

*A CRITICAL ASSESSMENT OF THE PRACTICE OF
JUVENILE JUSTICE ADMINISTRATION IN NEFASSILK
LAFTO AND LIDETA SUB-CITIES OF ADDIS ABABA*

**Submitted In partial Fulfillment of the Requirement For the Bachelors
Degree of Law (LL.B) at the Faculty of Law St. Mary's University College**

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Statement of Declaration

I here by declare that the paper is my original work, and will take full responsibility for any failure to observe the conventional rules of citation.

Name Mebrihit G/Michael

Signature -----

Acknowledgment

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CHAPTER ONE

INTRODUCTION

1.1 Background of the study

In modern world, every state has promulgated law, which governs the conduct of its subject, there by preventing the public from danger, which might be inflicted up on them by wrong doer. However, as the criminal law and its punishment is defined to serve specified purpose, there are some offenders which the law favors in punishing of them or totally exported from punishment, because juvenile have not reached the age criminal majority.

One of them are the case juvenile delinquent is almost the problem of every state be it is developed or developing. Incase of an offence committed by juvenile delinquency, some societies have deal with crime and criminal in various ways and different times, since its inception. So in the modern world and state has promulgated a law which govern the conductor of the citizen. Today juvenile delinquent is almost the problem of every state either developed or developing.

The law provides a special treatment for prosecution, investigation, accusation, because of their delicate age. For example the law provides that juvenile delinquent should be prosecuted in a special court different from that of adult offenders be imprisoned in a prison separately from adults. Here the law is providing all such treatment to juvenile offenders. If the juvenile offenders are imprisoned in the same prison with adult offenders, juvenile learn further techniques, which help them to commit crime. However, with regard to this practice for a juvenile justice what the law says and the practice fall a part on the ground.

The paper deals with critical assessments of the practice on the juvenile justice administration in Addis Ababa sub-cities. In order to talk the paper

has first attempted to deal with the nature of juvenile delinquency by defining the term and discussing the case.

1.2 Definition of key terms

The concept of juvenile delinquency has close association with the offence committed by young persons who has not reached the majority age.

Juvenile:- means a young person who has not yet attained at which he or she should be treated as adult for the purpose of criminal law.¹

Delinquent:- means a young person who has been guilty of some crime, offence, or failure of duty.²

Delinquency:- means failure omission, violation of law or duty.³

Juvenile delinquent:- is an infant not more than specified age who has violated criminal laws or engaged in dishonest indecent or immoral conduct and is needed of treatment, rehabilitation or supervision.⁴ Juvenile delinquents are young person, whose age is between 9 and 15 committing an offence prescribed by the Ethiopian criminal code.

Juvenile delinquency participation in illegal behavior by juvenile who focus between 9 and 15 or by minor who fall under a statutory age limit.⁵

Juvenile court:- is a court which having a special jurisdiction over juvenile delinquency case. Court that has original jurisdiction over person defined by statute a juvenile and allegeable delinquent statute offender departments.⁶

1. Black law dictionary

2. Ibid

3. Ibid

4. Ibid

5. Larry j.siegel Brandon c welsh and Joseph J.Senna (page 534

6. Ibid

Justice:- is a proper application of the special provision that provides to juvenile delinquent.⁷

Psychopathy :-is an illness to the mental status of juvenile.⁸

Juvenile justice:- is system the segment of the justice system including law enforcement officers, the courts and correctional agencies, designed to treat youthful offenders.⁹

Juvenile officers:- are police officers who specialize in dealing with juvenile offenders they may operate alone or as part of a juvenile police unit with in the department.¹⁰

Juvenile prosecutors: - are Government attorney responsible for representing the interests of the state and bringing the case against the accused juvenile.¹¹

1.3 Statement of the problem

Juvenile delinquents are the problem of almost every state either developed or developing countries. Ethiopia is one the less developed country in the world, which has certainly face of the major problems of children.

Delinquencies are one of the social problems that exist in all society especially in urban area. Now a day the problems are exhibited in an urbanized part of the country. Addis Ababa is one of the most urbanized cities in the country the problem of juvenile delinquency highly observed in industrial and trade route settlements. The way of handling the case of juvenile delinquency is different from adult criminal case handling. The ultimate purpose is to save the youth of today from becoming the criminal of tomorrow, but there has been inconsistency in doing.

7. Andargatchew Tesfaye

8. Andargatchew Tesfaye

9. Larry J. Slegal, Brandon C. Weish and Joseph J. Senna p. 543

10. Ibid

11. Ibid

Various departments attempt take a little new look at the juvenile program, but no considerable change or progress is maintained. Therefore, the problem could have been significantly reduced by conducting a research to assess the cause and solution of juvenile justice administration problem based on the finding of the research. Main problems related to juvenile delinquency can be identified as follows.

- The inconsistency in doing with regard to the practice: what the law says and the practice fall a part on the ground.
- Juvenile suspect are treated in the same manner as adults; investigation is with out court order; detaining more than the legal limit in the police station.
- There is no protection for young offender as there is no separate treatment for them.

1.4 Aim and Objective of the study

The main aim of this research is to asses the practice on juvenile justice administration in line with domestic as well as international law which provide a special treatment and protection of children, whose age is under the age of 9-15.

The specific objective of this study is:-

- To identify the age limit of juvenile delinquency.
- To identify the major causes of juvenile delinquency.
- To examine the international standards relating to juvenile justice administration and way of ruling different in Ethiopian law.
- To describe the UN minimum standard rules for the juvenile justice administration.
- To reveal the legal way of treatment of juvenile delinquency in Ethiopia.
- To identify problems related to pre-trial procedure of juvenile delinquency in Addis Ababa City.

1.5 Research Questions

- Who are juveniles?
- What are the major causes of juvenile delinquency?
- What are the minimum standard rules for the administration of juvenile justice?
- Is there a problem with regard to pre-trial procedure juvenile delinquencies?
- How juvenile's delinquents are treated in Ethiopian law?
- What measures should be taken to minimize the problem existing on juvenile justice administration?

1.6 Significance of the Study

Juvenile delinquency is growing from time to time in different places of the country especially in Addis Ababa city. Hence there is a limitation with regard to criminal justice system in the handling the juvenile cases.

However, this serious problem has not been researched efficiently up to now. It is our hope that conducting of the research, in this area of special issue will help to come up with new knowledge and to test new idea or solution on the problem observed in the law enforcement agencies, which help to save the youth of today from becoming the criminal of tomorrow. It can serve as a base for both practice and academic researchers for further studies and initiate concerned official to make efforts to maintain or protect juvenile justice administration.

1.7 Methodology of the study

1.7.1 Types and source of information

There are two basic sources of data. These are primary source of data and secondary source of data. This thesis is based on both Primary and secondary source of data. Primary source of data includes, the information respondents gave through questionnaires, interview, discussion and the

practice of juvenile justices through observation, which provides original information to the study. On the other side, secondary data is handled with literature. It includes different kinds of books, journals, article, and internet source that are related to the area of the study.

The types of information are required to describe the causes of juvenile delinquencies, the gap between the law and the practice with regard to pretrial procedure such as jurisdiction of the court, court competent to try juvenile cases, arrest, police investigation, bail and trial hearing.

1.7.2 Sampling Method

The population of this study includes police organization, public prosecutor office, courts, juvenile's offenders and school communities. Depending on the nature of the population or the data to be gathered and analyzed, based on the subject availability and non-probability, the sampling method follows as:-

Addis Ababa city consists of ten sub-cities from these sub-cities the writer purposely selected two of them. These two sub-cities are Nefassilk Lafto and Lideta sub-cities of Addis Ababa. These two sub-cities are located in the researchers locality. A sample size of 80 key informant are randomly selected, these are 25 police man, 10 public prosecutors in Federal first instant court and high court, 20 prison workers in lideta sub-city Rehabilitation institutions, and 25 suspected offenders. These samples are selected from the two sub-cities.¹² Therefore, the writer can able to cover 64% of the total population of these sub-cities. The sampling techniques that, the writer selects simple random sampling for questionnaire and for purpose of sampling for interview.

12. Interview

1.7.3 Research Method:-

A number of methods are used to conduct this research and these are either qualitative, quantitative or both. This study emphasizes more on qualitative method, because of the kinds of questions which are best addressed through this study. It is mainly based on qualitative research, because the juvenile delinquent justice administration can be better analyzed with description of information than numerical data. Qualitative strategy enables, observing and analyzing legal provisions and practice on juvenile justice administration as it occur in Addis Ababa city.

1.7.4 Data Collection Tools

The following research tools are used in the process of this study.

- self administration questionnaires
- interview
- observation

Self administration questionnaire and interview are the major tools, approach. The reason for using these tools and their relevance are discussed as follows:-

Questionnaire

The research questionnaire are designed into closed and mostly open-ended techniques. The questionnaire are prepared, revised and distributed in accordance with the objective of finding out of the practice and the law with regard to juvenile justice administration and related issues in the two sub-cities of Addis Ababa. The questionnaire are presented to police members, judges, public prosecutors, juvenile suspect offender and prison officials.

Observation

The observation check list helped to get relevant data concerning the following points:-

- Checking the practice juvenile justice administration and evaluating its legal appropriateness.
- Witnessing the skills, training and knowledge of the law enforcement officer with regard to juvenile justice administration.
- Evaluating the level of corrective institution to reform the juvenile delinquents and social workers.

Interview

An interview can be structured, semi-structured or unstructured. The best approach that fulfill both requirements in this study is the semi-structured interview. The semi-structured interview involves use of some predetermined basic questions with out restricting from asking more questions that arise from the interview process itself.

The techniques of sampling that the researcher selected interview in the study are the purposive sampling approach. Open ended, semi-structured interview guide question which are prepared after the potential interview were identified based on the preliminary investigation. The interviewees questions are prepared with careful consideration of the research objectives and the information required to answer the research questions.

1.7.5 Scope of the study

This research is conducted comparing Ethiopian law and some concepts of foreign law. More over analysis, exemplification, definition and expression are used. For its difficult to cover all the rights of children, because of the problems that emanate from financial, time limitation and other practical consideration, this research is limited to problem related with pre-trial procedure juvenile justice administration, the gap between the practice and

the law, domestic and international standards relating to juvenile justice administration, the major causes of juvenile delinquency in two purposely selected sub-cities which are areas near to the writer.

1.8 Limitation of the Study

Conducting a research, what ever it extends, passes through different process, until the final paper. During this process, it may face many problems. So the writer limits this study because of the following problems:-

- Financial constraints.
- In some extent during interview needs to hide the information to the reason that, if they disclosed the truth it affect them, un willingness of respondent to given answer to the questions and the respondent are not returned back questionnaires time.
- Lack of organized documents.

To reduce the problems, the writer take his own effort. However, those problem have their own impact to conduct the research properly.

CHAPTER TWO

2. LITERATURE REVIEW

2.1 Juvenile delinquency defined

The concept of juvenile delinquency has close association with the offence committed by young persons, who has not reached the majority age, that could have been considered a crime, if committed by an adult. In this connection, it would be useful to look into some definition given to juvenile delinquency by various authors.

Juvenile delinquency is a participation in illegal behavior by a minor, who falls under statutory age limit. An infant not more than specified age, who has violated criminal law or engaged in disobedient, indecent or immoral conduct and is in, need of treatment, rehabilitation or supervision in general.¹ particularly, he is a person who:

- Violate any federal or state law, or municipal or local ordinance.
- With out just cause runaway from his parental home or other property authorized of law full place of abode.
- Beyond the control of his parents, guardian or other custodian.
- Has engaged in indecent or immoral conduct.
- Has been habitually truant in school has been continuously and overly defined lawful order of court.

Juvenile delinquency is an evaluation of law or ordinance by an individual below the age limit of the community.²

Juvenile delinquency is the concept of generally referring to criminal of other deviant behavior committed by children and adolescent who are not considered adults.³

1. Black law dictionary
2. modern dictionary of Sociology
3. Ibid

In some cases it refers to act that adults would be treated as crime, such as thefts, but when committed by children are regarded in less research terms. As a result, youth offenders may not be tried in regular court or imprisoned with adult, may have their criminal records sealed or even erased upon reaching adult status.⁴ The above definition makes it clear, that juvenile delinquency refers to some kind of miss-behavior committed or good behavior committed by person, who is younger than the normal legal age of majority depending on the country under consideration. In other word the age limit for juveniles can vary from one jurisdiction to another jurisdiction with the fact remain that delinquency is a nation exclusive to young person.

The court and other similar agents of control described delinquency in term of an offence committed against the law and rules already set in a given society. The definition of an act as delinquent behavior or not rest on the decision of the court based on the established law and procedure. The legal definition, however, will not clear show the concept juvenile delinquent behavior for what is legal in one area may be illegal in other area.⁵ Not only that social norm and legal producer change with in a given society overtime and as a result what has been illegal at one time may be acceptable behavior, latter on beside, the legal definition of court do not include offence beyond their evidenced case.

Therefore, such definition served more to run court procedure in a given time than to make understanding between different professionals.⁵ In order to solve the problem of uniformly of the definition of juvenile delinquency held in 1963,⁷

4. Ibid

5. Cople 1973,pp. 119 and clinard and Meier 1979,pp.17

6. Ibid

7. Ibid

describe a discussion that profound or nor quite necessary. For three or four day of the congress, there was endless discussion the point of defining, juvenile delinquency adjudication of guilty, while others have completely different view.⁸ Despite of the different definition given to the term. When we consider the Ethiopian law on the subject, that the constitution of the federal democratic republic of Ethiopia talks about juvenile delinquency. Juvenile offenders admitted to corrective or rehabilitative institution and juvenile who becomes wards of the state or who are placed in public or private orphanage, shall be kept separately from adults.⁹ In order to understand what is meant by young offender in Ethiopia the criminal code provides a special provision which is applicable to young offender.

Where an offence is committed by a young person between the age of nine and fifteen the penalties to be imposed and measure to be taken by the court shall be provided.¹⁰ One can infer that young offenders or juvenile delinquents are those whose age ranges from nine to fifteen years and committed offence, which would have been punished under ordinary circumstance.¹¹

Hence it will be worth nothing that under our law, an offence is a criminal act or omission which is prohibited by law and it is completed when all it legal, material and moral elements are present. Moreover, such an offence is punishable where the court have found the offence provided and deserving of punishment.¹²

8. Woubishet S (1995,PP.1)

9. FDRE con. Art. 36(3)

10. Ethiopian Criminal Code (Art 53)

11. Ibid

12. Ibid

Therefore, when we talk of a young offenders, we are talking about young offender (9-15 age), in case of a crime committed by young person belonging to the intermediary age group extending from the end of criminal minority (15 years) to legal majority (18 years), the court applying the ordinary provisions of the law may reduce the penalty within the times it specifies, if the circumstance of the case seem to justify such reduction. In no case may death sentence be passed up on a criminal who had not attained his eighteenth year of age of the time of commission of the crime.¹³ in the carrying out of penalty entailing loss of liberty the rule of segregation until majority shall be strictly observed.¹⁴

Where a young criminal's physical or mental development is considered to that of a young person below the age of fifteen or did not commit a serious crime and according to expert opinion, still seems amenable to curative education or corrective measures in respect to young criminals, the court may state its reasons there fore, instead of mitigating the ordinary penalty in accordance with the preceding provision order one of the age re-said measures or penalties, in a particular his dispatch to a curative or corrective institution. ¹⁵

The curative educational or corrective measures may be under no circumstances be extended beyond legal majority. The court may, before the end of the period review its order with a view to deciding what length of the period spent in a corrective institution is to be considered as part of the penalty, who committed a crime that would be punishable when proved. However, with the view to protecting youth in accordance with the special treatment given to it by the constitution, criminal code special provision which are applicable to the young offender.

13. Criminal code of Ethiopia

14. Ibid

15. Ibid

These are measure and penalties which apply to young offenders and seen to be largely reformatory rather than punitive.¹⁶ The social definition of juvenile delinquency includes not only those minors who have actually broken the laws, but also those who are likely to do so.¹⁷

These include a juvenile whose attitude to other individuals, to the community, to lawful authority is, in such that it may lead him to breaking the law, if it has not already done so.¹⁸ Persistent truants or children beyond the control of their parents whether or not the parents fault would come with this definition.¹⁹ Therefore, in juvenile delinquency breaches of the law represent only one aspect of the problem.

2.2. Historical Back Ground of Juvenile Justice

Juvenile justice is not new; it goes back to our history even in colonial days, Juveniles were subject to the same penalties as adult criminal and confined in the same prison. Slowly but, surely society sense of just stirred at the of capital punishment for children, long punishment and confinement in work house.²⁰ The need for special treatment of juvenile delinquency was first recognized during the 19thC in the reformatory movement, the purpose of which was to establish the institution for young offenders based on training as alternative to confinement in adult prison.²¹ The above statement indicates that, there has been no different existed between juvenile delinquency and adult offenders treatment when, they are suspended or accused of criminal offenders, that is a young offender and adult offender were treated in the same manner in the previous time.

In England a child accused of criminal offences used to be detained in ordinary prison, whether it is before or after trial.²²

16. Criminal code

17. Andargatchew Tesfaye

18. Ibid

19. Ibid

20. Thomas 1965p.25

21. Ibid

22. Mahammed I 1970, pp 56

The first state which proclaimed a distinct law for young offender is the Illinois in the United States of American. In India the first penal code which made a distinction between minor and major for criminal act is proclaimed in 1860 which provided that a child under seven years is capable of doing criminal act.²³ Beside the coming into force of reformatory school out which provided for the establishment of distinction between a child accused of committing a crime and adult offender, there by authorizing the court trying the case of child offender to discharging him offer due admintion.²⁴

In 1924, Bombay children act comes into force providing for the custody, trial and punishment of youthful offender.²⁵ Generally in many countries, there had developed over the past fifty to seventy five years, an institution known as the juvenile court.²⁶ Although, local variation are numerous as special court designated to apply the penal law or a special modification of the penal law to children and young persons. The juvenile court grew up as a reaction against the former practice of dealing with juvenile in the same courts, under the same procedure and substantive law, as adult charged with crime.

Some of the innovations claimed for juvenile court have been specialization, informally of the court-room and other aspect of the proceeding, rigid segregation of juvenile from adult subject of the criminal process at all pre-trial and post-trial stages, protection of juvenile offender from publicity.

Emphasis on discovering the cause of anti-social behavior in juvenile and on rehabilitation him through affecting his environment rather than on affixing its blame and punishment.²⁷

23. Mohammed I 1970, pp.56

24. Ibid

25. Ibid

26. Ibid

27. S.Fisher 1969,

Although Ethiopian does not have special juvenile courts, the law gives recognition to the special situation of the juvenile accused. There is a special section of penal law, containing rules both substantive and procedural, exclusively designed for the juvenile offender and there are special sections of procedural law like wise designed for juvenile.²⁸ The age limit specified for young offender differ from one country to another country or it is not universal.

In Britain the age limit for young offender is between 10 to 17 years, while in America the age limit for young offender is between 7 to 14 years.²⁹ In Ethiopia it is provided in the old penal code and revised criminal code and the criminal procedure code. The age limit of young offender is in between 9 to 15.³⁰ Despite the difference in limiting the age, all countries give special attention to young offender by treating them in special tribunal for the offence. The historical source of juvenile person was the code of Hamurabi over 4000 year age which, contained reference to ranaway, children and youth that disowned their parent.

About 2000 years ago, Roman civil and cannon law differentiated between juvenile and adult based on the concept of age of responsibility.³¹ British common law, during the 11th and 12thC made a distinction between youth and adults.³² children between seven and fourteen where exempt from criminal prosecution unless it could be proved, that they had formed criminal intent, could

28. Ibid

29. Ibid

30. P. Tappan 1994, pp.12

31. criminal code of Ethiopia 2004

32. Andargatchew T.

be proved that they had formed criminal entity could distinguish right from wrong and understanding the consequences of their action.³³ These issues have remained important in proceeding of present day juvenile court.³⁴ The English poor law of 1601 provided for the appointment of overseers, to bind out destitute or neglected children as servants.³⁵ They forced children to serve in the care of families, who would train them in agriculture, trade or domestic services, children were also placed in poor house and work house.³⁶

Forced apprenticeship and provision of poor laws were adopted in America.³⁷ In the 15thC chancery court were also established in England to provide relief and assistance to need by people including women and children, who were left to fend for themselves due to various reasons. The king assuming the right of *parens patriae* (parent of his country), allowing those courts to act in local parents (in the place of parents), in order to provide the necessary services to such women and children. By the country, children in Britain could be separated from their indigent parents and apprenticed to others.

The practice was based on the assumption that the state has the primary responsibility in the welfare of children and has the right to ensure welfare. At about the same time attempts were being made to handle cases involving juveniles confidentially and to segregate youths requiring confinement separately from adults.³⁸

33. Andargatchew T.

34. Ibid

35. Ibid

36. Ibid

37. Ibid

38. Ibid

This was to protect the youth from public shame and stigmatization.³⁹ The purpose of this care was to avoid the harmful effect of the association of youth, with hardened offender, juvenile justice involved with law are treated different from adult.⁴⁰

However, this has not always been in cases. In earlier time children were thrown into juvenile with adult long prison terms and corpunishment were common. Some children were even sentenced to death for some crime that seen relatively minor by to days standards.⁴¹ In the mid 19thC, reformers began to argue, that the failure of the family was the cases of delinquent behavior.⁴² In other word parents had failed to teach their children proper valves and respect for authority.

The sanction that involved was for use parate juvenile court to assume the responsibility that have been the parents job. The roots of our system of juvenile justice are 2000 years old classical Roman law.⁴³ There are two roots one clearly punitive, the other supportive and carrying.⁴⁴ The punitive root has brought the imposition of adult criminality on children.⁴⁵

In the middle ages, under the law of church, the Roman classification of children with respect to criminal liability took definitive shape and was adopted in the common law.⁴⁶

39. Edward T. McMahon. Med K.D.

40. Ibid

41. ibid

42. Ibid

43. ibid

44. Mueller Gerhard O.W.

45. Ibid

46. Ibid

That concern for troubled children. It was very much present in the concept of parent patriae (parent of the country) which to the Roman means that the emperor and in medieval times, the king or queen could exercise patriapotest as (parental power), in local parent is (in the place of parent deemed incapable or unworthy), over children in trouble or in danger to be coming way ward.⁴⁷ The power of the monarch was eventually transferred to the people of that state are represented by juvenile court judge.⁴⁸ We find its traces in the concept used today exercise in juvenile court proceeding.⁴⁹

Juvenile justice today exercise jurisdiction over two distinct categories of offenders delinquent and status offenders.⁵⁰ Delinquency children are: those who fall under a jurisdictional age limit which varies from state to state and who commit act in violation of the penal code.⁵¹ Status offender are commonly characterized in state status as a person or children in need of supervision.⁵²

Today's juvenile justice system exists in all state by statutes. Each jurisdiction has a juvenile code and special court structure to accommodate children in trouble. The juvenile justice system was developed out of attempt to deal with juvenile delinquents in an informal manner.⁵³

47. Mueller Gerhard O.W

48. Ibid

49. Joseph J. Senna

50. Ibid

51. Ibid

52. Ibid

53. Ibid

It was usually operated as a combination of a case work agency and a criminal court once the juvenile has been adjudicated as a delinquent, there are a variety of possible programs to which the court can refer the young offender.⁵⁴ They could be the residential and non-residential programs that provide varieties of service.⁵⁵ Though attempts are not lacking to put such offenders in community, based on correctional schools. The historical and theoretical development of correction and the Ethiopian experience will be dealt with adult.⁵⁶

Juvenile are young person who has not yet attend the age at which he or she should be treated as an adults for the purpose of criminal law. The law considered them in capable of forming the necessary criminal intent. The law at that time also assumed that children between the ages of 7 and 14 were in capable of committing a criminal act.

2.3. Theoretical Framework

A. Psychological Theories of delinquency

Psychologist point out that many delinquent youth have poor home lives, destructive relationships with neighbor, friends and teachers and conflict with authorities figure in general.⁵⁷ These relationship seem to indicate a disturbed personal structure.⁵⁸ Further more numerous studies of incarcerated youth indicated that the personalities are marked by negative, anti-social behavior characteristics and since delinquent behavior occurs among youths in every racial, ethnic, and socio-economic groups.⁵⁹

54. Andargachew T.

55. Ibid

56. Ibid

57. Larry J. Siegel, bran Donc. Welsh, Joseph. J senna pp. 83

58. Ibid

59. Ibid

Psychologist view as a function of emotional and mental disturbance, rather than purely a result of social factors, such as racism, poverty and class conflict.⁶⁰ While many delinquents, do not manifest significant psychological problem, enough do to give clinicians a powerful influence on delinquency theory.⁶¹ Because psychology is a complex and diversified discipline, more than one psychological perspective on crime exists.⁶²

B. Sociological View of Delinquency

Most delinquents are indigent and desperate not calculating or evil.⁶³ Most grew up in deteriorated parts of town and lack the social supports and economic resources, familiar to more as fluent members of society.⁶⁴ Understanding delinquent behaviors, then requires us to account for the destructive influence, these force have an human behavior. Every socialization experience of a life long influence on self image, value and behavior. Every children living in the most deteriorated inner-city environments will not get involved in delinquency, if their socialization are positive.⁶⁵

2.4. Major Cause of Juvenile Delinquency

The major cause of juvenile delinquency could be many which means that would be go beyond the scope of this paper. Therefore, the writer will be limit the major causes that has been agreed up on many authors view for various disciplines, concerned with the subject i.e. criminologists, sociologist, psychologists etc. some of the cause are:-

60. Larry J. Siegel, Bran Donc. Welsh, Joseph. J. Senna

61. Ibid

62. Ibid

63. Ibid

64. Ibid

65. Ibid

A. Lack of Maturity

Maturity is a very difficult concept to define, but there are appear to be general agreement, that it involves a balanced and harmonious course of physical, mental and social development. Maturity implies sufficient independence of judgment interest, attitudes and behavior to enable an individual to distinguish between what is permissible and what is for bidden according to the normative limits set by society in which he lives.⁶⁶

The maturation process takes place in number of different areas, likely to be change the physical, mental, emotional and social areas. Some study suggests that maturity is not complete. The physical side of maturity is that, in many individual until some time after the age of 25.⁶⁷ Psychological maturation, like biological maturation is accumulative process which under normal circumstances, lead to full maturity some were between 25 and 29 years age.⁶⁸ And social maturity leads progressively to the point where an individual has to be applicable of selecting intellectually from the various possibilities open, with regard to a career, marriage, parent etc.

It is generally agreed that social maturation is reached at a stage still rather than full psychological development. Therefore, evident that some body who has not yet becomes mature physically, psychologically and emotionally and socially is highly like to involve himself in activities which go contrary to social norms and standards, put another ways, lack of maturity can be considered as one cause of the juvenile delinquency although, it is not the only one in this connection, it should be pointed out, that some who, may mature intellectually but not physically.⁶⁹

66. The young adult offender, UN 1965, pp. 17

67. C. Koupernic 1963,

68. Gratiot alphanderic pp 23-32

69. Ibid

This clearly tells us that maturity is a complex process which defines the reason put forward by legislator for the age set as the age of criminal majority in addition, the law will have considered to change the situation, in order to determine the age limit for juvenile.⁷⁰

B. Psychopathy and Other Mental Disease

Psychopathy personalities are reported to common in much country among the juvenile delinquency. According to one sample study of young adult prisoners, psychiatric examination in the prison classification unit was indicated for 78 of the sample based on a review of the prisoner case histories and observation of their behaviour.⁷¹

C. family Condition

Unsatisfactory family relationship and broken home, occur frequently in the back-ground of young offender. India for instance, the majority of youth full offender are believed to come from homes that are unjust able for one reason or another, regardless of the socio-economic background of the offender.⁷² It is claimed that children who, loss either of their parents at early age are especially liable to becomes, involved in delinquent activities later on.⁷³ This shows us that the family has a lot to do with how, the youth will behave in society.

A young boy lost his parent at early age is likely to becomes anti-social in his behavior as he was deprived of the love, he deserved as a child, because of the loss of his parents, in events, research in many parts of the world has confirmed that, the family condition of the youth have significant contribution to the incidence of the delinquency.

70. the young adult offender.

71. Ibid

72. Ibid

73. Ibid

D. Income and Employment

In the technological advanced countries it is not an usual to find labour shortage and an employment existing side by side. The spread of automation to industrial and commercial process and even to service operation is eliminating at an increasing rate of job which observed a large population of the poorly education and as killed, the person are sometimes referred to school drop out, i.e. the youth who quite before completing, the full term of formal education and finds himself on out cost of the lower market at a time when, there are vacancies waiting to be filled by person with the requisite training and skill.

A number studies in the united state for instance, indicated that the school dropout is especially prone to delinquency.⁷⁴ Unemployment, therefore, can lead to anti-social activities. But this is not the case in the developed world. Since unemployment is also rampant in developing world also in a number of developing countries, unemployment is especially acute in the rural areas. In contrast, the urban area is thought to offer the promise self-fulfillment, employment at higher wages and for many, the pleasure of a life from the restrains of rural society, an arrival in the cities.

Many young persons are disillusioned by misery and unemployment and some of them eventually be come involved in criminal activities.⁷⁵ Most experts, believe a disturbed home, environment can have a significant impact on delinquency. The family is the primary unit in which children learn, the value and attitudes that guide their action through out their lives.⁷⁶

74. The young adult offender 1965, pp.21

75. Ibid

76. Joose Ph.J. senna

Family disruption or change can have along lasting on children.⁷⁷ In the tra-family conflict environment of discord and conflict with the family. Children who, group up in days functional home, after exhibit, delinquency behavior, having learned at young age, that aggression pay off.⁷⁸

2.5. Jurisdiction of the court

To day's juvenile delinquency cases are sometime handled as part of a criminal trial court jurisdiction or event with in the probate court.⁷⁹ However, in many jurisdictions they are treated with in the structure of a family court or independent juvenile court is a specialized court for children designed to pre-more-rehabilitation of youth with in a frame-work of procedural due process. It is concerned with action both in the best interest of children, in the best in interest of the public protection of inter incompatible goal.⁸⁰

- No young person (Art 53 criminal code) may be tried together with an adult.⁸¹
- No member of the armed forces may be together with a civilian except for an offence which does not come with in the jurisdiction of a military court.⁸²

2.6. The Problems of Juvenile Delinquency in Ethiopia

In Ethiopia the concept of juvenile delinquency was firstly enshrined the Fitha-Negest (the law of the kings), in the Fitha-Negest juveniles are considered as rebellious son with out specifying the religious punishment.⁸³

77. Joose Ph. J.Senna.

78. Ibid

79. Ibid

80. Joseph. J.Senna. (8th ed.)

81. Ethiopian criminal procedure.

82. Ibid

83. Abba Paulus. T 1968,pp.305

On the other hand, the same book provided that, for those offender, who committed sin (which shows that it is related to religious offender) shall be separated from other faithful prayer.⁸⁴ Therefore, even if the concept of the problem of juvenile delinquent were existent during the time of the Fitha-Negest, it is more related with religious offences and the punishment prescribed them is also more of religious nature.

Both under the 1931 and 1955 constitution of Ethiopia, there is no special articles talking about young offenders which signifies that young offenders are treated as any other adult offender before ordinary court, except the second section of 1931 constitution providing that children who has last their parents are endangered and tend to committee offence, because of lack of Education.

However, after 1961 special tribunal was established by his majesty Haile Sellasie to prosecute young offender.⁸⁵ Besides, the criminal procedure and the penal code also provided special penalty and procedure for juvenile offenders. Under the 1987 constitution of PDRE also, there is no special article talking about young offender, except what is provided under chapter three art 20(2), that government will give protection for children to grow in good discipline.⁸⁶ After the fall of the Derg regim, Ethiopia has ratified the convention on the right of child, adopted by general assembly of the united Nation, November 20, 1989. The convention was ratified by the transitional government of Ethiopia on December 9, 1991.

84. Ababa Paulus T. 1968,pp. 301

85. Lowenstein steven 1965 pp 191

86. PDRE constitution (art. 20(2))

Under the FDRE constitution Art 36(2) it provides that, for action concerning children primary consideration shall be given to the interest of the children.⁸⁷ Juvenile offenders in custody be kept separately from adults.⁸⁸ This is shown that FDRE government has give consideration for juvenile offenders than the previous government. However, the absence of juvenile court and specialized judge to try the cases concerning juveniles offender, lack of organized corrective institution to reform juvenile offenders.

In Ethiopia many children have deal with out proper care and protection. This is related to existing realities (Socio-economic) of the country, that lots of socio-economic problem, affect the well being of the children. Beside, Ethiopia is a country where, traditional value and belief have existed for centuries. These and other related socio-economic factors have lead to abuse neglect and maltreatment of children in Ethiopia. The causes are many complex and difficult to establish crimes are committed by individuals and the cause of crime is adjustment of the individual to his environment.

As an individual affair, there are many cause of crime as there are source of individual discontent, frustration, poverty, unemployment, urbanization, alcoholism, social streets and other are often causes and contributing for criminal acts for the cause juvenile delinquency, early anti-social behaviors, weakening and breaking down of families, urbanization and its impact on youth, unemployment and under employment, high rates of school dropout and influence of peer group are often cited.⁸⁹ In general death of one or both parents, separation divorce and family break down are considered major push factor to street.

87. FDRE constitution (Art. 36 (2))

88. Ibid Art.36(3)

89. ECA and OAU 1989. A.A.

A situation which is very likely to cause delinquency. To these cause, one might add such general contributing factors as urbanization, drought and famine, war and civil unrest, rapid population growth, absence (disparity) of basic social service, environmental degradation, family neglect, unemployment, peer group influence and un conducive environment. The over all situation of juvenile delinquency and its causes have been considered and following remarks could be made by way of summary.

- In the previous time, juvenile delinquents were existed, their problem were related with religious.
- Even if the crime (offence) committed by juveniles, i.e. those aged between 9 to 15 are larceny, felonious assault, violation of regulation, robbery and homicide, Out of these offences larceny and assault seen to be the more common offences, where as homicides seems to be not very frequent.
- The FDRE government gives special consideration to children than the previous government even if, there is a problem.

2.7. Juvenile Justice Administration

- Every child accused or found guilty of having infringing penal law shall have the right to special treatment in a manner consistent with the child, sense of dignity and worth and which reinforces, the child respect for human right and fundamental freedom of other.⁹⁰
- State parties to the present charter shall in particicular.⁹¹
 - (a) Ensure that no child who detained imprisoned or other wise deprived of his/her liberty is subjected to torture in human or degrading treatment or punishment.

90. Rights and welfare of child (Art. 17)

91. Ibid

- (b) Ensure that children are separated from adults in their place of detention or imprisonment.
- (c) Ensure that, every child accused of infringing the penal law:-
 - i) Shall be informed promptly in a language that, he understands & in detail of the charge against him and shall be entitled to the assistance of an interpreter, if he or she can not understand the language.
 - ii) Shall be presumed innocent until duly recognized guilty.
 - iii) Shall be offered legal and other appropriate assistance in the preparation and presentation of his defense.
 - iv) Shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty be entitled to appeal to a higher tribunal.
- (d) Prohibit press and public from trial.

The essential aim of treatment of every child during the trial and also found guilty of infringing the penal law shall be his or her reformation, reintegration into his or her family and social rehabilitation.⁹² There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.⁹³

92. Right and welfare of child

93. Ibid

CHAPTER- THREE
THE LAW AND JUVENILE DELINQUENCY

3.1 Ethiopian law and juvenile delinquency

3.1.1 The FDRE constitution and young offender

The constitution of Federal Democratic Republic of Ethiopia contains a special article (provision) on the rights of children, which have stated that juveniles offenders admitted to corrective or rehabilitative institution and juveniles who become wards of the state or who are placed in public or private orphanages shall be kept separately.¹ More over, it is provided that in all actions concerning children under taken by public and Private welfare institution,² court of law, administrative authority, or legislative bodies, the primary consideration shall be the interest of the child,³ which specially address the juvenile.

However, there are also provisions in the constitution which are general such as human right, the right to life, Security of person and liberty,⁴ which, the writer believes that the young are entitled to that rights. Every one has the right to be protected against bodily harm, because all person including children are equal before law and entitled without any discrimination to the equal protection of law.⁵ In the same manner, the provision in the constitution on prohibition against un human treatment right for arrested person, right of accused person held in custody and convicted prisoners. No rertroactivity of criminal law and prohibitions of double jeopardy are also applied to young as well.⁶

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1. FDRE constitution (Art. 36)
 2. Ibid
 3. Ibid
 4. Ibid (art 14-17)
 5. Ibid (art 16 & 25)
 6. Ibid

3.1.2. The Criminal code of Ethiopia and Young Offender

In general one can say that, the system of measure and penalties applicable to young person has rehabilitation and hence, there is increased emphasis on supervision, education and flexibility of treatment. However, the penalties of corporal punishment contradict not only the over all goals of juvenile justice but also the constitution and international standards.

Where a crime is committed by young persons between the age of nine to fifteen years, the penalties and measure to be imposed by the court shall be only those provided in article 157-168.⁷ Young persons shall not be subject to the ordinary penalties applicable to adults or shall they be kept in custody with adult criminals.⁸ The provisions of articles 158-168 shall not applied, unless the criminal is convicted.⁹ However, where the young person is irresponsible, the provisions of articles 129-133 are applied.¹⁰

Single substantive law of crimes applies to adults and young offenders alike, but once a crime is proven the special provision for juvenile become exclusively relevant for the sentencing court.¹¹

Although, the penal code refers to the age group of fifteen to seventeen as “young person”, it is better to refer to them as juvenile in order to avoid confusing them with juvenile,¹² and post juvenile are treated.

7. Criminal code of Ethiopia 2004 Art. 53

8. Ibid

9. Ibid

10. Ibid

11. S. Fisher 1970 pp. 119

12. Ibid

3.1.3 The criminal procedure code special provision for young offender

Criminal cases concerning young person shall be tried, in accordance with the provision of this chapter. In any case where a young person is involved he shall be taken immediately before the nearest woreda court by the police, the public prosecutor, the parents or guardian or the complainant.¹³

The court should asked to the person bringing if any of the alleged offence or to make formal complaint, where appropriate and such statement or complaint shall be recorded.¹⁴ The court given to the police instructions as a manner in which investigation should be made.¹⁵ Where the accusation related to an offence punishable with rigorous imprisonment exceeding to ten year or with death,¹⁶ the court direct the public prosecutor to frame a charge.

Where the case require to adjourned or to be transferred to a superior court for trial, the young person shall handed over to the care of his parents, guardian or relative and in default of any such person to a reliable person who shall responsible for ensuring his attendance of at trial.¹⁷ The witness shall be bound over appear at the trial.¹⁸

13. Criminal Procedure code Art. 171 (1)

14. Ibid

15. Ibid

16. Ibid

17. Ibid

18. Ibid

3.1.4 Jurisdiction of the court

- What cases are eligible for treatment according to the special procedure young persons?
- Which court have jurisdiction? These questions stand in this section.
 - Criminal case concerning “young person” are to be tried according to the special procedure, (art 171-180) and young person is defined as a person between the age of 9 and 15.¹⁹ the age is measured at the time of the criminal acts charged, since a contrary interpretation would leave it open to the authorities delay tactics to convert a juvenile case into adult one. Taking the crucial time for age determination to be time of the criminal act charged removes, any such incentive for delay.²⁰
 - Fifteen years crime punishable with rigorous imprisonment but not exceeding ten years.²¹
 - Ten years for crime punishable with rigorous imprisonment not exceeding five years.²²
 - Ten years asententailing loss of liberty fore more than one year.²³

3.1.5 Court competent to try juvenile case

Unlike other countries, the ordinary criminal court in Ethiopian law have jurisdiction over juveniles and adults, a like all prosecution of young offender must originate at the woreda court.²⁴

19. Criminal procedure code Art. 171

20. s. Fisher 1970 pp. 128

21. Criminal code of Ethiopia 2004 Art. 217 (c)

22. Ibid

23. Ibid

24. Criminal Procedure code of Ethiopia Art. 172 (1)

This seems to be slight exceptions. The ordinary criminal court must in the trial and post-trial stages apply the special substantive and procedural rules for young offender.²⁵ Here it is important to mention that judge do not have special training or experience as required by the “Beijing rule”, regarding juvenile justice this is serious hand cap in Ethiopia.

3.1.6 Pre-trial procedure

The cause involving in young persons that juvenile must be taken immediately before the nearest woreda court by the police.²⁶ The public prosecutor, the parents or guardian or the complainant, should be emphasized that the charged who, taking the young offender to the nearest woreda court could do only where, the arrest justified by the constitution and the pertinent provision in other law.²⁷

Where he added that incase involving juvenile the police ought to make every possible use of summons, in order to avoid the unsavory publicity and adverse, psychological effect on the juvenile which are inherent in the use of arrest only as last restore, where clearly, necessary should be juvenile be taken forcibly to court,²⁸ such a procedure is in accordance with international standard especially “Beijing rules”.

3.1.7 Pre-Trial Detention and the Right to Bail

Where the case requires to be adjourned or to be transferred to as superior court for trial, the young person shall be handed over the care of his parents, guardian or relative and in default of any such person to a reliable person who shall be responsible for ensuring his attendance at the trial.²⁹ The witnesses shall be bound over to appear at the trial.³⁰

25. Criminal procedure code

26. Ibid

27. S. Fisher 1970, pp 132

28. Criminal procedure code

29. Ibid

30. S. Fisher 1970, pp 132

Conditionally subject to the signing of a bail of bound according to the codes bail provision applicable to adults.³¹ Where the accused fails to appear after publication of the summons in accordance with art 162 cr.p.c, the case shall continue as in ordinary cases.³² the court shall give judgment as in ordinary cases.³³

3.1.8 Police investigation

In principle Ethiopian law does not required the young offender to pass through the rigorous process of independent police investigation or that of the framing of a formal charge by the public prosecutor.³⁴ when we come across, the cases where the young person is involved in commission of a crime he/she shall be taken immediately before the nearest woreda court.³⁵

Either by the police, public prosecutor, the parent or guardian or the compliant.³⁷ Arrest warrant must be obtained in the manner prescribed for adult cares. The police shall also make every possible use of summons, which are inherent use of arrest.³⁸

31. S Fisher

32. Criminal procedure code Art. 163 (1)

33. Ibid

34. Ibid

35. Ibid

36. Ibid

37. Procedure code Art. 172

38. FDRE constitution Art. 19 (3)

The police may not on their own initiative, take any investigation steps which involve custody of the accused, they must by what ever means, immediately take him before the nearest woreda court. This arrangement is clearly distinction from the case of investigation crime allegedly committed by adult, and in the later case a basic premise of the criminal procedure code is that investigation of crime committed, when agency responsible by law to investigation crime i.e. the police and in some cases the public prosecutor are formally informed of the commission of a particular crime in the case of young offender, however, any investigation may be conduct only the young offender is presented to court.³⁹

Immediate appearance of the child offender to the nearest woreda court, is a constitutional guarantee.⁴⁰ The police without prior investigation, arrest juvenile suspect of whose alleged offences they learn or must the parent, guardian or compliant immediately take the juvenile before the court with out any prior gathering of evidence to ensure that responsible care exists to take such steps.

May not any information first approach, the police to request action rather than take it him self?

In order to answer these questions, we might distinguish between two things filling technical information with the police and reporting a crime to the police and king for assistance. In the procedure laid down for adult offenders, a person who comes to the police to report crime is by definition, technically information his statement whether technically and he must sign it.⁴¹

39. FDRE Constitution

40. Ibid

41. Criminal procedure code

The police then proceed to investigate report which will be presented to the public proceeding.⁴² Where as in the case of juvenile however, the code expressly states the possibility of witness victim etc filling information with police.⁴³ Any accusation or complain may be to the public prosecutor or police un accusation or compliant regarding a young person shall be made,⁴⁴ in term provides in woreda court, to record the accusation or compliant against the juvenile and directs the police to conduct any investigation as the court thinks fit. But this doesn't means a parent witness or victim may not initially report the suspected juvenile offenders to the police however, according to the practice which any of as follows in a trouble situation, we don't think to seek help at the nearest woreda court it would see proper in juvenile case first.

The police would receive, the report, in fact, it will not be known at that point, whether the suspected offender is a juvenile or non-without formally recording it as an information and without participation of a regular investigation report.⁴⁵ if once the case is informed it would seem proper for the police to conduct an investigation, where it is necessary to determine weather or not, there is sufficient probability of guilt to justify issuance of a summon or application for arrest warrant to bring this into

42. Criminal Procedure code Art. 36-39

43. Ibid Art. 16 (1)

44. Ibid Art. 172

45. Mebrahtu Yohannes 1965, pp. 12

effect, it might be necessary to visit to place of crime summon and interview witness,⁴⁶ conduct searches,⁴⁷ or obtain a medical examination of the victim.⁴⁸ any such investigation techniques should be seen as properly undertake by the police in juvenile cases without special authority of the woreda court, but it should be only for the purpose of helping the police to decide whether or not the accused should be taken into custody. However, in flagrant cases, which being with the arrest of the accused, police investigation may not proceed in the absence of court authorization.⁴⁹

By the same taken, the police may not undertake any investigation step, on their own initiative which involve custody of the accused such as compulsory medical examination.⁵⁰ Or interrogation of him.⁵¹ Because taking such steps without prior woreda court authorization would frustrate the vital purpose to avoid the exercise of police custody over young offender.⁵² Generally, the above legal safe guards and the constitutional guarantee look in to against arbitrary arrest and distension of children.⁵³

3.2. International standards relating to juvenile

A number of international instruments have deal with juveniles however; it would have be going beyond the scope of this paper. Our discussion with be limited to the major international instruments, pertaining to juveniles.

46. Criminal procedure code Art.34

47. Ibid

48. Ibid

49. Ibid Art. 27

50. Ibid

51. Ibid

52. Ibid Art. 172

53. Ibid

Child hood is entitled to special care and assistance the Geneva declaration of the right of the child.⁵⁴ Juvenile justice shall be an integral part of the national development process of each country.

Age of criminal responsibility: - *In legal system recognizing the concept of an age criminal responsibility for juvenile, such as an age level shall not be fixed too low, bearing mind emotional, mental and physical maturity.*

Aim of juvenile justice:- *any reaction by the juvenile justice system to juvenile offenders shall be in proportion to both the offenders and the offence.*

Scope of discretion:- *appropriate scope for the exercise of discretionary power shall be allowed at all stages of legal proceedings. Affecting juvenile.²¹ Efforts shall be made ensure sufficient accountability of all stages in the exercise of such discretion.*

Right of juveniles:- *Basic procedural safe guards such as the presumption of innocence, the right to be notified of charges, the right to remain silent, the right to counsel, the right to be presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal, shall be guaranteed at all stages of proceedings.*

Protection of privacy:- *the juvenile's right to privacy shall be respected at all stages.*

All the forgoing instrument whose, provisions aim at giving special care to the child have been recognized in the international covenant on civil, political right,⁵⁵ and in the international covenant on economic, social and cultural rights.⁵⁶ In addition such rights have also been recognized in statues and relevant instrument of special agencies and international organization corned with the welfare are of children.⁵⁷

54. United Nation Universal declaration of human right (1948)

55. International convention on civil and political right Art. 23-24

56. International covenant on economic social and cultural right

57. The preamble of the convention of the right of child

The child by reason of his physical and mental immaturity needs special safeguards and care, including appropriate, legal protection.⁵⁸ no child shall be subjected to unlawful arrest or deprivation of liberty a child deprivatited of liberty shall be separated from adults unless, it is considered the child's best interest not to do so.⁵⁹ The standard minimum rule are deliberately formulated so as to be applicable with indifferent legal system and at the same time, to set some minimum standard for the handling offenders under any definition of a juvenile and under any system of dealing with juvenile offender.

Moreover, the rule provides that the beginning of criminal liability shall not be fixed at too low and age, bearing in mind, the facts of emotional, mental and intellectual maturity, thus the definition of juvenile can range from 7 years to 18 or above. ⁶⁰ the rules also provide for basic procedural safe guards such as the presumption of innocence, the rights to counsel, the right to the presence of a parent or guardian, the right to confront witness, the right to appeal at all stages of preceding. ⁶¹ since, the provisions of the rules are many, we will limit ourselves to the most important one which are listed as follow.

- The juvenile's right to privacy shall be respected at all stages in order to avoid harm being cause, to him/her by undue, publicity or by the process of labeling.⁶²
- The question of release shall be considered with out delay by a judge or other competent offcals.⁶³

58. The preamble of the convention on the right of child.

59. Convention on the right of child Art. 27

60. Beijing Rule

61. Rule 7

62. Rule 8.1

63. Rule 10.1

- Consideration shall be given to dealing with juvenile offenders without resorting to formal trial. ⁶⁴
- Police officers who frequently deal with juvenile shall be specially instructed and trained.⁶⁵
- Detention pending trial shall be used only as measure of last resort and for shortest possible period of time.⁶⁶
- The proceeding involving juveniles shall be conducive to the best interest of the juvenile and be conducted on atmosphere of understanding with shall allow, the juvenile to participate there in and express herself or himself freely.⁶⁷

Moreover, child in conflict with the law has the right to treatment which promotes child sense of child sense of dignity and worth takes the child age in to account and aims at his or her reintegration in to society. The child is entitled to basic guarantees as well as legal or other assistance for his or her defense. Judicial proceedings and institutional placement shall be avoided wherever possible.⁶⁸ incidentally, the convention defines a child as every human being below, the age of 18 years. ⁶⁹

Another important international instrument relating to juvenile, is:- Every child accused or found guilty of having infringed penal law shall have the right to special treatment in the manner consistent with the child sense of dignity and worth and which reinforces, the child respect for human and fundamental freedoms of another.⁷⁰

64. Rule 11.1

65. Rule 12.1

65. Rule 13.10

66. Ibid

67. Rule 14.2

68. Ibid Art. 90

69. Ibid Art. 17

70. African charter on the right and welfare of child Art. 17

Further more, the charter provides that states parties should ensure that a child, who is detained or imprisoned or other wise deprived on his/her liberty should be separated from adults in their place of detention or imprisonment.⁷¹

The most important and relevant international instrument relating to juvenile in very specific manner, however, is the united nation standard minimum rule for the administration of juvenile justice, which is also know.⁷² The UN general assembly n November 29, 1985 up on recommendation for adoption by the 7th UN congress on the prevention.

- The guiding principle on adjudication and disposition are international.⁷³
- Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act of violence against another person or persistence in committing other serious offences and unless there is no other appropriate response.⁷⁴
- Capital punishment shall not be imposed for the crime committed by juvenile.⁷⁵
- Juvenile shall not be subjected to corporal punishment.⁷⁶
- The component authority shall have the power to discontinue, the proceedings at any time.⁷⁷

71. African Charter on the right and welfare of child

72. Beijing Rule

73. Rule 14.2

74. Ibid

75. Ibid

76. Ibid

77. Ibid

- A large variety of disposition measures shall be made available to the competent authorities, allowing flexibility to avoid institutionalization the greatest extent possible. Such measures, some of which may be combined including: ⁷⁸
 - Care, guidance and supervision orders
 - Probation
 - Community service orders
 - Financial penalties compensation and restitution
 - Intermediate treatment and other treatment orders
 - Orders concerting foster care living communities and other education setting
- No juvenile shall be removed from parental supervision, whether party or entirely, unless the circumstance of his or her case make this necessary.⁷⁹
- The placement of juvenile institutions ways be a disposition of last resort and for the minimum necessary.⁸⁰
- Records of juvenile delinquency shall be kept confidential and closed to third parties,⁸¹ record juvenile delinquents shall not be used in adult proceeding in subsequent case involving the same offender.⁸²
- Effort shall be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical in order to facilitate the rehabilitative process.⁸³ this rules refers to non-institutional treatment.

78. Rule 14.2

79. Rule 18.2

80. Rule 19

81. Rule 21.1

82. Rule 21.2

83. Rule 23

The above provision of the “Beijing rule” makes to clear that:-

- Imprisonment should be used as a last solution
- The detrimental (harmful) effect of all types of detention of juveniles should be counter acted/prevent the harmful effect.
- The juvenile justice system should up hold the right and safety and promote the physical and mental well being of juvenile
- The competent authorities should that the care of detained juveniles and preparation for their return to society is a social service of great importance and to this end active steps should be taken to encourage open contact between the juveniles and local community.
- Juveniles are not subject capital punishment as well as corporal punishment.

The corrective institution should be organized in a way that rehabilitates the juvenile. Subsequent to “Beijing rule” the UN general assembly adopted the “UN rules for protection of juvenile deprived of their liberty” on December, 1990 on recommendation of the 18th UN congress on the prevention of crime and treatment of offender held at Havana. These rules do not add much to the “Beijing rule”. They only look on the rules. In this section, the writer has attempted to show that the young and specially the young offender have been the desire of the international community to protect them from as far as 1948, When the Universal declaration of human right was adopted by the general for the well being and future of young offender specially the “Beijing rules” and “Havana rule”.

The whole purpose of the instrument relating to juvenile is to enable the young offender to be reformed and be integrated in society. In other words, the aim of juvenile justice is intended to be reformative and rehabilitation rather punitive as is the case with adults.

CHAPTER- FOUR

Analysis and dictions on juvenile justice administration in Neffassilk Lafto and Lideta sub – cities of Addis – Ababa

This chapter considered, the situation of juvenile delinquency in two sub – cities of Addis – Ababa mean s in Neassilk lafto and Lideta sub – cities, in light of the relevant law of the country and practice, a general over view juvenile delinquency.

The cause of juvenile delinquents and the types of offence committed by delinquents and related issue will be analyzed. In order to do so, the writer has prepared questionnaires, interview and other related study tools to all concerned institution involved in juvenile case such as police, court labour, social affair bureau, delinquency and justice bureau of Addis – Ababa, Accordingly, the writer will now proceed analysis of data available with a view to identify the area where, there are discrepancy between the law and the practice regarding juvenile justice in the two sub – cities.

The analyzing and discussing mainly organized under the theme were discussed during the literature review. An informal discussion held with police officers, who have relatively close contact with juvenile that indicates the extent of juvenile delinquency in the two sub cities are increasing with every passing year with increasing rate. These young persons are coming from the lower class of the community. However, there is no research conducted on the matter from their experience and observance, the punishing reason could be poverty, unemployment statues the juvenile disintegration of their family.

While, the police officer idea were supported the questionnaire submitted to juvenile delinquency. The juvenile delinquency reforms to the violation of a law by young offender.

4.1 Types of offence committed by juvenile delinquency

The concept of offence committed by delinquency are different in different place of the city. The types of offence committed by juvenile delinquency including the act which would be crime is committed by adult such as automobile theft, burglary, rape, robbery, murder and other acts which are illegal only for boys and girls such as drinking alcohol, beverages, the delinquency rate increase in developing country as industrialization and population is rising from time to time. Juvenile delinquency could viewed from many different aspect of problem in Addis Ababa sub cities.

Theft: - who ever, with intent to obtain in for him self or to prtecture for an other un lawful increment, abstract a movable or thing detached from an immovable or the property of another whether by taking ad carrying or by directed to his own property is punishable according to the circumstance of the case with simple imprisonment or with rigorous imprisonment not exceeding five years.¹ Where the criminal him self has detached the movable object from an immovable property and while so doing as cause damage to, movable or immovable property.²

Where any person committed petty abstraction of the property an other of ever small value he/she shall be punishable according to the relative provision to petty offence.³ Where ever, prompted by need or desire o r by lack of conscience take a thing of small value belonging to another for his

¹ Criminal code (art 665)

² Ibid

³ Criminal code (art 665)

immediate consumption or use is punishable with fine not exceeding fifty or arrest not exceeding ten days.⁴

Rape:-who ever compels a women to submit to sexual intercourse out side wedlock ,whether by the use of violence or grave intimidation or after having rendered her unconscious or incapable of resistance is punishable with rigorous imprisonment from five years to fifteen years.⁵

Where the crime is committed on a young woman between thirteen and eighteen or any establishment of health, education, correction, detention or internment which is under the direction, supervision or authority of accuse person or on any one who is under the supervision or control of or dependent up on him, on which a women incapable of understanding the nature or consequence of the act or resisting the act due to old age, physical or mental illness, depression or any other reason.

By a number of men acting incorrect or by subjecting the victim to act of cruelty or sadism, the punishment shall be rigorous imprisonment from five years to twenty years.⁶ Where the rape is related to illegal restraint or abduction of the victim or where communicable disease has been transmitted to her, the relevant provision of this code shall apply concurrently.⁷

Traditionally, the law has recognized two types of rape:

1. **Forcible rape:** - Is the act of unlawful sexual intercourse committed by a man with women by force and with out her consent.⁸
2. **Statutory rape:** - is a sexual inter course by male with a female who has not yet reached the leg al age of consent.⁹ The age which a young

⁴ Ibid (art 852)

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸ Leep Arbert man M.E.D.J (page – 91)

⁹ Ibid

person can legally agree to have sex varies by state from 11 to 18.¹⁰ Only male can committed rape and contrary to popular belief, an under age male can be prosecuted for having sex with an under age female.¹¹

A women lack of chastity can not defense to rape.¹² The person who is compelled in to sexual intercourse is a woman, while that who compels her is a man. So in principle, the person who is compelled in to sexual inter course is a women, while that who compels her is a man. So in principle the person who can committee crime of rape and be liable for it is a male person.¹³

Robbery:- is unlawful taking of property from a persons immediate possession by force or intimidatation though included here as a crime against property.¹⁴ Robbery unlike other theft offences involves two harms.¹⁵

- ✓ Theft of property and
- ✓ Actual or potential physical harm to the victim.

In most states the elements of force the different between robbery and larceny.¹⁶ Hence a pick pocket who takes your wallets unnoticed for the the crime larceny. A mugger who knocks you down and takes your waved by force is quality of the crime of robbery.¹⁷

Robbery is almost always a felong, but many states impose stricter penalties for armed robberies that theft communicated with a gun or other weapon.¹⁸

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

Murder: - when one person intentionally kills another with out the legal justification or excuse crime the is called murder.¹⁹ The fact that the person is committing a serious crime that indicates, he or she has a reckless disregard for human life and safety.²⁰ This takes place of intent killed. The penalties or murder along prison sentence or death.²¹

The killing of human being with malice for though.²² At common law, the crime of murder was not sub divided but many state have adopted the degree, structure, outlined below though the model of penal code has not.²³ The word murder has had devious history its original sense is the particularly heinous crime of secrets slaying after the conquest it was observed that Normans were frequently found dead under mysterious circumstance and so William.²⁴ I enacted that if, any one were found slain and slayer were not caught hundred should pay a fine.²⁵

Burglary:- The common law offense of breaking and entering another's dwelling at right with the intent to commit a felony.²⁶ The modern statutory offense of breaking and entering any building not just dwelling and not only at right with the intent to commit a felony.²⁷ Some statutes make petit larceny and alternative to a felony. Some statutes make petit larceny

Intent also termed breaking and entering statutory burglary. The act of breaking and entering an inhabited structure (as house) especially at night with the intent to commit as a felony as murder or larceny also the out

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ Ibid

²⁵ Black law dictionary eighth edition (page 1043)

²⁶ Black law dictionary seventh edition

²⁷ Black law dictionary 17th ed.

the entering or remaining unlawfully after closing to the public in building with intention to commit a crime.²⁸

The major cause which help the youth enter in to this kind of works are mention in the literature review in chapter two section 2.4 of this paper.

4.2 The law and the practice regarding to juvenile delinquency

In this section the writer try to see the law and the practice with regarded to juvenile delinquency in two sub cities of Addis Ababa means in Nefas silk lafto and Lidet a sub cities. There is a gap between the law and the practical in Addis Ababa in general.

The law: - says admission to a curative institution. If the condition of the young offender requires treatment and where he is feeble minded, abnormally arrested in his development, suffering from a mental disease, blind, deaf and dumb, epileptic or addicted to drink, the court shall order his admission to a suitable institution where, he shall receive the medical care required by his condition.²⁹His treatment shall where, possible include education and instruction.

When we come in to the reality (into the practice in Ethiopian, there is no organization hospital which give medical service to juvenile delinquency when, they have that kind of problem, there is no special doctor which take more training in the help of the juvenile.

There fore the law, say the country should be ordered his admission to a suitable institution. Where he shall receive the medical care required by his condition to which suitable institution would be admission there is no suitable institution in the two sub cities of Addis Ababa that means in

²⁸ Dictionary of law

²⁹ criminal code of Ethiopian 2004 (art 158)

Nefassilk lafto and Lideta sub cities. Even in the ten sub cities of Addis Ababa there is big gap between the law and the practice in the city. So the city administration must think over it unless the problem would not be solved.³⁰

Supervised education if, the young criminal is normally abandoned or is in need of care and protection or is exposed to the danger of corruption or is corrupted measure, for his education under supervision shall be ordered.³¹ He shall be entrusted either to relatives or if, he has no relatives or if these have proved to incapable of ensuring his education to a person (guardian or protector) a reliable person or organization for the education & protection of children. The supervisors mentioned in the preceding paragraph shall under take in writing before the court that they will, under their responsibility to see the good behavior of the young criminal entrusted to them.³²

The local supervisory authorities shall be responsible for the control of the measure of specific conditions such as regular attendance at a school or the obligation to undergo an apprenticeship for a trade, the prohibition to associate with certain person or resort to certain place the obligation to appear personally before or to report on certain dates to the supervisory authority may be imposed.³³ Such condition may, according to their nature and purpose be ordered either in respect to the young person or to the person who vouch for his good conduct, a verbal admonition may, necessary be sent to such persons by the supervisory authority or the court.³⁴

³⁰ Interview with Ato Selmon Belete

³¹ criminal code of Ethiopia 2004 (art 150)

³² Ibid

³³ Ibid

³⁴ Ibid

The custody and educational of an infant may at all times be with drawn from the person or organization entrusted there with if, they prove to be incapable of discharging their trust in a proper manner.

This provision have a gap with practice, there is no supervised education in the two sub cities which deals on them, in Nefassilk-lafto and Lideta sub-cities of Addis Ababa, there is no supervised education, there is no relative person or organization of a public or private nature responsible for the education under supervision of the young offender shall under take in writing before the court that they will, under their responsibility ,to see the good behavior of the young offender entrusted to them.

Therefore, in the two sub –cities of Addis-Ababa there is no supervise education. These juvenile (young offender) giving legal counseling by which have a special knowledge about them instead of supervised education.

Admission to a corrective institution where the character, antecedents or disposition of the young offender is bad, the court may order his admission into a special insinuation, the correction and rehabilitation of young offenders.³⁵ The young offender shall there receive, under appropriate discipline the general, moral and vocational education [apprentice ship]needed to adapt him to social life and the exercise of an honest affinity.³⁶

In general, in Ethiopia there is only one rehabilitation institution for guide line delinquency this institution is found in Lideta sub city of Addis Ababa. In this institution there are about 82 numbers of prison from this of the 8 are girls and 72 of them are boy the number of juvenile are from all the ten sub cities of Addis Ababa but, when we see the data which report to the police officer are more than these number of prison . In a case Lideta sub

³⁵ criminal C.E

³⁶ criminal code of Ethiopia 2004 (Art 162)

city has the rehabilitation institution and special court to see the case of juvenile delinquency, but in Nefassilk lafto sub city there is no correction and rehabilitation institution and special court to see the case of juvenile delinquency. There is no enough number of teacher o give education to those person.

There is one special professional teacher which gives education with out any payment her purpose is to help the juvenile delinquency because, they are the receiver of the country tomorrow.³⁷ Therefore, the court may order his admission in to special institution for correction and rehabilitation of young criminal taking into account the bad character the institution, which is found in Lideta sub-city is not suitable the place itself is not help to adopt social life and the exercise of an honest activity, because they are collect from different place and they share their experience, so they learn more technic to committee a crime.

Reprimand censure:- when such a course seems appropriate and designed produce good results the court may reprimand the young criminal.³⁸ It should direct his attention to the consequences of his act and appeal to his sense of duty and his determination to be of good behavior in the future. This measure may be applies alone when the court deems it sufficient for the reform of the young criminal having regard to his capacity of understanding and not serious nature of the crime or the circumstances of its commission.³⁹ It expedients, it may be coupled with any other penalty or measure.

This provision dose not apply in the practice at this time. The practice when a juvenile delinquents (young offender) come into the court, the first penalty

³⁷ Interview with inspector Tezeru W/Yohannes

³⁸ Penal code of Ethiopia 1957(art 164) and criminal code of Ethiopia 2004 (art 160)

³⁹ Ibid

of these person are counseling which giving them by the juvenile which have especial progression to see the case of them.⁴⁰

Therefore, reprimand, censure is not necessary for juvenile delinquency (young offender), so the practice is more relevant, because youth are active in acceptance of any thing, so if, they counseling (advice or assistance, they must to be change immediately.

Persons arrested have the right to be brought before a court with in 48 hours of their arrest, Such time shall not include the time reasonable required for the place of arrest to the court on appearing before a court, they have the right to be given prompt and specific explanation of the reasons for their arrest due to the alleged crime committed.⁴¹

Juvenile delinquency/young offenders/ have a right to be brought before a court at any time, this provision is not mandatory for young offenders, because, the right to be brought before a court of law with in 48 hours is not apply in the case of young offender or juvenile delinquency. The right to be bought before court in juvenile delinquency /young offender/ has not time limit. The case of juvenile delinquency not depend on time.

In general the young offender/juvenile delinquency/ there is no time limit for juvenile to brought before a court of law, because the young offender can not be taken into custody first. They are taken in to court based on their crime.⁴²

Trial hearing:- where the young person is brought the court, all proceeding should be held in chambers.⁴³ No body shall be present at any hearing except experts witnesses, the parent or guardian or representatives of

⁴⁰ Interview with Ato Solomon Belete (judge)

⁴¹ The FDRE constitution(Art 19(3))

⁴² Interview with Ato Solomon Belete

⁴³ Criminal procedure code of Ethiopia (Art 176)

welfare organization.⁴⁴ The public prosecutor shall be present at any hearing in the high court.

This provision is designed to limit the publicity of juvenile proceeding in order to safe guard the young person reputations from damage through press and radio or Television reports. However, such a provision for in camera hearing goes contrary to the juvenile constitutional right to the public trial. Therefore, the code should have reserved to the juvenile and his representative the freedom to exercise the constitutional right to a public trial.

The accused juvenile has also had the right to conformed all the witness against him more over, all there may be upon cross-examined by defense.

As a regard the role of the public prosecutor, defense counsels and the court in juvenile proceeding, we noted a radically different system .First of all, except in trials before the high court, the prosecutor can not be present.⁴⁵ The judge's job is to perform the prosecutor's function. This means that juvenile proceeding are extract, only the defense and the courts have the roles of pay thus. Protection witness are called not according to the wishes of the prosecutor but, on the decision of the court after inquiring presumably of informant in the cases as to what witnesses should be called to support the accusation or charge.⁴⁶

Defense council, conduct direct examination of all witness, defense witnesses called at the instance of the defendant are not cross-examined any prosecutor only the defense may deliver summing up speech. To sum up, we have seen that juvenile trial procedure differs considerably from the adults procedure, particularly in that the public prosecutor does not participate at all and his function are assumed by the court.

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ S.Fisher 1970 P. 15

However, the code does make some procedural distinctions according to the seriousness of the offences. Thus both the right to appointed counsel and the right to accused informal charge drawn by the prosecutor attach mainly in serious cases. Another distinction feature of serious cases is that at hearing held in the high court, the public prosecutor shall be present.

After all the witnesses have been heard in juvenile proceeding and the defense has been given an opportunity to sum up its case, the code directs that the court shall have judgment and following a judgment of acquittal the juvenile accused must set free forth with and following a judgment of guilty the court proceeds to sentence him.⁴⁷ But prior to doing so the court is empowered to take evidence on the character and antecedents of the convicted accused. As for the dispositional choices available to the court in sentencing the convicted young offender no further discussions are needed.

The juvenile procedure does not mention the question of appeal, but it is clear from other code provisions and most of all the constitutions, the right to appeal applies, just as in ordinary cases.

In general we can say that Ethiopian law regarding juveniles especially the constitution, the penal law/criminal law/, or criminal procedure code basically aim at rehabilitating the young offender, the punitive philosophy of the penal law/criminal law/ or criminal procedure code regarding adults seem to be done away with almost totally in cases involving juveniles.

⁴⁷ Criminal procedure code of Ethiopia (Art 177)

CONCLUSION

The study revealed that number of juvenile offenders in the two sub-cities means in Nefassilk Lafto and Lideta sub-cities of Addis Ababa are increasing year by year and still the rate of juvenile offender is increasing. The concerned institution does not take serious prevention and/or intervention measure related to juvenile offenders. The study also revealed that most of the persons working in police and related instructions lack of knowledge and these institutions need to under go capacity building measures such as, training on the manner of the convention of the right of the child.

- ❖ The findings have to be enough information with regard to the basic subject matter of the study.
- ❖ The finding shows that juvenile delinquency refers to offences committed by young persons, although the age group for juvenile may have slight variation from one jurisdiction to another jurisdiction, which could have been considered as crimes, if committed by adults. In view of fact the juvenile lack a balanced and harmonious course of physical, mental and social developments, laws of all nation including that Ethiopian provide for special substantive and procedural laws which enables juvenile to be treated distinctively from adults the whole aim is to rehabilitate and reiterative of juveniles in the society. In other words, the philosophy behind juvenile justice is reformative rather than punitive in all jurisdictions.

There is an agreement on the major causes of juvenile delinquencies, which are lack of maturity, psychological factor, family conditions, unemployment, and peer group influences.

These being the main causes, however, one or two of the causes may be more prominent depending on which society one talks about.

- ❖ As a regards the situations of juvenile delinquency in Addis Ababa, was noted that juvenile accounts for about two percent of the total number of crime committed in the city. Moreover, it could seen that five most commonly committed offences by juveniles are theft, rape, murder, robbery and burglary in their order of importance.
- ❖ The cause of juvenile delinquency in Addis Ababa is poverty, unemployment, urbanization, family breakdown, school dropout etc. As a regard in the two sub-cities of Addis Ababa, there is no difference from the overall situations in the city, except making attack in groups which had a strong impaction the incidence of juvenile delinquency in the two sub-cities.

As the problem of juvenile delinquency is shared by all the nations, the international community has been given attention on the problem for many years. As a results, we have a number of international instruments concerned with the welfare of the child generally and with the problem of juvenile delinquents in particular-chief among them are convention on the rights of the child the African charter on the right and welfare of child and most importantly the un minimum standard rules for protection of the administration of juvenile justice Beijing rule and the UN rules for the protection of juvenile deprived of their liberty, Ethiopia has the obligation to observe the provision of the going instruments as it is a party to them, although it has not yet ratified the African charter, which is essentially the same as the UN convention on the right of the child.

- ❖ Again, in accordance with international obligation the constitution of the FDRE provides for a special treatment of the child and young offenders. Especially the criminal code and the criminal procedure code contain detained rules on juveniles whose aims are to rehabilitate the young offenders.

The punitive aspect of our criminal law seems been done away with when it comes to juveniles. However, there are some short comings in our law, especially the fact that judges involved in juvenile justice are not trained to handle juvenile cases.

When we consider juvenile delinquency in the two sub-cities, we noted that there are difficulties in applying the law. This is so because policy sometimes involves themselves in human treatment of juvenile and do not take the accused juvenile to woreda court immediately as required by the law.

- ❖ However, the most serious problem in the two sub-cities, have corrective institutional centre for young offenders. Convicts are kept in the main prison with adults.

RECOMMENDATION

In the recommendation, the writer concerns to deal how the law regarding juvenile delinquency is going consistently with practice. That means the writer would like to suggest what preventive measure should be taken by concerned parties. The researcher will try to give suggestions by taking in to consideration the economic situations, political and social aspects of the country. Because, we have to treat juvenile according to the economic status of our country to prevent the problem of delinquency, it is better to eliminate the cause of delinquency as much as possible. This can be achieved through educating the general society about the various cause and consequences of the problem. It is better if practiced by socially accepted contract agents, using various methods. To describe, some of the mechanism are counseling of delinquents and their families, coordinating special programs that deals with proper care and handling of deviant children. Moreover, promotions of self helps employment initiatives to reduce poverty for poor families of delinquency children. This help and can make be aware of delinquency. Because of such awareness they may be able to deal with the problem.

- ❖ There is an urgency for having corrective institutions for juvenile delinquent in the country, including in Addis Ababa. If not, the whole purpose of the legal protection given to young offenders and adults to the same prison is not only against the Beijing minimum rules and our law, but it is also a measure which would take us back to circle one in fact it may be difficult to establish, correctional center at all level of government organs, however, by taking into account the problem of juvenile delinquency and to minimize the increasing number of juvenile delinquent such measure should be taken by the government.

- ❖ Although it is good news that most of the provisions of the criminal code and criminal procedure code have incorporated international standards regarding to juvenile delinquents. However, the government should establish a separate juvenile court whose judges should be required to be trained in matters concerning the special goal of juvenile justice.
- ❖ The two sub-cities of Addis Ababa means Nefassilk Lafto and Lideta sub cities have to be allocated the necessary finance for the purpose of prevention of juvenile offence and also for the provisions of facilities like food, blankets, access to medical treatment etc, to these who are serving rehabilitation and treatment.
- ❖ The two sub-cities of Addis Ababa can also appeal to governmental and non-governmental, national and international organization for technical, material and financial assistance in order to complement its budget constraints in this regard.
- ❖ Schools and kebeles can play a great role in educating and disciplining young students. It is an encouraging step that it was learnt that some schools have such program in place. Some also have discipline committees which are instrumental for that purpose.
- ❖ Arrest of juvenile should be carried out after all other means have been exhausted. For example:- summons in order to change the subsequent negative implications of the pre-trial detention.
- ❖ The right to bail of accused juvenile should be guaranteed at all times as it is a constitutional right which courts are required to apply.
- ❖ Providing financial, Moral and technical supports by the government and non-government organization to maintain juvenile justice administration.

- ❖ Creating awareness person on the right of the child that describes the basic procedural safeguardeds, to notified of charges, the right remain silent the right to counsel and to the law enforcement agents.
- ❖ Establishing educational center, rehabilitation centers Corrective and special court in all the ten sub cities of Addis Ababa, special in Nefassilk Lafto sub city. Nefassilk Lafto has not either special court which have seen the case of juvenile delinquency or rehabilitative correctional Institutions but sub city has rehabilitative correctional institution and special court for children conflicting with the law having regard with the total number of population.
- ❖ Establishing medical centers either by governmental or non governmental organizations for juvenile delinquency to give them medical service.
- ❖ Organizing discussion forum in all schools on the right of the children.
- ❖ Policy department, Public prosecutor and judges at different levels should form teams responsible to protect the right of child.
- ❖ Measure should be taken in each sub-city to avoid the detention of juvenile delinquency together with adult.
- ❖ This research should come up with a practical solution that could be applied on the two sub-cities alleviate to them the problem.
- ❖ Finally, all the concerned bodies should take joint measures to solve this common problem juvenile delinquencies.

Chapter Two

2. Literature Review

2.1 Juvenile delinquency defined

1. Black law dictionary
2. Ibid
3. Ibid
4. Ibid
5. Ibid
6. Ibid
7. modern dictionary of Sociology
8. Ibid

The concept of juvenile delinquency has close association with the offence committed by young persons, who has not reached the majority age, that could have been considered a crime, if committed by an adult. In this connection, it would be useful to look into some definition given to juvenile delinquency by various authors.

Juvenile delinquency is a participation in illegal behavior by a minor, who falls under statutory age limit. An infant not more than specified age, who has violated criminal law or engaged in disobedient, indecent or immoral conduct and is in, need of treatment, Rehabilitation or supervision in general.¹

- violate any federal or state law, or municipal or local ordinance.²
- with out just cause runaway from his parental home or other property authorized of law full place of abode.³
- beyond the control of his parents, guardian or other custodian.⁴
- has engaged in indecent or immoral conduct.⁵
- has been habitually truant or white in school has been continuously and overly defined lawful order of court.⁶

Juvenile delinquency is an evaluation of law or ordinance by an individual below the age limit of the community.⁷

Juvenile delinquency is the concept of generally referring to criminal of other deviant behavior committed by children and adolescent who are not considered adults.⁸

In some cases it refers to act that adults would be treated as crime, such as thefts, but when committed by children are regard, in less research terms. As a result, youth offenders may not tried in regular court or imprisoned with adult, may have their criminal records saled or even erased upon reaching adult status.⁹ The above definition make its clear, that juvenile delinquency refers to some kind of miss-behavior committed or good behavior committed by person, who is younger than the normal legal age of majority depending on the country under consideration. In other word the age limit for juveniles can vary from one jurisdiction to another jurisdiction with the fact remain that delinquency is a nation exclusive to young person. The court and other similar agents of

control described delinquency in term of an offence committed against the law and rules already set in a given society. The definition of an act as delinquent behavior or not rest on the decision of the court based on the established law and procedure. The legal definition, however, will not clear show the concept juvenile delinquent behavior for what is legal in one area may be illegal in other area.¹⁰ Not only that social norm and legal producer change with in a given society overtime and as a result what has been illegal at one time may be acceptable behavior, latter on beside, the legal definition of court do not include offence beyond their evidenced case.

Therefore, such definition served more to run court procedure in a given time than to make understanding between different professionals.¹¹ In order to solve the problem of uniformly of the definition of juvenile delinquency held in 1963.¹²

Describe a discussion that profound or nor quite necessary. For three or four day of the congress, there was endless discussion the point of defining, juvenile delinquency adjudication of guilty, while others have completely different view.¹³ Despite of the different definition given to the term. When we consider the Ethiopian law on the subject, we not, that the constitution of the federal democratic republic of Ethiopia talks about juvenile delinquency. Juvenile offenders admitted to corrective or rehabilitative institution and juvenile who becomes words of the state or who are placed in public or private orphanage, shall kept separately from adults.¹⁴ In order to under stand what is meant by young offender in Ethiopia the criminal code provides a special provision which is applicable to young offender.

Where an offence is committed by a young person between the age of nine and fifteen the penalties to be imposed and measure to be taken by the court shall be those provided.¹⁵ One can inter that young offenders or juvenile delinquency are those whose age ranges from nine to fifteen years and committed offence, which would have been punished under ordinary circumstance.¹⁶ Hence will be worth nothing that under our law, an offence is a criminal act or omission which is prohibited by law and it is completed when, all it is legal, material and moral elements are presents. Moreover, such an offence is punishable where, the court have found the offence provide and deserving of punishment.¹⁷ Therefore, when we talk of a young offenders, we are taking young offender (9-15 age), who committed a crime that would be punishable when proved. However, with the view to protecting youth in accordance with the special treatment given to it by the constitution,

criminal code special provision which are applicable to the young offender (Art 161-173) penal code 1957.¹⁸ These are measure and penalties which apply to young offenders and seen to be largely reformative rather than punitive.¹⁹ The social definition of juvenile

delinquency includes not only those minor who have actually broken the laws, but also those who are likely to do so.²⁰ These includes a juvenile whose attitude to other individuals, to the community, to lawfully authority, in such that it may lead him to breaking the law, if it has not already done so.²¹ Persistent truants or children beyond the control of their parent whether or not the parents fault would come with this definition.²² Therefore, in juvenile delinquency breaches of the law represent only one aspect of the problem.

Juvenile is not new it goes back for into our history even in colonial days, they were subject to the same penalties as adult criminal and confined in the same prison. Slowly but, surely society sense of just stirred at the courtly of capital punishment for children, long punishment and confinement in work house.²³ The need for special treatment of juvenile delinquency was first recognized during the 19thC in the reformatory movement, the purpose of which was to established, the institution for young offender based on training as alternative to confinement in adult prison.²⁴ The above statement indicates that, there has been no different existed between juvenile delinquency and adult offenders treatment when, They are suspended or accused of criminal offenders, that is a young offender and offender were treated in the same manner in the previous time.

In England child accused of criminal offences used be detained in ordinary prison, whether it is before or after trial.²⁵ Because, the undesirable considerable consequence resulted from the treatment of young offender those manner with adult offenders, the Royal commission of England made arrangement in 1863. The first state which proclaimed a distinct law for young offender is the Illinois in the united state American. In India the first penal code which made a distinction between minor and major for criminal act is proclaimed in 1860 which provided that a child under seven years is capable of doing criminal act.²⁶ Beside the coming into force of reformatory school out which provided for the

establishment of distinction between a child accused of committing a crime and adult offender, there by authorizing the court trying the case of child offender to discharging him offer due admintion.²⁷

In 1924, Bombay children act comes into force providing for the custody, trial and punishment of youthful offender.²⁸ Generally in many countries, there had developed over the past fifty to seventy five years, an institution known as the juvenile court.²⁹ Although, local variation are numerous as special court designated to apply the penal law or a special modification of the penal law to children and young persons. The juvenile court grew up as a reaction against the former practice of dealing with juvenile in the same courts, under the same procedure and substantive law, as adult charged with crime. Some of the innovations claimed for juvenile court have been specialization, informally of the court-room and other aspect of the proceeding rigid segregation of juvenile from adult subject of the criminal process at all pre-trial and post-trial stages, protection of juvenile offender from publicity. Emphasis on discovering

the cause anti-social behavior in juvenile and on rehabilitation him through affecting his environment rather than on affixing its blame and punishment.³⁰

Although Ethiopian law does not specially known the juvenile courts, the law gives recognition to the special situation of the juvenile accused. There is a special section of penal law, containing rules both substantive and procedural, exclusively designed for the juvenile offender and there are special sections of procedural law like wise designed for juvenile.³¹ The age limit specified for young offender differ from one country to another country or it is not universal.

In Britain the age limit for young offender is between 10 to 17 years, while in America the age limit for young offender is between 7 to 14 years.³² In Ethiopia it is provided in the old penal code and revised criminal code and the criminal procedure code. The age limit of young

offender is in between 9 to 15.³³ Despite the different in limiting the age, all countries gives special attention to young offender by treating them in special tribunal for the offence, the committed depending on their age limit. The historical development of juvenile was the code of Hamurabi over 4000 year age, contained reference to ranaway, children and youth that disowned their parent, about 2000 years ago Roman civil and cannon law differentiated between juvenile and adult based on the concept of age of responsibility.³⁴ British common law, during the 11th and 12thC made a distinction between youth and adults.³⁵ children between seven and fourteen where exempt from criminal prosecution unless it could be proved, that they had formed criminal intent, could

be proved that they had formed criminal entity could be distinguish right from wrong and under standing the consequences of their action.³⁶ These issues have remained important in proceeding of present day juvenile court.³⁷ The English poor law of 1601 provided for the appointment of over seers, to bind out destitute or neglected children as servants.³⁸ They forced children to serve in the care of families, who would train them in agriculture, trade or domestic services, children were also placed in poor house and work house.³⁹

Forced apprenticeship and provision of poor laws were adopted in America.⁴⁰ In the 15thC chancery court were also established England to provide relief and assistances to need by people including women and children, who were left to found for them selves due to various reason. The king assuming the right of *parne patriae* (parent of his country), allowing those court act inlocal parents (in the place of parents, in order to the provide, the necessary services to such women and children. By the country, children, in Britain could be separated from their indigent parent and apprenticed to others. The practice was based on the assumption that the state has the primary responsibility in the welfare of children and has right to ensure welfare. At about the same time attempt

were being made to handle cases involving juvenile confidentially and to segregate youths requiring confinement separately from adults.⁴¹ This was to protect the youth from public shame and stigmatization.⁴² The purpose of this care was to avoid the harmful effect of the association of youth, with hardened offender, juvenile justice involved with law are treated different from adult.⁴³

However, this has not always been in cases. In earlier time children where thrown into juvenile with adult long prison terms and corpunishment were common. Some children were even sentenced to death for some crime that seen relatively minor by to days standards.⁴⁴ In the mid 19thC, reformers began to argue, that the failure of the family was the cases of delinquent behavior.⁴⁵ In other word parents had failed to teach their children proper volves and respect for authority.

The sanction that involved was for use parate juvenile court to assume the responsibility that have been the parents job. The roots of our system of juvenile justice are 2000 years old classical Roman law.⁴⁶ There are two roots one clearly punitive, the other supportive and carrying.⁴⁷ The punitive root has brought the imposition of adult criminality on children.⁴⁸

In the middle ages, under the law of church, the Roman classification of children with respect to criminal liability took definitive shape and was adopted in the common law.⁴⁹ That concern for troubled children. It was very much present in the concept of parent patriae (parent of the country) which to the Roman means that the emperor and immedieval times, the king or queen could exercise patriapotest as (parental power), in local parent is (in the place of parent deemed in capable or unworthy), over children in trouble or in danger to be coming way ward.⁵⁰ The power of the monarch was eventually transferred to the people of that state are represented by juvenile court judge.⁵¹ We find its traces in the concept used today exercise in juvenile court proceeding.⁵²

Juvenile justice today exercise jurisdiction over two distinct categories of offenders delinquent and status offenders.⁵³ Delinquency children are those who fall under a jurisdictional age limit which varies from state to state and who commit act in violation of the penal code.⁵⁴ Status offender are commonly characterized in state status as a person or children in need of supervision.⁵⁵

Today's juvenile justice system exists in all state by statutes. Each jurisdiction has a juvenile code and special court structure to accommodate children in trouble. The juvenile justice system was developed out of attempt to deal with juvenile delinquents in an informal manner.⁵⁶ It was usually operated as a combination of a case work agency and a criminal court once the juvenile has been adjudicated as a delinquent, there are a variety of possible programs to which the court can refer the young offender.⁵⁷ They could be the residential and non-residential programs that provide varieties of service.⁵⁸ Though attempts are not lacking to put such offenders in community, based on correctional schools. The historical and theoretical development of correction and the Ethiopian experience will be dealt with adult.⁵⁹

Psychologist point out that many delinquent youth have poor home lives, destructive relationships with neighbor, friends and teachers and conflict with authorities figure in general.⁶⁰ These relationship seem to indicate a disturbed personal structure.⁶¹ Further more numerous studies of incarcerated youth indicated that the personalities are marked by negative, anti-social behavior characteristics and since delinquent behavior occurs among youths in every racial, ethnic, and socio-economic groups.⁶² Psychologist view as a function of emotional and mental disturbance, rather than purely a result of social factors, such as racism, poverty and class conflict.⁶³ While many delinquents, do not manifest significant psychological problem, enough do to give clinicians a powerful influence on delinquency theory.⁶⁴ Because psychology is a

complex and diversified discipline, more than one psychological perspective on crime exists.⁶⁵

Most delinquents are indigent and desperate not calculating or evil.⁶⁶ Most grew up in deteriorated parts of town and lack the social supports and economic resources, familiar to more as fluent members of society.⁶⁷ Understanding delinquent behaviors, then requires us to account for the destructive influence, these force have on human behavior. Every socialization experience has a life long influence on self image, value and behavior. Every child living in the most deteriorated inner-city environments will not get involved in delinquency, if their socialization is positive.⁶⁸

The major cause of juvenile delinquency could be many which means that would go beyond the scope of this paper. Therefore, the writer will limit the major causes that have been agreed upon by many authors from various disciplines, concerned with the subject i.e. criminologists, sociologists, psychologists etc. Some of the causes are:-

Maturity is a very difficult concept to define, but there appears to be general agreement, that it involves a balanced and harmonious course of physical, mental and social development. Maturity implies sufficient independence of judgment, interest, attitudes and behavior to enable an individual to distinguish between what is permissible and what is forbidden according to the normative limits set by society in which he lives.⁶⁹ The maturation process takes place in a number of different areas, likely to be change in the physical, mental, emotional and social areas. Some studies suggest that maturity is not complete. The physical side of maturity is that, in many individuals until some time after the age of 25.⁷⁰ Psychological maturation, like biological maturation is an accumulative process which under normal circumstances, leads to full maturity somewhere between 25 and 29 years of age.⁷¹ And social maturity leads progressively to the point where an individual has to be applicable of

selecting intellectually from the various possibilities open, with regard to a career, marriage, parent etc. it is generally agreed that social maturation is reached at a stage still rather than full psychological development. Therefore, evident that some body who has not yet becomes mature physically, psychologically and emotionally and socially is highly like to involve himself in activities which go contrary to social norms and standards, put another ways, lack of maturity can be considered as one cause of the juvenile delinquency although, it is not the only one in this connection, it should be pointed out, that some who, may mature intellectually but not physically.⁷² This clearly tells us that maturity is a complex process which defines the reason put forward by legislator for the age set as the age of criminal majority in addition, the law will have

considered to change the situation, in order to determine the age limit for juvenile.⁷³

Psychopathy personalities are reported to common in many country among the juvenile delinquency. According to one sample study of young adult prisoners, psychiatric examination in the prison classification unit was indicated for 78 of the sample based on a review of the prisoner case histories and observation of their behaviour.⁷⁴

Unsatisfactory family relationship and broken home, occur frequently in the back-ground of young offender. India for instance, the majority of youth full offender are believed to come from homes that are unjust able for one reason or another, regardless of the socio-economic background of the offender.⁷⁵ It is claimed that children who, loss either of their parents at early age are especially liable to becomes, involved in delinquent activities later on.⁷⁶ This shows us that the family has a lot to do with how, the youth will behave in society. A young boy lost his parent at early age is likely to becomes anti-social in his behavior as he was deprived of the love, he deserved as a child, because of the loss of his parents, in events, research in many parts of the world has confirmed

that, the family condition of the youth have significant contribution to the incidence of the delinquency.

In the technological advanced countries it is not an usual to find labour shortage and an employment existing side by side.

The spread of automation to industrial and commercial process and even to service operation is eliminating at an increasing rate job which

observed a large population of the poorly education and as killed, the person are sometimes referred to school drop out, i.e, the youth who quite before completing, the full term of formal education and finds himself on out cost of the lower market at a time when, there are vacancies waiting to be filled by person with the requisite training and skill. A number studies in the united state for instance, indicated that the school dropout is especially prone to delinquency.⁷⁷ Unemployment, therefore, can lead to anti-social activities. But this is not the case in the developed world. Since unemployment is also rampant in developing world also in a number of developing countries, unemployment is especially acute in the rural areas. In contrast, the urban area is thought to offer the promise self-fulfillment, employment at higher wages and for many, the pleasure of a life from the restrains of rural society, an arrival in the cities. Many young persons are disillusioned by misery and unemployment and some of them eventually be come involved in criminal activities.⁷⁸ Most experts, believe a disturbed home, environment can have a significant impact on delinquency. The family is the primary unit in which children learn, the value and attitudes that guide their action through out their lives.⁷⁹ Family disruption or change can have along lasting on children.⁸⁰ In the tra-family conflict environment of discord and conflict with the family. Children who, group up in days functional home, after exhibit, delinquency behavior, having learned at young age, that aggression pay off.⁸¹

To day's juvenile delinquency cases are sometime handled as part of a criminal trial court jurisdiction or event with in the probate court.⁸²

However, in many jurisdictions they are treated with in the structure of a family court or independent juvenile court is a specialized court for children designed to pre-more-rehabilitation of youth with in a framework of procedural due process. It is concerned with action both in the best interest of children, in the best in interest of the public protection of inter incompatible goal.⁸³

- No young person (Art 53 criminal code) may be tried together with an adult.⁸⁴
- No member of the armed forces may be together with a civilian except for an offence which does not come with in the jurisdiction of a military court.⁸⁵

In Ethiopia the concept of juvenile delinquency was firstly enshrined the Fitha-Negest (the law of the kings), in the Fitha-Negest juveniles are considered as rebellious son with out specifying the religious punishment.⁸⁶ On the other hand, the same book provided that, for those offender, who committed sin (which shows that it is related to religious offender) shall be separated from other faithful prayer.⁸⁷ Therefore, even if the concept of the problem of juvenile delinquent were existent during the time of the Fitha-Negest, it is more related with religious offences and the punishment prescribed them is also more of religious nature. Both under the 1931 and 1955 constitution of Ethiopia, there is no special articles talking about young offenders which signifies that young offenders are treated as any other adult offender before ordinary court, except the second section of 1931 constitution providing that children who has last their parents are endangered and tend to committee offence, because of lack of Education.

However, after 1961 special tribunal was established by his majesty Haile Sellasie to prosecute young offender.⁸⁸ Besides, the criminal

procedure and the penal code also provided special penalty and procedure for juvenile offenders. Under the 1987 constitution of PDRE also, there is no special article talking about young offender, except what is provided under chapter three art 20(2), that government will give protection for children to grow in good discipline.⁸⁹ After the fall of the Derg regim, Ethiopia has ratified the convention on the right of child, adopted by general assembly of the united Nation, November 20, 1989. The convention was ratified by the transitional government of Ethiopia on December 9, 1991.

Under the FDRE constitution Art 36(2) it provides that, for action concerning children primary consideration shall be given to the interest of the children.⁹⁰ Juvenile offenders in custody to be kept separately from adults.⁹¹ This is shown that FDRE government has give consideration for juvenile offenders than the previous government. However, the absence of juvenile court and specialized judge to try the cases concerning juveniles offender, lack of organized corrective institution to reform juvenile offenders. In Ethiopia many children have deal with out proper care and protection.

This is related to existing realities (Socio-economic) of the country, that lots of socio-economic problem, affect the well being of the children. Beside, Ethiopia is a country where, traditional value and belief have existed for centuries. These and other related socio-economic factors have lead to abuse neglect and maltreatment of children in Ethiopia. The causes are many complex and difficult to establish crimes are committed by individuals and the cause of crime is adjustment of the individual to his environment.

As an individual affair, there are as many cause of crime as there are source of individual discontent, frustration, poverty, unemployment, urbanization, alcoholism, social streets and other are often causes and contributing for criminal acts for the cause juvenile delinquency, early

anti-social behaviors, weakening and breaking down of families, urbanization and its impact on youth, unemployment and under employment, high rates of school dropout and influence of peer group are often cited.⁹² In general death of one or both parents, separation divorce and family break down are considered major push factor to streeting. A situation which is very likely to cause delinquency. To these cause, one might add such general contributing factors as urbanization, drought and famine, war and civil unrest, rapid population growth, absence (disparity) of basic social service, environmental degradation, family neglect, unemployment, peer group influence and un conducive environment. The over all situation of juvenile delinquency and its causes have been considered and following remarks could be made by way of summary.

- In the previous time, juvenile delinquents were existed, their problem were related with religious.
- Even if the crime (offence) committed by juveniles, i.e those aged between 9 to 15 are larceny, felonious assault, violation of regulation, robbery and homicide, Out of these offences larceny and assault seen to be the more common offences, where as homicides seems to be not very frequent.
- The FDRE government gives special consideration to children than the previous government even if, there is a problem.

- State parties to the present charter shall in particicular.⁹⁴

(d) Prohibit press and public from trial.

9. Ibid

10. Cople 1973 p. 119 and Clinard and Meier 1978 p.17

11. Ibid

12. Ibid

13. FDRE Constitution (Art 36(3))
14. Ibid
15. Ethiopian Criminal code (Art 53)
16. Ibid
17. Ibid

2.2 Historical back ground of juvenile justice

18. Ethiopian penal code 1957 (Art 161-173)
19. Ethiopian criminal code 2004 (Art 129-133)
20. Andargatchew Tesfaye
21. Ibid
22. Ibid
23. Thomas 1965p.25
24. Ibid

25. Mohammed I 1970 p. 56
26. Ibid
27. Ibid
28. Ibid
29. S.Fisher 1969

30. Ibid
31. Ibid
32. P. Tappan 1994 p.12
33. Ethiopian penal code 1957
34. criminal code of Ethiopia 2004
35. Andargatchew T.
36. Ibid
37. Ibid
38. Ibid
39. Ibid
40. Ibid
41. Ibid
42. Edward T.MCMAham. Med J.D.P_____
43. Ibid

44. Ibid
45. Ibid
46. Mueller Gerhard O.W
47. Ibid
48. Ibid
49. Ibid
50. Ibid
51. Ibid
52. Joseph J.SENNA

Juvenile are young person who has not yet attend the age at which he or she should be treated as an adults for the purpose of criminal law.¹³ The

law considered them in capable of forming the necessary criminal intent.¹⁴

- The law at that time also assumed that children between the ages of 7 and 14 were in capable of committing a criminal act.¹⁵

2.3 Theoretical frame work

A. Psychological theories of delinquency

53. Ibid

54. Ibid

55. Ibid

56. Andargachew T

57. Ibid

58. Ibid

59. Ibid

60. Harry J. Siegel. Bran Danc. Welsh J senna P-83

61. Ibid

B. Sociological view of Delinquency

2.4 Major cause of juvenile delinquency

62. Ibid

63. Ibid P.84

64. Ibid

65. Ibid

66. Ibid

67. Ibid

68. Ibid P.119

A. Lack of maturity

69. the young adult offender, UN1965 P.17

70. C. Koupornic 1963

71. Gratiot Alphanderic P 23-32

72. Ibid

B. Psychopathy and other mental Disease

C. Family condition

D. Income and employment

73. The young adult offender.

74. Ibid

75. Ibid

76. Ibid

2.5 Jurisdiction of the court

77. The young adult offender 1965 P.21

- 78. Ibid
- 79. JOOSE PH.J. SENnA.
- 80. Ibid
- 81. Ibid
- 82. JOSEPH. J. Senn A. (Eight edition)

2.6 The problems of juvenile delinquency in Ethiopia

- 83. Ibid
- 84. Ethiopia criminal procedure
- 85. Ibid
- 86. Abba paulus T. 1968 P. 305
- 87. Ibid P. 301
- 88. Lowenstein steven 1965 P. 191
- 89. PDRE constitution (art 20(2))
- 90. FDRE constitution (art 36(2))
- 91. Ibid
- 92. ECA and OAU 1989 A.A.

1.5.5. How juveniles delinquents are treated in Ethiopian law?

In Ethiopian law juvenile delinquents are treated like any adults according to the constitution of the country.

Every one has the right to protection against cruel,

2.7 Juvenile justice administration

- Every child accused or found guilty of having infringing penal law shall have the right to special treatment in a manner consistent with the child, sense of dignity and worth and which reinforces, the child respect for human right and fundamental freedom of other.⁹³
 - (a) Ensure that no child who detained imprisoned or other wise deprived of his/her liberty is subjected to torture in human or degrading treatment or punishment.
 - (b) Ensure that children are separated from adults in their place of detention of imprisonment.
 - (c) Ensure that, every child accused infringing the penal law:-
 - i) Shall be informed promptly in a language that, he understands & in detail of the charge against him and shall be entitled to the

assistance of an interpreter, if he or she can not understand the language.

- ii) Shall be presumed innocent until duly recognized guilty.
 - iii) Shall be offered legal and other appropriate assistance in the preparation and presentation of his defense.
 - iv) Shall have the matter determined as speedily as possible by impartial tribunal and if found guilty be entitled to appeal by higher tribunal.
- The essential aim of treatment of every child during the trial and also found guilty of infringing the penal law shall be his or her reformation, reintegration into his or her family and social rehabilitation.⁹⁵ There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.⁹⁶

93. Right and welfare of child (Art 17)

94. Ibid

95. Ibid

96. Ibid

CHAPTER- THREE

THE LAW AND JUVENILE DELINQUENCY

3.1 Ethiopian law and juvenile delinquency

3.1.1 The FDRE constitution and young offender

The constitution of Federal Democratic Republic of Ethiopia contains a special article (provision) on the right of children, which have states that juveniles offenders admitted to corrective or rehabilitative institution and juveniles who, becomes words of the state or who are placed in public or private orphanages shall be kept separately.¹ More over, it is provided that in all action concerning children under taken by public and Private well fare institution.² Court of law administrative authority or legislative bodies, the primary consideration shall be the interest of the child.³ Which specially address the juvenile. However, there are also provisions in the constitution which are general such as human right, the right to life, Security of person and liberty,⁴ which, the writer believes that, the young are entitled to that rights. Every one has the right to protect against bodily harm, because all person include children are equal before law and entitled without any discrimination to the equal protection of law,⁵ in the same manner, the provision in the constitution on prohibition against in human treatment right of arrested person, right of accused person held in custody and convicted prisoners, no rertroactivity of criminal law and prohibitions of double jeopardy are also applied to young as well.⁶

3.1.2. The Criminal code of Ethiopia and young offender

In general one can say that, the system of measure and penalties applicable to young person has rehabilitation and hence, there is

1. FDRE constitution (Art 36)
2. Ibid
3. Ibid
4. Ibid (art 14-17)
5. Ibid (art 16 and 25)
6. Ibid

increased emphasis on supervision, education and flexibility of treatment, however the penalties of corporal punishment contradict not only to the over all goals of juvenile justice but also the constitution and international standards.

Where a crime is committed by young persons between the age of nine to fifteen years, the penalties and measure to be imposed by the court shall be only those provided in article 157-168.⁷ Young persons shall not be subject to the ordinary penalties applicable to adults or shall they be kept in custody with adult criminals.⁸ The provision of article 158-168 shall not apply unless the criminal is convicted.⁹ However, where the young person is irresponsible, the provision of article 129-133 apply.¹⁰

Where an offence is committed by a young person between the age of nine and fifteen the penalties and measure to be imposed by the court shall be provided article 161-173.¹¹ Young person shall not subject to the ordinary penalties applicable to adults nor shall they be kept in custody with adults offenders.¹² No order may be made under article 162-173. Unless the offender is convicted.¹³ Single substantive law of crimes applies to adults and young offenders a like, but once a crime is proven the special provision for juvenile become exclusively relevant for the sentencing court.¹⁴

Although, the penal code refers to the age group of fifteen to seventeen as “young person”, it is better to refer to them as juvenile in order to avoid confusing them with juvenile,¹⁵ and post juvenile are treated.

3.1.3 The criminal procedure code special provision for young offender

Criminal cases concerning young person shall be tried, in accordance

7. Criminal code of Ethiopia 2004 (art 53)
8. Ibid
9. Ibid
10. Ibid
11. Penal code of Ethiopia 1957 (art 53)
12. Ibid
13. Ibid
14. S. Fisher 1970 P. 119
15. S. Fisher 1970 p.119

with the provision of this chapter, in any case where a young person is involved he shall be taken immediately before the nearest woreda court by the police, the public prosecutor, the parents or guardian or the complainant.¹⁶ The court shall ask the person bringing if any of the alleged offence or to make formal complaint, where appropriate and such statement or complaint shall be recorded.¹⁷ The court may give the police instructions as to the manner in which investigation should be made.¹⁸ Where the accusation relates to an offence punishable with rigorous imprisonment exceeding to ten year or with death,¹⁹ the court shall direct the public prosecutor to frame a charge. Where the case require to adjourned or to be transferred to a superior court for trial, the young person shall handed over to the care of his parents, guardian or relative and in default of any such person to a reliable person who shall responsible for ensuring his attendance of at trial.²⁰ The witness shall be bound over appear at the trial.²¹

3.1.4 Jurisdiction of the court

- What cases are eligible for treatment according to the special procedure young persons?

- Which court have jurisdiction? These question stand in this section.

Criminal case concerning “young person” are to be tried according to the special procedure, (art 171-180) and young person is defined as a person between the age of 9 and 15.²² the age is measured at the time of the criminal acts charged, since a contrary interpretation would leave it open to the authorities delay tactics to convert a juvenile case into adult one.

16. criminal procedure code (art 171(1))

17. Ibid (art(2))

18. Ibid

19. Ibid (art 171(3))

20. Ibid (art 171(4))

21. Ibid

22. criminal procedure code (art 171)

Taking the crucial time for age determination to be time of the criminal act charged removes, any such incentive for delay.²³ Fifteen years for offences punishable with rigorous imprisonment exceeding ten years. ²⁴

- Ten years for offence punishable with rigorous imprisonment not exceeding five years.²⁵
- Ten years for a sentence entailing loss of liberty for more than one year.²⁶
- Fifteen years crime punishable with rigorous imprisonment but not exceeding ten years.²⁷
- Ten years for crime punishable with rigorous imprisonment not exceeding five years.²⁸
- Ten years asentenceentailing loss of liberty fore more than one year.²⁹

3.1.5 Court competent to try juvenile case

Unlike other countries, the ordinary criminal court in Ethiopian law have jurisdiction over juveniles and adults, a like all prosecution of young offender must originate at the woreda court.³⁰

This seems to be slight exceptions. The ordinary criminal court must in the trial and post-trial stages apply the special substantive and procedural rules for young offender.³¹ Here it is important to mention that judge do not have special training or experience as required by the “Beijing rule”, regarding juvenile justice this is serious hand cap in Ethiopia.

23. S. Fisher 1970 p.128

24. Ethiopian penal code 1957 (art 226(c))

25. Ibid (art 226 (d))

26. Ibid (art 234(c))

27. Criminal code of Ethiopia 2004 (art 217(c))

28. Ibid (art 217(d))

29. Ibid (Art 224(c))

30. criminal procedure code (art 172(1))

31. Ibid

3.1.6 Pre-trial procedure

The cause involving young persons that juvenile must be taken immediately before the nearest woreda court by the police.³² The public prosecutor, the parents or guardian or the complainant, here it should be emphasized that the charged with taking the young offender to the nearest woreda court can do so only where, the arrest is justified by the constitution and the pertinent provision in other law.³³ Where he added that incase involving juvenile the police ought to make every possible use of summons, in order to avoid the unsavory publicity and adverse, psychological effect on the juvenile which are inherent in the use of arrest only as last restore, where clearly, necessary should be juvenile be taken forcibly to court,³⁴ such a procedure is in accordance with international standard especially “Beijing rules”.

3.1.7 Pre-trial detention and the right to bail

Where the case requires to be adjourned or to be transferred to as superior court for trial, the young person shall be handed over to the care of his parents, guardian or relative and in default of any such person to a reliable person who shall be responsible for ensuring his attendance at the trial.³⁵ The witnesses shall be bound over to appear at the trial.³⁶

Conditionally subject to the singing of a bail of bound according to the codes bail provision applicable to adults.³⁷

Where the accused fails to appear after publication of the summons in accordance with art 162 cr.p.c, the case shall continue as in ordinary cases.³⁸ The court shall give judgment as in ordinary cases.³⁹

32. Criminal procedure code (art 172(1))

33. Ibid

34. S.Fisher 1970 p.132

35. Criminal procedure code (Art 172(4)).

36. Ibid

37. Fisher 1970 p. 132

38. Criminal procedure code (art 163(1))

39. Ibid (art 172)

3.1.8 Police investigation

In principle Ethiopian law does not required the young offender to pass through the rigorous process of independent police investigation or that of the framing of a formal charge by the public prosecutor.⁴⁰ when we come across, the cases where the young person is involved in commission of a crime he/she shall be taken immediately before the nearest woreda court.⁴¹ Either by the police, public prosecutor, the parent or guardian or the compliant.⁴² Arrest warrant must be obtained in the manner prescribed for adult cares. The police shall also make every possible use of summons, which are inherent use of arrest.⁴³

The police may not on their own initiative, take any investigation steps which involve custody of the accused, they must by what ever means, immediately take him before the nearest woreda court. This arrangement is clearly distinction from the case of investigation crime allegedly committed by adult, and in the later case a basic premise of the criminal procedure code is that investigation of crime committed, when agency responsible by law to investigation crime i.e. the police and in some cases the public prosecutor are formally informed of the commission of a particular crime in the case of young offender, however, any investigation may be conduct only offer the young offender is presented to court.⁴⁴ Immediate appearance of the child offender to the nearest woreda court, is a constitutional guarantee.⁴⁵ The police must without prior investigation, arrest juvenile suspect of whose allenged offences they learn or must the parent, guardian or compliant immediately take the juvenile before the court with any prior gathering of evidence to ensure that responsible care exists to take such steps?

40. Criminal procedure code (art 108 (3))

41. Ibid (art 172)

42. Ibid

43. Ibid (art 25)

44. Criminal procedure code (art 172)

45. FDRE constitution (art 19(3))

May not any information first approach, the police to request action rather than take it him self?

In order to answer these questions, we might distinguish between two things filling technical information with the police and reporting a crime to the police and king for assistance. In the procedure laid down for adult offenders, a person who comes to the police to report crime is by definition, technically an information his statement whether technically and he must sign it.⁴⁶ The police then proceed to investigate report which will be presented to the public proceeding.⁴⁷ Where as in the case of juvenile however, the code expressly states the possibility of witness victim etc filling information with police.⁴⁸ Any accusation or complain may be to the public prosecutor or police un accusation or compliant regarding a young person shall be made,⁴⁹ intern provides in woreda court, to record the accusation or compliant against the juvenile and directs the police to conduct any investigation as the court thinks fit. But this doesn't means a parent witness or victim may not initially report the suspected juvenile offenders to the police however, according to the practice which any of as follows in a trouble situation, we don't think to seek help at the nearest woreda court it would see proper in juvenile case first, the police would receive, the report, in fact, it will not be known at that point, whether the suspected offender is a juvenile or non-without formally recording it as an information and without participation of a regular investigation report.⁵⁰ if once the case is informed it would seem proper for the police to conduct an investigation, where it is necessary to determine weather or not, there is sufficient probability of guilt to justify issuance of a summon or application for arrest warrant to bring this into

46. Criminal procedure code (art 14)

47. Ibid (art 36-39)

48. Ibid (art 16 (1))

49. Ibid (art 172)

50. Mebrehtu yohhanes 1965 p. 12

Member states shall try to develop condition to ensure meaningful lives in the community for juveniles.¹⁶

Sufficient attention should be given to positive measures involving mobilization of resources such as the family volunteers and community groups, to promote the well being of juveniles.¹⁷

13. Black law documentary

14. Leep Arbetman, M. ED. J. J. D, Edward T. McMahon, M. ED. J. D and Eduward L.O Brien J. D.

15. Ibid

16. Standard minimum rules for administration of juvenile justice A deped by the general assembly 29 Nov. 1985 on there commendation of setaenth congress

17. Ibid

Juvenile justice shall be an integral part of the national development process of each county.¹⁸

Age of criminal responsibility:- In legal system recognizing the concept of an age criminal responsibility for juvenile, such as an age level shall not be fixed too low, bearing mind emotional, mental and physical maturity.¹⁹

Aim of juvenile justice:- any reaction by the juvenile justice system to juvenile offenders shall be in proportion to both the offenders and the offence.²⁰

Scope of discretion:- appropriate scope for the exercise of discretionary power shall be allowed at all stages of legal proceedings. Affecting juvenile.²¹ Efforts shall be made ensure sufficient accountability of all stages in the exercise of such discretion.²²

Right of juveniles:- Basic procedural safe guards such as the presumption of innocence, the right to be notified of charges, the right to remain silent, the right to counsel, the right to be presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal, shall be guaranteed at all stages of proceedings.²³

Protection of privacy the juvenile's right to privacy shall be respected at all stages.²⁴

18. Ibid

19. Ibid

20. Ibid

21. Ibid

22. Ibid

23. Ibid

24. FDRE constitution Art 18

25. Ibid

26. Ibid

Inhuman or degrading treatment or punishment.²⁴

- No one shall be held in slavery or servitude.²⁵ Traffic king human beings for what ever purpose is prohibited.
- No one shall be required to perform forced or compulsory labour.²⁶

CHAPTER- FOUR

Analysis and dictions on juvenile justice administration in Neffassilk Lafto and Lideta sub – cities of Addis – Ababa

This chapter considered, the situation of juvenile delinquency in two sub – cities of Addis – Ababa means in Neassilk lafto and Lideta sub – cities, in light of the relevant law of the country and practice.

A general over view on the state. Acknowledge on juvenile delinquency. The cause of juvenile delinquents and the types of offence committed by delinquents and related issue will be analyzed. In order to do so, the writer has prepared questionnaires, interview and other related study tools to all institution involved in juvenile case such as police, court labour, social affair bureau, delinquency and justice bureall of Addis – Ababa. Accordingly, the writer will now proceed analysis of data available with a view to identify the area where, there are discrepancy between the law and the practice regarding juvenile justice in the two sub – cities. The analyzing and discussing here is mainly organized under the theme there were discuss during the literature review. An informal discussion held with police officers, who have relatively close contact with juvenile that indicates the extent of juvenile delinquency in the two sub cities are increasing with every passing year with increasing rate. These young persons are coming from the lower class of the community. However, they tried to show that even if, there is no research conducted on the mater from their experience and observance, the punishing reason could be poverty, unemployment statues the juvenile disintegration of their family. While, the police officer idea were supported the questionnaire submitted to juvenile delinquency.

The juvenile delinquency reforms to the violation of a law by young offender.

4.1 Types of offence committed by juvenile delinquency

The concept of offence committed by delinquency are different in different place of the city. The types of offence committed by juvenile delinquency including the act which would be crime is committed by adult such as automobile theft, burglary, rape, robbery, murder and other acts which are illegal only for boys and girls such as drinking alcohol, beverages, the delinquency rate increase in developing country as industrialization and population is rising from time to time. Juvenile delinquency may viewed from many different aspect of problem in Addis Ababa sub cities.

Theft:- who ever, with intent to obtain in for him self or to prtecture for an other lawful increment, abstract a movable or thing detached from an immovable or the property of another whether by taking ad carrying or by directed to his own property is punishable according to the circumstance of the case with simple imprisonment or with rigorous imprisonment not exceeding five years.¹ Where the criminal him self has detached the movable object from an immovable property and while so doing as cause damage to, movable or immovable property.²

Where any person committed petty abstraction of the property an an other of ever small value he/she shall be punishable according to the relative provision to petty offence.³ wherever, prompted by need or desire o r by lack of conscience take a thing of small value belonging to another for his immediate consumption or use is punishable with fine not exceeding fifty or arrest not exceeding teen days.⁴

Rape:-who ever compels a women to submit to sexual intercourse out side wedlock ,whether by the use of violence or grave intimidation or after

¹ Criminal code (art 665)

² Ibid

³ Criminal code (art 665)

⁴ Ibid (art 852)

having rendered her unconscious or incapable of resistance is punishable with rigorous imprisonment from five years to fifteen years.⁵

Where the crime is committed on a young woman between thirteen and eighteen or any establishment of health, education, correction, detention or internment which is under the direction, supervision or authority of accuse person or on any one who is under the supervision or control of or dependent up on him. On which a women incapable of understanding the nature or consequence of the act or resisting the act due to old age, physical or mental illness, depression or any other reason. By a number of men acting incorrect or by subjecting the victim to act of cruelty or sadism, the punishment shall be rigorous imprisonment from five years to twenty years.⁶ Where the rape is related to illegal restraint or abduction of the victim or where communicable disease has been transmitted to her, the relevant provision of this dcode shall apply concurrently.⁷

Traditionally, the law has recognized two types of rape

1. Forcible rape: - Is the act of unlawful sexual intercourse committed by a man with women by force and with out her consent.⁸
2. Statutory rape: - is a sexual inter course by male with a female who has not yet reached the leg al age of consent.⁹ The age which a young person can legally agree to have sex varies by state from 11 to 18.¹⁰ Only male can committed rape an d contrary to popular belief, an under age male can be prosecuted for having sex with an under age female.¹¹

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸ Leep Arbert man M.E.D.J (page – 91)

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

A woman's lack of chastity is not a defense to rape.¹² The person who is compelled into sexual intercourse is a woman, while the person who compels her is a man. So in principle, the person who is compelled into sexual intercourse is a woman, while the person who compels her is a man. So in principle the person who can commit the crime of rape and be liable for it is a male person.¹³

Robbery:- is unlawful taking of property from a person's immediate possession by force or intimidation though included here as a crime against property.¹⁴ Robbery unlike other theft offences involves two harms.¹⁵

- ✓ Theft of property and
- ✓ Actual or potential physical harm to the victim.

In most states the elements of force that differentiate between robbery and larceny.¹⁶ Hence a pickpocket who takes your wallet unnoticed is the crime of larceny. A mugger who knocks you down and takes your wallet by force is guilty of the crime of robbery.¹⁷

Robbery is almost always a felony, but many states impose stricter penalties for armed robberies that is theft committed with a gun or other weapon.¹⁸

Murder:- when one person intentionally kills another without the legal justification or excuse the crime is called murder.¹⁹ The fact that the person is committing a serious crime indicates that he or she has a reckless disregard for human life and safety.²⁰ This takes place of intent to kill. The penalties for murder are long prison sentences or death.²¹

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

The killing of human being with malice for though.²² At common law, the crime of murder was not sub divided but many state have adopted the degree, structure, outlined below though the model of penal code has not.²³ The word murder has had devious history its original sense is the particularly heinous crime of secrets slaying after the conquest it was observed that Normans were frequently found dead under mysterious circumstance and so William.²⁴ I enacted that if any one were found slain and slayer were not caught hundred should pay a fine.²⁵

Burglary :-The common law offense of breaking and entering another's dwelling at right with the intent to commit a felony.²⁶ The modern statutory offense of breaking and entering any building not just dwelling and not only at right twith the intent to commit afelong.²⁷ Some statutes make petitlarcey and alternative to afelong. Some statutes make pefitlaredyrious

Intent also termed breaking and entering statutory burglary. The act of breaking and entering an in habited structure (as house) especially at right with the intent to committee as afelong as murder or larceny also the out the entering or remaining unlawfully after closing to the public in building with intention to committee a crime.²⁸

The major cause which help the youth enter in to this kind of works are mention in the literature review in chapter two section 2.4 of this paper.

4.2 The law and the practice regarding to juvenile delinquency

²² Ibid

²³ Ibid

²⁴ Ibid

²⁵ Black low dictionary eight edition (page 1043)

²⁶ Black low dictionary seventh edition

²⁷ Black law dictionary 17th ed.

²⁸ Dictionary of law

In this section the writer try to see the law and the practice with regarded to juvenile delinquency in two sub cities of Addis Ababa means in Nefas silk lafto and Lidet a sub cities. There is a gap between the law and the practical in Addis Ababa in general.

The law: - says admission to a curative institution. If the condition of the young offender requires treatment and where he is feeble minded, abnormally arrested in his development, suffering from a mental disease, blind, deaf and dumb, epileptic or addicted to drink, the court shall order his admission to a suitable institution where, he shall receive the medical care required by his condition.²⁹

His treatment shall where, possible include education and instruction.

When we come in to the reality (into the practice in Ethiopian, there is no organization hospital which give medical service to juvenile delinquency when, they have that kind of problem, there is no special doctor which take more training in the help of the juvenile.

There fore the law, say the country shall order his admission to a suitable institution. Where he shall receive the medical care required by his condition to which suitable institution would be admission there is no suitable institution in the two sub cities of Addis Ababa that means in Nefassilk lafto and Lideta sub cities. Even in the ten sub cities of Addis Ababa there is big gap between the law and the practice in the city. So the city administration must think over it unless the problem would not be solved.³⁰

Supervised education if, the young criminal is normally abandoned or is in need of care and protection or is exposed to the danger of corruption or is corrupted measure, for his education under supervision shall be ordered.³¹ He shall be entrusted either to relatives or if, he has no

²⁹ Penal code of Ethiopia 1957(Art 168) and criminal code of Ethiopian 2004 (art 158)

³⁰ Interview with Ato Selmon Belete

³¹ Penal code of Ethiopia 1957 (art 163) and criminal code of Ethiopia 2004 (art 150)

relatives or if these have proved to incapable of ensuring his education to a person (guardian or protector) a reliable person or organization for the education & protection of children. The supervisors mentioned in the preceding paragraph shall under take in writing before the court that they will, under their responsibility to see the good behavior of the young criminal entrusted to them.³²

The local supervisory authorities shall be responsible for the control of the measure of specific conditions such as regular attendance at a school or the obligation to undergo an apprenticeship for a trade, the prohibition to associate with certain person or resort to certain place the obligation to appear personally before or to report on certain dates to the supervisory authority may imposed.³³ Such condition may, according to their nature and purpose be ordered either in respect to the young person or to the person who vouch for his good conduct.

Are call or a formal admonition may, necessary be sent to such persons by the supervisory authority or the court.³⁴

The custody and educational of an infant may at all times be withdrawn from the person or organization entrusted there with if, they prove to be incapable of discharging their trust in a proper manner.

This provision have a gap with practice, there is no supervised education in the two sub cities which deals on them, in Nefassilk-lafto and Lideta sub-cities of Addis Ababa, there is no supervised education, there is no relative person or organization of a public or private nature responsible for the education under supervision of the young offender shall under take in writing before the court that they will, under their responsibility ,to see the good behavior of the young offender entrusted to them.

³² Ibid

³³ Ibid

³⁴ Ibid

Therefore, in the two sub –cities of Addis-Ababa there is no supervise education. These juvenile (young offender giving legal counseling by which have a special knowledge about them instead of supervised education.

Admission to a corrective institution where the character, antecedents or disposition of the young offender is bad, the court may order his admission into a special insinuation, the correction and rehabilitation of young offenders.³⁵ The young offender shall there receive, under appropriate discipline the general, moral and vocational education [apprentice ship]needed to adapt him to social life and the exercise of an honest affinity.³⁶

In general, in Ethiopia there is only one rehabilitation institution for guide line delinquency this institution is found in lideta sub city of Addis Ababa. In this institution there are about 82 numbers of prison from this of the 8 are girls and 72 of them are boy the number of juvenile are from all the ten sub cities of Addis Ababa but, when we see the data which report to the police officer are more than these number of prison . in a case lideta sub city has the rehabilitation institution and special court to see the case of juvenile delinquency , but in nefassilk lafto sub city there is no correction and rehabilitation institution and special court to see the case of juvenile delinquency. There is no enough number of teacher o give education to those person. there is one special proffessional teacher which gives education with out any payment her purpose is to help the juvenile delinquency because, they are the receiver of the country tomorrow.³⁷ Therefore, the court may order his admission in to special institution for correction and rehabilitation of young criminal taking into account the bad character the institution, which is found in lideta sub-

³⁵ Penale E. & criminal C.E

³⁶ Penal code Ethiopia 1957 (Art 166) and criminal code of Ethiopia 2004 (Art 162)

³⁷ Interview with inspector Tezeru W/Yohannes

city is not suitable the place itself is not help to adopt social life and the exercise of an honest activity, because they are collect from different place and they share their experience, so they learn more technic to committee a crime.

Reprimand censure:- when such a course seems appropriate and designed produce good results the court may reprimand the young criminal.³⁸ It should direct his attention to the consequences of his act and appeal to his sense of duty and his determination to be of good behavior in the future. This measure may be applies alone when the court deems it sufficient for the reform of the young criminal having regard to his capacity of understanding and not serious nature of the crime or the circumstances of its commission.³⁹ It expedient, it may be coupled with any other penalty or measure.

This provision is not apply in the practice at this time. The practice when a juvenile delinquency (young offender) are come into the court, the first penalty of these person are counseling which giving them by the juvenile which have especial progression to see the case of them.⁴⁰

Therefore, reprimand, censure is not necessary for juvenile delinquency (young offender), so the practice is more relevant, because youth are active in aeseptance of any thing, so if, they counseling (advice or assistance, they must to be change immediately.

- Persons arrested have the right to be brought before a court with in 48 hours of their arrest, Such time shall not include the time reasonable required for the place of arrest to the court on appearing before a court, they have the right to be given prompt and specific explanation of the reasons for their arrest due to the alleged crime committed.⁴¹

³⁸ Penal code of Ethiopia 1957(art 164) and criminal code of Ethiopia 2004 (art 160)

³⁹ Ibid

⁴⁰ Interview with Ato Solomon Belete (judge)

⁴¹ The FDRE constitution(Art 19(3))

- Juvenile delinquency/young offenders/ have a right to be brought before a court at any time, this provision is not mandatory for young offenders, because, the right to be brought before a court of law within 48 hours is not applied in the case of young offender or juvenile delinquency. The right to be brought before court in juvenile delinquency /young offender/ has no time limit. The case of juvenile delinquency does not depend on time.

- In general the young offender/juvenile delinquency/ there is no time limit for juvenile to be brought before a court of law, because the young offender can not be taken into custody first. They are taken to court based on their crime.⁴²

Trial hearing:- where the young person is brought to court, all proceedings should be held in chambers.⁴³ No body shall be present at any hearing except witnesses, experts, the parent or guardian or representatives of welfare organization.⁴⁴ The public prosecutor shall be present at any hearing in the high court.

This provision is designed to limit the publicity of juvenile proceedings in order to safeguard the young person's reputation from damage through press and radio or television reports. However, such a provision for in camera hearing goes contrary to the juvenile's constitutional right to a public trial. Therefore, the code should have reserved to the juvenile and his representative the freedom to exercise the constitutional right to a public trial.

The accused juvenile has also had the right to be confronted with all the witnesses against him. Moreover, all witnesses may be cross-examined by defense.

⁴² Interview with Ato Solomon Belete

⁴³ Criminal procedure code of Ethiopia (Art 176)

⁴⁴ Ibid

As a regard the role of the public prosecutor, defense counsels and the court in juvenile proceeding, we noted a radically different system .First of all, except in trials before the high court, the prosecutor can not be present.⁴⁵ The judge's job is to perform the prosecutor's function. This means that juvenile proceeding are extract only the defense and the courts have the roles of pay thus. Protection witness are called not according to the wishes of the prosecutor but, on the decision of the court after inquiring presumably of informant in the cases as to what witnesses should be called to support the accusation or charge.⁴⁶

Defense council, conduct direct examination of all witness. Defense witnesses called at the instance of the defendant are not cross-examined any prosecutor only the defense may deliver summing up speech. To sum up, we have seen that juvenile trial procedure differs considerably from the adults procedure, particularly in that the public prosecutor does not participate at all and his function are assumed by the court.

However, the code does make some procedural distinctions according to the serious of the offences. Thus both the right to appointed counsel and the right to accused informal charge drawn by the prosecutor attach mainly in serious cases. Another distinction feature of serious cases is that at hearing held in the high court, the public prosecutor shall be present.

After all the witnesses have been heard in juvenile proceeding and the defense has been given an opportunity to sum up its case, the code directs that the court shall have judgment and following a judgment acquittal the juvenile accused must set free forth with and following a judgment of guilty the court proceeds to sentence him.⁴⁷ But prior to

⁴⁵ Ibid

⁴⁶ S.Fisher 1970 P. 15

⁴⁷ Criminal procedure code of Ethiopia (Art 177)

doing so the court is empowered to take evidence on the character and antecedents of the convicted accrued.

As for the dispositional choices available to the court in sentencing the convicted young offender no further discussions are needed.

The juvenile procedure does not mention the question of appeal, but it is clear from other code provisions and most of all the constitutions, the right to appeal applies, just as in ordinary cases.

In general we can say that Ethiopian law regarding juveniles especially the constitution, the penal law/criminal law/, or criminal procedure code basically aim at rehabilitating the young offender, the punitive philosophy of the penal law/criminal law/ or criminal procedure code regarding adults seems to have almost totally disappeared in cases involving juveniles.

Conclusion

The study revealed that numbers of juvenile offenders in the two sub-cities means in Nefassilk Lafto and Lideta sub-cities of Addis Ababa are increasing year by year and still the rate of juvenile offenders is increasing. The concerned institution does not take serious prevention and/or intervention measures related to juvenile offenders. The study also revealed that most of the persons working in police and related institutions lack of knowledge and these institutions need to undergo capacity building measures such as, training on the manner of the convention of the rights of the child.

- ❖ The findings have to be enough information with regard to the basic subject matter of the study.
- ❖ The finding shows that juvenile delinquency refers to offences committed by young persons, although the age group for juveniles

may have slight variation from one jurisdiction to another jurisdiction, which could have been considered as crimes, if committed by adults. In view of fact the juvenile lack a balanced and harmonious course of physical, mental and social developments, laws of all nation including that Ethiopian provide for special substantive and procedural laws which enables juvenile to be treated distinctively from adults the whole aim is to rehabilitate and reiterate of juveniles in the society. In other words, the philosophy behind juvenile justice is reformatory rather than punitive in all jurisdictions.

There is an agreement on the major causes of juvenile delinquencies, which are lack of maturity, psychological factor, family conditions, unemployment, and peer group influences.

These being the main causes, however, one or two of the causes may be more prominent depending on which society one talks about.

- ❖ As a regards the situations of juvenile delinquency in Addis Ababa, was noted that juvenile accounts for about two percent of the total number of crime committed in the city. Moreover, it could seen that five most commonly committed offences by juveniles are theft, rape, murder, robbery and burglary in their order of importance.
- ❖ The cause of juvenile delinquency in Addis Ababa is poverty, unemployment, urbanization, family breakdown, school dropout etc. As a regard in the two sub-cities of Addis Ababa, there is no difference from the overall situations in the city, except making attack in groups which had a strong impaction the incidence of juvenile delinquency in the two sub-cities.

As the problem of juvenile delinquency is shared by all the nations, the international community has been given attention on the problem for

many years. As a results, we have a number of international instruments concerned with the welfare of the child generally and with the problem of juvenile delinquents in particular-chief among them are convention on the rights of the child the African charter on the right and welfare of child and most importantly the un minimum standard rules for protection of the administration of juvenile justice Beijing rule and the UN rules for the protection of juvenile deprived of their liberty, Ethiopia has the obligation to observe the provision of the going instruments as it is a party to them, although it has not yet ratified the African charter, which is essentially the same as the UN convention on the right of the child.

- ❖ Again, in accordance with international obligation the constitution of the FDRE provides for a special treatment of the child and young offenders. Especially the penal code of 1957 and the criminal code of 2004 and also the criminal procedure code contain detained rules on juveniles whose aims are to rehabilitate the young offenders.

The punitive aspect of our criminal law seems been done away with when it comes to juveniles. However, there are some short comings in our law, especially the fact that judges involved in juvenile justice are not trained to handle juvenile cases.

When we consider juvenile delinquency in the two sub-cities, we noted that there are difficulties in applying the law. This is so because policy sometimes involves themselves in human treatment of juvenile and do not take the accused juvenile to woreda court immediately as required by the law.

- ❖ However, the most serious problem in the two sub-cities, have corrective institutional centre for young offenders. Convicts are kept in the main prison with adults.

Recommendation

In the recommendation, the writer concerns is to deal how, the law regarding juvenile delinquency is going consistently with practice, means the writer would like to suggest what preventive measure should be taken by concerned parties. However, the researcher will try to give suggestions by taking in to consideration the economic situations, political and social aspects of the country. Because, we have to treats juvenile a cording to the economic status of our country to prevent the problem of delinquency, it is better to eliminate the cause of delinquency as much as possible. This can be achieved through educating the general society about the various cause and consequences of the problem. It is better if practiced by socially accepted contract agents, using various methods. To describe some of the mechanism are counseling of delinquents and their families, coordinating special programs that deals with proper care and handling of deviant children. Moreover, promotions of self help employment initiatives to reduce poverty for poor families of delinquency children. This help and can make be aware of delinquency. Because of such awareness they may be able to deal with the problem.

- ❖ There is an urgent for having corrective institutions for juvenile delinquent in the country, including in Addis Ababa. If not, the whole purpose of the legal protection given to young offenders and adults to the same prison is not only against the beijing minimum rules and our law, but it is also a measure which would take us back to circle one in fact it may be difficult to establish,

correctional center at all level of government organs, however, by taking into account the problem of juvenile delinquency and to minimize the increasing number of juvenile delinquent such measure should be taken by the government.

- ❖ Although it is good news that most of the provisions of the Ethiopian penal code/criminal code/ and criminal procedure code have in corporate international standards regarding to juvenile delinquents, however, the government should established a separate juvenile court whose judges should be required to be trained in matters concerning the special goal of juvenile justice.
- ❖ The two sub-cities of Addis Ababa means Nefassilk Lafto and Lideta subcities has to be allocate the necessary finance for the purpose of prevention of juvenile offence and also for the provisions of facilities like food, blankets, access to medical treatment etc, to these who are serving rehabilitation and treatment.
- ❖ The two sub-cities of Addis Ababa can also appeal to governmental and non-governmental, nation and international organization for technical, material and financial assistance in order to complement its budget constraints in this regard.
- ❖ Schools and kebeles can play a great role in educating and disciplining young students. It is an encouraging step that it was learnt that some schools have such program in place. Some also have discipline committees which are instrumental for that purpose.
- ❖ Arrest of juvenile should be carried out offer all other means have been exhausted.

For example:- summons in order to change the subsequent negative implications of the pre-trial detention.

- ❖ The right to bail of accused juvenile should be guaranteed at all times as it is a constitutional right which court are required to a ply.
- ❖ Providing financial and technical support by the government and non-government to maintain juvenile justice administration.
- ❖ Creating awareness on the right of the child to the law enforcement agents.
- ❖ Establishing rehabilitation centers for children conflicting with the law having regard with total number of population.
- ❖ Establishing medical centers for juvenile which get medical service.
- ❖ Organizing discussion forum in all schools on the right of the children.
- ❖ Policy department and offices at different levels should form teams responsible to protect the right of child.
- ❖ Measure should be taken in each sub-cities to avoid the detention of juvenile delinquency together with adult.
- ❖ This research should come up with a practical solution that could be applied to alleviate the problem.
- ❖ Finally, all the concerned bodies should take joint measures to solve this common problem.

St. Marry's University College

Faculty of law

Dear respondent this questionnaire is designed for preparing a senior essay on “electrical assessment of the practice on the juvenile justice administration”. Each of your answer will have a great contribution for the preparation of the research paper.

N.B. No need of writing your name.

- If necessary you can have give more than one answer.

Questionnaire which prepared for juvenile delinquency

1. By what means do you suspected?

a) Theft

b) Rape

c) Robbery

d) murder attempt

If any other _____ .

2. Do you have a parent?

a) Yes, I have father and mother

b) Yes, I have only father

c) Yes, I have only mother

d) They separated by divorce

If any other _____ .

3. Before suspected/committed a crime/ with who do you live?

a) with parent

b) with father

c) with mother

d) out of the parent

If any other _____ .

4. When you suspected/enter into the prison/what measure do you take by the police?

a) rest

b) fault

c) corporal punishment

If any other _____ .

5. How many day/week do you stay in the police department?

a) 24 hours

b) 48 hours

c) For one weeks

If any other _____ .

6. When you suspect what do you what do you expected?

a) I afraid

b) I have not any filing

If any other _____ .

7. When you stay in the rehabilitation institution how would gain the relevant food?

a) Only break fast

b) only launch

c) only dinner

d) all like any other persons

If any other _____ .

8. When suspected/imprison/the room which have been sleeping

a) have bed and bedding

b) bedding only

c) only bed

d) empty

If any other _____ .

9. When you would be in the rehabilitation institution, how would be keep your self and is that any thing that help to keep your self?

a) yes has shawor and Tollate

b) Nor has any thing

If any other _____ .

If not why not _____ .

10. When you suspected in how many day do you come before the court?

- a) in 24 hours
- b) in 48 hours
- c) after a day
- d) after a week

If any other _____ .

11. What advantage do you gain from the prison?

- a) academic education
- b) hand craft
- c) nothing

If any other _____ .

12. What do went after this?

13. How many day do you communicated with your parent in a week?

- a) two
- b) three
- c) four

d) one

14. What problem do you have in the prison?

15. Do you have any suggestion to the police officer or to the court?

Thank you,

St. Mary's University College

Faculty of law

Dear respondent this questionnaire is designed for preparing a senior essay on “Article Assessment of the practice on the juvenile justice administration”. Each of your answer will have a great contribution for the preparation of the research paper.

N.B. No need of writing your name.

- If necessary you can have give more than one answer.

Questionnaire which prepared for police officer

1. Who are Juvenile

a) from 9-15 age

b) from 16-18 age

c) above 18

d) from 9-18

2. Are there juvenile which committed and coming to police department?

a) yes

b) No

c) If any other briefly discussed _____ .

3. What kind of crime can they committed

- a) Theft
- b) Murder
- c) Rape
- d) Robbery
- e) If any other _____ .

4. In how many day can the juvenile became to the court or give degree?

- a) above 15 day
- b) not more than 2 day
- c) from 3-5 day
- d) from 5-15 day

If any other_____ .

5. When you enter into the institution means rehabilitation can they give any education?

- a) yes
- b) no

If no, why not_____ .

6. If they, given education what kind of education?

- a) academic education

b) technical education

c) academic education and technical education

If any other _____ .

7. If they given any kind of education, is there enough number professional person?

a) yes

b) No

If not why not _____ .

8. From these juvenile is there committed a crime again and again coming to the institution?

a) Yes

b) No

If not why not _____

9. What is the main cause to committed again and again to enter into crime?

a) family

b) surrounding

c) by nature not changable behavior

If any other _____

10. How is the investigation processes in juvenile delinquency?

a) like adult

b) by court warrant

c) with out court warrant

If any other _____

11. What measure does under taken for juvenile delinquency in flagrant case?

- a) direct send to the court
- b) direct send to the police department
- c) direct send to the parent

If any other _____

12. When juvenile are suspected as committed a crime, can they accused with court warrant or without court warrant?

- a) yes, they accused with court warrant
- b) yes, they accused with out court warrant

If any other _____

13. How was the parent of the juvenile delinquency?

- a) poor
- b) rich
- c) medium
- d) No, parent

If any other _____

14. Is the number of juvenile offender increase or decrease at this time?

- a) Increase

b) Decrease

If any other _____

15. In general how was the investigation takes place in juvenile delinquent?

Is that according to the law?

16. With whom do the juvenile delinquent stay imprison?

a) with adults

b) they have their own prison

If any other _____

17. When juveniles are in a prison can they communicated with their parent or not?

If your answer is 'yes', have many day in a week

If not why not _____

18. If there is a problem in transfer of regulation to whom can rise a question of remedy?

19. when the juvenile are in prison, they can have

a) bedding

b) bed and blanket

c) all complete

d) have only blanket

If any other _____

20. At the end what opinion do you have?

Thank you,

St. Mary's University College

Faculty of law

Dear respondent this questionnaire is designed for preparing a senior essay on “Article Assessment of the practice on the juvenile justice administration”. Each of your answer will have a great contribution for the preparation of the research paper.

N.B. No need of writing your name.

- If necessary you can have give more than one answer.

Questionnaires which prepared to the court

1. Who are juvenile delinquency?

- a) from 0-8 age
- b) from 9-15 age
- c) from 16-18 age
- d) from 18-22 age

2. By which court does the juvenile delinquent seen?

- a) first instance court
- b) high court
- c) supreme court

Is there special court organized, to see the juvenile case?

3. Is there a time limit stay imprisonment before court?

a) yes

b) No

If how many day _____ .

If not why not _____ .

4. How would be the trial hearing in juvenile case?

a) in open trial

b) in chamber(closed trial)

If it is in chamber why? _____

5. How many day can juvenile case see in a week? _____

6. What is the maximum penalty for juvenile delinquent/ young offender/?

a) money

b) rigorous imprisonment

c) ask for warranty

d) simple imprisonment

If any other _____

7. When one juvenile committee a crime and if the court ask warranty and the juvenile has not warrant person at that time what would be the remedy of the court?

a) says free

b) send to rehabilitation institution of juvenile delinquency

c) appropriate judgment given

If any other _____

If not why not _____

8. Can juvenile suspected in dautful case, what kind of decree they give by the court?

Punishable _____

Or not punishable _____

9. What kind of judgment can be given to juvenile delinquency when, they committee a crime again and again?

10. Can juvenile ask interrogating question?

a) yes b) No

If not, why not? _____

11. What are the main cause of the juvenile?

- a) parent
- b) community
- c) environment

If any other _____

12. Most of the time from which part of the community can committee a crime/young offender/?

13. In general what is you opinion about the juvenile delinquency?

Is any provision which need reply

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INTERVIEW

Interview with Inspector Abriham Sahile

Interview with Chief inspector Gashaw Tsigie, in Lideta Police Department.

Interview with Chief inspector Atsede Wordfa, In Addis Ababa Police commission.

Interview with Inspector Tezeru w/hannes, in Lideta Police Department.

Interview with Ato Solomon Belete, Arada Federal first instance court.

Interview with Ato Lawesilasia Liben, Lideta Federal first instance court.