

An Insight on Ethiopia's reporting to the Committee on the Rights of the Child

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Abstract

Implementation of human rights treaties by state parties is subject to international monitoring. Evaluation of state reports and forwarding recommendations is the primary human rights monitoring tool employed by treaty bodies. All core human rights treaties adopted this procedure. This piece is aimed at appraising Ethiopia's performance in fulfilling its obligations with regard to the reporting procedure. Particularly, the article will examine participation of Ethiopia in reporting to the Committee on the Rights of the Child concerning the Convention on the Rights of the Child and its two Optional Protocols. With a place for improvement, Ethiopia has recorded impressive experience of complying with the periodicity requirement in reporting to the Committee. Compliance to the reporting obligations on child and women rights treaties is better than performance in other treaties. But, preparation of State reports to the Committee was not comprehensively participatory. Participation of Non-Governmental Organizations in submitting their shadow report to the Committee and commenting on State reports was nominal. Diversity in composition of Ethiopian government delegation to the dialogue with the Committee varied from one report to another. The practice of dissemination of recommendations of the Committee is also unorganized.

Key terms: treaty bodies, child rights, reporting, concluding observations, committee on the rights of the child

Introduction

To date, there are nine core human rights treaties under the auspices of the United Nations.¹ These treaties established treaty bodies that monitor compliance of States with their respective treaty obligations. The principal mechanism of monitoring

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¹ See for more, Office of United Nations Higher Commissioner for Human Rights' website: <<http://www.ohchr.org>>

human rights implementation is the reporting procedure. According to this procedure, states parties to the human rights treaties are required by the treaties to submit regular reports on the compliance of domestic standards and practices with treaties obligations. These reports are reviewed at various intervals by the treaty bodies, normally in the presence of states representatives. At the end of examining a member State, a treaty body adopts its findings and forwards its recommendations to that particular State. The main functions of State reporting procedures are: initial review, monitoring, policy formulation, public scrutiny, evaluation, acknowledging problems and information exchange.²

However, delay in reporting or sometimes failure to report, non-participatory and low quality State reports, and lack of appropriate mechanisms to implement treaty body recommendations remain critical problems affecting the effectiveness of the reporting procedure.³ The proliferation of treaty bodies aggravated the resource problem of States to prepare and present reports.⁴ Concomitantly, treaty bodies could not cope up with the increase in ratification of the treaties; hence, backlog of reports become a normal situation.⁵

Ethiopia is party to all the core human rights treaties.⁶ It is submitting State report to UN treaty bodies since 1978 when an initial report was submitted to the Committee on Elimination of Racial Discrimination.⁷ However, the area of human rights reporting was neglected in studies of Ethiopia's human rights status. There is a dearth of literature on Ethiopia's participation in human rights monitoring. The

² Philip Alston, 'The Purposes of Reporting', in United Nations, *Manual on Human Rights Reporting*, (United Nations, Geneva 1997), p. 22.

³ Christen Broecke, *The Reform of the United Nations' Human Rights Treaty Bodies*, vol. 18, Issue 1 <https://www.asil.org/insights/volume/18/issue/16/reform-united-nations%E2%80%99-human-rights-treaty-bodies#_ednref3> accessed 12 November 2016.

⁴ United Nations High Commissioner for Human Rights, *Strengthening the United Nations Human Rights Treaty Body System: Summary* (2012).

⁵ Ibid.

⁶ <<http://www.ohchr.org> http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx> accessed 12 December 2016.

⁷ Eva Brems, 'Ethiopia Before the United Nations Treaty Monitoring Bodies' in *Afrika Focus* (vol. 20, nr. 1-2, 2007), pp. 49-74), p. 53.

main relevant literature in this regard is Brems's "Ethiopia before the United Nations Treaty Monitoring Bodies". Brems introduced Ethiopia's ratification status of the core human rights treaties and the level of implementation. On the basis of observations of treaty bodies, Brems recommended most urgent concerns on implementation of human rights in Ethiopia.⁸

The aim of this paper is evaluating the performance of Ethiopian government in tandem with its obligation to report duly and participate in dialogue with treaty bodies. This paper particularly focuses on the participation of Ethiopia in reporting to the Committee on the Rights of the Child (here in after, the Committee) concerning measures of implementation taken as per the Convention on the Rights of the Child (the Convention).

From a perspective of domestic application of treaties, there are four stages of reporting: implementation of the treaty; preparation of the reports; constructive dialogue with treaty bodies; and finally, implementation and follow up of the recommendations. The objective of this paper is to identify gaps in each stage and to suggest the ways to fill the gaps. An analysis on interplay between Ethiopian government and external monitoring organ instigates comprehensive study on the government's policy on external human rights monitoring mechanisms.

1. The Reporting Procedure of the Committee on the Rights of the Child

1.1 Introducing the Committee on the Rights of the Child

At the center of monitoring State Parties' compliance with the Convention on the Rights of the Child is the Committee on the Rights of the Child.⁹ Number of

⁸ Ibid.

⁹ The initial proposal which was made in 1980 by Poland designates the Economic and Social Council (ECOSOC) as a monitoring body over the proposed Convention. There was also a proposal, which was not considered, to enable the ECOSOC to establish a group of experts entrusted with the responsibility of examining State reports. Finally, a proposal which enjoyed an extensive support was forwarded by Sweden jointly with Canada. The proposal called for an

members of the Committee was fixed to be ten by the Convention.¹⁰ However, an amendment to Article 43/2 of the Convention was made to increase the number of members eighteen.¹¹ The amendment was necessitated by the considerable workload of the Committee, which was triggered by the Convention's extensive ratification.

Another reform was split of the Committee in to two for the purpose of consideration of reports.¹² The backlog of pending reports from large number of State Parties compelled consideration of reports to be made through two chambers each consisting of nine members taking due account of equitable geographical distribution.¹³ However, the Concluding observations are being adopted in plenary sessions.

High moral standing and expertise in the field relevant to the convention are being the main weights for membership to the experts' committee; the Convention additionally requires that consideration shall also be given to equitable geographical distribution, as well as to the principal legal systems.¹⁴ Members of the Committee are elected for a period of four years. However, the members are

establishment of a separate committee of experts. It was justified that neither the UN system nor any NGOs had an overall view of the rights of the child; a committee of specialists in child law, with expert knowledge of the problems that affect children and with moral and legal authority to approach any governmental or private international agency to draw attention to the plights of children could be of considerable benefit to children. Accordingly, the final text of the Convention settled that a committee which would examine the measures taken by State Parties was to be established.

See, Office of the United Nations High Commissioner for Human Rights, *Legislative History of the Convention on the Rights of the Child*, vol. II, 2007, p.820 and Jaap Doek, *The United Nations Convention on the Rights of the Child, a Guide to the 'Preparatore Trauvaxe'* (2006), pp. 535-539.

¹⁰ Convention on the Rights of the Child, (adopted 20 November 1989 entered into force 2 September 1990), Art 43(2).

¹¹ UN General Assembly, *Conference of State Parties to the Convention on the Rights of the Child* (Res 50/155, A/50/L.61/Rev.1, 1996).

¹² The most recent authorization by the General Assembly was made in 2012. See General Assembly, *Committee on the Rights of the Child* (A/RES/67/167, 20 December 2012).

¹³ Ibid.

¹⁴ See *Convention on the Rights*, fn 10, Art 43 (2)(3)(5)(6); Currently, the chairperson of the Committee is an Ethiopian citizen.

< <http://www.ohchr.org/EN/HRBodies/CRC/Pages/Membership.aspx> > accessed 20 November 2016.

eligible for re-election if they are re-nominated at the expiry of their term. As of March 2015, each of Africa, Asia and Europe has five members while the remaining three are from South America and Pacific.¹⁵ Though members of the Committee are to be nominated and elected by governments, members are expected to act only in a personal capacity¹⁶ and accountable solely to the children of the world.¹⁷ The Convention stipulated that the Committee shall meet annually though this can be changed by the Committee.¹⁸ Starting from 1995, the Committee holds three sessions a year.¹⁹ Each session comprises one week pre-session period and three weeks for reporting procedure.²⁰

1.2 The Reporting Procedure

The central aim of the Committee is set to be “examining the progress made by States Parties in achieving the realization of obligations undertaken in the Convention”.²¹ The States Parties to the Convention undertake to respect and ensure the rights set forth in the Convention by taking all legislative, administrative and other measures appropriate for the realization of each right under the Convention.²² The Committee monitors the State Parties’ progress through investigating complaints; adopting general comments; review State reports and organizing meetings for thematic discussion on child rights issues.

¹⁵ Ibid.

¹⁶ *Convention on the Rights*, fn 10, Art 43 (2).

¹⁷ The Addis Ababa Guideline on Independency and Impartiality of members of the Human Rights Treaty Bodies also remarks that the election of a member should not be thought to result in more favorable treatment for the State of which the national is a member. See Committee on the Rights of the Child, *Rules of Procedure* (CRC/C/4/Rev.4, 18 March 2015), Annex: *Guidelines on the independence and impartiality of members of the Human Rights Treaty Bodies* (The Addis Ababa Guidelines), Sec 2, Parag 6 and Sec 3, Parag 1.

¹⁸ *Convention on the Rights*, fn 10, Art 43 (10).

¹⁹ See *Committee on the Rights of the Child*, fn 31, Report on the Fifth Session (CRC/C/24, 28 January 1994), and Sec I (1) (4). Apart from the regular sessions, the Committee may also convene special sessions according to the rules of procedure. See *Committee on the Rights of the Child*, fn 17, Rule 3.

²⁰ Ibid.

²¹ *Convention on the Rights*, fn 10, Art 43 (1).

²² Ibid. Art 2(1) and Art 4.

The Committee is utilizing the reporting procedure as the primary tool of supervision of implementation of the rights enshrined under the Convention. State Parties to the Convention undertake an obligation to report on measures they take to realize the rights of the child recognized under the Convention and progress made in this regard.²³ Peculiar to the Committee is that the reporting mechanism extends beyond the rights enshrined under the Convention to the two Optional Protocols.²⁴ Initial report is to be submitted two years after the Convention enters into force for the State²⁵ while periodic reports are to be made every five years.²⁶ The same periodicity applies for the two substantive Optional Protocols of the Convention.²⁷ Being concerned with high rate of non-submission of reports and overlapping of reports, the Committee has adopted a rule which exceptionally allowed a State Party under dialogue to combine its next two periodic reports.²⁸

State reports are required to meet structural and substantive specifications provided by the committee. Apart from guidelines common for all Treaty Bodies,²⁹ the Committee adopted guidelines for initial and periodic State reports.³⁰ These

²³ See Convention on the Rights of the Child, Art.44 (1) and Art.44 (2); In the negotiation of the text of Art 44, there has been a debate on what exactly the State Parties are required to report. An earlier proposal directed State Parties to report “on their compliance with obligations under the Convention”. However, the approved text of Art 44 (1) is more flexible as State Parties are required to report “on the measures they have adopted to give effect to the rights recognized under the Convention and on the progress made on the enjoyment of those rights”. See Office of the United Nations High Commissioner, fn 9, p. 840.

²⁴ See Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (A/RES/54/263, 25 May 2000), Art 8 (1) and Optional protocols to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (A/RES/54/263, 16 March 2001), Art 12.

²⁵ *Convention on the Rights*, fn 10, Art 44 (1) (A).

²⁶ *Ibid* Art 44 (1) (B).

²⁷ See *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, Art 8 (1) and Art 8 (2) and *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, Art.12 (1) and Art.12 (2).

²⁸ See Committee on the Rights of the Child, Recommendation adopted by the Committee on the Rights of the Child, CRC, CRC/C/124, Thirty-second session, 2003, p.1.

²⁹ Fifth Inter-Committee Meeting of the Human Rights Treaty Bodies, Harmonized guidelines on reporting under the international Human Rights treaties, including guidelines on a common core document and treaty-specific documents, HRI/MC/2006/3, 10 May 2006.

³⁰ Committee on the Rights of the Child, ‘Reporting Guidelines for Initial Reports on the Convention on the Rights of the Child’ in *Compilation of Guidelines on the Form and Content of*

guidelines outlined basic formality and content requirements of State reports. Both guidelines classified provisions of the Convention in to eight clusters for the purpose of preparing the State report. These clusters are: General implementation measures; Definition of the child; General Principles; Civil rights and freedoms; Family environment and alternative care; Basic health and welfare; Education, leisure and cultural activities; and Special protection measures.

The Committee's pre-sessional meetings are dedicated for a preliminary consideration of State reports.³¹ A pre-sessional working group prepares of lists of issues.³² The lists of issues are to be forwarded for a State Party to clarify facts mentioned in the State report or to provide supplementary information.³³ Though the Convention does not provide for the procedure of considering a State report in the presence of delegate of a State, the Committee adopted a practice of a formal meeting for an exchange of information with a State Party. A series of exchange of thoughts between members of the Committee and a State Party is widely known as constructive dialogue.³⁴ The period for a constructive dialogue takes two 3-hours periods. There are some features what make the dialogue a constructive one.³⁵ First, openness of the arguments; readiness to admit that the other Party may be right on some issues; readiness to provide all necessary information requested and positivity towards proposals aimed at improving Human Rights observance are essential behavior of the Parties to consideration of the report. Second, unlike the

Reports to be Submitted by States Parties to the International Human Rights Treaties (HRI/GEN/2/Rev.6, 3 June 2009) and Committee on the Rights of the Child, CRC Treaty Specific Reporting Guidelines, Harmonized according to the Common Core Document (CRC/C/58/Rev.2, 1 October 2010).

³¹ Committee on the Rights of the Child, Overview of working methods of the Committee, 2003, p.3.

³² See Meeting of chairpersons of the Human Rights Treaty Bodies Twenty-fifth meeting, Overview of the Human Rights treaty body system and working methods related to the review of States Parties (HRI/MC/2013/2, 12 April 2013), Parag 28.

³³ Ibid

³⁴ Beata Faracik, *Constructive Dialogue as a Cornerstone of the Human Rights Treaty Bodies Supervision* (2007), p. 3. < https://papers.ssrn.com/sol3/Data_Integrity_Notice.cfm?abid=2557068> accessed 23 June 2017

³⁵ Ibid.

complaints procedure (individual, inter-State and inquiry), the process of consideration of reports has more non-judgmental atmosphere than a blame and shame nature.

In fact, no treaty body imposes an obligation on State Parties to send delegation.³⁶ If the State decides to send a delegation, the delegation is preferred to be constituted with individuals who have experience in the fields covered by the Convention and who can influence policy-making and enhance the promotion and protection of children's rights.³⁷

The consideration of a State report is to be commenced with an introduction Statement from a delegation. Then, two of the Committee members who are appointed as country rapporteurs provide a brief overview of the State of child rights in the concerned State Party.³⁸ Thereafter, the Committee members raise questions on each cluster of rights and the State Party responds.³⁹ Based on their observations of the report and the dialogue, the country rapporteurs then prepare a summary which may include suggestions and recommendations. Finally, the State delegation makes a final Statement.⁴⁰ If the Committee understands that the State Party is in need of technical advice or assistance, it transmits the State report with relevant recommendations to UN specialized agencies and other bodies.⁴¹ The

³⁶ See Meeting of Chairpersons, fn 32, p.14.

³⁷ Marta Pais, 'The Convention on the Rights of the Child' in *United Nations, Manual on Human Rights Reporting under Six Major International Human Rights Instruments* (1997), p. 494.

³⁸ Committee on the Rights of the Child, fn 31, p. 3 In addition to drafting the Committee's concluding observations, country rapporteurs play a prominent role with regard to the constructive dialogue through leading the dialogue and ensuring full coverage of the main areas of concern in the country. Meeting of chairpersons, fn 32, p. 13.

³⁹ *Ibid.* The delegation may defer an answer for any question to consult with relevant organ in the State country. If the Committee considers that a number of issues should be clarified further, it invites the State to submit additional information or an additional report, including a progress report, on the implementation of the Convention. Pais, *The Convention*, fn 37, p. 501.

⁴⁰ Meeting of Chairpersons, fn 32, p. 3.

⁴¹ Convention on the Rights of the Child, Art 45 (B). The Committee serves as a bridge between child welfare organizations with the technical and financial resources and the State Party which is in need of those resources. Particularly to children's Economic and Social Rights, a system of international cooperation plays a crucial role in boosting the capacity of State Parties to realize these rights for children under their jurisdiction.

State Party under examination may make comments on the recommendations adopted by the Committee.⁴²

Based on observations of the report and the dialogue, the Committee then prepares a summary which may include suggestions and recommendations. These documents are known as Concluding Observations. O'Flaherty defined concluding observations as a mechanism for committees of experts to forward an authoritative overview of the state of human rights in a country and forms of advice which can stimulate systemic improvements.⁴³ States parties are required to make their reports widely available to the public in their own countries.⁴⁴ The Committee reiterates in its General Comment 5 that unless reports are disseminated and constructively debated at the national level, the process is unlikely to have substantial impact on children's lives.⁴⁵ Therefore the Committee urged States to make all documentation of the examination of their reports widely available to promote constructive debate and inform the process of implementation at all levels.

2. Status of Child Rights Treaties in Ethiopia

Alongside Human Rights treaties which do not specifically set children as targeted beneficiaries, Ethiopia is a party to major Bills of Child Rights. Ethiopia accedes to the Convention in 1991, to the Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on March 2014 and to the Optional Protocol on the Rights of the Child on the Involvement of Children in Armed Conflict on May 2014. Ethiopia is also a party to the African Charter on the Rights and Welfare of the Child from October 2002 on-wards. In April 2012, Ethiopia has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). The Ethiopian

⁴² See Committee on the Rights of the Child, fn 17, Rule 75/2.

⁴³ Michael O'Flaherty, 'The Concluding Observations of United Nations Human Rights Treaty Bodies' in *Human Rights Law Review* (vol. 6, no. 1, Oxford University 2006), p. 27.

⁴⁴ *Convention on the Rights*, fn 10, Art 44 (6).

⁴⁵ *Committee on the Rights of the Child*, fn 31, Parag. 73.

Government has also ratified series of ILO Conventions including Convention on Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (No. 182) and Minimum Age Convention (No. 138).

In a course of assessing the status of the Child Rights treaties under the Ethiopian legal system, we may come to identify disparities on the level of measures taken to integrate the international child laws with the national system of child rights protection. The disparity begins from the earliest stage of adopting the treaties through an official instrument. While it is mandatory that all international agreements shall first be ratified by the Parliament to have the effect of law, it remains controversial among scholars whether publication in the *Negarit Gazetta* is a requirement. It is equally unclear whether the parliament shall proclaim all treaties through a ratification proclamation. The issue is well complicated by lack of consistency on the practices of the Parliament. While the Parliament has so far proclaimed many bilateral agreements, there are a number of multilateral and international agreements which do not book a place in the *Negarit Gazette*. Among the family of child related treaties, the Parliament has only proclaimed the ratification of Convention, the African Charter on the Rights and Welfare of the Child and the Palermo Protocol through the official *Federal Negarit Gazetta*.⁴⁶

It is essential to note that Ethiopia is not subject to the one year old Optional Protocol of the Convention on Complaints Procedures. One of the recommendations of the Committee, which has just reviewed Ethiopia's combined fourth and Fifth periodic report, insinuate Ethiopia to consider the ratification of the Protocol.⁴⁷ But this is not expected to happen, at least in the near future. The

⁴⁶ The CRC was ratified by Proclamation No. 10/1992. The ACRWC was ratified by virtue of A Proclamation to Ratify the African Charter on the Rights and Welfare of the Child, 2002, Proc. no. 283/2002, and The Palermo Protocol was ratified by Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Ratification Proclamation, 2012, Procla. No. 737/2012.

⁴⁷ Committee on the Rights of the Child, fn 31, *Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding Observations on the combined fourth and fifth periodic report: Ethiopia*, (CRC/C/ETH/CO/4-5, 2024th meeting, 5 June 2015), Parag 73.

hostile policy that the Ethiopian Government adheres against international agreements which grant individuals, Non-governmental Organizations (NGOs) and states to complaint to international organizations on human rights violations in Ethiopia stands firm. In fact, the African Commission on Human and People's Rights remains the only human rights monitoring institution, to which Ethiopia has submitted through the Banjul Charter, to litigate complaints alleged against Ethiopia.⁴⁸ The repercussion is that, the reporting procedure remains the main, if not the only, mechanism available for international and regional human rights monitoring bodies to oversee compliance with human rights norms and investigate human rights situations in Ethiopia.

3. Ethiopia's Experience in Reporting to the Committee on the Rights of the Child

3.1 The Power to Report

From the perspective of a state party to a treaty, we may identify four stages in the process of reporting: implementation of the treaty; preparation of the reports; constructive dialogue; and finally, implementation and follow up of the recommendations. There shall be a systematic coordination among institutions responsible in one or another stage of the process. Identification of organs which are responsible to report to human rights bodies is a big step forward in clarifying parties which bears the expectations arising from the outputs of the reporting procedure. By Proclamation No. 916/2015, the Ministry of Foreign Affairs (MFA) has the power to enforce rights and obligations arise from treaties that Ethiopia ratified unless specific power has legally been delegated to other organs.⁴⁹ Enforcement of treaties, *inter alia*, includes enforcement of the reporting obligation of the state. The MFA has taken the leading role in the coordination and

⁴⁸ African Charter on Human and Peoples' Rights (27 adopted 1981, entered into force 21 October 1986, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)), Arts 47 and 55.

⁴⁹ A Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, Procla. No.916/2015, Art.15 (4),

presentation of reports that Ethiopia submitted to human rights bodies including the Human Rights Committee and International Covenant on Economic, Social and Cultural Rights (ICESCR).⁵⁰

In fact, in 2009, a massive reporting project was conducted with an objective to close the file of long over-due reports to Committee Against Torture, International Committee on Economic, Social and Cultural Rights and the Human Rights Committee. The project, which was financed by the Office of the United Nations High Commissioner on Human Rights (OHCHR), involved wide spectrum of Government and non-Governmental stakeholders. The project has also prepared a “core document” common reference source for all treaty bodies in monitoring human right in Ethiopia.⁵¹ The document which was submitted in 2008 is still in operation. Taking in to account this, the CoRC recommended Ethiopia to submit an updated core document.⁵²

However, the project could not overcome the temporality endemic prevalent on the reporting procedure as the reports and the core document were prepared by ad-hoc inter-ministerial Committees. A look in to the core document indicates that there was a plan to establish a permanent committee entrusted to the reporting procedure.⁵³ The Ethiopian Human Rights Commission (EHRC) has also, on another occasion, recommended the House of People’s Representative (HPR) to take steps to establish a permanent public organ that shall take ownership of the reporting obligation.⁵⁴

The implication of this sort of permanent institutional structure is also highly positive from the perspective of effectiveness of Concluding Observation since the

⁵⁰ For instance, all Ethiopian delegates to the one and only review of Ethiopia’s report to ICESCR in 2012 were staff of the MFA.

⁵¹ United Nations, *Core Document Forming the Initial Part of the Reports of States Parties: Ethiopia*, (HRI/CORE/ETH/2008, 6 February 2009).

⁵² *Concluding Observations on Combined Fourth and Fifth Report: Ethiopia*, Parag. 78.

⁵³ United Nations, *Core Document*, fn 51, Parag. 256.

⁵⁴ Ethiopian Human Rights Commission, *Inaugural Report* (Addis Ababa, 2011), p. 113

structure will essentially establish a procedure to disseminate Concluding Observations and organize structured post-reporting conferences on Concluding Observations. This in turn is an important leeway for the recommendations to affect domestic decision-making process. This forecast was validated by the core document itself which hinted that one of the responsibilities of the Committee was planned to be “to oversee the dissemination of the treaty bodies’ recommendations.”⁵⁵ A significance to have a central coordinating body with a responsibility of the reporting process is clearer when one takes in to account the fact that the reporting process of those generally applicable Conventions, like ICESCR and International Covenant on Civil and Political Rights (ICCPR), could not be left for one or some Ministries.

An approach to establish an ad-hoc Committee every time the need to report arises also defies a procedural nexus required to be maintained between two consecutive reports to a treaty body and more specifically between recommendations on current report and a future report. This is due to the fact that the provisional organ may, utmost, be operational as long as the time of receiving Concluding Observations.

To reiterate the power pertaining to enforcement of treaties, it is reserved that the power of the MFA is without prejudice to powers delegated to other organs. In this regard, treaties on rights of children and women have been for long entrusted to a special organ.⁵⁶ Child affairs under the Federal Democratic Republic of Ethiopia Government used to be the power of the Ministry of Labor and Social Affairs (MOLSA)⁵⁷ and the Ministry of Women (MOW).⁵⁸ Another legislation

⁵⁵ United Nations, *Core Document*, fn 51, Parag 257.

⁵⁶ A critique that the institutional framework for the implementation of the child rights treaties lack clear legal basis is, consequently, a skewed vision. See for the argument: Center for Human Rights Studies and College of Law and Governance Studies, *Baseline Study for a Comprehensive Child Law in Ethiopia* (Addis Ababa University 2013), p. 141.

⁵⁷ *A Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia*, Procla. No. 4/1995, Art 20 (9).

⁵⁸ *A Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia*, Procla. No. 471/2005, Art 29(8). This Proclamation has

restructured the executive organ has redefined the Ministry of Women, Youth and Child Affairs (MOWYCA). This Ministry has been recently restructured as the Ministry of Women and Child Affairs (MoWCA).⁵⁹ Therefore, MoWCA is the new duty holder to follow up the implementation of treaties relating to women and children and submit reports to the concerned bodies.⁶⁰ Hence, we can clearly understand that the obligation to report on child rights situation resides on an organ which takes responsibility to enforce treaties on child rights.

3.2 Ethiopia's Experience in the Reporting Process

So far, Ethiopia submitted four reports to the Committee. The initial and second periodic reports were prepared by the MOLSA. Whilst the third reporting process was led by the MOW, the recent report was managed by the MOWYCA. The initial report was submitted in 1995 while the second and third periodic reports were made in 1998 and 2005 respectively. The combined fourth and fifth periodic reports were submitted in 2012 while the dialogue was held in mid-2015.

3.2.1 Preparation of the Reports and Constructive Dialogue

Despite clear centralization in reporting, the reports assert that other concerned organs have not been foreclosed from partaking in the process. The reports were claimed to be prepared with active participation of the Ministries of Justice, Education, Health, and other key organs including NGOs working on child rights.⁶¹

clearly stipulated that the Ministry shall follow up the implementation of treaties concerning women and children and submit periodical reports to the concerned organs.

⁵⁹ *A Proclamation to Provide for the Definition*, Procla. No. 916/2015, fn 49.

⁶⁰ *Ibid*, Art 36 (1) (j).

⁶¹ Committee on the Rights of the Child, Consideration of Reports submitted by States Parties under Article 44 of the Convention, Initial report: Ethiopia, CRC/C/8/Add.27, 12 September 1995, par. 2; Committee on the Rights of the Child, Consideration of Reports submitted by States Parties under Article 44 of the Convention, Second Periodic Report: Ethiopia, CRC/C/70/Add.7, 23 March 2000, par.1.

Besides, the EHRC has the power to forward its opinion on human rights reports to be submitted to international organs according to its establishment Proclamation.⁶²

After submission of a report, the next stage is a constructive dialogue with the Committee. Well organized and comprehensive written submission cannot meet its informative objective without being accompanied by a quality delegation which can explain the facts and give supplementary information. Hence, the making of the delegation to a dialogue with the Committee shall serve two purposes; one, the group must be composed of individuals who are in the right position to make the merit based discussion with the Committee and two, the members of the delegation shall also be officials capable of influencing domestic policies and enforcement of child rights on the basis of the exchange of ideas with the Committee. Independent human rights institutions, courts and law makers have irreplaceable roles to play in shaping child relevant laws and ensuring the effective enforcement of child rights.

The form of composition of Ethiopia's delegations to the constructive dialogue with the Committee has no uniform picture. There was well considered diversity in the delegation to the third periodic report which included Chief Commissioner of the EHRC, the Vice-president of the Federal Supreme Court, Members of the Parliament and representatives from various Ministries.⁶³ Unfortunately, the delegation to the recent combined fourth and fifth periodic report did not include a representative from those organs while five staffs from a Ministry, MoWYCA, were sent for the dialogue.⁶⁴

⁶² *Ethiopian Human Rights Commission Establishment Proclamation*, Procla. No. 210/2000, Art.6 (7).

⁶³ *Letter of Transmission from Federal Democratic Republic of Ethiopia Permanent Mission to the United Nations*, (2006).

⁶⁴ *Letter of Transmission Federal Democratic Republic of Ethiopia Ministry of Foreign Affairs* (2015).

3.2.2 Compliance with Periodicity

Of course, it is hardly true that the reports were submitted with absolute compliance to due dates. The initial report and the third periodic reports were each two years overdue and the consolidated fourth and fifth periodic report was one year overdue. Despite this, the reporting history of Ethiopia to the Committee is commendable experience worthy to be taken as exemplary to the reporting process on other treaties by MFA. One may take note of the facts that initial reports on ICCPR and ICESCR were made after 17 years of delay and an initial report to CAT took 14 years.⁶⁵ Hence, it was rightly appreciated that Ethiopia has very mixed reporting record, with an excellent performance under the Convention on the Rights of the Child (CRC) and a fair one under the Convention on Elimination of all forms of Discriminations Against Women (CEDAW), but very poor under the other treaties.⁶⁶ Having in mind this path of failure of the Government to be abided by the obligation to timely and periodically report to Human Right Treaty Bodies, it is rather perceptible that the Government is more permissive to be challenged by the expert Committee on child rights and to subject its policies and laws to the scrutiny by the Committee. This excellent reporting history is also attributable to the availability of high technical and financial support from the UNICEF and other domestic and international NGOs which is not satisfactory in case of reporting to other treaties.

3.2.3 Participation of NGOs

Concerning participation of NGOs, there is a critique that preparation of the reports overlooked guidelines on the participation of stakeholders, especially NGOs.⁶⁷ The combined fourth and fifth report, on the other hand, claimed that national and

⁶⁵ There are also three periodic reports which are currently overdue, one each on ICCPR, CERD, CEDAW and CAT. http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/LateReporting.aspx last time accessed on December 12, 2016.

⁶⁶ Brems, *Ethiopia Before the United Nations*, fn 7, p. 53.

⁶⁷ Center for Human Rights, fn 56, p. 131.

international NGOs were consulted in the process of fact finding.⁶⁸ The report also remarked that NGOs participated in a consultative meeting to validate the country report in line with previous recommendations and country situation. It is also inappropriate to disregard the technical and financial support that NGOs, in particular the United Nations International Children's Emergency Fund (UNICEF) is offering for preparation of reports.⁶⁹ But, participation of NGOs in submission of alternative (shadow) reports to the Committee is invisible. The most recent report to the Committee recorded that four NGOs submitted alternative reports on Ethiopia's State report.⁷⁰ When one notices the fact that all these alternative reports were submitted by NGOs reside abroad, a suspicion on domestic environment for NGOs is understandable.

3.2.4 Delay in Examination of State Reports

Another concern shadowed the reporting procedure is the time gap between submission of state report and adoption of Concluding Observations. Typically, we can see that the Committee adopted Concluding Observations on the initial report of Ethiopia two years after the submission of the state report. Concluding Observations on the second report and combined fourth and fifth periodic reports were made three years past the submission of the reports. Though a possible gap with regard to new developments may be filled with information exchange in the constructive dialogue, the time gap between the submission of state report and adoption of the Concluding Observations entail a Concluding Observation which fails to depict the updated picture of child rights situation in a state party.

3.2.5 Publication and Dissemination of Concluding Observations

⁶⁸ Committee on the Rights of the Child, *Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding observations on the Combined Fourth and Fifth Report: Ethiopia* (CRC/C/ETH/CO/4-5, 2024th meeting, 5 June 2015), Parag. 8.

⁶⁹ Ibid. Parag. 10.

⁷⁰ <http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx> accessed 12 December 2016

Concluding Observations are “a vehicle through which the preparation of reports is transformed into policy-making and implementation”.⁷¹ This possible impact on the policy and law-making process is highly determined by the procedural necessities subsequent to the adoption of the Concluding Observations. Translation, publication and dissemination of the Concluding Observations are the most important procedural frameworks to transform the Concluding Observations to domestically relevant instruments.

It is obvious that the government of Ethiopia is not legally bound to give effect to a recommendation of any external entity. But the Convention imposes a procedural obligation to publicize and disseminate reporting documents.⁷² Contextual understanding of the instruments necessitates the publication and dissemination of Ethiopia’s human rights reports and feedbacks to the reports. Art. 44 (6) of the Convention requires States Parties to make their reports widely available to the public. Of course, as it becomes clear from the Concluding Observations of the Committee, the obligation to publicize and disseminate Concluding Observations is regarded as an obligation rooted in this provision of the Convention. The Committee interprets Art. 44 (6) of the Convention as to include for dissemination of reports, replies, summary records, Concluding Observations.⁷³ According to the Committee’s Concluding Observations, the direct purpose of the publication and dissemination of those documents is generating dialogue and awareness of the Convention within concerned organs. Being subject to the dialogues in parliament and other organs of the Government, recommendations of the Committee are intended to affect the decisions of those organs.

⁷¹ Niemi H., *National Implementation of Findings by United Nations Human Rights Treaty Bodies: A Comparative Study* (Institute for Human Rights, Abo Akademi University 2003), p. 22.

⁷² Convention on the Rights of the Child, Art. 44 (6).

⁷³ Committee on the Rights of the Child, *Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding observations on Second Periodic Report: Ethiopia*, (CRC/C/15/Add.144, Twenty-sixth session, 21 February 2001), Parag. 79.

Having in mind this, we may conclude that though the Government of Ethiopia has no obligation to implement the recommendations of the Committee, it has a procedural obligation to publicize Concluding Observations and disseminate them to all concerned organs to consider the recommendations in decisions which affect children. However, it is argued that in view of what the Convention envisions under Art. 44 (6), it can be concluded that Ethiopia's effort is almost zero.⁷⁴

In this regard, the Commission has a duty to translate international human rights instruments adopted by Ethiopia and disperse.⁷⁵ Contextual understanding of the instruments necessitates the publication and dissemination of Ethiopia's human rights reports and feedbacks to the reports. States adopt various strategies to make recommendations of treaty bodies widely accessible to the lay people. For example, Finland published Concluding Observations in the publication series of the Ministry for Foreign Affairs and in Sweden, the Observations are available online through the Ministry of Foreign Affairs Website.⁷⁶

On the other hand, lack of follow up procedure from the side of the Committee, for midterm assessment of actions taken to publicize, disseminate and give effect to the recommendations of the Committee inhibited the possible persistency in exchange of information between the Committee and reporting state parties. The main follow up mechanisms under disposal for the Committee are the state reports and Concluding Observations themselves. The Committee has the practice to require a state party, as a recommendation, to report about implementation of recommendations in its next report. The Committee required Ethiopia information

⁷⁴ The African Child Policy Forum, *Harmonization of laws relating to children: Ethiopia*, p. 39. The EHRC, on the other hand, claims that it has so far translated and disseminated a number of Concluding Observations to various concerned organs. But it's confessed that the practice of the commission is piecemeal and the documents are not accessible outside the institutional settings to the larger public. Interview with Mr. Adham Nuri, Human Right Protection and Monitoring Team Leader at EHRC, (Addis Ababa 17 February 2016).

⁷⁵ See *Ethiopian Human Rights Commission Establishment*, fn 62, Art 6 (8).

⁷⁶ See Niemi, *National Implementation*, fn 71, p. 26.

on the measures taken and progress achieved in the implementation of the suggestions and recommendations made by the Committee.⁷⁷

A crucial step in this regard is the dissemination of the report and accompanying documents to create awareness as to the lacunae to policy and law makers and to apportion responsibility for all concerned organs. It could have been better to include the law makers in the reporting procedure; from commenting on the country reports to the extent of being part of the delegations to the dialogue with the Committee. A practice from South Africa is exemplary in this regard. All reports of South Africa to be submitted to human rights monitoring bodies are debated in parliament to evaluate whether the reports reflect the true picture of human rights situations in the country.⁷⁸ Members of parliament are also regularly included in national delegations to the treaty bodies, to ensure that they better understand the treaty bodies' recommendations.

The reporting procedure in the Ethiopian legal system lacks such all-stages coordination between the reporting bodies and the law makers. Besides, there is no formally established system to flow the recommendations from the reporting body to the law makers. As a relief to these irregularities, post-reporting workshops can be taken as important venue to reach all stakeholders which may have a role in the review of national policies and laws as per the suggestions of an international monitoring body. For instance, in Germany, the National Human Rights Institute prepares regular meetings to create awareness about reports of German to treaty bodies.⁷⁹ In these meetings, representatives from ministries, law makers, NGOs, academia and even members of the treaty bodies were participated. In fact, this

⁷⁷ Committee on the Rights of the Child, *Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding observations on Initial Report: Ethiopia* (CRC/C/15/Add.67, Fourteenth Session, 24 January 1997), Parag. 37.

⁷⁸ The Human Rights Law Centre and the International Service for Human Rights, *Domestic implementation of UN Human Rights recommendations: A Guide for Human Rights Defenders and Advocates* (2013), p.13.

⁷⁹ Frauke Seidensticker, *Examination of State Reporting by Human Rights Treaty Bodies: An Example of Follow-Up at the National Level by National Human Rights Institutions* (German Institute for Human Rights, April 2005), p.4.

kind of post-reporting conference was once prepared by Addis Ababa University and UPRInfo on recommendations given to Ethiopia under two rounds of Universal Periodic Review (UPR) which is a peer review human rights monitoring unlike the expert monitoring.⁸⁰ This kind of conferences should also be conducted with the purpose of creating consciousness as to observations of international and regional treaty bodies on Ethiopia's Human Rights situation.

Conclusion

Ethiopia's compliance with its obligation to report and cooperate with the Committee on the Rights of the Child is satisfactory. This is due to the fact that the obligation to report on child rights situation separately assigned to an organ which takes responsibility to enforce rights on child rights. This is in contrast with reports of MFA on treaties of which implementation is the responsibility of a plethora of Ministries; i.e., the International Convention on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights. Experience of organs which, at one or another time, took the responsibility to report on child rights shall be taken as exemplary to the reporting process on other treaties by MFA.

Preparation of reports to the Committee was also inclusive of concerned government offices working on child rights. However, NGOs are not amply participating, apart from financial supports, in preparation of State reports and submitting their own alternative reports. Concerning a dialogue with the Committee, the recent Ethiopia's report to the Committee was not accompanied by a delegation composed of individuals who are capable of influencing domestic policies and enforcement of child rights. For instance, members of the parliament were not part of the delegation. This gap between the external monitoring organ

⁸⁰Addis Ababa University and UPRInfo, *Post-UPR Conference on Ethiopian Accepted Recommendations* (2015).

and domestic law-making organ affects the affects the integration of the Committee's recommendations into domestic law-making process. Though Ethiopia has no conventional obligation to implement the recommendations, the State reports with Committee's feedback shall be made accessible all stakeholders. The initiative on UPR post-reporting workshop shall also be adapted to the treaty body reporting procedure.