



The ban on Intercountry Adoption in Ethiopia: Its Practical and Legal implication on
the best interest of the OVC.

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This is to certify that the thesis prepared by Sisay Asrat on the title “the ban on the intercountry adoption: practical and legal implications on the best interest of the OVC” Submitted to the School of Social Work in the Partial Fulfilment of Master’s Degree in Social Work.

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Letter of Declaration

I, Sisay Asrat, would like to inform those concerned to know that this thesis work entitled “*The ban on the Intercountry Adoption; Practical and Legal implication on the best interest of the OVC.*” stands for original work conducted by me in partial fulfilment of the requirement for the degree of master of arts in social work, at Addis Ababa University School of Social Work.

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

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Dedicated to:

I would like to dedicate this research primarily to the orphan and vulnerable children in Ethiopia, who are suffering from lack of parents, loving and caring families, child friendly environments and chronic sickness and various forms of abuse.

Secondly, I would like to encourage and express my heartfelt love for the ones who work to their due diligence to serve the best interest of the OVC.

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Acronyms and Abbreviations

OVC	Orphan and Vulnerable Children
AC	Alternative Childcare
DA	Domestic Adoption
ICA	Intercountry Adoption
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
UNCRC	United Nation Convention on the Rights of the Child
UDHR	United Nation`s Declaration of Human Rights
UN	The United Nations
UNICEF	United Nation`s International Children`s Emergency Fund
ACRWC	African Charter on the Rights and Welfare of Children
FDRE	Federal Democratic Republic of Ethiopia
MoWCYA	Ministry of Women, Children and Youth Affairs
NGO	Non-governmental Organizations
U.S.A.	The United States of America
USD	United States Dollar

Table of Contents

Contents	Page
Acknowledgements.....	i
Acronyms and Abbreviations	ii
ABSTRACT.....	vi
1.1 Background of the Study	1
1.2 Statement of the Problem.....	4
1.3 Research Questions.....	6
1.3.1 Major Research Question.....	6
1.3.2 Specific Research Questions:.....	7
1.4 Objectives of the Study.....	7
1.4.1 General Objective	7
1.4.2 Specific Objectives	7
1.5 Significance of the Study	7
1.6. Scope of the study.....	8
1.6.1 Challenges of the study.....	8
1.7 Organization of the Study.....	8
1.8 Definition of Terms.....	9
Chapter Two.....	10
Review of Related Literature	10
2.1 Definition of Orphan and Vulnerable Children	10
2.2 The causes of the OVC in Ethiopia.....	12
2.3 Alternative Child Care	13
2.3.1 Types of the Alternative Child Care; Emphasis on Inter country Adoption.....	14
2.3.2 Adoption	14
2.3.3 Types of Adoption	15
2.4 The Historical Evolution of Intercountry Adoption	17
2.5 The major pushing factors for the need to Alternative Care in Ethiopia; Intercountry adoption.....	18
2.6 What factors caused the ban of ICA in Ethiopia?	19
2.7 The overall impact of the ban on the OVC; The positive impact of the Ban on the OVC. 20	
2.7.1 The positive impact of the ban on the community	21

2.7.2	The negative impact of the ban on the OVC.....	22
2.7.3	The negative impact of the ban on the community	23
2.8	The major theoretical school of the ICA.....	24
2.8.1.	Attachment Theory vs. the ICA	25
Chapter Three.....		27
Research methodology.....		27
3.1.	Methodology	27
3.2.	Research Design	27
3.3.	Techniques of Participant Selection and Sampling Techniques	28
3.5.	Sample Size.....	29
3.6	Methods of Data Collection	29
3.6.1	Key Informants	29
3.6.2	In–depth interview	30
3.6.3	Non-Participant observation	30
3.6. 3	Document Review.....	31
3.7	Method of Data Analysis	31
3.8	Trustworthiness and Data Quality Assurance.....	32
3.9.	Ethical Considerations	33
Chapter Four		34
Data Presentation and Findings		34
4.1	Introduction.....	34
4.2	Description of Research Participants	34
<i>Table I: Socio-demographic information of In-depth Interview Participants</i>		35
4.3	Data analysis and Major Findings.....	36
1.4.2	Members’ understanding of “the Best Interest of the OVC”	37
4.3.2	Participants` perception about the practice of the ICA in Ethiopia,.....	38
1.4	Participant’s perception of the legal and practical implication of the ban on the OVC in Ethiopia.	43
4.4.1	Participants’ perception of the merits of the ban on the OVC	43
4.4.2	Participants’ perception of the Demerits of the ban on the OVC.....	44
4.4.2	Participants` Recommendations of Remedies that serve the best interest of the OVC	45
Chapter Five.....		47

Discussion of the Findings.....	47
5.1 The Major pushing factors towards adopting and ratifying ICA in Ethiopia,	47
5.2 The ban of the ICA in Ethiopia; The factors resulting on the ban	50
5.2 The overall implications of the ban on the OVC	51
5.2.1 The Implication of the ban on Economic status of the OVC	52
5.2.2 The Implication of the ban on Psychology of the OVC	53
5.2.3 The Implication of the ban on the health and wellbeing of the OVC	54
5.2.4 The Implication of the ban on rights of the OVC	54
Chapter Six.....	58
Conclusion and Implications.....	58
Conclusion	58
6.2 Implications.....	60
6.2.1 Implication for Policy	60
6.2.2 Implication for Practice and Structure	61
6.2.2 Implication for Awareness Creation	61
6.2.3 Implication for Research.....	62
Appendices.....	72
Appendix-1: Informed Consent Form.....	72
Appendix 2: For the Researcher:	73
Appendix 3: In-depth Interview Questions.....	74
Appendix 4: Observation Checklist	76
Annex	

ABSTRACT

The overall intent of this study is to explore and appraise the practical and legal implications of the ban of Intercountry Adoption on the best interest of orphan and vulnerable children in Ethiopia. The applied research design is a case study qualitative research approach. Data has been collected from the review of relevant literatures, interview of two key informants, five in-depth interview participants and an observation, conducted through a purposive sampling selection of the participants. After analysing the collected data thematically, the findings of the study have revealed that the ban on the Intercountry adoption in Ethiopia has both a positive and negative practical and legal implication on the best interest of the orphan and vulnerable children. The identified positive implication of the ban on the orphan and vulnerable children if properly and adequately substituted by the domestic child care mechanisms in a way that serves their best interest is, an opportunity to grow up in their own communities` culture and norms. However, the study has also revealed the negative implications of the ban on the psychology, economy, health and wellbeing of the orphan and vulnerable children as well as its impact to the community they live in. In addition, with regard to the legal implication of the ban on the orphan and vulnerable children, the findings of the study reveal that the absolute ban of Intercountry adoption in the absence of adequate and functional domestic alternatives that can provide for the highly orphan and vulnerable children with their needs, directly violates their special entitlement to an alternative child care through Intercountry adoption. The study implies that, an absolute shut down of the Intercountry adoption in the process of laying the foundation of systematized and efficient domestic childcare mechanisms is not in the best interest of the orphan and vulnerable children, rather a clear violation of their special entitlements for a better and safe living atmosphere that guarantees their holistic development through the options of alternative childcare mechanism. Finally, based on the findings, the study recommends for the government to enact additional policies that could address the possible challenges of the Intercountry adoption, implement it in ways that can only and strictly operate to serve the best interest of the orphan and vulnerable children as a last resort after all the domestic childcare mechanisms are exhausted.

Chapter One

Introduction

1.1 Background of the Study

According to the Preamble of the United Nation`s Convention on Rights of the Child (UNCRC, 1989, P.3), family is the fundamental unit of society and the natural environment for the growth and wellbeing of its members. The United States Census Bureau (2007) defines the term family as a relatively permanent group of two or more people who are related by blood, marriage or adoption and who live under the same roof.

Being a fundamental unit of society, the recognition of the inherent dignity and of the equal and inalienable rights of all its members is the foundation of freedom, justice and peace in the world (Morrow, V., & Mayall, B. (2009). Children as indispensable members of any family, due to their physical and mental immaturity, need special protection and care, including appropriate legal protection, before as well as after birth (The United Nation`s Convention on the Right of the child, Preamble, 1989, P.3). Hence, they are entitled to special care and assistance and are ought to be afforded the necessary protection and assistance so that they can fully assume their responsibilities within the community.

The existence of a family environment characterized by peace, dignity, tolerance, freedom, equality and solidarity is crucial for the full and harmonious development of the child`s personality (The Preamble of United Nation`s Convention on the Right of the child, 1989, P.3). To ensure the implementation of such entitlements, while taking actions concerning children, whether undertaken by public or private, social welfare institutions, courts of law, administrative authorities or legislative bodies of every signatory states are expected to take a primary consideration of the best interest of the child (Morrow V., & Mayall, B., 2009).

On the contrary the absence of such environment jeopardizes the survival and development of children which results in the need to access alternative childcare services (Jima, 2016). Children who are deprived of the above mentioned entitlements due to extreme poverty, natural disasters, war, accidents and terminal diseases epidemics are referred to as Orphan and Vulnerable Children (Assefa, 2018).

Pursuant to the United Nation`s International Children`s Emergency Fund (UNICEF) Fact Sheet, 2004), the characteristics of such children could include those who are orphaned by the death of one or more of their parents, abandoned by their parents, living in extreme poverty, living with disability, affected by armed conflicts, abused by parents or their carers malnourished due to extreme poverty, Human Immunodeficiency Virus (HIV), and those who are marginalized or even discriminated against. Hence, taking the existence of such situations in to consideration, Article 21 of the United Nation`s Convention on the Rights of the Child under section (b) indirectly establishes the eligibility of the (OVC) to be provided with an option of Intercountry Adoption as one of the Alternative child care mechanisms (UNCRC, 1989).

As per the definition of UNICEF, an Orphan is “a child under 18 years of age who has lost one or both parents to any cause of death (Garnier S. 2003). By 2003, 14 million children under the age of 15 had lost either of their parents due to Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome (HIV/AIDS). It is also estimated that by 2010, as many as 25 million children were likely to be orphaned as a result of the disease. The UNICEF has also estimated the number of vulnerable population around the world to be closer to 15 million. By the above definition, there were 140 million orphans globally in 2015, including 61 million in Asia, 52 Million in Africa, 10 million in Latin America and the Caribbean, and 7.3 million in in Eastern Europe and Central Asia. Consequently the OVC, up on the death of one or both of their

parents experience psychological distress such as, fear and isolation, Economic hardship, withdrawal from school, malnutrition and illness, loss of inheritance, increased abuse and risk of HIV (Garnier, S. 2003).

According to a publication by the UNICEF entitled “Africa’s Orphaned Generations, 2003”, At a regional level, HIV/AIDS has been the major contributor for the orphaning of children under the age 15, fewer than 1 million Sub-Saharan African children under the age of 15 had lost one or both parents to HIV/AIDS, in 1990. By the end of 2001, 11 million in the same age group were orphaned due to HIV/AIDS, closer to 80 percent of the world (UNICEF, 2003). In Ethiopia, OVC comprises nearly 12 percent of the total child population of which 83 percent reside in the countryside, 8555,720 children from the same percentage are orphaned due to the death of one or more of their parents by HIV/AIDS (Adebayo, 2013).

Among the sufferings these children face from as mentioned in the background section of the National Plan of Action for Orphans and Vulnerable Children in Ethiopia are; poverty, violence, exploitation and abuse. Ethiopia, like many other countries has signed and ratified the United Nations Convention on the Rights of the Child as part and parcel of the Constitution in May 14, 1991. It has also signed and ratified the Optional Protocol of the Convention on the Protection Rights of the Child on the involvement of Children in Armed Conflict in September, 28 2010 and 14 May, 2014 respectively.

The Ethiopian government has also signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children for Child Prostitution and Child Pornography on the 25th of March 2014. (Mertus, J. A., & Mertus, J. 2010). Moreover Ethiopia has ratified and promulgated the African Charter of on the Rights and Welfare of the Child (ACRWC, Ratification Proclamation Number 336/2003). (Combined Initial, First, Second and

Third Periodic Report on the Implementation of the African Charter on the Rights and Welfare of the Child).

The basic rights of the child as per the CRC, ACRWC, in addition to the law of the land, are also well incorporated by the Revised Federal Family Law of Ethiopia as well as the National Child Policy which is endorsed in, April, 2018. In all of the above mentioned domestic and international Legal Frameworks, the OVC are entitled to the right to special protection and assistance by the state, of which one is the right to an Alternative care including domestic and intercountry adoption under (Yosef, Y. P. (2016).

However, the Intercountry adoption has been suspended by the Ethiopian Legislative organ on January 9, 2018 through the enacting of proclamation number 1070/2018. According to “Alternative Childcare Guidelines by the FDRE Ministry of Women`s Affairs, 2009). Despite the fact that the Ethiopian government has launched a number of policies, such as child protection policy for tackling the problems, the later have still been occurring and expanding in different districts in the country (Sidiq, B. O. 2018). The question to be raised here would be in every of these amendments and suspensions of entitlements of the child would be, has the best interest of the OVC who are abandoned by their parents, left without care by their relatives incapacity to look after them and who are in institutional care been the main focus practically?

1.2 Statement of the Problem

Every child is entitled to grow up in a family environment in an atmosphere of happiness, love and understanding for his/her symmetrical development. The OVC are the ones whose entitlements for the above mentioned childhood atmosphere and harmonious growth are compromised, and in whose best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state (Mezmur, 2008). However,

within Ethiopia 5.5 million children, around 6 percent of the total population are categorized as orphan and vulnerable children constituting one of the highest orphan rates in the world (Catherine H. Miller, 2008). The primary responsibility and accountability of providing such special protection in the form of Alternative care and support within its jurisdiction without discrimination of any kind primarily falls on the jurisdiction of the government (The CRC Article 2 (1)). As a signatory to these international Instruments, the Ethiopian government is obliged to ensure the provision of alternative care for the OVC, taking in to consideration the best interest of the child.

Alternative child care among which adoption taking the form of domestic and inter country, being part and parcel of the remedies for the special protection of the OVC, is deemed as a last resort after all are exhaustively met, specially Inter country Adoption. According to the revised alternative childcare guidelines, 2009, given the direct poverty and ever increasing number of children left without parental care due to HIV/AIDS pandemic, natural and manmade disasters, the role of alternative child care is not negligible. However, the Ethiopian parliament has passed a new legislation banning all inter country adoptions by foreigners, effective immediately on January 9, 2018.

From 1999-2017, 15,630 children were adapted from Ethiopia to the United States (Gelberg, 2007). For decades Ethiopia has been a staple of inter country adoption said to have accounted 20% of the total number of foreign adoptions procured by u.s. citizens (Gelberg, 2007). Given the background history of Ethiopia`s long lived ties with the u.s. citizens in terms of intercountry adoption the ban was a shock to the adoption community (Humphries, 2019). Such reforms have to be critically scrutinized less they turn out to be self-defeating in light of promoting the best interest of the OVC (Assefa, 2018).

One of the positive implications of the ban on the alternative care as per Ministry of Women, Children, and Youth Affairs Directive on foster family and domestic adoption services, 2019 is that it enables the OVC to be raised on the basis of Ethiopian culture and within the community which prevents a possible onset of identity crisis. Nonetheless, its advantage is limited for the very few number of OVC who are fortunate enough to receive support from the domestic alternatives (Melat Assefa, 2018). The fact that children might get support from domestic alternatives does not necessarily mean protection from identity crisis and the abuse as domestic alternatives are not all immune from such threats (Melat Assefa, 2018).

The issue being a recent phenomenon in Ethiopia, There are no other prior studies or researches made other than the one entitled “*The Ban on Inter country Adoption in Ethiopia: Implications on the Right to Alternative Care, (Melat Assefa, 2018)*”. The gap that the writer of this proposal has identified is the above mentioned study does not provide any practical implication of the ban on the inter country adoption whether it broadens or infringes the best interest of the OVC. It is also solely focused on the implication of the ban on the protection of the OVC, from the legal perspective. Taking these gaps in to considerations the writer`s goal is to fill the identified gaps by putting an effort to find out the practical and legal implications of the ban on the OVC.

1.3 Research Questions

1.3.1 Major Research Question

- What are the practical and legal implications of the ban on the inter country adoption in Ethiopia and its legal and practical implication on the Best interest of the OVC?

1.3.2 Specific Research Questions:

1. What were the major pushing factors for the need to alternative care specially, ICA during its ratification?
2. What factors caused the ban of ICA in Ethiopia?
3. What is the overall impact of the ban on the OVC in Ethiopia?
4. What is the current practical status and significance of the replaced mechanisms in comparison to the ICA.

1.4 Objectives of the Study

1.4.1 General Objective

The general objective of this research is to explore and appraise the current practical and legal and implication of the ban on the inter country adoption in Ethiopia, on the best interest of the OVC in Ethiopia.

1.4.2 Specific Objectives

- Establish the major pushing factors for the need to alternative care specially ICA during its ratification.
- Explore the factors that caused the ban of the ICA.
- Reveal the overall implication of the ban on the OVC.
- Evaluate the current practical status and significance of the replaced mechanisms in function in comparison to the ICA.

1.5 Significance of the Study

Given the lack of studies or researches made in accordance with the ban of ICA in Ethiopia, and it`s implication on the right to alternative care, this research plays a significant role

as a source of information. It could also be used as a reference that provides information to whoever is conducting a research in the subject matter. Moreover it could also be an input for policy makers, concerned governmental and nongovernmental bodies with regard to initiating a draft, an amendment or repeal of the pre-existing legal frame work and for the reconsideration of the ban on the ICA. Finally, it promotes and creates awareness of the current situation and status of ICA and the domestic childcare mechanisms from the perspective of serving the best interest of the OVC.

1.6. Scope of the study

Determined by the title and study area, the scope of the study is limited to the practice and ban of the intercountry adoption in Ethiopia in light of the best interest of the OVC. Among all the other alternative care types that are equally ratified by the government, the focus of the study is limited to the Inter country adoption.

1.6.1 Challenges of the study

Due to the current epidemic of the COVID 19 virus, even though the in-depth interview was intended for 10 participants, and two key informants, the researcher was only able to carry out an in-depth interview with five participants and two key informants. As a result, non-participant observation by the researcher was confined to a government orphanage called “Kibebe Tsehay.

1.7 Organization of the Study

The research is organized in to six chapters. The first chapter presents; the background of the study, statement of the problem, research questions, objectives of the study, significance of the study, scope of the study, challenges of the study and organization of the study. The second

chapter addresses the review of related literature. The third chapter presents the research design and methodology. The fourth chapter covers the data presentation and analysis. Findings will be discussed in the fifth chapter while the conclusion and social work implication would be presenter in the sixth chapter.

1.8 Definition of Terms

- **Child:** Every human being below the age of 18 years old (CRC, Article 1, 1989).
- **The best Interest of the Child:** Actions concerning children, whether undertaken by public or private, social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration (CRC, Article 3, 1989).
- **Alternative Care:** This includes formal and informal care of children without parental care. Alternative care includes kinship care, foster care, other forms of family-based or family-like care placements, supervised independent living arrangements for children and residential care facilities (CRC, Article 20 (2), 1989).
- **Adoption:** A social and legal protective measure for children. Adoption is the permanent placement of a child into a family whereby the rights and responsibilities of the biological parents (or legal guardians) are legally transferred to the adoptive parent(s) CRC, Article 20(3) 1989).
- **Orphan and Vulnerable Children:** Children under the age of 18 years and currently at high risk of lacking adequate care and protection Tovo, M., Prywes, M., Kielland, A., Gibbons, C., & Saito, J. (2005).

Chapter Two

Review of Related Literature

2.1 Definition of Orphan and Vulnerable Children

The meaning of “Orphan” seems to vary from nation to nation but according to the definition of the term as mentioned by the UNICEF’s annual report, an orphan is defined as a child under the age of 18 who has lost one or two of his parents (UNICEF., 2007). The researcher proceeds with the definition of the term by the UNICEF referring a child under the age of 18 who has lost one or two of his parents. Confirming to the difficulty of forming a single and globally accepted definition of the term due to the contextual and cultural differences of nations, the perception of the term “orphan” from the context of Ethiopia customarily has a tendency of being considered as a child who has lost both parents.

However, the directive on Foster Family and Domestic Adoption Services by the (MoWCYA , 2019), under article 2;6(b) has included single or double orphans under the list of the definition of OVC. The question the researcher likes to pause here is does the death of just one of the parent constitute a child to be deemed as an orphan? The researcher believes and argues that the death of a parent unless the deceased parent is the main breadwinner, or the remaining parent has already abandoned the child, referring the child as an orphan seems to expose the child to stigma and stereotype influence the life of both the living parent and the child in.

Children under the age of 18 years and currently at high risk of lacking adequate care and protection are referred to as OVC, (Tovo, M., Prywes, M., Kielland, A., Gibbons, C., & Saito, J. 2005). This definition gives a general outlook of what constitute OVC from the perspective of a

high risk of vulnerability. A vulnerable child could also be defined as one who has no or very restricted access to basic needs (Skinner, D.P10. 2004). In line with this definition, for the child to be deemed as vulnerable does not necessarily have to lose either or both parents. It defined vulnerability in terms of the right approach where having the rights infringed in a way that jeopardizes the child`s wellbeing can constitute the child to be referred as vulnerable even while parents are alive.

On the other hand, in conformity with the above cited definition but in a rather vague way due to the term ”difficult circumstances” OVC are addressed as Children in Difficult Circumstances who undoubtedly require special support and care, (Ethiopian National Children`s Policy, p 8, 2017). The researcher argues that the term “difficult circumstances” is widely open for interpretation and misuse. What holds “a difficult situation” from one child`s context at a certain part of the country might not mean the same for the other.

In a way that strengthens and elaborates the above description of OVC the directive on Foster Family and Domestic Adoption Services by the (MoWCYA , 2019), under article 2;6(b) defines vulnerable children as children whose survival and development is jeopardized by certain circumstances and are therefore in need of alternative care services. The researcher believes that both definitions combined makes the term OVC more understandable and guiding for the purpose of this research. According to the above mentioned directive by the (MoWCYA, 2019)

A few key indicators determining a child`s vulnerability are:

- Abandoned children
- Single or double orphans

- Non-orphan whose parents are unable to support the child due to illness, physical disability and mental impairment.
- Street Children
- Children living in Orphanages
- Children neglected by their biological parents.

These indicators in the listing somehow seem to exclude children living in extremely harsh conditions such as children living with HIV, abandoned children with physical disability and so on. However on (the National Child Policy, p8. 2017) under the umbrella of “Children in difficult circumstances:

- Children with disability,
- Juvenile offenders,
- Children of imprisoned parents,
- Children left vulnerable by natural and manmade disaster,
- Children who live in extreme poverty ... were included.

The researcher argues that there should be a separate division among vulnerable children of any cause based on the determinants of their vulnerability and the magnitude of the problem they face while relentlessly struggling for survival. The researcher believes that formulating unequivocal category of orphan and vulnerable children makes it a lot easier for any sort of intervention to understand the problem.

2.2 The causes of the OVC in Ethiopia

In Ethiopia, out of an approximate population size of 102 million inhabitants, 5.5 million children that constitute 6% of the total population are categorized as OVC. Out of the total child

population in Ethiopia, the OVC make up 12% (Abashula, G., Jibat, N., & Ayele, T. 2014). Among 80% of the OVC reside in the rural areas out of which 8555,720 of them are Orphaned by the death of one or both of their parents due to HIV/AIDS cited by (Abashula, G., Jibat, N., & Ayele, T. 2014). Ethiopia, having the second largest general population size in Africa also is an inhabitant of the second largest OVC in the continent (United Nation`s Children`s Fund, 2006). The major cause of Orphan hood, according to the United Nation`s Children`s Fund, 2007, include extreme poverty, conflict, exploitation, draught, famine, living on the street, disease and the HIV/AIDS pandemic.

Furthermore, the official figure puts the numbers of HIV positive children below the age 15 to be 160,000 making HIV/AIDS the leading cause of orphan hood or separation of children from their parents. The other causes have been Poverty, famine, conflict and displacement (Cooper 2010:100). From the above information it could clearly be understood that there are 5.5 million Ethiopian children, below the age of 18 years of age, whose survival and development is jeopardized by certain circumstances and are therefore in need of alternative care services.

2.3 Alternative Child Care

Alternative Child Care is a form of a special protection and assistance provided by the government for the OVC (Truthan, j. a., & CRC, C. 1989, March). According to (network, B. C., & UNICEF, 2015), Alternative childcare includes formal and informal care of children without parental care. It is a home for children and youth who have lost all forms of parental care through abandonment, abuse, neglect, etc.

Signatory states to the CRC, in accordance with their national laws are expected to ensure the provision of Alternative Care for the OVC (crc, Article 20 (2), 1989). Among the pressing

factors for the need to Alternative care the major indication is when children do not receive the parental care and are at a special risk of being denied their rights and dreams for the future (Simon, T. D., Berry, Srivastava, R. 2010).

Customarily, with regard to Alternative Care, there are two fundamental ways of care; Informal Care and Formal Care. Informal Care is when children are cared for informally by their extended family members or other adults in their community. Regardless, states are required to ensure the welfare and protection of children, with due respect for cultural, economic, gender and religious differences and practices that do not conflict with the best interest of the child. Formal Care is where the concerned government organ or a recognised child-care agency puts a child in the care of adults who are not family members (Simon, T. D., Berry, Srivastava, R. 2010).

2.3.1 Types of the Alternative Child Care; Emphasis on Inter country Adoption

According to the UNCRC and the Guidelines on the Alternative child care, the types of Alternative Care Mechanisms are Adoption, Foster Care, Institutional Placement, Islamic Kafala and Kinship. Adoption as a type of Alternative Care has two Forms Domestic and Intercountry Adoption. For the purpose of this research the Literature Review will only emphasize on Adoption mainly, Inter country Adoption, and the International Practice of the Inter country adoption.

2.3.2 Adoption

The term adoption usually refers to the legal transformation of a child's familial status, through which individuals permanently assume the major responsibilities of birth parents (Stryker, 2018). Cornell University Law School legally defines adoption as "the process in which parental rights to a child (whose biological parents' parental rights have been severed) are

bestowed on adopting parents, creating a parent-child relationship where one did not previously exist.” Pursuant to the Ethiopian Directive on Foster Family and Domestic Adoption Services, P2, 2019), Adoption is defined as a child care service that is established by a contract between a vulnerable child and adoptive family which have Ethiopian nationality. In this definition the exclusive right given to adopt an Ethiopian OVC is only possible by Ethiopian nationals exempting foreigners. One can, from the reading of the above statement understand that Interountry adoption in Ethiopia is allowed only for Ethiopian nationals.

2.3.3 Types of Adoption

There are three common and general types of adoption around the globe i.e. Domestic Infant Adoption, Foster care Adoption and Inter country Adoption.

2.3.3.1 Domestic Adoption

Is also known as private domestic adoption is a type of adoption by which the adoptive parents and the adoptee (the adopted child) are of the same nationality and the same country of residence (Assefa, 2018).

2.3.3.2 Intercountry adoption

Intercountry Adoption, also known as international adoption is a type of adoption in which an individual or couple become the legal and permanent parents of a child that is a national of a different country (Legal, U. S. 2009).

2.3.3.3 Foster care Adoption;

This is an adoption of a child in foster care whose biological parents` rights are legally terminated by the court. Among many, the common reasons for foster care adoption are when a child is handed over a foster care due to his/her parents` neglect, physical abuse and the like.

2.3.3.4 Interracial Adoption

Is also the other type of Adoption where the adopting parents adopt a child of different race (U.S. McRoy, R. G.1989).

2.3.3.5 Stepchild Adoption;

This type of Adoption is one of the most common types of adoption where someone assumes financial and legal responsibility for the child of their spouse. For this type of Adoption to take place the stepparent is expected to present a consent document from the biological parent to the court (Wei, k., edu, W., Iyer, r., & Bilmes, J. 2014).

2.3.3.6 Relative Adoption

This type of Adoption is where a relative of the child who has a whole or half-blood tie or had a relationship with the child through Marriage or adoption, adopts the child. The most common cause of such type of adoption is the death of the child`s biological parents or the Incapacity of the parents (Wei, K., edu, W., Iyer, R., & Bilmes, J. 2014).

2.3.3.7 Closed Adoption;

This type refer to the absence of interaction of any kind between birth mothers and prospective adoptive families in other words there is no identifying information provided either to the birth or adoptive families, (Wei, K., edu, W., Iyer, R., & Bilmes, J. (2014).

2.3.3.8 Open Adoption;

In this type of adoption the Family or the Mother of the child chose the Family that they want to give their child to. In an Open Adoption type the family or the mother that give up their child for an adoption will stay in touch with their child and remain a part of their child`s life. (Wei, K., EDU, W., Iyer, R., & Bilmes, J. 2014).

For the sake of this research emphasis will be given more on the Intercountry adoption type.

2.4 The Historical Evolution of Intercountry Adoption

Intercountry adoption is defined in this study as a type of adoption in which an individual or couple become the legal and permanent parents of a child that is a national of a different country Legal, (u. s. 2009). The historical development of ICA is believed to have started in North America as a philanthropic response to the destruction post World War II, driven by humanitarian motives (Howard, a. l. t. s. t. e. i. n. 1991). In the 1980s, Even though the initial motive was said to be driven by the compassion of Americans for the victims of war the other dominant factor behind was providing a solution to childless couple. This took a form of moving OVC from orphanages in Europe to North America. Since 1990, ICA took a global form following the founding of Romanian Orphans (Howard, a. l. t. s. t. e. i. n. 1991).

The cause for such rapid growth of the ICA was due to the increased demand for Children, the decrease in domestic adoption and the advancement of the internet. In 1998, the major actors in this process took two sides; the receiving countries i.e. U.s.a, France. Italy, Canada, Sweden, Switzerland and the Netherlands. The major countries of origin Russia, China, Korea, Guatemala and Vietnam. In 2006, there were 270 inter country adoptions (367 in 2005). As a result of this rapid growth the UN introduced the first underpinning ethical principles under article 21 of the 1989 UN Convention on the rights of the child (Howard, a. l. t. s. t. e. i. n. 1991).

Moving on, the Hague Convention in 1993 sought the need to ensure the best interest of children through obliging contracting states to ensure that the abduction, sale and trafficking of children is prevented. In an effort to make the requirements for the ICA more stringent the convention required for efforts to be made to place the child in a family in their home country. It further more requested a confirmation from the receiving country as to the provision of

permanent residence and that potential parents have been comprehensively assessed as suitable adopters. One of the most common ground for the Hague convention, the CRC, and ACRWC is the fact that they take the same stand on prioritizing domestic adoption over ICA (Assefa, M. (2018).

2.5. The major pushing factors for the need to Alternative Care in Ethiopia; Intercountry adoption.

The major pushing factors contributing for the need for an alternative childcare mechanisms such as ICA were the increase of the OVC due to war, HIV/AIDS epidemic and Famine. The historical pushing factors for the adoption of the ICA as an alternative childcare mechanism in Ethiopia is the civil war that took place between the then Ethiopian government and the various opposition movements in 1960 and 1991 (Waal, A. D. 1991). Decades following the war, significant number of children were left without parents mainly fathers as males were the direct participants of the war and the main bread winners their families. The devastating result of the war that went on for three decades left children without their fathers where many became orphans and vulnerable (Waal, A. D. (1991).

Consequent to the long and devastating war, the second major pushing factor that contributed to the need for an alternative child care from the OVC was the outbreak of the HIV pandemic in 1982. AIDS is now the leading cause of morbidity and mortality among adults in Ethiopia which ranked the nation as one of the highest HIV/AIDS affected parts of the world (Tadesse, W. 2006).

The study by (Tessema, I., & Simane, B. 2019) reveals that there are an estimated 4.5 million orphans in the country; out of which close to the 800,000 have lost their parents to AIDS

resulting in the estimated number of AIDS orphans about 2.5 million leaving a number of Ethiopian Children Orphans and Vulnerable. The children leaving with the HIV/ virus constitute the majority of the total population of the OVC in Ethiopia.

The third major cause that accelerated the need to adopt the ICA as part of the alternative child care resort was the historical famine that struck the country leaving considerably large number of Ethiopian Children dead, Orphaned and vulnerable (Assefa, M. 2018). These three major factors couple with other determinants led to the need to adopt and ratify alternative childcare methods.

2.6. What factors caused the ban of ICA in Ethiopia?

Ethiopia has been the second largest source for the Intercountry adoption especially for the U.S making it the busiest adoption destinations in the world whereby nearly one out of five adopted children by Americans came from Ethiopia, (Selman, P. 2012). Attributed to the banning of ICA in Guatemala, the major actors facilitating ICA from a number of American and European countries shifted their operations to Ethiopia, somehow contributing to the increase of the practice (Bunkers, K., Bradford, B., & Rotabi, K. S. 2017). Consequently the number of children placed under the ICA from Ethiopia tripled in four years from 1, 713 in 2005 to 4,676 in 2009 (Bunkers, K., Bradford, B., & Rotabi, K. S. 2017).

According to the 2012 UNICEF's Annual Report, Ethiopia coheres to the guiding principles of CRC and The 1993's Hague Convention, of which a couple of the guiding principles are; the subsidiarity of ICA and the protection of the best interests of the child undergoing the entire adoption process (Country fact sheet, UNICEF 2012). Regardless, the actual practice has shown a high risk of the violation of children's rights manifested in the forms

of “child harvesting”, counterfeiting of birth certificates or birth parents’ concurrence (Country fact sheet, UNICEF 2012).

The preamble of the FDRE National Children`s Policy, 2017 states that, ICA is inadequate to substitute the love and care the children miss out on had they been living with their biological families, it rather causes identity crisis coupled with psychological and social hazards for the children involved in ICA. Due to the increasing pressure from foreign media and child protection organisations, the government suspended the functions of a number of adoption agencies by withdrawing their accreditation (Country fact sheet, UNICEF 2012).

2.7. The overall impact of the ban on the OVC; The positive impact of the Ban on the OVC

Even though ICA is believed to have been of a crucial importance to serve the best interest of the OVC during its early stages of adoption due to the extreme need to safeguard their safety and wellbeing, it was limited to its application after all the other available mechanisms are exhausted. However, since very recently the Practice of ICA in Ethiopia has been completely banned from even being a last alternative child care mechanism. One of the very indispensable positive impact of this ban on the OVC as per the Ethiopian Directive on Foster Family and Domestic Adoption Services 2019 is, the government’s commitment to coordinate the resource from the society to facilitate the preparation of Foster family and domestic adoption programs aiming to create a safe guardian family to serve the best interest of the OVC.

The researcher argues that Ethiopia has never had problems with formulating policies as a response to a need that arises; rather policies are rarely or poorly implemented because the original motive of formulating policies might be politically driven not of a pure motive to serve

the best interest of the OVC. However, I believe that if these policies and directives are implemented on a consistent and transparent manner, the promises it holds have a great potential to give the OVC an opportunity to live among their own culture, value, norms and receiving love and care from their own communities.

According to (Collins Armah, p 28, 2010) Adoption is good because it brings about unity among people with different cultures. The researcher believes this has a very good impact on the OVC to experience a different environment and learn through the process.

Some proponents of the ICA argue that the ICA if undertaken as per the procedures of the Hague convention could be and already is an effective solution to international adoption as an effective solution to stop the escalation of institutionalized and street orphans across the globe (Martin, J. 2006). The other positive impact of the ban if accompanied by the proper formulation of additional policies and implementation mechanisms, It would be much easier for the concerned government organ to cross check the post placement follow ups, periodic visits and observe the wellbeing of the OVC within the foster family they are placed. Moreover if intensive awareness creation among the community is created to responsibly follow up the love and care the OVC receive and work hand in hand with the authorities in charge and foster family, the overall best interest of the child could be met within the country by the resource of the society.

2.7.1 The positive impact of the ban on the community

The positive impact of the ban on the community could be the fact that the community using its own resource to provide for their own solution would boost their strength and cooperation. Assisting the community identify its strength can provide a powerful starting point for effective and empowering health promotion practice (Brough, M., Bond, C., & Hunt, J. 2004). The other positive impact of the ban both on the OVC and their communities is, the

absence of bad intercountry adoptions characterized by illicit activities such as child trafficking and laundering taking the communities children illegally under mere promises of better life, health and education (Smolin, D.M. 2006).

2.7.2 The negative impact of the ban on the OVC

Under the UNCRC Preamble, the entitlement of the OVC to a special protection is to be effected in the absence of an environment that can provide them with their needs that serves their best interest. The negative impact of the ban would be concerning the OVC with special condition such as, OVC with physical disabilities, Chronic sicknesses victims due to the severity of their situation might not be hosted or accepted by their community and domestic mechanisms might not be able to provide for their special needs due to their limitations of capacity and a number of other reasons. In this case the only solution that awaits the OVC with this case is death.

The other negative impact of the ban on the OVC is the fact that a legally carried out ICA helps the OVC access a loving and caring family. “unlike the other types of alternative childcare mechanisms adoption provides a child with “loving, permanent home that is necessary to meet that child’s physical and emotional needs” (Melat Assefa, 2018). Hence banning it somehow deprives the loving, permanent home the ICA would have facilitated for the OVC.

There are a number of unpublished but real life cases by which some OVCs who travelled with a severe sickness get better healthcare at their adoptive families and have actually gotten better. The ban unless its void of the benefits from ICA is substituted by the domestic childcare options, legally deprives the OVC with their special entitlement the for a better life, healthcare, education, safety and the like.

2.7.3 The negative impact of the ban on the community

The negative impact on the community would be, until there is a substantial awareness created with regard to the OVC specially the ones with special need and in a hazardous situation, the community would be challenged in terms of developing a positive attitude towards the OVC to accept them as their own and raise them with love and care. The other impact of the ban on the community could be, given their low standard of living, they might not be able to provide for the care of the OVC in terms of material resources and money.

Intercountry adoption also known as international adoption is a type of adoption in which an individual or couple become the legal and permanent parents of a child that is a national of a different country (Lolli, J. C. 2013). According to the publication by the Ethiopian newspaper entitled “the reporter Ethiopia on the 26th of October 2019, for a developing nation like Ethiopia, the occurrence of orphan crisis is not a new phenomenon (Malhotra, N., Hall, J., Shaw, M., & Oppenheim, P. 2006). The article argued in favour of the positive impacts of international adoption`s contribution in alleviating the orphan crisis. The other positive impacts of inter country adoption could be its being a win-win solution for those who look for the opportunity to become parents and for the adopted child a promising better living condition and a more fulfilling life.

Since there is a greater tendency of a low feasibility of domestic adoption in the developing nations, the significance of intercountry adoption in providing the child love, support and the adequate standard of living is of a paramount importance (Assefa, M. (2018). The proponents of ICA argue that being provided with food, shelter and care is directly in line with the best interest of every child regardless of the relocation and the related consequences therein (Liu, M. 1994).

On the other hand, the Opponents of ICA argue that lack of proper regulation of the ICA coupled with the dysfunctional implementation of the governing laws led to a historical abuse and misuse of the system accompanied by child sale and trafficking (Breuning, M., & Ishiyama, J. 2009). Consequently of assert the fact researcher believes that one of the adversities of international adoption is its involvement of displacing a child from his/her country of origin whereby a culture shock and identity crisis are inevitable during the adjustment period. All adoptions whether domestic or international quest for an adjustment and bonding period ranging from months to years (In the meantime, the child might suffer from an attachment disorder which is depicted by having difficulty in accepting parental figure as the primary care giver (Assefa, M. (2018).

2.8 The major theoretical school of the ICA

Theories are descriptive statements applied to assist and clarify, understand and create relations among variables, how they function and the procedure involved (Wagner, C. 2009). Moreover they are also organized bodies of concepts and principles intended to explain a particular phenomenon (Talib, M. A. 2010), cited in Kurtines and Silverman 1999),” They are also methods of analysing “How” and “Why” things function in a certain manner (Kjellström, E. 2007).

In a more broader sense (McMillan and Schumacher, 2000), applied four prerequisites where theories can cultivate a scientific knowledge based on; simple explanation about the perceived nexus between what is observed and the actual phenomenon, secondly through establishing consistency between the learnt knowledge and the perceived relations and thirdly by providing a plat form for proof and reconsideration and finally through inspiring an advancement of research in areas where gaps are identified and need to be addressed. Hence, in this section of

the research, among the number of theories attempted by scholars to provide framework for the better and deeper understanding of the ICA and its positive and negative impact on the lives of the OVC with regard to serving their best interest and a holistic formulation of the nexus in between the researcher discusses two social work theories.

At times a few notions are attempted by scholars to offer agendas for the understanding of alternative childcare mechanisms such as adoption and mainly the ICA. For the purpose of this study the researcher will review and incorporate a theory that are believed to have a direct and relevant link with the subject matter i.e. Attachment theory. The researcher believes the application of this theory will assist to analyse and give meaning to the question at hand.

2.8.1. Attachment Theory vs. the ICA

To (Bowlby, J. 1958) Attachment theory could be described as a social work theory that deals with the affection involvement between the child and the parent that is principally attributed to the provision of security, proximity and safety. As a result a child who forms a positive/healthy attachment feels the freedom to explore his/ her environment and later uses this experience in later ages (Ainsworth, M. S. (1979). On the other hand the ones with the negative attachment experience carry the experience along in their adulthood and suffer from the challenges they face in starting relationships (Ainsworth, M. S. 1979, Cassidy, M. J., Byrne, B. W., & Houlby, G. T. 2002).

In the case of the Intercountry adoption most of the OVC had already experienced extreme hardships of life such as abuse of all kinds, neglect, poverty and child abandonment due to the enormous number of adult death due to chronic diseases such as AIDS (Kobayashi, K., Ehrlich, S. D., & Albertini, A. 2003). The Proponents of ICA argue that, the OVC with the above background are better off in their new life overseas having their basic needs fulfilled for the

attachment problems will be dealt with through the practice of the attachment theory counselling in the pre-adoption period (Broberg, 2000).

Putting the literature review in a nut shell, ICA is an alternative childcare system whereby signatory states to the instrument are obliged to apply it as a last resort. Ethiopia as a nation that has ratified and incorporated the ICA as part of the international and domestic legal frame work has been a major participant in the ICA until its banning. Based on the literature, empirical findings and the theoretical perspective presented in this section the researcher opts to apply qualitative research design to be able to understand the natural setting of the ban of ICA and its practical and legal impact on the OVC Ethiopia.

Chapter Three

Research methodology

This part of the research presents the research methodology, Research Design, Source of Data, Sampling Techniques, Methods of Data Collection/ Instruments, Method of Data Analysis, Trustworthiness and Data Quality Assurance and Ethical Considerations.

3.1. Methodology

The study is a qualitative research which deploys an interpretive, naturalistic approach to the world making the focus of study for qualitative researchers on the things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them (Creswell, 2007). The major goal of this research is to explore the practical and legal implications of the ban of the ICA on the best interest of the OVC.

Pertaining to achieving this goal, qualitative research is conducted in order to get a complex, detailed understanding of the subject matter (Creswell, 2007). According to (Creswell, 2007), to have such detailed understanding of the issue under study, a direct involvement of the researcher in terms of conversing directly with the relevant people for the study, dropping by their homes and places of work and giving them the liberty to tell their stories with regard to the issue under the study.

3.2. Research Design

Case study qualitative research approach, one among the five approaches of qualitative research, is concerned with the study of an issue within boundary of setting using multiple source of information including interview, observation and document review (Creswell, 2009).

The case study research design solely relies on many of the same methods as a history, but it adds two sources of evidence: direct observation and systematic interviewing (Yin, 2016).

Moreover, the case study method helps to describe the real-life experiences of a bounded system or multiple bounded systems over time (Creswell, 2013). For this reason the researcher found qualitative method of research appropriate to investigate the selected topic which enables the researcher to deeply discover the perfect depiction of the subject matter of the study from the participants experience and their perspectives (Yin, 2011).

Due to its importance to describe a certain phenomenon, the researcher intends to study a single case in a specific setting. As a result, intrinsic case study accompanied by explorative and descriptive methods, is the preferred approach to explore the practical and legal implication of the ban of Intercountry adoption on the OVC.

3.3. Techniques of Participant Selection and Sampling Techniques

In case study, sampling is applied to select cases and sources of data that gives a holistic understanding of the case” (Stake, 1995). This is done because of the different number of participants with varieties of background experiences and point of views to the subject matter that needs to be revealed.

The participants of this study were selected using purposive sampling which is one of the non-probability sampling that is most appropriate for answering the specific inquiries raised in this study. In purposive sampling participants of the study are selected by their experience on the study issue, it also uses the expertise opinion of the participants to choose cases enriched with the relevant information that can help answer the research questions (Krueger & Neumann, 2002). Accordingly, the key informants and participants are selected based on their work in

direct relation to the issue of the study more preferably, Social Workers, Gender and Development Experts and a Psychologist with an ample experience working at the Federal and City government levels, Orphanages, Adoption Agencies and NGOs.

3.5. Sample Size

In qualitative research the exact number of participants cannot be identified prior to conducting the research, rather the number of participants is decided by the extent to which the research question has been addressed (Creswel, 2007, Yin, 2011). If a researcher remains faithful to the principles of qualitative research, sample size in the majority of qualitative studies should generally follow the concept of saturation (Mason, 2010). In conformity to this when the researcher notices that new themes have stopped to emerge he/she will decide to stop the interview because the data has reached at a point of saturation.

3.6 Methods of Data Collection

The main data collection tools used in the study are; In–depth interview, non-participant observations and document review. And, these data collection techniques utilize In-depth interview guideline, non-participant observation checklist as a tool of data collection. Data is collected from the employees of MoWCYA, Addis Ababa Women and Children Bureau, Bethany Christian Services (International NGO) and Kibebe Tsehay Government Orphanage.

3.6.1 Key Informants

Key informants are people, due to their personal skills, or position within a society, are able to provide more information and a deeper insight in to the circumstances around them or possess expert information concerning the subject matter of a certain study (Marshall, 1996).

Two of the key informants are selected from the MoWCYA and Bethany Christian Services (International NGO).

3.6.2 In–depth interview

This type of interview is a technique in a qualitative research that involves conducting individual interviews and is optimal for collecting data about their; personal histories, perspective, and experience. An open-ended interview guide questions were prepared to allow open discussion on the research questions Yin (2011).

3.6.3 Non-Participant observation

At times, participants might resort to give unrealistic response to the issues they are asked. Therefore, physical observation can also serve as a technique for verifying or nullifying information provided in face to face encounters (Beverley, 1998 as cited in Seble, 2016). Accordingly, a direct observation was made by the researcher to one of the government owned orphanage namely, Kibebe Tsehay Orphanage.

Kibebe Tsehay Orphanage (Company Profile)

Being the oldest state-run orphanage in Ethiopia, Kibebe Tsehay is one of the three orphanages that are under the responsibility of the Addis Ababa City Administration`s Women and Children Affairs office, found in 1956. Aiming to cater for children from infancy to eight years of age it provides shelter until suitable care takers are found. Three major projects run by this institution are keeping abandoned children off the streets, provide care and love for abandoned children and facilitating reliable care takers for the OVC. Even though it is a state funded orphanage, the main support comes from the Adera foundation (Ashenafi, H. 2017).

However, according to the personal observation of the center by the researcher on the 28th of March, 2020, there are only four social workers for over 250 children in the orphanage. There are also above 100 caregiver nannies working in shifts that make it difficult to provide a standard service and establish a trust between the care givers and the OVC. As per the head of the Social Workers team the fate of the OVC with disability and chronic sickness would be to access a better medical care mostly within the country and sometimes overseas depending on their fortune to get a sponsorship. The major role of the social workers is also the facilitation of the above mentioned services (Ashenafi, H. 2017). The notion of “the best interest of the child” it is understood by the head social worker and the organization as to the prioritization of the needs of children above anything else.

Generally, the researcher has applied the data collection methods through developing an in-depth open ended Interview questions which is expected to be carried out in person with the selected key informants. Up on the consent of the key informants recordings were done for a more reliable way of keeping data. While conducting the in-depth interview the researcher has also forwarded questions that helped elaborate the formulated questions.

3.6. 3 Document Review

Document review has been conducted through an in depth reading and analysis of the relevant documents such as International Instruments; the CRC, ACRC, Policy documents; the National Children Policy, Directive on foster family, domestic Adoption Services, the Constitution of the FDRE, Books; Creswell, articles, web blogs, Journals and different booklets.

3.7 Method of Data Analysis

Case study data analysis involves the process of breaking down the information collected to identify patterns and themes within gathered data. It involves coding categorizing and making

sense of the essential meanings of the occurrence. Coding in thematic analysis is the process of identifying themes or concepts that are in the data. The researcher endeavours to form a systematic description of what has been observed and recorded (Ezzy, 2002).

Transcribing and reading through the data is the first major important procedures of data analysis in qualitative inquiry in general (Tashakkori, A., & Creswell, J. W. 2007). In conformity with this, the researcher listened to the recorded data and read the written down notes during the interview as many times as possible, summarized and sorted out the contents after transcribing and translating the collected raw data.

In this research data gathered, mainly from the in-depth interview and document review were transcribed and categorized in to broader themes. Then, major issues under each theme were further reduced in to smaller set of themes (Creswel, 2007). On top of that, the researcher has also reflected on the nature of the themes and their relationship to one another.

3.8 Trustworthiness and Data Quality Assurance

While conducting the interview high concern was given to ascertain the validity of the interview guide, document`s pursuant of literature review and key informants. A number of qualitative researchers agree that data trustworthiness, whether collected from direct observations, focus groups, or interviews, it needs to be backed up by transferability, dependability, conformability and credibility (Cuba, 1985).

The researcher has to the best of his ability attempted to collect a reliable data through triangulating the raw data received from various sources and point of views. Triangulation is accomplished by asking the same research questions to the study participants and by gathering data from different sources and through exhausting different methods to answer the research

questions. Moreover, with the intent of avoiding personal the researcher has allowed the key informants to answer the questions without guidelines.

3.9. Ethical Considerations

The research was conducted in a responsible and sensitive manner complying to the ethical consideration measures. The major objective of the research was explicitly communicated to the key informants and participants of the study. They were asked if they are willing to take part in the interview and fortunately the ones the researcher reached out were willing and able to give their consents up on the first request.

Participants of the study were also informed that they are at liberty to decide if they were willing to take part or not and about their rights to refuse answering to whole or to parts of the interview questions. They were informed that they can withdraw from participation at any point in time. The details could be grasped from the attached consent notes on the annex. With regard to the principle of Privacy of the participants their identities were removed from the transcripts to maintain their confidentiality and replaced by codes.

Chapter Four

Data Presentation and Findings

4.1 Introduction

This chapter presents a background description of the study participants, the findings of the study conducted through interviewing the participants, members understanding of the best interest of the child, Participants` perception as well as practice of intercountry adoption of the OVC, Participants` understanding of the reasons of the ban on Intercountry Adoption, Participant`s perspective of the merits and demerits of the ban on intercountry adoption on the OVC, members` evaluation of the practical and legal implication of the ban of intercountry adoption on the wellbeing of the OVC in contrast to the replaced mechanisms.

4.2 Description of Research Participants

The research participants are selected based on their direct relevance and involvement with regard to the practice of Intercountry adoption. The sample population identified for this study were a total of seven participants of which (4) Social workers, (2) Gender experts and (1) Psychologist, all who have been working at their organizations for over a period of two years in the current position they hold. The Socio-demographic information of the participants was gender, educational background, and current position.

Table I: Socio-demographic information of In-depth Interview Participants

Participant's Code	Sex	Educational Background	Organization	Current Position
M1	F	Gender and Development Studies	Governmental	Child Protection Expert
M2	M	Gender and Development Studies	Government	Senior Gender and Child Protection Expert
M3	M	Social Work	Government	Child Support Inspection Expert
M4	M	Psychology	Government	Child Support Inspection Expert
M5	F	Social Work	Orphanage	Social Worker

Source; Researchers` Interview

As it could be grasped from the demographic information of the participants there are two Female participants one with a social work (M5) and the other with Gender and Development Studies educational background (M1). Out of the rest of the three Male participants M2 has a Gender and Development Studies educational background, (M3) in Social Work and (M4) in Psychology. In terms of the current positions (M3) and (M4) are Child Support Inspection Experts, where M2 is a Senior Gender and Child Protection Expert. (M1), A Child Protection Expert and (M4) a Psychologist.

Table II: Socio-demographic information of Key Informant Interview Participants;

Participant's Code	Sex	Educational Background	Organization	Current Position
P1	F	Social Work	International NGO	Family Recruitment and church engagement facilitator
P2	M	Social Work	Governmental	Child Protection Acting Director

There are two key informants in this study where both are of a Social Work background where, (P1) works for an NGO as a Family Recruitment and church engagement facilitator and (P2) at a governmental office as a Child Protection Acting director. Both of the Key informants are chosen based on their ample hands on the notion and practice of the ICA in Ethiopia.

4.3 Data analysis and Major Findings

Data collection tools that are employed to formulate the entire findings are in depth interview of the two key informants, Interviews of the five participants, coupled with the researcher`s non-participant observation. The conducted Interviews were transcribed and the themes that frequently emerged were identified and categorized in to their respective titles. As a result the obtained data has been analysed and presented under three major and five subthemes;

Three major themes and six subthemes of the study results	
<u>Themes</u>	<u>Subthemes</u>
Participants` view of the best interest of the OVC	—
Participants` perception about the practice of the ICA in Ethiopia,	The positive perception The negative perception
ban on the ICA and its legal and practical implications pros and cons on the OVC	The pros of the ban on the ICA for the OVC The cons of the ban on the ICA for the OVC Participants` recommendation of the possible remedies that serve the best interest of the OVC.

1.4.2 Members' understanding of "the Best Interest of the OVC"

The best interest of the orphan and vulnerable child is ought to be served by the adherence of any transaction that involves children to their best interest that ensures their safety and wellbeing. A proper and well informed understanding of this key but general entitlement of the OVC by their community determines their survival and livelihood.

Due to this quest for unequivocal awareness of the principle by the participants who play the key role in the lives of the OVC, one of the three major themes i.e. "the Participants views of the best interest of the OVC" was formulated. Prior to striking a discussion as to what the practical and legal implications of the ban of the ICA on the OVC in Ethiopia, an open-ended

question was forwarded to comprehend how the participants perceive the best interest of the OVC.

The perspectives of the five participants and two key informants towards the best interest of the OVC were explored and their perceptions towards the best interest of the OVC are recognized as the prioritizing of the wellbeing and safety of the OVC in any given human interaction. To sum up, the participants view “The best interest of the child specifically in the context of Orphan and Vulnerable children is perceived as any environment that ensures their safety and livelihood.

***P2** ” the best interest of the OVC child could be defined from the perspective of the Child Rights Approach as per one of the four pillars of the UNCRC, clearly stating the need to prioritize the best interest of the child at all times.” “I believe the best interest of the OVC in terms of the ICA would be banning the ICA as it exposes the child to Identity Crises and other violations, and raise them under a family within Ethiopia that could accommodate the needs of the OVC.”*

***M1** “I believe the best interest of the OVC is any environment that can protect the rights of the OVC.*

4.3.2 Participants` perception about the practice of the ICA in Ethiopia,

All of the participants perceive intercountry adoption as a type of international adoption of the OVC in Ethiopia by foreign nationals. They all have also mentioned that the ICA is to be opted for as a last resort after having all the domestic childcare alternatives exhausted. However, Information gathered from the findings of this interview depicts various views of the practice of the ICA in Ethiopia with regard to its merits and limitations to serve the best interest of the OVC.

Hence, this sub section will categorize the perception in to two subthemes; The Positive and Negative perceptions explained in terms of the pros and cons of the mechanism.

4.3.2.1 The Positive Perceptions

The positive perceptions of the practice of the ICA in Ethiopia with regard to serving the best interest of the OVC, is explained in terms of its optimistic contribution to provide what the OVC lack within the country.

M1: *”One of the very few positive perceptions I have towards the ICA is its contributions towards the opportunity it presents for a better psychological and health conditions for the segments of the OVC with critical physical disabilities and living with HIV virus.”*

P2: *“ICA has been a way out for the country while we were suffering from the factors that pushed the initiatives of the ICA in to our legal system. Nevertheless, those factors which brought up the need for the adoption of the ICA are fully demolished; it should not even be a last resort for the best interest of the OVC.”*

M4: *In my five years of service in the organization, I have never seen or heard of Ethiopian family adopting the OVC with high vulnerability such as the ones with physical disabilities and HIV Positive OVC rather it was the ICA that greatly benefited these segments of the OVC by providing them with better life and health care. I have seen a case where by one OVC had a severe back disability whereby through the ICA accessed a better medical care and currently walks upright like everyone else. Due to these reasons I have a positive perception towards the ICA serving the best interest of the OVC as a last option.*

P1: *I have a positive perception of the ICA to serve the best interest of the OVC due to mainly due to the access to better living conditions in case of the OVC with special needs*

and male children above the age of six. I said this due to the fact that these particular members of the OVC are never practically adopted by Ethiopian families who still stigmatizes and discriminates such children perceiving as a curse from the Lord, especially in the countryside. Due to the banning of the ICA these types of the OVC are left under the mercy of Institutions or individuals.

Interview with M2, My perception as to the pros of the ICA is its advantage for the exposure of a new way of life, culture and language and access to a family with a warm children friendly environment that serves the best interest of the OVC.

The data from the in depth interviews presented above shows that the participants perceive the practice of the ICA to have a significant contribution to the best interest of the OVC in Ethiopia even as a last resort of Childcare mechanism.

Findings from the non-participant observations the researcher had also suggest that the social workers, children protection experts, the nannies and the nurses that are somehow involved in providing support for children show the positive perception of the ICA to serve the best interest of the OVC as a last resort.

4.3.2.2 The negative Perceptions

Data gathered from the participants` in depth interview shows that in most occasions the negative perspectives of the participants towards the ICA to serve the best interest of the OVC in Ethiopia could best be presented in terms of the understandings of the participants as to the cons of the ICA for the Ethiopian OVC.

The most common negative perception as to the cons of the participants with regard to the practice of the ICA is the prevalence of identity crisis and Child right violations and inhuman treatments.

M1 says: *In my individual point of view the disadvantages of the ICA weigh more than its merits to serve the best interest of the OVC in Ethiopia. It is advisable for children to grow within an environment where they could be provided love and protection by their birth parents. In the absence or death of their biological parents, it is advisable for them to live with their immediate relative. In the absence of this, such as the case of the OVC it is in their best interest to be raised by their communities. However if they grow up far from their own families and cultures in a foreign country they will be strangers in an unknown cultures where they will suffer from identity crises and cultural shock. From the perspective of their sending country; there will also be a great loss to be incurred for its future generation holders who will grow in a foreign land and become foreigners. As a result, the OVC who grow up in foreign countries suffer from Identity Crisis and physical abuses. I hope you have heard about the most talked about death of Ethiopian national child named “Hana Williams” adopted by U.S. citizen couple where she was found dead as a result of an outrageous violation of her rights as a human.*

Based on the above narrative data, M1 has a negative perception of the ICA to serve the best interest of the OVC due to its cause for the identity crisis, cultural shock and the prevalence of violations of the rights of the OVC. The other drawback of the ICA that has been commonly mentioned by the participants during the interview was the unorganized and highly prone practice to fraud and corruption.

M4: *Even tough, there are reported cases on Medias and different platforms as to the existence of Identity crisis, cultural shock, a couple of deaths, and violations of the best interest of the OVC through the ICA, from my personal involvement in the practice of the ICA, I know for fact that whatever the ICA contributes to compromise the best interest of*

the OVC is due to the lack of well-organized and recorded post placement follow ups and visitation and responsible government system regulating the mechanism. Consequently, the various facilitators of the ICA taking the advantage of the system`s loophole, have carried out the process in a very corrupt and human child trafficking manner. In my opinion it was the most abused form of trafficking healthy children given up for adoption made mostly in return for a small amount of money for the parents and large sum of money to the officials involved in facilitating the process., However, I don`t believe the ICA by itself is a problem but the way it is practiced determines its effectiveness to serve the best interest of the OVC,

From the reading of the above data collected from the interview with M4, one can clearly understand that M4 has a positive perception with regards to the availability of the ICA to serve the best interest of the OVC as a last resort but have a negative perception to its practice and implementation by the existed system and concerned organs.

M1: *The other contributing factor for the inconvenience I face at our office is the lack of proper documentation of the profiles of most of the children given up for intercountry adoption which have also made the matter worse particularly when the children come back to their country in pursuit of their origin and biological family Some leave heartbroken, some invest too much of their valuable resources such as time and money to track their birth parents in vein and lose their minds.*

To sum up, the data gathered from the participants of this interview in this section also represents the rest of the participants of whose interview was not written exhaustively due to the saturation of the Data obtained. As a result, it could be concluded that the perception of the

participants and the key informants as to the practice of the ICA in light of serving the best interest of the OVC is both positive and negative.

1.4 Participant's perception of the legal and practical implication of the ban on the OVC in Ethiopia.

All the participants are aware of the ban of the practice of the ICA as an alternative childcare mechanism in Ethiopia. The majority of the participants believe that the two major causes attributing to the suspension of the intercountry adoption are its failure to serve the best interest of the child manifested in the form of the growing brutality of human right violations of the children given up for adoption by the adopting families as well as the high fraud and corruption that jeopardized the main aim of this alternative child care system. Participants' perception of the ban on ICA pertaining to its legal and Practical implication on the rights of the OVC in Ethiopia will be presented in terms of its merits and demerits.

4.4.1 Participants' perception of the merits of the ban on the OVC

ICA, as per the UNCRC, is to be put to effect as a last resort to serve the best interest of children in general and the OVC in particular. When such types of international human and democratic instruments are enacted there definitely has been a background study and research conducted prior to their introduction to legal frameworks. On the other hand, the complete ban of such instruments must be backed up by rigorous and solid justifications whereby the result of the ban should merit the subjects more than its function. Pertaining to the merits of the ban;

P2 says: "I believe the best interest of the OVC in terms of the ICA would be banning the ICA as it exposes the child to Identity Crises and other violations. There were times in the past when our country was highly exposed to civil war, draught and HIV/Epidemics

whereby ICA was a great Alternative childcare mechanism that served the best interest of the victims of those factors, but currently due to the absence of those mentioned factors we don't need ICA.

Therefore the OVC accesses the opportunity to grow up in their own natural community under the newly functional and progressing alternative childcare systems such as foster care, a family within Ethiopia that could accommodate the needs of the OVC.”

As per P2; there should no longer be a room for the ICA to be a part of the Alternative childcare instrument in Ethiopia. In line with this data P2; has a positive perception of the merit of the ban on ICA to serve the best interest of the child. With a few reservations,

M2 says: I completely agree that the ban merits the best interest of the OVC in Ethiopia. I don't even agree with the reconstruction, renovation of the ICA as an alternative child care instrument in Ethiopia. But I highly doubt the existence of a pragmatic research and investigation carried prior to the banning and the capacity of the domestic alternatives to accommodate the needs of the OVC in the meantime.

According to the data obtained from interviewing M2, the participant has a positive attitude towards the merit of the ban on ICA to serve the best interest of the OVC.

4.4.2 Participants' perception of the Demerits of the ban on the OVC

All the participants are aware of the ban of the practice of the ICA as an alternative childcare mechanism in Ethiopia. Pertaining to the cons of the ban;

M4 says; the demerit of the ban is that it deprives the OVC their peculiar entitlements under the domestic and international legal framework within the country. I believe the ban is an emotional decision passed by the house of people's representatives on the mere fact of some incidents that happened due to the dysfunction of its implementation. I

believe the question that needs to be asked here is what would be the fate of the OVC to whom the ICA was the only way out of their hardship?

According to P1; at times the only solution for the hardships the OVC go through is ICA. There are many cases I remember that were not provided remedies by the domestic child care systems but ultimately resolved through a proper implementation of the ICA. As far as my knowledge is concerned the ban highly affects the OVC as it also has resulted in the closing down of a number Orphanages and Institutions that were genuinely working their most best to facilitate a proper and legal ICA to serve the best interest of the OVC. It is known that the OVC, suffer because of their physical or mental condition which is wrongly perceived by the communities they live more significantly the rural communities where they are deemed as a curse from God and a disgrace to their family where they end up being kept in the house or are neglected to die. In this exceptional cases ICA had been an excellent and fortunate intervention for the children with special needs that provided better living and health conditions where even some of them came back to Ethiopia with a better health condition at times in search of their biological roots.

Based on the above listed data, M4 and P1 have a negative perception on the ban of ICA with regard to the best interest of the OVC, which leads us to the next subtheme; the Participants` recommendation of the possible remedies that serve the best interest of the OVC.

4.4.2 Participants` Recommendations of Remedies that serve the best interest of the OVC

The participants to the interview have each recommended their own version of ideal and practical solutions to the problem the OVC are facing due to the ban of ICA. The following are some of the common solutions recommended to improve the situation of the OVC;

M4; *I highly recommend for the government to conduct researches as to how to better implement the ICA and lift the ban. Moreover, the concerned organs facilitating the process to have employees with direct and professional relevant with considerable work experience in line with the protection of Children` rights. Conducting awareness creation activities at a very larger scale among the society to increase the acceptance of the OVC by the community they live in.*

P2; *I recommend that capacity building of the Foster care services should be enhanced, employing well paid social workers at governmental and NGOs working for the betterment of the living conditions of the OVC.*

PI; *the government should lift the ban on ICA and avail it for the best interest of the OVC in a more systematized and accountable manner with proper post placements reports and visits in a way that serve the best interest of the OVC.*

MI; *Conducting multiple and updated researches in order to design and formulate strategies that can be additional alternative childcare mechanisms.*

Chapter Five

Discussion of the Findings

In this chapter of the paper, the researcher discusses the major findings of the study in light of the provided research questions and the theoretical frameworks. In doing so the discussion finding is summarized in three themes, the major pushing factors towards adopting and ratifying the ICA as one of the alternative child care mechanisms in Ethiopia, the ban of the ICA in Ethiopia and its practical and legal implications on the best interest of the OVC, its implication on the psychological, safety, economical and health status of the OVC will be discussed. Moreover, comparisons with the findings of previous research studies carried out with direct relevance to the practical and legal implication of the ban of the ICA on the OVC is thoroughly analysed.

5.1 The Major pushing factors towards adopting and ratifying ICA in Ethiopia,

The finding of this study has revealed that, children, due to the nature of their age status, unless taken care of by their caregivers in a way that ensures their holistic psychological and physiological development, will be highly prone to violations of their rights. In the absence of such caregivers children would be deprived of their rights to a natural environment to their growth which can be caused by many contributing factors to the need for a special protection. As a result, the concerned government or nongovernmental organs such as the UN and national governments formulate and implement policies and legal frame works, that can safeguard the entitlements of children in general and the orphan and vulnerable children in particular. Confirming to this finding, the study by (TRUTHAN, J. A., & CRC, C. (1989, March) depicted Alternative Child Care as a form of a special protection and assistance provided for by the UNHCR and signed and ratified by governments aimed to serve the best interest of the OVC

due to the special nature of their situation. In addition to that, the preamble of the CRC confirms the need for a special protection for the OVC due to the severity of their living conditions and environments attributing to the high need to adopting alternative child care mechanisms including intercountry adoption UNICEF. (1989).

Globally, for sending countries, the factors and conditions that trigger the high need for ICA are, economic factors such as poverty, political problems like war, social and cultural factors which could be manifested in the form of stigma and discrimination of the OVC, the nature of the child welfare, out of home care and adoption systems, natural disaster, pandemics, and revenue associated with ICA (Zeghal, ., & Mhedhbi, 2006).

The findings of this study also show that the same factors such as, Civil war, Poverty manifested in the form of concurrent draught and famine and HIV/epidemic were among the pushing factors for the need to provide special protection for the victims of the factors mainly the OVC in Ethiopia. As per the study by (Zeghal, D & Mhedhbi, K. (2006), the main factor that create the need for an ICA from the perspective of the receiving countries is the very high demand for children by prospective parents. However this factor doesn't apply for the condition of Ethiopia as it is a sending country.

Findings from the study show that, one of the most immediate historical pushing factors for the adoption of the ICA as an alternative childcare mechanism in Ethiopia is the civil war that took place between the then Ethiopian government and the various opposition movements in 1960 and 1991, Waal, A. D. (1991). All most all of the participants perceive one of the major causes for the need for the ICA in Ethiopia to be the devastating war in Ethiopia for three decades. Over the following years post the official outbreak of the war on September 1991, enormous number of Ethiopian children were left without fathers as males were the direct

participants of the war and the main source of income of their families. The casualties of the 30 years civil war were manifested in the form of leaving children orphans and highly vulnerable
Waal, A. D. (1991).

According to the findings of the study the second major pushing factor that triggered the high need to adopt the ICA as an alternative childcare mechanism to serve the best interest of the OVC was the outbreak of the HIV pandemic in Ethiopia since 1982 which ranked the nation as one of the highest HIV/AIDS affected parts of the world, Assefa, M. (2018). This directly confirms to what the participants of the study have mentioned about it being the major reasons leaving children as orphans and vulnerable.

The study by (Tessema, I., & Simane, B. (2019) reveals that there are an estimated 4.5 million orphans in the country; out of which close to the 800,000 have lost their parents to AIDS resulting in the estimated number of AIDS orphans about 2.5 million leaving a number of Ethiopian Children Orphans and Vulnerable. In conformity with this, the finding of the study through the interview of the participants and the key informants show that the children leaving with the HIV/ virus constitute the majority of the total population of the OVC in Ethiopia. The third major cause that accelerated the need to adopt the ICA as part of the alternative child care resort was the historical famine that struck the country leaving considerably large number of Ethiopian Children dead, Orphaned and vulnerable (Assefa, M. 2018).

Similarly, participants of the study have mentioned the famine to be one of the major causes that necessitated the need for an alternative child care to keep the lives of the children suffering. However, the participants mentioned during the interview that these factors might not necessarily hold true as to the current cause for the need ICA.

In general, as per the findings of the study, due to the above mentioned pushing factors there was an extremely high need for an optional mechanism to serve the best interest of the OVC which the researcher believes, based on the findings, was nowhere close to be met by the then operating safety-net practice where Ethiopians used to look out for one another at times of needs. As a result the ICA has been informally introduced to Ethiopia by the then diplomats and some other foreigners who tried to address the issue by adopting Ethiopian children as a form of a humanitarian response (De Waal, A. 1991).

As per the finding from the participants interview as well, this time was the crucial point where the practice of ICA in terms informal humanitarian forms was introduced to the nation. Consequently after the experience of the devastating war that went on over three decades coupled with the other two major pushing factors discussed above, the Ethiopian government signed and ratified the United Nations Convention on the Rights of the Child as part and parcel of the Constitution in May 14, 1991 (Assefa, M. 2018).

5.2 The ban of the ICA in Ethiopia; The factors resulting on the ban

Even though the research of this study could not find information as to an official ground for the ban of the ICA, it could be inferred from the preamble of the FDRE National Children`s Policy, 2017 that ICA is deemed to be inadequate to substitute the love and care the children miss out on had they been living with their biological families, it rather causes identity crisis coupled with psychological and social hazards for the children involved in ICA. Due to the increasing pressure from foreign media and child protection organisations, the government suspended the functions of a number of adoption agencies by withdrawing their accreditation (Country fact sheet, UNICEF 2012).

According to the Key informants of this study in particular the major reason for the ban is believed to be the case of a 13 years old Ethiopian called Hana Williams, who was found dead in the backyard of her American adopting parents after being beaten, starved and neglected to death in May 2011. Pertaining to the reasons for the ban, the key informants M1 and M5 mentioned that the cause for the ban on foreign adoption is about national pride. According to the findings of this study, some of the drawbacks of the ICA are;

- The high tendency of Identity Crisis and cultural shock by the OVC
- The possibility of Physical and Psychological abuse of the OVC
- The absence of a well-established and accountable social service system
- Corrupt and fraudulent practices by the concerned government organs facilitating ICA
- The existence of a number of corrupt Adoption Institutions practicing the ICA
- The absence of organized recording of the children given up for ICA.

5.2 The overall implications of the ban on the OVC

According to the finding of this study the ICA is perceived by the UNCRC as one of the alternative childcare mechanisms to be opted for after having exhausted all the other possible means to provide the best and conducive living and growing environment for the OVC, UNICEF. (1989) Convention on the Rights of the Child. Likewise, all the participants of the study perceive the status of ICA as the last resort to provide care for the OVC after all the accessible domestic childcare mechanisms are exhausted.

The findings of the study indicate that some of the participants believe that ICA plays a significant and viable role in providing for the needs of the OVC who are left without option at domestic level under the other Alternative childcare mechanisms. In the contrary, some other participants also believe that ICA should completely be banned from being an alternative childcare mechanism due to its severe negative impacts on the OVC.

According to the findings of the study, some of the implications of the ban on the OVC as discussed as follows;

5.2.1 The Implication of the ban on Economic status of the OVC

As per the findings of this study, children have the right to grow in a family where in the absence of such environment, a mechanism that serves in their best interest has to intervene to provide them in their needs. In the case of the OVC, since they lack this entitlements appropriate child care alternatives such as ICA, even used as a last resort after all the domestic childcare options are exhausted, provides them with a family that is willing and able to raise them out of poverty and give them a better living conditions which is absolutely in their best interest (Carlson, 2011).

The findings of this study show that domestic childcare mechanisms have very limited resources to provide the OVC as they are still at their infant stage of implementations in organized and holistic ways that hinders them from meeting the needs of the increasing number of the OVC in the nation. Due to their limitations to provide the OVC with a better living at a level that substitutes what ICA could have provided had it not been banned the OVC are left to suffer in the meantime (Carlson, 2011).

The findings of this study have also stated that the ban has resulted in the termination of the NGOs that worked in adherence to the legal procedures to facilitate support for the OVC through the ICA. The proper practice of ICA as a last resort for the betterment of the lives of the OVC is of a paramount significance to enhance their economic status by accessing a loving family environment, education better health care and life in general.

5.2.2 The Implication of the ban on Psychology of the OVC

One of the positive implications of the ban could be the OVC if the domestic childcare options are efficient to provide for their special needs, will have the opportunity to live and grow in their communities, with the culture they are familiar with. This avoids the drawbacks of the ICA i.e. cultural shocks, identity crisis. On the other hand, the fact that the OVC grow in their own culture doesn't guarantee them of the absence of identity crisis and violation of their rights as human beings.

Due to the harsh conditions of their lives, the OVC might sometimes see a sparkle of hope to the future through the window of the ICA. In some cases, ICA could only be the only solution to their situation which cannot be substituted by the other childcare mechanisms. When the OVC are provided with loving and caring families, even though they tend to suffer until the adjustment period, they will get used to their new way of life and the love they receive from their adopting families. But in the absence of these families, the OVC will suffer from psychological problems.

The ban on the practice of the ICA leaves the OVC under the mercy of their extremely hazardous living situations where they continue to suffer psychologically and physiologically. In case of the OVC with chronic health problems such as physical disability and living with HIV, they considerably suffer from lacking a domestic family willing to adopt them where they develop rejection, stigma and discrimination, self-discrimination and low self-esteem.

Most of the OVC suffer from their past and current traumatic experiences, they develop sense of abandonment, The study by (Gunnar 2001; MacLean 2003), confirms to the behavioural problem the OVC develop as a result of the hurt they face such as attention deficit, internalizing problems such as anxiety and depression. To put the psychological implication of the ban on the

OVC, their psychosocial wellbeing affects every aspect of their lives, from their ability to learn, to be healthy, to play, to be productive and to relate well to other people as they grow (Chi, P., & Li, X. 2013).

5.2.3 The Implication of the ban on the health and wellbeing of the OVC

The findings of this study also indicate that the practical implication of the ban on ICA is currently worsening the already extreme conditions for the OVC. Among other things the ICA helps the OVC access was a better health. However the OVC with special needs such as healthy boys older than six years old, children with physical disability and HIV Positive children are still kept under the custody of orphanages and some individuals due to the lack of interest by the community to adopt this group of the OVC. As mentioned in the discussion part of this study, the OVC with chronic health conditions were able to receive better healthcare from their adopting nations and some has a history of a complete recovery from their conditions.

5.2.4 The Implication of the ban on rights of the OVC

According to the report of the UNAIDS (2010) there are 5.5 million Orphan and vulnerable children which constitutes 6% of the total population and 12 % of Ethiopian children`s population of which also 83% of the OVC reside in the country side. The primary responsible organ to the observation and implementation of the rights of children i.e. the Directorate of Child Rights Promotion and Protection in the Ministry lacks sufficient resources and the ability to establish coordination at the regional, zone and Woreda level (Alemu, G., & Birmeta, Y. 2012).

In the absence of adequate and efficient Alternative child care systems, the OVC are highly prone to problems such as malnutrition, poor hygiene, child sexual and labour abuse and

exploitation, drug use and death (Alemu, G., & Birmeta, Y. 2012). The existing domestic childcare systems` huge service gaps as to the absence of awareness creation for families or guardians with regard to how to raise and socialize children, lack of organization and inadequacy of the services rendered, little or zero availability of services for infant OVC, Little / absence of income generating activities for families/relatives/guardians (Abashula, G., N., & Ayele, T. 2014).

The researcher argues that, with the above mentioned childcare service gaps and a very limited number of domestic child care options, the negative implication of the ban on the OVC is inevitable. Even though the government of Ethiopia has taken initiatives to promote domestic Alternatives for the care of the OVC, the ban on the ICA as an alternative child care mechanism has left a number of OVC without options to a better life and child care in the meantime to a few unfortunate ones the ban has resulted in the unreported and undocumented death of the ovc (Interview with key informant P1).

The government of Ethiopia has signed and agreed to the terms of the UNCRC as to the need to the adherence and priority of the best interest of the child more specifically the OVC in any transaction that involves children. Among the entitlements under the UNCRC was the right to an alternative child care which includes ICA.

The absolute ban of the ICA on whatever ground in the absence of adequate and functional domestic alternatives that can provide for the highly OVC with their needs directly violates the notion of the best interest of the OVC which leaves them at stake. The researcher believes that the drawbacks of the ICA were foreseeable during the ratification of the ICA as part of the domestic laws of the nation. Moreover, the problems that are associated to constitute the cons of ICA have to be dealt with by the concerned organs for the betterment of the mechanism

in a way that serves the best interest of the OVC not the government's political social or else motives. .

According to the data gathered from one of the key informant of the study p1, in exceptional situations of the highly OVC, the contribution of the ICA to provide a better and safe environment is unquestionably significant. Consequently banning it denies the OVC an opportunity to be raised in a safe and better family living environments leaving them under the mercy of corrupt institutions and individuals. Even though the ban is probably made with the intent of serving the best interest of the OVC, as long as the domestic childcare alternatives are not substituting what the ICA could have presented, the ban tends to have a negative implication on the right of the OVC for an alternative care.

The Ethiopian government has signed and incorporated the UNCRC as part and parcel of the domestic laws of the country including the constitution, whereby the ICA is a part of the legal instrument that entitles the OVC with the access to foreign adoptions when it is conducive to serve their best interest (Alemu, G., & Birmeta, Y. 2012).

Consequent to the ban in January, the government through formulating the national Children`s policy in April 2017 aims to attain children`s development and growth, prevention and protection of children from social, economic and political hardships and providing rehabilitation, care and support for children in difficult circumstances (The preamble of the National Children`s Policy, 2017).

On the other hand, the researcher argues that the ban results in a negative implication on the rights of the OVC to an alternative childcare as ICA as the factors that initiated the need for the ICA during its ratification still aren`t met. However, the researcher believes that the

promising features of the new national child policy will only be a paper tiger unless it is practically implemented to address the problems of the OVC in the country. The policy through strengthening the domestic childcare alternatives might benefit a very few and fortunate segment of the OVC leaving behind the majority whose needs somehow could have been met by the doors the ICA makes it accessible for them.

Even though the MoWCYA claims the ban to have a positive implication on the OVC as it enables them to be raised under the culture of their community where the potential Identity Crisis would not be an issue, the fact that the children are raised under domestic childcare alternatives does not guarantee the absence of identity crisis, child labour, sexual abuse, drug use, malnutrition on the OVC.

A number of NGOs who were actively participating in the facilitation of the ICA criticised the ban to compromise the most viable option the OVC could ever access without having to provide an adequate and sufficient childcare options at the domestic level (Melat Assefa). It is also a fact that the positive implications of the ban on the OVC could not be weighed as it is too early to evaluate the adequacy of the domestic childcare options. To sum up the discussions, almost all the interviewees as well as the researcher believe that the ban has a negative implication on the psychological, safety, economical and health status of the OVC in the process of strengthening the capacity and efficiency of the domestic childcare options to meet the needs of the OVC as listed out under the national child policy.

Chapter Six

Conclusion and Implications

Conclusion

This qualitative case study is carried out with the general objective of evaluating the practical and legal implications of the ban of the Intercountry Adoption in Ethiopia. In doing so, four major questions were posed and addressed; what were the major pushing factors for the need to Alternative Care specially, ICA during its ratification? What factors caused the ban of ICA in Ethiopia? What is the practical, legal implication of the ban on the OVC, and what is the impact of the ban on the psychological, economy and health status of the OVC?

As per the findings of this study growing up in a warm family environment accompanied by an atmosphere of love care happiness and understanding is an entitlement that every child should enjoy for his or her holistic physiological and psychological growth. Such child friendly and conducive environments serve the best interest of children in general and the OVC in particular. In the contrary, the absence of such environment triggers the need to come up with strategies such as alternative childcare mechanisms that can serve the best interest of children who lack the special entitlements that are naturally tied to their childhood. In the existence of strong and functional Domestic alternative childcare mechanisms under the umbrella of an accountable, transparent, adequate and well systematized social service, opting for the ICA might not make sense.

However, in the absence of such environment where the best interest of the OVC is at stake using Intercountry adoption as a last resort should not be totally banned. Banning the ICA due to a couple of incidents where by Ethiopian national adopted children suffered severe abuse

and death is not the direct consequence of the ICA itself but the failure of the concerned organs in its implementation mainly attributed to the absence of practical and periodic stringent post placement follow ups. Moreover, there is no concrete and reliable research conducted that provides an irrefutable evidence as to the urgent need to the complete ban of the ICA as an alternative child care mechanism.

Such instant decision making at times of such incidents can contribute to unintended consequences that might result in irreversible catastrophes. Depriving the entitlements of the OVC to the ICA instead of taking the responsibility for the incidents and work on the betterment of the mechanism to serve the best interest of the OVC would explicitly be “barking up the wrong tree.” The motive behind the ban sounds far from serving the best interest of the OVC but a matter of politics and national pride that Ethiopians could take care of their own children. It possibly seems to emerge from a national pride and the image of the country which would greatly be affected due to the increasing trend of the ICA before the ban that gave the nation the second rank in making the country a favourable destination for the e adopting states and families opposed to its fast growing economy.

Even though the domestic child care initiatives made by the government are promising, formulating policies and enacting guidelines barely guarantee their proper implementation. This is the maximum effort witnessed exerted by the government to substitute the ban which is just enacting a Directive on Foster Family and Domestic Adoption Services which hasn't been doing anything substantial to replace the void of banning intercountry adoption to serve the best interest of the child.

The positive implication of the ban on the OVC if properly and adequately substituted by the domestic child care mechanisms is an opportunity for the OVC to grow up in their own

communities, culture, norms, where they grow up to be productive segments of the community that took care of them. In conclusion, an absolute shut down of the ICA in the process of laying the foundation of systematized and efficient domestic childcare mechanisms is not in the best interest of the OVC, which makes the ban a clear violation of their special entitlements for a better and safe living atmosphere that guarantees their holistic development through the options of alternative childcare mechanism.

6.2 Implications

Based on the major findings, four implications of the study in education, policy, practice and intervention and future research are presented below.

6.2.1 Implication for Policy

The findings of the study show that the ban on the practice of ICA is absolute. There is no official exception even for the OVC with critical condition. The researcher of this study believes that the ban being absolute by itself is a policy gap that is identified under the study. Therefore the government should reconsider the former practice of the ICA and unveil the mystery of the ban with intensive and transparent researches. Based on the findings therein, enact additional policies that could address the possible challenges of the ICA and devise effective accountable and transparent implementation strategies with rigorous procedures, terms and conditions.

In light of the findings of this study, the other implication for policy is the huge gap that has been identified and believed by the researcher to considerably have contributed to the dysfunction of the ICA in Ethiopia is the government's failure to sign and ratify the 1993 Hague Convention on the Protection of Children and Co-operation in respect of intercountry Adoptions. The convention explicitly obliges and holds the authorities of the sending and

receiving countries accountable to the ICA's proper implementation in the best interest of the OVC. As a matter of fact, the study by (Robert L. Snow, p 52 child abduction; prevention Investigation and Recovery) shows that the prevalence of the drawbacks of the ICA are more manifested in the nations that did not sign and ratify the Hague convention. Hence, the signing of the convention will be of a paramount significance to the best interest of the OVC due to its ethical and transparent process that helps the ICA be strictly applied as a last resort to serve the best interest of the OVC. This could be done from taking lessons from other states practicing similar alternatives such as India whereby, the role of the ICA is limited to just for 20% and the domestic mechanisms to 80%.

6.2.2 Implication for Practice and Structure

Findings of the study show that the employees behind the function of the existing structure of the MoWCYA at a federal, also regional level should be qualified and competent with direct relevance working with children. The government can fully or partially accredit or collaborate with institutions carrying out both domestic and international adoption.

To promote accountability and transparency in conducting the ICA, the government through the MoWCYA can set up an interdisciplinary team of various NGOs governmental organs and other stakeholders such as the ministry of health, peace, foreign affairs, the Police (federal, Addis Ababa and Dire Dawa city administration), immigration bureau, embassies, agencies engaged in ICA, Medias (Government and Private), Public Figures and thewhere the process would rigorously be controlled and followed up on.

6.2.2 Implication for Awareness Creation

The findings of the study have revealed the gap in the awareness creation as to the promotion of domestic child adoption and with a special emphasis on the OVC. The MoWCYA

should in collaboration with its stakeholders exert a considerable amount of effort to conduct awareness creation towards domestic remedies to serve the best interest of the child and work on the mainstreaming of support for the OVC through all governmental and non-governmental sectors including schools. Collaborating with Religious institutions as to the need to incorporation of special care and protection for the OVC based on their respective religions and doctrines in addition to the creation of consistent awareness among followers to open their hearts and homes to the very unfortunate and toothless dogs of the society; the OVC.

The findings of this study has shown the role a public figure or a popular personality can play in promoting domestic adoption of the OVC as per the famous and historical adoptions made by the two popular Actress and singer Angelina Jolie and Madonna respectively. Working in conformity to this, the current Prime Minister of Ethiopia, Dr Abey Ahmed has adopted a young boy that had been talked about among many people as an act of Love and compassion.

6.2.3 Implication for Research

This study shows that the subject matters of the Intercountry Adoption in general as and the current status of the OVC in Ethiopia are not well researched and documented. This leaves a wide room for further studies to be conducted having the revealed findings of this study as a foundation.

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Appendices

Appendix-1: Informed Consent Form

For the Participants

Dear Participants

I am called Sisay Asrat, a prospective graduating student at Addis Ababa University from the School of Social Work. I am expected to carry out a thesis project as a partial fulfilment of my study. My research is entitled “the ban of intercountry adoption in Ethiopia; its practical and legal implications on the best interest of the OVC.” My study will not be complete and impactful without your shared expertise and experience which is the very reason you have been selected as partakers to contribute in this project.

This letter is prepared to request your consent to cooperate as you must be aware that this can only be done if you will agree to sign this letter to give me your consent. I would like to assure you that the information I gather from you including your name remains confidential.

Given the paramount value of your opinion to the successful contribution to my research I would kindly bother you for an audio recording of our interview, certainly up on your explicit confirmation to cooperate voluntarily.

Signature of the participant: _____

Date: _____

Signature: _____

Date: _____

I thank you in advance for the time you make taking my request in to consideration.

Appendix 2: For the Researcher:

I, Sisay Asrat, a postgraduate student at Addis Ababa University School of Social Work, as a researcher of the study, have informed the study participants and key informant about the nature, purpose, and procedures of the study. I have also explained the ethical guidelines to be followed in the process. The issue of confidentiality, privacy, and participant's liberty were given due emphasis in the introduction session. By signing this letter I authorise that I have provided the above information for the study participants.

Name : Sisay Asrat _____

Signature: _____

Date: _____

Appendix 3: In-depth Interview Questions

Interview Guide for the research Participants and key Informants

This Interview Questions are designed to facilitate the collection of data and relevant information and related experiences to better understand about the practical and legal implication of the ban of the intercountry adoption, on the rights of the Orphan and Vulnerable Children.

I. Personal Occupational and Educational Background :

Name: -----

Educational Background: -----

Occupation: -----

Position: -----

Organization: -----

- 1- Could you introduce yourself?
- 2- What is your position in the organization you work for?
- 3- What is your personal understanding and point of view about “The best interest of the child?”
- 4- What is your perception as well as experience of Intercountry adoption?
- 5- How does your organization perceive the relationship between the best interest of the child and intercountry adoption?
- 6- What do you think are the pros and cons of Intercountry adoption?
- 7- How do you think the ban affects the best Interest of the Orphan and Vulnerable Children?
- 8- Why do you think the Ethiopian government banned the intercountry adoption?
- 9- Are you pro or against Intercountry adoption? Why or why not?
- 10- What do you think about the feasibility of the replaced mechanisms that are believed by the government to Substitute the intercountry adoption?

11- What do you think serves the best interest of the Orphan and Vulnerable Children in terms of the ban?

12- What solutions do you forward to serve the best interest of the Orphan and Vulnerable Children?

N.B The researcher would like to state that further questions will be applied to help the participants better explain as per the major questions.

Appendix 4: Observation Checklist

- 1). The functions the office/ the Organization
- 2). How many social workers do you have?
- 3). How do you and your organization understand the best interest of the OVC?
- 4) What is the fate of the OVC with disability and chronic sickness?