Study on Child Labor in Ethiopia

An Assessment of the National Policy and Legislative Response to Child Labor in Ethiopia

Ghetnet Metiku WoldeGiorgis
Research Officer, Ethiopian Human Rights Commission

Addis Ababa, March 2010

1 The author was working as a UN volunteer at the time this research was planned for within the EHRC sub-program of the Democratic Institutions Program. However, the study on child labor, which was designed as outsourced research under the Annual Work Plan, was never conducted as planned. Taking into account the importance of the research topic, the author has undertaken the initiative to complete the study after leaving the Commission. The results were subsequently submitted to the Commission through the DIP Program Officer via e-mail. Presently, Ghetnet Metiku WoldeGiorgis works as a freelance research officer undertaking independent socio-legal research including major consultancy assignments with the EHRC. His current engagements with the Commission include providing extensive external advisory services to the National Human Rights Reporting Taskforce charged with preparing the first national human rights report for Ethiopia and conducting an independent mapping of human rights actors for the Communications Directorate of the EHRC.
Table of Contents

List of Acronyms ................................................................. 4
List of Tables and Figures .................................................... 5
1. Introduction ........................................................................... 6
   1.1. Purpose and Objectives of the study ................................. 7
   1.1.1. Purpose ........................................................................ 7
   1.1.2. General and Specific Objectives .................................... 7
   1.1.3. Key Research Issues ...................................................... 8
   1.2. Research Approach .......................................................... 9
   1.3. Definitions ....................................................................... 10
   1.3.1. Meaning of Child Labour ............................................ 10
   1.3.2. Other Definitions ........................................................ 13
   1.4. Child Labour in Ethiopia ................................................... 15
   1.4.1. Profile of Child Labour ............................................... 15
   1.4.2. The Worst Forms of Child Labour ................................. 18
   1.4.3. Causes of Child Labour ............................................... 18
   1.4.4. Effects and Consequences of Child Labour .................. 25
   1.4.5. Child Labour and Violence against Children ............... 26
   2.1. Overview of Relevant International Human Rights Instruments 29
   2.2. Responses to Work by Children ....................................... 31
   2.2.1. Birth Registration ....................................................... 31
   2.2.2. Work Done by Children ............................................. 32
   2.2.3. Children Doing Light Work ........................................ 34
   2.2.4. Children Working as part of Training or Education ....... 36
   2.3. Response to the Worst Forms of Child Labour ................. 37
   2.3.1. Defining the worst forms of child labour ...................... 39
   2.3.2. Hazardous Work ....................................................... 40
   2.3.3. Slavery and Similar Practices ..................................... 44
   2.3.4. Children in Prostitution .............................................. 48
   2.3.5. Pornography and Pornographic Performances ............. 50
   2.3.6. The Involvement of Children in Illicit Activities .......... 51
3. Legal and Policy Responses to Child Labour in Ethiopia ....... 53
   3.1. Ratification of International Instruments ......................... 53
   3.2. The FDRE Constitution ................................................... 53
   3.3. National Policies and Action Plans .................................. 54
   3.3.1. The Development and Social Welfare Policy ................. 54
   3.3.2. The Education and Training Policy .............................. 55
   3.3.3. The National Plan of Action for Children ..................... 55
   3.3.4. The National Plan of Action on Sexual Abuse and Exploitation of Children 56
   3.3.5. The Draft National Action Plan on the Elimination of the Worst Forms of Child Labor in Ethiopia ....................................................... 57
   3.4. Domestic Laws .............................................................. 59
   3.4.1. The Civil Code of Ethiopia ......................................... 59
   3.4.2. The Labour Proclamation .......................................... 59
   3.4.3. The Revised Family Code ......................................... 60
   3.4.4. The Criminal Code .................................................. 61

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
4. Assessment of National Response ................................................................. 62
  4.1. Ratification of International Instruments ....................................................... 62
  4.2. Defining the Child ......................................................................................... 63
  4.3. Birth Registration .......................................................................................... 64
  4.4. Work Done by Children .................................................................................. 65
  4.5. The worst forms of child labour ..................................................................... 66
    4.5.1. Hazardous Work ...................................................................................... 66
    4.5.2. Slavery and Slavery-Like Practices ............................................................. 66
    4.5.3. Commercial Sexual Exploitation ................................................................. 68
  4.6. Achievements ................................................................................................. 71
    4.6.1. Defining the Child ..................................................................................... 71
    4.6.2. Birth Registration ...................................................................................... 71
    4.6.3. Work Done by Children ............................................................................. 71
    4.6.4. Hazardous Work ...................................................................................... 72
    4.6.5. Slavery and Related ................................................................................... 72
    4.6.6. Child Prostitution and Pornography ........................................................... 72
  4.7. Gaps and challenges .................................................................................... 73
    4.7.1. Defining the Child ..................................................................................... 73
    4.7.2. Birth Registration ...................................................................................... 74
    4.7.3. Work Done by Children ............................................................................. 74
    4.7.4. Hazardous Work ...................................................................................... 75
    4.7.5. Slavery and Related Practices .................................................................... 76
    4.7.6. Child Prostitution and Pornography ........................................................... 76
  5. Recommendations ......................................................................................... 78
    5.1. General Recommendations .......................................................................... 78
      5.1.1. Ratification of International Instruments .................................................. 78
      5.1.2. Defining the Child .................................................................................... 78
      5.1.3. Birth Registration .................................................................................... 79
      5.1.4. Work Done by Children ........................................................................... 79
      5.1.5. Hazardous Work .................................................................................... 79
      5.1.6. Slavery and Related Practices .................................................................. 80
      5.1.7. Child Prostitution and Pornography ........................................................ 80
      5.1.8. Child Prostitution and Pornography ........................................................ 80
    5.2. Recommendations for Action by the EHCRC .............................................. 81
      5.2.1. Ratification of the International Instruments not yet Ratified .................. 81
      5.2.2. Harmonization of national policy and legislation ..................................... 82
      5.2.3. Support to Implementation and Enforcement .......................................... 82
      5.2.4. Monitoring ............................................................................................... 83
  6. Annexes ........................................................................................................ 84
    6.1. References ................................................................................................... 84
      6.1.1. Books and other Materials ....................................................................... 84
      6.1.2. International Instruments ......................................................................... 86
      6.1.3. Ethiopian Laws and Policies ..................................................................... 88
    6.2. Core Standards and Provisions on Child Labor ........................................... 89
      6.2.1. Summary of International Instruments on Child Labor ............................ 89
      6.2.2. Recommendation No. 190 WFCL, 1999 .................................................... 90
## List of Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACHPR</td>
<td>African Charter on Human and Peoples’ Rights</td>
</tr>
<tr>
<td>ACRWC</td>
<td>African Charter on the Rights and Welfare of the Child</td>
</tr>
<tr>
<td>AIADB</td>
<td>African Development Bank</td>
</tr>
<tr>
<td>ANPPCAN</td>
<td>Association for Nation-wide Action and Protection against Child Abuse and Neglect (NGO)</td>
</tr>
<tr>
<td>ART</td>
<td>Anti-Retroviral Treatment</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CRC/UNCRC</td>
<td>United Nations Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CSA</td>
<td>Central Statistical Authority – FDRE</td>
</tr>
<tr>
<td>DHS</td>
<td>Demographic and Health Survey</td>
</tr>
<tr>
<td>EHRC</td>
<td>Ethiopian Human Rights Commission – FDRE</td>
</tr>
<tr>
<td>FAO</td>
<td>Food and Agriculture Organization</td>
</tr>
<tr>
<td>FDRE</td>
<td>Federal Democratic Republic of Ethiopia</td>
</tr>
<tr>
<td>FHAPCO</td>
<td>The Federal HIV/AIDS Prevention and Control Office - FDRE</td>
</tr>
<tr>
<td>FSCE</td>
<td>Forum for Street Children in Ethiopia (NGO)</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GNI</td>
<td>Gross National Income</td>
</tr>
<tr>
<td>HDI</td>
<td>Human Development Index</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
</tr>
<tr>
<td>IPEC</td>
<td>International Programme on the Elimination of Child Labour</td>
</tr>
<tr>
<td>KURET</td>
<td>Kenya, Uganda, Rwanda, and Ethiopia Together Initiative</td>
</tr>
<tr>
<td>MoE</td>
<td>Ministry of Education – FDRE</td>
</tr>
<tr>
<td>MoFED</td>
<td>Ministry of Finance and Economic Development – FDRE</td>
</tr>
<tr>
<td>MoH</td>
<td>Ministry of Health – FDRE</td>
</tr>
<tr>
<td>MoJ</td>
<td>Ministry of Justice – FDRE</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Government Organization</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Cooperation and Development</td>
</tr>
<tr>
<td>OPCRC-CPP</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</td>
</tr>
<tr>
<td>PASDEP</td>
<td>Plan for Accelerated and Sustained Development to End Poverty (2006-2010)</td>
</tr>
<tr>
<td>PLWHA</td>
<td>Persons living with HIV/AIDS</td>
</tr>
<tr>
<td>SIMPOC</td>
<td>Statistical Information and Monitoring Program on Child Labour – ILO</td>
</tr>
<tr>
<td>SNA</td>
<td>United Nations System of National Accounts</td>
</tr>
<tr>
<td>SNNP</td>
<td>Southern Nations, Nationalities and Peoples’ Regional State</td>
</tr>
</tbody>
</table>
List of Tables and Figures

List of Tables

Table 1: Selected Statistics and Indicators on Child Labor.............................................. 15
Table 2: Working children by sector, 5-14 years (%), 2005................................................. 17
Table 3: The Structure of the Ethiopian Economy (2000-2005).................................... Error! Bookmark not defined.
Table 4: Ethiopia- Indicators of Human Development and Access to Basic Services (2000-
2007) ......................................................................................................................... 20
Table 5: HIV Prevalence, 2007 (source: Single Point Estimate) .................................... 22
Table 6: Annual New Infections and AIDS Deaths, 2007 ............................................... 22
Table 7: Ethiopia-Gender Statistics (2000-2006) ......................................................... 24
Table 8: Summary of Minimum Age Provision of Convention No. 138 ..................... 33
Table 9: Status of Ratification of Major Child Labor Instruments ............................... 62
Table 10: Summary of the International Legal Framework on Child Labor ................... 89

List of Figures

Figure 1: Ethiopia - Trends in Per Capita GNI (1985-2006)............................................. 20
Figure 2: Estimated and Projected Number of AIDS Orphans in Ethiopia, 1990-2010...... 23
1. Introduction

The Ethiopian Human Rights Commission (EHRC) is a national human rights institution established in accordance with Article 55(14) of the Constitution of the Federal Democratic Republic of Ethiopia (FDRE) through Proclamation No. 210/2000. The establishing law gives the EHRC extensive mandates to promote, protect and work towards the realization of human rights in Ethiopia. More specifically, the duties and responsibilities of the Commission include: educating the public to be aware of and claim its rights; seeing to it that the human rights are protected, respected and fully enforced; investigating complaints of human rights violations; and, recommending remedial measure where they are found to have been violated.

Proclamation No. 210/2000
Ethiopian Human Rights Commission Establishment Proclamation

Article 5: Objective
The objective of the Commission shall be to educate the public be aware of human rights see to it that human rights are protected, respected and fully enforced as well as to have the necessary measure taken where they are found to have been violated.

Article 6: Powers and Duties
The Commission shall have the powers and duties to:
1) ensure that the human rights and freedoms provided for under the Constitution of the Federal Democratic Republic of Ethiopia are respected by all citizens, organs of state, political organizations and other associations as well as by their respective officials;
2) ensure that laws, regulations and directives as well as government decisions and orders do not contravene the human rights of citizens guaranteed by the Constitution;
5) make recommendations for the revision of existing laws, enactment of new laws and formulation of policies.

Article 19/2: Powers and Duties of the Chief Commissioner
(d) undertake study of recurrent cases of human right violations and forward together with remedial proposals to the House;
(f) prepare, and submit to the House, draft legislation on human rights; give his opinion on those prepared otherwise;
(g) submit a report, to the House, on matters of human rights ...

The EHRC is a key human rights actor responsible for promoting, protecting and enforcing the fundamental rights of citizens and peoples of Ethiopia as enshrined in the FDRE Constitution and international human rights instruments. In line with its organizational vision, mission and values the EHRC particularly strives towards:

– enhancing the capabilities of rights-holders to claim their rights through a participatory and empowering programming and governance framework;
– building the capacities of key actors responsible for the realization of human rights through partnership across sectors and levels of intervention; and,
In undertaking its duties and responsibilities the Commission has so far conducted important activities and programmes geared towards ensuring its role as the key human rights institution within the country. One among the focal areas being addressed by the EHRC since its establishment is conducting research on the situation of groups vulnerable to and victimized by human rights violations as well as the status of their rights. One such group is children vulnerable to or affected by child labour with particular focus on the worst forms of child labour. Accordingly, this study on the policy and legislative response to child labour in Ethiopia has been conducted with the intention of initiating the Commission to engage more actively in addressing the needs and rights of children vulnerable to and affected by child labor.

1.1. Purpose and Objectives of the study

1.1.1. Purpose
The prevalence and magnitude of child labour, including its worst forms, in Ethiopia has been documented through a number of studies conducted by various government and non-government actors working on child rights. The government of Ethiopia has taken a range of measures in response to the problem of child labour in general and towards the elimination of the WFCL. An essential part of this response has been the ratification of instruments forming the international legal standards on the protection of children from labour exploitation. In line with these international standards, the government has also promulgated laws and developed policies relevant to the response. The conduct of this study is thus a result of the EHRC mandate to ensure that the legislative and policy framework is in line with the international and constitutional protections recognized for children vulnerable to or affected by child labour.

This is an assessment report on the situation of children vulnerable to and affected by child labour. This report examines the overall legislative and policy response to child labour in Ethiopia in light of applicable international legal standards and good practices.

1.1.2. General and Specific Objectives
The current study generally aims at establishing a systematic, relevant, up to date and comprehensive information base on the situation and response to child labour in Ethiopia as the basis for the design of relevant, comprehensive, and coherent interventions by the EHRC and other relevant actors and stakeholders. Within this general objective, the current study specifically aims to:

- establish the profile of child labour in Ethiopia with emphasis on the prevalence, magnitude, causes and effects of child labour;
- outline the international legal standards and good practices for a child-rights based response to child labour;
– assess the policy and legislative response to child labour in Ethiopia and identify achievements, challenges and gaps in light of the applicable international and national norms and standards;

– come up with actionable recommendations for the engagement of the EHRC and its partners in addressing the problem of child labour in Ethiopia.

Using information obtained from this study the EHRC plans to draft a Strategic Framework and Programme Plan on child labour and draw-up minimum standards for comprehensive intervention to realize the rights of children vulnerable to and affected by child labour.

1.1.3. Key Research Issues

Towards achieving the above purposes and objectives, the key research issues to be addressed through this study are:

– What do we mean by child labour? How is it defined internationally and nationally? What are the manifestations, causes and effects of child labour in Ethiopia?

– What are the international legal provisions guiding national responses to child labour in general and the worst forms of child labour in particular? How have these been applied in foreign and international experience?

– How did the policies and laws issued by the Ethiopian government respond to the problem of child labour in the country? Which specific policies and laws are relevant to the response?

– How does the national response to child labour in Ethiopia compare with the applicable international standards? What are the achievements, gaps and challenges in policies and legislation affecting the rights of vulnerable and affected children?

– What should be done to improve on the existing policy and legislative response to child labour in Ethiopia? What should be the role of the EHRC in taking the recommended measures to harmonize the national policy and legislative response to child labour with the applicable international standards?

Though the current study is principally focused on the policy and legislative response to child labour, it would also cover relevant institutional and programmatic issues as appropriate.²

² These issues are to be dealt with within the specific context of the traditional weaving industry in and around Addis Abba.
1.2. Research Approach

The conduct of the current study is primarily guided by the organizational values of the EHRC. The mission and core values of the EHRC, identified in its strategic plan, are:

**Mission Statement:** The Ethiopian Human Rights Commission will serve the citizens and peoples of the nation by promoting, protecting and enforcing the human and democratic rights of citizens and peoples as enshrined in the Constitution and other laws of the land, as well as the international human rights conventions and instruments adopted by Ethiopia, and by ensuring that citizens and peoples can claim these rights.

**Core Values:** The Ethiopian Human Rights Commission, guided by the principles expressed in the Ethiopian Constitution and by the internationally recognized standards for national human rights institutions set out in the Paris Principles, is committed to undertaking its work, and conduct itself, in accordance with the following core values: respect for the rule of law, respect for the principles of democratic process and good governance; equality and equity for both individuals and peoples; respect for the cultural heritage of Ethiopia; transparency; accessibility; accountability; and independence.

Based on standards drawn from this mission statement and core values of the EHRC and informed by the Ethiopian and international human rights framework as well as good practices among national human rights institutions, the research approach adopted for this study incorporate and reflect the following as key elements:

- using the realization of child rights as guidelines, indicators and benchmarks for the assessment of the situation of children, the design and implementation of interventions by key actors and stakeholders, and analysis of the structural (policies, laws, institutions, and practices) framework;

- disaggregating data and analysis by gender, age and other causes of vulnerability focusing on the worst forms of child labour and most vulnerable groups of children;

- promoting the empowerment of children through meaningful participation in the design and implementation of interventions, including the conduct of child rights research;

- promoting the involvement of key actors and stakeholders across sectors and levels and integration of the views and expertise;

- mainstreaming of child labour across key program areas and institutional arrangements; and
– strategic focus on building the capacities of vulnerable and affected children to claim their rights, legal and moral duty bearers to fulfill their responsibilities and strengthening the policy and legal framework.

The EHRC’s organizational policies on human rights research, training and communication as well as relevant organizational guidelines will direct the research approach for this study as appropriate.3

1.3. Definitions

According to the ILO report “The End of Child Labor: Within Reach”4, which was issued in 2006, around 218 million children were involved in child labour while 126 million children were involved in the worst forms of child labour (including hazardous work, debt bondage, soldiering, prostitution and pornography, and illicit activities). The ILO report also disclosed that about 122 million children in the age group of 5-14 are engaged working around the globe. However, what constitutes child labour is not an easy matter to agree upon. This section outlines accepted international conceptions of child labour and the worst forms of child labour based on organizational practice and the relevant legal standards. Then, a list of definitions relevant to the discussion in the substantive sections of the report is provided to facilitate understanding and analysis.

1.3.1. Meaning of Child Labour

There is no universally agreed upon definition of child labour. Typically, the term child labour is used to refer to child time in activities that are somehow harmful to the child. For example, the United Nations Convention on the Rights of the Child (UN-CRC) emphasizes the importance of protecting children from: "work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral or social development"5. Under international labour standards, work which subjects children to exploitation and abuse is prohibited.

| IFC Policy Statement on Forced Labor and Harmful Child Labor (1998) |
| "Harmful Child Labor consists of the employment of children that is economically exploitative, or is likely to be hazardous to or interfere with, the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral or social development." |

The ILO Minimum Age Convention, 1973 (No. 138) and ILO Convention on the Worst Forms of Child Labour, 1999 (No. 182), and their corresponding Recommendations Nos. 146 and 190, respectively, serve as the primary guide for a formal definition of child labour. Convention 138 obliges States Parties to fix a minimum age for employment that

3 The author has developed a set of organizational policies and guidelines for the EHRC while working with the Commission as a UNV Research Officer including a Research Policy, a Human Rights Training Policy, a Communications Strategy, Guidelines for Outsourcing, and Grant Guidelines.


5 The United Nations Convention on the Rights of the Child (UN-CRC), 1989, Article 32
should not be less than the age for completing compulsory schooling and, in any event, should not be less than 15 years. Developing countries may set the minimum age of employment at 14. Convention No. 138 explicitly introduces a distinction between child labour and light work:

> National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is ... (a) unlikely to be harmful to their health or development; and, (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

While Convention 138 provides flexibility for countries to establish a younger minimum age for children to partake in “light work”, it requires countries’ minimum age laws to ensure that no person under 18 is allowed to be employed in “hazardous work”. Convention 182 prohibits the following:

1. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.

2. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.

3. The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

4. Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Recommendation No. 190 on the Worst Forms of Child Labor regarding Hazardous Work under Article 3(d) of Convention No. 182 defines hazardous work as: (i) work which exposes children to physical, psychological or sexual abuses; (ii) work underground, under water, at dangerous heights or in confined spaces; (iii) work with dangerous machinery, equipments and tools, or which involves the manual handling or transport of heavy loads; (iv) work in unhealthy environment which may, for example,
expose children to hazardous substances, agents, noise levels, or vibrations damaging to their health; and, (v) work under particular conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

In more concrete terms, ILO/IPEC defines child labour as consisting of:\textsuperscript{10}

\begin{quote}
"all children under 15 years of age who are economically active excluding (i) those who are under 5 years old and (ii) those between 12-14 years old who spend less than 14 hours a week on their jobs, unless their activities or occupations are hazardous by nature or circumstance. Added to this are 15-17 years old children in the worst forms of child labour."
\end{quote}

The current criteria for identifying child labour used by the ILO's Statistical Information and Monitoring Program on Child Labour (SIMPOC) for its global child labour estimates is:\textsuperscript{11} (i) a child under 12 who is economically active for one or more hours per week; (ii) a child 14 and under who is economically active for at least 14 hours per week; (iii) a child 17 and under who is economically active for at least 43 hours per week; (iv) a child 17 and under who participates in activities that are "hazardous by nature or circumstance" for one or more hours per week; and, (v) a child 17 and under who participates in an "unconditional worst form of child labour" such as trafficked children, children in bondage or forced labour, armed conflict, prostitution, pornography, illicit activities.

The definition of working children under the Ethiopian statistical system includes children working in domestic work in their own household in their definitions of child labour.\textsuperscript{12} According to the CSA, children are considered as working if they are engaged in either economic (productive) or housekeeping activities during the one-week reference period prior to the date of the 2001 Child Labor Survey.

- **Working Children:** Throughout this report the word “working” refers to children who are engaged in either economic or housekeeping activities.

- **Economic (productive) Activity:** in the survey economic or productive activity was defined in terms of production of goods and services that fall within the United Nations System of National Accounts (SNA) production boundary (ILO, 1990). Hence, in the 2001 Child Labor Survey, economic activity or productive activity is defined as a work that involves the production of goods and/or services for sale or exchange and production of certain products for own consumption.

- **Housekeeping Activities/Household chores:** are personal services of a domestic nature provided by unpaid household child members in their own parents, or

\textsuperscript{10} ILO/IPEC, 2002, p. 32
\textsuperscript{11} ILO, Defining child labour: A review of the definitions of child labour in policy research, 2009, p. 19
\textsuperscript{12} Central Statistical Authority (2001)

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
grandparents/ guardians or spouse’s household, and as such, are considered non-economic.

1.3.2. Other Definitions
The following is a list of definitions given to child labour related terms under the international framework. The definitions have been compiled from authoritative sources including documents of the ILO:

- **Child domestic work** — A wide variety of tasks performed by children in a private household, including cooking, cleaning, and the care of other children. The household is often not the child’s own, and the child, usually female, tends to live where she works.

- **Child economic activity** — Almost all production activities performed by children, whether for the market or not, paid or unpaid, for a few hours or full time (for at least one hour during the reference week), whether on a casual or regular basis, in the formal (organized) sector or the informal sector.

- **Child engaged in armed conflict** — A person under the age of 18 who serves in any capacity as part of an armed force or armed group, whether or not the child is actually involved in combat. A boy or girl may run errands for a military unit, cook for it, carry arms for the soldiers, or be exploited for sexual purposes.

- **Child labour** — Children’s work that deprives girls and boys of their childhood and dignity, and which is harmful to their physical and mental development. Whether a particular kind of work performed by a child is to be considered child labour may depend on the child’s age, the type and conditions of work, and the effects of the work on the child. Some kinds of work are always child labour. Child labour is a subset of “children’s work”.

- **Children’s work** — Almost all production activities performed by children, whether for the market or not, paid or unpaid, for a few hours or full time (for at least one hour during the reference week), whether on a casual or regular basis, in the formal (organized) sector or the informal sector. Children’s work includes work in family enterprises and in household-based production activities, as well as domestic work performed in another household for an employer. Child labour is a subset of “children’s work”.

- **Hazardous work** — Work that jeopardizes a child’s health, safety, or moral development. This includes work that exposes children to physical, psychological, or sexual harm or abuse; that takes place underground or under water, at dangerous heights, or in confined spaces; that involves using dangerous machinery or tools or handling or transporting heavy loads; that exposes children to harmful substances or agents, processes, temperatures, noise levels, or vibrations; that takes place under particularly difficult conditions; that occurs for unduly long hours or
during the night; or that unreasonably confines the child to the premises of the employer.

- **Household chores** — Domestic services provided by household members without pay. These are considered non-economic activities. Household chores include preparing and serving meals; making, mending, washing and ironing clothes; shopping; caring for children and/or the sick, infirm, or elderly persons in the household; cleaning, decorating, and maintaining the dwelling; and transporting household members and their goods.

- **International Labour Standards** — Conventions and Recommendations, covering a broad range of social and labour issues, adopted by the International Labour Conference. Child labour is covered by both Conventions and Recommendations. (See also “worst forms of child labour”; “Worst Forms of Child Labour Convention 1999 [No. 182]”; “Minimum Age Convention, 1973 [No. 138]”.

- **Light work** — Work which is (a) unlikely to be harmful to the health or development of boys and girls; and (b) not such as to prejudice their school attendance, or their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received.

- **Minimum Age Convention, 1973 (No. 138)** — Adopted in 1973, this ILO Convention requires ratifying States to pursue a comprehensive national policy to eliminate child labour and to set minimum age levels for admission to employment, for light work, and for hazardous work. The general minimum age for admission to employment, as prescribed by Convention No. 138, should not be less than the age of completion of compulsory schooling and should not be less than 15 years (developing countries may fix it initially at 14 years).

- **Non-economic activities** — Those activities that fall outside the boundary of economic activity as defined by the United Nations Systems of National Accounts (SNA), for example domestic tasks in one’s own home, nursing one’s own children, sewing one’s own clothes, repairs in one’s own house, and volunteer community activities.

- **Slavery or slave-like conditions** — Conditions that restrict the liberty of human beings. Child labour in slave-like conditions can occur across different economic sectors and types of activity, and can include the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour (including the forced or compulsory recruitment of children for use in armed conflicts).

- **Worst forms of child labour** — Forms of child labour that must be eliminated under the terms of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). States ratifying this Convention must take immediate action to eliminate all forms of slavery and practices similar to slavery; the use, procuring or offering of a
child for prostitution or for the production of pornography and for illicit activities; and any work which is likely to harm the health, safety, or morals of children.

1.4. Child Labour in Ethiopia

This part of the study seeks to establish the profile of child labour in Ethiopia as a background to the presentation and assessment of responses to the problem. In particular, the sections focus on:

- the different forms, prevalence and magnitude of child labour in general and the worst forms of child labour in particular;
- the profile of children most vulnerable to and affected by the most recurrent forms of child labour, the most recurrent violations of their rights, and effects on the affected children; and,
- the immediate, intermediate, structural and root causes for the vulnerabilities of children to child labour with emphasis on children working in the traditional weaving industry.

1.4.1. Profile of Child Labour

a) Magnitude

According to the 2001 survey, which is the most recent comprehensive data on child labour in Ethiopia, around 15.5 million Ethiopian children (85.5% of all children) are working. Of all children engaged in economic activities outside the house or household work, about 88% reside in rural areas. The highest rates of child labour are to be found in SNNP (88.8%), Oromia (88.0%) and Afar (86.0%) while Addis Ababa (69.1%), Tigray (76.6%) and Dire Dawa (78.6%) have the lowest rates. The prevalence rate in the other regions ranges between 84.6% in Amhara to 81.0% in Harari. Thus, taking into account the expected upward trends, child labour is a serious problem in Ethiopia.

<table>
<thead>
<tr>
<th>Table 1: Selected Statistics and Indicators on Child Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population, children, 5-14 years, 2005:</td>
</tr>
<tr>
<td>Working children, 5-14 years (%), 2005:</td>
</tr>
<tr>
<td>Working boys, 5-14 years (%), 2005:</td>
</tr>
<tr>
<td>Working girls, 5-14 years (%), 2005:</td>
</tr>
<tr>
<td>Minimum age for work:</td>
</tr>
<tr>
<td>Compulsory education age:</td>
</tr>
<tr>
<td>Free public education:</td>
</tr>
<tr>
<td>Gross primary enrollment rate (%), 2007:</td>
</tr>
</tbody>
</table>

¹³ More recent reports, however, state that the number of working children is highest in Amhara, Oromiya, Tigray, and Southern Nation, Nationalities and Peoples (SNNPR) regions.

¹⁴ In practice, must pay for various school expenses.
Child labour in Ethiopia is predominantly a rural phenomenon characterized by the larger proportion of working rural children than their urban counterparts. The geographic profile of working children constitutes around 86.6% of rural children and 77.9% of urban children. There is also a significant urban-rural variation in terms of employment pattern by sector. While rural children are mostly engaged in agricultural activities, sectors such as wholesale and retail trade, repair of vehicles and personal household goods, and domestic chores engage relatively more children in urban areas. In Ethiopia, most children work for their families without pay.

b) Profile of Working Children

In relation to the profile of working children, the number of girls engaged in household work is twice that of boys while the number of boys engaged in a productive activity other than household work is four fold that of girls. The overall differences by sex are more pronounced in rural areas than urban areas. The survey also indicates that high proportions of children are put to work at a very early age particularly in rural areas where as close to 98% starts work in productive activities or housekeeping below 11 years of age and their participation rate appears to be on the rise.

In both rural and urban areas, children often begin working at young ages, with many starting work at 5 years. The Ministry of Labor and Social Affairs (MoLSA) has indicated that 2 out of 5 working children in Ethiopia are under 6 years. The overwhelming majority of working children are below 15 years. Calculations based on the Child Labor Survey report conducted by the Central statistics authority indicate that more than one-third of all Ethiopian children between the ages of 5 and 14 are engaged in household activities while about half of them work outside the household. Considered with the 2006 population size this accounts for more than 17 million of the 20 million children in this age group. Most working children in Ethiopia have started a life of work at the age of eight. Age at start of work is substantially lower for rural areas (where more than 40% start work before reaching 5 compared to 22.1% in urban areas) while there is little distinction between boys and girls.

The percentage of working girls is only slightly more than boys where the kind of work is not taken into consideration. However, the number of girls engaged in household work is twice that of boys while the number of boys engaged in a productive activity other than household work is four fold that of girls. The overall differences by sex are more pronounced in rural areas than urban areas.

---

c) Working Conditions

The substantial majority of working children in Ethiopia (92.3%) are unpaid family workers. Children in rural areas are primarily engaged in agricultural activities and household work while unpaid family work accounts for more than half (53.9%) of working children in urban areas. According to recent studies, urban children are also engaged in labour activities in the informal sector including shoe shining, selling lottery tickets, selling food items, assisting taxi drivers and prostitution. There are also a large number of children working as domestic workers and in the domestic weaving industry in Addis Ababa and other major towns.

On average, a child engaged in productive activities works for 32 hours and 48 minutes per week. Generally, boys work longer (more than 35 hours) than girls (less than 29 hours). There is also some variance between children in rural areas (around 33 hours) and those in urban areas (almost 30 hours). Generally, child domestic workers have the longest working hours at more than 49 hours per week with those in urban areas working an average of nearly 52 hours while those in rural areas work for nearly 45 hours per week. On the other hand self-employed children work around 24 and 26 hours per week. The length of the work week falls with increasing age with children between 5 and 9 working between 32 and 39 hours per week, those between 10 and 14 working for 27 to 35 hours, and those between 15 and 17 working between 25 and 32 hours.

<table>
<thead>
<tr>
<th>Sector of Economic Activity</th>
<th>Working Children aged 5-14 in the Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>95.2</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>1.3</td>
</tr>
<tr>
<td>Services</td>
<td>3.4</td>
</tr>
<tr>
<td>Other</td>
<td>0.2</td>
</tr>
</tbody>
</table>

*Source: United States Department of Labor, September 2009*

Children in urban areas work in construction and manufacturing. They manufacture clothes and other woven items, shoes, and textiles. They also work shining shoes, tailoring, pottering, leading customers into taxis, and trading, as well as animal herding, which is a common activity both in Ethiopia’s urban and rural areas. As in rural areas, in Addis Ababa, many children, mostly girls, work in domestic service. Child domestics work long hours and are vulnerable to sexual abuse by male employers. Many are unable to attend school and are unpaid, receiving only room and board. There are a number of street children in Ethiopia, some of whom work in the informal sector.

In rural areas, children work primarily in family-based agriculture and commercial agriculture with agriculture and allied activities employing close to 94.3% of the children.

---

16 Save the Children Denmark, 2004
Children are known to work in tea, coffee, sugarcane, and cotton production. Children work long hours for low wages on cotton plantations, where they are exposed to environmental toxins, snakes, and disease. Children in rural areas also work in domestic service. Children, especially boys, engage in activities such as cattle herding, petty trading, plowing, harvesting, and weeding, while other children, mostly girls, collect firewood and water. Children also work in illegal gold mining.

1.4.2. The Worst Forms of Child Labour

The 2001 Child Labor Survey as well as other recent studies has revealed that Ethiopian children are being forced into activities considered to be the Worst Forms of Child Labor under ILO Convention 182 in increasing numbers. Trafficking in children for the purposes of exploitative labour and prostitution as well as the sale of children are reportedly on the increase. Large numbers of children are also forced into tedious and hazardous activities for long hours under perilous working conditions.

The commercial sexual exploitation of children continues to be a problem in Ethiopia, especially in urban areas. Young girls, some as young as 11 years, have been recruited to work in brothels, where they are sought by customers who believe them to be free of sexually transmitted infections. Girls are also exploited in prostitution at hotels, bars, rural truck stops, and in resort towns. Girls have also been forcibly sexually exploited by their teachers in exchange for favors, such as better grades.

Within Ethiopia, children are trafficked from Oromiya and SNNPR to other regions for forced or bonded labour in domestic service. Children are also trafficked from rural to urban areas for commercial sexual exploitation and street vending. Further, children are trafficked from rural areas to Addis Ababa to work in the weaving industry. Some reports indicate that children in the weaving industry in Addis Ababa face starvation, confinement, physical violence, and long hours of work.

1.4.3. Causes of Child Labour

The immediate reasons given for the engagement of children in productive activities are supplementing household income and assisting in household enterprises. Poverty is the apparent root cause for child labour both in rural and urban areas while family problems including death of one or both parents and divorce also contribute to the problem. The prevalence of harmful traditional practices like abduction, early marriage, and female genital mutilation, especially in rural areas, has also contributed to the situation by fueling migration and trafficking in children in to urban areas.

a) Poverty

The Ethiopian economy is predominantly agricultural with the sector accounting for 85 per cent of total employment. Production in the agricultural sector is a major part of the

---

18 MoLSA, 2001
19 See Save the Children Denmark, 2004
20 Forum for Street Children in Ethiopia, 2003

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
countries economy, contributing approximately 42% of the total gross domestic product (GDP) and 90 percent of export earnings in 2006.\textsuperscript{21} Agriculture is predominantly in the hands of small farmers working on individual small holdings mainly for household consumption. The main cash and industrial crops are coffee, oil seeds, pulses, cotton, sisal, tobacco, fruits and sugar cane. The industrial and service sectors including manufacturing, mining, hydropower, trade, tourism, and construction make up the remaining 53 per cent of GDP. Until 2005, the share of the industrial sector has not exceeded 14% of GDP and the manufacturing sub-sector (cottage industry, small and micro enterprises and medium and large scale manufacturing industries) constituted 5.5% of GDP and less than 5% total exports on average.\textsuperscript{22} The major manufactured export products include clothing and apparel, canned and frozen meat, semi-processed hides and skins, sugar and molasses, footwear, tobacco, beverages, oil cakes and bees wax.

<table>
<thead>
<tr>
<th>Sector</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>5 years average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>50.9</td>
<td>49.1</td>
<td>44.9</td>
<td>47.0</td>
<td>47.4</td>
<td>47.1</td>
<td>46.1</td>
<td>44.6</td>
<td>43.1</td>
<td>42.0</td>
<td>44.6</td>
</tr>
<tr>
<td>Industry</td>
<td>12.1</td>
<td>12.9</td>
<td>14.0</td>
<td>14.0</td>
<td>13.6</td>
<td>13.4</td>
<td>13.2</td>
<td>13.0</td>
<td>13.0</td>
<td>13.0</td>
<td>13.1</td>
</tr>
<tr>
<td>Services</td>
<td>38.0</td>
<td>38.6</td>
<td>41.7</td>
<td>39.7</td>
<td>39.7</td>
<td>40.4</td>
<td>41.7</td>
<td>43.5</td>
<td>45.0</td>
<td>46.1</td>
<td>43.3</td>
</tr>
</tbody>
</table>

\textit{Source: Ministry of Finance and Economic Development, 2010}\textsuperscript{23}

In 2003/2004 the country recorded a GDP Growth of 11.6% mainly because agricultural production improved significantly following two consecutive drought years (2001/02-2002/03).\textsuperscript{24} The growth registered during the last three years ending 2006 averaged 10.7 percent.\textsuperscript{25} According to the International Monetary Fund (IMF), Ethiopia was the fastest growing non-oil driven African economy in 2007 with a 10.5% GDP growth. The largest contributor to GDP growth was agriculture, which accounted for approximately 42% of the total GDP.\textsuperscript{26} The growth since 2006 has been broad-based, with industry, agriculture and services all expanding strongly. Though the economy is still dominated by agriculture, the sector’s share has shown some decline in recent years from a high of 56.7 per cent in 1996/97 to about 47 per cent of gross domestic product (GDP) in 2007. The sector grew by 9.4 per cent in real terms in 2006/07, down from 10.9 per cent in 2005/06.\textsuperscript{27} The share of industry in GDP, on the other hand, has grown from 10.3 per cent in 2000/01 to nearly 12 per cent in 2006/07. Industry recorded real growth of 11 per cent in 2006/07.

\textsuperscript{21} OECD, 2006 and AfDB/OECD, African Economic Outlook, 2008
\textsuperscript{22} PASDEP, 2005, pp. 149-150
\textsuperscript{23} Due to the differences between the Ethiopian and Gregorian calendars, the figures are for the latter half of the years, i.e. the figures for 2000 are officially stated as 2000/2001 and so on.
\textsuperscript{24} Ministry of Finance and Economic Development (MoFED), Development Planning and Research Department (DPRD), Annual Progress Report (2003/04), Addis Ababa, March 2005.
\textsuperscript{25} MoFED, Dec. 2006
\textsuperscript{26} OECD, 2006
\textsuperscript{27} AfDB/OECD, African Economic Outlook, 2008, p. 304
up from 10.2 per cent in 2005/06. Manufacturing grew by 10.5 per cent in 2006/07, while mining and quarrying grew slowly by 6.0 per cent, by 6.1 per cent.

Figure 1: Ethiopia - Trends in Per Capita GNI (1985-2006)

![Graph showing trends in Per Capita GNI](image)

Source: African Development Bank, 2008

Despite improvements in the overall economy, a recent report indicated that 23% of the population of the country still lives on less than one US dollar a day. The same report, income per capita in Ethiopia is also one of the lowest in the world at around 160 dollars. The Human Development Index for 2006 ranked Ethiopia 170 out of the 177 countries while the Human Poverty Index ranks the country 92 out of 95. The 2008 HDI for Ethiopia is 0.389, which gives the country a rank of 169th out of 179 countries with data.

Table 4: Ethiopia- Indicators of Human Development and Access to Basic Services (2000-2007)

<table>
<thead>
<tr>
<th>Indicators</th>
<th>2000</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>GNI Per Capita (US$)</td>
<td>130</td>
<td>110</td>
<td>130</td>
<td>160</td>
<td>180</td>
<td>...</td>
</tr>
<tr>
<td>Human Development Index Value (0 to 1)</td>
<td>0.349</td>
<td>0.367</td>
<td>0.371</td>
<td>0.406</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Rank (out of 174)</td>
<td>168</td>
<td>170</td>
<td>170</td>
<td>169</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Human Poverty Index (HPI-I) Value</td>
<td>56.5</td>
<td>55.3</td>
<td>55.3</td>
<td>54.9</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Share of Agriculture in Total GDP (%)</td>
<td>47.4</td>
<td>41.2</td>
<td>43.4</td>
<td>47.0</td>
<td>48.1</td>
<td>51.9</td>
</tr>
<tr>
<td>Growth of Value Added in Agriculture (%)</td>
<td>3.2</td>
<td>-11.4</td>
<td>17.3</td>
<td>13.4</td>
<td>5.0</td>
<td>9.0</td>
</tr>
<tr>
<td>Physician per 100,000 People</td>
<td>1.7</td>
<td>1.7</td>
<td>1.5</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Nurse per 100,000 People</td>
<td>6.8</td>
<td>12.3</td>
<td>13.7</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Hospital Beds per 100,000 People</td>
<td>11.6</td>
<td>14.2</td>
<td>20.0</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Daily per Capita Calorie Supply</td>
<td>1,803.1</td>
<td>1,855.0</td>
<td>1,840.0</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Incidence of Tuberculosis (per 100000 inhabitants)</td>
<td>307.4</td>
<td>344.4</td>
<td>344.1</td>
<td>343.9</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Prevalence of undernourishment (% of pop.)</td>
<td>...</td>
<td>46.0</td>
<td>46.0</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Underweight Children Under Age 5 (%)</td>
<td>47.2</td>
<td>46.0</td>
<td>37.1</td>
<td>38.0</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Under Five Mortality Rate (per 1,000)</td>
<td>168.6</td>
<td>158.2</td>
<td>154.9</td>
<td>151.7</td>
<td>148.5</td>
<td>145.3</td>
</tr>
<tr>
<td>Crude Birth Rate (per 1,000)</td>
<td>42.0</td>
<td>40.2</td>
<td>39.7</td>
<td>39.2</td>
<td>38.7</td>
<td>38.2</td>
</tr>
</tbody>
</table>

30 UNDP, 2008 Statistical Update: Ethiopia, Human Development Indices, 18 December 2008

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gjorgis@gmail.com
The available evidence indicates that the percentage of population living below national poverty line has continuously declined at the national level since the mid-1990s. National poverty measured by the headcount index has fallen by nearly 7 percentage points, from 45.5% in 1996 to 41.9 in 2000 and 38.7% in 2005. Since then, total poverty head count has decreased to 36.6% in 2006 and 34.6% in 2007. Similarly significant poverty reduction results are also indicated by figures real consumption expenditure per capita, which is a more potent measure of welfare. During the decade 1996 to 2005, per capita adult equivalent real consumption expenditure has increased by 17.4% over the decade which is equivalent to a 1.9% annual average increase in per capita adult equivalent real consumption expenditure.

Poverty has been identified as a significant push factor in children engaging in child labour. The high levels of engagement in labour activities among Ethiopian children have been attributed to high poverty levels prevalent in most parts of the country especially in rural areas where access to basic social services is severely limited. According to the Ethiopian Child Labor Survey conducted in 2001, 90% of the children working in productive activities were working to supplement family income. This is particularly true in the rural areas where higher proportion of rural children delivers their earnings to their parents. Furthermore, high levels of unemployment, lack of and/or limited opportunities to engage in economic activities and poor quality education are playing their part in exacerbating the problem.

Another related factor contributing towards the high levels of child labour in Ethiopia is the widely held conception of childhood which perceives children as economic assets at the disposal of the family. In Ethiopian communities, children are expected to contribute to the family income and child work is often viewed as part of the socialization process and an entry point into adulthood. This is particularly the case in rural areas where children generally begin to assist their parents and elders in economic activities and household chores at a very early age.

b) HIV/AIDS

Ethiopia ranks among the countries significantly affected by the HIV/AIDS pandemic with an official adult prevalence rate of 3.5% in 2005. In terms of trends over time, the national prevalence rate has reportedly peaked between 1998 and 2000 and stabilized since then. This trend reflects a stabilization of the epidemic between 1996 and 2000 in urban areas and between 1999 and 2001 in rural areas with urban prevalence showing signs of gradual decline since 2001. More recent estimates based on data from ANC

---

surveillance and the Demographic and Health Survey (DHS)\textsuperscript{33} reflect a less severe epidemic with adult prevalence estimated at 2.1% in 2006/07 (7.7% urban, and 0.2% rural).

\begin{table}[h]
\centering
\begin{tabular}{|l|c|}
\hline
\textbf{Indicator} & \textbf{Value} \\
\hline
Adults (15-49 years old) & 2.1\% \\
Women (15-49 years old) & 2.6\% \\
Men (15-49 years old) & 1.7\% \\
Urban (15-49 years old) & 7.7\% \\
Rural (15-49 years old) & 0.9\% \\
\hline
\end{tabular}
\caption{HIV Prevalence, 2007 (source: Single Point Estimate)}
\end{table}

\textit{Source: FHAPCO, 2007}\textsuperscript{34}

The total number of people newly infected during 2005 was reported at 128,922 or 353 new HIV infections every day on average.\textsuperscript{35} The total number of new AIDS cases during the year was estimated to be a total of 137,499 cases or about 344 a day showing a decline in urban areas following peaks during the previous two years. A similar trend of decline was also expected in rural areas based on rural trends approximating the urban experience since 2004.\textsuperscript{36} Again, females accounted for more AIDS deaths (54.5\%) and new infections (53.2\%) than males in 2005. Slightly lower rates of new infection and AIDS deaths were reported for 2007 with similarly higher numbers for women than men.

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|c|}
\hline
 & \textbf{Women} & \textbf{Men} & \textbf{Total} \\
\hline
New Infections & 72,033 & 53,494 & 125,528 \\
AIDS deaths & 40,744 & 31,158 & 71,902 \\
\hline
\end{tabular}
\caption{Annual New Infections and AIDS Deaths, 2007}
\end{table}

\textit{Source: HAPCO, 2007}\textsuperscript{37}

The 2005 estimates put the number of PLWHA in the country at around 1,320,000 with more females (730,000 or 55\%) than males (590,000 or 45\%) males during the same year.\textsuperscript{38} There were more women PLWHA within the most affected age group (15-29 years) while the number of men PLWHA was higher in the less affected higher age group (30+ years). On the other hand, the estimates for 2007 put the total number of people living with HIV at a much lower 977,394. In 2005, a total of 277,757 persons, including 213,306 (76.8\%) adults in the age group 15-49 years and 43,055 (15.5\%) children in the age of 0 to 14 years, were estimated to require ART.\textsuperscript{39} These numbers, which were anticipated to increase by around 73,000 in 2010, reached an estimated 258,264 in 2007.

\textsuperscript{33} The two exercises produced national adult HIV prevalence estimates of 1.4\% and 3.5\% respectively.
\textsuperscript{34} Federal HIV/AIDS Prevention and Control Office (FHAPCO), Single Point HIV Prevalence Estimate, June 2007
\textsuperscript{35} AIDS in Ethiopia, 6\textsuperscript{th} Edition, p. 23
\textsuperscript{36} AIDS in Ethiopia, 6\textsuperscript{th} Edition, p. 22
\textsuperscript{38} MoH/HAPCO, AIDS in Ethiopia, 6\textsuperscript{th} Edition, 2006, p. 25
\textsuperscript{39} AIDS in Ethiopia, 6\textsuperscript{th} Edition, p. 27

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
The HIV/AIDS pandemic has fueled a rise in the number of orphaned and vulnerable children. In 2002, the Ethiopian Federal Ministry of Health estimated that around 1.2 million children in Ethiopia have lost their mother or both parents to HIV/AIDS.\(^{40}\) However, much lower figures were reported for 2005 with AIDS orphans accounting for 744,100 of the estimated 4,885,337 orphans aged 0-17 years.\(^{41}\) Of the total number of AIDS orphans, 529,777 were maternal, 464,506 paternal, and 250,195 dual orphans. For total AIDS orphans, the number of dual orphans is subtracted from the sum of maternal and paternal AIDS orphans. The estimated number of orphans in urban areas has been greater than that in rural areas up to 2003; however, beginning in 2004, the number of orphans in rural areas is expected to exceed that in urban areas. In 2007, the number of children orphaned by HIV/AIDS was reported at 898,350 among a total of 5,441,556 orphans. The total number of AIDS orphans in Ethiopia is projected to increase until 2010 although the rate of increase is expected to lessen due to the impact of the planned ART services with the number of orphans in rural areas exceeding that of urban areas.\(^{42}\)

![Figure 2: Estimated and Projected Number of AIDS Orphans in Ethiopia, 1990-2010](source: MoH/HAPCO, 2006)\(^{43}\)

The sickness and death of parents and older siblings compels children to engage in labour to take care of sick family members, pay for their treatment, supplement family income and take care of younger siblings. This in turn increases their vulnerability to exploitative work.\(^{44}\) Children orphaned by HIV/AIDS and caring for HIV positive parents and siblings may be excluded from school further increasing their vulnerability to child labour and exploitation. One report stated that “School authorities refused admission of HIV positive

\(^{40}\) Ministry of Health, AIDS in Ethiopia, 4\(^{th}\) Edition, Health Disease Prevention and Control Department, 2002

\(^{41}\) AIDS in Ethiopia, 6\(^{th}\) Edition, p. 25

\(^{42}\) The estimated number of orphans in urban areas has been greater than that in rural areas up to 2003; however, beginning in 2004, the number of orphans in rural areas is expected to exceed that in urban areas.

\(^{43}\) AIDS in Ethiopia, 6\(^{th}\) Edition, Figure 4.7, p. 25

\(^{44}\) Save the Children Sweden, 2001

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
children because parents were not willing to send their children to schools unless such schools are “free’ from HIV infected children”.

Child labour, especially engagement in prostitution and domestic work, increase the susceptibility of the children to sexual abuse. In addition to the ever present danger of contracting HIV/AIDS inherent in prostitution, children living in prostitution are especially vulnerable to forms of sexual abuse including rape which increases their vulnerability. The susceptibility of children in the commercial sex market to HIV/AIDS is further aggravated by their low level of awareness about protection. Children working as domestic workers are also frequently exposed to sexual abuse. Girl children engaged as domestic workers are particularly susceptible to sexual harassment and abuse by male members of the employing family. On this point, a study commissioned by the ILO to assess the situation of child domestic workers in Addis Ababa concluded that “… a good proportion of girls, particularly those over 12 years of age, were sexually harassed, mostly by sons of the employers.”

c) Gender Related Causes

Gender inequality, the disempowered position of women and girls, is a characteristic feature of poverty in Ethiopia. Ethiopian women are economically, socially, culturally and politically disadvantaged in the enjoyment of equal rights, in accessing opportunities, decision-making processes, and basic resources/services. Macro-economic indicators of development for the country are consistently low for women. Based on gender related development benchmarks developed by UNDP, Ethiopia has earned a total GDI rank of 148 with index value of 0.393 in 2005 making it one of the least developed countries in terms of gender equality.

<table>
<thead>
<tr>
<th>Table 7: Ethiopia-Gender Statistics (2000-2006)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female School Teachers - Primary (%)</td>
</tr>
<tr>
<td>Secondary (%)</td>
</tr>
<tr>
<td>Economically active population ('000)</td>
</tr>
<tr>
<td>Female (as % of total)</td>
</tr>
<tr>
<td>Econ. active pop. in agric. (as % of Total)</td>
</tr>
<tr>
<td>Female (%)</td>
</tr>
<tr>
<td>Male (%)</td>
</tr>
</tbody>
</table>

Source: ADB, Selected Statistics on African Countries, 2008

45 Save the Children Sweden, 2001 quoting Wondwosen, 2000, p.35
46 Forum for Street Children in Ethiopia, 2003
47 Save the Children Sweden, 1997
48 Forum for Street Children in Ethiopia, 2003
49 Abiy Kifle, 2002
50 African Development Bank, 2008
Deeply ingrained gender disparities contribute to the vulnerability of girls to child labour in Ethiopia. The prevalence of harmful traditional practices like abduction, early marriage, and female genital mutilation, especially in rural areas, contribute to the problem by fueling migration and trafficking in girls into urban areas. As a result, girls are pushed into contexts like domestic work and child prostitution wherein the worst forms of child labour occur. Moreover, gender related factors play an aggravating role supplementing other causes.

d) Legal and Institutional

Legal factors, especially the absence of specific laws, policies for the protection of women and girls as well as effective implementation and enforcement mechanisms, also contribute to the prevalence of child labour in Ethiopia. In addition to the gaps in existing laws, institutional capacity limitations, awareness related problems and limited attention to child labour cases among law enforcement bodies have been identified as contributing factors. Moreover, due mainly to the limited awareness of perpetrators, child victims and other community members on existing laws and remedies on labour exploitation of children, incidents are rarely if ever reported to law enforcement and administrative bodies.

1.4.4. Effects and Consequences of Child Labour

The prevalence of child labour in Ethiopia has a detrimental effect on the realization of the fundamental rights of children including their right to education, health, and to rest, leisure and recreation. These children are denied the basic necessities for their holistic development to the extent that their childhoods are literally stolen. Generally child labour affects the physical, cognitive and social development of children and deprives them of education, knowledge, skills, and high self-esteem and childhood joy.

a) Health

Often the nature of the work and hazardous working conditions negatively impact upon the physical and mental health of the children. Higher levels of physical injuries, eyesight impairment, hearing impairment, and psychological stress are reported among children working in agriculture, mining, domestic weaving establishments, construction sites, auto repair garages and street work. These children are also subjected to recurrent emotional, physical and sexual abuse and exploitation with devastating consequences on their health. Some occupations like domestic work, street vending and child prostitution additionally expose the children to drugs, violence, criminal activities, reproductive health problems, and HIV/AIDS thereby seriously damage to their physical, emotional and social development. Malnutrition is another major health problem among most working children resulting in poor health, blindness, stunted growth, mental retardation, learning disabilities, and low working capacity. This already dismal situation is aggravated by denial of access to medical services and insufficient health care.
b) Education

The relationship between child labour and education is also an issue of concern. Significant negative impacts of child labour on school participation, enrolment, attendance and educational attainment have been documented in Ethiopia. For many children, engagement in economic activities precludes school attendance. According to the child labour survey, twice as many children who are not attending school are engaged in productive activities compared to those in school while nearly 30% of the children covered in the survey are not attending school for reasons related to engagement in economic activities. Delay and absence from school, and less time to study are some of the negative impacts that eventually result in low performance and forcing the children from dropping out of schooling.

c) Overall Development of the Child

At early stage children are sensitive to environmental influences and conditions that may hamper growth and development. Not only childhood, but also adolescence is a period that is critical for the physical, cognitive, social and emotional development of a person. Several studies have pointed out that most forms of child labour have adverse effects on the life and overall development of children. Long hours of work among working children directly imply denial of their right to leisure and recreation. Children working in the traditional weaving industry, as domestic workers and similar activities spend their day within the confines of the work room with very limited or no time for play. Consequently, they spend a childhood devoid of leisure and recreation impacting upon their overall development.

1.4.5. Child Labour and Violence against Children

Working children are subjected to a number of forms of abuse and exploitation. The most prevalent forms of exploitation and abuse experienced by victims of child labour are emotional, physical and sexual in nature.

a) Physical abuse and exploitation

The working conditions for most child workers are exploitative in terms of the type of work they do and their working hours. Child domestic workers usually take care of all the household chores including cleaning, washing clothes and preparing meals, preparation of food ingredients and taking care of younger children in the family. Domestic workers also work for long hours for consecutive days without rest. Child domestic workers in Addis Ababa on average work about 11 hours/day, seven days a week about 80 hours/week about two-fifth of without any fixed monetary consideration.\(^{51}\) Similarly, children working in the traditional weaving industry usually work 13 to 20 hours Monday through Friday almost all of them do not receive a salary.\(^{52}\) Other forms of physical abuse suffered by these children include overwork, denial of food, corporal punishment. Corporal

\(^{51}\) Abiy Kifle, 2002

\(^{52}\) World Vision Ethiopia, 2006
punishment of child workers by employers is a particularly prevalent phenomenon especially affecting the younger children.

b) Psychological and emotional abuse

Similarly, child workers recurrently experience emotional abuse that usually precedes physical abuse. According to the above quoted ILO assessment:  

“Children engaged in domestic work are not expected to have or develop initiative. …most employers of child domestics constantly and mercilessly criticize and belittle them and, no matter what strenuous jobs they accomplish, their employers do not recognize their good work. The lady mistress frequently treats them as scapegoat for all the problems encountered at home. Child domestics feel they have no respect at all in the home of their employers and have multiple bosses in the home”.

The abuse also takes the form of denial of sleep, lack of rest, discrimination and denial of contact with family members.  

c) Sexual abuse and exploitation

Working children especially susceptible to sexual abuse are child domestic workers and children living in prostitution. A survey of 84 children in Addis Ababa indicated that an estimated 60% of child domestic workers have been sexually harassed by the male heads of household or their sons. A similar study focusing on child commercial sex workers reported that they have been victimized by different forms of sexual abuse the most prevalent of which was rape.  

53 Abiy Kifle, 2002
54 International Organization for Migration, 2005
55 Forum for Street Children in Ethiopia, 2004
56 Forum for Street Children in Ethiopia, 2003
2. International Standards for Response to Child Labour

The international standards for national policy and legislative response to child labour are to be found in a series of international (i.e. UN) and regional agreements on human rights, women’s rights and child rights in general as well as more specific ILO conventions on issues more directly related to child labour. In some cases, the standards stipulated within these documents are elaborated by the various committees and other arrangements established to monitor implementation. However, one has to look at the prevailing international practice in the implementation of the international legal standards to get a clear idea of what is expected of States as well as for the purpose of coming up with actionable recommendations. Thus, this section will first set out the relevant instruments that need to be ratified to establish a basis for the national response to child labour and proceeds to outline more concrete standards of response based on international practice.57

The international standards and practice in responding to child labour may be seen in light of the nature of ‘work’ under the following areas:

- Responses to children working: children doing work that is neither hazardous to them nor to their educational prospects;
- Responses to the worst forms of child labour: children doing hazardous work; children being used in commercial sexual exploitation; and, children being used in slavery-like practices;
- Enforcing laws and implementing policies: the inability of institutions to enforce laws prohibiting child labour.
- Responses to harm done to children: to deprivation of education; to the physical and psychological harm done to child labourers

Each of these areas raise issues that cause varying degrees of concern and call for corresponding responses from States. In line with the objectives of the study, this section of the report reviews the international standards and good practices on the national level responses to children working and the worst forms of child labour. The issue of ‘Birth Registration’ is also dealt with due to its relevance to the protection of children vulnerable to and affected by child labor.

57 The presentation in this section draws significantly on a 2007 ILO study on policy and legislative responses to child labour in a number of jurisdictions including Ethiopia: “International Labour Organization, Modern Policy and Legislative Response to Child Labor, International Programme on the Elimination of Child Labour (IPEC), 2007”
2.1. Overview of Relevant International Human Rights Instruments

The first step in analyzing and presenting the legal framework for the national response to child labour is examining whether the country has ratified the major Conventions on child labour and related issues. Some of these instruments are general human rights and child rights instruments touching upon the issue of child labour as part of the overall international human rights framework. The others, which would be discussed in more detail in analyzing applicable standards to the response in subsequent sections, are conventions specifically referring to child labour in the more focused context of labour rights.

The principles underlying the international legal framework on child labour can be traced back to the UN CRC and the ACRWC, the second being directly relevant to the Ethiopian response. The Convention recognizes the right of the child “to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”. The second paragraph of this article spells out the corresponding obligations of States. These include a general obligation to “take legislative, administrative, social and educational measures to ensure” effective protection of this right, and three specific obligations, namely, to:

(a) Provide for a minimum age or minimum ages for admission to employment

(b) Provide for appropriate regulation of the hours and conditions of employment

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article

The Charter similarly provides that: “Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s physical, mental, spiritual, moral, or social development”. The second paragraph of this article recognizes the obligation of States to take legislative and other measures to protect this right, including the establishment of minimum ages for employment.

More specific standards on child labour are found in two International Labour Organization (ILO) Conventions and subsequent declaration governing members states of the organization. The ILO Minimum Age Convention, 1973 (No. 138) and ILO Convention on the Worst Forms of Child Labour, 1999 (No. 182), and their corresponding Recommendations Nos. 146 and 190, respectively, serve as the primary guide for defining child labour. ILO Convention No.138 establishes three age limits: 18 for hazardous work; 15 for full-time employment in non-hazardous work; and, 13 for ‘light’ work that does not interfere with education. However, each country is given some discretion to establish a list of the types of employment that are considered hazardous.

---

58 Convention on the Rights of the Child, Article 32
59 African Charter on the Rights and Welfare of the Child, Article 15

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
Countries whose economic conditions and educational system would make these age limits unrealistic may lower the minimum age for ‘light’ work to age 12 and for other non-hazardous work to age 14.

The ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labour also prohibits the employment of any person under the age of 18 in hazardous employment and, unlike Convention No. 138, it allows for no exceptions. The Committee on the Rights of the Child considers that the general obligation of the States Parties to the Convention on the Rights of the Child to set minimum age limits for employment should be interpreted and applied in the light of the age limits set forth in these ILO Conventions. In 1998 the ILO adopted a Declaration on Fundamental Principles and Rights at Work, which recognizes the abolition of child labour as one of the four basic principles that all Member States of the Organization are bound to respect. This supports the position that the abolition of the employment of children in work that is hazardous or deprives them of their right to education is a customary rule of international law that all members of the international community are obliged to respect.

In general, a meaningful response to child labour at the national level in the least requires that the country ratify the following international legal instruments most of which are UN and ILO Conventions:

- UN Convention on the Elimination of all Forms of Discrimination against Women (1979)
- United Nations International Covenant on Civil and Political Rights (1966);
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), (2000)\(^60\)
- ILO Convention 138/Minimum Age Convention (1973)
- ILO Convention 182/Worst Forms of Child Labour (1999)
- The Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict (2000)

Signature and ratification of instruments attached to the general human rights and child rights agreements as well as comparable instruments on human rights, women’s rights and child rights at the regional level are also important. Finally, the national response to child labour is greatly served by membership in the relevant international bodies mandated to respond to child labour, particularly the ILO.

2.2. Responses to Work by Children

The term ‘child labour’ does not refer to the whole range of work or economic activity by children. As used in the international legal framework and practice, it designates employment or work by children in contravention of applicable national, regional and international standards. The permissible range for the engagement of children is a function of the nature of the ‘work’, the age of the child, or the purpose of ‘work’ in relation to the interest of the child.

2.2.1. Birth Registration

Birth registration is the official recording of the birth of a child by some administrative level of the State and coordinated by a particular branch of government. It is a permanent and official record of a child’s existence. The Convention on the Rights of the Child provides that “the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents”. The Convention also indicates that the right to name, nationality and family relations form part of the right to identity, and that “[w]here a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.”

The African Charter on the Rights and Welfare of the Child similarly provides that “every child shall be registered immediately after birth”.

The Human Rights Committee has interpreted these provisions explaining birth registration “should be interpreted as being closely linked to…special measures of protection and it is designed to promote recognition of the child’s legal personality” and “[t]he main purpose of the obligation to register children after birth is to reduce the danger of abduction, sale of or traffic in children, or of other types of treatment that are incompatible with the enjoyment of [their] rights....”.

Ideally, birth registration is part of an effective civil registration system that acknowledges the existence of the person before the law, establishes the child’s family ties and tracks the major events of an individual’s life, from birth to marriage and death. The data registered should include: the place and date of birth; the name and sex of the child; and, the name, address and nationality of both parents. In some countries, information concerning the health of the child (for example, birth-weight or immunization status) is recorded.

---

61 Convention on the Rights of the Child, Article 7
62 Convention on the Rights of the Child, Article 8
63 African Charter on the Rights and Welfare of the Child, Article 6/2

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
Personal identifying marks such as footprints are registered in some countries as a precaution against sale, trafficking, irregular adoption or immigration fraud.

2.2.2. Work Done by Children

Work done by children refers to all economic activities and tasks performed by children, whether paid or unpaid, within the family, for a third party or independently. The international standards applicable to the boundaries between permissible ‘work’ or ‘economic activity’ for the engagement of children and the non-permissible realm of child labour refer to legal and policy obligations in three areas: defining the scope of work, setting the minimum age for entry to work, and enforcement of the standards established. In addition to these clear international standards, the practice among states reveals a set of policy and legislative measures that enhance the response to work by children.

a) Defining the Scope of Work

The ILO’s Minimum Age Convention, 1973 (No. 138) requires that each ratifying state specify “a minimum age for admission to work or employment”. The reference to work or employment has been interpreted as broadly applicable to any work done by persons below a specified age without distinction as to the existence or absence of an employment relationship or whether work is paid or unpaid making even unpaid work conducted in an informal setup subject to the minimum age rules set by the Convention. However, the international standards permit developing countries to set limits on the branches of economic activity to which the minimum age applies, as long as certain basic industries are covered and well justified. In practice, distinctions are more often made with respect to children working in different types of activities and in particular sectors of economic activity, with restrictions being tightened or relaxed according to the type of work in relation to the child’s age. Work is thus categorized into such groups as family enterprises, particular types of enterprises or sectors of economic activity or into “hazardous work” and “light work”.

b) Setting the Minimum Age for Entry to Work

Once work has been categorized, the next level of response is to set a minimum age for entry to that work. Convention No. 138 calls for a general minimum age of 15, as well as minimum age levels for admission to light work and hazardous work. Developing countries are allowed to set a lower general minimum age at fourteen. It also requires that, where there is compulsory schooling, the general minimum age not be less than the end of compulsory schooling.

---

64 Convention 138, Article 5(3): Mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes.

65 Domestic work is unfortunately often excluded from the scope of protective labour law, creating ambiguity as to the applicable minimum age for entry to work in this sector.

66 Some developing countries that have difficulty in enforcing a minimum age of 15 have taken advantage of the ILO standard’s flexibility by setting a minimum age of 14 while others have set the general minimum age at 15 or even higher.
Table 8: Summary of Minimum Age Provision of Convention No. 138

<table>
<thead>
<tr>
<th>General minimum age</th>
<th>Light work</th>
<th>Hazardous work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal Circumstances</td>
<td>15 years or more (no less than compulsory school)</td>
<td>13 years</td>
</tr>
<tr>
<td>Where the economy and educational facilities are insufficient</td>
<td>14 years</td>
<td>12 years</td>
</tr>
</tbody>
</table>

Source: ILO Area Office & EAMAT, 2002

The international practice among States and jurisdictions indicates that the minimum age for entry to work may be phrased in different ways within a piece of legislation. The most widely used approach, which follows the international standard, is to establish a basic minimum age, with or without explicit reference to the end of compulsory schooling, and then to create exceptions to that minimum ensuring that compulsory schooling obligations, if they exist, are respected. In line with the international standard, legislation setting a basic minimum age in a country where compulsory schooling also exists, commonly includes a requirement that the age for completion of compulsory education correspond to the minimum working age, stating that a child must attain the required minimum age and have completed compulsory schooling before entry to employment.

c) Sanctions for Infringement of the Minimum Age

Convention No. 138 calls for “all necessary measures, including the provision of appropriate penalties” to ensure the effective enforcement of a minimum age for entry to work. Treating children as victims, legislative practice typically makes the user of underage labour liable to sanction for violation of minimum age provisions. Where children are working on their own account, policy and legislation do not typically call for the sanctioning of working children. In some countries, administrative penalties are imposed on those who use child labour, although the alleged perpetrator may still be arrested and charged with a criminal offence engendering a possible penal sanction. In many countries, it is a crime, subject to criminal penalties, including imprisonment, to use child labour especially if the worst forms of child labour are concerned.

d) Policy and Legislation to Enhance Response

Some policy and legislation go beyond the mere setting of a minimum age for entry to work or employment.

Raising the minimum age: Upon ratification of Convention No. 138, countries undertake to give effect to the idea of progressively raising the minimum age for entry to

Administrative penalties are sanctions imposed by administrative, as opposed to judicial, authorities and do not usually involve imprisonment. Labour inspectors, for example, typically have some authority to issue an order that an employer take some action, without the need for a formal hearing. The required action might be, for example, to correct a condition of work at the workplace – such as the use of underage employees in hazardous work – or to pay a fine, or both.
employment. While the international practice is by no means consistent on this point, ratification of Convention No. 138 has resulted in the formulation of national policy specifically incorporating the objective of increasing the minimum age.

**Limiting the capacity to contract:** Besides having policies and laws preventing persons younger than a set age from being employed or working, some countries make special provisions to limit the possibility of such persons entering legally into a contract of employment. To a certain extent, a provision regulating the capacity to contract may serve to set the minimum age for work.\(^{68}\)

**Strengthening methods of documenting and ascertaining age:** A clear response to the use of children in work generally assumes that the age of the child is known and verifiable. Typically, employers are required to keep a register of employees less than 18 years of age, along with their birth dates assuming that such can be established. Ideally, this begins with registration at birth.\(^{69}\)

**Raising awareness:** Some countries have set down policy or legislation aimed at raising awareness of the issue of children working in general, in addition to the worst forms of child labour. A good starting point in many countries for raising awareness of child labour is the formation of an interdepartmental or inter-ministerial committee, a tripartite national steering committee to coordinate child labour activities in the country or a tripartite committee including representatives of civil society. In some cases, a plan for raising awareness of child labour is explicitly set out in the national child labour policy or plan of action, underscoring the value of such efforts.

### 2.2.3. Children Doing Light Work

It is widely acknowledged that, while a minimum age for work needs to be enforced, there are cases where children’s work, under certain conditions, causes no harm to their health or well-being nor hinders their schooling. This type of work is termed “light”, and may be regarded as acceptable or even beneficial to the child’s development.

**a) Definition of light work**

The ILO Convention No. 138 sets the standard distinguishing between child labour and “light work”, stating that:\(^{70}\)

> National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is

---

\(^{68}\) Modern practice suggests that the choice is between making the contract unenforceable, making the contract null and void or making it possible for the contract to be annulled at the request of the parties. In such cases, the law generally provides that the young person is nevertheless entitled to accumulated wages and benefits and that the employer should pay them.

\(^{69}\) A system of birth registration is essential not only for regulating the minimum working age, but also for many other aspects of children’s rights (e.g. education).

\(^{70}\) ILO Convention No. 138, Article 7, section 1
(a) not likely to be harmful to [children’s] health or development; and

(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

While Convention 138 provides flexibility for countries to establish a younger minimum age for children to partake in “light work”, it requires countries’ minimum age laws to ensure that no person under 18 is allowed to be employed in “hazardous work”.

The definition of light work, where the concept has been applied, varies among countries and jurisdictions. Some countries adopt this standard without any significant changes while others additionally insert virtually concepts such as: not harmful to “safety”; setting an absolute limit on the number of hours worked, or a limit on hours in a work day or work week if the work involved is to be considered “light”; or allowing children from a certain age to do occasional light work in enterprises where only members of the family of the proprietor are employed. In some cases national legislation may omit an element, such as that relating to the capacity to benefit from instruction. In some cases, lists of occupations identified as light work are drawn up specifying that children may not be employed in any occupation other than those included on the list. Alternatively, the types of work that are not considered “light” are listed.

b) Setting minimum ages and conditions for light work

International standards provide that children from age 13, and exceptionally age 12 where the general minimum age is 14, may be allowed to do light work, as defined above. National laws are developed according to this benchmark, often stated in combination with the conditions only under which such work may be undertaken.

There are at least two ways of setting out conditions under which persons younger than the basic minimum age are permitted legally to do “light” work. The first is to establish that the work is “light” by designating it so – by way of a definition or a list of permitted tasks or occupations, for example – and then attaching conditions. The second is to declare work as “light” only if it meets certain conditions.

The conditions that the work neither harm the child nor interfere with his or her schooling are the minimum requirements in terms of international standards. Other conditions include:

– prohibiting the work being done during a period falling during the night;

---

71 This term is to be defined by each country, based on the guideline that “hazardous work” by its very nature or the circumstances in which it is carried out is likely to jeopardize the health, safety, or morals of young persons (ILO, 1973b).

72 Certainly, there is no obligation on States to allow work to be done by children under the set basic minimum age; a single basic minimum age for entry to work would be sufficient.
requiring that the work be done only during daytime hours;

– limiting the number of hours that may be worked during a day;

– limiting the number of hours worked per week;

– requiring rest periods during stretches of work;

– requiring the consent of a parent or legal representative.

Countries’ responses to violations of the rules governing light work are similar to those for violations of other rules governing the employment and work of children. Penalties may include a fine or a fine and the possibility of imprisonment.

2.2.4. Children Working as Part of Training or Education

Children sometimes do work as part of formal training or education programmes. There are also cases where children do work for training purposes outside of formal arrangements and undertakings but in circumstances considered locally to contribute to the training and development of children’s capacities. Permitting children to work under such circumstances is typically part of an educational policy designed to improve the child’s future employability. Since this work is part of a formal curriculum, it often automatically entails certain conditions or requirements that limit its use and the possibility of exploitation.

a) Definition of training or education

ILO Convention No. 138 responds on two levels to children doing work as part of formal training or education. First, it states that the Convention does not apply “to work done by children and young persons in schools for general, vocational or technical education or in other training institutions.” Second, the Convention does not apply to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist, and is an integral part of:

(a) a course of education or training for which a school or training institution is primarily responsible;

(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or

(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

73 ILO Convention No. 138 (children doing work as part of formal education and training)
74 ILO Convention No. 138 (apprentices)
In practice policy and legislation strictly defines training or education and the manner in which work relates to it, with a view to ensuring that the work is bona fide, namely that it is actually for the purpose of training or education. The relevant international practice generally permits children’s work in situations where work is part of education or training even where it is not a fully integrated part of the formal education or training programme. This may, for instance, include: work done by a child in his or her last year of compulsory schooling in pursuance of an arrangement made or approved by the education authorities; or, work done by children in technical schools supervised by a person authorized by the Minister responsible for labour. Legislation may authorize the educational authorities to provide for directives on these issues or simply exempt such situations from the application of the minimum age for entry to work.

b) Limiting and setting conditions on children’s work in connection with training or education

Most jurisdictions set limits or conditions on work done in the context of training or education. These can be time limits, limits on types of work or limits of other kinds, such as:

- requiring that work done as part of training or education be neither physically nor morally harmful nor disruptive to education;
- prohibiting young workers, even if they are apprentices, from doing hazardous work;
- authorizing the lifting of limitations on hazardous work in the case of persons under the age of 18 in training, provided health and safety legislation is respected;
- removing the minimum age for work in vocational schools where, for example, the schools have been approved and inspected by the competent authorities.

Violations of the rules defining or setting limits and conditions on children’s work in connection with training or education are often times sanctioned with suspension of contracts of apprenticeship or fines and penal sanctions.

2.3. Response to the Worst Forms of Child Labour

The international community’s response to children engaging in the worst forms of child labour was first to reach a consensus on what those worst forms were and then to indicate what needed to be done as a priority to eliminate them. The result was the ILO’s Worst Forms of Child Labour Convention (No. 182), adopted in 1999. Convention 182 prohibits the following:75

1. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.

75 ILO Convention No. 182, 1999, Article 3(d)
2. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.

3. The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

4. Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Recommendation No. 190 on the Worst Forms of Child Labor regarding Hazardous Work under of Convention No. 182 defines hazardous work as:

- Work which exposes children to physical, psychological or sexual abuses;
- Work underground, under water, at dangerous heights or in confined spaces;
- Work with dangerous machinery, equipments and tools, or which involves the manual handling or transport of heavy loads;
- Work in unhealthy environment which may, for example, expose children to hazardous substances, agents, noise levels, or vibrations damaging to their health; and
- Work under particular conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

The current criteria for identifying child labour used by the ILO's Statistical Information and Monitoring Program on Child Labour (SIMPOC) for its global child labour estimates is;\(^6\)

A child under 12 who is economically active for 1 or more hours per week,

A child 14 and under who is economically active for at least 14 hours per week,

A child 17 and under who is economically active for at least 43 hours per week

A child 17 and under who participates in activities that are "hazardous by nature or circumstance" for 1 or more hours per week

A child 17 and under who participates in an "unconditional worst form of child labour" such as trafficked children, children in bondage or forced labour, armed conflict, prostitution, pornography, illicit activities.

---

\(^6\) ILO, Defining child labour: A review of the definitions of child labour in policy research, 2009, p. 19

Ghetnet Metiku WoldeGiorgis  
Socio-Legal Researcher  
E-mail: gmgiorgis@gmail.com
The ILO Convention 182 place a requirement upon states parties to eliminate the worst forms of child labour and establish a monitoring mechanism for the relevant national provisions implementing the Convention, including appropriate penal sanctions.\textsuperscript{77} Moreover, the Convention calls upon states parties to adopt the necessary measures that enable the prevention of child engagement in the worst forms of child labour, and provision of assistance with the aim of avoiding children being exploited, guaranteeing their rehabilitation and social integration, including their access to free education, and, finally, taking into special consideration the situation of children at risk and of young girls.

At the national level, States have begun to take policy and legislative action to address the worst forms of child labour. The first response has been to identify what constitutes the worst types of work and, typically, to set absolute prohibitions on that work being done by persons under the age of 18. But modern practice goes beyond a simple legislative response, most notably in the development of time-bound programmes whose aim is the elimination of the worst forms of child labour.

2.3.1. Defining the worst forms of child labour

The UNCRC provides a very general definition of the worst forms of child labour and outlines the obligations of States Parties to the Convention to address the problem. The relevant provision of the Convention reads:\textsuperscript{78}

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

The worst forms of child labour have been defined in more detail under the ILO Convention No. 182. The international definition distinguishes between two forms. The

\textsuperscript{77} Articles 5, 6, and 7, ILO Worst Forms of Child Labour Convention No. 182, 1999

\textsuperscript{78} UN Convention on the rights of the Child (1989), Article 32
Study on Child Labor in Ethiopia
March 1, 2010

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com

Page 40 of 95

first relates to “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”. The other – unconditional – worst forms of child labour are defined explicitly in the Convention as:79

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

The first form of the WFCL, usually referred as “hazardous work”, is subject to elaboration and clarification nationally.

2.3.2. Hazardous Work

Countries’ first line of response to “hazardous work” has been based to a large extent on the provisions of Convention No. 138. This involves policy and legal stipulations that admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years”.

a) Defining Hazardous Work

Conventions Nos. 138 and 182 leave States to determine in their national laws or regulations the types of employment or work that should be considered “hazardous”. Convention No. 138 also allows for the limited possibility of young persons being authorized to do such work from the age of 16 on condition “that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity”.80 Moreover, since Convention No. 182 has defined “hazardous work” as one of the worst forms of child labour, to be tackled urgently, States are expected to put in place elaborate policies and legislation defining and prohibiting hazardous work.

While they have done so in most cases, national policy or legislation in some jurisdictions simply states that a certain type of work is prohibited to persons under a particular age, often 18 years. In such cases, further provisions place additional prohibitions on particular types of work, although the age is set at less than 18 years. Definitions of what constitutes ‘hazardous work’ may take the form of categories of work considered hazardous, listing

79 Article 3, ILO Worst Forms of Child Labour Convention No. 182, 1999
80 Convention No. 138 (conditions under which older children may be authorized to do ‘hazardous work’)
of hazards or risks, or listing of characteristics constituting hazardous work. There are also cases where legislation mandates an administrative authority to define hazardous work.

The laws of a few countries go further than the general definition of ‘hazardous work’ and provide a gender specific definition that targets specific sectors or types of hazardous work with reference to gender. These may, for instance, include rules setting lower limits for the weights girls are permitted to handle than those for boys; prohibiting the engagement of girls in some types of work while boys may do so before attaining 18 years of age; or, maintaining a list of hazardous work applicable to women and both boys and girls under 18. However, the general trend in international practice is providing for separate legislations for the protection of adult women based on the need for maternity protection from those for children. This is in line with the provisions of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

b) Consultation with the social partners

Both ILO Conventions Nos. 138 and 182 require that governments consult employers’ and workers’ representatives in determining the types of hazardous work and fixing the minimum age of 18 for such work. Many countries, following ratification of one or other of these Conventions, have shown a willingness to follow the international standard. In some countries, tripartite consultation can take place either ad hoc or in accordance with legislative requirements for consultation on any provisions dealing with young workers. Often times, these provisions for consultation are stated with limitations as to the social partners to be involved, their roles and issues up for consultation.

c) Prohibiting the use of children in hazardous work

Once work is defined as being hazardous, modern practice prohibits young persons, defined internationally as a person of less than 18 years, from doing the work. The manner in which the prohibition is set out differs from country to country, although there seem to be four main styles: The first style, exemplified in the French legal tradition, prohibits the employment of underage persons in specific types of hazardous work, including:

- employing an apprentice to do work that is harmful to health or beyond his or her capabilities;
- engaging underage children in dangerous stunts or other activities that endanger their lives, health or morality;
- using underage children in activities involving machinery that is specifically listed;
- engaging underage persons in the use of steam pressurized vessels;
- work with liquefied gas, patching machines, combustible liquids, etc.

81 ILO Conventions Nos. 138 and 182 (articles calling for consultation in determining what constitutes ‘hazardous work’)

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
The second style phrases the prohibition more broadly, applying it, for example, to: work that is harmful to health and development, dangerous or immoral; underground work or work in mines; work at night; work in places that sell alcoholic beverages or tobacco products. The third style describes the class of hazardous work. For example, in Nicaragua, adolescents are prohibited from doing:82

“any type of work performed in unhealthy places or which poses a risk to life, health or physical, psychological or moral integrity, such as work in mines, underground, as scavengers, in places of nighttime entertainment [or] involving the handling of dangerous objects or toxic substances”.

The fourth style, which follows the international standard but without specifying the types of work concerned, simply prohibits the employment of underage persons in any work that by its nature or the circumstances under which it is done is likely to cause injury to their health, safety or morals.

d) Action to address hazardous work by children

International legislative practice makes the user of children in hazardous work liable to action and penalty for violation of rules relating to prohibition of hazardous work by children or work that is harmful to their health. The penalties include administrative action as well as penal sanctions in the form of fines or imprisonment or, in most cases, both. In some countries, the sanctions for the use of children in hazardous work depend on the consequences of that use. Moreover, criminal laws usually provide penalties for child endangerment, child abuse, ill-treatment, neglect, abandonment or exposing a child in a manner likely to cause unnecessary suffering or injury that are applicable to cases of hazardous work by children. These may be used concurrently with specific provisions on child labour where such exist or as sole redress measures where there are no such specific provisions in the labour laws or criminal laws.

e) Conditions for Engagement of Children in Hazardous Work

Convention No. 138 allows for the possibility of persons from age 16 engaging in hazardous work under strictly protective conditions.83 In accordance with these permissive provisions, some countries permit persons aged 16 and over to do hazardous work, provided that, in accordance with international standards, measures are taken to ensure the protection of the child’s health, safety and morals. This is often done through granting the power to issue regulations in conformity with the requirements of Convention No. 138 to an administrative authority such as the Minister of Labour or of Social Welfare. Some countries require consultation with the social partners to determine the conditions under which workers below the age of 18 can do hazardous work in addition to putting in place safeguards to protect the young persons’ health, safety and morals. Others follow the international standard whereby persons 16 years and over are permitted to do
hazardous work on condition that they have received “adequate specific instruction or vocational training in the relevant branch of activity” before taking up the work.

f) Practical Action on Hazardous Work

Some countries have taken practical steps to respond to children doing types of work that are likely to jeopardize their health, safety or morals typically within the context of national plans of action to eliminate child labour target hazardous work. International practice in this respect involves the development of a multi-sectoral national strategy aimed at: the reinforcement of national capacities; familiarizing various actors with the issue of child labour and providing them with information; and, taking direct action through the withdrawal of children from work and their rehabilitation.

Nicaragua’s National Plan of Action [on Child Labor]

Basing itself on ILO Conventions Nos. 138 and 182 and the UN Convention on the Rights of the Child, Nicaragua’s National Plan of Action [on Child Labor] aims gradually to achieve the following outcomes:

- formulation of a national multi-sectoral policy aimed at the prevention and eradication of child labour and the protection of adolescent workers, within the framework of the Code of Childhood and Adolescence;
- giving special priority to eliminating the worst forms of child labour at the local level and those forms of work that are detrimental to the healthy development of boys, girls and adolescents and to the fulfillment of their rights enshrined in the Code of Childhood and Adolescence;
- prevention and eradication of child labour by focusing on the health, nutrition and education of boys, girls and families within their communities, in accordance with national and international principles and regulations that favour children’s full development, such as the Code of Childhood and Adolescence;
- protection of working adolescents in their communities by focusing on their health and educational needs as expressed by them, by keeping them out of situations that can affect their moral, social, psychological and physical development and by promoting their rights, in accordance with national and international principles, laws and covenants;
- making the public aware of the effects of child labour, with emphasis on girls and young women;
- motivating local authorities to prioritize child labour within agendas for local development;
- harmonizing and promoting international cooperation on the prevention and eradication of child labour and on the protection of working adolescents.

Some countries target particular hazardous sectors involving hazardous work for practical action, such as mining, salt production, rubber plantations and the fishing/shrimp-processing industries. Furthermore, practical action can include using the incidence of child labour as a monitoring indicator for the National Poverty Reduction Strategy.
2.3.3. Slavery and Similar Practices

The worst forms of child labour in the world today include slavery, i.e. ownership of children and exploitation of their labour, and similar practices. The ILO’s Convention No. 182 specifically acknowledges this and includes in its definition of the worst forms of child labour slavery and similar practices, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.

The modern response to these types of child labour goes beyond a mere broad prohibition and involves carefully defining the practices to be fought, prohibiting them clearly and comprehensively, acting against those contravening these prohibitions, and taking practical action to ensure the prohibition and elimination of the practices that fall under these worst forms of child labour. It should be underlined that legislative action against such practices commonly falls within the penal law system, rather than labour laws and regulations.

a) Definition and Prohibition

The outlawing and prohibition of slavery is common to the laws of countries around the world. The relevant international legislative practice involves the prohibition of slavery in all its forms, including the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict. While some countries prohibit and penalize the act of holding a person in slavery or of depriving a person of liberty or of trading in persons, some also have measures specifically targeting those using persons deprived of liberty for labour or service. Usually, the definition and prohibition of slavery appear together, setting out at the same time what it is that is outlawed.

b) The Sale of Children

Some countries treat the sale of a child as a separate offence while others refer to taking part in the actual transaction aimed at the trafficking of a child in their response to trafficking. In some cases, a basic prohibited act is established and applicable to all persons, with subsequent provisions introducing adaptations to the act or the penalty in situations where children or minors are involved. The consequences of selling children are usually severe involving penal sanctions in the form of fines and imprisonment.

c) Trafficking in Children for Labour Exploitation

Trafficking in human beings, be they adults or children, is a phenomenon increasingly addressed under international law. The Convention on the Rights of the Child provides that “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”. An internationally accepted definition is given in the Palermo Protocol,

---

84 Article 35 of the Convention on the Rights of the Child

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
supplementing the UN Convention Against Transnational Organized Crime. According to the Protocol, trafficking in human beings is:  

\[85\]  
the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.  

\[Exploitation \ shall \ include, \ at \ a \ minimum, \ the \ exploitation \ of \ the \ prostitution \ of \ others \ or \ other \ forms \ of \ sexual \ exploitation, \ forced \ labour \ or \ services, \ slavery \ or \ practices \ similar \ to \ slavery, \ servitude \ or \ the \ removal \ of \ organs.\]  

The Palermo Protocol specifically addresses the trafficking of children, stating that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered “trafficking in persons” even if it does not involve any of the means set out as being applicable where adults are involved.  

\[86\] A child is defined as being “any person under eighteen years of age”. Thus, where a child under 18 is involved, trafficking in persons has occurred where he or she has been recruited, transported, transferred, harboured or received by persons for the purpose of exploitation, as defined.  

In addition to calling for comprehensive policies and programmes to prevent trafficking in persons, especially women and children, the Palermo Protocol and the parent Convention contain detailed provisions on the obligation of legislatures to enact laws against trafficking, on law enforcement and on the treatment of victims. The provisions concerning law enforcement deal with:  

\[- the \ exchange \ of \ information \ between \ law \ enforcement \ agencies \ concerning \ persons \ and \ groups \ suspected \ of \ international \ trafficking \ and \ the \ means \ and \ methods \ used;\]  
\[- border \ controls;\]  
\[- the \ security \ of \ identity \ and \ travel \ documents; \ and\]  
\[- the \ training \ of \ law \ enforcement \ and \ border \ control \ authorities.\]  

The Protocol also contains detailed guidelines regarding the repatriation of victims of trafficking to their country of origin (articles 7 and 8).

---

85 The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), Article 3(a)  
86 The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), Article 3(c) and (d)
Many states have relied on the Palermo Protocol to draft appropriate legislation. Yet, in some instances, trafficking with a view to sexual exploitation is the main or exclusive focus of a response, distinct from measures against trafficking for other purposes while in others the legislation covers the trafficking of women and girls, but not boys. The consequences for persons caught trafficking are usually severe fines and imprisonment with the penalties almost invariably increased where the victims are children.

d) Debt Bondage
Most countries have provided for provisions dealing with debt bondage in policy and legislation, usually in the form of a general prohibition of debt bondage without specific reference to children. Such general prohibitions have been criticized as failing to deal with the intergenerational aspect of debt bondage involving the automatic passing of a debt from parent to child effectively holding children in a continuing state of forced labour. In other cases, the laws do not specifically provide for debt bondage but apply provisions on forced labour. The consequences for the users of bonded labour, which again normally apply to all cases including those involving adults and children, are usually severe criminal penalties.

e) Serfdom
Convention No. 182 uses the wording “to eliminate all forms of slavery, including serfdom” in defining the worst forms of child labour. However, serfdom is rarely defined in modern legislative practice. Almost in every jurisdiction, the issue is understood as synonymous with forced labour or slavery and dealt with accordingly.

f) Other Forms of Forced or Compulsory Labour
Forced or compulsory labour is legally defined and effectively prohibited in almost all countries of the world. However, the relevant laws and policies of most countries treat the practice in general terms and do not specifically refer to children. The consequences for the users of forced or compulsory labour are almost always severe criminal penalties, i.e. fines and imprisonment, with some legal systems imposing more severe punishments where children are exploited.

g) Forced Child Soldiering
The Convention contains standards concerning the participation of children in armed conflicts and the recruitment of children:

- States shall not recruit any person under the age of 15 into any branch of the armed forces.
- A State that recruits persons between the ages of 15 and 18 should begin with those closest to age 18.
- States must take all feasible measures to prevent the direct participation of persons under the age of 15 in hostilities, whether on the side of the government or in the ranks of any other armed group.
Strengthening this provision, an Optional Protocol to the Convention on the use of children in armed conflict was adopted in 2000 in order to allow States to make greater commitments to the protection of children from participation in armed conflict and recruitment into the armed forces. It entered into force in 2002 and provides in part that:

- Recruitment of persons under the age of 18 shall be strictly voluntary
- Non-governmental armed groups shall not, in any circumstances, recruit persons under the age of 18, nor use them in hostilities
- States shall provide children who have participated in armed conflict, in violation of the Convention or the Protocol, with any necessary physical and psychological rehabilitation and support for reinsertion into society

International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour also requires States parties to adopt penal or other sanctions against child prostitution and pornography. Like the Optional Protocol, it requires that legal provisions that protect children against sexual exploitation apply to all persons under the age of 18. It has been ratified by more than 147 States.

Convention No. 182 lists forced or compulsory recruitment of children for use in armed conflict, either by the State as part of a policy of national military service or by paramilitary or non-State elements within society as part of attempts to overthrow established regimes, as one of the worst forms of child labour. While some States have eliminated obligatory military service altogether, others have specifically responded to the forced recruitment of children for use in armed conflict. These specific responses include:

- setting a minimum age for recruitment into national military service that rules out recruitment of persons under the age of 18 years;
- permitting compulsory military service by persons under the age of 18 years, but ensuring that such conscripts are not used in armed conflicts; and,
- ensuring that any person under the age of 18 years who enlists in the armed services does so voluntarily, where there is the possibility that he or she may be used in armed conflict.

With respect to forced recruitment by non-State organizations, countries have established policies and laws defining, prohibiting and penalizing such practices. In a few countries, the prohibition of forced recruitment into “foreign military service” is placed within the law prohibiting trafficking and applies to all persons. The consequences of forcibly recruiting children for their use in armed conflict are almost always severe criminal penalties, i.e. fines and imprisonment.

---

87 Convention 182, Article 3(a)
International Protection Standards on Sexual Abuse and Exploitation of Children

The Convention on the Rights of the Child

Article 34 of the Convention provides that:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;
(b) The exploitative use of children in prostitution or other unlawful sexual practices;
(c) The exploitative use of children in pornographic performances and materials.

The Optional Protocol on the sale of children, child prostitution and child pornography

An Optional Protocol on the sale of children, child prostitution and child pornography was adopted in May 2000 and entered into force in January 2002. Whereas the Convention emphasizes the prevention of sexual exploitation, the Protocol emphasizes the criminalization of child prostitution and pornography and requires that any participation in these acts, including attempt and conspiracy, be subject to penalties that take into account the gravity of these offences (article 3). It also requires States to close any premises used for child prostitution and pornography and seize and confiscate the proceeds of such activities, as well as any means used to commit or facilitate them (article 7) and contains detailed provisions concerning the treatment of victims.

ILO Convention No. 182

International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour also requires States parties to adopt penal or other sanctions against child prostitution and pornography. Like the Optional Protocol, it requires that legal provisions that protect children against sexual exploitation apply to all persons under the age of 18. It has been ratified by 147 States.

2.3.4. Children in Prostitution

International standards provide that the worst forms of child labour include the use, procuring and offering of children for prostitution. Modern policy and legislative practice involves carefully defining the phenomenon to be fought, establishing clearly its prohibition, taking action against the exploiters of children in prostitution and taking practical action to prevent child prostitution. Like Convention No. 182, which defines the use of a child in prostitution as a worst form of child labour, national responses to the

88 Convention 182, Article 3(b)

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
phenomenon often refer to it as child sexual abuse and exploitation, which also includes the involvement of children in pornography and pornographic performances.

a) Definition and Prohibition

In the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, “child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration”. The relevant policy and legislative practice defines the use of children prostitution broadly, to include the use of children, as well as their procurement or offering. Direct responses to children in prostitution establish crimes committed by:

- those who pimp, procure or otherwise induce children into prostitution;
- the users (clients) of prostitution involving children; and,
- those who derive a profit from children engaged in prostitution.

With respect to the procuring of children for prostitution, legislative provisions often make connections to trafficking in children, to pornography involving children or to both. Distinctions among legal systems include:

- Existence or absence of gender-based distinctions in the definition of prostitution usually limiting the conception to girls and women;
- Broad definition of sexual contacts or narrow understanding as consummation of sexual intercourse; and,
- Broad definition of ‘prostitution’ as the idea of a person’s body being offered for sexual gratification for hire, either in money or in kind, or narrow conception as a list of particular acts.

With respect to adult persons making profit from the use of children in prostitution, policy and legislative measures for the most part provide for profiting from prostitution generally. Child prostitution is thus dealt with as part of these general provisions. In a few cases, there may be measures deal specifically with child prostitution.

---

89 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (article defining ‘child prostitution’)

90 Sexual relations between an adult and a person below a specified age (referred to as statutory rape in the common law tradition) are commonly held to be a criminal offence, whether or not money or things of value are exchanged and irrespective of consent; the view being that children are not capable of giving consent recognizable in law to such relations.

91 Gender-based distinctions are not good practice since the harm caused by sexual relations in the context of prostitution or otherwise involving young persons is not gender dependent, and boys must be protected from this kind of exploitation, too.
The penalties provided for general provisions on prostitution often involve administrative sanctions as well as judicially imposed fines and imprisonment. However, children’s involvement in prostitution, either defined as such or as a form of sexual exploitation, entails more serious criminal penalties.

b) Supporting International Efforts against Child Prostitution

The international policy and legislative practice concerning international cooperation to combat child prostitution revolves primarily around the trafficking of children for the purposes of prostitution and action against sex tourism, by making related offences punishable even when committed abroad.

2.3.5. Pornography and Pornographic Performances

The worst forms of child labour also include the use, procuring or offering of a child for the production of pornography or for pornographic performances.\textsuperscript{92} The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography defines “child pornography” as “\textit{any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes}”.\textsuperscript{93} International response to the use of children in pornography and pornographic performances involves defining what is meant by these terms, establishing clearly their prohibition and taking practical action to ensure their prevention.

a) Definition and Prohibition

In modern legislative practice child pornography is broadly defined to include the use of children for such purposes as well as their procurement or offering through all recorded media. The responses to children used in the production of pornography involve action against persons who: lure children into the production of pornography; engage children and work with them in producing pornography; sell or otherwise distribute child pornography; and, buy or otherwise possess child pornography. Child pornography and the act of making it comprise sexually explicit recordings of children in any media or live performances of them.

Differences in emphasis can sometimes be detected in policy and legislative practice relating to the prohibition of child pornography. In most cases countries prefer an approach whereby the production and distribution of child pornography is more clearly prohibited and penalized than the procuring or use of a child for the purpose of producing pornography. This approach, which is often a result of practical considerations relating to the nature of the pornographic product and law enforcement\textsuperscript{94}, are also

\textsuperscript{92} Convention 182, Article 3(b), and OPCRC-CP, Article 2(c)
\textsuperscript{93} Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Article 3
\textsuperscript{94} It is easier to find and seize pornography than it is to identify its makers and their methods for procuring subjects.
Some countries opt for a simple prohibition of all pornography, without specifically mentioning child pornography;

– Many countries have expressly prohibited the use of electronic means, i.e. the Internet while others have simply prohibited the possession of indecent photographs of children;

– Some countries prohibit possession per se, while others have prohibited possession with the intention of producing, distributing, selling or offering the prohibited material in any way.

Sanctions in national legislation for the use of children in pornography or pornographic performances involve economic and penal sanctions usually applied concurrently. Penalties in some countries are higher where the child involved is particularly young, for example, under 14 years of age.

b) Supporting International Efforts

Some countries prohibit acts related to child pornography by their citizens or permanent residents wherever they occur – even outside the country – making the perpetrator of those acts liable within the country. Such provisions are intended to respond to international promotion of child pornography-related activities.

2.3.6. The Involvement of Children in Illicit Activities

In accordance with Convention No. 182, involving children in illicit activities is also a worst form of child labour. National policy and legislation is expected to define the practices to be fought, clearly establish their prohibition and take practical action to ensure their prevention.

a) Definition and Prohibition

Convention No. 182 speaks of “the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs”. Since illicit activities are activities which are prohibited in law, additional legislative provisions are needed to prohibit and penalize involving children in these activities. A very common response is to make it a crime to incite children to use an illegal drug, hallucinogenic substance or alcoholic beverage prohibited to underage children. In such cases, the child involved is

---

95 While it is the use of children in making pornography that needs to be addressed, engaging a child in the real or simulated sexual conduct involved in making pornography is best likened to rape or sexual molestation and prosecuted under those laws. Moreover, prohibiting the product has the effect of eliminating the market that perpetuates the production of child pornography.

96 Convention 182, Article 31

---
usually also subject to criminal liability. Fines and imprisonment are imposed as sanctions for the use, procuring or offering of a child for illicit activities, including the production and trafficking of drugs. In several countries, the death penalty is specifically authorized for anyone intentionally placing, letting, involving or asking to involve a child in the abuse, production or distribution of narcotics or similar acts.

b) Practical Action

In addition to legislation to prohibit and punish the use, procuring and offering of children for illicit activities, countries also take steps to persuade children not to accept doing things that are illegal. These steps typically relate to preventive measures to avoid the recruitment of children and withdrawal and rehabilitation of young offenders.

c) Supporting International Efforts

Policy and legislative responses concerning international cooperation aimed at stopping the use, procuring and offering of children for illicit activities typically deal with human trafficking, child prostitution, and the use of children in pornography and pornographic performances.
3. Legal and Policy Responses to Child Labour in Ethiopia

The legal and policy framework for child labour in Ethiopia includes the relevant provisions of international instruments ratified by Ethiopia, the FDRE Constitution, domestic laws, and policy documents.

3.1. Ratification of International Instruments

Ethiopia has ratified the major international and regional conventions and treaties protecting children against child labour. Relevant international instruments ratified by Ethiopia include the United Nations Convention on the Rights of the Child (UNCRC) ratified in June 1991, the ILO minimum age convention 138 in 1999 and the ILO Convention 182 on the Worst Form of Child Labor ratified in 2003. At the regional level the country has ratified the African Charter on the Rights and Welfare of the Child (ACRWC) and the Dakar Optional Protocol on Minimum Age of Admission to Employment on 4th July 2000 and in 1999 respectively. These instruments provide for universally accepted standards for the wellbeing of children and lay down the legal framework for the protection of children.

3.2. The FDRE Constitution

The Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution) was adopted on 8 December 1994 and promulgated as Proclamation No. 1/1995. The FDRE Constitution has incorporated the international human rights instruments ratified by Ethiopia into the domestic laws of the country and makes them standards for the interpretation of the constitution in matters of fundamental human rights (Articles 9/5 and 13/2). The FDRE Constitution also devotes a whole chapter for fundamental rights and freedoms which is to be interpreted in line with international human rights standards as per article 13(2). This section of the Constitution incorporates specific provisions on the rights of the child including protection from exploitative practices such as engaging in work that is hazardous to their health wellbeing and education (Article 36). The same article provides for a child to be free from “cruel and inhuman treatment in schools and other institutions responsible for care and protection of children.” In addition the constitution provides that in matters concerning children the primary consideration shall be the best interest of the child (Article 36/2).

A constitutional provision that is of special interest for child labour is article 36 which specifically deals with the rights of the child. Sub article 1(d) of this provision provides that:

"Every child has the right: Not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education health or well-being”.

Through specific reference to ‘exploitative practices’ and work harmful to the education, health or well-being of children, article 36 (1) (d) explicitly prohibits child labour.
especially the Worst Forms of Child Labor covered in ILO Convention 182. The more stringent procedural requirement for the amendment of this section of the Constitution also demonstrates the important place given to human rights. Another constitutional provision worth looking at is article 9(2) which stipulates that: "All citizens, organs of state, political organization, other associations as well as their officials have the duty to ensure observance of the constitution and to obey it". The importance of this provision for child labour is that it extends the responsibility for the protection of the child rights beyond the state to non-state actors.

Moreover, article 41, dealing with socio-economic rights, imposes a duty on the state to allocate resources to provide for rehabilitation and assistance to children who are left without parents or guardians within available means. This article could be used to protect children from child labour as well as the provision of assistance to victims.

3.3. National Policies and Action Plans

Though the national policy framework does not include a single and comprehensive national policy dealing with child labour, there are a number of policy documents contain provisions on child labour issues. These include:

- the Development and Social Welfare Policy;
- the Education and Training Policy;
- the National Plan of Action for Children;
- the National Plan of Action on Sexual Abuse and Exploitation of Children; and,

Moreover, a new national plan of action dedicated to child labour is in the final stages of drafting.

3.3.1. The Development and Social Welfare Policy

The Development and Social Welfare Policy which is adopted in 1996 acknowledges poverty and economic marginalization of families as two of the major factors driving children into labour and incorporates child labour as one of the key policy issues of the country in providing for the overall framework for interventions on social development issues. The policy also includes a specific provision for protection of children against abuse and exploitation, and identifies creating a suitable and supportive environment for orphans, abandoned children, and the mentally challenged children as a policy focus. Extending support to families so as to improve the economic capacity of households and thereby eliminate one of the factors forcing children to child labour is the other component of the policy. However, the policy does not provide for measures for tackling these specific problems.
3.3.2. The Education and Training Policy

In relation to child labour this policy specifically provides that grain mills and water supplies will be provided close to the communities so that children will be spared of domestic labour, which is an impediment to their schooling. The policy also provides for Non-formal Education (NFE) targeting out of school children and the establishment of Community Skill training Centers (CSTCs) in rural communities. These may be important in creating educational opportunities for child workers and enabling them to access skills training that can make them more competitive in the labour market. However, the policy has not covered the spectrum of hurdles impeding children from schooling other than the absence of grain mills and water supplies in their communities. The policy also fails to include specific strategies to decrease child labour in rural areas and provide for mechanisms to make education adaptable to the needs of working children.

3.3.3. The National Plan of Action for Children

This Plan of Action, which is designed for the time period 2003-2010 and beyond and became operational in June 2004, was developed by MoLSA. It has given emphasis to and adopts the objectives of protecting children from all forms of abuse, neglect, exploitation, and violence, from the impact of armed conflict, and all forms of sexual exploitation including pedophilia, trafficking and abduction. More specifically, it has identified the following among its objectives:

“taking immediate and effective measures to eliminate the Worst Forms of Child Labor as defined by ILO convention 182, and elaborate and implement strategies for the elimination of child labour that is contrary to accepted international standards”.

The major components of the national action plan for children 2003-10 are: (a) providing quality education; (b) providing health facilities, clean water, sanitation, food and nutrition; (c) combating HIV/AIDS; (d) protecting children against abuses, exploitation and violence; (e) providing assistance to children in especially difficult situations; and (f) reducing child labour. The implementation of this programme is the responsibility of a national children’s affairs steering committee led by the Ministry of Labour and Social Affairs.

The National Plan of Action 2003-2010 outlines a framework of specific goals, strategies, activities and indicators. Among these, the ones falling under ‘education’ and ‘child protection’ are especially important in terms of providing policy basis for the response to child labour. In the area of education the NPA aims to: “ensure that by 2015 all children have access to and complete primary education that is free, compulsory and good quality”. The targets set for the child protection component are directed towards the following aims:

- protecting children from all forms of abuse neglect, exploitation and violence;
– protecting children from the impact of armed conflict and ensuring compliance with international humanitarian law and human rights law;

– protect children from all forms of sexual exploitation including paedophilia, protecting and abduction;

– taking immediate and effective measures to eliminate the worst forms of child labour as defined in ILO Convention No.182, and elaborate and implement strategies for the elimination of child labour that is contrary to accepted international standards;

– improve the plight of millions of children who live under especially circumstances; and

– promoting the establishment of prevention, support and caring services as well as justice systems applicable to children.

The National Plan of Action also identifies a set of activities directly relevant to reducing child labour. These include the following specific actions:

– Promulgating and enforcing laws which clearly prohibit [the] worst forms of child labour;

– Removing children from hazardous working environment and forced labour and provide some social services such as education, skills training, health and food;

– End any recruitment of and use of children in armed conflicts, and for any terrorist activities;

– Take serious measures on the perpetrators of sexual violence, trafficking in girls and commercial exploitation of girls; and


Though the quality of indicators has been questioned, the Action Plan has identified a series of indicators for the above activities.

3.3.4. The National Plan of Action on Sexual Abuse and Exploitation of Children

In December 2005, the Ministry of Labor and Social Affairs of the Ethiopian government issued a National Plan of Action on Sexual Abuse and Exploitation of Children (2006 - 2010). The Plan of Action has the overall goal of improving the realization of the rights of all Ethiopian children to be protected from sexual abuse and exploitation and to have access to legal, psychosocial and medical services as well as information necessary for their protection and rehabilitation. The NPA on SAEC, in addition to recognizing the role of
child labour, especially its worst forms, in creating the contexts for the vulnerability of children for sexual abuse and exploitation, has addressed relevant issues like trafficking in children for exploitative purposes, child prostitution, HTPs affecting children, vulnerability factors and gaps in the policy and legal framework as well as issues of implementation. The document has also stipulated a comprehensive implementation framework around four areas of intervention: prevention, protection, rehabilitation and reintegration, and coordination and monitoring.

3.3.5. The Draft National Action Plan on the Elimination of the Worst Forms of Child Labor in Ethiopia

The Ministry of Labor and Social Affairs is currently developing a ‘National Action Plan on the Elimination of the Worst Forms of Child Labor in Ethiopia (2010-2014)’ in collaboration with the International Labor Organization Sub-Regional Office. The latest draft, which was distributed for discussion among stakeholders in July 2009, is a comprehensive document. In its background section, the draft defines child labour, presents the child labour profile of Ethiopia, reviews the existing policy and legal framework, and outlines the process and basis for the NPA development process. The main part of the draft is similarly details a comprehensive and coherent framework consisting of the overall goal, objectives, areas of intervention, and specific actions for the national plan of action with clear institutional arrangements for coordination, monitoring and evaluation. Finally, a matrix of performance indicators and targets as well as lead and collaborating agencies has been annexed.

The overall goal of the ‘National Action Plan on the Elimination of the Worst Forms of Child Labor in Ethiopia (2010-2014)’ has been identified as reducing and eliminating the incidence of the worst forms of child labour by 2014, and creating a conducive environment for addressing all other forms of child labour in Ethiopia. To this end, six core issues have been identified for intervention. These are: legislation and enforcement, education and vocational training, socio-economic empowerment, direct interventions and services, knowledge base and institutional capacity building, and awareness raising and community mobilization. Based on the identified issues and overall goal, the following eight objectives, two each for ‘education and vocational training’ and ‘knowledge base and institutional capacity building’ have been set for the National Action Plan:

**Objective 1:** Laws, policies, and guidelines are regularly reviewed and updated in accordance with international instruments and standards, as well as the overall goal of eliminating child labour and its worst forms – These laws, policies and guidelines are promoted, enforced and respected.

**Objective 2/a:** Free and quality primary education is accessible to working children and youngsters from poor families and vulnerable communities, in line with realization of UPE goals.

**Objective 2/b:** Transitional basic education and vocational training opportunities are extended to children between 14 and 18 years involved in child labour, as well as those withdrawn from WFCL.
**Objective 3:** Improved livelihood opportunities and capital assets are accessible to poor families and communities, so that they are able to deal with and mitigate risks and vulnerabilities without resorting to child labour.

**Objective 4:** Well defined, integrated and suitable interventions are in place to identify, withdraw and rehabilitate and reintegrate children involved in WFCL.

**Objective 5a:** Capable and efficient institutional arrangements are instituted from the federal to local levels, with clearly defined roles and responsibilities for effective and coordinated interventions against CL/WFCL.

**Objective 5b:** Knowledge based activities on child labour and its worst forms are implemented and strengthened at all levels and by all concerned. This would result in efficient and coordinated planning, implementation and monitoring and evaluation of interventions against child labour, as well as informing awareness raising and advocacy activities.

**Objective 6:** The society and potential actors at all levels are sensitized and mobilized to play their respective roles in addressing CL/WFCL in a concerted and coordinated manner, and to contribute to improvement of knowledge based activities at all levels.

Each of these objectives is then addressed through major issues, specific issues and actions correlating to the areas of intervention identified under the overall goal. In doing so, the draft NPA also identifies the lead agency and collaborators responsible for implementation of each specific action as well as time frames.

The preparation of the draft ‘National Action Plan on the Elimination of the Worst Forms of Child Labor in Ethiopia (2010-2014)’ was a widely consultative process involving government and non-government actors from across sectors and levels of intervention. The process to date constituted the following key processes:

- Establishment of a National Task Force constituted by relevant government ministries, law enforcement and judicial institutions, trade unions, employers’ associations, national NGOs, international and regional NGOs, the ILO and UN agencies in November 2008;
- An initial workshop for members of the National Task Force in December 2008;
- A consultation workshop to discuss the draft NPA in March 2009; and,
- Two rounds of regional consultation workshops organized for regional and local stakeholders across the country in the second half of 2009.

Though the National Action Plan is in still in the final stages of development, it is an important document indicating the way forward in addressing the problem of child labour in Ethiopia.
3.4. Domestic Laws

Ethiopia does not yet have a single legislation aimed at protecting the rights of children or even more specific for protecting children against child labour. However, there are provisions scattered in different legislations such as the Constitution, the primary laws of the country, especially the Civil Code, the Criminal Code, the Revised Family Code, and the Labor Proclamation contain provisions protecting children from child labour.

3.4.1. The Civil Code of Ethiopia

The Civil Code of Ethiopia (1960) recognizes and provides remedies for exploitation and abuse of a child. For instance, under article 2052 of the civil code, failure to educate or supervise any person under one’s charge results in extra-contractual liability. This provision states that a person is at fault, and therefore liable under the law, “…where as a consequence of his failure, damage is suffered by the person in his charge” (sub-article 2). The 1960 Civil Code also provides for civil redress in the form of compensation to child victims under its provisions relating to Extra Contractual Liability. Another relevant section of the Civil Code relates to birth registration and issuance of birth certificates. The Code, under article 3361, deals with the registration of children at birth and issuance of birth certificates.

Another section of the Civil Code relevant for child labour issues is the first chapter of Title XVI on Contracts for the Performance of Services which governs relationships of household employment. The provisions of this title (Articles 2512 - 2593) on ‘Contract of Employment in General’ and Section Three of Chapter two (Articles 2601 - 2604) specifically applicable to ‘Contracts of domestic servants living in’ govern the different aspects of the relationship from employment to termination. To protect the household workers from entering into an arrangement of abuse or exploitation, article 2522 dealing with ‘terms unfavorable to the employee’ provides that where terms of the agreement between a domestic servant and an employer are less favorable than those provided under these provisions, the unfavorable will not be valid. In addition to recognizing the relationship between domestic workers and their employers, these provisions of the Civil Code set down the rights and obligations of each party.

3.4.2. The Labour Proclamation

Proclamation number 377/2003, i.e. the Labor Code applicable to employment relationships within the private sector, explicitly prohibits the employment of children below the age of 14 years (Article 89/2). It also provides special protections for child workers between the ages of 14 and 18 including prohibition of employment to perform work whose nature or the circumstances under which it is to be carried out is harmful to the life or health of the young worker (Article 89/3). The Code sets the maximum working hours for young workers at seven hours a day (Article 90) and precludes the employment of young workers for night work, overtime work, work on weekly rest days and school days (Article 91).

97 The provisions of the law of obligations applicable to all contracts also apply to the relationship between housemaids and employers where they are mandatory and in areas where these provisions are silent.
and on public holidays (Article 91). Furthermore this law requires the Ministry of Labor and Social Affairs to prescribe the schedules of dangerous operations that are not to be performed by persons below the age of 18 (Article 89/4). The proclamation finally prescribes penalties for contravention of its provisions by the employer under articles 183 – 187. The penalty provision relevant to our discussion, article 184 (1), addresses three acts of violation by the employer: violation of provisions relating to working hours; violation of provisions on weekly rest days; public holidays or leaves; and, violation of the duty to inform the Ministry upon the suspension of the contract of employment.

3.4.3. The Revised Family Code

The Revised Family Code, which came into force in 2000 amending part of the Civil Code relating to marriage and the family, is proclaimed with the specific aim of harmonizing Ethiopian family laws with the provisions of the Constitution and international instruments including the UNCRC. The code provides for the protection of minors defined as "a person of either sex who has not attained the full age of eighteen years" under Article 215 and imposes a duty on guardians and care givers to ensure the safety and welfare of the child’s physical and intellectual development. More specific to child labour, article 195 of the Code stipulates the revocation of adoption where the adopter enslaves the child, engages the child in immoral acts for gain, or handles the child in any other manner that is detrimental to his future.

In addition, the Code imposes an obligation on the federal government to establish the institutional structure for birth (vital) registration.

<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 32: Registration.</strong></td>
</tr>
<tr>
<td>1) The Federal Government shall, within six months from the coming into force of this Code, issue registration law applicable to the Administrations where this Code is to be enforced and establish the necessary institutions.</td>
</tr>
<tr>
<td>2) Until the Office of Civil Status is established in accordance with Sub-Art. (I) of this Article, certificates of birth, marriage, and other relevant certificates issued or to be issued by an appropriate authority of the Administration where this Code is applicable shall be deemed to have been issued by the Office of Civil status and considered valid.</td>
</tr>
<tr>
<td><strong>Article 154: Record of Birth.</strong></td>
</tr>
<tr>
<td>Both the paternal and the maternal filiation of a person are proved by his record of birth.</td>
</tr>
<tr>
<td><strong>Article 155: Proof in Default of Record of Birth.</strong></td>
</tr>
<tr>
<td>In default of a certificate of birth, filiation is proved by the possession of the status of child.</td>
</tr>
<tr>
<td><strong>Article 156: Possession of Status (I) Definition</strong></td>
</tr>
</tbody>
</table>
A person has the possession of the status of child when he is treated by the community as being the child of such man or woman.

**Article 157: (2) Proof by Possession of Status.**

1) Where the possession of the status of child is proved in accordance with the preceding Article, the court shall take presumption that the child is born of such man or woman.

**Article 2/ 7: Proof of Age**

1) The age of a person shall be established by his certificate of birth.

2) In the absence of certificate of birth the age of a person shall be decided by the court based on reliable documents or by the testimony of not less than two witnesses.

### 3.4.4. The Criminal Code

The Criminal Code, which came into effect in 2005, has incorporated provisions protecting children from all forms of abuse and exploitation including child labour. It includes provisions criminalizing child labour in general as well as from the worst forms of child labour such as the production and trafficking of drugs (Article 525), maltreatment, neglect and negligent treatment (articles 576, 658 – 659), exposure to imminent danger or abandonment of a child (article 574), enslavement (Article 596), trafficking in minors for compulsory labour (Article 597), trafficking in children and child labour (Articles 596, 597 and 635), traffic in minors for prostitution (Article 636) and prostitution of another for gain (articles 604 and 634). The Code even prescribes punishment for omission to register the birth of an infant (Article 656).
4. Assessment of National Response

This section of the report seeks to assess the national response to child labour in Ethiopia in light of the international standards identified in the previous section. The assessment principally focuses on the ratification of international instruments relevant to child labour and harmonization of legislation with their stipulations. Since Ethiopia does not yet have a comprehensive policy on child labour, the assessment does not directly cover issues that have to be addressed through the policy framework.

4.1. Ratification of International Instruments


Table 9: Status of Ratification of Major Child Labor Instruments

<table>
<thead>
<tr>
<th>International Instrument</th>
<th>Status/Date of Ratification</th>
</tr>
</thead>
<tbody>
<tr>
<td>ILO Minimum Age Convention 138</td>
<td>5/27/1999</td>
</tr>
<tr>
<td>ILO Convention on the Worst Form of Child Labor 182</td>
<td>9/2/2003</td>
</tr>
<tr>
<td>UN Convention on the Rights of the Child</td>
<td>5/14/1991</td>
</tr>
<tr>
<td>UNCRC Optional Protocol on Armed Conflict</td>
<td>Not Ratified</td>
</tr>
<tr>
<td>UNCRC Optional Protocol on the Sale of Children</td>
<td>Not Ratified</td>
</tr>
<tr>
<td>Palermo Protocol</td>
<td>Not Ratified</td>
</tr>
<tr>
<td>ILO-IPEC participating country</td>
<td>Associated</td>
</tr>
</tbody>
</table>

Source: United States Department of Labor, September 2009

However, Ethiopia has not yet ratified the following key international instruments directly relevant to the response to worst forms of child labour.


   - The Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict (2000)

---


Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
4.2. Defining the Child

Under the provisions of the Revised Family Code (2000), a child or minor is defined as “a person of either sex who has not attained the full age of eighteen years”\(^9\). The Criminal Code (2005) classifies children into three age groups using ages nine and fifteen as thresholds for criminal responsibility\(^1\) while thirteen appears to be an important landmark in the classification of victims. In relation to redress, complaints of minors should in every case be lodged through their parents or legal representatives (Article 218).

The Labor Proclamation (No. 42/2003), on the other hand, uses age fourteen as a point of reference. The Proclamation forbids the employment of children under 14 and categorizes children between 14 and 18 as young workers. The preferred age range for child labour statistics, on the other hand, is between five and seventeen with sub-groups defined at ten and fourteen years.

In civil proceedings, the role of a child affected by the proceedings is sometimes decided on the basis of a fixed age (e.g. 10 years old) while the Court is given broader discretion in other cases. As a general rule, The RFC states that a minor shall be consulted in all important matters concerning him/her unless the latter is below 14 years of age (Article 291/1). Under Article 249/2 of the Revised Family Code, the Court may, before reaching a decision on the appointment or removal of a person as guardian or tutor of a minor, hear the opinion of the minor to establish best interest. The same is true in decisions relating to adoption (Article 194/3/a). On the other hand, petition for emancipation of a child could only be submitted by parents, guardian or tutor of a child or any other interested person once the child has attained age fourteen (Article 312/1). Similarly, the Court may decide a case of disputed custody between divorced couples after hearing the opinion of the concerned child where such child is aged ten or above (Article 191/3). Finally, the RFC prohibits a minor who has not attained the age of 16 years from making a will (Article 295/2) save with the endorsement of the guardian (Article 285/1). Some

---

99 Signed in 2007 but still pending before the House of Peoples’ Representatives for ratification
101 Age nine is the minimum age of criminal responsibility, i.e. children younger than nine are considered ‘infants’ whose actions cannot constitute an offence/crime. Children aged nine to fifteen, on the other hand, are designated ‘young persons’ and benefit from special protections within the juvenile justice system. Finally, children above fifteen years of age are for the most part treated as adults though some of the protections available to ‘young persons’ may be extended to them by law or judicial discretion.
important issues, such as age of consent for medical treatment, are not addressed within the civil law.\footnote{Article 257/1 and 257/2 simply provide that the guardian shall see to the health of a minor and take measures for the re-establishment of the health of the minor in case the latter falls sick.}

The education policy documents follow a system parallel to school age for pre-school (3-6), primary (7-14), and secondary (15-18) grades while the health system identifies infants (0-4), children (5-14), adolescents (15-19), and young persons (20-24). The same age groups are also used in the HIV/AIDS policy response. Thus, the reference to ‘children’ in health and HIV/AIDS related statistics normally means ‘children between the ages of five and fourteen while those above fifteen years of age are integrated into ‘adults’. On the other hand, the reference to ‘orphans’ or ‘AIDS orphans’ in the same report refers to children aged seventeen or below falling within the definition. A typical report on ART demand, for instance, reads: In 2005, a total of 277,757 persons, including 213,306 (76.8%) adults in the age group 15-49 years and 43,055 (15.5%) children in the age of 0 to 14 years, were estimated to require ART.\footnote{AIDS in Ethiopia, 6th Edition, p. 27}

4.3. Birth Registration

The Civil Code of the Empire of Ethiopia (1960) contains detailed provisions for the establishment, mandates and operation of an office of civil status to keep records pertaining to civil status including the birth of a child. However, the coming into effect of the of this part of the Code was contingent upon the promulgation of antecedent legislation which never materialized. Thus, birth registration as understood within the international child rights framework, i.e. an official and permanent record of a child’s existence established at the time of birth, did not exist in Ethiopia. Instead, various modalities of formal and informal record and registration systems existed to fill the legislative and administrative lacuna.

This gap in the substantive standards and institutional framework for record of civil status has been among the critical issues the Revised Family Code of Ethiopia (2000) sought to address. To this end, the RFC incorporated provisions recognizing “\textit{certificates of birth, marriage, and other relevant certificates issued or to be issued by an appropriate authority}” in lieu of a record of civil status pending the establishment of a comprehensive system of Office of Civil Status (Article 32/2). In effect, the RFC appears to have granted official status for the previously semi-official, unofficial and informal mechanisms of birth registration such as certificates issued by medical institutions upon birth or documents attesting the conduct of the appropriate birth-related ceremonies by religious institutions. A more lenient evidentiary standard has been adopted by the RFC in relation to proof of age where the Court may base its determinations on any relevant evidence or the testimony of two witnesses. The Code also obliges the Federal Government to establish the necessary legislative and institutional arrangements within six months from the coming into effect of the RFC. Since no such measures have yet been taken yet, the provisions of the RFC are still in effect.
**4.4. Work Done by Children**

Labor Proclamation number 377/2003 is applicable to all employment relationships between an employer and a worker based on a contract of employment.\(^\text{104}\) However, the scope of application covers such relationships despite the existence or absence of a written contract of employment.\(^\text{105}\) The Proclamation does not, however, apply to employment relationships including:\(^\text{106}\)

- contracts for the purpose of educating or training other than apprentice;
- managerial employee(s);
- contracts of personal service for non-profit making purposes;
- contracts relating to a person who performs an act, for consideration, at his own business or professional responsibility.

While the Proclamation anticipates a Council of Ministers regulation to determine the conditions of work applicable to ‘personal service’, the other exemptions are not subject to similar arrangements.\(^\text{107}\) Thus, the legislation is not applicable to work conducted as part of education and training except where the relationship qualifies as an apprenticeship, to relationships where the ‘employee’ has de facto managerial responsibilities, to the relationship between a household employee and employer, and where the work is not conducted under the direct supervision of the ‘employer’.

---

\(^\text{104}\) Labor Proclamation No. 377/2003, Articles 3/1 and 4

\(^\text{105}\) Labor Proclamation No. 377/2003, Articles 5-8

\(^\text{106}\) Labor Proclamation No. 377/2003, Articles 3/2/b, c, d, and f

\(^\text{107}\) Labor Proclamation No. 377/2003, Article 3/3/c
In setting the minimum age, the Labor Proclamation has taken advantage of the permissions under Convention 138 to set the minimum age at fourteen. Though there is no express reference to this effect, the minimum age is also consistent with the age of completion for primary education. Furthermore, the Proclamation sets conditions for the employment of young workers in relation to the maximum working hours and precludes the employment of young workers for night work, overtime work, work on weekly rest days and on public holidays. Violation of these provisions is punishable by fines under the penalty provisions.

4.5. The worst forms of child labour

4.5.1. Hazardous Work

The Labor Proclamation provides a general definition of ‘hazardous work’ which is a verbatim copy of the applicable international standard and mandates the Minister of Labor and Social Affairs to prescribe a more detailed list at least covering:

(a) work in the transport of passengers and goods by road, railway, air and internal waterway, docksides and warehouses involving heavy weight lifting, pulling or pushing or any other related type of labour;

(b) work connected with electric power generation plants transformers or transmission, lines;

(c) underground work, such as mines, quarries and similar works;

(d) work in sewers and digging tunnels.

In line with the provisions of the ILO Conventions Nos. 138 and 182, the Proclamation prohibits the employment of young workers for ‘hazardous work’. This prohibition thus amounts to a minimum age of 18 for work considered hazardous under the general definition, the proclamation’s enumerations or the schedule to be issued by the Minister. This prohibition does not, however, apply to work performed by young workers following courses in vocational schools that are approved and inspected by the competent authority.

4.5.2. Slavery and Slavery-Like Practices

These forms of WFCL are dealt with in the provisions of the Criminal Code (2005). Offences that fall under the category of ‘slavery and slave-like practices’ include illegal

---

108 Labor Proclamation No. 377/2003, Articles 89/1 and 2
109 Labor Proclamation No. 377/2003, Article 90
110 Labor Proclamation No. 377/2003, Article 91
111 Labor Proclamation No. 377/2003, Article 184/1
112 Labor Proclamation number 377/2003, Article 89/3
113 Labor Proclamation number 377/2003, Article 89/4
114 Labor Proclamation number 377/2003, Article 89/5

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
restraint (article 585), abduction of a minor (articles 589, 590 and 594), enslavement (Article 596), and trafficking in children and child labour (Articles 596, 597 and 635). However, the provisions directly relevant to slavery and similar practices are the criminalization of enslavement and trafficking in women and children. The general Criminal Code prohibition on enslavement covers a range of actions including the sale, transport and actual enslavement of a person. Where these elements are fulfilled and the victim is a child, the punishment for the offence is aggravated.

**Article 596 - Enslavement**

(1) Whoever: (a) forcibly enslaves another, sells, alienates, pledges or buys him, or trades or traffics in or exploits him in any manner; or (b) keeps or maintains another in a condition of slavery, even in a disguised form, is punishable with rigorous imprisonment from five years to twenty years, and fine not exceeding fifty thousand Birr.

(2) Whoever, in order to deliver him at his place of destination, carries off or transports a person found in situations stated above, whether by land; by sea or by air, or conducts or aids such traffic, is liable to the punishment under sub-article (1) above.

(3) Where the crime is committed against children, women, feeble-minded or sick persons, the punishment shall be rigorous imprisonment from ten years to twenty years.

The next provision defines the offence of ‘trafficking in women and children’ for the purpose of forced labour incorporating the whole range of acts from recruitment to exporting as well as accomplices and accessories.

**Article 597 - Trafficking in Women and Children**

(1) Whoever by violence, threat, deceit, fraud, kidnapping or by the giving of money or other advantage to the person having control over a woman or a child, recruits, receives, hides, transports, exports or imports a woman or a minor for the purpose of forced labour, is punishable with rigorous imprisonment from five years to twenty years, and fine not exceeding fifty thousand Birr.

(2) Whoever knowingly carries off, or transports, whether by land, by sea or by air, the victim mentioned in sub article (1), with the purpose stated therein, or conducts, or aids such traffic, is liable to the penalty prescribed under sub-article (1) above.

As appropriate, the provisions of the Code dealing with maltreatment, neglect and negligent treatment (articles 576, 658 – 659), and exposure to imminent danger or abandonment of a child (article 574) could also be used to prosecute offenders.

---

115 The crime established under article 589 is aggravated under the next article where the purpose of the abduction is exploitation or the treatment of the child is considered cruel and inhuman. The crime may also be aggravated under article 594 where the intent is permanent removal of the child.
4.5.3. Commercial Sexual Exploitation

The Criminal Code (2005) includes provisions criminalizing the use of children in child prostitution is punishable under the provisions of the Code dealing with traffic in minors for prostitution (Articles 635 and 636).

**Article 635 - Traffic in Women and Minors**
Whoever, for gain, or to gratify the passions of another: (a) traffics in women or minors, whether by seducing them, by enticing them, or by procuring them or otherwise inducing them to engage in prostitution, even with their consent; or (b) keeps such a person in a brothel to let him out to prostitution, is punishable with rigorous imprisonment not exceeding five years, and fine not exceeding ten thousand Birr, subject to the application of more severe provisions, especially where there is concurrent illegal restraint.

**Article 636 - Aggravation to the Crime**
In cases of professional procuring or traffic in persons, rigorous imprisonment shall be from three years to ten years, and the fine shall not exceed twenty thousand Birr where: (a) the victim is a minor;

The Code also criminalizes the production and traffic in child pornography and pornographic performances. After imposing an overall prohibition against ‘obscene and indecent publications’ as well as ‘obscene or indecent performances’, the exhibition of such materials or use of children in the prohibited items is used as an aggravating circumstance.

**Article 640 - Obscene or Indecent Publications**
(1) Whoever: a) makes, imports or exports, transports, receives, possesses, displays in public, offers for sale or hires, distributes or circulates writings, images, posters, films or other objects which are obscene or grossly indecent, or in any other way traffics or trades in them;

(2) Simple imprisonment shall be for not less than one year, and the fine shall not exceed ten thousand Birr, where the criminal: (b) knowingly exhibits, hands over or delivers such objects to a minor; or, (c) for this purpose displays a simulation of sexual intercourse by minors or exhibits their genitals.

**Article 641- Obscene or Indecent Performances**
The punishments specified in the preceding Article are applicable to anyone who organizes or gives public auditions or performances, in a theatre or in a cinema, by projection or by radio or television broadcast, by video, or in any other way, which are obscene or grossly indecent.

A more specific offence has also been created for the protection of minors, i.e. children, from exposure to pornographic material or performances. This provision takes an approach similar to the general prohibition of obscene or indecent publications and performances. The subject of criminalization is exposure of children to the publications and performances rather than the use of children in producing the illicit items. Here, what

---

Ghetnet Metiku WoldeGiorgis  
Socio-Legal Researcher  
E-mail: gmgiorgis@gmail.com
is being protected is the morals of children rather than their immediate safety from being caused to engage in child pornography or performances.

**Article 644 - Protection of Minors**

Whoever, for gain or to provoke: (a) publicly displays by video, or in a shop window, in a booth or in any other place visible from without, writings, images or objects such as to stimulate unduly, to pervert or to misdirect the sexual instinct, or to arouse or to stimulate unduly brutal or bloodthirsty instincts, or antisocial feelings or feelings which are inimical to the family spirit, in minors; or, (b) knowingly offers, lends, gives or sells such objects, images or writings to a minor, is punishable with simple imprisonment from six months to three years, and fine, without prejudice to the forfeiture of the incriminating material where appropriate.

The provisions of the Code on abduction of a minor (articles 589 and 590), maltreatment, neglect and negligent treatment (articles 576, 658 – 659), exposure to imminent danger or abandonment of a child (article 574), rape (articles 620-628) and sexual outrage (articles 626 – 631) are also instrumental for concurrent prosecution of the perpetrators where applicable.

**Article 626 - Sexual Outrages on Minors between the Ages of Thirteen and Eighteen Years**

(1) Whoever performs sexual intercourse with a minor of the opposite sex, who is between the ages of thirteen and eighteen years, or causes her to perform such an act with her, is punishable with rigorous imprisonment from three years to fifteen years.

(2) A woman who causes a male minor between the ages of thirteen and eighteen years, to perform sexual intercourse with her, is punishable with rigorous imprisonment not exceeding seven years.

(3) Whoever performs an act corresponding to the sexual act or any other indecent act upon a minor, of the opposite sex who is between the ages of thirteen and eighteen years, induces him to perform such an act, or deliberately performs such an act in his presence, is punishable with simple imprisonment not less than three months or with rigorous imprisonment not exceeding five years.

(5) Where the sexual outrage has caused grave bodily or mental injury to or death of the victim, the relevant provision of this Code shall apply concurrently.

**Article 627 - Sexual Outrages Committed on Infants**

(1) Whoever performs sexual intercourse with a minor of the opposite sex, who is under the age of thirteen years, or causes her to perform such an act with her, is punishable with rigorous imprisonment from thirteen years to twenty-five years.

---

116 The crime established under article 589 is aggravated under the next article where the purpose of the abduction is sexual exploitation or the treatment of the child is considered cruel and inhuman. The crime may also be aggravated under article 594 where the intent is permanent removal of the child.

---

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
(2) A woman who causes a male minor under the age of thirteen years, to perform sexual intercourse with her, is punishable, with rigorous imprisonment not exceeding ten years.

(3) Whoever performs an act corresponding to the sexual act or any other indecent act upon a minor, of the opposite sex who is under age of thirteen years, induces him to perform such an act, or deliberately performs such an act in his presence, is punishable with rigorous imprisonment not exceeding ten years.

Article 631 - Homosexual and Other Indecent Acts Performed on Minors

(1) Whoever performs a homosexual act on a minor, is punishable: (a) with rigorous imprisonment from three years to fifteen years, where the victim is between the ages of thirteen and eighteen years; or, (b) with rigorous imprisonment from fifteen years to twenty-five, years, where the victim is below thirteen years of age.

(2) A woman who performs a homosexual act on a female minor, is punishable with rigorous imprisonment not exceeding ten years.

(3) Whoever performs any other indecent act on a minor of the same sex, is punishable with simple imprisonment.

(5) Where the sexual outrage has caused death or grave physical or mental injury upon the victim; or Where the victim is driven to suicide by distress, shame or despair, the punishment shall be rigorous imprisonment for life.

As could be seen in the above provisions, sexual offences against children carry serious punishments extending in most cases between three years to life rigorous imprisonment. According to Article 108 of the Revised Criminal Code, “[R]igorous imprisonment is a sentence applicable only to crimes of a very grave nature committed by criminals who are particularly dangerous to society”. Finally, the Criminal Code exempts the child victim to sexual outrage or indecent act though the Court may apply appropriate measures for the child’s upbringing (Article 661/1).

The use of children in illicit activities mainly deals with the use of children in the production and trafficking of drugs, which is dealt with within the provisions of the Criminal Code (2005). The relevant article criminalizing this worst form of child labour makes the involvement of a child in the commission of the offence an aggravating circumstance on the adult offenders (Article 525/2/c). However, unlike a child victim of sexual outrage and other indecent acts, the child is also held criminally liable under the general provisions of the Criminal Code (Articles 52-56). This approach, which is in line with the international good practice, draws from the fact that there are other persons who are more direct victims of the crime committed with the involvement of the child.

117 The use of a child or children is an aggravating circumstance.

Ghetnet Metiku WoldeGiorgis
Socio-Legal Researcher
E-mail: gmgiorgis@gmail.com
4.6. Achievements

4.6.1. Defining the Child

The different understandings of the child among the various laws and policies is a reflection of the diverse needs and rights of children for sectoral concern as well as divergence in the technicalities of the professions involved. As such, the variation is a necessary condition often serving the interests of the child. For instance, the medical needs of children as infants and adolescents are better addressed within a framework taking into account their physiological and psychological development. The classification thus serves as a form of ‘desegregation’ enabling adults to address the felt needs of the child.

4.6.2. Birth Registration

The revision of the rules of family law is a clear expression of commitment to international standards on child rights. This is particularly true for birth registration as is apparent from the unprecedented steps taken by the government in an attempt to address the challenges within the short and long term.

The role of community institutions and medical facilities in the registration and proof of birth/civil status may be an important tool for community awareness, capacity building and empowerment around child rights issues. Moreover, while the proportion of home births is high in Ethiopia, the rate of registration has been shown to be higher where medical institutions are responsible for birth registration. This arrangement also enables the record of health and nutritional status of the child within the available record.

4.6.3. Work Done by Children

Though a contract of employment is an essential feature of an employment relationship under the Proclamation, no specific form is required (subject to other laws stipulating such requirements). Moreover, the absence of a written contract does not affect the rights of the ‘worker’. This is in line with the international framework having adopted a broad understanding of ‘employment and work’ in the context of work done by children. In effect this approach at least conceptually extends the available protections to the widest possible group of children.

– Despite the permissibility of exempting selected sectors under the ILO Convention 138, the Labor Proclamation has adopted a very broad definition of an ‘undertaking’ to cover all economic sectors.

– The relationship between an apprentice and ‘employer’ is covered under the Proclamation.

– The setting of the minimum age at fourteen, the age equivalent to that for completion of primary education, is in line with the applicable international standards.
The conditions for the engagement of young workers under the proclamation are consistent with international standards and legislative good practice.

Despite the permissions of Convention 138 on the employment or work of persons 13 to 15 years of age on light work, the Labor Proclamation has opted not to do so. That is, the prohibition on employing children under the general minimum age is absolute under the Ethiopian labour law.

### 4.6.4. Hazardous Work

The Labor Proclamation defines ‘hazardous work’ in line with the provisions of the ILO Conventions Nos. 138 and 182. Moreover, the Proclamation elaborates on the general definition with a list on the basis of which the Minister is directed to prepare a more detailed schedule. This approach is also in line with international good practice in child labour legislation.

Having defined ‘hazardous work’ generally as well as through an indicative list, the Labor Proclamation prohibits the engagement of all ‘young persons’ in such work. Again, this is in line with both international standards and legislative good practice among States.

The statement of conditions under which a ‘young person’ may be allowed to engage in ‘hazardous work’ under the Labor Proclamation (Article 89/5) is in line with the requirements relating to the protection of the child’s health, safety and morals as well as oversight by the appropriate authority under Convention 138.

### 4.6.5. Slavery and Related

The criminal laws have prohibited forms of ‘slavery’ including enslavement, the sale of children and trafficking in children, and forced or compulsory labour. Slavery like practices like debt bondage and serfdom are also prohibited through provisions on freedom of work and coercion. Moreover, the revision of the Penal Law in the form of the Criminal Code has involved criminalization of new offences against children as well as increased penalties for pre-existing offences. As a result, the substantive penal laws of Ethiopia are almost in all cases consistent with international standards in terms of criminalizing slavery and similar practices.

The provisions of the Criminal Code, especially that relating to abduction, enslavement and trafficking for compulsory labour, deal specifically with the situation of children. Coupled with other provisions penalizing neglect and maltreatment, these child-specific provisions reflect commitment to address this category of WFCL. The enslavement of a child carries a punishment of rigorous imprisonment from ten years to twenty years while trafficking in children is subject to five to ten years of the same penalty.

### 4.6.6. Child Prostitution and Pornography

The term ‘prostitution’ has not been defined within the Criminal Code. However, the wording of the relevant provision does not appear to make any gender-based distinction. This interpretation is borne by the absence of enumerated acts constituting prostitution.
and the provisions protecting children of both sexes from ‘sexual outrage and other indecent acts’. Similarly, the range of acts covered in these provisions is wide enough to qualify as a broad understanding in line with standards of international good practice.

The provisions of the Criminal Code criminalizing child prostitution and child pornography carry serious penalties. Moreover, the provisions have taken into account the age of the child victim as well as the effects of the offence on the child as considerations in the definition of offences as well as in aggravating penalties. These penalties, which often times are applied concurrently with offences against the safety and wellbeing of the child victims, attest to commitment and attention to addressing the sexual exploitation of children as a matter of legislative priority.

The Criminal Code does not specifically penalize the use of children in pornographic activities, though it criminalizes the act of making, displaying, offering for sale or hire, distributing or circulating ... obscene or indent writings, images, posters, films or other objects. This approach, which is often criticized as a major legislative gap, is a pragmatic approach informed by practical considerations relating to the nature of the offences and enforcement, are also justified on consideration of jurisprudence and impact. First, since the production of pornographic materials takes place in private, the preventive value of criminalization is very limited. On the other hand, seizing an article which is already in distribution is a relatively feasible law enforcement action. Moreover, one should note that the use of children in making pornography inherently involves engaging a child in the real or simulated sexual conduct. These acts are more properly addressed through the more stringent criminal law provisions on rape or sexual molestation and prosecuted under those laws. Moreover, prohibiting the product has the ultimate effect of eliminating the market that perpetuates the production of child pornography.

The Criminal Code does not criminalize the status of children forced into a life of prostitution. Rather, it targets persons who are likely to take a role in more children becoming affected and in sustaining and aggravating the situation of those already affected. The role of ‘clients’ has also been criminalized through the provisions on sexual outrage against minors and infants. The prohibition covers all children with the age of the child effectively considered as an aggravating circumstance despite the ‘separate’ definition of the offences. Moreover, the Code extends the protections under these provisions to children of both sexes as well as extending the punishable acts to include ‘homosexual and indecent acts’ showing some level of responsiveness to the actual situation.

4.7. Gaps and challenges

4.7.1. Defining the Child

The disparities between the definitions of the child within various sectors often act as a barrier to multi-sectoral response to complex issues like child labour. A case in point is the incompatibility among the monitoring frameworks across sectors collecting, analyzing and availing information on education, child justice and health. Since each sector uses a different understanding of the child, comprehensive and reliable data for indicators such
as education and HIV/AIDS or the health status of children in conflict with the law is difficult to come by.

4.7.2. Birth Registration

The approach adopted by the RFC in stipulating the obligation to establish the appropriate institutions while at the same time providing for immediate measures to address the gap appears to be an improvement on the status quo. However, until the stipulations are fulfilled, the birth registration system can be neither comprehensive nor uniform.

The Revised Family Code also suffers from challenges related to the jurisdiction of the Federal Government in matters of personal relations, including family law. That is, the FDRE Constitution grants the legislative mandate over personal matters to the Regional States. As such, the RFC is applicable only in the two federal city administrations, i.e. Addis Ababa and Diredawa.

Even within the limited jurisdiction, the enforcement of the birth registration provisions of the RFC lacks the necessary legislative and institutional framework. Though the Criminal Code of Ethiopia (2005) makes it mandatory on parents and guardians to have the birth of a child registered, the provision cannot be applied due to the absence of a record of civil status or an officer responsible for keeping such a record.

In conclusion, one is forced to conclude that there is no official and permanent record of birth or birth registration system in Ethiopia. This conclusion puts the national response at odds with the provisions of the UNCRC, the ACRWC and applicable standards of good practice with significant adverse effects on the implementation and enforcement of the totality of child rights in Ethiopia.

4.7.3. Work Done by Children

Since the Labor Proclamation is the only legislation determining the minimum age for employment, exemptions to the scope of application are potential areas of work for the engagement of children below the minimum age.

Since domestic work falls within the meaning of ‘personal service’, it is not covered under the Proclamation. The anticipated Council of Ministers regulations have so far failed to materialize. Thus, the rules applicable to the relationship between household workers and employers are those found in the Civil Code (1960) which lack the protections available to adult and young workers under the Proclamation. For instance, the provisions of the Civil Code applicable to all contracts of employment (Articles 2512 - 2593) and the specific provisions on domestic service (Articles 2601 - 2604) set no minimum age and provide the bare minimum of protections in terms of conditions of work. In other words, there is no minimum age for domestic employment within the Ethiopian legal system. The Labor proclamation has also excluded unpaid work by children.
While compliant with the minimum international standards, the minimum age for employment could have been accompanied by a requirement that the child should complete primary education.

The labour proclamation does not provide for penalties for violation of the minimum age for employment. Thus, the worst the perpetrator of the violation will suffer is administrative measures generally limited to cessation of the violation. This is not consistent with the obligations stipulated under Convention No. 138 to provide for “all necessary measures, including the provision of appropriate penalties” to ensure the effective enforcement of a minimum age for entry to work.

Since the scope of application of the Labor Proclamation is limited by the exceptions, the apparent prohibition on employment of children under the general minimum age for light work does not amount to a significant protection. In fact, by failing to provide for light work the law might have missed on the opportunity to regulate such engagement of children.

Similarly, the protections of the labour code including the minimum age stipulation do not apply to ‘contracts for the purpose of educating or training other than apprentice’. This provision appears consistent with the ILO Convention No. 138 which exempts from its scope situations wherein children may work as part of formal training or education. Yet, the exemptions of the Convention are coupled with a clear definition of what constitutes work forming part of education or training as well as conditions relating to prescriptions by the competent authorities. In the absence of such limits, the exemptions under the Labor Proclamation amount to an absolute exclusion of such activities from the purview of the labour law framework. Thus, the engagement of children in work related to education and training under the Labor Proclamation, which has not been defined in the legislation, is not at all regulated by law.

– The penalties for violation of the provisions of the labour proclamation on the conditions of work for young workers are the same as those for adults.

4.7.4. Hazardous Work

The labour law mandates the Ministry of Labor and Social Affairs to prescribe the schedules of dangerous operations that are not to be performed by persons below the age of 18 (Article 89/4). However, such a schedule of ‘hazardous work’ has not yet been issued by the Ministry. This also precludes consideration of the possibility of consultation with employers’ and workers’ representatives in determining the types of hazardous work. What is obvious is that the Proclamation does not impose any such requirement on the Ministry.

The provisions of the labour code, including those relating to ‘hazardous work’ do not apply to ‘contracts for the purpose of educating or training other than apprentice’. On the face of it, this may be seen as compliant under the provisions of the Conventions Nos. 138 and 182 allowing the engagement of children above the general minimum age in ‘hazardous work’. But, these permissions are attended by specific conditions relating to
age (at least 16), protection of health and safety, and proper training (i.e. the same protections provided under Article 89/5 of the Proclamation for ‘young workers’). On the other hand, the engagement of children in work related to education and training under the Labor Proclamation, which has not been defined in the legislation, is not at all regulated by law. Such work is even excluded from the scope of the schedule anticipated from the Minister since the schedule has to be consistent with the authorizing proclamation (amounting to a blanket exclusion of affected children from protections available under the Proclamation).

The penalty provision of the Labor Proclamation do not provide for sanctions for violation of its provisions on ‘hazardous work’. Thus, such incidents are apparently to be treated through administrative means or using the general penalty provisions. Failing this, the cases will have to qualify as a violation of the Criminal Code provisions such as those relating to child endangerment, child abuse, ill-treatment, neglect, abandonment or causing bodily injury.

4.7.5. Slavery and Related Practices

The Criminal Code has opted to define ‘trafficking’ in terms of its purposes, which in this case is compulsory or forced labour (trafficking for purposes of sexual exploitation is covered elsewhere). By doing so, the Code has made the end purpose an element of the crime that would need to be proved during prosecution. While the separate criminalization of enslavement and related acts may provide some relief for the issue at hand, this approach diverts significantly from the prohibition of trafficking per se under the UNCRC (Article 35), the Palermo Protocol (Article 3/a), ILO Worst Forms of Child Labour Convention No. 182 (Article 3/b) and the FDRE Constitution (Article 18/2). A preferred approach would have been independent criminalization of the process of trafficking and the exploitative purpose and application of both provisions concurrently.

The minimum age of military service in the Ethiopian Defense Forces, which is a volunteer army, is eighteen. However, the recruitment of children for armed conflict by non-state actors is not explicitly defined, criminalized and penalized. International good practice shows that such an approach making the practice a separate and severely punished offence is likely to be effective as a preventive measure.

4.7.6. Child Prostitution and Pornography

The provisions of the Criminal Code criminalizing trafficking in children for purposes of prostitution are narrowly defined in terms of the purpose for trafficking. This, as indicated in the previous section, does not conform to the applicable international standards or the provisions of the FDRE Constitution.118 As stated here, i.e. article 635, the provision does not even cover trafficking for the purpose of sexual abuse and exploitation in a manner other than child prostitution. The provision also appears to be lagging behind the realities...
of children in prostitution and their relationships with the persons who ‘benefit’ from their vulnerabilities. A case in point is the role of illegal employment agents procuring young girls for employment as ‘housemaids’, a group extremely vulnerable to sexual abuse.\textsuperscript{119}

The liability of persons who profit from children engaged in prostitution without engaging in acts qualifying as trafficking or keeping the children in a brothel does not appear to be covered under article 635. Such persons may for instance include owners of establishments, persons renting out rooms, etc ... who indirectly benefit from child prostitution. Ideally, such a law should impose criminal responsibility on three actors: those who pimp, procure or otherwise induce children into prostitution; the users (clients) of prostitution involving children; and, those who derive a profit from children engaged in prostitution. To this end, a general prohibition of profiting from the prostitution of others or a more specific provision for child prostitution (within the limits set by the need to clearly define the offence) might have been more appropriate. By enumerating the two categories of persons, i.e. traffickers and brothel owners, the Criminal Code has apparently created an exclusive list.

The provision dealing with trafficking in children for the purpose of prostitution does not appear to anticipate situations where the victims will be transported abroad. An approach similar to the provisions on the illicit sending of persons abroad may be necessary both as a preventive and punitive measure.

The penalties for the use of children in pornographic publications and performances are limited to a maximum of simple imprisonment for a year. While this may be justified taking into account the focus of the Criminal Code on those who produce, distribute or exhibit the materials rather than the ones who have used the child for the purpose of producing pornography. However, the disproportionate level of potential punishment compared with the anticipated economic benefits of the offence may make it ineffective in relation to the primary perpetrators of sexual exploitation against the children.

\textsuperscript{119} According to a study conducted by the International Organization for Migration in 2007, girls in household employment are vulnerable to rape and other forms of sexual abuse in the hands of their employers. In fact, the study found some evidence suggesting that sexual abuse in household employment acts as a stepping stone towards child prostitution.
5. Recommendations

5.1. General Recommendations

The following recommended actions identify measures that should be taken to address the gaps and challenges identified in the previous section.

5.1.1. Ratification of International Instruments

Ethiopia has not yet ratified the following key international instruments directly relevant to the response to worst forms of child labour: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) (2000); the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict (2000); and, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000). These international instruments deal in more detail with the worst forms of child labour identified in the UNCRC, the ILO conventions and corresponding recommendations.

- The United Nations International Convention against Transnational Organized Crime provides the first international definition of trafficking in children, including for purposes of labour exploitation.

- The Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict extends the minimum age for recruitment into armed forces, which was 15 years under the UNCRC, to 18 years and includes non-governmental forces in this provision.


Ratification of these important instruments by the government of Ethiopia is a primary area of possible action towards harmonizing the national response to child labour with applicable international standards.

5.1.2. Defining the Child

The disparities between the definitions of the child within various sectors often acts as a barrier to multi-sectoral response to complex issues like child labour. Thus a harmonized

---


121 Articles 34 and 35 of the UNCRC
understanding of the child should be developed within the context of the national response to child labour. One way of doing so may be to integrate or mainstream child labour as a concern across sectors. Alternatively, the development of a separate framework for the response to child labour could be sought.

5.1.3. Birth Registration

There is currently no comprehensive and effective birth registration system consistent with the requirements of the UNCRC and the ACRWC in Ethiopia. This has affected the whole range of child rights including vulnerability to child labour. Thus, the creation of a comprehensive and effective birth registration system is an essential component of any effort to enhance the national response to child labour.

5.1.4. Work Done by Children

The Labor Proclamation, which is the only legislation determining the minimum age for employment, suffers from gaps in relation to definition of the scope of work covered, the minimum age for engagement in work, and the penalty provisions.

– Scope of children’s work: The Proclamation has exempted potential areas of harmful engagement by children above and below the minimum age from its scope. The exclusion of domestic work and unpaid work is especially critical. Moreover, the exemption relating to ‘contracts for the purpose of educating or training other than apprentice’ does not provide a clear definition of what constitutes work forming part of education or training as well as conditions relating to prescriptions by the competent authorities.

– Minimum Age of Employment: The minimum age for employment is not accompanied by a requirement that the child should complete primary education.

– Penalty Provisions: The labour proclamation does not provide for penalties for violation of the minimum age for employment while the penalties for violation of the provisions of the labour proclamation on the conditions of work for young workers are the same as those for adults.

These gaps in the labour law should be addressed promptly, preferably within a new child labour code, if the national response is to be meaningful to the groups of children vulnerable to and affected by child labour.

5.1.5. Hazardous Work

The Labor Proclamation, which is the only legislation defining and dealing with hazardous work, suffers from gaps in relation to definition of what constitutes hazardous work, the scope of application, and the penalty provisions.

– Defining Hazardous Work: The Ministry of Labor and Social Affairs has not prescribed the schedules of dangerous operations that are not to be performed by persons below the age of 18 (Article 89/4). However, such a schedule of
‘hazardous work’ has not yet been issued by the Ministry. Moreover, the Labor Code does not require consultation with employers’ and workers’ representatives in determining the types of hazardous work.

- Excluded Work by Children: The provisions of the labour code, including those relating to ‘hazardous work’ do not apply to a range of activities in which children are engaged. For instance, the Proclamation excludes ‘contracts for the purpose of educating or training other than apprentice’ thereby excluding such work from the scope of the schedule anticipated from the Minister (amounting to a blanket exclusion of affected children from protections available under the Proclamation).

- Penalty Provisions: The penalty provision of the Labor Proclamation do not provide for sanctions for violation of its provisions on ‘hazardous work’.

These gaps in the labour law should be addressed promptly, preferably within a new child labour code, if the national response is to be meaningful to the groups of children vulnerable to and affected by child labour.

5.1.6. Slavery and Related Practices

The provisions of the Criminal Code relating to slavery and related practices have gaps in relation to the definition of trafficking for forced labour and the use of children in armed conflict:

- The Criminal Code has defined ‘trafficking’ in terms of its purposes making the end purpose an element of the crime that would need to be proved during prosecution. A preferred approach would have been independent criminalization of the process of trafficking and the exploitative purpose and application of both provisions concurrently, also poses the challenge of exhaustively listing the purposes for which trafficking.

- The recruitment of children for armed conflict by non-state actors is not explicitly defined, criminalized and penalized in the Criminal Code.

These gaps in the Criminal Law should be addressed promptly, preferably within a comprehensive child labour legislation, if the national response is to be meaningful to the groups of children vulnerable to and affected by child labour and in line with applicable international standards.

5.1.7. Child Prostitution and Pornography

The provisions of the Criminal Code relating to child prostitution and child pornography have gaps in relation to the definition of trafficking for prostitution or sexual exploitation, the liability of perpetrators and applicable penalties:

- The provisions of the Criminal Code criminalizing trafficking in children for purposes of prostitution are narrowly defined in terms of the purpose for
trafficking. Moreover, the provision dealing with trafficking in children for the purpose of prostitution does not appear to anticipate situations where the victims will be transported abroad. An approach similar to the provisions on the illicit sending of persons abroad may be necessary both as a preventive and punitive measure.

- The liability of persons who profit from children engaged in prostitution without engaging in acts qualifying as trafficking or keeping the children in a brothel does not appear to be covered under article 635.

- The penalties for the use of children in pornographic publications and performances are limited to a maximum of simple imprisonment for a year.

These gaps in the Criminal Law should be addressed promptly, preferably within a comprehensive child labour legislation, if the national response is to be meaningful to the groups of children vulnerable to and affected by child labour and in line with applicable international standards.

5.2. Recommendations for Action by the EHCRC

The following recommended actions identify specific measures that may be taken by the EHRC taking into account its organizational mandate and advantages. These measures are to be considered in the context of actions to be taken by other actors to address the gaps and challenges identified in the previous section as well as the major programs of the EHRC.

5.2.1. Ratification of the International Instruments not yet Ratified

Designing specific actions towards the ratification of the following international instruments:

- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) (2000);

- the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict (2000); and,


These specific activities may include awareness and sensitization workshops for MPs, official recommendations to the House of Peoples’ Representatives to ratify the instruments, consultations with key actors and stakeholders on advocacy and lobbying initiatives need to achieve ratification.
5.2.2. Harmonization of national policy and legislation

The current legislative and policy framework does have gaps in light of international commitments of the Ethiopian Government to address the problem of child labour as well as informative good practice. To address these gaps in a comprehensive manner, the EHRC may pursue the following actions:

- Promulgation of a comprehensive legislation on child labour
- Establishment of a birth registration system
- Finalization and approval of the National Action Plan for the Elimination of the Worst forms of Child Labor

The specific activities towards these ends may include:

- development of publications on the role of parliaments and policy makers in addressing child labour;
- drafting model laws on child labour, birth registration and child rights based on international and foreign good practice;
- awareness raising, sensitization and capacity building workshops for decision makers and potential partners; and,
- focused advocacy initiatives.

The engagement of CBOs including children’s structures and organizations should also be promoted in the design and implementation of these actions.

5.2.3. Support to Implementation and Enforcement

These should include actions designed to strengthen the capacities of the key actors and stakeholders in the child response with particular focus on the legal duty bearers and rights holders.

- Collecting and compiling studies conducted on child labour and related issues in Ethiopia and abroad (as a database for the use of the EHRC and other interested parties)
- Studies on the situation of children working in situations of labour exploitation, especially the worst forms of child labour
- Mapping key actors and stakeholders in the national response to child labour, especially government institutions responsible for the implementation and enforcement of policies and laws on child labour, and children’s/youth structures;
– Studies on the enforcement of international, constitutional, policy and legislative child labour standards by law enforcement agencies and within the Judiciary;

– Compilation, translation and dissemination of international instruments, the FDRE Constitution and existing laws and policies relevant to the response to child labour including child friendly versions;

– Development of child rights good practice guidelines on child labour, especially its worst forms, for the private sector;

– Developing child protection guidelines and standards on the treatment to children vulnerable to or affected by the worst forms of child labour for organizations working with children;

– Awareness raising, sensitization and capacity building workshops for key actors and stakeholders in the national response to child labour; and,

– Support to research, human rights education and other activities conducted by academic institutions, civil society organizations, NGOs and other actors working on child labour issues with emphasis on the active engagement of community, children’s and youth structures.

Most of these activities could be integrated into existing programmes and activities of the EHRC such as the development of the human rights database, translation of international human rights instruments, training workshops targeting key actors and stakeholders, and child rights legislative review.

5.2.4. Monitoring

These are actions designed to measure progress made in addressing child labour through collection of time-series and disaggregated data.

– Identifying and consolidating indicators and benchmarks for monitoring children vulnerable to and affected by child labour, especially the worst forms;

– Collecting or causing to be collected comprehensive and reliable data on the situation of vulnerable children and status of their rights; and,

– Developing and disseminating specialized or national child labour situation reports.

These activities could be integrated into the existing human rights monitoring and reporting activities of the EHRC. The development of the report, for instance, can be considered separately as a special report or as part of a national human rights report.
6. Annexes

6.1. References

6.1.1. Books and other Materials

The following books and other publications have been used extensively in setting the background on child labour and outlining the applicable international standards for response to child labour. Pertinent publications focusing on the situation of child labour in Ethiopia and the national response to the problem have also been used to inform the description and analysis of the response.


3. Elias Terfassa, Baseline Survey on Child Trafficking in Chencha Woreda of Gamo Gofa Zone, Multipurpose Community Development Project (MCDP), Addis Ababa, December 2004


6. Forum on Street Children Ethiopia, Guidelines for the Preventive Program on Trafficking in Children, September 2004

7. International Finance Corporation, Addressing Child Labor in the Workplace and Supply Chain, Good Practice Note 1, Environment and Social Development Department (CES) of the International Finance Corporation, June 2002


18. Tewolde Hagos, MoLSA, The Situation of Migration in Ethiopia with Respect to the Existing Policies and Legislation, National Capacity Building Workshop, IOM and Office of the Prime Minister Social, Administrative and Regional Affairs Section, Addis Ababa, October 2002


23. World Vision, KURET (Kenya, Uganda, Rwanda, and Ethiopia Together) Initiative, technical progress report, September 30, 2006,


6.1.2. International Instruments

The following are the international instruments and foreign laws used to establish and elaborate the expected standards of response to child labour in law and practice.

1. Committee on the Rights of the Child, General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), General Comment No. 5 (2003), Thirty-fourth session 19 September-3 October 2003


5. International Labour Organization, Convention 29, Forced Labour Convention (1930)

6. International Labour Organization, Convention 77, Medical Examination of Young Persons (Industry) (1946)

7. International Labour Organization, Convention 78, Medical Examination of Young Persons (Non-Industrial Occupations) (1946)


15. UN Convention on the Elimination of all Forms of Discrimination against Women (1979)


6.1.3. Ethiopian Laws and Policies

The following Ethiopian laws and policies have been extensively referred to in describing and analyzing the policy, legislative, institutional and program response to child labour.


4. MoLSA, Guidelines for the Care of Children Deprived of Family Environment, 2005


7. Proc. No. 283/2002, Proclamation to Ratify the ACRWC


10. Proclamation No. 10/1992, Proclamation to Ratify the UNCRC


12. Proclamation No. 391/2004, the Technical and Vocational Education and Training Proclamation

6.2. Core Standards and Provisions on Child Labor

6.2.1. Summary of International Instruments on Child Labor

The following table identifies the important international legal instruments and highlights their relevance to the policy and legislative response to child labour at the national level:

<table>
<thead>
<tr>
<th>Table 10: Summary of the International Legal Framework on Child Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UN Convention on the Elimination of all Forms of Discrimination against Women (1979)</strong></td>
</tr>
<tr>
<td>Defines, among others, rights of women regarding education, vocational training, and employment.</td>
</tr>
<tr>
<td>Defines children as less than 18 years of age and emphasizes the need to protection from certain types of exploitation, including from economic exploitation through national minimum age legislation.</td>
</tr>
<tr>
<td>Additional legislation, which extends the minimum age for recruitment into armed forces (15 years in the CRC) to 18 years, and includes non-governmental forces in this provision. Optional Protocols need to be signed and ratified in addition to the CRC.</td>
</tr>
<tr>
<td>Additional legislation, which expands Articles 34 and 35 of the CRC, making more detailed provisions for protecting children from sexual exploitation. Optional Protocols need to be signed and ratified in addition to the CRC.</td>
</tr>
<tr>
<td>These two UN Covenants expanded on the human rights in the 1948 Declaration, detailing the rights and freedoms to be enjoyed by all human beings – which includes children.</td>
</tr>
<tr>
<td><strong>ILO Convention 29/ Forced Labour Convention (1930)</strong></td>
</tr>
<tr>
<td>Applies to all workers, and includes bonded labour. One of the fundamental principles of the ILO Declaration.</td>
</tr>
<tr>
<td><strong>ILO Convention 77/Medical Examination of Young Persons (Industry) (1946); and, ILO Convention 78/Medical Examination of Young Persons (Non-Industrial Occupations) (1946)</strong></td>
</tr>
<tr>
<td>These two Conventions supplement minimum age legislation by emphasizing the importance of people less than 18 years old being fit to work, regardless of their age. Together with Convention 138 they point to the importance of labour inspectors being adequately trained in child work issues, and the need for doctors to be trained in recognizing occupational health hazards for children.</td>
</tr>
<tr>
<td><strong>ILO Convention 87/ Freedom of Association and Protection of the Right to Organize (1948); and, ILO Convention 98/Right to Organize and Collective Bargaining (1948)</strong></td>
</tr>
<tr>
<td>Workers should be free to form associations to protect their interests against employers, and to be able to bargain for better conditions of work. Both those Conventions are fundamental principles of the ILO Declaration.</td>
</tr>
<tr>
<td><strong>ILO Convention 105/Abolition of Forced Labour (1957)</strong></td>
</tr>
<tr>
<td>Together with ILO Convention 29, this forms one of the principles of the ILO Declaration.</td>
</tr>
<tr>
<td><strong>ILO Convention 138/Minimum Age</strong></td>
</tr>
</tbody>
</table>
| A minimum age for employment must be set, and should
<table>
<thead>
<tr>
<th>Convention (1973)</th>
<th>be no lower than the age for completion of compulsory schooling (generally, 15 years). Children less than 18 years of age may not undertake dangerous work, or work that might jeopardize their health, morals or safety. Children aged 13 to 15 years can undertake ‘light’ work that does not interfere with their schooling.</th>
</tr>
</thead>
<tbody>
<tr>
<td>ILO Convention 182/Worst Forms of Child Labour (1999)</td>
<td>Defines children as less than 18 years of age. Defines Worst Forms as (a) unacceptable by any international standards and conventions (b) work that ‘by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.’ Defining this latter type of Worst Form depends on good standards of research.</td>
</tr>
<tr>
<td>ILO Declaration/ILO Declaration on Fundamental Principles and Rights at Work (1988)</td>
<td>Expression of commitment by governments, employers and workers’ organizations to uphold basic human values and freedoms: association and collective bargaining; elimination of forced labour; abolition of child labour; and elimination of discrimination in the workplace. Countries are obliged to report on these principles, and the ILO reports on progress of each principle at four-year intervals.</td>
</tr>
<tr>
<td>ILO Recommendation 190/Worst Forms of Child Labour Convention Recommendation (1999)</td>
<td>Accompanying Convention 182, this Recommendation provides advice about how countries can work towards implementation. Includes the recognition that children are stakeholders.</td>
</tr>
<tr>
<td>United Nations International Convention against Transnational Organized Crime (2000)</td>
<td>Provides the first international definition of trafficking, which states that children are trafficked if they cross borders for work, even if they do so willingly.</td>
</tr>
</tbody>
</table>

### 6.2.2. Recommendation No. 190 WFCL, 1999

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour

- **Place:** Geneva
- **Session of the Conference:** 87
- **Date of adoption:** 17:06:1999
- **Subject classification:** Elimination of Child Labour
- **Subject classification:** Children and Young Persons
- **Subject:** Elimination of Child Labour and Protection of Children and Young Persons
- **Status:** Up-to-date instrument This Recommendation is related to a fundamental Convention and is considered up to date.

_Ghetnet Metiku WoldeGiorgis_  
_Socio-Legal Researcher_  
_E-mail: gmgiorgis@gmail.com_
The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-seventh Session on 1 June 1999, and

Having adopted the Worst Forms of Child Labour Convention, 1999, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Worst Forms of Child Labour Convention, 1999;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Worst Forms of Child Labour Recommendation, 1999.

1. The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as "the Convention"), and should be applied in conjunction with them.

1. Programmes of action

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:

(a) identifying and denouncing the worst forms of child labour;

(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;

(c) giving special attention to:

(i) younger children;

(ii) the girl child;

(iii) the problem of hidden work situations, in which girls are at special risk;

(iv) other groups of children with special vulnerabilities or needs;
(d) identifying, reaching out to and working with communities where children are at special risk;

(e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

II. Hazardous work

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

(a) work which exposes children to physical, psychological or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

III. Implementation

5. (1) Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and elimination of its worst forms as a matter of urgency.

(2) As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. The importance of an effective system of birth registration, including the issuing of birth certificates, should be taken into account.

(3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.
6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.

7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.

8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.

9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.

10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.

11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:

   (a) gathering and exchanging information concerning criminal offences, including those involving international networks;

   (b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;

   (c) registering perpetrators of such offences.

12. Members should provide that the following worst forms of child labour are criminal offences:

   (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

   (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and

   (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, or for activities which involve the unlawful carrying or use of firearms or other weapons.
13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.

14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:

(a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;

(b) involving and training employers' and workers' organizations and civic organizations;

(c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;

(d) providing for the prosecution in their own country of the Member's nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;

(e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;

(f) encouraging the development of policies by undertakings to promote the aims of the Convention;

(g) monitoring and giving publicity to best practices on the elimination of child labour;

(h) giving publicity to legal or other provisions on child labour in the different languages or dialects;

(i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;

(j) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;

(k) as far as possible, taking into account in national programmes of action:
(i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and

(ii) the need for sensitizing parents to the problem of children working in such conditions.

16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers’ and workers’ organizations. Such international cooperation and/or assistance should include:

(a) mobilizing resources for national or international programmes;

(b) mutual legal assistance;

(c) technical assistance including the exchange of information;

(d) support for social and economic development, poverty eradication programmes and universal education.