The Rights of Child Offenders in Ethiopia: A Case Comment on the Federal Supreme Court Cassation Decision on *Admasu Ageze Vs. ANRS Prosecutor*

Belayneh Berhanu[♦]

Introduction

Children who committed a crime are entitled to special rights needed by their condition. These rights are contained in various international and regional standards including the Convention on the Rights of the Child (CRC)[1] and the United Nations Standard Minimum Rules on the administration of Juvenile Justice (Beijing Rules).[2] These rights pertain to the due process rights, measures and penalties that are appropriate for or prohibited against child offenders. The same is true in the Ethiopian child justice system. The Criminal Procedure and Criminal Code have separate sections that are specific to children aged nine to fifteen. Thus, the purpose of this commentary is to analyze the decision of the Federal Supreme Court in the Case between Admasu Ageze *vs* ANRS prosecutor in light of these standards and the provisions of the Codes. The issues involved are the circumstances under which imprisonment can be imposed on a child; the legality of suspension of imprisonment; the problem with the issue framed by the Bench; the choice of the appropriate measure that could be imposed on the child; the right to court-appointed counsel; and the right to privacy.

Key Words: Child Offenders, Ethiopia, Suspension of Imprisonment.

1. Relevant facts of the case

The case was about the appropriateness of imprisonment for a person below the age of 15. The child, aged 11 years old, was sentenced to ten years of rigorous imprisonment by Guba Lafto Woreda court for committing a crime of sexual outrage on a minor (Article 627 (1) of the Criminal Code) which is punishable by rigorous imprisonment from 13 to 25 years. The case was appealed to the North Wollo High Court and confirmed.[3] The case then reached to the ANSR Supreme Court Cassation Division which affirmed the sentence of imprisonment

♦ LLB, LLM, PhD Candidate, Arba Minch University, the author can be reached via: belayneh438@gmail.com

[1] United Nations Treaty Series, Vol.1577, (1990), Articles 37 and 40.

[2] General Assembly Resolution 40/33, (1985).

[3] *Admasu Ageze v. ANRS Prosecutor*, Federal Supreme Court Cassation Decision, File No.118130 (December 9,2016), p.390.

but reduced the terms of imprisonment to five years[4] based on Article 168 (2) of the Criminal Code.[5] The minority of judges in the region's Cassation Division deviated from this decision and considered the sentence inappropriate. They stated that although Article 168(1) (a) of the Criminal Code envisages for such a child to be sent to a corrective center, there is no such institution in the region. Furthermore, they recalled the provision of the Code (Article 53) which prohibits the imprisonment of a child with adults. For these reasons, they opted for the child to be released to the community and supervised by the police.[6]

The applicant complained to the Federal Supreme Court Cassation Bench that he is not liable for the crime, and if liable, he should not be imprisoned with adults but released and supervised by parents. The Bench framed the issue as "the legality of imposing an ordinary penalty on a child below the age of 15 years old by the lower courts without stating why the provisions of the Criminal Code (Articles157-168) do not apply to the case."[7]

2. Procedure and decision of the cassation bench

The Federal Supreme Court Cassation Bench ordered a social inquiry report concerning the child to determine the appropriate penalty to be imposed. The report covered his personal, social, and family circumstances. The report indicated that the child has repented not to engage in similar activities; is humble and willing to comply with orders from his elders; has no criminal record; that criminality of the child is due to lack of proper parenting; his mother has pledged to discharge her responsibility properly in this regard and there was an effort to compensate the victim from the family of the child. The Bench took these as important considerations in the determination of the appropriate penalty.[8]

Taking into account the seriousness of the crime, the Bench considered the imposition of penalty as appropriate. However, it ruled that the manner of enforcement of the imprisonment i.e. sending the child to prison and imprisoning him with adults is detrimental to his morals and will create a social problem.[9] In this regard, the Bench recalled the principle of the best interest of the child as enshrined under Article 36 of the FDRE Constitution, Article 3(1) of

[4] Id., pp.390-91.
[5] Id., p.394.
[6] Id.
[7] Id.
[8] Id,. p.395.
[9] Id., p.396.

the CRC and Article 4(1) of the ACRWC (African Charter on the Rights and welfare of the Child). It further elaborated that the purpose of sentencing a child in the Ethiopian child justice system is rehabilitation, not "revenge".[10]

The Bench then decided for the child to be on probation for two years (as per Articles 171 and 192 of the Criminal Code) under the supervision of police. The Bench reasoned its decision with the absence of a corrective center envisaged under Article 168 (1) (a) of the Criminal Code and the prohibition of imprisonment of children below the age of 15 years old with adults (Article 53 of the same Code).[11]

3. Comments

3.1. When to impose imprisonment?

Under international child rights standards, imprisonment of child offenders is a measure of last resort.[12] Hence, deprivation of liberty including imprisonment shall not be imposed unless the child is convicted for a serious crime against a person or of persistence in committing other serious crimes and when there is no other appropriate response.[13] This is because deprivation of the liberty of a child poses a special problem for children who are still at a very sensitive stage of development.[14]

This requires the national child justice system to make available a wide variety of non-custodial measures including guidance and supervision orders; counseling; probation; community service; financial penalties; foster care; and education and vocational training programs.[15] Judges must first apply or try to apply these measures before depriving a child of his/her liberty.

The same is true in the Ethiopian child justice system although the same wording is not used. The Code makes the imposition of imprisonment a measure of last resort in that it may be imposed *if the measures provided under Articles*

[10] Id., p.393.
[11] Id., pp.396-97.
[12] CRC, supra note 1, Article 37(b); Beijing Rules, supra note 2, Rule 17.1(b); United Nations Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly Resolution 45/113, (1990), Rule 2.
[13] Beijing Rules, supra note 2, Rule 17.1(c).
[14] Office of Higher Commissioner for Human Rights, The Rights of Children in the Administration of Justice, in OHCHR, *Human Rights in the Administration of Justice; A Manual for Judges, Prosecutors and Lawyers*, Professional Training Series No.9, (2003), p.420.
[15] CRC, supra note 1, Article 40 (4).

158-162 have been applied and failed.[16] It should be emphasized that this provision does not make any exception to this principle based on, for instance, the seriousness of the crime. In other words, a child who committed a serious crime for the first time will not face imprisonment unless s/he is subjected to one or two of the measures[17] but not reformed. Thus, judges must first impose one of the measures on a child found guilty of a crime irrespective of its nature and seriousness before imposing imprisonment.

Coming to the position of courts in the case at hand, they did not comprehend the last resort nature of imprisonment as enshrined in both the CRC and the Criminal Code. The lower courts sentenced the child (Admasu), who committed the crime for the first time, to imprisonment. The Federal Supreme Court Cassation Bench as well concurred with the legality of *punishing* a child who has committed a serious crime.[18] But, it disagreed on the manner of enforcement of the sentence and suspended the sentence for two years as per Articles 171 and 192 of the Criminal Code. The Bench grounded its decision with the general objective of responses to child criminality; the absence of a corrective center of a kind envisaged in Article 168(1) (a) of the Criminal Code and the prohibition of imprisonment of children with adults. Thus, it relied on Article 168(1) (a) and Article 53 of the Criminal Code instead of Article 166.[19] By this, the Cassation Bench has also failed to comprehend the last resort nature of imprisonment in the Ethiopian child justice system. Had the Bench comprehended so, it would have examined which measure provided under Articles 158-162 of the Criminal Code could fit the case than referring to Article 168 which talks about corrective detention and imprisonment that must be imposed after the failure of the measures (Article 166). Furthermore, the reliance on Article 53 could also send a wrong message to other courts that imprisonment can be imposed on a child who is a first offender *if there are separate prisons/cells for children to ensure segregation.*

3.2. The legality of suspension of the enforcement of the imprisonment

The Cassation Bench, after concurring with the legality of imposition of a penalty on the child, argued that the manner of enforcement should take into account the best interest of the child and the general aim of the child justice system. Accordingly, it did not accept the imprisonment of the child as there is

[16] Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, *Federal Negarit Gazeta*, (2004), Article 166, [hereinafter Criminal Code].
[17] See Id., Artilces 157 and 160 (2), paragraph 2.
[18] *Admasu Ageze v. ANRS Prosecutor*, p.396.
[19] Id.

no separate prison for children and the imprisonment of children with adults is prohibited by Article 53 of the Criminal Code. Hence, the Bench decided for the enforcement of the sentence to be suspended for two years under the supervision of the police and parents of the child as per Articles 171 and 192 of the Criminal Code.

However, it must be noted that suspension of the enforcement of sentences in general[20] and suspension of sentences involving children in particular is not without limits. For cases involving children, Article 171 of the Criminal Code provides that:

> *The general rules regarding suspension of the sentence or of its enforcement with submission for a specific time to a period of probation under supervision (Articles 190-200) shall, as a general rule, remain applicable to [children] if the conditions for the success of such a measure seem to exist and subject to the rule concerning serious crimes as defined in Article 168.*

As it is clear from this provision, an exception to the rule of suspension of a sentence is provided in that a child who committed a crime of the nature defined in Article 168 is not eligible for suspension. By this, the Code makes a differential treatment for children by confining the exception to suspension of sentence to crimes of serious nature than applicable for adults. In the latter case, the threshold of prohibited suspension is five years of rigorous imprisonment.[21] Thus, the grounds of disallowance of suspension of enforcement in the child cases are not those listed under Article 194 of the Criminal Code, but the limit provided under Article 171.

Article 171 is provided under the sub-section "common provisions" i.e. common to the provisions governing measures and those governing penalties. This can be interpreted to mean that suspension of a sentence can be a measure of first or last resort depending on the circumstances. However, making suspension of a sentence a measure of last resort, and preferring measures that could deprive a child of his/her liberty such as admission to a corrective institution[22], can be challenged based on the principle that detention of children shall be a measure of last resort as enshrined under Article 37 of the CRC. Suspension of a sentence (probation) is one of the non-custodial measures (that should be used first)

[20] See Criminal Code, supra not 16, Article 194.
[21] Id., Article 194 (1) (b)
[22] Id., Article 162.

incorporated in Article 40 (4) of the CRC, Rule 18.1 (b) of the Beijing Rules and Rule 8.2 (h) of the Tokyo Rules.[23]

Setting aside this critique, the Cassation Bench committed an error by suspending the sentence in this particular case. This is because Article 171 does not allow suspension of enforcement of a sentence for the crime punishable with rigorous imprisonment of ten years or more or with death as stipulated under Article 168. The Bench ordered suspension even though the penalty provided in the provision violated (Article 627 (1) falls in this category and was determined as such by the trial court. Furthermore, the Bench did not explicitly state the fulfillment of the conditions provided under Article 197 of the Criminal Code apart from reciting the positive results of the social inquiry report.

3.3. Problem with the issue framed by the Bench

In criticizing the decisions of the lower courts, the Cassation Bench has framed the issue, "why the lower courts applied the ordinary provisions of the Criminal Code *without indicating the reason for not applying the provisions of the Code governing measures and penalty for a young offender*." This framing particularly the italicized phrase is problematic as it indicates the possibility of applying an exception to the provisions of Articles 157-168 of the Criminal Code. However, nowhere in this section of the Code exists a provision that indicates an exceptional circumstance to deviate from the provisions. The Code obliges courts to apply one of the measures provided therein for a child found guilty of committing a crime (Article 157). If the measure failed (Article 166), the court may sentence a child either to a fine (Article 167), corrective detention, or imprisonment (Article 168). Regarding imprisonment, Article 168 of the Criminal Code includes the most serious crime which is punishable with death; and for this crime, the maximum penalty is ten years imprisonment (Article168 (2)). Thus, there is no room to deviate from this provision. Therefore, the insertion of this phrase in the decision of the Cassation Bench could send a wrong message to the lower courts that they may deviate from the provisions of Articles 157-168 of the Criminal Code.

3.4. The appropriate measure that could have been imposed on the child

As it is indicated above, imprisonment of a child who committed a crime for the first time is not allowed both under the international standards and under the

[23] United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), General Assembly Resolution 45/110, (1990).

Ethiopian Criminal Code. Furthermore, suspension of enforcement of sentence is not allowed for serious crimes under the Criminal Code, which the Bench failed to comply with. Therefore, the question is what measure provided under the Code is appropriate for the case at hand? This author suggests that a measure of supervised education is the pertinent and appropriate measure that the Bench could have ordered. Supervised education *shall* be imposed on a child who is not properly up brought (added in the Amharic version), morally abandoned or is in need of care and protection or is exposed to the danger of corruption or is corrupted.[24] Article 159 of the Criminal Code does not qualify the nature of the crime. What matters for this measure is the personal circumstance of the child who has committed the crime. Therefore, it is possible to argue that supervised education can be imposed on a child who committed even a serious crime. Furthermore, the social inquiry report compiled by the Child Justice Project Office of the Federal Supreme Court revealed that the child was not under the proper supervision of his parents, a situation which could fall under one of the circumstances mentioned under the said Article. Hence, the Bench could have sentenced the child to this measure in light of the principle that custodial measures should be the last resort. The Bench thus could have placed the child under the supervision of his mother with conditions like regular attendance to school, a prohibition to associate with certain persons or resort to certain places.[25]

It must be noted that this Article of the Code mandates the child to be under the supervision of relatives or other reliable persons. By this, the Code takes the presumption that the child under one of the conditions has no parents or they have failed to properly up bring him and considered necessary to deprive their parental authority. However, under international child rights law, removal of the child from the family environment must be a measure of last resort when it is absolutely necessary.[26] Hence, this author contends that the position of the Code is not appropriate and the court can place the child under the supervision of the parents with a strict warning for them to discharge their parental responsibility. In the case at hand, the mother was willing to do so[27], and that is why this author argued for the child to be under the supervision of the mother than placing him under the supervision of relatives.

[24] FDRE Criminal Code, supra note 16, Article 159 (1).
[25] Id., Article 159 (1) and (2).
[26] Beijing Rules, supra note 2, Rule 18.2.
[27] *Admasu Ageze v.ANRS Prosecutor*, p.395.

Usually, when a child committed a serious crime, the measure to be imposed is admission to a corrective institution (Article 162 of the Criminal Code).[28] However, a measure of admission to a corrective institution is not the proper measure that the court could have ordered in this particular case for the following reasons. First, the law under this Article provides another condition i.e. the child must have a bad character or antecedent, which is not the case at hand as the social inquiry report has shown. Second, there is no corrective center in the place of residence/region of the child and sending him to the remand home in Addis Ababa[29] far from his family and community may not be in line with his best interest and favorable to his rehabilitation. In this regard, the Beijing Rules provide that a child offender should not be removed from parental supervision, either partly or entirely, unless the circumstances of her or his case make this necessary.[30] The social inquiry report revealed that the child has repented and pledged not to engage in similar activities, and his mother as well pledged to discharge her responsibility for his proper upbringing. Thus, in the face of these situations, it is not necessary to remove the child from his family and community. Third, under the CRC, detention of a child shall be a measure of last resort and hence, primacy should be given to non-custodial measures. Thus, the non-custodial measure of supervised education that does not deprive the liberty of the child, and leaves him in his community and family is in the best interest of the child and promotes the aim of rehabilitation.

Setting aside the legal basis of the argument, one may however wonder whether the two measures (probation and supervised education) have a difference in terms of their effect on the liberty of the child. At their face value, it seems apparent that they do not have such a difference as both leave the child in the family and community. However, a deeper insight into the provisions shows that the two have a different effect in this regard as the liberty of the child is more restricted in case of probation than supervised education. This is because the imposition of conditions (attending school regularly and taking apprenticeship) on a child sentenced to supervised education is discretionary[31] while mandatory in case of probation[32] although the Bench did not impose them. It is clear that

[28] The Amharic version clearly indicates this.
[29] There is a practice of sending child offenders from the regions to the Remand Home in Addis Ababa. See Addis Ababa University Office of Research Director, The System of Justice for Children in Ethiopia: An Assessment of Key Processes, Actors and Initiatives, Part I (unpublished), (2017), p.78.
[30] Supra note 2, Rule 18.2.
[31] See FDRE Criminal Code, supra note 16, Article 159 (2).
[32] Id., Article 198 (1).

the rules of conduct provided under the adults' provision[33] also apply to children as per Article 171. The most significant difference between these measures relates to their effect on the criminal record of the child. A measure of supervised education does not have the effect of entailing a criminal record as a child sentenced to it is not considered as punished under the criminal law[34] while suspension of enforcement of imprisonment does.[35] Maintaining a criminal record for the child has a repercussion on the future life of the child. The absence of a criminal record is one of the recruitment criteria for some government jobs including the military sector in Ethiopia.[36] Hence, if a record is maintained against the child, s/he will not qualify for such jobs until and unless it is canceled by reinstatement (Article 175 of the Criminal Code).

3.5. Children's right to court-appointed counsel

The right to counsel at the state expense (free legal representation) of an accused person is a duly recognized right under international human rights law. This is the case when the person has no means to hire his/her own and justice requires it.[37]

Both the CRC and ACRWC are not explicit on the issue of free legal aid as well as on the "means" and "justice" test. They simply provide that a child has the right for the matter to be determined in the presence of legal assistance[38] or afforded legal assistance in the preparation and presentation of the defense.[39] On the other hand, Rule 15.1 of the Beijing Rules provides that free legal aid can be provided if available in the legal system of the country while the Vienna Guidelines qualified it by the phrase "if needed".[40] Similarly, the UN Principles and Guidelines on Access to Legal Aid in the Criminal Justice Systems provide that "[c]hildren should have access to legal aid under the same conditions as or

[33] Id., Article 198 (1), paragraph 2.
[34] Id., Article 165.
[35] Id., Article 192.
[36] See for instance, የአማራ ክልል ሰላምና ፀጥታ ቢሮ፣የቅጥር ማሰታወቂያ፣የአማራ ልዩ ሃይል ፖሊስ የመመልመያ መስፈርቶች,https://www.facebook.com/110652467024429/posts/pfbid024apjWg3EBfUFBNeL5dgGNEEquBLFy5aqq4gQHEAyKX6HV9Rme8UmY61CA3e99T3Pl/?app=fbl (accessed Aug 15, 2022).
[37] The International Covenant on Civil and Political Rights, United Nations Treaty Series, Vol.171, (1976), Article 14 (3) (d).
[38] CRC, supra note 1, Article 40 (2) (b) (iii).
[39] The African Charter on the Rights and Welfare of the Child (ACRWC) (1999), Article 17 (2) (c) (iii).
[40] Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines) (Recommended by ECOSOC Res 1997/30), paragraph 16.

more lenient conditions than adults"[41] and legal aid to children should be prioritized and free from the means test.[42] The exemption of children from the means test implies that children should get free legal aid.

The CRC Committee is explicit in this regard and recommends States parties to provide effective legal representation, free of charge, for all children who are facing criminal charges from the outset of the proceedings, in the preparation and presentation of the defense, and until all appeals and/or reviews are exhausted.[43] This seems the case irrespective of the seriousness and complexity of the crime and the available resource. Hence, the conditions "when justice requires" and the lack of sufficient means to hire own counsel stated under Article 14 (3) (d) of the ICCPR do not apply.[44]

Coming to the Ethiopian criminal/child justice, the Constitution recognizes the inability to hire one's counsel and the possibility of miscarriage of justice that would result if a person is tried without counsel as two condition precedents for an accused person to have a counsel at the state expense.[45] Contrary to this constitutional provision, the Criminal Procedure Code provides the conditions under which a child would have a court-appoint counsel. This is when the child is not accompanied by his/her parents or legal guardians (irrespective of the nature of the crime and the capacity of the child to hire a counsel) or when s/he is charged with a crime punishable with rigorous imprisonment exceeding ten years or with death[46] (irrespective of the fact that the child is accompanied by his/her parents or legal guardians and irrespective of the capacity of the child or the parents to hire a counsel). Thus, unlike the Constitution, the Criminal Procedure Code does not use the means test, and the child can get free legal aid irrespective of his/her means.

In the case at hand, the child has the right to court-appointed counsel since the crime for which he is charged and/or convicted is punishable with rigorous imprisonment exceeding ten years (from 13-25 years) unless, of course, the

[41] General Assembly Resolution 67/187, (2012), paragraph 22.
[42] Id., paragraph 35.
[43] Committee on the Rights of the Child, General Comment No.24, Children's Rights in Child Justice System (18 September 2019) CRC/C/GC/24, paragraphs 49 and 51, [hereinafter General Comment No.24].
[44] John Tobin and Cate Read, Article 40:The Rights of the Child in the Juvenile Justice System, in John Tobin, (ed.), *The UN Convention on the Rights of the Child: A Commentary*, Oxford University Press, (2019), p.1629.
[45] Constitution of the Federal Democratic of Ethiopia, Proclamation No.1/1995, *Federal Negarit Gazeta*, (1995), Article 20 (5).
[46] Criminal Procedure Code of the Empire of Ethiopia, Proclamation No.185/1961, *Negarit Gazeta*, (1961), Article 174.

child hired one. The child in this case has not hired a private lawyer. It was his sister that appeared before the Bench as a guardian, not as a counsel. Had she appeared as a counsel, this would have been indicated in the decision. Instead, the decision indicated that she was a person that follows the case or *"ጉዳይ የምትከታተል*". Therefore, it was the duty of the Bench to appoint counsel as this right of the child should not be confined to trial or appellate stages. As noted by the CRC Committee, this right should extend to all stages through which the child passes including appeal and review, for this case to the cassation. Even though there is no oral hearing in the Cassation Bench, the role of the counsel at this stage is not negligible as s/he can submit a well-reasoned and legally substantiated application to the Bench which might influence its decision.

3.6. The right to privacy of child offenders

The right to privacy of child offenders is one of the minimum guarantees that states should comply with. Article 40(2) (b) (vii))) of CRC provides that a child accused of a crime has the right for his or her privacy to be fully respected at all stages of the proceedings. The principal way of ensuring privacy is by conducting child justice hearings behind closed doors. Furthermore, the right to privacy also requires court files and records of children to be kept strictly confidential and closed to third parties except for those directly involved in the investigation and adjudication of the case.[47] Moreover, case-law reports relating to children should be anonymous, and such reports placed online should adhere to this rule.[48]

Coming to the Ethiopia child justice system, Article 174 of the Criminal Code prohibits the publication of a judgment concerning a child through the mass media and provides that the entry into the judgment register of measures and penalties be for the mere information of the official, administrative or judicial authorities. As it is clear from the first prong of this Article, what is prohibited is the publication of the judgment through mass media yet it does not define what mass media consist of. It simply cross-refers to Article 155 which is of no help in defining mass media. However, the Criminal Code section which criminalizes crimes committed through mass media defines the term and includes newspapers, books leaflets, journals, posters, pictures, cinemas, radio or television broadcasting or any other means of mass media.[49]

[47] General Comment No.24, supra note 43, paragraph 67; Beijing Rules, supra note 2, Rule 21.1.
[48] General Comment No.24, supra note 43, paragraph 68.
[49] Criminal Code, supra note 16, Article 42 (2).

Nonetheless, it should be borne in mind that the medium of publication is of no concern as far as the privacy of a child is concerned and hence, other means of publication like case law reporting should be anonymous.[50] Therefore, what matters is whether the medium used is capable of being accessed by other people other than justice officials. In the case at hand, the Cassation Bench mentioned the real name of the child in its decision published online, which is a violation of the privacy of the child. This is because; its volumes are accessible online to the general public. Therefore, the Bench was duty-bound to respect the privacy of the child by using a pseudo name and without mentioning the origin of the case.

Conclusion

One of the important safeguards in the child justice system is the primacy of non-custodial measures. This is indicated in Article 37(b) of the CRC and reinforced by Article 40(4) of the same Convention. Provision akin to these Articles is incorporated in Article 166 of the Criminal Code of Ethiopia, which provides that penalties including imprisonment may be imposed once the measures applied have failed to achieve their aim (reformation of the child). Therefore, a child must first be subject to one of the measures provided in the Criminal Code (Articles 159-162) before facing a sentence of imprisonment irrespective of the nature and seriousness of the crime. No exception to this rule is provided in the Code.

In the case at hand, however, this author found that the Bench has failed in upholding this basic principle as it concurred with the decision of the lower courts that sentenced the child who is a first offender to imprisonment instead of measures. This writer suggests that the proper measure that the Bench could have ordered against the child was supervised education (Article 159 of the Criminal Code) instead of suspension of enforcement of the imprisonment.

The decision of suspension of imprisonment by the Cassation is not also in line with Article 171 of the Criminal Code. As per this Article, suspension of sentence is not allowed for crimes of the nature mentioned in Article 168 of the Criminal Code (which is the scenario in the case at hand) i.e. crimes punishable with rigorous imprisonment of ten years or with more are not eligible for suspension.

[50] General Comment No.24, supra note 43, paragraph 68.

Furthermore, this commentary also addresses the due process right to court-appointed counsel and the right to privacy of a child offender as recognized under the CRC. The right to counsel applies to all stages of the proceeding including appeals and reviews. In the Ethiopian child justice system, it applies to a child accused of a crime punishable with imprisonment exceeding ten years, which is similar to the case at hand. However, the cassation review was made without counsel. Regarding the right to privacy, there is no explicit mention in the Ethiopian child justice system. The international and regional child rights standards are however explicit in this regard that the privacy of a child shall be respected at all stages of the proceeding.[51] This right also applies to the post-sentencing stage including case reporting and hence, a case report shall not contain the real name of the child. This is not respected in the case at hand.

[51] CRC, supra note 1, Article 40 (2) (b) (vii).