate harmful traditional practices which hinder the normal child rearing process?

22. Do you think that there is satisfactory protection of children from CANE in Kebribeyah refugee camp? Why? Do you have a protection gap analysis?
23. Who do you think is responsible for the existence of CANE and/or for non-reinstatements of such abused children? Why?
24. What do you think should be done to protect children from CANE permanently, if possible?
25. Do you have the data which shows on the availability of CANE for the last five-ten years? If so may I see/get them?
26. How far are NGO's involvement in the protection of the rights of Refugee children?
27. How is the cooperation of your organizations with the refugees, relevant governmental, NGO's and international organizations towards the protection of CAN&E?
28. May I see/get your protection reports for years 2007-2010?
29. Did/do your organizations provide gender sensitive training for host country border guards, police, military unit and other who come in contact with refugees?
30. Did your organization conduct a research /a study/ on the area of CANE? If that is so, can I see/get them?
31. How far are your personnel qualified to give a proper child care /protection/ from the violation of CANE? How about the female male ratio of your employees especially in field works?
32. Did you observe any gaps in the protection of the rights of refugee children under the international, regional and domestic laws? Besides what is the justification for the non-enactment of regulation by the council of ministers on the promulgations of regulation (See Article 26 of the Refugee Proclamation 409/2004)?
33. According to Art. 10(5) of the Procn. No 471/2005 (or Procn. No. 691/20210 of Definition of Powers and Duties of the Executive Organs such as ARRA is to "submit periodic performance reports to the Prime Minister and the Council of Ministers," may I see the reports made by your office to the Prime Minister or council of ministers in relation with the protection of Refugee children? Besides As per Art. 10(1) (c) of the same proclamations one of your offices duty is to "undertake study and research; collect, compile and disseminate information" did your office ever made a research on the protection of refugee children? (To Head Office Only!)
34. Anything you want to say/add with regard to the research at hand or any information you want to add? Besides, are there any questions you want to ask me about what we talked about?

You have told me lots of things today. Thus, I want to thank you for talking with me.
Thank you very much once again for such an interesting and useful conversation!!!

Interview Questions to Concerned Government Offices(A.A.)

1. Name: _____
2. Age: _____ Sex: _____ Organization: _____
3. Professional Qualification: _____
4. Position: _____
5. No. of years in that specific or related experience: _____
6. Do you have a refugee and more importantly child protection policy (guideline)? How about gender based protective mechanisms? If so can I see/get them? And if not, why not?
7. What are the possible grounds that exemplify CANE in Ethiopian refugee camps? How is the case of Kebribeya refugee camp in relation to other refugee camps in Ethiopia?
8. Who are the usual perpetrators to CANE? Why (your view)?
9. Among the mandates, the powers and duties of your office, which ones do you think did your organization accomplished in relation to the protection of refugee children?
10. Do your office have branch offices in regional states and more specifically in Somalia Region? If not, why not?
11. What necessary efforts have been made to eliminate CANE which hinders the normal child rearing process?
12. To What extent do you think is your office responsible for the practice of CANE and/or for non-reinstatements of such abused children? Why?
13. What do you think should be done to protect children from CANE permanently or to minimize it?
14. How is the cooperation of your organizations with the refugees, relevant governmental, NGO's and international organizations towards the protection of CAN&E?
15. May I see/get your protection reports for years 2007-2010?
16. Did your organization conduct a research/a study/ on the area of CANE of refugees? If that is so, can I see/get them?
17. How far are your personnel qualified to give a proper refugee children protection from the violation of CANE? How about the female male ratio of your employees especially in field works?
18. Did you observe any gaps in the protection of the rights of refugee children under the international, regional and domestic laws in line with your mandate and objectives?
19. Anything you want to say/add with regard to the research at hand or any information you want to add? Besides, are there any questions you want to ask me about what we talked about?

Thank you very much once again for such an interesting and useful conversation!!!

FGD Check list

Focus Group Discussion with government organs such as ARRA, the police, public prosecutors, and judges, NGO's working on child protection, UNHCR's field (protection) staff and from families and children of the refugee community.

Date: _____

Time: From _____ to _____

Introduction and Consent Statement

This study is conducted to gather data and information on child abuse, neglect and exploitation in Kebri Beyah's Refugee camp. It is believed that your participation in giving full information, opinions, feelings, and reactions on this is highly crucial and base for good outcome in this study. I want you to know that if you decide to participate in this FGD the nature of information and your identity will be made recorded on tape recorder while participating in the focus group discussion, however, no reference will be made to individual participants at any time in the future. Thus, all information attained mean while will be kept confidential. You are to decide if you would like to participate in this focus group discussion or not. Nevertheless, since your answers are important, I would like to ask you to give me your true responses. Do you agree to participate in the focus group discussion today? Besides, you can make your identity anonymous.

Yes: _____ No: _____

Section 1: General Information

List of Participants

No.	Name	Gender	Age	Level of Education	Religion	Organization	Position	No. of service year in the orgn.

List of questions for the FGD

1. What are the level of awareness on different kinds of child neglect, abuse and exploitations (CANE) of the refugee community?
2. How about the level of awareness on international, regional and national laws? Do you've them in the language Somali, if any?
3. What are the levels of practice of the different kinds of CANE of Kebribeyah refugee community?
4. Who are the usual perpetrators of the different kinds of CANE?
5. Was any of the CANE reported to the concerned body? And how were their responses?
6. What are possible reasons for the practice of the different kinds of CANE in the refugee community?
7. Where is the place where most CANE takes place?
8. Was there any sensitization programs on child rights conducted by any IPs? If so, by whom?
9. Do you think that the protections provided in Kebribeyah refugee camp (KBRC) are satisfactory enough or not? why?
10. Was there any court cases on issues of CANE? If so, what was the outcome of the cases? And if no, why not?
11. Recommendations to combat CANE?

EX. What should be the role of the parents, government and more specifically child unit workers, law enforcement bodies like police and public prosecutors, hospital child abuse workers, service giver NGO's, laws and procedure, victim children and the like?

You have discussed lots of things today, and I want to thank you all for your participation. Is there anything else you feel like to add? Are there any questions you want to ask me about what we discussed today?

Thank you!!!!!!!!!!

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Interviews

1. Interview with Mr. Sahardid Ahmed, members of the refugee central committee (RCC), on 18/01/2011
2. Interview with Ato Sulleyman Haji, ARRA's Protection Officer in KBRC, on 22/01/11

3. Interview with Mr. Abdi Hakim Mohammed, IRC Child Protection Social Worker, on 17/01/11
4. Interview with Miss Asha Osman Ibrahim, Chair Person of WA, on 17/01/11
5. Interview with Ato Ali Aden, the School Director of Dr. Ali Mejid Hussien Primary School, on 21/01/11
6. Interview with Ato Kassa Mamo, the Vice-Director of Abdulahi Bede Kebribeyah Senior Secondary School, on 25/01/11
7. Interview with Mr. Sahardid Ahmed Aden, a member of Refugee Central Committee (RCC), on 18/01/2011
8. Interview with W/o Anchinesh Mahteme, UNHCR's sub office Jijiga Protection Officer, on 22/01/2011.
9. Interview with Shake Muktar Abdi, the judge of Sheria Court in KBRC, on 24/01/2011
10. Interview with Ato Mustefa Issa Worfa, FGM coordinator of MCDO in KBRC, on 21/01/2011
11. Interview with Ato Desalegn Getaneh, GAIA Association Zonal Coordinator, on 22/01/2011
12. Interview with Ato Ahmed Abdukerim , IRC Prevention Officer, on 19/01/2011
13. Interview with Mr. AbdihakimAbdi Mohamed, IRC Child Protection Social Worker, on 17/01/2011
14. Interview with W/ro Aster Tadege, a researcher under Ethiopian Human Rights Commission, on 06/02/2011
15. Interview with Mr. Abdi Hakim mohammed, IRC Child Protection Social Worker, on 17/01/2011
16. Interview with Mr. Muhamoud Hasan Muhamed, IRC Child Protection Social Worker and Youth Association Chair Man, on 18/01/2011
17. Interview with Ahmed Abdu kerim, IRC GBV-Prevention Officer, on 18/01/2011
18. Interview with Ato Yoseph Tariku, DICAC Project Coordinator, on 25/01/11
19. Interview with Ato Moge Mohamud Abdi, Kebribeyah Wereda Justice Bureau, on 24/01/11
20. Interview with Ato Idile Abdi, Youth and Livelihood Program Assistant, on 18/01/11
21. Interview with Ato Gebeyehu Beyebe, IRC Youth and Livelihood Officer, on 18/01/2011

Please respond to the questions below as freely and as objectively as you can.

1. Personal Information

1.1. Sex: Female: Male:

1.2. Age: _____

1.3. Religion: Muslim: Catholic: Orthodox: Protestant:

Other: _____

1.4. Nationality: Somali Other: _____

1.5. Marital Status: Single: Married: Divorced: Widow/er:

If you are widow/er; what is the cause of the death of your husband/wife:

1.6. If you are/were a married man, how did you get married?

Lawfully (my wife was ≥ 18): Through Abduction: and/or when my wife was/is below 18 years of Age: For other unlawful reason:

1.7. If you are/were a married woman, how did you get marriage? Lawfully:

And/or When I was/is below 18 years of Age: Through Abduction:

1.8. Level of Education: _____

1.9. Attending classes (grade level): _____

1.10. If dropped out of school, grade level: ____; and

Why: _____

1.11. Number of Children, if any: _____

1.12. No. of years (lived) in the refugee Camp: _____

1.13. With whom do you live, if you are child (with/without family)? _____

1.14. Do you (if you are a child) live with family or child headed family: With family:

With child headed family: , if child headed How old is the eldest brother/sister:

1.15. What is the education status of your (mother & Father)? M: _____, F: _____

1.16. Reason to flee your country was because of? Conflict or Civil War: Religion:

Race: Political opinion: Membership of a particular social group:

Natural Disaster: Child trafficking: Forced child labour: Child abduction:
Sexual abuse: Child sale: Smuggling for prostitution:

Other: _____

2. Child Protection Issues

Level of Awareness about Child Abuse, Neglect and Exploitations

2.1. Child Neglect

2.1.1. Do you know about the meanings of Child neglect: yes: No:

2.1.2. What are the different kinds of child neglect that you know, if any?

A. Drowning to holes: B. Burning: C. Poising:

D. Traffic accidents: Other: _____

2.1.3. What are the levels of practices of child neglect in KBRC that you know, if any?

A. Drowning to holes: B. Burning: C. Poising: D. Traffic accidents:

Other: _____

2.1.4. What do you think are the reasons for the practice of child neglect, if any?

A. Ignorance by the families: B. Lack of resource by the families:

C. Lack of resource by the government: D. Lack of concern by INGO's:

E. Lack of concern by NGO's:

Other: _____

2.2. Child Abuses

2.2.1. Do you know or have information about different types of child abuses?

Yes: No:

2.2.2. Which of the following is/are among different types of child abuse that you know?

Excessive corporal punishment: Light corporal punishment:

Child labour: Child military recruitment: Abduction:

Female Genital Mutilation (FGM): Early Marriage: Verbal Abuses such as insulting: Rape against the female child: Rape against the male child:

Touching the sexual organs of the female child: Touching the sexual organs

of the male child: Showing porno pictures and/or films:
Other: _____

A.) Corporal Punishment

2.2.3. If your answer above (2.2.2) is there are light corporal punishments, who are the usual perpetrators of it? The mother of the child: The Father of the child:
The male child: The female child: The security guards: The police:
The Military Personnel: Other: _____

2.2.4. If your answer above (2.2.2) is there are the practices of excessive corporal punishment, who are the usual perpetrator of it? The mother of the child:
The Father of the child: The male child: The female child: The security guards:
The police: The Military Personnel:
Other: _____

B.) Child Labour Abuse

2.2.5. If your answer above (2.2.2) is there are the practices of child labour in Kebribeyah refugee camp, who is/are the usual perpetrator(s)? The mother of the child:
The Father of the child: The male child:
The female child: The security guards: The police: Teachers:
Other: _____

C.) Child Sexual Abuse

Rape

2.2.6. If your answer above (2.2.2) is there are the practices of rape against the female child, where is the place where most of the rape cases take place?
With in refugee camp: Outside the camp: During exile:
During repatriation: While looking for fire wood: at school:
Water places: Play grounds: Other: _____

2.2.7. If your answer above (2.2.2) is there are the practices of rape against the male child, where is the place where most of the rape cases take place?
With in refugee camp: Outside the camp: During exile:
During repatriation: While looking for fire wood: School:
Water places: Play grounds: Other: _____

Early (Child Marriage)

2.2.8. If your answer above (2.2.2) is there are the practices of early marriage, at what age did you if you're a married women or your wife (for the husbands) got married?
Below 10: 10-12: 13-15: 16-17: ≥18: I'm not married:

Female Genital Mutilation/Cutting/

2.2.9. If your answer above (2.2.2) is there are the practices of FGM, what are the reasons for such practice?

2.3. Child Exploitation

2.3.1. Do you know or have information about different types of child exploitation?
Yes: No:

2.3.2. Do you know any child who is involved in child labour exploitation or for which s/he is not benefiting most? Yes: No:

2.3.2.1. If your answer to 2.3.2. Is yes, what do you think is the reason for such an act?

Because these children should support their families:
In order to get their basic needs such as food, water and clothing:
To cover their/our school fees: Because they (we) are forced by other groups of the refugee: Because our families are not allowed to go out of the refugee camp to work: Other: _____

2.3.3. Do you know any child who is involved in commercial sex work, for the benefit of some other person? Yes: No:
If your answer is yes, who is to benefit most? The child: The family:
If some other person, please mention: _____

2.3.4. Do you know any other type of child sexual exploitations practiced in KBRC?
Yes: No:

2.3.4.1. If your answer to the above question (2.3.3.) is yes please mention the type(s) of exploitation? _____

3. Level of Awareness in Child Right Laws, Reports and the Responses of the Concerned IP's

3.1. What are your levels of awareness about child rights laws at international, regional and domestic level?
Poor: Fair: Satisfactory: Very good: excellent:

3.2. Which of the following IPs has conducted the awareness sensitization program, if any?
The Ministry of Education: ARRA: The Human Rights Commission:
The Ministry of Women, Children and Youth Affairs:
The Institutes of Ombudsman: UNHCR: IRC: MCDO:

DICAC: Other(s): _____

3.3. How far are child abuse, neglect and exploitations reported to the concerned IPs?

Rarely: Sometimes: Very often: Always: Never:

3.4. If your answer is yes there are the child abuse, neglect and exploitation cases and are reported to the concerned IPs, how are the response of such body?

Poor: Fair: Satisfactory: Very good: excellent:

3.5. Do you think that the protections provided in Kebribeyah refugee camp are reliable enough that any child in the refugee camp can apply for protection? Yes: No: why?

3.6. Do you think that you have been provided with enough protection from the above child right violations by the government of Ethiopia?

Yes: No: If your answer above (3.6.) Is no, what do you think is the reason behind? _____

Thank you very much!