

# Good Governance and Budget Tracking

– from a Child Rights Perspective

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# I. Introduction

With a land of 1.1 million square kilometres, Ethiopia has a population of about 73 million, of which 52 percent are children. The proportion is believed to be much higher than this in the rural areas. Investment in this part of the population is critical in setting the steps to break the poverty trap. Many agree, “the starting point of any country’s development strategy that emphasises equitable human development is naturally the rights and well being of children” (See, for example, Assefa, 2003:1). Hence, the future of the country rests on its children. Children should, therefore, be provided with better standards of living and in larger freedom without distinction of any kind, such as sex, language, religion, social origin or property status before as well as after birth. They need to be protected from any and all difficult conditions that adversely affect their well-being and overall personality development. They should also be progressively provided access to education and need to have the highest attainable standard of health on the basis of equal opportunity for all.

There are, however, millions of children living in difficult conditions and that such children need special consideration goes without saying. This view is endorsed by the Charter of the United Nations. The international community has also recognized the entitlement of childhood to special care and protection in the Universal Declaration of Human Rights and in the two most important covenants on human rights, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

To this end, the Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by the General Assembly of the United Nations under Resolution No. 44/25 of 20 November 1989. It entered into force on 2 September 1990. Cognizant of the fact that children are the future of society, almost all countries have now ratified the Convention.

The right to protection, survival and development is key to the civil, political, socio-economic and environmental rights visible in the Convention. Governments that have ratified the Convention are obliged to undertake all actions and policies to enforce and protect children’s rights.

The Government of Ethiopia has likewise ratified the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). As rights always imply, and are associated with, obligations, the Government is duty bound to realise the rights of children provided in the Convention. This is also clearly spelt out under Article 4 of the Convention.

The purpose of this study is, therefore, to explore the extent to which children’s rights are protected in Ethiopia. To this end, an attempt will be made to point the legislative, administrative, economic, budgetary and other measures so far taken and the gaps as well as the tasks ahead. Possible suggestions will also be made to address existing issues, concerns and constraints.

## Objective of the Study

The main objective of this paper is to find out how the governance process and the manner of its resource allocation serve the best interest of the child in Ethiopia. In particular the focus is on assessing the implementation of the CRC to education and health. The specific objectives to be addressed are:

- To provide a critical overview of the governance process in the context of child rights;
- To consider policy, legislative and administrative reforms undertaken for the purpose of implementing international instruments on child rights;

- To critically examine access to education (primary and secondary) and to health facilities from child rights perspective;
- To examine whether children have equal access across regional, sex and rural-urban lines;
- To examine whether the composition of expenditure among different state functions, regions and spending level patterns comply with the State's obligations to respect, protect and enforce child rights, and
- To reflect and draw conclusions/recommendations for advocacy purposes and policy interventions.

## Methodological Issues

In seeking to analyse good governance in the best interest of the child and whether budget allocations are geared towards the satisfaction and realisation of child rights, we follow budget tracking for child rights from a rights-based approach as a conceptual framework. The study undertook a critical desk review of the available literature related to the topic. This was supported by opinion surveys made in relevant institutions and by secondary data collection.

With regard to opinion survey, questionnaires were distributed to a number of relevant institutions to be filled in. Furthermore, open discussions were held with the relevant experts on queries that require additional explanations.

Rather than focusing on the whole range of issues that affect children, education and health are identified and examined. This is mainly because access to education and health is expected to have the greatest impact on children. The major sources for our secondary data are the Ministry of Finance and Economic Development, the Ministry of Health and the Ministry of Education.

## 2. Good governance in the context of child rights

### Conceptual Underpinnings

Although an ideal that is hardly possible to achieve in its totality, the concept of good governance is as old as organized human existence. In general terms, it implies the process by which decisions are made and implemented in a given social fabric. Governance may be understood in several contexts such as corporate management and decision-making, social administration, national or local management of state administration or international actions affecting the interest of a group or that of its members. It, therefore, cuts across many segments of human interactions.

Being the most important ingredient for equitable and sustainable growth, good governance is a sine qua non for human development and human rights. Institutions responsible for managing the affairs of the public in one form or another render decisions that affect their members and administer resources. Good governance enables these organs to effectively discharge their responsibilities in a manner free from abuses and corruption. It is widely held that good governance embodies a process that takes into account the following major features.

- **Participation:** Involvement of all actors in the decision making process directly or through legitimate intermediaries.
- **Rule of law:** A fair legal system with independent and impartial law enforcement machinery.
- **Transparency:** The existence of clearly spelt out rules and procedures on the basis of which decisions are made and implemented.
- **Responsiveness:** A process by which the need of all concerned is met in an expeditious and effective manner.
- **Consensus oriented:** A broad understanding of the common good and the modalities of working to that end.
- **Equity and inclusiveness:** Ensuring opportunities that will maintain and improve the well being of diverse groups in any given social or political setting.
- **Effectiveness and efficiency:** Making the best possible use of resources to the needs of the group to be served.
- **Accountability:** Answerability of decision makers and implementers to those whose interests are affected by their actions or inactions.

In a nutshell, good governance aims at the creation and running of a more open and transparent society where every member contributes his share, however small and insignificant that participation may sound. In the context of child rights too, good governance implies the full, free and meaningful participation of all concerned towards the realization of the lofty objectives that are enshrined in the CRC and such other international instruments as well as domestic laws and policies that are relevant to the well being of children. To this end, policies and programs designed to address the rights and welfare of children need commitment on the part of all concerned. They need to touch upon inter-sectoral issues and to be integrated into a much broader national plan of action in which all stakeholders, particularly children, actively take part at all levels of the decision making and implementation process. A related task is the formulation of measurable indicators that will help assess and implement the impact of policies and programs designed to foster the welfare and rights of children. To sum up, good governance in the context of child rights implies the full and effective realization of the objectives of the CRC and other related instruments.

## Human Rights in a Nutshell

That the human person is the subject of rights by the mere fact of being human is now a postulate that is agreed upon by all members of the human family. Since the idea of human rights precedes organized society, it is mainly regarded more as a philosophical and a moral concept than a legal one. This also seems the reason why theological precepts of almost all religions are replete with notions of human rights. The following words of John Locke clearly demonstrate the place of human rights in any social set up.

The idea of human rights stems from the postulate that certain rights self-evidently pertain to individuals as human beings because they existed in the state of nature before mankind entered civil society.

In broad terms, human rights are often characterized by the following basic principles:

- **Universality:** The principle of non-discrimination espoused under Article 2 of the Universal Declaration of Human Rights (UDHR) is at the heart of the human rights discourse. It calls for the global application of all human rights norms to all peoples irrespective of economic, social, cultural or other differences.
- **Inalienability:** Human rights are natural individual rights that precede the authority of the state. They are rather inherent attributes of the human person that cannot be taken away by anyone or be relinquished by the holder of the right himself. To borrow the words of Article 1 of the UDHR: all human beings are born free and are equal in dignity and rights.
- **Fundamentality:** The idea of rights in general implies the standard of actions or inactions within a certain sphere. It has a wide range of implications for social morality. But only the most important rights can be included in the province of human rights. The UDHR, for example, lists out only the twenty-eight areas of rights from the larger province of rights.
- **Indivisibility:** No one group of human rights is more important than the other since all varieties of human rights are indivisible and interdependent on one another. Human rights are a combination of civil and political rights, economic and social rights, environmental rights as well as individual and group rights.
- **Totality:** Human rights are regarded as the products of the common cultural heritage of mankind whereby the interests of diverse groups are accommodated.

## The Linkage between Human and Child Rights

As pointed out above, human rights are rights to which every human being is entitled regardless of his or her position in a given society. The rights conferred on children by the CRC and the ACRWC are also rights granted to them by other instruments of international human rights law as well as by many domestic laws. This implies that all human rights instruments protect children by the very fact of being human. In this context no distinction is drawn between them and adults in the enjoyment of rights. They are neither the possessions of their parents or their guardians, nor that of the state, nor are they people in the making, as some would say. Their comprehensive personality development is crucial to the well being of any society and that mainly is the reason why it is imperative to recognize the full spectrum of their rights.

On top of that, the early development of the human person, which exposes children to absolute dependence and vulnerability to the vagaries of nature, calls for the need to accord special care and protection to them. They need to be brought up in an environment capable of providing the necessary material and spiritual care and affection. Taking this reality into account, Article 25 of the UDHR provides for the entitlement of childhood to special care and protection. In a like manner, the two major covenants on human rights provide as follows:

- Article 24(1) of the International Covenant on Civil and Political Rights: Every child shall have, without any discrimination...the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the state.
- Article 10(3) of the International Covenant on Economic, Social and Cultural Rights: Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reason of parentage or other conditions.

The preamble to the 1959 UN Declaration of the Rights of the Child sums up this special entitlement of children in the following words:

*...the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth...mankind owes to the child the best it has to give.*

The Declaration further calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national governments to give recognition to these rights and strive for their observance by legislative and other means.

Just as in all other areas of human rights, children's rights are characterized by their universality, inalienability, fundamentality, indivisibility and totality. Human rights, including rights of children, are not matters that one group of persons gives to another. They belong to each equally. There are no such rights of children to be designated as primary and secondary as the observance or otherwise of one type of rights naturally affects the others. All are interlinked and indivisible. Decisions with respect to any particular right should always be made in the light of other rights.

This recognition of the special rights of children within the broader human rights discourse, therefore, led to the adoption of the CRC. As pointed out above, the CRC is based on earlier international instruments and universally acclaimed principles, particularly the 1924 Declaration of the former League of Nations on Child Rights and the 1959 United Nations Declaration of the Rights of the Child. The CRC spells out the basic rights to which children are entitled and sets forth the minimum standards that governments are required to meet in all aspects that affect the lives and welfare of children.

The CRC, therefore, collects rights previously outlined in separate instruments into a single but comprehensive document, elaborating and developing them in the light of the special needs of children. It is a standard-setting document the effects of which, many agree, extend far beyond legal implications. Its aspects in the conceptualisation of what actually is meant by child rights by integrating both civil and political rights as well as their economic, social and cultural rights into an integrated whole and the need for participation of state and non-state actors in the implementation process are also worth noting.

## 2.4 Responsiveness of the Constitution to Child Rights

Article 36 of the Constitution of the Federal Democratic Republic of Ethiopia (hereafter the Constitution) outlines the most basic rights that are relevant to child rights. It provides that every child has the right:

- To life
- To a name and nationality
- To know and be cared for by his or her parents or legal guardians
- Not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being

- To be free of corporal punishment or cruel and inhumane treatment in schools and other institutions responsible for the care of children
- In all actions concerning children undertaken by public and private welfare institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interest of the child.
- Juvenile offenders admitted to corrective or rehabilitative institutions, and juveniles who become wards of the State or who are placed in public or private orphanages, shall be kept separately from adults.
- Children born out of wedlock shall have the same rights as children born in wedlock.
- The State shall accord special protection to orphans and shall encourage the establishment of institutions, which ensure and promote their adoption and advance their welfare and education.

This provision is placed in the Chapter that lays down the rules on the fundamental rights and freedoms to which every individual and group is entitled (Chapter 3, Articles 13-44). It therefore implies that the Bill of Rights provisions of the Constitution protect children by their mere fact of being human in addition to the special measures of protection espoused under the above-reproduced Article.

In as far as the observance of the rules on fundamental rights and freedoms is concerned, Article 13 of the Constitution obliges all federal and state organs to respect and enforce them. It further provides that:

The fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia.

In fact, Ethiopia had already adopted the human rights principles enshrined in the Universal Declaration of Human Rights (UDHR), the two most important Human Rights Covenants namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as the CRC in 1992, i.e., prior to adopting the current Federal Constitution in 1994. Thereafter, other important international instruments such as the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the African Charter on Human and Peoples Rights and the African Charter on the Rights and Welfare of the Child (ACRWC) have likewise been ratified. By operation of the constitutionality provision of the Constitution, i.e. Article 9, all international agreements ratified by Ethiopia are an integral part of the law of the land. It, therefore, goes without saying that the CRC and all the above-mentioned international instruments are now regarded as constituting the domain of the Ethiopian legal system.

The majority of the norms that are incorporated in the provisions of the Constitution and the international legal instruments are also justiciable in the sense that anyone who alleges that his rights protected by these provisions are infringed or threatened can file a legal action against the one he feels is responsible for the violation before the appropriate judicial organ. There are, however, economic and social rights, which are more of programmatic in their nature and are not self-executive. These are the species of rights that are dependent on available resources and the overall socio-economic reality. Their value rather lies in the fact that they spell out basic principles on the basis of which national policies are formulated and put into effect.

The CRC was ratified by Proclamation No. 10/1992 that came into force on January 30, 1992. The ratification law has four articles dealing with citation, ratification per se, delegation of powers to the State organ responsible for its implementation and the date of

enforcement. With regard to the effect of ratification, in addition to the above-mentioned provision of the Constitution, we may also take note of the following points. It is now a settled principle of public international law that a State, which ratifies a law-making treaty such as the CRC, takes an obligation upon itself to have the ratified instrument fully and effectively implemented. In the light of this, Article 14 of the Vienna Convention on the Law of Treaties also provides that ratification expresses a State's consent to be bound by a treaty where the treaty so provides. In a manner consistent to this principle, Article 4 of the CRC that lays down the rule on general measures of implementation states:

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized under the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

Accordingly, subsequent discussions in this part of the study will be devoted to the analysis of the measures taken towards realizing the provisions and objectives of the CRC, to pointing out constraints encountered and to the tasks ahead.

## Legislative Measures and Policy Issues

### *Compatibility of Domestic Laws with the CRC*

As we have seen above, the basic safeguards in relation to child rights that are enshrined in the CRC and other international instruments are now incorporated in the Federal Constitution and the constitutions of the regional states that make up the Ethiopian Federation. By operation of the supremacy clause of the Constitution laws, customary practices or decisions of an organ of state or a public official that do not conform to its provisions are null and void. In technical terms, therefore, all laws and practices that go against the postulates of the Constitution are unenforceable. A question that follows this assertion is thus: Is it possible for children or their lawful representatives to directly invoke the provisions of the CRC before national courts and seek remedies whenever they feel that their rights are violated or threatened? How responsive is the judicial system to child rights issues? What effective remedies do existing laws and regulations provide in this context? A close look at legal technicalities in this regard may also reveal the following points of controversy.

Although the ratification proclamation is published in the official law gazette, it is not the case in relation to the text of the CRC.

There is no official translation of the CRC in the working languages of neither the Federal nor the State governments.

Of course, quite a few NGOs have, over the last decade or so, taken part in the work of translating the CRC into several languages of Ethiopia and in the distribution thereof. But the booklets in which these translations have appeared are not official texts, a fact that makes their binding nature questionable. This is assuming that the Ethiopian judiciary will take the provisions of the CRC as part and parcel of the law of the land. But the facts on the ground do not necessarily lead us to this conclusion. Still another important problem may likewise arise when several groups come up with their own translated versions of the CRC and these versions turn out to be incompatible with one another.

Article 3 of the Ratification Proclamation No. 10/1992 empowers the Federal Ministry of Labour and Social Affairs (MOLSA) to undertake all acts necessary for the implementation of the CRC. We believe one such act of implementation is publication of the text of the CRC, along with its official translation, in the country's law gazette. This is also an obligation incumbent upon MOLSA by virtue of Article 10 of the Definition of Powers and Duties of the Executive Organs of the Federal Government Proclamation No.

4/1995 (hereafter Proclamation No.4/1995). According to this provision, it is spelled out that each ministry shall, in its field of activity, ensure the enforcement of laws, regulations and directives of the Federal Government. This same Proclamation, in its provision that deals with the specific powers and duties of MOLSA, also prescribes that the Ministry, “in cooperation with the appropriate organs, study and give assistance for the implementation of ways and means for the proper upbringing of children...” As things stand at the moment, nothing is more relevant to the proper upbringing of children than committing oneself to the full and effective implementation of the CRC.

Coming up with the official translation of the text and its publication thereof in the official law gazette does also facilitate a State Party’s discharge of its obligation of making the principles and provisions of the CRC widely disseminated as outlined under Article 42.

In the survey to this study, questionnaires on the general measures of implementation and issues of good governance in relation to child rights were distributed to several organs of the State that, in one way or another, are responsible to matters that pertain to child rights and welfare. Almost all are satisfied with the legal measures taken by the Government towards the realization of the objectives of the CRC. They agree that the measures so far taken are compatible with the principles and provisions of the CRC. But the majority state that they have misgivings on the commitment and ability of most state organs to live up to their expectations. Not only that. Some are even sceptical on the political will of the state to work in that direction. Here, for example, is what a respondent from the Addis Ababa University has to say.

The Government should be commended for its ratification of the CRC. This is in line with developments that are taking place elsewhere too. But I feel no meaningful work is so far accomplished in the direction of ensuring and protecting child rights. We do not see the necessary commitment. I am sceptical if the concerned organs and individuals really take the matter in an earnest manner. It is not an oversimplification if I say that the real work has not yet started. (Response to the questionnaire annexed to this study.)

Although not in such strong terms, respondents from the Ministry of Youth, Sports and Culture (MOYSC), the Ministry of Justice (MOJ) and the Ministry of Education also share this view.

## Law Reform

As noted above, States Parties to the CRC are duty bound to carry out a comprehensive review of all domestic legislations and related administrative directives to ensure compatibility with the provisions of the latter. This is, of course, with respect to those rights that fall short of the standard set forth by the CRC as clearly stated under Article 41 which speaks of retaining rights that are more conducive to the realization of the rights of the child and which may be contained in the domestic laws of a State Party or in other international instruments. In the light of this, the Ethiopian Government has, for some time now, embarked upon a program of law reform program. Needless to say, one of the objectives of this exercise is to make existing laws, regulations and directives compatible with the provisions of the Federal Constitution and international legal instruments ratified by the country. Towards this objective, a number of laws and regulations have been enacted by the Government over the last decade and a half. Most notable among these laws are the Revised Family Code of 2000 (RFC), the Labour Proclamation of 2003 and the new Criminal Code of 2005 (hereafter the Criminal Code). These laws address quite a good number of child rights issues, some adopted from the old laws with or without amendments and others being new introductions to the country’s legal plane. A brief survey of the major changes made by these laws is made in the forthcoming paragraphs.

## The Revised Family Code of 2000 (RFC).

As in the old law, the RFC refers to the child by the word minor and defines it as a person of either sex who has not attained the full age of eighteen years. This definition is, of course, consistent with the provision of Article 1 of the CRC that states thus: “For the purpose of this Convention, a child means every human being below the age of eighteen years...” An important step taken by the RFC in this regard pertains to the marriageable age of the girl child. The earlier law, i.e. the 1960 Civil Code, used to draw distinction between boys and girls in relation to the age of marriage. Its Article 581 prescribes the marriageable age of boys as eighteen and that of girls as fifteen. The RFC, on the other hand, does away with this distinction, which is discriminatory by the standards of the CRC, and provides that “neither a man nor a woman who has not attained the full age of eighteen years shall conclude marriage” (See Article 7).

Another positive development in the RFC is in the area of adoption, particularly in the area of inter-country adoption. Article 21 of the CRC provides that States Parties have the duty to ensure that their system of adoption serves the best interests of the children to be adopted. In relation to inter-country adoption, the CRC further lays down stringent rules and prescribes that the move may only be considered “if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child’s country of origin”.

The RFC adopts this principle and carries detailed rules on the procedures to be followed during adoption. As in the Civil Code, court approval of any agreement of adoption is mandatory. But the new law goes further and requires the court to decisively verify that the adoption serves the best interest of the child before making the approval. In so doing, the court is duty bound to take the following into account.

- The opinion of the child to be adopted, where possible.
- The opinion of the child’s guardian or tutor.
- The ability of the adopter to take care of the child.
- The absence of access to raise the child in Ethiopia where the adopter is a foreigner.
- The availability of information that will enable the court to know that the adopter will handle the child as his own and will not abuse him.

The law also lays down conditions for revoking the adoption when the adopter grossly mistreats the child or fails to live up to his expectations in any other way. In case of adoption by a foreigner, it goes further and states that the court may not approve the adoption unless an authority empowered to follow up the well being of children gives its opinion in affirming that the adoption is beneficial to the child. The public administrative authority so envisaged here is the Ministry of Labour and Social Affairs (MOLSA), the organ responsible for implementing the CRC. In the light of this, the Children and Youth Department of MOLSA has now come up with directives that require foreigners intending to adopt Ethiopian children to meet the following conditions:

- Information on the economic status of the applicant from a recognized source.
- Police clearance.
- Medical certificate from a recognized health establishment.
- Birth and marriage certificates.
- Information on the agency that does the psychosocial study and recommendation thereto that is accepted by the concerned government body from the respective country.
- A short statement as to why an Ethiopian child is preferred.
- Two passport-size photographs of the prospective adoptive parent(s).

- Obligation of the adoption or the social welfare agency to be filled in a form and forwarded together with psychosocial study.
- Verification by the adoption agency on the child's qualification for naturalization under the nationality law of the applicant.
- Authentication of all documents by the nearest Ethiopian embassy or consulate to be submitted or forwarded directly by the concerned person(s) or agency to MOLSA.

Of course, the institution of adoption has long been recognized and given legal effect in Ethiopia. This is a fact that had been widely practised even before modernization of the country's legal system in the late fifties and in the sixties. Articles 557 and 805 of the Civil Code too provide that an adopted child shall, for all purposes, be deemed to be the child of the adopter and that the adoption may not take place unless there are good reasons for it and unless it offers advantages for the adopted child. Commendable as these rules were, however, they remained far behind the standards of the CRC, particularly on matters concerning inter-country adoption.

Another notable development attained by the new law is with respect to the determination of paternity of children born out of marital wedlock. The CRC, under Article 7, requires that every child shall, as far as possible, have the right to know and be cared for by his or her parents. Under the old law, children born out of wedlock used to have legal ties only with their mothers unless the man who alleges to be the father makes a written acknowledgement to that effect or unless a court renders a decision declaring paternity on the basis of an act of rape or abduction committed on the mother at the time of conception of the child. The RFC has made a very significant improvement in this direction too. In addition to the grounds that bring about judicial declaration of paternity of a child under the previous law, the RFC outlines the following conditions as facts that may give rise to the determination of paternity by a court.

- Where, at the time of conception of the child, the mother has been the victim of seduction accompanied by abuse of authority, promise of marriage or any other similar act of intentional deception.
- Where there exist letters or other documents written by the claimed father, which unequivocally prove paternity.
- Where the claimed father and the mother have lived together in continual sexual relation, without having a legally recognized relation, in the period regarded by law as the period of pregnancy.
- Where the person claimed to be the father of the child has participated in the maintenance, care and education of the child in the capacity of a father.

Still another area of law reform made in the RFC is in relation to registration of births. Article 7 of the CRC obliges States Parties to register the birth of a child immediately after birth. In a similar manner Article 321 of the RFC carries a provision that requires the Federal Government to issue laws on registration of births, marriages and deaths within a period of six months following the coming into force of the law. Well over five years after the enactment of the CRC though, no such law has been issued nor is an institution established for its facilitation. On the other hand, both the 1957 Penal Code and the one that replaced it, i.e. the Criminal Code of 2005, carry rules for the punishment of those failing to register the birth of a child with the appropriate authority. (See Articles 623 and 655 of the old and the new laws respectively).

## The Criminal Code of 2005

The Ethiopian Government proclaimed a new Criminal Code that came into force in May of 2005. The new law has made significant improvements in the area of child rights in a seeming attempt to make its provisions compatible with rules and principles laid out in the CRC and in the Constitution. The following are but the major ones.

### *On Criminal Responsibility of Children*

In considering the question of criminal responsibility, modern legal science draws distinction between children found to have infringed the law of crime and adult offenders in at least three major areas of the judicial process. These are mainly in terms of the determination of criminal responsibility, in terms of the procedure to be employed during the criminal investigation and the trial process and in the application of the disposition measures on those found to have infringed the law (See Tilahun). In relation to the determination of responsibility of children, which is the problem under treatment here, Article 40 (3) of the CRC makes it a duty incumbent upon States Parties to establish the minimum age below which children shall not be held liable under criminal law. Notwithstanding the definition of the word child under Article 1, the provision of Article 40(3) seems to accept the possibility of specifying lower ages for criminal responsibility of children, as it is the case in most domestic jurisdictions.

In a manner consistent to this rule, Articles 52 to 56 of the new Criminal Code outline the modalities of considering the criminal responsibility of children in three different ways. Children under the age of nine are fully exonerated from any and all forms of responsibility for whatever crimes they may commit. The law only provides for appropriate measures to be taken by the family, school or guardianship authority as the circumstances warrant. Where acts regarded as crime are committed by those between the ages of nine and thirteen, the child offenders are treated under special procedures. But they shall neither be subject to the ordinary penalties applicable to adults nor will they be kept in custody with adults in any place of detention. This is a principle which goes in harmony with the rule of Article 37 of the CRC that calls for special treatment of children in conflict with the law by requiring the separation of child detainees from adults unless it is considered in their best interest not to do so. These children belong to the category of offenders that in the parlance of the law are called juvenile delinquents. In the ordinary course of events, the measures applicable to them may be admission to a curative institution, supervised education, reprimand, school or home arrest or admission to a corrective institution. The court may also vary any one of these orders made in relation to the child offender whenever such variation serves the interest of the child (See Articles 157 to 165). In the third category of child offenders are to be found those who breach the law at the ages between fifteen and eighteen. Normally, they are considered responsible to stand trial whenever they infringe any provision of the criminal law. They may, however, benefit from the legal provisions relating to extenuation of penalties. In a manner that is again consistent with Article 37 of the CRC, the law prohibits the imposition of the death penalty on them. In part, the law fails to heed the provision of the same Article 37 of the CRC, as it does not expressly prohibit the imposition of life imprisonment on child offenders. But the former lays down that no life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age.

Content wise, there does not seem to be much of a difference between the old and the new law as the ages of classification of criminal responsibility and the measures of correction are more or less the same. That mainly is the reason why the UN Committee on the Rights of the Child expressed its concern over the matter under items 28 and 29 of its Concluding Observations on the implementation of the CRC in Ethiopia in the following words:

The Committee is concerned at the very low legal minimum age of criminal responsibility (9 years). The Committee is also concerned that children aged 15 to 18 are effectively considered to bear the same criminal responsibility as adults, albeit that lesser penalties are applied to them than are applied to adults.

The Committee urges the State Party to raise the minimum age of criminal responsibility and to ensure that children aged 15 to 18 years are accorded the protection of juvenile justice protections and are not treated as adults. The Committee recommends that the State Party take advantage of the ongoing review of the Penal Code to introduce relevant changes to the law. (UN Committee's Concluding Observations, 2001.)

The draftsmen of the new Criminal Code, however, failed to introduce any meaningful change in this regard. Whether the recommendations and concerns of the UN Committee on the Rights of the Child were brought to their attention or not is not known by the authors of this report. But the latter case seems to be the more probable possibility.

### *Harmful Traditional Practices*

Protection of children from any and all forms of negligent treatment or maltreatment and the responsibility of States to ensure the survival and development of children is an important area of child rights enshrined under Articles 19 and 6 of the CRC respectively. A notable legal lacuna addressed by the new Criminal Code in this connection is the issue of harmful traditional practices (hereafter HTPs). In fact, the Constitution itself speaks of the need to combat HTPs although in the context of the rights of women who suffer from the heavier brunt of the harm. Its Article 35 provides thus:

The State shall enforce the rights of women to eliminate the influence of harmful customs. Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited.

National policy instruments issued since ratification of the CRC have also much to say on the dire need of doing away with HTPs. Notable among these policy papers are the 1993 National Policy on women, the 1993 Health Policy, the 1994 Social Policy and the Cultural Policy of 1997. Content No. 13 of the 1997 Cultural Policy for one states the following as one of its objectives.

Warding off all cultural activities that could negatively affect the physical, psychological and moral well being of the youth as well as the dignity and democratic rights of citizens.

In the light of these developments, therefore, the 1957 Penal Code proved of little or no significance in the struggle against HTPs, thereby necessitating the need for criminal law reform. On the other hand studies conducted by some interested organizations, such as the Ethiopian National Committee on Harmful Traditional Practices, have also revealed the magnitude and seriousness of the problem in almost all parts of the country, big cities like Addis Ababa being no exception. Well over 100 varieties of HTPs have been identified in the study. The ones most prevalent are reported as being female genital mutilation, early marriage, marriage by abduction, harmful practices around child delivery and milk teeth extraction of children.

The new Criminal Code (reference?) has now devoted a full chapter on HTPs in its Book Five. The Chapter that contains Articles 561 to 570 is headed as: "Offences Against the Life, Body and Health Committed by Means of Harmful Traditional Practices". The following are the kinds of offences outlined in the said Chapter.

- Articles 561 and 562: Offences against the life, body and health of a pregnant woman or a child by practicing HTPs
- Article 564: Domestic violence committed against a spouse or a partner in an irregular union.
- Article 565: Female circumcision.

- Article 566: Infibulations of the female genitalia.
- Article 567: Bodily injury caused by practicing other forms of HTPs.
- Article 568: Transmission of diseases through the practice of HTPs.
- Article 569: Participation in HTPs.
- Article 570: Incitement against observance of rules on HTPs.

Depending on the gravity and type of the harm, the above acts entail criminal punishment under the new law. To this end, the reader is invited to have a look at Articles 561 and 566.

### ***Article 56: Endangering the Lives Pregnant Women and Children through Harmful Traditional Practices***

Whosoever causes the death of a pregnant or a delivering woman or that of a newly born child as a result of the application of a harmful traditional practice such as:

- massaging the abdomen of a pregnant woman, or shaking a woman in a prolonged labour; or soiling the umbilical cord of a newly-born child with dung or other similar substances, keeping a newly-born child out of the sun or feeding it butter, excising the uvula of a child or taking out milk teeth or preventing the child from being vaccinated; or
- through the exercise of other traditional practices known by the medical profession to be harmful,
- is punishable with fine or simple imprisonment from three months to one year.

Where the death was caused by negligence, the relevant provisions of this Code... shall apply.

### ***Article 566: Infibulations of the Female Genitalia***

Whoever infibulates the genitalia of a woman is punishable with rigorous imprisonment from three years to five years.

Where injury to body or health has resulted due to the act prescribed in sub-Article (1) above, subject to the provision of the Criminal Code which provides for a more severe penalty, the punishment shall be rigorous imprisonment from five to ten years.

Yet another most common type of HTP widely prevalent in most parts of the country is the practice of early marriage. Studies show that the national prevalence rate is in the area of 55%. Here again, the old Penal Code did not offer anything for its regulation despite the fact that the 1960 Civil Code specifies that the bride and the groom and all other persons who participate in early marriage are liable to the punishment prescribed under the Penal Code. In the new Criminal Code, however, early marriage is regarded as a crime. According to its Article 648, a person who concludes marriage with a girl between the ages of thirteen and eighteen is punishable with imprisonment not exceeding three years while the punishment may go up to seven years where the marriage is concluded with a girl under thirteen.

### ***Child Abuse and Neglect***

One of the most serious setbacks that any meaningful program of child welfare and development may face is the problem of child abuse and neglect. For obvious reasons, Ethiopia cannot be an exception to this scenario. It is still as much of a grave problem to day as it had been for decades or even for centuries. More often than not, child rights are violated at home and outside. Neglect of children, their emotional abuse, sexual harassment and ill treatment are daily occurrences, to say the least. Not only are they defenceless in protecting themselves but also are incapable of raising their voices against the many forms

of abuse and neglect to which they are subjected. In recognition of this reality Article 19 of the CRC obliges States Parties to:

Take all appropriate, legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardians or any other person who has the care of the child.

Other forms of child abuse and neglect are further outlined under Article 32 (on economic exploitation), Article 34 (on sexual abuse and exploitation), Article 37 (in relation to children in conflict with the law), Article 38 (regarding treatment of children under difficult circumstances) and Article 39 (with respect to measures to be taken to ensure the recovery of child victims of abuse and neglect). In both the old and the new criminal codes, there is a catalogue of offences designed to protect the child's inherent right to life and the security of person in the realm of which are to be found the child's right to be free of abuse and neglect. Children may avail themselves of the rules against homicide, infanticide, rape, grave or common wilful injury, assault, abduction or prostitution. These are general provisions that are intended to protect the life, limb or property of any human being including, of course, children. Even more so in the case of children since commission of crime on children constitutes grounds for aggravation of the sentences to be imposed on those found responsible. According to Articles 81(1)(e) and 84(1)(e) of the 1957 Penal Code and the new Criminal Code respectively, courts are bound to increase the penalty to the maximum provided under the law where the offence is committed on a victim who deserves special treatment and protection by reason of his age. Besides these general measures of protection, there are also specific provisions that address particular issues pertaining to children. The following are some of the notable ones that are prescribed in the new Criminal Code:

## **Article 576: Maltreatment of Minors**

Whoever, having the custody or charge of a minor, ill-treats, neglects, over tasks or beats him for any reason or in any manner, is punishable with simple imprisonment not exceeding three months. Where the crime causes grave injury to the health, well-being, education or physical or psychological development of a minor, the punishment shall be in addition to the deprivation of family rights of the criminal, simple imprisonment for not less than one year.

The taking, by parents or other persons having similar responsibilities, of a disciplinary measure that does not contravene the law, for purposes of proper upbringing, is not subject to this provision.

**Abduction of a Minor:** The maximum penalty under the Penal Code was five years rigorous imprisonment while it is five to ten years under the new law (See Articles 560 and 589 respectively).

**Commission of the Crime of Rape on a Child:** The Penal Code prescribes a maximum penalty of fifteen years while it is twenty under the Criminal Code (Articles 589 and 620 respectively).

**Sexual Outrage Committed on Children:** According to the earlier law, the punishment did not exceed five years in the case of crimes committed on children under fifteen and mere simple imprisonment (ten days to three years) in the case of victims fifteen to eighteen years old (Articles 594 and 595). The Criminal Code, on the other hand, subscribes a maximum penalty of fifteen years rigorous imprisonment if the crime is committed on a girl between thirteen and eighteen years of age and a penalty of fifteen to twenty years imprisonment where the act is committed on a girl under thirteen. The law goes further and provides that the punishment may extend to life imprisonment if the

victim sustained grave physical or mental injuries or died as a result of the harm caused on her (Articles 626 and 627).

Traffic in Children: Both laws prescribe a penalty of three to ten years' rigorous imprisonment and an additional fine of Birr 20,000 on a person who commits the act professionally and for gain. Others are liable to a punishment not exceeding five years imprisonment and a fine not exceeding Birr 10,000.

## Failure to Bring up One's Child

Article 659

A parent or a person exercising the authority of guardian or tutor, who, for gain or in dereliction of his duty;

- Grossly neglects the children under his charge and abandons them without due care and attention and to moral or physical danger; or
- Entrusts a child for a long time to a person, an organization or an institution with whom or where he knows, or could have foreseen, that it will be reduced to physical or moral destitution, will be physically or psychologically endangered, is punishable with simple imprisonment or fine. In grave cases, the court may, in addition, deprive the criminal of his family rights.

Where the child has suffered injury, whether foreseen or calculated, whether by abuse of the right to administer chastisement or through ill treatment, the relevant provisions shall apply concurrently.

On top of that, acts of abuse and neglect perpetrated against children do also entail consequences under civil law. Article 2052 of the 1960 Civil Code of Ethiopia, for one, states as follows:

### *Duty to Educate and Supervise*

A person commits an offence where he fails to take in respect of persons entrusted to his charge or supervision by law or in conformity with the law, the measures of education and supervision, which may reasonably be expected of him, having regard to the circumstances and custom.

He shall be liable where, as a consequence of his default, damage is suffered by the person in his charge.

He shall be liable where, as a consequence of his default, the person subject to his supervision causes damage to a third party.

Positive as these developments in relation to law reform on child abuse and neglect are, there are still few legal provisions that fail to live up to the standard of the CRC and the country's Constitution. Article 64 of the 1957 Penal Code states that acts reasonably done in exercising the right of correction or discipline do not constitute an offence. Likewise Article 658(2) of the old law stipulates that a person having the custody or charge of a child shall not be considered to have committed a crime when he exercises his "right to administer lawful and reasonable chastisement". In the 1960 Civil Code too, it is stated under Article 2039 that no offence is deemed to have been committed where an act consists in reasonable corporal punishment inflicted by the defendant on his child, ward, pupil or servant. Although the provisions of Articles 68 and 576 of the new Criminal Code seem to have been intended to replace the above rules of the old law, their wordings are not good enough to drive the message through, particularly in the light of Article 19 of the CRC and the standards set forth under Article 36 of the Constitution.

The above being the steps taken in terms of law reform, their implementation leaves much to be desired, however. The hard reality in almost all parts of the country reveals the fact that child abuse and neglect is a daily occurrence. Children's rights are violated at

home and outside, in private or in public as well as in schools and in work places. Young girls are sexually harassed and even raped while going to and coming from schools, running errands, going to market places, fetching water and while gathering firewood. Their abduction has reached a level where immediate intervention by law enforcement organs has become an absolute necessity. Hundreds of thousands of children are subjected to the evils of street life in almost all urban centres of the country. Many are also abandoned by their parents or guardians. The virtual absence of public or private institutions that monitor violations of child rights leaves most of the crimes and abuses committed on children to go unreported and, at times, unaccounted for.

Almost all the respondents to the questionnaires distributed for this survey stated that violations of child rights have now reached a level unprecedented in the recent history of the nation. An official from the Ministry of Health (MOH) had this to respond to:

The reports that we get from all corners show that acts of violation of child rights have reached an alarming stage. Widespread harmful traditional practices, the ever increasing level of poverty, the weakening of traditional family ties that used to be based on a strong sense of cohesion have contributed in exacerbating the abuse and neglect to which they are subjected. (Response by a respondent to the questionnaire in Annex I)

Another respondent from the Ministry of Justice (MOJ) also spoke of the increase in the number of crimes committed against children. According to his statement, the victims are, in many cases, street children, those with physical or mental disabilities and children displaced from their family environment.

## The Labour Code

In its broader context, the term child labour may convey two basic ideas. On the one hand it refers to the economic practice of engaging children in work. On the other, it depicts the social evils ensuing from the practice. Above everything else, the working child is first a child with all the needs of any other child. More often than not, his participation in formal or in informal forms of child labour deprives him of the opportunities he might benefit from were it not to his being engaged as a child worker. (See Tilahun) In the light of this need of the child, Article 32 of the CRC urges States Parties to recognize:

- the right of the child to be protected from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

The Article goes further and requires States Parties to issue legislations and take other pertinent measures. To this end, states are required to prescribe rules on minimum age for employment, on the regulation of hours of work and on conditions of employment and on penalties and sanctions to be imposed on those who fail to live up to their duties of respecting these rules. The International Labour Organization (ILO) too has been adopting a number of conventions and recommendations on child labour since its early days. In the period between 1919 and 1973, for example, the ILO had adopted and readopted about twenty conventions on the minimum ages to be observed in different industries. These efforts of the ILO culminated in the adoption in 1973 of the Minimum Age Convention (C-138) by the International Labour Conference. According to Article 3 of the said Convention the minimum age for employment in any country is required to conform to the age set for completion of compulsory schooling and, in any case, not less than fourteen years of age. Another important ILO convention relevant to child labour is the 1999 Convention on the Worst Forms of Child labour (C-182), the preamble of which sets forth the policy reasons for its adoption in the following words:

- Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance

of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and...

- Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education...

According to Article 3 of the Convention, the phrase the worst forms of child labour means, inter alia, “ work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”. Each State Party is obliged to determine under its national laws what constitutes work that jeopardizes the health, safety or morals of children.

Ethiopia ratified these two ILO conventions in the year 2003 and in the same year proclaimed the fourth labour code, officially cited as “The Labour Proclamation No. 377/2003”. The Proclamation, so states its preamble, provides for the basic principles governing worker-employer relations taking into account the political, economic and social policies of the Government as well as international conventions and other legal commitments of the country. Needless to say, the above ILO conventions and the CRC form part of this commitment.

Accordingly, Articles 89 to 91 of the Proclamation describe workers between the ages of 14 and 18 as young workers. They also provide for the prohibition of the employment of persons under 14 years of age, for working hours of children not to exceed seven hours a day and for the prohibition of night and overtime work of children. The law also empowers the Minister of Labour and Social Affairs to issue regulations prescribing the list of activities in which young workers shall not participate. The list includes, but is not limited to, the following:

- work in the transport of passengers or goods by road, railway, air and internal waterway, docksides and warehouses involving heavy weight lifting, pulling or pushing or any other related type of labour;
- work connected with electric power generation plants, transformers or transmission lines;
- underground work such as mines, quarries and similar works;
- work in sewers and digging tunnels.

On penalty measures to be imposed on those who fail to observe the law, Article 185 of the Proclamation provides that an employer who does not abide by the rules on special protection to young workers is liable to a fine not exceeding Birr 1,200.

Be that as it may, however, the implementation of the law calls for an earnest commitment of all stakeholders: the State, civil society organizations and the private sector. Given the wide scale of unemployment prevalent in the country, child labour in the formal sector does not appear as much of a problem as it is the case elsewhere. In the informal sector though, children constitute a substantial proportion of the labour force. This is as much of a reality in the urban settings as it is in the rural areas. The National Plan of Action for Children or NPA (2003-2010 and Beyond) issued by MOLSA sometime in June 2004 quotes a major study conducted in the year 2001 in all the regions of the country that reveals the following scenario.

The study was made on 43,061 households and discloses the fact that 85 % of the children between the ages of 5 to 17 are engaged in some kind of productive and household activities; that 33% of them combine schooling and work; that 92% of these children are engaged in unpaid work; and that in most parts of the country the average number of hours of work is in the area of 33 hours a week (MOLSA, NAP for Children). Another

publication by UNICEF on the State of the World's Children 2005 states that 43% of Ethiopian Children (47% of the boys and 37% of the girls) between the ages of 5 and 14 are engaged in child labour during the years 1999 and 2003.

## Other Relevant Laws

Successions: The Ethiopian law of successions constitutes a title within the general framework of the 1960 Civil Code of Ethiopia. All the rules that pertain to inheritance rights of children are fairly modern and egalitarian by any standard. Here, for example are some of the most notable ones.

Article 836: State of Legitimate, Illegitimate or Adopted Child

- The legitimacy or illegitimacy of the deceased or of the heir shall not affect the ascertainment of the heir or of the value of the portion of each of them.

...adopted children shall be assimilated to the other children.

Article 837: Sex, Age, or nationality of Heir sex, age and nationality of the heir shall not affect in any way the ascertainment of his right to the succession.

- Article 842: First Relationship
- The children of the deceased shall be the first to be called to his succession.
- Each of them shall receive an equal portion of the succession.
- Article 904: Birth of a Child
- Legacies...contained in a will shall lapse where, after the date of the will, a child is born to the testator...
- Article 938: Disherison -Special Provision Regarding Descendants
- An express disherison of a child... shall be of no effect unless the testator has given in his will a reason which justifies the [same].
- Article 1063(2): Time Limit for Partition
- ..the community shall be maintained where the manner of making the partition depends on the birth of a child who is merely conceived.

2.The Public Servants Pension Law: The National Parliament issued the Public Servants Pension Proclamation No. 345/2003 in the year 2003 making substantial amendments to the earlier pension laws. One of the problems addressed by the law is the pension right of children whose parents have passed away after qualifying for retirement benefits. Article 36 of the Proclamation provides that each surviving child of a deceased civil servant is entitled to 20 % of the pension pay to which the deceased was or would have been entitled. Where both parents of a child are dead, the amount of pension payable to each child may be raised to 30%. If both the deceased parents had been civil servants, the law goes further and provides for each child to be entitled to 20% of each of their pension benefits. The rules of the Pension law seem to be in accord with Article 26 of the CRC, which requires States Parties to recognize for children the right to benefit from social security schemes.

## Policies and Programs

One of the early policy instruments that are adopted by the Ethiopian Government following the ratification of the CRC was the 1995 n National Plan of Action for Children and Women. The policy paper outlines the Government's commitment to the survival, protection and developments of children and, towards this end, vows to allocate the necessary resources for the promotion of planned programs. Other policy instruments that carry statements relevant to child rights and to the enhancement of programs for child welfare and development have also been adopted. To mention some: the National Policy on Women, the Health Sector Strategy, the Education Sector Strategy, the National

Population Policy, the Social Policy, the Cultural Policy and the National Youth Policy. Items 8.6.3 and 8.6.4 of the contents of the Social Policy are worth quoting here:

Particular care and protection shall be extended to children to ensure their physical, spiritual, psychological and social development; conditions shall be facilitated to give special support to homeless children.

Appropriate support shall be extended to the youth to enhance their physical and mental development so as to make them good and productive citizens.

On the other hand, the extent to which the Government has lived up to this commitment leaves much to be desired, to say the least. The state of affairs is not only a subject of scrutiny by child rights activists and researchers, but also a point of concern by international organs whose main area of operation is the monitoring of the implementation of the CRC and other international instruments relevant to the rights and welfare of children. In its Concluding Observations of 21 February 2001, the UN Committee on the Rights of the Child, for one, has expressed its concern on the Ethiopian Government's inability to implement the CRC.

The Committee is concerned that the State Party had insufficiently implemented the many recommendations of studies, plans of actions and policies focusing on children and their rights. The committee is concerned, in particular, that the State Party has not made adequate budgetary resources available for the implementation of the Convention and that some relevant budgets have decreased since the State Party's submission of its initial report. The Committee notes, for example, aspects of the State Party's March 1994 Social Policy addressing the special protection requirements of children which have yet to be implemented. The committee notes, further, the State Party's limited progress in implementing the National Plan of Action for Women and Children. In addition, and particularly in the context of high military expenditure, the Committee is deeply concerned that the State Party has not sought to implement the Convention to the maximum extent of available resources.

As mentioned above, in the year 2004 MOLSA came out with Ethiopia's National Plan of Action for Children or NPA (2003-2010 and Beyond). But nowhere in this document is mention made of the concerns expressed by the above-mentioned UN body. Only major accomplishments so far made and future targets dominate the text of the NPA. It only discusses attempts to identify priority areas to be tackled, to envisage expected outputs, to estimate the required financial resources, to make organizational arrangements for implementation and to do an assessment of risks and sustainability. The most important objectives outlined in the NPA are:

- To implement the CRC in general and the UN resolution concerning 'the World Fit for Children' in particular;
- To ensure that the rights and needs of children get the priority in national development efforts;
- To lay out principles and objectives concerning strategies and actions related to children; and
- To indicate and fill out the gaps in legislation and major activities regarding children.

## 2.6 The Child and his Family Environment

Being the fundamental group unit of any society, it is common knowledge that the family plays an immeasurable role in the overall personality development of children. That basically is the reason why almost all jurisdictions in our world lay down strong principles and rules for its protection. The protection to be accorded to the family is also one of the cardinal rules of the international bill of human rights and other basic international and regional instruments such as the UDHR (Article 16), the ICCPR (Article 23), the ICESCR

(Article 10), the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 12) and the African Charter on Human and Peoples Rights (Article 18). The Ethiopian constitution too accedes to this universal norm. Its Article 34(3) provides thus: “The family is the natural and fundamental unit of society and is entitled to protection by society and the State.”

In a like manner, the CRC places high emphasis on measures of protection to be accorded to the family, particularly in the context of its irreplaceable role in the promotion of the rights and welfare of children. A good number of its provisions espouse this role from a variety of dimensions. The following may be cited as the most notable ones.

- Article 5: Responsibilities, rights and duties of parents, guardians and members of the extended family to the child.
- Article 8: Right of the child to maintain his family relations without unlawful interference.
- Article 9: Right of the child not to be separated from his family environment against his will.
- Article 10: Right of the child to enter or leave a state party for the purpose of family unification.
- Article 18: Responsibility of parents and legal guardians for the upbringing and development of children.
- Article 22: Duties of States Parties to take appropriate measures to reunite a refugee child with his family.
- Article 27: Responsibility of parents or guardians to secure the conditions of living necessary for the child’s development.

Regarding children who are temporarily or permanently deprived of their family environment, Article 20 provides that States Parties are duty bound to furnish special protection and assistance to such children by way of ensuring for them alternative care arrangements. Such care may include:

- ...foster placement, *ka-falah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.

In the context of the CRC, the term children deprived of their family environment can be understood to embrace street children, orphaned children, refugee children, displaced children and many more. When one scrutinizes the Ethiopian scenario in the light of the standard set forth by the CRC, problems that deserve to be tackled are:

- Studying and identifying the root causes for the deprivation of children from their family environment and coming with possible solutions.
- Considering measures to be taken on parents and guardians that in one way or another contribute to the crisis.
- Exploring ways and means of reuniting children with their families and allocating the required resources for the proper rehabilitation of the victims.
- Formulating alternative family care programs and devising mechanisms for their realization.
- Working closely with state and non-state actors including NGOs and the private sector.
- Putting in place family guidance and counselling services.

On the other hand, reports reveal the Governments' heavy dependence on the donor community for the realization of these objectives. The resources that were made available so far from its treasury are quite insignificant. The September 1998 Second Periodic Report submitted to the UN Committee on the Rights of the Child by the Ethiopian Government does not have much to say on what it did on its own since the country's ratification of the CRC in 1991. The paragraphs of the Report on special protection measures accorded to children deprived of their family environment (i.e. paragraphs 64-68) do not have anything to say on Government-funded programs in relation to street children, institutional care, child-family reunification or community-based child support programs. They only speak of past and present activities of international and domestic NGOs, religious organizations and donors.

This state of fact has also been a point of concern by the UN Committee on the Rights of the Child. The following are some of the concerns expressed and recommendations made by the Committee in its Concluding Observations of 21 February 2001 on the above country report.

- Paragraph 40: The Committee remains concerned that many families are under pressure as a result of population displacement, armed conflict, drought, poverty and illness.
- Paragraph 50: The Committee is concerned at the predominant use of institutional responses to provide assistance to children in difficulty and that children who are cared for in institutions for many years, until the age of 18, are not given the educational and vocational skills necessary for them to make an independent living once they leave the institution.
- Paragraph 74: The Committee is concerned at the large numbers of children living or working on the streets of the main cities in the State Party, and at their lack of access to education, health care, essential nutrition and housing...
- Paragraph 75: The Committee recommends that the State Party make urgent efforts to protect the rights of children currently living and/or working on the streets, including through the provision of education, health care, nutritional aid and alternative care assistance. The Committee recommends in addition, that the State Party address the causes of children falling into a situation of street life...

The National Plan of Action for Children (NPA) also acknowledges that about 3 million children in the country are, in one form or another, deprived of their family environment. The document further calls for urgent mobilization of resources if any meaningful improvement is to be made in addressing the needs of these children. The targets outlined by the NPA aim at:

- Greatly reducing (perhaps by half) the number of children in especially difficult circumstances during the plan period, which extends from the year 2003 to 2010.
- Providing assistance including food, shelter, clothing and school materials.
- Ensuring access to education, health and other social services.
- Protecting these children from exploitation, abuse, violence and discrimination.
- 

In terms of resource availability for the implementation of the program, the NPA discloses that the total funding requirement is Birr 41,565,000,000. Of this, the sum allocated for programs relating to child protection is Birr 2,335,000,000 or 5.6% of the total funding requirement. The potential sources of this amount are said to be the Government (Birr 1,401,000,000), community contributions (Birr 117,000,000) and donors (Birr 817,000,000). The NPA predicts that the anticipated resources are within the reach of the Ethiopian economy. Although a step in the right direction, this may look a little ambitious to be

realized given the country's past track record. This and related issues will further be investigated in the part of this study on budgetary matters.

## 2.7 The Child's Right to Participation

Participation is a basic human rights issue. Not only is it a means to realizing other fundamental rights and freedoms, but also an end by itself. It is as basic to the child as it is to the adult, if not more so. A meaningful program designed to ensure good governance in addressing child rights issues should always take into account the participation of children in all its aspects: from the point of initiation and program formulation all the way to its implementation. That children and adolescents have a higher natural urge to participate in matters that affect them and in other societal issues goes without saying. Failure to give voice to children may result in severe consequences both on the children themselves and on the society at large. Children deprived of the right to fully express their feelings and opinions, those denied of the right to air out their views when decisions that affect them are made, or those alienated from societal mainstream are likely to lose their potential for positive contribution to their fellow human beings. On the contrary, the deprivation may have the effect of misdirecting them into subcultures that have a tendency of fragmenting society itself.

The more children are provided with the opportunity to participate in all areas of social endeavour, particularly in matters that directly affect them, the more they develop confidence, skills and aspirations. Taking due account of this reality, the CRC recognizes this right of children. Its Article 12, for example, has this to offer in this regard.

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the weight and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child either directly, or through a representative or an appropriate body....

The CRC also has provisions on other important facets of the child's right of participation such as the right not only to freely express his views but also to seek, receive and impart information, the right to freedom of thought, conscience and religion as well as the right to association. (See Articles 13 – 15). Children should, therefore, have a voice in matters that directly relate to their well being such as their education, health and personal safety. They should also be given the opportunity to air out their opinions in community activities and at national levels. They should likewise have a say to express their feelings on a wide range of issues affecting them, including in the development of national plans of action designed to address their welfare. Youth parliaments and forums may be effectively utilized to serve this objective. School clubs and mini media networks could have a tremendous impact in sensitising children in the struggle against HIV/AIDS, against harmful traditional practices and against all forms of child abuse and neglect.

When we look at the Ethiopian scenario from this perspective, we do not come across much of incompatibility of domestic laws and policies with those of the provisions of the CRC. The problem, however, is with the realization of policies and laws in this direction. As most of our cultural values and attitudes are not conducive to the exercise of this right, this is an area for a high level of intervention by all concerned. The school system, the mass media, NGOs working in the area of child rights and those involved in advocacy works can play a very constructive role, particularly in the areas of sensitisation and awareness creation.

## 3. Economic and Social Rights of Children and Budget Tracking

### 3.1 Understanding the Meaning of Economic and Social Rights.

During the millions of years through which mankind sustained himself, he sought little or no assistance from any form of organised entity. By and large, the need for bare necessities of life had been satisfied by individual struggles to make ends meet. Over the past few hundred years, however, this state of affairs has been dramatically changed. As noted by one scholar:

- Two hundred years ago...all the essentials of life could be found outside the organised sector...Two hundred years later, most individuals are dependent on organised society for their needs...Corn cannot be grown on the sidewalk, nor can homes be built without materials and land...(Robertson, 1994)

This shift towards more and more dependence on the State and other organised entities to acquire the basic amenities of life has brought about significant changes in the international human rights discourse. More than any time in the history of human existence, the State now shoulders the burden of ensuring the physical and spiritual well being of its members. In as much as today's human rights norms are geared towards protecting the individual from all forms of violations of his civil liberties, so are they designed to provide him guarantees for economic and social security. The freedom from want is now as much of a serious concern to all members of the human family as is the freedom from fear. In other words, economic, social and cultural rights are now understood as rights that are inseparable from civil and political rights. This way, provisions of the UDHR recognise these two sets of human rights as indivisible components of the broader human rights agenda.

Needless to say, the question of resource and the modalities of its appropriation are always at the heart of the debate on the realisation of economic and social rights. To what extent should a State be held liable under international human rights laws for its failure to live up to its expectations in implementing provisions on economic and social rights? More often than not, the answer to this basic question is susceptible to controversies. In deed, a notable deficiency in this regard is to be found in most domestic laws. Compared with norms that pertain to civil and political rights, rules in the realm of economic and social rights are rarely incorporated in national constitutions and laws. Many have voiced their concern over this oft-neglected status of economic and social rights. Here, for example, is what the UN Committee on Economic, Social and Cultural Rights had to air out during the 1993 Vienna Conference on International Human Rights:

- ... States and the international community as a whole continue to tolerate all too often breaches of economic, social and cultural rights which, if they occur in relation to civil and political rights, would provoke expressions of horror and outrage and would lead to concerted calls for immediate remedial action. In effect, despite the rhetoric, violations of civil and political rights continue to be treated as though they were far more serious, and more potentially intolerable, than massive and direct denials of economic, social and cultural rights.... The magnitude, severity and constancy of that deprivation have provoked attitudes of resignation, feelings of helplessness and compassion fatigue...

On the other hand, Article 2(1) of the ICESCR, the most comprehensive international legal instrument on economic and social rights, speaks of the obligations of States Parties in the following words:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

In the context of the economic, social and cultural rights of children too, Article 4(1) of the CRC provides in a similar manner that:

- With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

The rules contained in these provisions are designed in such a way as to warrant tangible responses from States Parties to meet the challenges awaiting them in the course of discharging their duties of implementing economic and social rights. The difficulty of clearly articulating the standards of conduct to which a State is supposed to adhere to give effect to the phrase "to the maximum of its available resources" is, of course, understandable. As carefully noted by Robertson:

- It is a difficult phrase—two warring adjectives describing an undefined noun. "Maximum" stands for idealism; "available" stands for reality. "Maximum" is the sword of human rights rhetoric; "available" is the wiggle room for the State. (Robertson, 1994)

Be that as it may, however, the resource question needs to be treated in as much a realistic manner as circumstances may warrant. Otherwise, the economic and social rights rhetoric would be a wish too good to be realised. It calls for the need to have a good understanding of what is meant by the term "resource", the need to proper identification of potential resources at the disposal of a State, and the need to determine the proportion of this potential resource to the different areas of economic and social expenditure. Resources may be human, natural or financial. They may, likewise, assume the form of technology or information, to state the more common ones. They can be made available by both state and non-state actors. Their origins may be domestic or foreign.

In relation to the CRC, all these resources could rationally be tapped to realise the lofty rules enshrined in the economic and social rights provisions of the CRC some of which are outlined hereunder.

- Article 6 The Right to Life, Survival and Development.
- Article 22 Rights of Refugee Children.
- Article 23 Rights of Children under Disabilities.
- Articles 24 and 25 The Right to Health and Health Services.
- Article 26 The Right to Benefit from Social Security.
- Article 27 The Right to an Adequate Standard of Living
- Articles 28 and 29 The Right to Education
- Article 30 The Rights of Children of Minorities and Indigenous Peoples.
- Article 31 The Right to Leisure, Play and Culture

### 3.2 The Ethiopian Context

A quarter of a century after the adoption of the CRC by the UN General Assembly and fourteen years after its ratification by Ethiopia, not much seems to have been achieved in

realising even the basic economic and social rights of children. The facts on the ground are as alarming today as they have been twenty-five years ago, if not more so. A glance at the 2005 report by UNICEF on the State of the World's Children reveals the truth as being the following:

- Four out of five children either use surface water or have to walk more than 15 minutes to find a protected water source.
- Ethiopia ranks twentieth in descending order out of 192 countries in respect of under-five mortality rate. The rate is 169 per 1,000 live births of which 112 die before their first birthday. During the year 2003, the total number of under-five deaths was reported to be 506,000.
- The percentage of infants with low birth weight is 15.
- 55% of children under-six months are exclusively breast-fed. Only 43% of children between 6 to 9 months receive complementary food while 77% of children between 20 to 23 months are still breast-feeding.
- 47% of under-five children suffer from moderate or severe under weight while the percentage of those with moderate or severe stunting is 52.
- The percentage of one-year old children immunised from TB, DPT3, Polio3 and measles is 76, 56, 57 and 52 respectively. Only 38% of under-five children with diarrhoea receive oral re-hydration and continued feeding.
- The estimated number of children under fourteen living with HIV/AIDS is 120,000. The number of children under seventeen orphaned by AIDS is reported to have reached 720,000 while there are 4,000,000 children orphaned due to all causes.
- The net primary school attendance ratio is 33% for boys and 28% for girls and the secondary school enrolment ratio is 23% and 15% for boys and girls respectively.
- 26% of the population earns an income of less than USD 1 per person per day.

The NPA has also come out with facts and figures that depict the same alarming reality. To mention but the most glaring ones:

- The national infant, under-five and child mortality rate is 113, 188 and 85 per 1,000 live births respectively.
- Most of the health problems that pose threat to children's right to survival and development are infectious and communicable diseases.
- Over 50% of infant deaths are associated with malnutrition.
- 26% of under-five children are severely stunt while 16% of them are under weight.
- Only 24 to 26% of households have access to safe water while the sanitation coverage is 16% at the national level and 7.5% in the rural areas.
- Children constitute 25% of the 3,000,000 people living with HIV/AIDS.
- The country has not yet introduced rules that provide for compulsory primary education.
- The net primary schools enrolment ratio during the year 2001/02 had been 59% for boys and 45.2% for girls.
- The enrolment rate in secondary schools has not yet reached even the Sub-Saharan Africa average, which itself, is too low, i.e. 26% for boys and 22% for girls.

This state of affairs has also been one of the prime areas of concern of the UN Committee on the Rights of the Child. In its Concluding Observations and Comments on the report submitted to it by the Ethiopian Government in relation to implementation of the CRC, the Committee expressed its concern in the following words.

### *On health issues:*

The Committee is deeply concerned at the extremely high infant mortality rates and low life expectancy in the State Party. The Committee is concerned, in particular, at the high incidence of malaria and tuberculosis and their effects upon children, at the fragile health infrastructure, limited health awareness among the public and the limited implementation of the 1993 Health Policy and the 1994 Social Policy...

### *On Education:*

The Committee is deeply concerned at the very low rates of primary and secondary school enrolment, at the especially low rate of enrolment among girls and at the very high dropout rate. The Committee is concerned, in addition, that insufficient resources among education authorities, schools and parents are having a negative impact on children's enrolment in and completion of primary and secondary school.

The NPA too acknowledges the multitude of problems and constraints that come in the way of implementing the economic and social rights of children, particularly those related to health and education. It admits that the health status of Ethiopian children is extremely low even by the standards of many developing countries. On top of that, the NPA admits that health problems of children are further exacerbated by recurring food insecurity and malnutrition that continue to pose great threat to their survival and cognitive development. It further points out that the education sector is not free from major deficiencies either. With a view to addressing these chronic problems, the document has come out with specific targets to be tackled during the program period.

In relation to health, these targets include:

- Improvement in family and adolescent reproductive health.
- Improvement in child health services that includes expanded program on immunisation, acute respiratory infection and chronic diarrhoea diseases, improvement in availability of preventive medical services for malaria as well as improvement in nutrition.
- Concerted control of tuberculosis by raising the cure rate of children to 100%.
- Improvement in hygiene and environmental health services
- Improvement in information, education and communication.
- Improvement in the provision of pharmaceutical services.
- Health facility expansion and rehabilitation.
- Human resources development.
- Improvement in health management system.

In view of these observations, it is therefore logical to explore the National budgetary process and its linkage to child rights. This will be the focus of the discussion in the forthcoming sections of this study.

## **3.3 Budget Tracking for Child Rights from a Rights-based Perspective**

### *3.3.1 What is a Government Budget?*

A Budget refers to a state's allocation of resources in terms of various processes such as economic, political, administrative, and human right. Wildavsky defined budget as:

- "Budgets are variously referred to as financial plans, work plans or programs, or political and social documents. A budget can be viewed from various frames of reference: as an economic process (resource allocation); as a political process (competition among various groups for limited resources); and as an administrative

process (planning, co-ordinating, control and evaluation). A budget can also be viewed as a human rights process (allocation of funds in compliance with state obligations towards the full realisation of human rights). In its strictest, most technical sense, a budget is a document containing words and figures that propose expenditures for certain items and purposes.”(Wildavsky, cited in Diokno, 1999).

Thus, while a budget from an economic perspective is a reflection of a country’s policy priorities and political commitments into expenditures, from a political perspective it is a representation in money terms of state’s activity or preferences in national policy. A budget is, therefore, outlined as the ‘most important economic and political instrument’. From an administrative perspective, a budget is understood as a resource plan that serves for the utilisation of financial, manpower, material, and other resources. From a human rights standpoint, a budget can also be defined as a process through which financial resources are allocated in compliance with state obligations to respect, protect and fulfil human rights as prescribed by human right conventions and associated laws.

As we have seen above, there are various types of resources such as financial, material, natural, and human as well as technology and information. In principle a budget may include all these types of resources. We, however, use the term ‘budget’ as a process by which state’s financial resources are planned and controlled.<sup>1</sup> It should be noted also that while a national budget is generally defined as financial statement containing revenue, expenditure, and its fiscal balance, in this study it is generally treated as the expenditure process. For our purpose we, therefore, define the term ‘budget’ as a process consisting of different activities relating expenditures to a set of various targets, or as a process through which state expenditures are made. Budget, therefore, serves as resource allocations or allocation of expenditures among different purposes so as to achieve what is desired in a budget.

Budget converts state development plans and priorities into a program of action (Waterston, 1965:201 cited in Diokno, 1999). Budget and its analysis, thus, matters a lot as it reflects what the state is doing or intends to do. Government budget should immaculately produce budget policy that takes into consideration affordability, capacity, priorities, and political support that enables resources to be spent well for good budget outcomes.

### ***3.3.2 Budget Tracking as a Rights-based Approach***

As defined in the preceding section, a budget refers to a process through which public expenditures are made. A thorough and detailed review of this public expenditure is known as budget tracking. Budget tracking, as pointed out by Lav (1999, as quoted by Diokno 1999), “... involves the collection, study and interpretation of budget data, the correlation of budget data to other relevant information such as state policies and programs, and the establishment of findings and results. Its aim is to provide analysis and information that is credible, accessible to a wide range of audiences, and makes a timely contribution to policy debates, with the purpose of affecting the way budget issues are decided and the decisions that are made.”

Budget tracking is an important mechanism of budget analysis as it tracks whether budget allocations are in compliance with state’s obligations. It links policy with budget delivery. Thus, budget tracking matters a lot mainly because, “... budget is the most important economic policy instrument of Government, and as such can be a powerful tool in transforming the country to meet the needs of the poorest.” (Budlender, 1996:7 as quoted by Diokno 1999).

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<sup>1</sup> See Diokno, 1999 and Robertson, 1994

From a child rights framework, budget can be defined as a process through which public expenditures are made in compliance with state obligations to enforce and protect children's rights. The Conventions provide universally set standards for conducive economic, social and political environment for children against which policies of each Government to enforce these rights can be tested. The Ethiopian Government can comply with its commitment to realise these rights only when it uses part of its resources and this is possible only when the Government takes the issue into consideration in its national budget. It is, therefore, difficult to conceive of Ethiopian Government action designed to create, facilitate and realise the conducive environments without taking into account the budget analysis from children's rights perspective.

Budget is one major process by which the Government's financial resources are planned and controlled. Effective and prudent allocation of financial resources is required to comply with the Government obligations to respect, enforce, protect, and vindicate children's rights. Thus, in order to enforce and protect the rights of children, the Government needs to take into account the issue of children in its strategy and policy for the right financial resource allocation and, hence, greater attention must be placed on what the Government does with its financial resources.

Budget tracking from a right-based perspective and particularly from child rights framework is therefore, exploring whether Government expenditure matches its obligations to protect children's rights. Put it differently, budget tracking using a rights-based approach is to link children's rights with a budget process, allocation and expenditures. Budget tracking from a rights-based approach in this particular context is, thus, reviewing allocation of funds in compliance with state obligations towards the realisation of children's rights. From this perspective the status of child rights and compliance with state obligations are key factors to inform Government choices and decisions with regard to its budget allocations.

Budget tracking from a rights-based perspective as Diokno (1999) pointed out tracks public allocations to determine their impact on economic, social and cultural (ESC) rights and concomitant state obligations through a variety of ways:

- Public allocations may be probed to determine whether the composition of expenditure among different state functions, expenditures in terms of urban versus rural dichotomy, and spending level patterns (in both nominal and real terms) comply with state obligations to respect, protect and fulfil child rights;
- Public allocations may be scrutinised to find out whether the state has appropriated funds for the steps it is required to take under various Articles of the Child Right Convention; and
- Public allocations may be compared with the status and condition of child rights to determine whether state allocations are geared towards the satisfaction and realisation of child rights.

In general a rights-based approach towards a budget analysis in this particular study may use the following budget indicators:

- (a) Budgetary allocations: capital expenditures, current expenditures and subsidies from the federal Government, imbalance in categories of current expenditures - disproportionate or unequal spending on budgetary items, which result in breaches of child rights;  
Composition of expenditure among different state functions (priority may be given to national defence and security or debt service and less allocations for education and health; and
- Changes in public allocations observed in time series data.

Budget tracking, therefore, involves description and analysis of budget drafting, process, implementation and description of budget indicators that may be applied to a rights-based approach towards budget tracking.

It should be important to note that such analysis requires officially audited state expenditures. In Ethiopia the official audit budget information usually lag by three years. Currently the official audit expenditure results are available only up to 2001/02. Furthermore, clarity of budget information and data is a critical problem. These problems thwart the ability to assess policies and budget outcomes. A budget books do not enable readers to establish the relationship between functions and allocations and thus to check the rationale behind the allocations. There are several gaps in a budget structure that limit its effectiveness as an instrument of analysis. A budget does not show why funds are spent for purposes other than those that are authorised, expenditures are larger or less than the allocated funds and budget does not show what happens to the unutilised portions of the allocations. It also does not indicate leakage, if any, in the amount expended, nor is a budget broken down by district or municipality.

As alluded to above, a budget process is an important factor to enforce and protect child rights. Budget tracking must factor in a budget process in the analysis of budgets from a right-based perspective. The next section is devoted to this issue.

### **3.3.3 The Budget Process**

It is difficult to conceive of any public policy that can be carried out without money and without being subject to budgetary processes at the allocation, approval, review and implementation stages. A budget process is, therefore, a critical component in budget analysis.

A budget process needs to be governed by principles like participation, transparency, accountability, and equity. The process in a budget allocation and approval needs openness and participation of various stakeholders. Transparency and participation in a budget process are critical factors as they indicate the degree of democracy in the country and the level at which the Government is committed to enforce, protect, and vindicate its obligation with regard to social and economic rights of children. Transparency engenders accountability and participation opens a room for public debate.<sup>2</sup>

Participation in a budget process is not, therefore, a luxury; it is rather a basic right of all individuals. It allows members of the community to air their voices for what is important for their children and also allows children to voice their feelings for what is important for them and, hence, influence budget allocations. It also allows different layers of Government to know the most and unmet demands of the economic and social rights of children.

Budget should also be governed by the principles of equity, equality, and non-discrimination. Public allocations should be fair and just, and should redound to all citizens equally, without discrimination based on gender, ethnicity, region, social class, age, etc. In particular, vulnerable sectors of society should not be discriminated against budgetary allocations.

In line with this Creamer (1998 as quoted by Diokno, 1999) stated, "Involved participation, which is affirmative in that it explicitly includes input from poor and working people hungry for education, health care and social security, is likely to result in more equitable expenditure patterns than a process which is dominated by powerful

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<sup>2</sup> The principle of transparency is recognised by the IMF, which published in 1998 a "Code of Good Practices on Fiscal Transparency - Declaration of Principles. See Barry H. Potter, Fiscal Transparency: The IMF Code, Paper submitted to the Second International Budget Conference entitled "Transparency and Participation in the Budget Process," Cape Town, South Africa, February 21 to 25, 1999. Copies of the IMF transparency documents, which are now available in Arabic, Chinese, French, Portuguese, Russian and Spanish, are available at the IMF transparency web site at <http://www.imf.org/external/np/fad/trans/index.htm>.

interests who set a self-serving agenda of tax breaks, subsidies, down-sizing and privatisation". The community and civil society should be involved in decisions about public resources for their children access to education, health services, and nutritional facilities. Children should also be able to participate in decisions that affect them; decisions should not only be made by adults for children.

Thus, a budget process that passes through these principles allows to hold the Government accountable, to identify weaknesses in a budget, to build consensus, and to mobilise the community effectively to meet a budget target or better budget outcome.

Resources mobilised for expenditure come from two basic sources: taxes and external borrowing. While the first source is directly borne by citizens, the second source is indirectly related to citizens in the sense that the burden of repayment is finally borne by them. This forces the Government to be accountable not only for how it spends these resources but also for budget outputs and outcomes. This makes accountability an important ingredient in a budget process.

In the subsequent chapter we track federal and regional expenditure allocations for the period 1997/98 – 2001/02 from child rights perspective using the rights-based approach. We have stated at the beginning that child rights are indivisible and interdependent. The main focus of budget tracking in this study is, however, health and education budget and expenditure. The selection is simply due to the availability of budget information for these rights.

Information on other social rights and particularly for vulnerable children is not available. Budgetary allocations made to the Ministry of Labour and Social Affairs, the organ mainly responsible for the implementation of general child rights issues including those of the CRC, do not reveal any thing in terms of realizing the welfare of children in general and those of vulnerable children in particular. A look at the yearly budget laws that appear in the Federal Negarit Gazette, the official law gazette of the Government could easily depict this state of affairs.

It should, however, be remembered that the overall macro context in terms of the macro policies and development strategies and the general socio-economic condition of a society is important for the full realisation of children's rights (For those who are interested to see the macro context, see Getnet and Assefa 2004).

## 4. Children's Rights to Education and Health as Reflected in the Ethiopian Policy and Budget

### 4.1 Education: Does it address the Rights of Children?

#### 4.1.1 Education Policy

The Government has formulated and adopted new education and training policy in 1994. The general education system consists of four levels: primary school divided into a first cycle (grade 1-4) and a second cycle (grade 5-8), secondary education divided into first cycle (grade 9-10) and a second cycle (grade 11-12). The second cycle of secondary education is intended to prepare students for higher-level education (university). This policy is supported by Education Sector Development Program (ESDP) launched in 1997/98. The main focus of the policy and the sector program is to expand primary education with the objective of achieving universal primary education by year 2015. As part of the decentralisation policy reform, the regional and local governments are mandated for the design, implementation and overall management of primary education, secondary education, and technical and vocational education training in their respective regions and localities.

The new education policy has supply side, demand side, and institutional components. The supply side component of the policy included: construction of new public school, an increase in the number of double-shift schools, and an increase in the supply of private school. The Government effort to accommodate rapid growth in school enrolment was through significant investment in constructing elementary and secondary school and increasing double-shift schools using the existing capital stock. From the demand side the new policy has removed school fee and also implemented food-aid program in primary school. The institutional component includes a break through in education decentralisation that allows millions of children to attend primary school in their own native languages.

These reforms have allowed the Government to a remarkable increase in enrolment particularly in primary school. As a result, gross enrolments in primary education have increased from 46% in 1998/99 to 68% in 2003/04. Despite this high success, coverage is still low. The net enrolment rate was as low as 57% in 2003/04. The trend in gross enrolment rate in secondary education is rather exceptionally poor. It has increased from 10% in 1999/00 to only 10.9% in 2002/03. This implies that access to education is still low. In line with this "The Welfare Monitoring System survey (2000) found that 70.9% of the population had no schooling at all, and only 11.5% had completed primary school or higher" (World Bank, 2004a: 31).

In addition, there are standing bottlenecks in terms of quality of education. Parallel to high achievement in gross enrolment, student/teacher ratio and student/section ratio has increased dramatically. The availability of textbooks to students has also declined. Furthermore, the dropout rate has increased significantly from 12% in 1998/99 to 19% in 2003/04 in primary school, compromising the success in enrolment rate. Inefficiencies in spending level particularly the negligence in recurrent spending in primary school challenges the achievement in enrolment. The share of recurrent spending in primary school has shown a declining trend in favour of tertiary education. Further more, most of recurrent expenditure goes to teacher's salaries, which leaves very little for non-salary spending in primary school. In line with this, World Bank in its Well-Being and Poverty study in Ethiopia found out that "Non-salary spending per student has been dramatically

eroded over time from an average of around 7 ETB<sup>3</sup> per student in 1994 to around 4 ETB per student in 2001.” (WB, 2005:198)

As a result the capacity created in primary school exposed to significant deterioration in capacity utilisation. Put differently the education system is struggling to keep up with its expansion-focused policy. Given these facts it is difficult to assess the impact of spending on capacity creation on educational outcomes.

There is also considerable regional variation and under-served population. The government policy and strategy as outlined in Sustainable Development Poverty Reduction Program (SDPRP as the PRSP is called in Ethiopia) is to focus on expansion and quality of education, reduce regional disparity, and decentralise management and budget to improve responsiveness and local capture. As may be clear in the subsequent discussions, this sound policy is shackled by excessive emphasis on capacity creation relative to capacity utilisation, unfair federal subsidies to regions, and lack of standard for education spending. Thus, from the point of view of government obligation to protect children’s rights to education on the basis of equal opportunity from primary to higher education with quality and minimum dropout, a lot remain to be desired.

The educational policy both at federal and regional level has no standards with regard to education expenditure. The same is true for class size and textbooks. Education policy does not support vulnerable children nor does it address gender specific problems. Curriculum and educational materials portray the traditional role of girls and boys. Teaching methods and even textbooks still preserve existing stereotypes and traditional children and gender roles (focusing on the role of girls in in-house activities). There is no child-centred teaching method that can address vulnerable groups and the role of girls. It should be noted, however, that there is a plan as of this academic year to address this issue particularly the old style of teaching methods and mainstreaming gender awareness, discrimination, sexual harassment, and reproductive health education in the education system under civic education.<sup>4</sup>

In what follows we shall track the education budget with respect to enrolment rate in kindergarten, primary and secondary education as the school age population up to secondary school fits the age boundary for the definition of children.

#### 4.1.2 Access

The main indicator of access to education is enrolment rate. There are two kinds of enrolment rate; gross enrolment rate and net enrolment rate. Gross enrolment rate refers to percentage of total number of children enrolled in specific level of school (kindergarten, primary, or secondary) irrespective of age, out of the total specific level of school age population. Net enrolment rate refers to percentage of number of children enrolled from specific level of school age population out of the same level of school age population. Net enrolment is the best way of measuring participation particularly to explain the proportion of students enrolled from a specific age group. The problem, however, is data on net enrolment rate is not always available. The education statistics of the Ministry of Education usually publish gross enrolment rate.

It should be also noted that net enrolment rate is usually lower than gross enrolment rate. This is because net enrolment rate excludes over-aged and under-aged enrolled students while using the same denominator as the gross enrolment rate. The wider the gap the lesser access by children to education at the right time.

In view of these notes, we shall discuss the enrolment rate at three different levels: kindergarten, primary school, and secondary school.

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<sup>3</sup> ETB stands for Ethiopian Birr.

<sup>4</sup> Interview with W/o Asegedech Sahile, education program, support, and follow up expert at the Ministry of Education.

## Kindergarten

Kindergarten is a pre-primary education level, which includes children of ages from 4 to 6. Direct involvement in Kindergarten has never been a policy issue and hence budget has never been allocated for provision of this facility except for a single regional administration, Addis Ababa city administration. The involvement of federal and regional Government is limited to developing curriculum, training teachers, and provision of supervisory support. Kindergarten is run by private sector, NGOs, communities, and religion based institutions.<sup>5</sup> As a result, the gross enrolment rate for the country is as low as 2%. The following table presents the gross enrolment rate for kindergarten.

Table 4.1 Gross enrolment rate in kindergarten (in %)

	2002/03	2003/04
Countrywide	2.0	2.2
Tigray	2.0	2.1
Afar	0.6	0.6
Amhara	1.2	1.3
Oromia	1.4	1.7
Somali	0.6	0.6
Benishangul and Gumuz	1.8	2.9
SNNP <sup>6</sup>	1.5	1.6
Gambela	1.1	1.0
Harari	7.9	7.2
Addis Ababa	33.1	31.6
Dire Dawa	9.1	11.6

Source: MoE, 2003 and 2005

As may be observed from the above table, in 2003/04 academic year 6,211,099 (97.8%) children who were supposed to be in kindergarten have no access to this type education facility. The figure could be even higher than this as children less than 4 years of age are usually enrolled in kindergarten.

## Primary school

Primary school is a pre-secondary education level from grade 1 to 8, which includes children of ages from 7 (starting age at grade 1) to 14. The gross enrolment rate for the last six years and net enrolment for the year 2004 are presented in the table below.

Table 4.2 Gross enrolment rate in primary school (in %)

	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2003/04 net enrolment
Countrywide	45.8	51.0	57.4	61.6	64.4	68.4	57.4
Tigray	58.4	63.5	73.9	77.6	73.7	80.6	66.1
Afar	7.1	9.1	11.5	12.6	13.8	14.8	11.0
Amhara	40.4	46.8	53.3	58.1	58.5	61.8	53.9
Oromia	45.0	51.6	57.9	62.4	66.9	72.7	61.6
Somali	8.0	8.3	10.6	13.1	15.1	15.1	11.6
Benishangul and Gumuz	74.9	81.8	88.5	89.1	98.4	100.5	76.0
SNNP	56.8	59.8	63.8	67.5	71.8	74.2	63.5
Gambela	89.1	93.7	95.8	102.7	124.6	106.6	72.5
Harari	90.0	96.2	105.3	107.5	105.7	104.5	82.5

<sup>5</sup> Recently there is an attempt to streamline kindergarten as part of education, interview with W/O Asegedech Sahile, education program, support, and follow up expert in Ministry of Education.

<sup>6</sup> SNNP refers to Southern Nations, Nationalities and Peoples regional state.

Addis Ababa	84.7	91.4	118.3	128.4	135.4	142.6	94.0
Dire Dawa	60.0	62.4	75.7	80.2	78.6	83.2	60.4

Source: Same as Table 4.1

As may be observed, there is a growing trend in gross enrolment both at countrywide and regions. The gross enrolment rate ranges from as low as 14.8% in Afar (a pastoral region) to 142.6% in Addis Ababa. The gross enrolment rate in most populous regions like Amhara (62%), SNNP (74%) and Oromia (73%) is small. These three regions represent 82.1% of countrywide primary school age population and 81% of the total population in the country. This implies a considerable number of children in the country have no access to education. Even by Sub-Saharan Africa standard more children have no access to education in Ethiopia. The average figure for Sub-Saharan Africa in 2001/02 was as high as 87% (World Bank, 2004b: 78) against 61.6% in Ethiopia.

What is even more disturbing is the net enrolment rate. The net enrolment rate for the country in 2003/2004 academic year was only 57.4%.<sup>7</sup> Put it differently, 42.6% of the primary school age population or 5,942,993 primary school age children had no access at all to education. Furthermore, the countrywide dropout rate (dropout rates refer the proportion of students who leave school) is significant (see Table 4.3 below). The highest dropout rate is for grade one, which is 31.4%. This means 31.4% of children enrolled in grade 1 in 2002/03 academic year have left school before reaching grade 2. On average there was almost 20% dropout rate for primary school in the 2002/03 academic year ranging from 2.3% in Addis Ababa city administration to 36.7% in Gambela regional state. In addition to the significant proportion of the dropout rate, there is no observed tendency to reduce this proportion. It has increased from 12.1% in 1997/98 to 19.2% in 2002/03.

The total number of dropouts for the whole country is 2,678,532 children. Suppose children that leave school are within the school age population range, considering the school age population and net enrolment in the year 2002/03 (54%), the proportion of primary school age population that are not attending school would be as high as 65.2%.

Table 4.3 Dropout rate as an indicator of educational output and outcomes (in %)

	1998/1999	1999/00	2000/2001	2001/02	2002/2003	2003/04
Countrywide	12.1	19	17.8	16.2	17.1	19.2
Tigray					17.5	10.1
Afar					19.5	30.2
Amhara					14.7	18.8
Oromia					17.8	18.6
Somali					17.8	28.9
Benishangul and Gumuz					20.4	25.5
SNNP					22.4	25.6
Gambela					8.4	36.7
Harari					9.1	11.4
Addis Ababa					2.1	2.3
Dire Dawa					8.3	8.4

Source: Same as Table 4.1

Given Article 28 (1-a) and (1-d) of the Convention, which articulates making primary education compulsory and available free to all and taking appropriate measures to reduce dropout rates, the current enrolment rate is a critical problem that calls the attention of both the federal and regional governments. Much remains to be done in order to enforce

<sup>7</sup> This figure excludes the evening program due to lack of data. It has, however, insignificant share.

the child rights to access primary education. The rising trend in dropout at national level reveals the low learning achievements.

### Secondary school

Since 2001/02 academic year, secondary education has two cycles: first cycle of secondary (grade 9-10) and second cycle or preparatory for tertiary program (grade 11-12). While the first cycle includes children of ages from 15 (starting age at grade 9) to 16, second cycle includes children of ages from 17 (starting age at grade 11) to 18. The gross enrolment rate for all regions for first cycle and for both is presented in the table below.

Table 4.4 Secondary school (9-10) gross enrolment rate (in %)

	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
Countrywide	12.4	12.8	14.1	17.1	19.3	22.1
Tigray	11.8	18.7	33.8	38.3	26.2	30.5
Afar	2.5	2.8	3.6	4.2	5.1	5
Amhara	9.5	10.3	11	12	12.6	15.7
Oromia	10.5	11.2	12.4	15.9	19.1	22.9
Somali	0.5	0.9	0.9	2.3	3.3	3.3
Benishangul and Gumuz	9.8	11.1	11.8	16.6	19.5	28.4
SNNP	11.2	10.8	9.5	13.2	18.7	20
Gambela	18.7	18.1	19.7	16.7	33.7	28.9
Harari	48.9	43.4	44	59.6	56.1	72.5
Addis Ababa	63.7	56.3	58.4	69.3	78.1	86.6
Dire Dawa	29.8	31	28.3	33.2	50.3	47.2
Countrywide net enrolment		6.8	6.6	7.4	8.4	9.8

Source: Same as Table 4.1

Table 4.5 Secondary school (9-12) gross enrolment rate (in %)

	1999/00	2000/01	2001/02	2002/03
Countrywide	10.0	12.6	12.7	10.9
Tigray	13.7	24.7	26.6	18.7
Afar	2.4	3.4	3.3	2.6
Amhara	8.6	10.0	9.6	8.0
Oromia	9.5	11.5	12.2	11.6
Somali	0.7	0.7	1.4	1.8
Benishangul and Gumuz	9.1	10.5	12.8	12.0
SNNP	9.2	10.1	11.1	10.6
Gambela	15.9	18.0	12.2	17.7
Harari	45.7	57.0	54.9	32.6
Addis Ababa	47.6	63.1	55.8	38.1
Dire Dawa	26.8	34.0	29.2	28.8

Source: Own computation from MoE, 2005

As may be observed, access to secondary education is worse than primary education. The rate at which the gross enrolment rate grows is also very slow as compared to the primary education. In 2003/04 academic year about 78% of first cycle secondary school age population have no access to education. The net enrolment is even more disturbing. For the same year more than 90% of the first cycle secondary school age population have no access to secondary education at all.

For second cycle secondary education, the total number of enrolled students in 2002/03 and 2003/04 is 79,155 and 94,660 respectively (MoE, 2003:6 and 2005:9). In terms of gross

enrolment rate this was as low as 2.6% in 2002/03 and 3% in 2003/04 academic year. The overwhelming majority of primary school students have no access to continue their education to secondary level. What is even more disturbing is the proportion of students in primary education that made possible to pursue their secondary education is drastically declining. The proportion in 2003/04 is below the proportion observed in 1998/99 (see table 4.6 below). As a result, the enrolment rate in the university all over the country is less than 1 percent. This trend explicitly a serious failure in the education sector and the low learning achievement. The resultant school leavers and increasing number of youth unemployment demonstrates the inefficiency of the education system.

Table 4.6 Countrywide gross enrolment in primary and secondary education

	Primary (1-8)	Secondary (9-12)	% share of secondary to primary
1998/99	5702233	521728	9.1
1999/00	6462503	571719	8.8
2000/01	7401473	736174	9.9
2001/02	8144337	764641	9.4
2002/03	8743265	665464	7.6
2003/04	9542638	780636	8.2

Source: Same as Table 4.1

Given the Government's obligation to protect children's rights to access secondary education as provided by Article 28 (1-b) of the Convention, the commitment that the Government has thus far experienced is extremely limited. As a result, the Government's obligation to make sure that higher education is accessible 'to all on the basis of capacity by every appropriate means' as provided by Article 28 (1-c) of the Convention, is adversely affected.

### 4.1.3 Equity

Article 2 (1) states that 'States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's, race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'. While this is in general, specific articles for education of the convention also reiterate non-discriminatory access to education (see Article 24 - 2e and Article 28 - 1 of the Convention).

Based on this child rights framework that applies to all children in the country, we shall try to see the regional distribution of enrolment with respect to the school age population in each respective regions, gender disparity, and rural-urban dimension for primary and secondary education as data allows.

#### 4.1.3.1 Regional Disparity

##### *Primary school*

As we have noticed from Table 4.2, the gross enrolment rate ranges from 14.8% in Afar to 142.6% in Addis Ababa. The gross enrolment rate in most populated regions like Amhara, Oromia, and SNNP is small. These three regions represent 82.1% of the total primary school age population. The following table discloses regional difference taking the countrywide gross enrolment rate as a reference point.

Table 4.7 Difference from countrywide gross enrolment rate (in %)

	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04

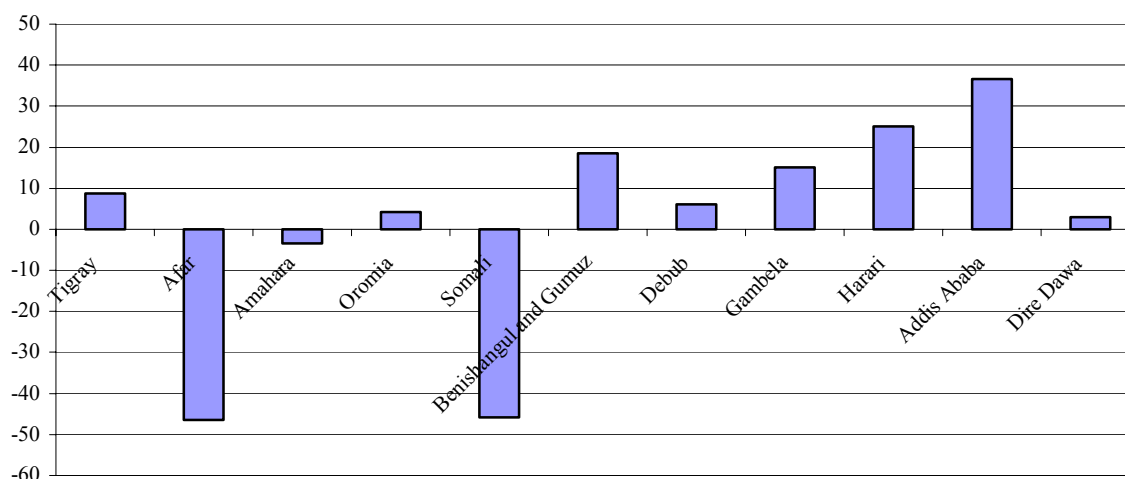
Tigray	12.6	12.5	16.5	16.0	9.3	12.2
Afar	-38.7	-41.9	-45.9	-49.0	-50.6	-53.6
Amhara	-5.4	-4.2	-4.1	-3.5	-5.9	-6.6
Oromia	-0.8	0.6	0.5	0.8	2.5	4.3
Somali	-37.8	-42.7	-46.8	-48.5	-49.3	-53.3
Benishangul and Gumuz	29.1	30.8	31.1	27.5	34.0	32.1
SNNP	11.0	8.8	6.4	5.9	7.4	5.8
Gambela	43.3	42.7	38.4	41.1	60.2	38.2
Harari	44.2	45.2	47.9	45.9	41.3	36.1
Addis Ababa	38.9	40.4	60.9	66.8	71.0	74.2
Dire Dawa	14.2	11.4	18.3	18.6	14.2	14.8

Source: Computed from Table 4.2

As may be observed, the regional disparity in education coverage is considerable. The gross enrolment rate for Afar, Amhara, and Somali regional states is below the national average. Oromia is just bordering the national average. Considering the significance of proportion of school age population in Amhara and Oromia (26% and 36% respectively), the enrolment rate across region discloses significant disparity.

What is even more disturbing is the net enrolment rate (see Figure 4.1 below). Among the primary school age population 42.6% (5,942,993 primary school age children) had no access at all to education in 2003/04 academic year. Among these 78% (4,623,680 children) are found in the three regions mentioned above. The other 8 regions account for 22% (318,147 children). It should be noted, however, that the average enrolment rate for the three regions is a little over the countrywide average (59.7%) while the average enrolment rate for the other eight regions is only 47%. Excluding Afar and Somali, which are pastoral regions, the net enrolment rate for the other six regions is as high as 67%. The regional disparity in net enrolment coverage is almost a mirror reflection of the regional disparity in gross enrolment coverage. Figure 4.1 portrays the regional disparity.

Figure 4.1 Regional disparities in net enrolment coverage for 2003/04 (in %)<sup>8</sup>



Source: Table 4.2

The dropout rate has also exhibited significant regional disparity. Table 4.3 shows that the dropout rate in 2002/03 academic year ranges from 2.3% in Addis Ababa to 36.7% in Gambela regional state.

<sup>8</sup> The reference point is countrywide net enrolment rate.

## Secondary school

The gross enrolment rate ranges from 5% in Afar to 86.6% in Addis Ababa for the first cycle secondary education and from 2.6% in Afar to 38.1% in Addis Ababa for the overall secondary education (see Table 4.4 and 4.5). The gross enrolment rate in most populated regions (Amhara, SNNP, and Oromia regional states) is below the national average despite they account for 80% of the total first cycle of secondary education in the country. The following table discloses regional differences taking the countrywide gross enrolment rate as a reference point.

Table 4.8 Difference from countrywide GER for first cycle secondary education

	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
Tigray	-0.6	5.9	19.7	21.2	6.9	8.4
Afar	-9.9	-10	-10.5	-12.9	-14.2	-17.1
Amhara	-2.9	-2.5	-3.1	-5.1	-6.7	-6.4
Oromia	-1.9	-1.6	-1.7	-1.2	-0.2	0.8
Somali	-11.9	-11.9	-13.2	-14.8	-16	-18.8
Benishangul and Gumuz	-2.6	-1.7	-2.3	-0.5	0.2	6.3
SNNP	-1.2	-2	-4.6	-3.9	-0.6	-2.1
Gambela	6.3	5.3	5.6	-0.4	14.4	6.8
Harari	36.5	30.6	29.9	42.5	36.8	50.4
Addis Ababa	51.3	43.5	44.3	52.2	58.8	64.5
Dire Dawa	17.4	18.2	14.2	16.1	31	25.1

Source: Computed from Table 4.4

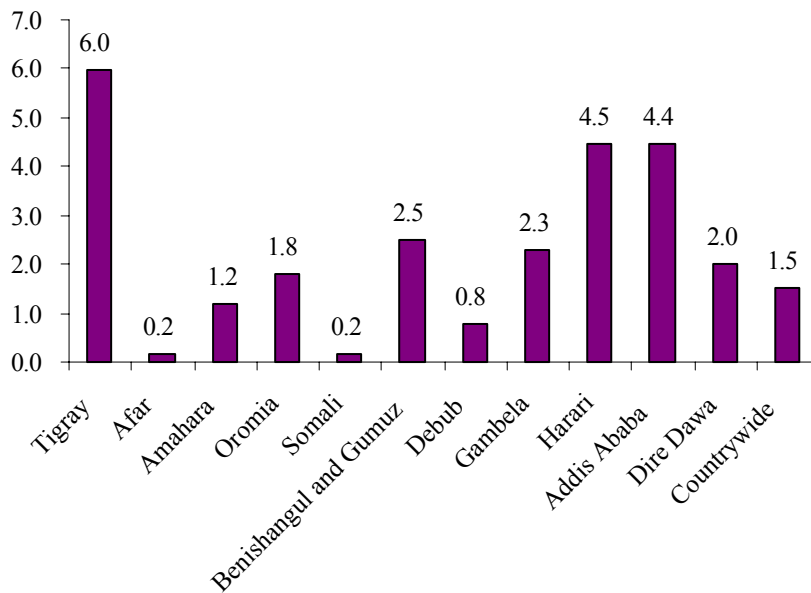
Table 4.9 Difference from countrywide GER for secondary education (9-12)

	1999/00	2000/01	2001/02	2002/03
Tigray	3.7	12.2	13.8	7.8
Afar	-7.6	-9.1	-9.5	-8.2
Amhara	-1.4	-2.5	-3.1	-2.9
Oromia	-0.5	-1.1	-0.5	0.7
Somali	-9.3	-11.9	-11.3	-9.1
Benishangul and Gumuz	-0.9	-2.0	0.1	1.1
SNNP	-0.8	-2.5	-1.6	-0.3
Gambela	5.9	5.5	-0.5	6.8
Harari	35.7	44.4	42.2	21.8
Addis Ababa	37.6	50.5	43.1	27.3
Dire Dawa	16.8	21.4	16.5	17.9

Source: Computed from Table 4.5

As may be observed, the regional disparity in secondary education coverage is considerable. The gross enrolment for Afar, Amhara, Somali, SNNP, and Oromia (except for 2002/03) regional states are below the national average. As a result of this, the regional disparity among children that dropout out of school before taking the Ethiopian Higher Education Entrance Certificate Examination (EHECE) is growing. The following table discloses the extent of disparity among regions.

Figure 4.2 Number of candidates for EHECE in 2003/04 as a ratio of second cycle secondary education school age population.



Source: Own computation form MoE, 2005

As may be observed, Tigray has the highest proportion from the second cycle secondary school age population that can manage to be candidate for EHECE or got a chance to join higher learning institution. Most regions and particularly the most populous regions (Amhara, Oromia, and SNNP) have very small proportion of their secondary school age population that can have access to tertiary education. The disparity is even reflected in absolute figures. The absolute number of candidates in Tigray was 8,799 while in Amhara and SNNP was respectively, 7,888 and 4,364, which is less than the number of candidates in Tigray. The number of candidates in Oromia was also 17,163. The number of the school age population, however, was 4.5 times that of Tigray in Amhara (if we take Tigray as a point of reference this implies that candidate for EHECE in Amhara should have been 39,595), 6.5 times in Oromia, and 3.7 times in SNNP. Two important features stand out from this: firstly, there is huge regional variation. Secondly, learning achievement is extremely limited. Larger proportions of students leave school before completing secondary school in most populous regions. This is undoubtedly in contradiction with the Government's commitment to realise the Convention. It will also lay down potential economic, social, and political disparity among regions, as education is the most critical factor in bringing about development.

#### 4.1.3.2 Gender disparity

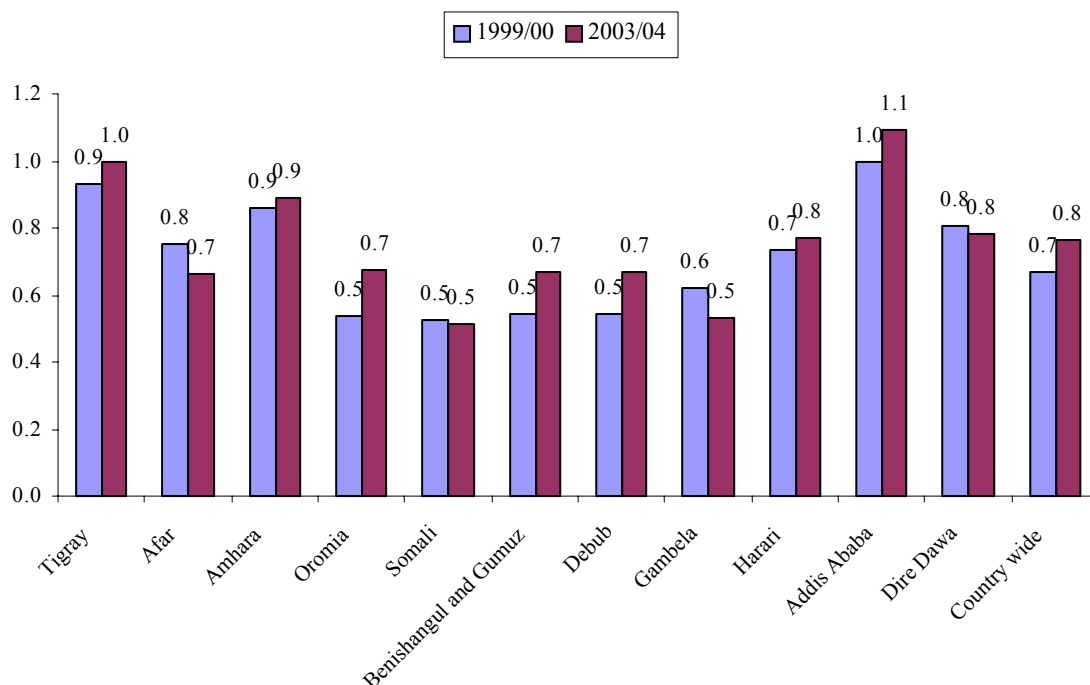
Gender disparity in education can be gauged by different methods. The common measures are Gender Parity Index (GPI), which is a ratio of girls to boys enrolment rate. While  $GPI=1$  indicates perfect equality,  $GPI=0$  stands for zero enrolment in girls.  $GPI>1$  indicates more enrolment in girls than boys. The trend in gender disparity, whether it is improving or deteriorating, can also be detected by looking at the ratio of girls to the total enrolment or by looking at the enrolment rate for girls relative to boys enrolment rate. For more vivid explanations we use graphs by using the above indicators.

##### *Primary school*

Gross enrolment rate for girls in primary school has a general improvement trend. It has increased from 41% in 1999/00 to 59% in 2003/04 while boys' rose from 61% to 77%. From this figure it can be observed that the gender parity index is also improving. It has

increased from 0.67 to 0.76 in the same period. There is also considerable regional variation in gender parity index; ranging from 0.5 in Gambela and Somali region to 1.1 in Addis Ababa in 2003/04 academic year (see Figure 4.3 below).

Figure 4.3 Gender parity index in primary school

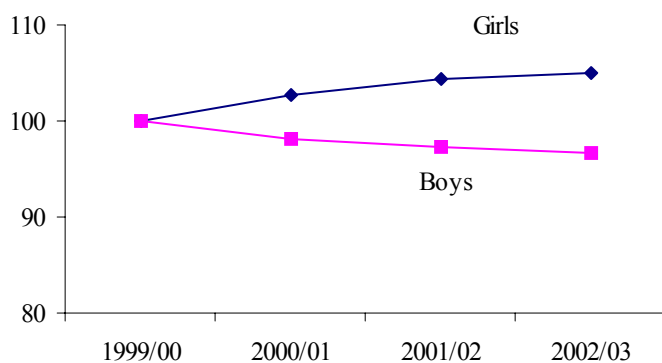


Source: MoE, 2003 and 2005

As may be observed, gender disparity in 2003/04 is zero in Tigray region and girls' enrolment rate is a bit more in Addis Ababa than boys. In the other 9 regions gender disparity is still an issue to be addressed. It should also be noted that the gender parity index has declined from what it was in 1999/00 for Afar, Somali, Gambela, and Dire Dawa regional states.

The good thing is that the share of girls from total enrolment has also increased at a rate faster than boys' enrolment rate. The following figure illustrates this statement.

Figure 4.4 Share of girls and boys from total gross enrolment rate in primary school (index 1999/00=100)



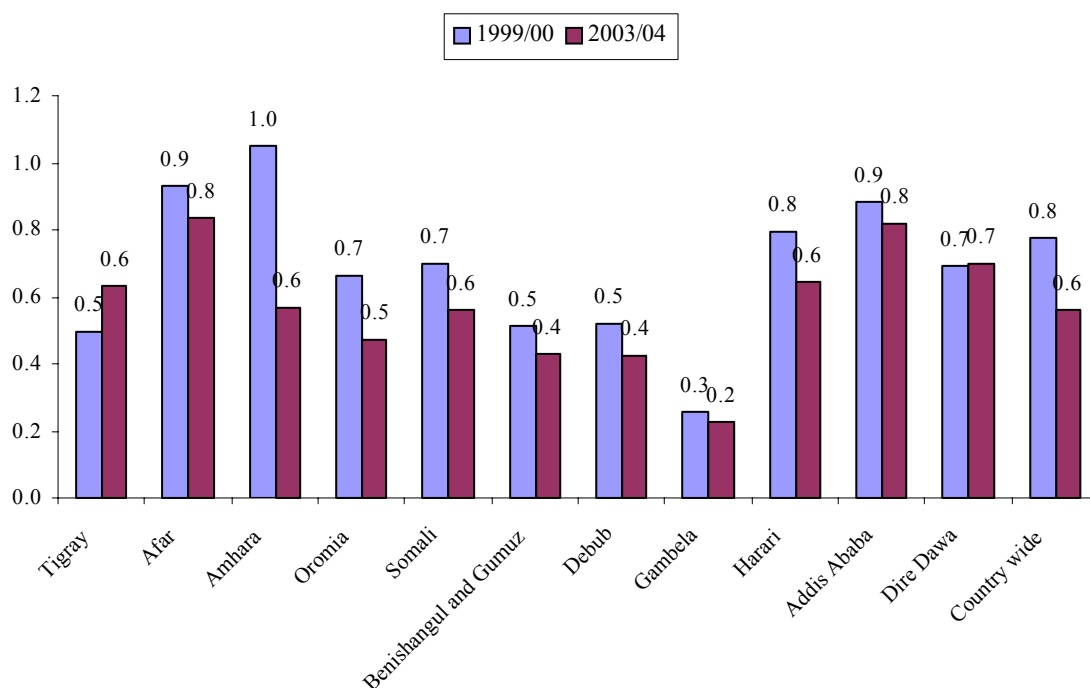
Source: Own computation from MoE 2003 and 2005

As may be observed, the rate at which girls are enrolled increases faster than boys' enrolment. It should be noted, however, that the proportion of girls that have no access to primary education is much greater than boys. In 2003/04 academic year the gross enrolment rate for girls was only 59.1% while that of boys was 77.4%.

### Secondary school

Gross enrolment rate for girls in first cycle secondary education has a moderate improvement trend. It has increased from 11% in 1999/00 to 16% in 2003/04. The rate at which girls' enrolment rate increased is also lower than that of boys. The gross enrolment rate for boys has increased from 14% to 28% for the same period. From this figure it can be observed that the gender parity index has declined implying that not only girls' participation is lower than that of boys but also it has declined relative to boys' enrolment rate. The gender parity index within regions discloses an important story. The following figure clearly heralds gender disparity within regions and comparisons across regions.

Figure 4.5 Gender parity index in first cycle secondary school

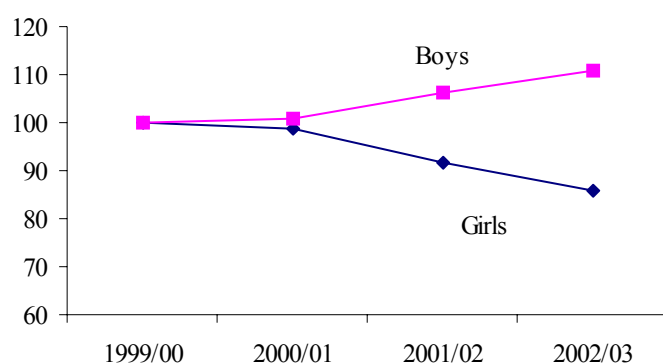


Source: MoE 2005

Two important features stand out from this figure. First, girls' participation is significantly lower than boys. When compared with gender disparity in primary education, a significant number of girls dropout from school before reaching and/or completing first cycle secondary education. Secondly, gender disparity is high among regions. As may be observed from the figure, gender disparity index has declined for all regions except Tigray, which exhibited relatively significant improvement and that of Dire Dawa, which almost managed to maintain the index of 1999/00. Among the poor performer regions, Amhara regional state experienced a disastrous decline in girls' participation relative to boys. More girls failed to continue their secondary education in Amhara than in any other regional states in the country.

The gender disparity index can also be mirrored by the share of girls from total enrolment. Share of girls from total gross enrolment rate has declined from 42.8% in 1999/00 to 36.6% in 2002/03 while that of boys rose from 57.2% to 63.4%.

Figure 4.6 Share of girls from total gross enrolment rate in first cycle secondary education (index 1999/00=100)



Source: MoE, 2003 and 2005

As may be observed, the relative movement in enrolment rate for girls and boys move in an opposite direction with a growing gap. The rate at which the absolute number of girls' enrolment increases is much lower than that of boys. For the period 1999/00 to 2002/03 the absolute number of girls enrolled in first cycle secondary education rose by 11% on average per annum while this figure was 21% for that of boys.

For the second cycle in secondary education the enrolment in 2002/03 was 79,155 out of which 22,475 (28.4%) were girls. In the year 2003/04, 94,660 students were enrolled out of which 25,471 (26.9%) were girls. The annual growth rate for gross enrolment was as low as 13% for girls compared to that of 22% for boys (computed from MoE, 2003:6 and 2005:9).

#### 4.1.3.3 Rural-urban Disparity

##### *Primary school*

A comparison of rural and urban gross enrolment for primary education reveals that among students enrolled in primary school in 2002/03 and 2003/04, rural children accounts for 69 and 70% respectively. Considering that rural children accounted for more than 85% of total primary school age population, the proportion of rural children that have access to education is lower than urban children. It should be noted also that the gender disparity is much worse in rural areas than in urban areas.

Table 4.10 Share of rural gross enrolment in primary education (1-8) regular

	2002/03	2003/04
Countrywide	69	70
Tigray	66	70
Afar	45	49
Amhara	73	75
Oromia	71	72
Somali	36	36
Benishangul and Gumuz	75	73
SNNP	79	78
Gambela	76	71
Harari	35	33
Addis Ababa	0	0
Dire Dawa	22	25

Source: MoE, 2005

### *Secondary school*

The rural-urban disparity for secondary school is much more pronounced. It seems that the secondary school education is an urban phenomenon.

Table 4.11 Share of rural gross enrolment in first cycle secondary education

	2002/03	2003/04
Countrywide	4	5
Tigray	7	9
Afar	18	18
Amhara	3	4
Oromia	4	4
Somali	8	8
Benishangul and Gumuz	6	11
SNNP	6	7
Gambela	37	18
Harari	0	0
Addis Ababa	0	0
Dire Dawa	0	0

Source: MoE, 2005

NB: The last three regions, which have zero figures, are an urban centred regional states.

## 4.2 Children's Rights to Health

### 4.2.1 Health Policy

The policy emphasises the development of the preventive and promotive components of health care with equitable and acceptable standard of health service system across all segments of the population. The health needs of children and their family are also one of the priorities that are given special attention on the policy. To this effect the federal Ministry of Health issued a twenty-year development strategy, with a three to five year rolling investment programs known as Health Sector Development Program (HSDP). The first sector development program was launched in 1997/98 and completed in 2001/02. The

second sector development program was launched in 2002/03 and is expected to be completed in 2004/05.

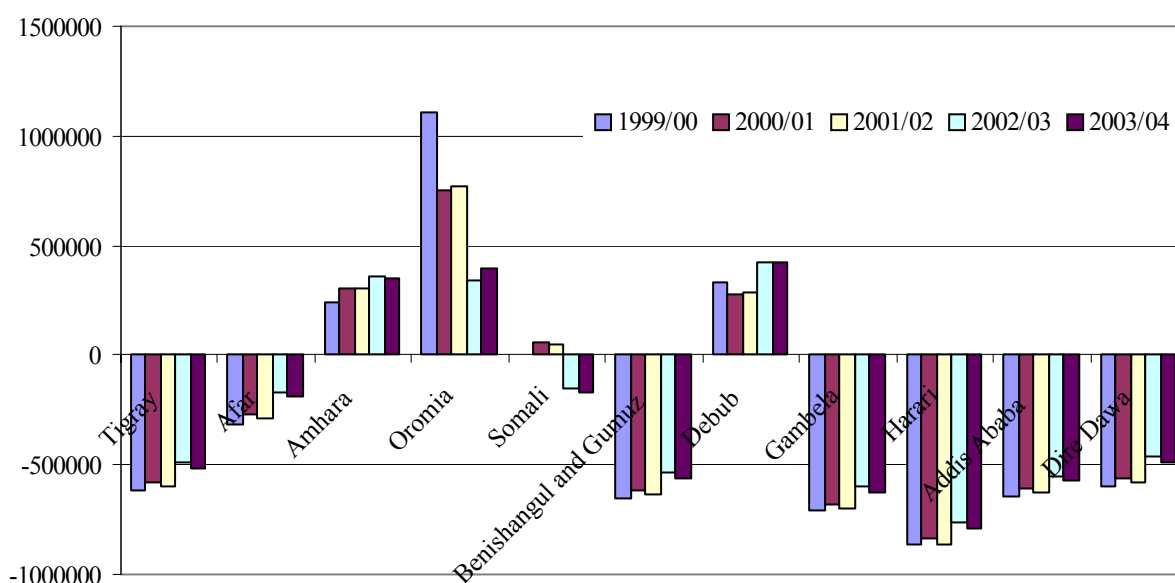
Since the issuance of this policy, there are improving trends in terms of the number of health facilities constructed. Potential health coverage of the country has also increased. The quality of the provision of health services is, however, deteriorated and the actual health service and health status of the population has not improved. Infant, child and maternal mortality rates are still one of the highest in the world. There is also considerable and growing regional variation. From the point of view of government commitment and obligation to protect children's rights to health service, a lot remains to be desired. Indeed children's right to 'highest attainable standard of health' (article 24) and most fundamental right to survival (article 6) is not yet assured in Ethiopia. Article 24 of the Convention forces state parties to recognise and ensure every child access to health facilities with emphasis on the development of primary health care, to diminish infant and child mortality, reduce disease and malnutrition through provision of adequate nutritious foods and clean drinking-water. It has also provision of ensuring appropriate pre-natal and post-natal health care for mothers.

In what follows we shall see how far health services address the needs of children and track health budget relative to the fast growing number of children. Since there is no specific health facility for children, we shall track the trend in the number of health facility relative to the number of people against the standard set by the Ministry of Health.

#### 4.2.2 Access to Health Facilities and Regional Disparity

Considering functional Government hospitals in 2003/04, on average, one hospital was for 816, 927 people with considerable regional variations ranging from 61,667 people in Harari to 1,280,455 in SNNP. There are three regions that have more than one million people for one hospital (Amhara 1,209,533, Oromia 1,254,900, and SNNP) and regions below half a million per one hospital are Tigray (342,750), Benishangul and Gumuz (297,000), Gambela (234,000), Addis Ababa (280,500) and Dire Dawa (370,000). For more details see the figure below (figures below zero shows better opportunity to access hospital).

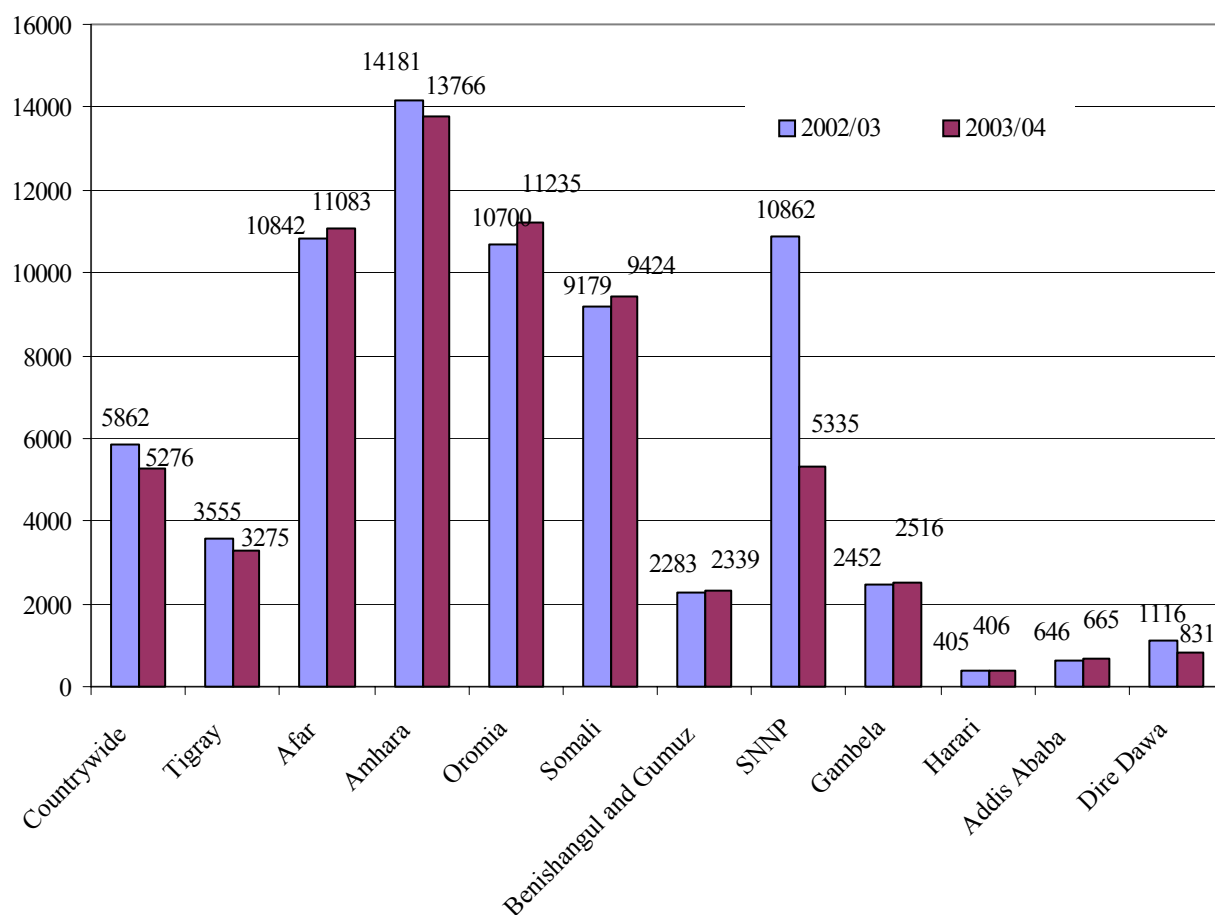
Figure 4.7 Number of people per one hospital, regional difference from the national average.



Source: Own computation from MoH 2003 and MoH (?) <http://www.fmoh-eth.org>

The last five years trend shows that relatively better access to hospital facility seems to be geared to small regions. Access to hospital facility in the three most populated regional states; Amhara, SNNP, and Oromia which accounts for more than 80% of the total population in the country is extremely limited. Furthermore, the trend in regional variation does show insignificant decline. This implies the health status of children significantly varies from region to region and access to hospital for most children is extremely limited.

Figure 4.8 Number of people per one hospital bed (including non-government hospital)



Source: Same as Figure 4.7

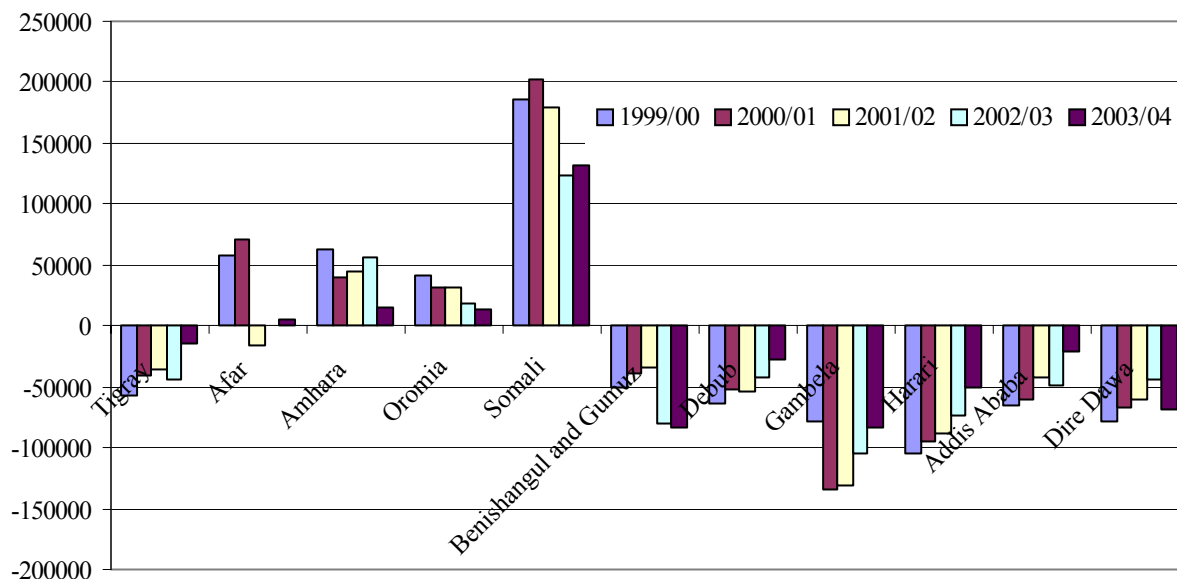
The regional patterns in the number of people per one hospital bed are more or less a reflection of hospital distribution. In 2002/03 and 2003/04 all small regions with the exception of Afar and Somali have relatively better hospital beds. The number of people per one hospital bed in these regions is below the national average. As usual the largest regions suffered from extremely inadequate hospital beds. The worst case is Amhara region, which is almost triple of the national average figure. One hospital bed in Amhara region is expected to serve about 14 thousand people.

The spatial distribution of health centre and its access, unlike hospital, is relatively better. It is moderately distributed in space and hence provides relatively better access to rural and small towns population. The number of population per one health centre is, however, 5.7 times of the standard size of population for one health centre (25,000 people). In 2003/04 the average number of population per one health centre, considering functional Government health centres, was 142,417 population with considerable regional variation. Once again the health status of significant number of children is not up to the standard.

The first health sector development program targeted to increase the number of health centres to 459 in 2001/02. What has actually been achieved, however, was only 384 (See MoH 2003:18 and Health and Health related Indicators 2003/04, <http://www.fmoh-eth.org>).

The following figure presents the average size of population per one health centre for each region and for the whole country (figures below zero shows better opportunity to access health centre).

Figure 4.9 Number of people per one health centre facility: regional difference from the national average

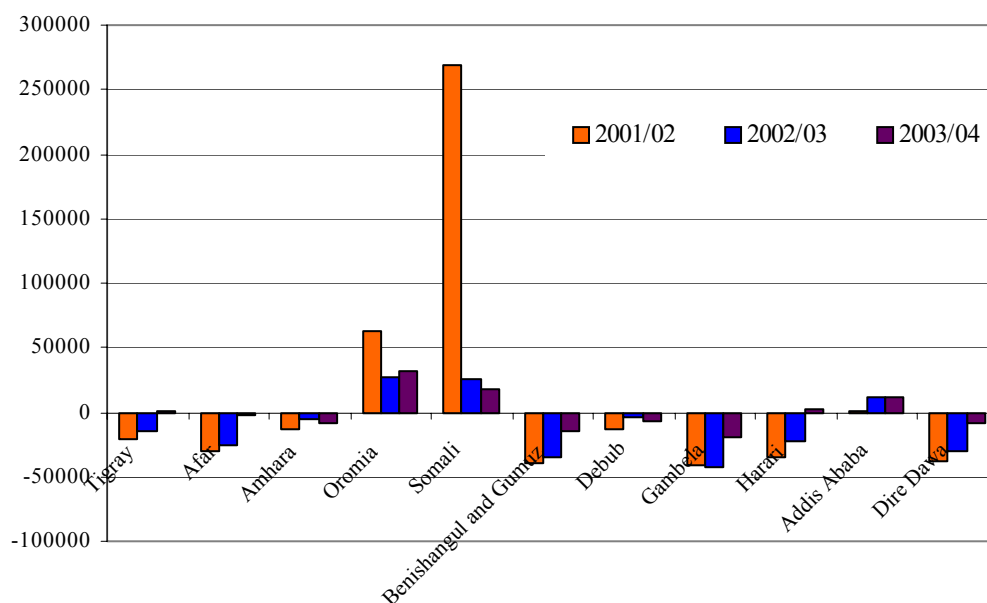


Source: Same as Figure 4.7

On average it seems that the regional variation is moderately declining but still there is substantial regional variation. Three regions are consistently below the national average through out the period under consideration. Once again the most populous regions (in this case only Amhara and Oromia) are by far behind the average figure. Most people in general and most children in particular have very limited access to health centre.

Health posts are found in most rural areas and it is the easiest health facility that can be accessed by most rural children. The number of facilities, however, is by far low. In 2003/04 one health post, on average, was supposed to serve 24,514 people. Under normal circumstances this number of people was supposed to be served by five health posts, given the standard size of 5000 people for one health post. In Gambela region the size of population is almost close to the standard size, it was 5,571. In Oromia region, however, it was as high as 57,041. One health post is expected to serve what more than 11 health posts are supposed to do. Access to health posts, the lowest and the cheapest form of health facilities, is extremely difficult. This indicates as to what extent of the health status of children is critical.

Figure 4.10 Number of people per one health post facility: regional difference from the national average.



Source: Same as Figure 4.7

The condition of hygiene and child immunisation is not different from the profile of access to health facilities described above. The coverage is poor and the regional variation is exceptionally wide. As presented in the table below, only 37% of the population have access to safe water in 2003/04. Access to safe water is one of the emerging determinant factors in child mortality. Thus, this poor indicator underscores the challenge the Government faces in ensuring the right of children to 'clean drinking-water' (CRC Art. 24.2.c).

In three years period Tigray managed to have an extraordinary achievement in the provision of safe water to its inhabitants. All other regions have failed to bring significant changes and most regions' coverage is below the national average. Indeed Afar and Dire Dawa regional states have exhibited marked decline.

Table 4.12 Access to safe water (coverage in %)

	Access to safe water	
	2001/02	2003/04
Countrywide	28	37
Tigray	15	81
Afar	17	8
Amhara	29	29
Oromia	27	36
Somali	13	24
Benishangul and Gumuz	17	29
SNNP	25	31
Gambela	16	29
Harari	49	85
Addis Ababa	98	100
Dire Dawa	54	38

Source: MoH ( ?) <http://www.fmoh.eth.org>

The utilisation of child immunisation service is still low. In 2003/04 nationally it was only 37% from the total children of age under one that are fully immunised. Immunisation coverage by region had considerable variation. In Tigray almost 7 out of ten are fully immunised; compared to Somali where one out of 25 children, Oromia where 3 out of 10,

Amhara 9 out of 20, and SNNP where nearly 5 out of ten had received all their vaccination ([Http://www.fmoh.eth.org](http://www.fmoh.eth.org)). The highest proportion of immunised children lives in Tigray while the highest proportion of un-immunised children lives in Somali. It should be noted, however, that the highest numbers of un-immunised children live in Oromia, Amhara and SNNP, in accordance with their importance.

CSA (1993) survey indicated that percentage of children ( $\leq 5$  years) with diarrhoea for the year 1992 was 8.6% and this has increased to 23.6% in the year 2000 (CSA, 2000). Fever has also exhibited the same trend.

Poor and vulnerable households in Ethiopia are faced with high risk to maintain the nutritional status of their children up to standard. The failure of the successive governments to protect households from bad weather and to transform the economy left most households to live in a most destitute situation. As a result, there is high level of malnutrition in both mothers and children. Malnourished mothers are likely to give birth to smaller and less healthy babies. Thus, malnourishment is not only a risk to today's children but also to future generations.

The nutritional status of children can be assessed using anthropometric measurements such as weight, height, and the composition of the two (for details see CSA, 2000, 1999). The height for age (low height for age or stunted) is an indicator of cumulative growth deficit caused by chronically inadequate food intake, ill health, sustained incorrect feeding practices and low socio-economic status. Weight for height (low weight for height or wasted) index measures current nutritional status or wasting. It is caused by inadequate food intake, incorrect feeding practices and ill health. Weight for age (low weight for age or underweight) is a composite of the above two measurements.<sup>9</sup>

As may be observed from the following table, the nutritional status of children continues to be poor and the absolute number of children affected increased considerably from year to year.

Table 4.13 Nutrition status of children ( $\leq 5$  years old, in %)

	Low height for age (stunted)	Low weight for height (wasted)	Low weight for age (underweight)
1983	60	8	37
1992	64	8	48
1996	66	8	
1997	67	8	
1998	55	9	44
2000	57	10	47

Source: CSA various nutritional surveys and welfare and monitoring surveys.

As may be observed from the table, nutrition status of children has shown no improvement in the last two decades. The malnutrition rate is still one of the highest in the world. In the year 2000 the average stunting and wasted prevalence in Sub-Saharan Africa was 34% and 9% respectively. The prevalence is greater in rural area where the almost half of the population live below poverty line. With regard to rural children, the CSA (1993) survey found out strong association between size of cultivated area and stunting or wasting. Stunting decreases significantly as cultivated area increases. Similarly wasting decreases as cultivated area increases. This means malnutrition is greater among farm households who have small plots of land (land is the single major source of livelihood for farm households).

Malnourishment could also be caused by factors affecting mothers during pregnancy and/or factors operating during infancy. The provision of Art. 24.2.d of the Convention

<sup>9</sup> Usually, children falling below the cut-off point of minus two standard deviation (-2SD) from the median of the reference population are classified as stunted (short for their age) for the first measurement, and as wasted for the second measurement and as underweight for the third type of measurement.

‘to ensure appropriate pre-natal and post-natal health care for mothers’ is incorporated to this effect. The Government’s effort thus far observed is, however, unsatisfactory particularly with regard to attended delivery and postnatal service.

Maternal care utilisation is extremely low in the country resulting in high levels of maternal and infant mortality. 59% of mothers in Ethiopia receive no antenatal care and 91% deliveries take place in the home without the presence of a health professional or trained midwife and about 84% of mothers do not get postnatal service (see Table 4.14). Maternal care is much better in Tigray and Addis Ababa than any other region in the country. Given the fact that more than 60% of the population are in Amhara and Oromia regional states, the extreme low maternal care utilisation indicates that maternal care is extremely poor in Ethiopia.

Table 4.14 Maternal health services coverage from expected delivery/pregnancy in 2003/04 (in %)

	Antenatal	Attended delivery	Postnatal services
Countrywide	41	9	16
Tigray	68	35	39
Afar	25	2	0
Amhara	34	8	8
Oromia	43	6	6
Somali	15	4	1
Benishangul and Gumuz	42	11	2
SNNP	41	7	41
Gambela	Na	Na	Na
Harari	51	25	14
Addis Ababa	82	40	19
Dire Dawa	48	33	2

Source: MoH (?) <http://www.fmoh.eth.org>

The growing malnourishment along with poor and inequitable coverage of basic health services led to high infant and child mortality with wide regional variation. The 2000 DHS indicated that one out of ten dies before reaching his/her first birthday and one out of six dies before reaching his/her fifth birthday. Children born to mothers with no education and with no antenatal and delivery care suffered the most mortality.

Child malnutrition must be one of the serious issues in the policy agenda fighting against poverty and for the best interests of the child. As WB (2005) noted,

- Early childhood malnutrition ... can cause irreversible damage to brain and motor-skill development, stifle human capital formation by causing delays in enrolment and later increasing the probability of grade repetition and drop-out, lower current health status, and increase the life time risk of chronic disease associated with premature mortality. Through impairing the cognitive function and process of skill formation in the next generation of workers, and increasing vulnerability to chronic illness, child malnutrition can have lasting impacts on long-run economic growth and poverty alleviation. (WB, 2005:168-9)

The observed low enrolment and growing dropout could be one of the manifestations of the high malnutrition status of the country. What is even more disturbing is child malnutrition has never been in the policy agenda of the country. The Sustainable Development Poverty Reduction Program of the country does consider child malnutrition. The neglect to consider the problems of child malnutrition in the policy agenda and hence in the budget allocation and poor health indicators underscores the challenge the Government faces in ensuring children’s rights ‘to the enjoyment of the

highest attainable standard of health' (CRC, Art. 24.1) through combating disease and malnutrition (CRC Art. 24.2.c).

The HSDP, according to the World Bank (2001) review, "had had limited impact on the delivery of basic health care to mothers and children, and had made slow progress in implementing child health activities. The main reason for the failure of the HSDP is the concentration on physical expansion of health facilities with out due consideration of its recurrent implications. In addition, there is also lack of staff capacity in terms of both number (which is related with recurrent costs) and skill levels (which is related with investment in education). In line with this, World Bank (2001:30) pointed out, "Ethiopia has an average of 20 trained health workers for 100,000 people which is extremely low even by African standards"<sup>10</sup>

One can easily infer from the above discussion that there is no considerable improvement in access to health. What worries more is that the regional disparity in the sense that access to health in the largest regions which hosts the overwhelming majority of the population is extremely poor. As a result, 'Illness events are both widespread and frequent in Ethiopia, a recent household survey suggests that their prevalence is increasing overtime' (WB, 2005:184).

To recap, health service in Ethiopia has two important features: poor access and extremely wide regional variation. The regional variation seems to have characteristics of negligence, if not discrimination, to the largest regional states and ethnic groups. This is also true in access to education. One can comfortably conclude that children in Ethiopia have no equal access. Some have more access than others.

After observing such a low enrolment rate in education and poor access to health facility with considerably wide regional disparity, the natural question that follows is what are the underlying factors behind this? This is our question to which we shall turn now.

## 4.3 Underlying Factors for Poor Access to Education and Health and wide Regional Disparity

The object of this section is to examine a budget process and public expenditure with recent changes, composition and adequacy.

### 4.3.1 Budget Process

As discussed in section 4.2, transparency, participation, accountability, and equity are basic principles that any budget process should be governed. Availability of information on budget policies, expenditures, and outcomes to the public which we call transparency and local capture allows to hold the Government accountable, to identify weaknesses in a budget, to consensus building, and to mobilise the community effectively to a better budget outcome. Public allocations should be fair and just, and should redound to all citizens equally, without discrimination based on region, gender, and rural-urban communities. We have been observed poor access and regional disparity in access to health facility in the preceding discussions. We have also observed low learning achievement and the disparity in enrolment, dropout, gender and rural-urban within and among different regional states. All these problems thus far observed are directly or indirectly related with a budget policy and process.

At policy level, children's rights in general and rights to education and health in particular are not clearly factored. It has never been considered in education and health policy and subsequent budgetary process. Neither parents (the community) nor children have access to participate in budget process/hearings. They have no any power to influence

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<sup>10</sup> The review notes average of 100 trained health workers for 100,000 people in Uganda and almost 200 to 100,000 for Tanzania (World Bank, 2001:30)

budget policy, allocation among different sectors, and even disaggregation within a budget allocated to education and health. They are not even informed how much is allocated to a specific school and/or health facility. The awareness about the Convention seems limited at federal level and very limited at regional offices. It is stated that the information at regional and Woreda offices about the child rights to education and health is extremely limited. At school and health facility level this is almost non-existent; neither the children nor staff and administration have knowledge of child rights on education and health.<sup>11</sup>

Budget decisions are made at federal and regional level. This budgetary power is constituted in the 1994 Constitution. Decisions for recurrent and capital budgets at federal level and regional subsidies are made by the House of Federation and approved by the Parliament. Due to the fiscal decentralisation, a budgetary process at federal level does not include primary education, secondary education, and health facilities. It only involves specific higher learning institutions. Budget for primary and secondary education and health facilities are exclusively left for regional Governments. The recent further fiscal decentralisation bestowed Woreda (District) local Government full authority on allocating and spending the block grant provided by the regional Government to them. The Woreda Council has full authority in budget decisions particularly for primary education and lower form of health facilities. This may be one factor for considerable regional variation as there is no even minimum standard for maintaining access to education and health across regions in the country and across Woredas within region.

Budget process at the allocation, approval, review and implementation stages, however, rarely provides people with the opportunity to participate. Sometimes, civil society may participate in a budget process only during budget authorisation stage, when the legislature conducts public hearings to discuss budget at federal level. At a lower level of Government participation and transparency are not known. Some government staff do not even have the required information on the whole budgetary process. Access to draft budget is difficult to ordinary people, if not impossible. The process involves, if at all it happens in all cases, only education and health facilities to prepare their budget and submit to their respective Woreda Offices, which in their turn submit the request to the Woreda Administration for approval and subsequent release of a budget. The experience thus far observed in different regions has mixed results. According to the Save the Children (2003) study, what is practised in Amhara and Addis Ababa regional Government has significant difference in allocating and utilising education budget. It is stated,

- “The experience from Alefa Takusa and Dembia Woredas shows that the Woredas are not fully aware of the budget process at Zone and regional levels. Since what is appropriated to them is very limited, the Woredas do not allocate budgets to Schools. Instead, they buy materials and distribute these to schools. In Zone 5 of Addis Ababa, the zone education department makes the allocation of the appropriated budget in consultation with all Government primary schools and Woreda education offices in the Zone. The schools decide on what to do with the allocated budget” (Save the Children, 2003:11).

Two features stand out from the above statement. Firstly, communities particularly children who are the prime beneficiaries of the education budget have no access in a budget process in both regional states. Secondly, while schools have access to budget in Addis Ababa this is not the case in Amhara. Leave alone children, even schools in Amhara region have no access to budgetary resources. A budget process in both regions neglected important budgetary principles such as participation, transparency, and local capture. The community has no access at all about budgetary resources and has no any checking

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<sup>11</sup> Interview with W/o Asegedech Sahile, education program, support, and follow up expert in Ministry of Education and W/o Hiwot Mengistu of MoH. See also Save the Children 2003:8-9.

mechanisms whether a budget approved to a specific school is transferred to that specific school and actually spent. This undoubtedly has an adverse impact on primary education and regional parity.

In her World Bank Workshop presentation, Legovini (2005) clearly pointed out the role of participation and local capture in the budget of primary education in Uganda. In 1991-95 it was only 13% of earmarked funds reached schools. Since early 1990s, the Government undertakes series of Public Expenditure Tracking Surveys (PETS) in primary education on flows of funds through tiers of Government. Government began publishing monthly inter-governmental transfers in newspapers, making radio announcements, and requiring schools to post budgetary information on their walls. As a result, in 1999-2000 PETS showed an increase of funds reaching schools to 80-90%. This shows as to what extent transparency is a key factor in effective utilisation of the allocated budget.

With regard to health budget, the same is true. The evaluation report on the first health sector development program that run from 1997/98 to 2001/02, reported that there is no communication within the Federal Ministry of Health among various department in general and between administrative and technical staff in particular. It was also reported "... there is very little transparency in decision-making and in budget allocations between the various stakeholders and levels" (MoH, 2003:15).

### 4.3.2 Public Spending on Education and Health

#### 4.3.2.1 An overview of total public spending on education and health

Total public spending on education and health in the country has nominally increased from 2.134 billion Birr against 2.321 billion Birr budget in 1997/98 to 3.498 billion Birr against 4.59 billion Birr budget in 2001/02. The increase in the share from total expenditure is, however, small; just from 18.8% to 19.9%. In addition, this significant nominal increases, as World Bank (2004a: 32) indicated, 'have largely been eroded by population growth'. Further more, the trend in actual expenditure relative to a budget is declining. While 91.9% of education and health budget was realised in 1997/98, it was only 76.2% of a budget that was actually spent in 2001/02. As may be observed from the following table, realisation of a budget is exceptionally low for education and health relative to defence and total expenditure.

Table 4.15 Countrywide budget versus realisation

	1997/98	2001/2002
Defence, police, militia and prison	104.8	96.6
Education	93.4	79.9
Health	88.6	65.9
Total expenditure	93.2	82.0

Source: MoE 2005.

Relative movement in real expenditures can rightly address the overall trend in education and health expenditure. However, availability of the right deflators for recurrent and capital expenditures on education and health restrain this kind of analysis. The second alternative is to gauge the trend in terms of relative share of each sector from the national budget and gross national product. The following table presents education and health expenditure as a share of recurrent, capital, and total expenditure as well as the share from gross national product.

Table 4.16 Education and health share

	1997/98	1998/99	1999/00	2000/01	2001/02
From recurrent expenditure					
Defence, police, militia and prison	29.6	46.9	54.2	38.0	30.6
Education	14.4	13.6	10.0	14.5	17.0
Health	5.0	4.5	3.0	4.5	4.8
External debt service	8.4	8.7	6.7	10.3	8.9
From capital expenditure					
Education	11.0	10.7	8.3	11.1	12.6
Health	6.3	4.3	4.8	3.0	4.1
From total expenditure					
Education	13.3	12.7	9.7	13.4	15.4
Health	5.4	4.5	3.4	4.0	4.5
Education and health	18.8	17.2	13.1	17.4	19.9
From gross national product					
Education	3.4	3.7	3.1	4.0	5.3
Health	1.4	1.3	1.1	1.2	1.6
Education and health	4.8	5.1	4.2	5.3	6.8

Source: Own computation from MoFED, various budget sources

As may be observed from the table, the share of recurrent expenditure on education and health from countrywide recurrent expenditure seems to be crowded out by defence and related expenditures. The relative movement is in an opposite direction. When there is an excessive increase in defence expenditures, expenditure on education and health has to decline. Expenditure on defence and related activities has been increasing at the expense of education and health. As a result, there is no significant increase in education. The expenditure on health rather failed to maintain even its 1997/98 relative share. The same story can be read from the relative share of capital expenditure. The relative share of both education and health expenditure from the national budget has suffered a disproportionate decline. It has recovered and increased only by 1% in 2001/02 over the last five years under consideration.

The proportion of GDP that the Ethiopian government spent on Health is even by far lower than the sub-Saharan Africa average. In 2001 public health expenditure was 1.2% of GDP while that of sub-Saharan Africa was 2.5 (World Bank, 2004b: 90).

From the previous discussion it is observed that the educational rights of about 43% of the primary school age population in 2003/04 and 89% of secondary school age population in 2002/03 remained unmet with significant regional, gender and rural-urban disparity. The health status of the population has not been improved and access to health is limited with considerable regional variation. While there are various reasons for limited and poor access to health facilities, low enrolment rate, school dropout, and regional disparity; the main reason could be inappropriate budget process, lack of adequate budget, less emphasis on quality of education and health and the resultant declining utilisation of the available capacity.

Public spending on education<sup>12</sup>

<sup>12</sup> It should be noted from the outset that the enrolment rate includes non-government schools run by private, faith-based institutions, and public (community). Our expenditure analysis, however, is entirely on government expenditure. This is mainly because expenditures by these institutions are not recorded at least at the federal level. We believe that this will not affect our analysis and the inference derived from the analysis as non-government schools accounted for only 5.3 percent in primary school enrolment and 2.8 percent in secondary school enrolment in 2002/2003. (Computed from MoE, 2005:40-45).

Nominally total public spending on education has an increasing trend. It has increased from 1.516 billion Birr against 1.623 billion Birr budget in 1997/98 to 2.7 billion Birr against 3.38 billion Birr budget in 2001/02. As may be observed, the proportion of actual spending from the budget has declined from 93.4% to 79.9%. Unpacking this to recurrent and capital discloses a substantial decline in capital spending. While the proportion of actual spending in recurrent budget declined from 97.9% to 91.7%, the proportion in capital budget deteriorated substantially, from 82.6% to 61.0%.

The small decline in recurrent budget may be understandable, as the overwhelming budget is salary where there is very little room for shifting resources to other areas and for less absorbing capacity. In capital budget, however, there is always a room to shift resources and to under-spend. Procurement bottleneck, contracting delays and insufficient contracting capacity can be mentioned as an explanatory factor. However, this does seem the case as the proportion of utilisation of the authorised capital budget exhibited a general deteriorating trend for the period under consideration. This is either absorbing capacity problem or shift of the health budget to other areas. As discussed in Chapter 3, a budget document does not show why expenditures are less than the allocated funds and why funds are spent for purposes other than those that are authorised. It does not tell also what happens to the unutilised portions of the allocations and does not indicate leakage, if any, in the amount expended.

While a budget process somehow is the same in all regions, the disparity in enrolment, dropout, gender and rural-urban within and among different regional states thus far observed is directly or indirectly related with the amount spent in each region. This can be tracked by looking at the proportion of education expenditure from total expenditure and per capita expenditure with respect to primary and secondary school age population.

Table 4.17 Share of education from total expenditure (in %)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
Countrywide <sup>13</sup>	13	13	10	13	15	Na
Tigray	21	25	32	34	37	38
Afar	15	14	12	12	15	18
Amhara	28	30	32	43	37	37
Oromia	32	46	38	36	38	Na
Somali	17	15	10	12	13	12
Benishangul and Gumuz	15	16	15	16	18	Na
SNNP	33	31	37	40	40	Na
Gambela	17	34	32	30	24	27
Harari	21	28	31	30	29	27
Addis Ababa	13	13	17	27	18	Na
Dire Dawa	21	21	25	26	15	Na

<sup>13</sup> It includes federal and regional government expenditure.

Source: Same as Table 4.16

As may be observed, the share of education expenditure in most regions is well above the countrywide average. The higher proportion of spending must be read cautiously, however. Despite the high proportion of spending in Amhara, Oromia and SNNP regions; enrolment rate for primary school in Amhara region and enrolment rate for secondary school in Amhara, Oromia and SNNP region is below the national average. This is mainly because the relatively high proportion of spending did not match with the large volume of school age children; expenditure per school age child. Education expenditure per school age child in these regions is significantly lower than other regions whose share of education expenditure is even low. Put differently higher proportion of education expenditure does not necessarily mean better capacity creation in education. The key variable for better access to education is the amount of expenditure per school age child, particularly capital expenditure.

Capital expenditure on primary education per primary school age child and capital expenditure on primary and secondary education per primary and secondary school age child give a clear evidence for our claim. As presented in Table 4.18a and 18b, per capita capital expenditure in Amhara and SNNP is consistently below the national average. Oromia is also below the national average for the first two years and a little over in the subsequent two years. If we take an average figure for the whole years, Oromia is also below the national average.

Table 4.18 Nominal education spending per child (in Birr)

5.18a Primary education capital expenditure per primary school age child

	1998/99	1999/00	2000/01	2001/02	2002/03
Countrywide	8	9	13	12	Na
Tigray	3	25	22	25	37
Afar	30	18	16	23	73
Amhara	7	3	6	3	6
Oromia	7	5	14	14	Na
Somali	12	3	1	9	6
Benishangul and Gumuz	44	44	17	27	Na
SNNP	3	7	9	10	Na
Gambela	281	244	127	34	75
Harari	32	65	103	107	28
Dire Dawa	18	2	59	9	Na

5.18b Primary and secondary education capital expenditure per capita<sup>14</sup>

	1998/99	1999/00	2000/01	2001/02	2002/03
All regions	7	8	11	11	Na
Tigray	6	21	22	29	36
Afar	46	27	13	20	65
Amhara	6	3	7	5	8
Oromia	5	4	12	13	Na
Somali	10	5	1	6	7
Benishangul and Gumuz	43	31	16	19	Na
SNNP	3	5	7	7	Na
Gambela	217	173	87	26	51
Harari	21	43	140	91	50
Addis Ababa	1	38	51	29	Na
Dire Dawa	22	51	53	18	Na

<sup>14</sup> This is calculated as a ratio of capital expenditure in primary and secondary education to primary and secondary school age population.

Source: Same as Table 4.16

Total public spending on education per capita (taking the whole population into consideration) has nominally increased from 25.3 Birr to 40.2 Birr. This is from 6.6 Birr to 11.8 for capital spending and from 18.7 Birr to 28.4 Birr for recurrent spending. This does not necessarily mean expenditure per capita has increased in real terms. Given the substantial increase in enrolments, real spending per student is expected to decline. In line with this, the World Bank (2004a: 32) found that 'real recurrent spending per student has in fact fallen, by about 20 percent since 1996/97 at the primary level, and by about 15 percent at the secondary level'. Real expenditure per student has declined consistently in the last five years, as shown in the table below.

Table 4.19 Real recurrent budget per student (in Birr)

	1997/98	1998/99	1999/00	2000/01	2001/02
Primary	122	117	105	98	95
Secondary	502	502	436	468	472
Average total	174	175	154	151	150

Source: WB 2004a: 36

The composition of recurrent spending is biased towards payments of salaries to the neglect of non-salaries recurrent spending, which compromises the quality of education. In 2001/02 academic year, 97% of the recurrent budget for primary education was for payments of salaries and 81% for secondary education (World Bank, 2004a: 37). It seems that the regional governments focus on expansion of teachers to cope up with growing enrolment crowded out non-salaries recurrent spending in education. Spending on operation, maintenance, supplies such as textbooks and other materials are critical to keep the quality of education and to utilise the capacity created at optimum level. Spending on maintenance has declined while the number of schools increased substantially (for details see World Bank, 2004a: 39). The availability of textbooks is highly declined. It is limited to the extent that 20 students have to share just one textbook (see Save the Children 2003:18-19). Thus, it can be fairly concluded that non-salaries expenditure is critically low and inadequate.

The result of this relatively low expenditure in regions mentioned above is reflected by increased school age population per education facilities (See Table 4.20) and by the resultant relatively low enrolment rate in primary school (see Table 4.3) and stagnating and at times declining enrolment rate in secondary school (See Table 4.6) and very limited access to higher education (see Figure 4.2). The main explanation for low enrolment particularly in secondary school, regional disparity, and poor performance in protecting child rights to education is, therefore, relatively low expenditure on education and the resultant slow growth in school facilities relative to school age population and enrolled students.

Table 4.20 School age population per education facilities in 2003/04

	Per one primary school	Per one secondary school
All regions	1058	10509
Tigray	787	6417
Afar	1334	17198
Amhara	1135	13604
Oromia	1003	9613
Somali	2735	27678
Benishangul and Gumuz	401	2723

SNNP	1112	11789
Gambela	269	3510
Harari	568	3700
Addis Ababa	1043	4290
Dire Dawa	797	4495

Source: MoE, 2005 and CSA various sources

What logically follows from the above discussions is that the quality of education suffered significantly. Due to disproportionate increase in capital expenditure relative to enrolment rate, the student teacher ratio and student section ratio has deteriorated dramatically. The student teacher ratio (number of students per teacher) for primary school has increased from 25 in 1992/93 (World Bank, 2004a: 41) to 65 in 2003/04 (computed from MoE, 2005) at national level with considerable regional variation. The highest ratio is observed in Amhara (from 62 in 1999/00 to 71 in 2003/04) and Oromia (from 53 to 72 in the same period) regional state. It is only Tigray, Harari, Addis Ababa and Dire Dawa that managed to reduce the ratio.

What we have observed is an average figure, which masks school variation and the magnitude of the problem. World Bank (2004a: 41) noted that it is not uncommon to come across 100, 120 or more students per teacher and in SNNP there are even cases where you can find over 200 students per teacher. Ethiopia has too many primary students per teacher even by Sub-Saharan African standard. In Sub-Saharan Africa there were only 45 primary students for one teacher in 2001/02 (World Bank, 2004b: 74). The same is true for secondary education.

Despite the objective of the first Education Sector Development Program, which targets 50 students in one section in primary school by 2001/02, the student section ratio has increased overtime from 63 students in 1998/99 to 74 students in 2003/04 (in 2001/02 it was 73). The highest section size is again in Amhara, Oromia and SNNP regional states. In its case study in Amhara and Addis Ababa, Save the Children (2003:20) found that there are cases where the student section ratio reaches 178 in specific schools in Amhara regional state. The situation is even worse for secondary school. Effective teaching-learning process can take place only if there is a standard size of number of students per section and teacher. In the case observed above, the education system is not effective and efficient. The situation seems to increase unabatedly as the rate at which the number of teachers and schools increases at much lower rate than the rate at which enrolment rate increases. This is mainly due to the unmatched growth rate of capital budget to attain what was prescribed in the first Education Sector Development Program. In this respect we can say that children's rights to quality of education is unmet.

#### *Public spending on health*

Nominally total public spending on health has an increasing trend. It has increased from 618 million Birr against 698 million Birr revised budget in 1997/98 to 798 million Birr against 1.21 billion Birr budget in 2001/02. As may be observed, the proportion of actual spending from the budget has declined from 88.6% to 65.9%. Unpacking this to recurrent and capital discloses a substantial decline in capital spending. While the proportion of actual spending in recurrent budget declined from 95.7% to 90.2%, the proportion in capital budget deteriorated substantially, from 78.5% to 41.9%.

The small decline in recurrent budget may be understandable, as the overwhelming budget is salary where there is very little room for shifting resources to other areas and for less absorbing capacity. In capital budget, however, there is always a room to shift resources and to under-spend. Procurement bottleneck, contracting delays and insufficient contracting capacity can be mentioned as an explanatory factor. However, this does seem

the case as the proportion of utilisation of the authorised capital budget declined consistently. It has declined from 78.5% to 48.9, 37.1, 23.7 and 41.9% from the year 1997/98 to 2001/02 respectively. This is either absorbing capacity problem or shift of the health budget to other areas. Further explanation is, however, constrained by lack of information. In a budget document there is no explanation for why actual spending is less from the already authorised budget.

Total nominal public spending per capita on health has marginally increased from 10.3 Birr in 1997/98 to 11.9 Birr in 2001/02. Translated into recurrent and capital this is from 3.8 Birr to 3.8 Birr for capital spending and from 6.5 Birr to 8.1 Birr for recurrent spending. Undoubtedly there is a significant decline in real expenditure per capita in health. This is the major factor for poor access for millions of children to health facilities.

Expenditure, particularly capital expenditure is a key determinant factor for better access to health facility. Thus, the poor access observed in the previous discussion and the regional disparity thus far observed is directly related with the amount spent in each region. This can be tracked by looking at the proportion of health expenditure from total expenditure and per capita expenditure with respect to children population.

Table 4.21 Share of health from total expenditure (in %)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
Countrywide	5	4	3	4	5	Na
Tigray	18	20	21	16	17	16
Afar	10	10	8	6	11	13
Amhara	13	13	12	8	10	10
Oromia	11	11	10	10	13	Na
Somali	13	12	10	10	6	8
Benishangul and Gumuz	14	13	11	9	9	Na
SNNP	13	11	14	11	11	Na
Gambela	13	12	11	8	9	12
Harari	13	22	16	14	13	19
Addis Ababa	7	6	7	7	8	Na
Dire Dawa	14	12	16	13	10	Na

Source: Same as Table 4.16

As may be observed, the share of health expenditure in all regions is well above the proportion in the countrywide average with modest regional variation. Health expenditure per child, however, discloses significant regional variation, as shown in Table 4.22 below. The least expenditure is once again in the largest regions, Amhara, Oromia and SNNP regions including Somali.

This implies that the overwhelming majority of children's access to health facilities is limited in the sense that the first three regions mentioned above account for more than 80% of children in the country. This is mainly due to lower expenditure per capita in these regions relative to other regions.

Table 4. 22 Health expenditure per child (in Birr)<sup>15</sup>

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
Countrywide	19	20	17	19	22	Na
Tigray	36	34	33	31	34	42
Afar	22	38	34	19	35	57

<sup>15</sup> This is calculated as a ratio of total public health expenditure to children (0-18 age).

Amhara	14	14	11	10	12	16
Oromia	13	11	10	13	17	Na
Somali	14	13	13	11	8	13
Benishangul and Gumuz	61	73	60	51	60	Na
SNNP	14	13	13	11	13	Na
Gambela	124	118	107	90	96	145
Harari	152	147	109	123	142	175
Addis Ababa	44	41	46	59	62	Na
Dire Dawa	50	43	53	45	62	Na

Source: Same as Table 4.16 and CSA various sources

When we breakdown the expenditure and see closely capital expenditure that creates better access through capacity creation in health sector, the same story can be retrieved. As shown in Table 4.23, per child capital expenditure in Amhara, Oromia, and SNNP regions is not only below the national average figure throughout the period under consideration but also unacceptably low when compared with other regions.

Table 4. 23 Capital expenditure on health per child (in Birr)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
Countrywide	7	5	5	5	7	Na
Tigray	18	13	14	12	9	12
Afar	12	25	23	7	14	33
Amhara	6	4	3	1	2	2
Oromia	5	3	2	4	7	Na
Somali	9	7	7	5	2	4
Benishangul and Gumuz	37	35	33	17	17	Na
SNNP	7	5	6	3	2	Na
Gambela	65	56	43	25	25	54
Harari	59	41	6	8	17	39
Addis Ababa	7	2	4	13	11	Na
Dire Dawa	22	10	26	8	14	Na

Source: Same as Table 4.16 and CSA various sources

To recap, the supply of education and health facilities is limited in Ethiopia by any standard. Furthermore, there is considerable regional variation. Extremely low expenditure per capita on health in the largest regions, which hosts the overwhelming majority of children remains a challenge to meet children's rights to health services and also needs explanations.

The next question that might logically follow from what we have discussed so far is looking for the underlying factors behind this low expenditure per child in education and health. The likely answer lies on availability of resources. Budgetary resources available for expenditure come from two sources: federal Government regional subsidy transfers and locally generated revenue.

Let us see first the patterns of federal subsidy transfers to regions. Although there are other factors like expenditure need, poverty level, and revenue generating effort; the main factor taken into consideration for federal subsidy transfers to regions is the size of population. It is, therefore, appropriate to take subsidy transfers per capita in each region whether there is a fair subsidy transfer for fair achievement in protecting children's rights

to education and health across regions. The following table presents what has actually been transferred for the last six years.

Table 4.24 Federal subsidies transfer per capita be region and countrywide (in Birr)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
All regions	54	54	43	60	61	71
Tigray	79	68	57	83	77	106
Afar	159	185	138	170	181	205
Amhara	46	45	32	50	52	59
Oromia	43	40	28	49	55	56
Somali	64	60	61	81	82	94
Benishangul and Gumuz	308	295	227	278	310	352
SNNP	49	52	40	50	49	65
Gambela	406	663	457	579	609	633
Harari	433	348	346	380	385	409
Addis Ababa	12	39	51	21	50	6
Dire Dawa	125	112	73	114	251	256

Source: Same as Table 4.16 and CSA various sources

If we take the countrywide average as a point of reference, regions that have received relatively small share from the federal subsidy transfers are Amhara, Oromia, SNNP, and Addis Ababa. As may be observed from Table 4.25, the small share of Addis Ababa is understandable as it generates the highest local revenue relative to other regions. The case in the other three regions remains puzzling. If we see the revenue effort made locally, these three regions have relatively limited capacity. Locally generated resources are limited and one can presume the expenditure need in these regions is immense as they constitute more than 80% of total the population and as well as children in the country.

Table 4.25 Regional revenue (locally generated) per capita (in Birr)

	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
Tigray	27	23	23	26	24	26
Afar	9	9	14	11	15	13
Amhara	12	12	12	12	13	14
Oromia	19	18	22	22	23	21
Somali	10	7	6	7	8	10
Benishangul and Gumuz	16	19	27	26	28	Na
SNNP	14	13	14	13	14	14
Gambela	38	46	43	43	48	45
Harari	55	63	65	60	72	90
Addis Ababa	290	271	293	312	270	Na
Dire Dawa	50	55	86	58	66	Na

Source: Same as Table 4.16 and CSA various sources

What is observed from the discussion so far is that there is no synergy among the government commitment to protect child rights and resource allocations. Child rights are not considered in education and health policies and the subsequent budgetary process. As a result there is a co-ordination failure between child rights and various policy provisions. In line with this Save the Children (2003) in its study on Government budget allocation for primary education stated,

- “The ETP (Education and Training Policy) and the ESDP (Education Sector Development Program), the health policy and health sector development program, the social welfare policy, etc. are seen as distinct from each other. Each of the ministries and regional sector bureaus emphasise their responsibilities in implementing their respective policies and sector development programs in isolation. The relationships and the need for integrating the various policies, sector development program and the CRC are not well recognised” (Save the Children, 2003:8-9).

## 5. Conclusions and recommendations

The discussions in the foregoing sections challenge that whether Ethiopia has adopted favourable policy, legal and programmatic measures for implementation of the CRC. The country has, of course, officially ratified the CRC in 1992, a measure that makes it part of the law of the land. Further measures in having the official translation and the publication of the text in the country's official law gazette is necessary. This is also a point of recommendation made by the UN Committee on the Rights of the Child. Ethiopia has also gone further and incorporated the basic ideas of the CRC in the 1994 Constitution of the FDRE.

Law reforms have been made in the areas of domestic relations, criminal law, child labour and related fields. Officially, at least, children seem to have been freed from deep-rooted harmful traditional practices such as early marriage, abduction, and female circumcision. Of course, much requires to be done in terms of protecting children from age-old practices that subject them to various forms of oppression, abuse and neglect. As the majority of the country's children live in abject poverty and in a cultural environment that very much subscribes to practices that are unfavourable to the rights and welfare of children, the implementation of these laws is the more difficult task awaiting all.

For obvious reasons the country is very far from realizing the lofty objectives on the economic, social and economic rights of children that are enshrined in the various provisions of the CRC. Other than educational and health issues, which by themselves are too low even by Sub-Saharan African Standards, no meaningful work seems to have been accomplished by the government and other relevant organs to address the ever increasing problem of vulnerable children. Not even mention is made of them in the national budget that appears every year in our law book.

Even when we consider education and health services that have a place in the national budget in Ethiopia, facts on the ground clearly depict that they have two important features: poor access and extremely wide regional variation. One can comfortably conclude that children in Ethiopia have no equal access. Some have more access than others.

On top of low enrolment rate and the mismatch between the prevailing stock of schools and the growing rate of population, the Ethiopian education sector is broadly characterised by a range of complex problems: high and growing drop-out rate, poor quality of education, lack of text books and teaching materials, highly congested classrooms, and inequity in access (gender, rural/urban, regional) to education.

The sluggish expansion of primary education, in the face of the increasing demand for the same, suggests that it is difficult if not impossible to reach millions of out-of-school children and attain universal primary education by 2015. Given Article 28 (1-a) and (1-d) of the Convention, which articulate making primary education compulsory and available free to all, the current enrolment rate is a critical problem that calls the attention of both the federal and regional governments. Much remains to be done in order to enforce the child's rights to access primary education. What is even more disturbing is most children cannot pursue their secondary education. The main reason is simply there is no access. The enrolment rate in secondary education is extremely poor, net enrolment is just below 10%. It can be inferred that the resultant school leavers and increasing number of youth unemployment demonstrates the inefficiency of the education system.

Access to health is not only poor but there is considerable regional variation. In 2003/04 the countrywide average figure for one hospital was for 816,927 people. The largest regions Amhara, Oromia, and SNNP have more than one million while all other small regions have less numbers from the countrywide average. The same is true for health centre. Health posts, which are mostly found in rural areas and accessible by the overwhelming majority of children, are very low in number relative to the population. In

2003/04 one health post, on average, was supposed to serve 24,514 people. Under normal circumstances, this number of people was supposed to be served by five health posts, given the standard size of 5000 people for one health post. All these indicators reveal poor health status of children and unequal access to the services provided in the country.

The condition of hygiene and child immunisation is no different from the profile of access to health facilities described above. The coverage is poor and the regional variation is exceptionally wide. Only 37% of the population had access to safe water in 2003/04. As a result of this, poor health status and the overall high incidence of poverty, the nutritional status of children continues to be poor and the absolute number of children affected increased considerably from year to year. The growing malnourishment, along with poor and inequitable coverage, of basic health services led to high infant and child mortality with wide regional variation.

All these poor health and related status of children underscores the challenge the Government faces in ensuring the right of children to 'clean drinking-water' (CRC Art. 24.2.c), 'to the enjoyment of the highest attainable standard of health' (CRC, Art. 24.1) through combating disease and malnutrition (CRC Art. 24.2.c).

The underlying factors for poor access to both education and health and wide regional disparity are found to be inappropriate budget process, lack of adequate budget, siphoning off the allocated budget, ineffective spending and unfair federal subsidies to regions. These problems are a reflection of poor policy. Children's rights in general and rights to education and health in particular are not clearly factored in any policy and, hence, have never been considered in a budget process. Neither parents (the community) nor children have access to participate in budget process/hearings. They have no power to influence a budget policy and its allocation among different sectors, and even disaggregation within a budget allocated to education and health. They are not even informed how much is allocated to education and health. This requires a concerted effort for the future with no time delay to undertake series of public expenditure tracking surveys in education and health on flows of funds through tiers of Government. This has to be supported by newspapers/leaflets, radio announcements requiring education and health facilities to post budgetary information on their walls. This will improve effective utilisation of a budget and for further mobilisation of resources from the community, donors, and government.

Regional governments have to increase the quality of education and health services by constructing new schools and health facilities and by increasing non-wage recurrent expenditures. In addition to this, unfair federal subsidy and low capacity of revenue generation (different actual economic base of the regions) of regions play an important role for poor access and regional disparity. Rules and regulations about federal transfers should be observed strictly for fair budget transfers and should also be reviewed/revisited to support regions with relatively low access to education and health, particularly the largest regions, Amhara, Oromia and SNNP which account for more than 80% of children in the country.

Given poor access to education and health and wide regional disparity (which is tantamount to ethnic disparity as regions are delimited along ethnic and linguistic lines), unfair federal subsidy, and different regional capacity to generate local revenue; there is already an indication of economic, social, and political disparity among regions. As a result, the risk exists for ethnic and regional tensions, which may lead to further deterioration of protection of child rights. In line with this, WB (2003) also warns that the risk exists for ethnic and regional conflict if the gains of reforms are perceived to be inequitably distributed. Federal and regional governments, policy makers, development actors, and donors are therefore required to leave every stone unturned to meet these challenges through a concerted effort.

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# Annex I

Questionnaire to be filled in by relevant organs and individuals in relation to the study on good governance in the context of child rights.

## *Part one: General*

What is your overall assessment of the UN Convention on the rights of the Child (CRC)?

Can you give us your views on the inter-relationships between the CRC, the Constitution of the Federal Democratic Republic of Ethiopia (FDRE) and other laws and policies of the country relevant to child rights?

What is your view regarding the relation of good governance and effective implementation of laws?

How do you see the contents and implementation of the CRC in terms of good governance?

Now that Ethiopia has ratified the CRC, what do you think are the legal, administrative and other measures so far undertaken by Ethiopia and those that you feel should be taken?

## *Part two: Specific Issues*

1. What do you think are the duties and responsibilities of your organization in terms of implementing the CRC?
2. Please explain to us the capacity of your organization in realizing the provisions of the CRC against the following indicators. (a) Human resources; (b) Budget; (c) materials and (d) Others.
3. Can you describe to us specific measures taken by your organization in implementing the CRC?

Please answer the following questions in line with the principle of transparency and accountability.

1. Which programmes of your organization are directly related to children?
2. What are the means that you employ to put these programs into action?
3. Do you have mechanisms in place for monitoring the effective implementation of these programs?
4. How severe, do you think, are violations of child rights? What are the most common forms of violations of child rights? In which social groups are children more vulnerable to violations of their rights? How serious are violations of rights of girls, children with disabilities and those coming from the lower strata of the society?
5. Do you have something to comment on the attitude of children regarding violations of their rights?

Please reflect on the coordinated activities to be undertaken for the realization of child rights:

1. between the different organs of the federal government;
2. between organs of the federal government and those of the state governments;
3. between the government and civil society organizations, including NGOs;
4. on the follow up and monitoring mechanisms set up for the implementation of the CRC;
5. on the contents of the periodic reports so far submitted by Ethiopia on the implementation of the CRC;
6. on the supplementary reports submitted thereon by NGOs;
7. on the comments and concluding observations thereon by the UN Standing Committee on the CRC;
8. on measures taken to harmonize the country's laws and administrative regulations with the CRC.

Can you comment on the effects uncoordinated activities have on the implementation of the CRC.

What administrative measures are being taken by the government to ensure the activities of NGOs are in accord with the CRC. You may comment on this point in the light of the services rendered by kindergartens, primary schools, health facilities, play grounds for children and work places. What are the regulatory functions that would compel organizations working in this area to observe standards and rules in this area?

Are there studies conducted to assess the impacts of laws and policies on children? If the answer is in the affirmative what do they show? If it is in the negative what are the reasons for the absence of such study?

Are there monitory activities on the implementation of the CRC within

1. government agencies;
2. committees set up in the parliament;
3. NGOs, academic institutions, human rights groups, professional associations, etc.
4. Please state activities undertaken in the following areas in terms of capacity building and training:
  5. concerned government officials and employees;
  6. parliamentarians;
  7. law enforcement officers such as the police, prison attendants, members of the defence forces, etc.
  8. members of the media;
  9. others such as teachers, social workers and religious institutions.

Please explain works conducted in disseminating the CRC and distributing its copies in the light of the following indicators.

1. translating the text of the CRC in the working languages of the federal and state governments;
2. preparation of explanatory materials on the contents of the CRC;
3. disseminating the CRC in the media;
4. incorporating the ideas of the CRC in curricula;
5. familiarizing the CRC to persons working in the provision of services to children.

How do you assess the annual work programme and budget of your organization in the light of child rights?

Please comment on the following points regarding children whose rights are violated.

1. on the level of seriousness of physical, emotional and sexual abuse of children;
2. on measures to be undertaken for the rehabilitation of child victims;
3. on measures taken against the abusers and on the preventive measures that need to be in place;
4. on the capacity and competence of government agencies and NGOs working in this area.

What is your view on children in conflict with the law in the light of the following and related issues?

1. the law and the competence of law enforcement organs;
2. reasons for the prevalence of children in conflict with the law;
3. possible measures to be taken to address the problem.

Are there measures adopted by your organization to tackle the problem of street children? What further actions do you feel need to be taken?

Please comment on actions to be taken to combat child exploitation, the magnitude of the problem and its social roots.

Can you comment on the implementation of the CRC from a gender perspective?

Generally please share us your views on the activities undertaken to implement the CRC, on problems encountered, their possible solutions and the future programme, if any, of your organization in this regard.

## Annex 2

Checklist that guide discussions with Ministry of Education and Ministry of Health in relation to the study on good governance in the context of child rights.

### Checklist for Ministry of Education

#### *Part one: General*

Does budget allocation consider child right to education?

Does the Government establish its own standards or parameters that relate to human/children rights to education?

What are the budget principles taken in to account in budget preparing and implementation and follow up?<sup>16</sup>

How is the budget allocated: does it identify amount required for badly needed education facilities?

Does the community participate in budget process/hearings? Can they influence the legislators to reject any allocations that may appear to obstruct children rights and instead to realign these allocations to fund the badly needed education facilities? Do children and their parents know how much is allocated to education? Are children's particular views and experiences listened to and incorporated into budget, project planning, implementation, and evaluation? Are any special measures being taken to encourage all children to participate?

Do children in all places have equal access to education and equal budget for education?

Does the budget process consult the affected children (vulnerable groups) to determine what kinds of education facility are most needed for them to enjoy and exercise their rights?

#### *Part two: Specific issues*

Does education budget disaggregated at different levels (primary education, secondary education, vulnerable groups that needs additional support, and rural/urban)?

What support is offered to parents to help their children, including disabled children in promoting their rights to education?

Do the teachers use active child-centred teaching methods to meet the different learning styles of boys and girls in general and vulnerable groups in particular? Do the curriculum and educational materials portrayed the roles of girls and boys? Or do teaching methods preserve existing stereotypes and traditional children and gender roles or does it promote change?

What kind of support is provided to help children develop their capacities to speak up and make informed choices?

What efforts are being made to influence the media to avoid [stereotypes](#), which increase [prejudice](#) against different groups of children particularly the vulnerable groups?

Have children been consulted about how their rights to education are respected and about their main concerns and difficulties?

What are the opportunities and most significant obstacles for equal access to existing education facilities?<sup>17</sup>

Is gender awareness, discrimination, and sexual and reproductive health education part of the school curriculum?

What are other organisations involved in promoting children access to education?

Which organisations work on children rights in general and access to education in particular?

In what ways could your organisation link and network with other NGOs, community-based organisations (CBOs), the UN and the private sector, etc to enforce and protect children rights to education?

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<sup>16</sup> Hint: transparency, participation, accountability, equity, non-discrimination and equality.

<sup>17</sup> Hint: school fees, work burdens of girls/boys, class sizes, distance from school, security, sexual harassment by teachers and students, ...

Are there any kinds of co-ordination for gathering, organising and disseminating information regarding children's rights to education?

## Checklist for Ministry of Health

### *Part one: General*

Does budget allocation consider child right to health facilities?

Does the Government establish its own standards or parameters that relate to human/children rights to better health condition?

What are the budget principles taken in to account in health budget preparing and implementation and follow up?<sup>18</sup>

How is the budget allocated: does it identify amount required for badly needed types of health facilities?

Does the community participate in budget process/hearings? Can they influence the legislators to reject any allocations that may appear to obstruct children rights and instead to realign these allocations to fund the badly needed health facilities? Do children and their parents know how much is allocated to health? Are children's particular views and experiences listened to and incorporated into budget, project planning, implementation and evaluation? Are any special measures being taken to encourage all children to participate?

Do children in all places have equal access to health facilities and equal budget for health?

Does the budget process consult the affected children (vulnerable groups) to determine what kinds of health facility are most needed for them to enjoy and exercise their rights?

### *Part two: Specific issues*

Does health budget disaggregated at different levels (health post, clinics, health centre, hospital, vulnerable groups that needs additional support, and rural/urban)?

What support is offered to parents to help their children, including disabled children in promoting their rights to health?

Have children been consulted about how their rights to health are respected and about their main concerns and difficulties?

What are the opportunities and most significant obstacles for equal access to existing health facilities?

What are other organisations involved in promoting children access to health? Which organisations work on children rights in general and access to health facilities in particular?

In what ways could your organisation link and network with other NGOs, community-based organisations (CBOs), the UN and the private sector, etc to enforce and protect children rights to health?

Are there any kinds of co-ordination for gathering, organising and disseminating information regarding children's rights to health?

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<sup>18</sup> Hint: transparency, participation, accountability, equity, non-discrimination and equality.

## Save the Children Sweden in Eastern and Central Africa

Save the Children Sweden started working in Eastern and Central Africa in 1965. Today, the organisation has offices in Addis Ababa, Ethiopia; Nairobi, Kenya; and Khartoum, Sudan. Save the Children Sweden has long-term child-rights based development programmes in Ethiopia and Sudan, and it supports local partners in Kenya, Eritrea, Somaliland and Uganda.

The organisation focuses on building the capacity of local people, community-based structures and organisations. In Eastern and Central Africa, it works with more than forty different non-governmental organisations and government bodies. In addition, it has adopted a direct implementation approach in southern Sudan and in the refugee camps of western Ethiopia and North Darfur.

All of the work in the region focuses on children's rights, and tackles issues that affect marginalised children.

The core of the work focuses on children affected by conflict, discrimination, abuse, exploitation, and HIV/AIDS. Save the Children Sweden's focus also includes education, child participation and good governance in the best interest of the child.

The major task facing child rights advocates today is making the UN Convention on the Rights of the Child a reality for all children. The exchange of experience and know-how are proactive ways to work towards this goal, which is why Save the Children Sweden makes its books and reports available for the world. Welcome to visit our child rights bookshop on the internet, [www.rb.se/bookshop](http://www.rb.se/bookshop)

If you are interested in regular updates from us, you can subscribe to our regional newsletter, *the Bulletin*, which is published quarterly. Send a mail to [info@ecaf.rb.se](mailto:info@ecaf.rb.se)

Save the Children Sweden is a non-governmental organisation. It is an active member of the International Save the Children Alliance – a global movement for children's rights. Through 18 offices around the world, the organisation contributes ideas, experience and funds to 500 projects in more than 60 countries. Please visit the Save the Children website, [www.savethechildren.net](http://www.savethechildren.net)

Save the Children Sweden fights for children's rights. We deliver immediate and lasting improvements to children's lives worldwide.

Save the Children works for a world:

- which respects and values each child
- which listens to children and learn
- where all children have hope and opportunity

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