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**CHILD LABOR
THE LAW AND THE PRACTICE**

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Chapter One

1. General Background

In today many children are found working in different sector of the economy both in the formal and in the informal sector faced with serves 5risks to their health and physical development. Children were claimed to undertake for which they are entirely un prepared both physically and mentally.

The world's children of 10-18 years, over 2 billion, nearly 9 out of 10 living in developing countries. One out of four of children living in developing world are working children.¹

Globally more than 73 million economically active children with the age group of 10 to 14, representing 13.2 percent of all children with in this age group around the world the greatest number were found in Asia 446 million (13 percent) following by Africa, 23.6 million (26.3 percent) and in Latin America 5.1 million (9.8 percent of the working children in the 10-14 age group in the developing world. Three quarters of them work six days a week or more and one half work nine hours a day or more. Over 200 million children in the world have to earn their own lively hood, with a few being bonded for life at 8 years old par-payment for debts often to the serious detriment to their health and educational opportunities.²

In Africa, only a tiny proportion of child workers are involved in the formal sector the vast majority work for their families, home, in the fields and on the streets. In rural Africa children begin helping with domestic

chores well before school age. Girls must fetch the household water and fuel wood. Children of both sexes help with farm work, looking after animals and performing all task job often physically taxing in the extreme the work of children in the family has often helped their socialization. However today labor is less structured and more time consuming and expletive. A large percentage of children in Africa have started full time jobs at eight years of age or even younger un prepared for separation from their families.³

The most driving force for child labor in Africa is poverty. For poor families, the small contribution of child income, or assistance at home is making the difference between hunger and bare sufficiency or high proportion of child employees give their entire wages to their parents. Children's work is considered essential to main fain the economic level of the house hold.⁴

1.1. Child labor in Ethiopia

In Ethiopia, the economically active children between 10 and 14 years of age are estimated to be 45.5% while children between 15 and 19 years of age are estimated to be 59.6% many of these children are deployed for domestic service and many others in hazardous work in the formal and informal sectors employment. In Ethiopia, too many children are engaged in activities where safety of working conditions is below international standards. Tasks that assigned to children in Ethiopia, many divided in to two categories that is the urban and rural children.⁵

1.2. Types of tasks assigned to urban

In urban areas, children are found working in both formal and the informal sectors the most common activities of children in the informal sector, in urban area, include, among others working on the streets for

long hours. The activities of this category are usually stratified according to age and sex.⁶

Female working children are predominantly engaged in petty trading, whereas the male ones are concentrated in all other activities such as working with taxis commonly called “Wayalas” and car washing, shoe shining is commonly done by children with age ranging 9-14. In similar conditions children who are engaged in begging are generally. In Ethiopia, the problem of child labor in the informal sector is apparent in towns and cities. In this connection, there is no appropriate information concerning the exact number of undertakings and the number of children working in this economic sector. 60% of the 6.2 million urban populations in Ethiopia live below the absolute poverty level and these situations are expected to be even worse in rural areas. This can also indicate that nearly 2/3 of all Ethiopian families are contributors as one of the supply factors for child labor, where children are obliged to supplement the meager income of their families.⁷

The majority of these working children are on work for a half to a full working day with an average working time of 10 hours a day. They earn a small amount i.e. birr 1 to 4 a day. It has also been found that nearly two thirds of child street workers who live with their families are also attending school for half of a day and spend the rest working on the street. With the age category of 5-10 the majority of these children are on work for half or a full working day with an average working time of 10 hours a day.⁸

1.3. Types of tasks that are assigned to rural children

It may be divided into three major categories, the first consists of domestic chores, which begin well before school age the second category

in farm work which some times has to be performed by children beyond their physical strength the third category is working in the informal sector which among other comprises small craft enterprises and small trades that are essential to village life, especially shop keeping. The children usually are not restricted to perform only one kind of activity like fetching water and fire wood, cattle herding and other domestic work.⁹

1.4 Definitions

1.4.1 Child labor:-

Child labor as “economically active population under the age of 15, who are being exploited or over working or deprived of there right to health or educations a work which is too hard, having too long hours of work, is paid too little, is too dangerous for which the child is too young, it can be a threat to the physical, psychological, emotional and social development of the child.¹⁰

Child labor is employing children below 15 years old in factories and industries where they are not directly under supervision of their parents, this jeopardizes their right to education, health and total well being making children below 18 years work in hazardous occupations, Making children work at night Paying children less than adult workers using children as sexual workers, child prostitution Locking up children and forcing them to work bonded labor usually children in bonded labor in cur more debts because their employers charge them for shelter and food. There is a vicious circle where the children are forced to stay and keep working, which only forced them to incur more debt.¹¹

1.4.2 Child labor

For children that harms them or exploits them in some way (physically, mentally) morally, or by blocking access to education. But there is no universally accepted definition of child "labor" varying definitions of the term are used by international organizations, trade unions, and other interest groups. Not all work is bad for children; some special scientists point out that some kinds of work make it exploitative.¹²

1.5 Societal outlook towards children

Societal attitudes towards having a large number of family members are positive. This is due to the fact that children are accepted as a gift of God to supplement the labor required by the family and serve as social security by supporting their parents when they get old. In these connections, households who believed that more children are important for economic purposes are found to be those who make their children work at an early age of 7 years. Regarding attitudes of parents about the education of their children, those who are in the low income domain do not want their children to go to school but want them to work, especially between two sexes. Parents in rural areas prefer boys to go to school than girls simply for the reason that they want the latter to undertake activities at home.¹³

1.6 Child employment

Despite the prohibition of the employment of children as "workers" the private and the government institutions hired below the legally prescribed limit. Among the private employees aged 10-19 years, 57.16 percent are found employed in the rural area and 48.84 percent are found employed in the urban areas. This indicates that more than half of the rural areas. More number of working children was recorded in the rural areas than the urban areas, probably due to the efficiency of follow-up intervention of the inspection system of children in the rural areas. Similarly

among the 3.7 million economically active populations aged 15-1 years. The 4.95 percent are private employees of the economically active children 2.0 million (5-60 percent) boys and 1.7 million (4.18 percent) girls are private employees. Very few proportions of the economically active children are employed in the private employees it accounts less than 5% of the economically active children of the country. But the fact that of the total private employee's population of the country, the 42.05 percent are children below twenty years of age clearly indicate the child employment beyond the prescribed age limit is widely. Practiced in the country which needs children to exploitative labor of the government employee children aged 10-19 years the 2:40 percent are male while the 5-94 percent are female indicate that in the government employment sector also, female children are more preferred than the male children. Also, of the government employee children aged 10-19 years, 8:04 percent of them are working in the rural areas and the 2:09 percent of them are found working in the urban areas.¹⁴

1.7 The legal framework

There are various legal instruments, which deal for the protection of child labor the situations of the children worsening in alarming rate.

The first instrument considered by the writer of this paper is the convention on the right of child that state parties to the convention shall take legislative measure to provide for a minimum age for admission to employment and provide interalia for appropriate regulation of the hours and conditions of employment.

The Ethiopian government has introduced legislations prohibiting the employment of children below a certain age and specifying the condition under which minors may work, where they are legally permitted to so.

The protection of children from exploitative labor has been laid in the constitution “every child has the right not to be subject to exploitative labor practices, neither be required nor permitted to perform work which is hazardous, is to be harmful to his or her education health or well-being” of working hours and age limits for specific types of activities FDRE constitution of 1994 Article 36(d).

Laws are the foundations of social policy and central to the promotion and defense of child rights and welfare. They articulate a society vision and define individual right and obligation of the one hand the nature and limits of state action on the other. This is not to say that laws alone can solve problems in child labor. But the advocacy of nationally and universally held values and for recourse to legal protection when right is violated and abuse is perpetrated. They are undoubtedly and abuse is perpetrated they are undoubtedly the signal most powerful instrument for the protection of child labor. There fore the absence of other wise of national legal instrument consist with international convention on children right impacts directly on child right promotion and protections.¹⁵

The first instrument considered by the writer of the paper is the United Nation, Convention on the right of child. Ethiopia ratified the convention it States, state parties to the convention shall take legislative measure to provide for a minimum age for admission to the employment and provide inter-alia for appropriate regulation for the hours and conditions of employment.

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of working hours and age limits for specific types of activities. To the principle that the provisions of these provisions of treaties are respected and observed in law and practice. ¹⁶

Chapter Two

2. Causes for child labor

Little is known on the field of child labor in Ethiopia as for as compressive research is yet to be conducted on the subject matter. It is hard to get reliable data on each and every issue. However many scholars agree that there are certain factors which aggravate the problem in Ethiopia of these, the poverty, unemployment in urban and under employment poor economic development which is stagnant for many years. The limited availability of education, the failure of educational system to meet the academic requirement, being trapped in wars for decades, civil conflicts and natural disaster, such as drought and the effect of global warming which causes the decreasing distribution the rain fall are among some of the main reasons that drive children in to those occupations they are engaged.¹

2.1. Poverty

The research was conducted in south people nation and nationality's region in, the aria called Sherkole Participating children were also asked about the reason for their involvement in such line of work as a research conducted INSHERK? OLE64.2% of the children indicated that because of their poverty to supplement the family income.

2.2. Economic Proliferation

The other reason why employees hire child laborers is the most common reason exploitation that are given being the lower afforded by the children.²

2.2.1 Child labor situation in Ethiopia

Child labor is the major cause of child abuse and exploitation in may parts of the world including Ethiopia: however there is no sufficient

knowledge regarding child labor in Ethiopia because of the absence of comprehensive research undertaken to show both the magnitude and the extent of the problem.³ A little effort done so far on the issue shows the existence of the problem in all economic sectors particularly it is more prevalent in urban informal sectors and rural areas where the scope of the legal restriction are not covered, or the enforcement mechanisms are not developed.

2.3 Forms of child labor

The significance of identifying the nature of work that children are involved in becomes necessary when one wants to know the effects and endangerment of that activity up on the children. Taking in to account the general socio-economic structure and the different types of work participated by the children the following forms of child labor are reported in Ethiopia.⁴

2.3.1 Domestic Work

Domestic work is one of the most common types of child labor undertaken by the children. Some of the activities done in domestic work are cleaning, cooking, and child care, home based farming activities and other household chores. One of the unique features of this work is that it is gender oriented in which case girls do the work of their mother, while the boys the type of work done by their father. Even though, girls undertake the most significant portion of the house hold works indicators show that such kinds of child labor has an economic value for the adults because it gives them chance to do other jobs. While these covered by the children.⁵ But many studies confirm that child domestic workers are most victims of verbal and sexual abuse, beating or punishment by starvation when they typically live away from family or home, specially girls are mostly, vulnerable to this particular type of

abuse because they primarily undertake domestic service. This is one of the occupations that can cause serious psychological, physical mental and social adjustment problems to the life of the children.⁶

2.3.2 Un paid –Non domestic work

As noted above children are engaged in agricultural and house hold activities beginning from the early childhood. Because child labor is accepted as a normal way of child rearing parents always appreciate the role of children on the subsistence farming activities and other house hold works rather than sending them to school. Both sexes' participating in this work in order to contribute in rural area. Children carried out activities such as animal herding; protecting crops from birds and animals, fetching water, sawing, weeding and other farming activities.⁷ But this becomes worse when it totally deprives the child the right to education or it is contributing other hazardous effects to the health life and the well being of the child.

2.3.3 Debt bonded labor

Bonded labor is one of the worst forms of child labor that children involve in so as to pay off the debt owed by their parents. Some times bonded labor creates in which the child enters into servitude as a result of previous financial transactions concluded by his parents.⁸ But bondage arrangement is illegal in nearly every country in the world including in the countries where it is most prevalent.⁹ Because child right convention which signed including Ethiopia prohibits such kind of work take art 9(4)" all international agreements ratified by Ethiopia are integral part of the law of the land" therefore, the practice of bonded labor is also unlawful in Ethiopia.

2.3.4 Child prostitution

In 1996, the national steering committee against the sexual exploitation of children was formed and is chaired by children, youth and family affairs department of the ministry of labor and social affairs. Then the committee has reported that child prostitution is highly increasing particularly in major urban areas, however, there is no statistics available on the number of children involved it and reported that girls as young as eleven years of age are engaged to work as prostitute in house being ignorant of the risk of the HIV/Aids infection. It is further added that these young girls are selected because their clients believe that they are free from sexually transmitted disease.¹⁰

2.3.5 Wage Labor

This type of child labor is the most prevailing and reveals itself in every sector of economy. Children who are engaged on this type of work usually work in construction, manufacturing, mining, agro-industry service industry and others are few among where children are employed. While most of these activities are among the most intolerable forms of child labor because of the use of children in agricultural work where they are exposed to pesticides insecticide in case of mining, particularly gold mining is carried and of residential area where the child may be deprived to his right to education.¹¹

But in the large scale industries, children are not allowed to be employed and employers cannot. Because of the legal restrictions and the efforts that government has made on the enforcement of those laws in the formal industrial sector.

2.3.6 Marginal economic activity in the street

Child labor is usually characterized by irregularity and short-term in nature in urban areas children in large numbers can be seen working in variety of jobs such as shoe shining, hustling, passengers in to cabs, porters, selling lottery tickets, selling news paper and other street vending activities, and apart from the risk which is relevant to some of the above mentioned activities such as the negative impact of rifting heavy weight and possible car accidents to those carrying street business. There is a possibility of being deprived from the limited educational opportunity. According to the report of the ministry of education the enrolment ratio at primary school level is 29% as shown by the study made on the same age group the male figure is the lowest rate in the world. How the chance to education for a child is limited in Ethiopia, is relation to right to education.¹²

2.3.7 Trafficking

Trafficking in the filed of commercial sexual exploitation continues extremely high rate and in this context trafficking denotes the movements of prostitution or would be prostituted from one place to another-locally or aboard.¹³ There are certain persons who engaged in arranging potential clients in the sex industry, recruiting of young peers form the rural village to hotels and bar owner, particularly those town locate on the main truck roots and big cities, direct of children to organized prostitution rings, arranging favorable condition to child prostitution especially, those of elementary and high school students and among persons engaged in carrying out this activities are blue tad driver and pimps.¹⁴

2.4 Labor of children and impact on education

In order to understand the existing situation of children and their involvement in the labor activities and its impact on the education a number of question are forwarded to children from the house hold summery. These regard children were asked if they have worked during the last seven days. The profit obtained indicated two patterns communities utilizing child labor significantly and those to lesser extent in south part of Ethiopia in sharkole village (87.9%) komosha (87.0%), majority of them indicated that they have worked during the past 7 days. In sherkole and komosha, boys represent the majority while in the Oromiya region in messo the opposite holds true. In the case of Boke, it is also Oromiya region, however gender does not appear to be a factor. On the other hard, in kurmuk, the situation is situation is different with only 29.9% of the children having worked during the last seven days. In addition, gender did not appear take a factor ever though girls. Proportion was slightly higher.¹⁵

2.5 Extent of child labor problem in Ethiopia

As it is know in many developing countries in Africa, Asia and Latin America, child labor is wide spread problem also in Ethiopia. Even though no research is made on the exact number of children involved in child labor and the nature of the work they are involved. An estimates one can take from the 1994 report of Central statistics Authority (CSA) on the population and housing census about seven million children are existed in this problem.

Despite, the practice is reported the Constitution and the law prohibit trafficking in person. Between 10-14 years which is equivalent to 50.1 percent of the number of children in the country are known to be economically active; of these 50.6 percent are children engaged on child

labor in rural area while the corresponding number in Urban is 9.6 percent. There is also ground to note that both the exact figure and the problem of child labor are much higher than those reported by the 1994 CSA report. Because, it does include children under the age of 10 years who are economically active engaged on child labor even among those aged between 10-14 years in urban areas in extremely more than the current estimate the same is true, on the number shown in the rural area more over the gross enrolment in primary school in 1991 is 31 percent which is significant indicates for that 70% of the Ethiopia children are trapped in child labor.¹⁶ There is also ground to note that both the exact figure and the problem of child labor are much higher than those reported by the 1994 CSA report. Because, it does include children under the age of 10 years who are economically active engaged on child labor even among those Aged between 10-14 years in urban areas is extremely more than the current estimates.

The same is true, on the number when in the rural area more over the gross enrollment rate in primary school in 1991 is 31 percent, which is significant indication for that 70 percent of the Ethiopia children are trapped in child labor.¹⁷

Therefore one can see from this fact that large number of children is engaged in child labor in all sectors particularly in the urban informal sector and rural areas. As noted earlier, the industrial sector is restricted by law but children are found in work in all other sectors working below the minimum age limit. Set by the law According to ministry of labor and social affairs, report 65.4 percent of working children are employed in agricultural sector, all them are under minimum age for admission to employment that is 14 years of age.¹⁸ Moreover, as circumstantial evidence and number of studies done on the rural area, urban informal and formal sector shows working children are engaged in variety of

activities. Where most of these children begin to work as early as 5 and 6 years age without any form of protection, being under abusive and exploitative condition.

2.6 Action taken against child labor

The ministry of labor and social affairs is the authority designed to implement child labor laws under the children youth and family affairs department the ministry coordinated 36 national and international NGOs that are involved on the issue of child labor having different target groups and strategy.

In order to ensure that various activities are carried out in coordinated and sustainable way. The ministry is assigned to establish a mechanism on unit with responsibility for actions. Because the government has realized legislations alone can not bring to an end the problem of child labor. Then the ministry has come up with Draft national policy on child labor in which it call up on concrete program of action such as:

- Co-ordination with among different government agencies employers and workers organization NGO and other civil groups.
- Design of policies program's and project collection and distribution of information to different agencies.

Campaigns and support for action against child labor.

In September 1999, a forum on child labor was held by government, NGOs and foreign entities including the international labor organization (ILO) to combat such problem like child prostitution and other worst forms of child labor.¹⁹

Since the resources to fight against child labor are limited, prioritizing the problem is necessary.

Further move 21st March, 2001 the central statistic Authority planned to embark on all study aimed at identifying child labor's Ethiopia was conducted on national wide on 43,600.00 families selected through out the country as a sample studies. This study is still under way on the supervision of the ministry of labor and social affairs in collaboration with the intentional labor organization (ILO).²⁰ These are some of the technical actions taken against the elimination of child labor.

Chapter Three

3. THE LEGAL INSTRUMENT DEALING WITH CHILD LABOR

3.1 The position of international law with the FDRE constitution

The FDRE constitution which is the supreme law of the land in cooperates the international agreement that are ratified by Ethiopia, as stipulated by the words of article 9(4) “All international agreements ratified by Ethiopia are an integral part of the law of the land” on the other hand, the constitution has given such international instrument of human rights adopted by Ethiopia, a wide scope than provided, when the issue of interpretation arises on the fundamental rights and freedom provided shall be interpreted in a manner conforming to the international instrument as stated under art 13(c).

3.2. UN Convention on the right of child

This convention is among those instruments that the constitution guarantees to be in the same hierarchy with the proclamation. Further it is ratified by proclamation no 100/1998” There fore, as the convention is the most important and compressive statement of children’s rights including the economic social and cultural rights.

With political and civil rights, for the development of child in full potential of it is mental physical psychological well being with in an atmosphere of freedom dignity and justice. As mentioned earlier all rights provided under this convention are to be considered as an integral part of domestic law particularly, those provision that protects children from economic exploitation such as Art 32(1) “state parties recognize the right of the child to be protected from the economic exploitation and from

Performing any work that is likely to be hazardous or to interfere with the child” education or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.

It is further stipulated in the same Art 32(2) (a) and (b) that “State parties to the convention shall take legislative measure to provide for a minimum age for admission to employment and provide for interlaid for appropriate regulations of hours and conditions of employee”¹

Similarly among the convention of the international labor organization which are ratified by Ethiopia as stipulated under proclamation No 152/1999 ILO convention ratification are also provide and discussed as follows

3.3. ILO-Abolition of forced labor convention 1957(No 105)

Provides under Art -1 of this convention that “Each member of the international labor organization which ratifies this convention under takes to suppress and not to make use of any form of forced labor”

- a. As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.
- b. As a method of mobilizing and using labor for purposes of economic development.
- c. As a means of labor discipline
- d. As a punishment for having participated in striking.
- e. As a means of racial, social, national or religious discrimination.²

3.4. The ILO- minimum age convention 1973 (No 138)

This convention is among the conventions ratified by Ethiopia it also stipulates under Art 2(3) cum Art 3(1) that “the minimum age admission

to the employment shall not be less than the age of completion of compulsory schooling and in any case shall not less than 15 years and the type of employment of work which by its nature or circumstances in which it is carried out likely to jeopardize the health safety or moral of young persons shall not be less than 18 years of age.³

3.5. The labor proclamation no 377/2003

In line with the principles of art 32 of the UN convention on the rights child (1989) and ILO conventions (No 138/1973) which requires the state parties to set minimum age or admission to the employment in labor proclamation no 377/2003 prescribes minimum age for employment in the formal sectors and conditions of work for young workers.

Thus the proclamation first define who is young worker. As it is prescribes under art 89(1) “for the purpose of this proclamation young worker means a person attain the age for fourteen but not over the age of 18 years” Here, one may raise a question, why child at this age is permitted? The potential under this permission is for the interest of the child but not the benefit of the employer. Moreover, such work must be light work as envisage in the ILO conventions (No 138/1973) and usually it is a work that is approved and inspected by the competent authority in which mostly the young worker gains a kind of skill like vocational training.

The proclamation totally prohibits to employ children under the age of 14 years of age it further also prohibits to employ, young workers in a work which on account of its nature or due to the condition in which it is carried out endangers the life or health of the young worker performing the work

The proclamation also enumerates certain activities that are considered to be hazardous to the life or health of the working children as stipulated in

- a. Work in the transport of passengers and goods by roads rail ways, air and internal water way, dock sides and ware houses involving heavy weight lifting's, pulling or pushing or other related types of labor.
- b. Work connected with electric power generation plants transformers or transmission lines.
- c. Under ground which such as mines, quarries and similar works.
- d. Work in sewer and digging tunnels.⁵

The above list of activities is not exhaustive because the ministry of labor and social affairs is empowered under Art 98(4) to prescribe other activities which it deems hazardous to the life or health of the young worker in which case the young worker could not be employed. Thus in relation to this authorization, the ministry includes under the definition of the worst forms of child labor than those listed above the prostitution and bonded labor and it can continue others whenever it found significant to include in the list.

It is also stated in the proclamation that the normal hours of work for young worker, shall not exceed seven hours a day employer is obliged to give a person complete or systematic training in a given occupation related to function of his undertaking according to Art (48(1) in addition to that the employer has provided the apprentice the necessary time to attend schools and professional courses, thus one can understand from this as mentioned earlier it is for the interest of child to protect from exploitative practices further it is prescribed that the contract of apprenticeship and its modification shall be valid only when it is made in writing and attested by the minister and the minister will check during

the contract the nature and duration of the training and the conditions of training to protect the child.⁶ Art 49(1)(2)(3).

3.6. The Draft national child labor policy

To achieve this objective, short and medium terms are used which concentrate on the gradual intervention for the aversion of further enlargement of the problem are being set and stated as follows.⁷

3.6.1. The over all objectives of national child labor policy

- a. To minimize child labor in Ethiopia, and to put to an end hazardous work done by children below the age of 14 years as soon as possible.
- b. To minimize the existing activities in the country by laying ground for a nationality coordinated efforts to alleviate the child labor problem.
- c. To secure maximum participation and co-operation from all agencies concerned with children's affairs including both the Ethiopia employer's organization and trade union organizations in decisions relating to child laborer questions and child labor policy.
- d. To augment the current endeavor in the country regarding the improvement of the situation of children by formulating and issuing appropriate child labor legislation and designing a responsible child labor legislation and designing a responsible body for enforcing legislation.
- e. To give the issue of child labor on important place in the national development programmes so that every precaution can be made to minimize the consequences of child labor.

- f. To safeguard the basic rights and interest of working children and to that end promote respect for relevant international labor standards children's protection conventions and children rights to be organized and bargain collectively.

3.7 federal civil servant proclamation no 515/2007

According to this law the term "public servant is defined as employees of ministers, chartered government agencies and other public authorities excluding member of army and police forces judges public servant or other employer above the rank of assistant minister or its equivalent together with member of parchment. Temporary employee seasoned and contractual employees who are employed for specific length of time and whose services terminated with the expiration of such period time or a given project are also excluded from the definition of civil servant order under (Art (2)

3.8 CIVIL Code

Under the civil code a child is defined as any person under the age of 18 years and the young worker can start at the age of 15 years. He may be a party to a contract of employment as employee but he may not sign the contract by him self.

The tutor will sign it, upon authorization of his guardian the contract how ever, will not be effective unless the young worker himself gives his personal consent 9

4. The variation between the law and the practice

Despite the prohibition of the employment of children as “Workers” or “public servant” both in the proclamation and the public order, as well as, in the other legal instruments mentioned in earlier, including the constitution of FDRE. The practice is different. In national wide, the 1994 report of the population and housing ceases of Ethiopia shows that out of the total 77,525 (Seventy seven thousand five hundred twenty five) private employee population of the country 42.02 percent are children aged 10-19 years. While these children were employed both in the private sector and in the government institutions. Let alone those who are engaged at work in rural areas being below legally prescribed limit.⁹

In order to understand the variation between the law and the practice identifying the child labor problem, identifying the type of work that children are involved become a good point to start to show the variation of the law and practice.

With regard to this matter the writer of this paper interviewed Ato Neway Yimer head of department ILO, child labor unit in Ethiopia, as told to me based his study conducted in Somali Region there are works which involved by children he mentioned as follows.

A. Animal Herding

This kind of child labor is common through the region, as far as the community of the regions familiar in Livestock rearing, such as cattle’s, camel sheep and goats (shoats). The mode of employment of working children may be, self-employed, (children with their own initiative due to the problem agree to work with their employee family employed or middlemen employed. The amount of remuneration given to a child at

work depends on the type animal he/she looks after if the child look after a cattle, he/she will be given one mated or zygote hyphen per year for remuneration. If the child engaged in herding camels, the child will be given one mated she-camel per year and if he/she looks after sheep and goats. In addition to that, the employer will buy for the child clothes once a year. The child also cannot use the milk and food freely as the child of the owner.

Children who are involved under this activity are mostly employed at a location other than where their family living and usually go with the animals, especially, when a shortage pastures and water is faced in the locality of the employer. This child will move with the animals to where pasture and water may to available for the animals. In such a case, the child is once again separated from the family of the employer. He/she and some of elder family members will take the animals to those areas where the rainfall is currently distributed. In dry season where they can find pasture and water. They work the whole day that is from sunrise to sunset, sometimes longer than that, particularly, in dry season when the animals search for water from a long distance the time for grazing will be longer to the mid-night sometimes, when the age of the child is about 13-7, Even, the task of watering the animals from deep holes (wells) or from constructed or lined ponds “called “barked”, is left for the child. Which is the most hazardous work done in the rural area further it has its own risk particularly, when the child has no skill of swimming he may fall into the “Birka” or “hole” when the child is pulling the water-container.

Moreover, the child engaged in this form of labor may not be the ultimate user of the remuneration given to him. Either his family may use it or elder brother and guardian may use it for their specific needs including arrangements of marriage ceremonies and dowry. Thus child who is deprived from all opportunities will become an adult without anything.

Apart from this, the name given to this child worker shows psychological and moral inferiority when compared with the same animal herder child who lives with his family or looks after their own cattle. Further they are not equally treated with the children of the employer in different aspects, such as the sleeping, when he become sick, and other attitudes that takes part for the up bring of the child. Then, if that is the practice, what the law says on such practices of the child labor.

Even though, there is no law that govern specifically the contract of employment under such practice the consequences of the practice covered by the low in relation to the rights of the child. As mentioned earlier, the constitution of FDRE totally prohibits any economically exploitative labor practices and work hazardous to the health or life of the child as stipulated in Art 36(1)(d). In the same manner, the UN-Convention on the rights of child protects the child from economic exploitation and from performing any work that is likely to be hazardous or interfere with the child education or to be harmful to the child's health or physical, mental, spiritual moral or social development.

This shows that, the practice discussed above is against the rights provided under the constitution of FDRE, which is the supreme of the land and the UN-Convention on the rights of child, so far it has an impact on the child's health or physical, mental, moral and totally deprives the child's opportunity to education. Moreover, it is against the right of the child not to be deprived of his or her family environment where such separation is not for the best interest of the child as provided under Art 20 of UN-Convention of the rights of the child which Ethiopia has ratified .¹⁰

With regard to domestic laws, Labor proclamation No 377/2003 prohibits the engagement of young workers certain works enlisted under Art 89(4)

in which includes, work that involves heavy weight lifting, pulling or pushing or any other related type of work.¹¹

Thus, the practice of watering animals from deep holes or lined-birkas, in which the child pulls water container, falls under this category. Further the ILO Convention the ILO- minimum age convention No 138/1973 provides that any type of employment or work which by its nature or the circumstance 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.¹²

It is clear from the above-mentioned laws, that this is a clear violation of (deviation from) the law. However, one may see the positive aspect of the practice. For a child who lives within a community where the nearest access for schooling is about 100km or more if this child be involved under work and gained what is given to him as remuneration for several years. The child may become self-reliant or could be able to establish his own life within that community whatever the hardship he passed.

In contrast, the question that can be raised whether the said remuneration is fair for one year, to which the answer is not fair, will be subjective but if this changed into monetary, it will be about 300-350 birr, which will be less than one birr per day in which case, it becomes without remuneration almost. The worst is when the said remuneration is not ultimately used by the child, in which case, the rendered service becomes a sort of slavery-like form of labor.

Therefore, if the law provides the above mentioned protection in relation to those problems. Then, what is the cause of gap? First it is the institutional arrangement of enforcement mechanisms, lack of awareness, poverty and other socio economic conditions are some of the reasons but how this can be reduced shall be discussed.

Then, what the law says on this form of labor practices, the constitution of the FDRE provides that the work hazardous or exploitative labor practices is prohibited neither to be required nor permitted as far as it is harmful to the education, health or well-being of the child.¹³ In addition to that the UN-convention on the rights of the child, which Ethiopia is a party, protects the child against all other forms of labor prejudicial to any aspects of child welfare. In relation to, labor proclamation No 377/2003. Even though, this form of labor is not included in those listed as the worst forms of labor under Art 89(4) The minister of labor and social affairs has included under the definition of the worst forms of labor by using the discretion given under Art 89(4) of the labor proclamation that the “Debt bondage” and “child prostitution” are among the worst forms of child labor in which case, it is prohibited in Ethiopia as it illegal in every part of the world.¹⁴

Similarly, the ILO-convention No 182/1999 which is a complementary to convention No 138/1973 which Ethiopia has ratified provides under Art 3 “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 labor, including forced or compulsory recruitment of children for use of armed conflict¹⁵ is prohibited.

Thus, what is the cause of this gap? It is because of insufficient legal. Enforcement, lack of awareness so far, as there is no research conduct on the problem of child labor in order to identify the nature and Magnitude then, how this gap can be reduced.

The UN, convention on the right of child totally prohibits the said practice but Ethiopia is not signatory to the convention, However, one may arguer so far this convention is a supplementary convention and is

include in the preamble of the abolition of forced labor convention (No 105/1957) which Ethiopia is signatory as a result of this it may be concluded it is ratified by Ethiopia. It protects the child against all other forms of exploitation prejudicial to any aspects of the Child's welfare as prescribed under Art 36.

5. Ways to reduce child labor

A number of efforts has been done by the government to reduce child labor, It recognized the problems of disadvantage children which also included child worker. Its commitment was signified by the series measure it has been taking so far, such as the ratification of the convention on the rights of child drawing national program of action to place the welfare of children at the center of the development process, giving appropriate place for this category of children in the newly adopted constitution and issuing of new labor law which set the minimum age for employment in the formal sector and prescribed conditions of work for young workers.

But in order to reduce the problem of child labor in the country, we have to consider the socio economic, administrative legislative and cultural factors that have an impact on the magnitude and characteristics of child labor.

5.1. The Role of government

Child labor problem is complex and extensive in nature it touches on the livelihood and survival of many thousands of families and communities as well as the interest and prosperity of those whom the children working for, it creates conflicting feeling and reaction. All these are best resolved if the government action plan is complemented by consultation, education and information sharing among all concerned the action

program of the government is to sanitize the media and the society at large to the problem.¹⁶ If the society as a whole understands that child labor is a problem, then the next step is setting priorities for action and first and foremost must be taken against the worst forms of child labor.

5.2. The Role of National NGO's

The actions of the local Ngo's are expected to include, lobbying and persuading the government to play its appropriate role for the proper implementation of the policy and effective enforcement of laws by addressing where the problem lies and how it can be resolved in priority order. Further they are good at the implementation of projects and programmed at the community level particularly, to those of forged groups and launching actions on awareness rising.¹⁷

5.3. enforcement The existing law

In relation to that, success can not be achieved only through enactment and adoptive protective legislation because government policy in relation to child labor and the enforcement of national laws requires public backing and involvement of all government bodies and NGO's. Therefore the government must provide an atmosphere Co-ordination all regional and international effort towards the abolition of child labor. In addition to that, the government action on the decreasing the gap between the law and the practice in relation to the elimination of child labor objectives can be implemented, when all the government agencies particularly, those concerned with children affairs directly or indirectly are integrated or coordinated with in one multicultural strategy programme among which include the ministry of labor and social affairs minister of health population office, minister of education.

Moreover, labor laws are the ministry of labor and social affairs must come up with an effective enforcement mechanism as provided under the draft national child labor policy “the ministry of labor and social affairs will have the primary responsibility for the effective implementations of the policy by ensuring the legal provision about child labor issues in the labor proclamation No 377/2003 are well observed in the formal sector.

5.4. Developing national policy

A clear national policy against the exploitation of children should form. The basis and point of departure for governmental action to suppress hazardous work affecting children.¹⁸

5.5. Poverty alleviation

Any strategy designed to combat child labor should be accompanied by anti-poverty measures such as accelerated development of the economy, empowerment of communities in implementation and decision making, lowering the current growth rate of the population establishing income generating projects and providing technical support and credit to poor communities, and making health services and education accessible to the population.¹⁹

5.6. Education and Training

To the extent possible access to education should be enlarged especially, for low income families. Basic skill development and vocational training should be expanded to cover both urban and rural areas.

5.7. Awareness raising and advocacy

In view of the low level awareness of society about the negative effects of child labor on the growth and development of children a strategy for community mobilization and public awareness raising and information programmed should be developed to reach specific target groups such as parents, teachers, employers, workers organization and the children.

TO sum up, the writers of this paper recommend the following things should be improved in order to tackle the problem.

poverty and economic under development

Lack of access to primary education and vocational training

Limitations and poor enforcement of the existing legislation due to lack of capacity and material resources

lack of appropriate policy and this absence of effective and coordinated effort on the part of all concerned parties

lack of information and data on the national problem of child labor

Lack of awareness of the development of children

Chapter Three

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