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The role of labour regulation in attracting Foreign Direct Investment: The case of export-oriented industries in Ethiopia

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30 Septemeber 2019

DECLARATION

I, Kidist Abebe, hereby declare that this dissertation is my original work, and other works cited or used are acknowledged. This work has never submitted to any University, College or other institution of learning for any academic or other awards.

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This dissertation has been submitted for examination with my approval as a University supervisor.

Signed: …………………..

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LIST OF ABBREVIATIONS

CETU	Confederation of Ethiopian Trade Union
CSR	Corporate Social Responsibility
EIC	Ethiopian Investment Commission
EOI	Export-Oriented Industry
FDRE	Federal Democratic Republic of Ethiopia
FDI	Foreign Direct Investment
GTP II	The Second Growth and Transformation Plan
ILO	International Labour Organization
MNEs	Multinational Enterprises
NEPS	National Employment Policy and Strategy
OECD	The Organisation for Economic Co-operation and Development
SEZs	Special Economic Zones

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ABSTRACT

Attracting export-oriented FDI is considered as a way of economic development by many developing countries since it brings capital, employment, know-how and new export market. The flow of export-oriented FDI depends on the gain from the investment. Before deciding the location of the investment, investors explore factors including the country's economic, trade and labour policy. Related to labour policy, there are different opposing arguments whether labour policy is a factor to decide the location of the investment. The research, however, found out that for various developing countries, flexible labour law is a means to attract export-oriented FDI and to bring rapid economic development.

Ethiopia is one of the African countries that has received a high volume of export-oriented FDI. The country plans to become a lower-middle-income country in 2025 using export-oriented manufacturing industries. To attract EOI, Ethiopia has been offering cheap labour, and it has also amended the labour proclamation, which is considered as rigid for industries. This research focuses on the amendments made on the newly approved labour proclamation related to attracting EOI. By researching the amendments made on the new labour proclamation, it becomes clear that after four years revision process the new labour proclamation was recently approved keeping most of the existing labour proclamation provisions except with a slight change and a possibility of the establishment of the minimum wage system. The research, hence, concluded that the amendment made on the labour proclamation without a significant change might adversely affect the government's effort to attract EOI and to transform the country into a middle-income country.

CHAPTER ONE

INTRODUCTION

1.1 Background of the study

Ethiopia was one of the top three fastest economies in the world between 2000 and 2016 based on its gross domestic product (GDP) per capita growth.[1] The Ethiopian economy remains the fastest growing in Sub Sahara Africa in 2019 with 8.5% growth.[2] Despite the economic growth of the country over a decade, it remains one of the poorest countries in the world, with 24% of its population living below the poverty line in 2016.[3] Its human resource is also non-productive,[4] although it is the second populous country in Africa with 105 million population in 2017 according to the World Bank's estimate.[5]

Ethiopia's economic liberalization process which promotes foreign direct investment (FDI) inflows into the country has been started since 1992 after the end of the socialist system which restricted the involvement of the private sector and nationalized foreign-owned private enterprises.[6] After 1992, when the country's FDI inflow was US$ 0.000, [7] Ethiopia transformed to open market economy using export-led strategy; as a result, the inflow of FDI substantially increased in 2018 to US$ 3.3 billion.[8]

The first movement of export-oriented FDI in the country was between 2006 and 2010 when apparel exporters moved to Ethiopia seeking low-cost production.[9] Ethiopia, as part of

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[1] Dan Kopf 'The story of Ethiopia's incredible economic rise' (26 October 2017) https://qz.com/africa/1109739/ethiopia-is-one-of-the-fastest-growing-economies-in-the-world/ (accessed 05 September 2019)

[2] 'Ethiopia is Africa's fastest-growing economy for 2019' (4 January 2019) https://www.ethioembassy.org.uk/ethiopia-is-africas-fastest-growing-economy-for-2019/ (accessed 04 September 2019)

[3] The World Bank in Ethiopia (2019) https://www.worldbank.org/en/country/ethiopia/overview (accessed 14 August 2019)

[4] Getachew Minas and Yared Berhe 'The Impact of Ethiopian Labor Laws on Business Efficiency and Competitiveness' (2011) at 1

[5] The World Bank in Ethiopia (n 3)

[6] United Nations Conference on Trade and Development (UNCTAD) 'Investment and innovation policy review of Ethiopia' (2002) at 10

[7] United Nations Conference on Trade and Development (UNCTAD) 'Foreign direct investment: Inward and outward flows and stock, annual' https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx (accessed 13 August 2019)

[8] United Nations Conference on Trade and Development (UNCTAD) 'World Investment Report' (2019) United Nations at 9

[9] Paul M. Barrett & Dorothee Baumann-Pauly 'Made in Ethiopia: Challenges in the Garment Industry's

an initiative that plans to make Africa the hub of the global manufacturing market, has been attracting export-oriented light manufacturing.[10] The increase in the cost of labour and other resources and shifting of some of the multinational enterprises (MNEs) from Asian countries to look for African countries for lower production cost has been another opportunity for Ethiopia to attract export-oriented FDI.[11] Consequently, the inflow in light manufacturing such as in apparel, leather, and electronics to the country has been increasing.[12] Although these light manufacturing sectors are given priority, the apparel sector is given special consideration by the government.[13] The country plans to highly attract export-oriented industries (EOI) in the apparel sector which is taken as a major contributor to the transformation of the country to a lower-middle-income economy in 2025.[14] The government has also been shifting the labour force from small scale production, for example, farming to efficient production manufacturing sector particularly the garment and textile industry planning to earn up to US$30 billion a year.[15] Even though the government's plan to get US$30 billion a year is considered as a dream figure, the government has started to build industrial parks, which is a special economic zone (EPZ), to fulfil its dream taking Bangladesh and Vietnam as a model.[16] The government particularly prefer the garment and textile industry by taking into account plenty of low skilled job opportunities the industry possibly create, high demand of cheap clothes in the international market and the smaller amount of cost to build the apparel factory.[17] According to the government report, Ethiopia can create 80,000 jobs because of export-oriented FDI at the industrial parks[18], which is used to make the country the centre of light manufacturing.[19]

New Frontier' (2019) Centre for Business and Human Rights at 7

[10] United Nations Development Programme (UNDP) 'Implementation of the Third United Nations Decade for the Eradication of Poverty (2018 – 2027)' (2018) https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2018/04/Ethiopia%E2%80%99s-Progress-Towards-Eradicating-Poverty.pdf (Accessed 1 August 2019)

[11] Barrett & Baumann-Pauly (n 9) 9

[12] Hannah Edinger & Masego Ntsoane 'Invest in Ethiopia Structural reforms set to unlock East Africa's largest economy' (2019) Deloitte. at 7

[13] Ethiopian Investment Commission (EIC) http://www.investethiopia.gov.et/index.php/investment-opportunities/strategic-sectors/textiles-and-garments.html (accessed on 23 July 2019)

[14] as above

[15] Barrett & Baumann-Pauly (n 9) 9

[16] Barrett & Baumann-Pauly (n 9) 9

[17] Barrett & Baumann-Pauly (n 9) 7

[18] Abdur Rahman Alfa Shaban https://www.africanews.com/2019/05/24/ethiopia-needs-minimum-wage-law-to-protect-workers-investment-chief/ (accessed 10 July 2019)

[19] Xinhua 'Ethiopia to start construction of 3 industrial parks in 2018/19 fiscal year' (05 October 2018) www.xinhuanet.com/english (accessed 10 July 2019)

To demonstrate the country's effort in attracting investment, FDI was significantly increased from US$288 million in 2010 to US$3.6 billion in 2017, which was the biggest inflow and it made the country the second major receiver of FDI in Africa.[20] Despite the decline in FDI inflows to Ethiopia to US$3.3 billion in 2018,[21] the country has continued to attract investors and considered as one of the highest investor destinations in Africa.[22] Moreover, for a decade until 2018, its average GDP growth rate remained 10% a year that is to show the country's rapid economic growth in Sub Sahara Africa.[23] Even though there are doubts about the exaggeration of the growth figure, it is factual that the number of population who lived below poverty line decreased from 44% in 2000 to 23% in 2015, access to primary school highly increased, child mortality decreased, education level, access to health and living standards improved substantially.[24] However, these improvements cannot make the country's annual per capita income higher than $783 that puts the country one of the poorest countries in the world.[25]

Recognizing the country's poverty level, the government bases the Second Growth and Transformation Plan II (GTP II) on the view to transform the country into a lower-middle-income country in 2025 using export-oriented manufacturing industries.[26] Developing industrial parks and attracting EOI is also a goal set by the GTP II, to make the country the centre of light manufacturing in Africa.[27]

In order to attract export-oriented FDI, the government offered the presence of low wage labour as a major advantage for EOI in addition to providing fiscal incentives.[28] Ethiopia, as it is the second most populist country in Africa, the government want to use its abundant labour and competitive wage as one means to attract investment.[29] Ethiopian labour regulation does not set a minimum wage system for the private sector. The government thus has promised investors the lowest wage to attract EOI.[30] The government has also recently revised the labour

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[20] Edinger & Ntsoane (n 12) 7
[21] UNCTAD (n 8) 9
[22] Edinger &Ntsoane (n 12) 7
[23] Edinger & Ntsoane (n 12) 3
[24] Barrett & Baumann-Pauly (n 9) 8
[25] Barrett & Baumann-Pauly (n 9) 8
[26] Federal Democratic Republic of Ethiopia National Planning Commission 'Growth and Transformation Plan II (GTP II) (2015/16-2019/20)' (2016) at 76 & 78
[27] GTP II (n 26) 143
[28] Ethiopian Investment Commission (EIC) 'An investment guide to Ethiopia' (2017) at 6
[29] Ethiopian Investment Commission (EIC) http://www.investethiopia.gov.et/index.php/why-ethiopia/ethiopia-at-a-glance.htm (accessed 20 July 2019)
[30] Barrett & Baumann-Pauly (n 9) 9

proclamation of the country, which is considered as strict and discourage industries and the creation of employment.[31] Generally, labour regulations give the least amount of benefits to workers by limiting the employers' rights to hire and fire, that increases labour costs and influence the efficiency and competitiveness of industries.[32]

During the revision process, the government made the draft labour proclamation public, and it became a hot issue in the country since it deregulates the existing proclamation.[33] Recently, the government approved the new labour proclamation. Therefore, this research examined the amendments made on the new proclamation by selecting closely related provisions with the issue under discussion because much research has not been done whether the new labour proclamation attracts EOI.

1.2 Statement of the problem

As it is discussed above, the government has recently amended the labour law, which was considered as stringent for the productivity of industries. The draft version of the labour proclamation, which was made during the revision process clearly showed the government's policy interest to make the labour regulation industries friendly and to further attract export-oriented industries.[34] In the beginning, the government seems focused on addressing problems raised by factories because EOI is considered as a strategy to reduce poverty and unemployment in the country. Generally, the draft did not set a minimum wage system instead considerably decrease the annual leave period, increase the probation period and made termination more flexible. For these reasons, the draft labour proclamation was a point of discussion. Eventually, the government changes most of the draft labour provisions and on 5 July 2019 approved a new labour proclamation which maintains most of the previous labour proclamation provisions except a slight change and giving a clue for the establishment of a wage board to introduce a minimum wage. Nevertheless, the small changes made on the labour law without making any policy shift and the possibility of the provision of the minimum wage might negatively affect the government's effort in attracting EOI to transform the country into a middle-income country.

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[31] Minas and Berhe (n 4) 1
[32] Minas and Berhe (n 4) 1
[33] Ministry of Labour and Social Affairs (MOLSA) Draft proclamation https://chilot.me/wp-content/uploads/2018/12/draft-labour.pdf (Accessed 03 June 2019)
[34] MOLSA Draft proclamation (n 33)

1.3 Research questions

Based on the background and the statement of the problem stated above the research will discuss the following questions: -

1. What is the significance of export-oriented FDI for a developing country, particularly for Ethiopia?

2. What are the international best labour practice and the export-oriented FDI laws and regulations in Ethiopia?

3. What are the significant amendments made on the new labour proclamation aimed at attracting export-oriented FDI into Ethiopia?

1.4 Objective of the study

Generally, the study aims to examine the role of labour regulation in attracting export-oriented FDI in Ethiopia. Specifically, the objectives of the research are to describe the significance of export-oriented FDI to transform Ethiopia's economy to a lower middle-income country; to identify the relationship between export-oriented FDI and labour standards; to discusses whether Ethiopia uses labour standards as one factor to attract FDI to the country; to describe international best standards and the reason why labour standards are given international attention; to assess the amendments made on the new labour proclamation considering the country's need to attract EOI.

1.5 Significance of the study

The research contributes to the existing Ethiopian literature in addition to the government of Ethiopia, EOI and labour force which are affected by the positive or negative relationship between the labour law and export-oriented investment in the country.

The study presents, for the sake of both the government and the EOI, the role the new labour proclamation will play in attracting EOI by addressing the provisions of the labour law because labour cost is the main factor that determines the location of EOI. The research is also significant for the labour force since it discusses the economic situation of the country, the importance of export-oriented investment for the creation of employment and economic growth, and the role of the labour force in the attraction of EOI, and their related right, duties and responsibilities under the labour law.

Moreover, the research is an addition to the Ethiopian literature since it offers a comprehensive discussion about labour as the main determinants of export-oriented investment for developing countries like Ethiopia. The research is especially important because it discusses the provisions of the new labour proclamation considering EOIs.

1.6 Literature review

Developing countries have high expectations of FDI as its contribution to the economic growth of a country has increased.[35] FDI has filled the technological gap of developing countries through its externality effects.[36] Accordingly, countries' struggle to attract FDI has increased, and they have come up with incentives in addition to minimizing and eliminating restrictions. A 2019 World Investment Report showed that attracting FDI has continued as the priority of most countries.[37] According to the Report, new investment policies were made by different countries in the reporting year related to liberalization, promotion, minimizing restrictions and procedures, and providing financial incentives to attract FDI.

Countries are trying to stay competitive in attracting FDI by adopting different policies since EOI keep changing their location repeatedly to different parts of the world.[38] There are different determinants for the change in the location of MNEs. These determinant factors could be global or country-specific. The main country-specific factors include natural resources, labour market, political stability, infrastructure development, market access, corruption, protection of intellectual property rights, exchange rate and the policy on repatriation of capital.[39] There are also global,[40] alternatively, push factors that are given similar weight with country-specific factors such as economic depression of developed countries and reduction of the interest rate at the international level[41]. Related to human resources, studies made on developing countries show that labour productivity, labour cost, and labour market conditions generally influence the inflow of FDI.[42] According to Yu-Cheng Lai & Santanu Sarkar, in a country like India, the second-most populous country in the world, cheap labour can attract

[35] Organisation for Economic Co-operation and Development (OECD) 'The impact of foreign direct investment on wages and working conditions OECD-ILO conference' (23-24 June 2008) at 26
[36] Recep Kok and Bernur Acikgoz Ersoy 'Analyses of FDI determinants in developing countries' (2009) 36 *International Journal of Social Economics* at 106
[37] UNCTAD (n 8) Xii
[38] Yu-Cheng Lai & Santanu Sarkar 'Labour Cost & Foreign Direct Investment-Evidence from India' (2011) 46 *Indian Journal of Industrial Relations'* at 396
[39] Zenegnaw Abiy Hailu 'Demand Side Factors Affecting the Inflow of Foreign Direct Investment to African Countries: Does Capital Market Matter?' (2010) 5 *International Journal of Business and Management* at 105
[40] Hailu (n 39) 107
[41] Pravakar Sahoo 'Determinants of FDI in South Asia: Role of Infrastructure, Trade Openness and Reforms' (2012) 13 *World Investment & Trade Journal* P 263
[42] Hailu (n 39) 105

huge investment in the country more than the government's policy related to financial incentives.[43] Another research also stated that cheap labour and lower-wage is an incentive to attract export-oriented FDI.[44]

However, minimizing labour standard and making the labour wage lower to attract FDI brings a competition called "race to the bottom" that is a word used by economic literature to show the negative side of the traditional belief that FDI leads to sustainable economic and social growth.[45]

The inflow of FDI is increasing, for example, in Latin American countries, but according to the study made by Christian Daude, Jacqueline Mazza and Andrew Morrison, there is no "race to the bottom" approach in Latin America to attract FDI except in some export-oriented sector.[46] The research stated that in some export sectors such as apparel, light manufacturing, and agriculture, lower wage and poor working condition applied by some foreign investors against the labour standard.[47] Low labour standards also believed negatively affect competing countries, especially in the case of China, where its labour relation impacts its competitors. China's way of attracting FDI using very cheap labour and high flexible labour standards that favour investors made production very expensive for investors in their home states.[48]

Ethiopian labour law also has direct influences on the business's productivity.[49] Besides, according to the survey made by the World Bank in 2012, Ethiopia's low labour wage is also one of the main factors that attract FDI in the country where there is no minimum wage system.[50] A research made by Worker Right Consortium regarded this as the race to the bottom,[51] but, for example, another study stated that care should be given while setting the minimum wage not to drive away the investors from the country.[52] These shows the need to

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[43] Lai & Sarkar (n 38) 396
[44] Kok and Ersoy (n 36) 109
[45] Christian Daude and others 'core labour Standards and Foreign Direct Investment in Latin America and the Caribbean: Does Lax enforcement of Labour Standards Attract investors?' (2003) at 2
[46] Daude *et al* (n 45) at 20
[47] Daude *et al* (n 45) at 20
[48] Mary E. Gallagher '"Time is Money, Efficiency is Life": The Transformation of Labor Relations in China' (2004) 39 Studies in *Comparative International Development/Summer* at 43
[49] Minas and Berhe (n 4) 43
[50] Guangzhe Chen and others 'Manufacturing FDI in sub-Saharan Africa: Trends, Determinants, and impact' (2015) World Bank Group at 26
[51] Worker Right Consortium '"Ethiopia is a north star" Grim conditions and miserable wages guide apparel brands in their race to the bottom' (2018) at the title
[52] Barrett & Baumann-Pauly (n 9) 18

balance the labour standard and to attract FDI to the country. This research discusses the linkage between export-oriented FDI and labour standard, which is not discussed in detail by previous researches.

1.7 Research methodology

A qualitative desktop research methodology is used to discuss the relationship between labour standard and FDI in Ethiopia. Both primary and secondary sources are used.

Primary sources including the Constitution of the Federal Democratic Republic of Ethiopia, Labour Proclamation No.377/2003, the draft version of the labour law, the new labour proclamation, Industrial Parks Proclamation No.886/2015, other relevant labour regulations, and International Labour Organization (ILO) conventions. A secondary source of information includes Journals, papers, reports, online news and other internet sources used extensively

1.8 Scope and limitations of the study

To analyse the new Ethiopian labour proclamation, considering the attraction of export-oriented FDI in the country, the scope of the research is limited to discuss significant amendments that are closely related to the issue under discussion. As a result, the whole articles of the labour proclamation are not analysed.

Absence of adequate data that show the relationship between export-oriented investment and the labour market in Ethiopia is the main limitation of the research. Accessing the existing data in Ethiopia and shortage of time is also another constraint of the research.

1.9 Chapter outline

The thesis is organized as follows. Chapter one is the introduction of the study. Chapter two discusses the significance of export-oriented FDI for developing countries, specifically for Ethiopia. It shows the purpose and the determinants of FDI in general and export-oriented FDI in particular internationally and in Ethiopia.

Chapter three is divided into two sections to assess the legal framework of the labour standard in Ethiopia considering the international best practice. In the first section, the relationship between labour law and EOI, and the purpose of the labour standard at the international level is discussed. The second section focuses on the labour standard under the Constitution of Ethiopia, the labour proclamation and ILO conventions ratified by Ethiopia.

Chapter Four analyses the new labour proclamation considering attracting EOI in Ethiopia. Conclusion and recommendation will be made under chapter Five.

CHAPTER TWO

THE SIGNIFICANCE OF EXPORT ORIENTED FOREIGN DIRECT INVESTMENT FOR DEVELOPING COUNTRIES PARTICULARLY FOR ETHIOPIA

2.1 Introduction

This chapter has two sections that discuss export-oriented FDI at the international level and from Ethiopia's perspective. The first section starts with the definition, theories, determinants and significance of FDI, and it discusses export-oriented FDI and its significance for developing countries. The second section explores the economic environment of Ethiopia, the significance of export-oriented FDI and the legal frameworks that support export-oriented FDI in Ethiopia.

2.2 Foreign direct investment: international perspective

2.2.1 Definition of foreign direct investment

International investment is operated directly as foreign direct investment or indirectly in the form of portfolio investment. FDI that is a direct investment involves the control and long-term interest of the investor in the investment recipient country, which is the main characteristic that makes FDI different from indirect portfolio investment.[53] According to Dunning & Lundan, FDI and portfolio investment are distinct for two main reasons.[54] Firstly, while FDI transfers capital, skills, technology, ethical and social norms and increases access to a foreign market; portfolio investment come along financial capital alone. Secondly, unlike the portfolio investment, in the case of FDI ownership remains in the hands of the investing entity that has power and capable of giving a decision.

Generally, FDI is defined as the collaboration of companies at the international level having with equity interest and management control of foreign enterprises.[55] The Organisation for Economic Co-operation and Development (OECD) on its 4th edition benchmark definition

[53] Carmen Boghean & Mihaela State 'The relation between foreign direct investments (FDI) and labour productivity in the European Union countries' (2015) 32 *Procedia Economics and Finance Journal* at 279

[54] John H. Dunning & Sarianna M. Lundan *Multinational Enterprises and the Global Economy, Second Edition* (2008) at 7

[55] Luiz R. de Mello Jr. 'Foreign direct investment in developing countries and growth: A selective survey.' (1997) 34 *The Journal of Development Studies* at 4

defines FDI and gives guidelines that help to quantify FDI activity and put international standard to collect and analyse FDI statistics. The OECD defines FDI as:

> "Foreign direct investment reflects the objective of establishing a lasting interest by a resident enterprise in one economy (direct investor) in an enterprise (direct investment enterprise) that is resident in an economy other than that of the direct investor." [56]

The International Monetary Fund (IMF) on its 6th edition of Balance of Payments and International Investment Positions Manual has also given a compatible definition of FDI with the OECD Benchmark definition of the 4th edition.[57] According to the International Monetary Fund, substantial influence or control of a foreign investor invests a direct investment. The foreign investor should have a voting power of more than 10% in the investor corporation for its investment considered as FDI.[58]

2.2.2 Theories of foreign direct investment

It is argued that any kinds of investments, either domestic or foreign; and private or public are essential for the development of a country.[59] In the 1970s and 1980s, several developing countries came up with protectionist strategies to protect their domestic industries from foreign company influences, but these protectionist measures such as trade restrictions and capital control decreased the inflow of FDI to their countries and declined their economic growth.[60] The elimination of these restrictions raised the stagnant growth of the economy. For example, in Latin America, countries achieved notable economic growth in the early 1990s.[61]

There is, in general, a positive relationship between flows of FDI and increase in growth domestic product (GDP), this could be seen from the increase in world's GDP in which the share of the FDI stock has improved significantly over the past decades.[62] Generally, countries compete to attract FDI because it is believed that FDI brings economic growth. There are three

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[56] Organisation for Economic Co-operation and Development (OECD) 'Main Concepts and Definitions of Foreign Direct Investment' (2009) https://doi.org/10.1787/9789264045743-5-en (accessed 02 August 2019) at 48

[57] as above

[58] International Monetary Fund (IMF) Balance of Payments and International Investment Position Manual - Sixth Edition (BPM6) at 101

[59] Simplice Asongu et al 'Determinants of foreign direct investment in fast-growing economies: evidence from the BRICS and MINT countries' (2018) 18/038 AGDI Working Paper at 1

[60] as above

[61] as above

[62] Dunning & Lundan (n 54) 17

theories concerning the relationship between countries economic growth and FDI, namely classical theory, independence theory and middle-path theory.[63]

According to the 'classical theory', host countries are fully advantageous of FDI because it transfers knowledge and technology, promotes innovation, reduces unemployment, increases production and marketing, and encourage domestic capital to focus on projects that help the public.[64] Related with the classical theory, the neoclassical theory also stated that the capital flows from rich to poor countries where MNEs get a much more return help to develop the poor countries' economies, and the theory assumed that the latter would reach the level of the rich countries through time because of a large amount of capital inflow.[65]

In contrast to the above theories, the 'dependency theory' states that FDI hardly links to the economic growth of developing countries since MNEs, which are the main actors of FDI, work for the benefit of their parent company which is normally found in the industrialized countries.[66] The real benefit the host country obtain from FDI is lesser because MNEs repatriated a large amount of their profit.[67] The MNEs, after taking advantage of the profit-making conditions, transfer their profit to their advanced countries; thus, the host countries losses their local assets that used for the development of their country.[68] Moreover, the manipulative nature of MNEs harms the long term growth of a country because they monopolize the investment of the host country.[69] Domestic companies usually unable to compete with MNEs and other foreign firms are limited to enter into the market because of the pricing system of the monopolistic MNE; thus, the bigger share of the economy of the developing countries fall in the hands of the MNEs.[70] This makes the developing states dependent on developed nations.[71]

The argument of the 'dependency theory' based on the Marxist perception of globalization in that manipulation of cheap labour, expansion of market and primary resources

[63] Jordan E. Toone 'Mirage in the Gulf?: Examining the upsurge in FDI in the GCC and its legal and economic implications for the MENA region' (2012) 26 *Emory International Law Review* at 713

[64] Toone (n 63) 713 & 714

[65] Eli A. Udo & Isitua K. Obiora 'Determinants of foreign direct investment and economic growth in the West African Monetary Zone: A system equations approach' (2006) at 6 & 7

[66] Toone (n 63) 714

[67] Tonne (n 63) 714

[68] Asongu et al (n 59) 4

[69] Udo & Obiora (65) 11

[70] Udo & Obiora (65) 11

[71] Toone (n 63) 714

are a trade-off for outdated technology of developed countries.[72] According to this theory, there is not fair sharing of the profit obtained from the FDI because MNEs take the most significant portion of the profit. Besides, MNEs apply capital intensive technologies that do not help the developing countries high rate of unemployment and income inequality. Furthermore, the peoples of the developing nations are not beneficiaries of the profit obtained from the FDI because of the agreement of the foreign investor and local politicians.

The third theory called the middle path theory to merge the idea of the above two theories, states that MNEs promote the economic growth of the developing countries; however, they have also negative impacts on the host state.[73] While dependency theory states about the adverse effects of FDI, the classical theory states the benefits a host country can obtain from FDI. The middle path theory combines the two and come up with the approach that advocates the idea of government intervention and regulation of the dependency theory and economic openness of the classical theory, hence, according to the middle path theory, the host country should adequately manage the negative outcome of FDI by adopting regulations while attracting FDI.[74] The middle path theory is essential in this study, as it can demonstrate both the significance of attracting export-oriented FDI in Ethiopia and the role labour regulations are played in attracting export-oriented industries (EOI).

From the MNEs perspective, FDI is the result of the investment decisions to increase their profit because of the high competition in the international market.[75] Generally, the substantial difference in the cost and productivity of factors of production, access to market and natural resources stimulate corporations to move to invest in different places.[76]

The first theories related to MNEs production were the neoclassical theory of capital investment and the Heckscher-Ohlin theory of trade.[77] The theories were, however, based on the hypothesis of a perfect market and they did not clarify the nature of FDI; besides, the theories stated that in the absence of a perfect market, there would not be FDI.[78] The other theory of international trade from MNEs perspective is a product-cycle theory.[79] According to the product cycle theory, the primary phase of a new product is produced in the home country

[72] Asongu et al (n 59) 4
[73] Toone (n 63) 715
[74] Toone (n 63) 715
[75] De Mello (n 55) 4
[76] De Mello (n 55) 4
[77] Udo & Obiora (n 65) 4
[78] Udo & Obiora (n 65) 4
[79] Udo & Obiora (n 65) 4 & 5

and for the local market but after attaining the degree of the quality of the product, MNEs look for comparable cost advantage to relocate the place of production. For example, Asian countries export electric appliances to the United States and European countries where initially, these products were produced.

A theory that is considered as a dominant critical basis for the development of the concept of international production is Dunning's OLI paradigm.[80] According to Dunning, generally, the MNE engage in FDI if the determinants that are the Ownership advantage (O), Location advantage (L) and Internationalization advantage (I) are fulfilled.[81] As per his paradigm, the Ownership advantage is related to the advantage the MNE has, but other business enterprises do not have such as capital, technology and access to market advantages. The location or the place of production advantage associated with offers such as material and labour cost, market size, infrastructure, natural resources and investment incentives which are given by host states to attract MNEs. The local advantage does not only relate to the present resource of the country, but also the resources added such as infrastructures and institutions. The locational advantage of the host country is important in exceedingly stimulating the MNEs to relocate their investment from their country of origin to the host country. MNEs search for locations that are suitable for the advancement of their advantage.[82] The location advantage is more relevant to this study as it allows us to explore whether EOI is particularly attracted depending on Ethiopia's labour regulation. The internationalization advantage relates to how the MNE involves in FDI to reduce cost and control the international market.[83]

Dunning also divided the types of FDI as Natural resource seeking FDI, Market seeking FDI, efficiency-seeking FDI and Strategic asset seeking FDI.[84] The determinant factors for natural resource seeking FDI are cost and quality of natural resources, infrastructure, the possibility of a joint venture. Market seeking FDI is also influenced by the size of the local market, the cost of labour, infrastructure and the general macroeconomic policy of the country. In the case of efficiency-seeking FDI cost of production, cost and quality of labour, infrastructure is factors that influence the location of efficiency-seeking FDI. The concept of efficiency seeking FDI is useful in this study to analyse the characteristics of EOI and their

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[80] Mohamed Amal et al 'Strategies and Determinants of Foreign Direct Investment (FDI) from Developing Countries: Case Study of Latin America' (2009) 10 *Latin American Business Review* at 76
[81] Dunning & Lundan (n 54) 104
[82] Mohamed Amal et al (n 80) 78
[83] Dunning & Lundan (n 54) 104)
[84] The S. Masipa 'The relationship between foreign direct investment and economic growth in South Africa: Vector error correction analysis' (2018) 18 *Acta Commercii Journal* at 3

reaction to the labour cost in Ethiopia. The other type of FDI is a Strategic asset seeking FDI which focuses on the presence of technology, management skill and assets to the foreign firms.

However, countries decision to attract the above types of FDI depends on the country's benefit, the types of factors and their efficiency and risks associated with them.[85] Dunning's models are criticized because even though it describes the factors, it does not explain the reason behind the importance of the factors.[86]

2.2.3 Determinants of foreign direct investment

For business enterprises maximizing the net profit is the major force of modern business to invest their capital.[87] However, there is no commonly agreed on factors that attract MNEs to a country or industry.[88] Different determinants, for example, tax, trade barriers, labour cost and exchange rate are considered as both negative and positive impacts of FDI.[89] It is also argued that the political stability of a country, bureaucratic procedures, economic intervention of the government, laws related to property rights, the availability of infrastructure, rules related to balance of payment, the size of domestic market, the growth of the host country and the country's overall trade and investment regulations are considered as the important determinants of FDI, but among these factors domestic market size, economies of scale, and the relative price of factors of production are considered as the key factors of FDI.[90] According to Asiedu's research on Sub Sahara African countries, the quality of the infrastructure, the organized legal system, quality of labour force, less corruption, the political and economic stability encourage FDI to the countries.[91]

Another research shows that perception of risk and improved legal infrastructure has an impact on attracting FDI in Africa.[92] Natural resources are determinants of FDI for different countries such as Angola, Côte d'Ivoire, Namibia, Nigeria and Botswana.[93] Other determinants such as attractive investment policy in Tunisia, Egypt and Zimbabwe; SEZ development in

[85] as above
[86] Harinder Singh & Kwang W. Jun 'Some New Evidence on Determinants of Foreign Direct Investment in Developing Countries' (1995) 1531 World Bank Policy Research Working Paper at 3
[87] Dunning & Lundan (n 54) 63
[88] Kok & Ersoy (n 36) 106
[89] Kok & Ersoy (n 36) 106
[90] De Mello (n 55) 4 & 6
[91] Elizabeth Asiedu 'Foreign Direct Investment in Africa: The Role of Natural Resources, Market Size, Government Policy, Institutions and Political Instability' (2006) University of Kansas United Nations University at 65
[92] S. Ibi Ajayi 'Foreign Direct Investment in Sub-Saharan Africa: Origins, Targets, Impact and Potential' (2006) African Economic Research Consortium at 18
[93] as above

Mauritius and Senegal and shifting of light industries from emerging economies such as China are factors for the inflow of FDI in Africa.[94]

2.2.4 Significance of foreign direct investment

The presumption around FDI as an impediment for the economic performance of less developing countries is currently changed, and it is believed by many developing countries that FDI is playing a significant role in the advancement of their economy.[95] These countries use FDI as an important tool for development since it brings new investment, technology, expertise and export market.[96] For developing countries, such as South Asian countries, FDI is considered as the critical element in the economic growth of the countries since they face low domestic investment, limited research and lack of upgraded technology in their countries.[97] Thus, many of the South Asian countries are deregulating and privatizing their economy to attract FDI.

Statistics also show that the flow of FDI is increasing in developing countries, mainly in Asia, Latin and Central America.[98] According to the 2019 World Investment Report, the share of developing countries from the flow of global FDI was increased to 54% in 2018.[99] For African countries which are fighting for poverty, FDI is regarded as a means of development mainly because of the unavailability of capital.[100] Studies show that in Sub Saharan Africa, FDI is an essential factor for the economic growth of the countries.[101] Because of the small amount of income and savings, the capital should come from overseas.[102] Foreign aid and access to the international capital market to the countries have been falling, so the capital necessary for economic growth must come from FDI.[103]

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[94] Ayodele Odusola 'Addressing the foreign direct investment paradox in Africa' (11 June 2018) UNDP Africa http://www.africa.undp.org/content/rba/en/home/blog/2018/addressing-the-foreign-direct-investment-paradox-in-africa.html (accessed 16 July 2019)

[95] Yun-Wing Sung 'Export-Oriented Foreign Direct Investment in the People's Republic of China: Division of Value Added between Source and Host Economies' in Cheng L.K., Kierzkowski H. (eds) *Global production and trade in East Asia* (2001) at 207

[96] Sahoo (n 41) 256

[97] Sahoo (n 41) 256

[98] Sahoo (n 41) 259

[99] UNCTAD (n 8) ix

[100] Hailu (n 39) 104

[101] Asiedu (n 91) 64

[102] Asiedu (n 91) 64

[103] Asiedu (n 91) 64

MNEs used FDI to enter developing countries protected market since the restriction of imports in these countries increase the return of the MNEs.[104] However, since the 1980s new economic environment characterized as globalization changes the conditions because of trade and investment liberalization caused by multilateral agreements, unilateral initiatives, privatization, decreased transport costs and development of communication technologies.[105] Because of these changing situations plus MNEs easily access to immobile resources and enabled them to advance their production, they are involved in huge FDI activities, and the flows of FDI increased.[106] These shift of the economic situation affects developing countries because they are considered as profitable investment places, and they received a big number of FDI inflows in the 1990s.[107] It is also argued that the purpose of MNEs to invest in developing countries have become different. Because of the increase in the competition at the international market, MNEs forced to reduce their cost so that in order to increase their efficiency, they have started relocating to developing countries at a low cost.[108]

FDI highly facilitate the globalization process through the MNEs' substantial contribution.[109] In 1989 the worlds annual average FDI increased to US$ 196 billion,[110] Moreover, it came to US$ 1.3 trillion in 2018, according to the 2019 World Investment Report. As per the reports, FDI inflows to developing countries in 1989 was only US$ 30 million which was lesser than the inflow to developed countries that is US$ 163 billion, but in 2018 FDI inflows to developing countries increased to 706 billion and the percentage share of developing countries in global FDI is reached to 54 per cent. FDI inflows to the least developed countries also improved and increased by 15 per cent in 2018 and reached to US$ 24 billion.[111] In the same year, FDI inflows to Africa increased to US$ 46 billion which indicates 11 per cent improvement from the previous two years but much lesser compared to US$ 512 billion inflows to developing Asia, which is the largest receiver region.[112] In 2018, Egypt continued as the

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104 Georg Caspary and Susanne Berghaus 'The Charging nature of foreign direct investment in Developing Countries: Evidence and Implications' (2004) 5 *Journal of World Investment Trade* at 692
105 as above
106 Caspary & Berghaus (104) 692
107 Caspary & Berghaus (104) 692
108 Caspary & Berghaus (104) 692
109 Mohamed Amal et al (n 80) 78
110 United Nations 'World investment report 1991' (1991) at 8&10
111 UNCTAD (n 8) 13
112 UNCTAD (n 8) 9

biggest receiver of FDI in Africa and South Africa also made a remarkable improvement the same year after recording low FDI inflows for the previous years.[113]

2.2.5 Export-oriented foreign direct investment

The export-oriented economy is considered as the most important factor that determines the flows of FDI since the flow of FDI is more responsive for the demand for export than the demand for the domestic market.[114] However, for the primary exports, the link between the flow of FDI and export orientation is not important.[115] Export is a significant determinant factor of the flow of FDI, particularly for manufacturing export sector.[116] It shows the relationship between the magnitude of the export sector with the flows of FDI. Related to the cause and effect of FDI and export orientation, having export-oriented economy precede to attract FDI even though in some circumstances they both happen at the same time.[117]

Before choosing a location, export-oriented investors weight up different locations suitable for manufacturing and relatively more attracted by tax incentives and import duty exemptions than domestic market-oriented investors.[118] For instance, many Caribbean countries have applied tax incentives and holidays and import duty exemptions to attract export-oriented FDI.[119] However, in addition to these incentives, the presence of nontax elements related to labour cost, foreign exchange restrictions and quality of infrastructure highly affect the choice of export-oriented investors, and with the absence of nontax factors, it is hardly successful in attracting export-oriented FDI with the provision of tax incentives and import duty exemptions alone.[120] But export-oriented FDI opposed to domestic market-oriented FDI involves a relocation of parts of the production chain to the host country, thus, availability of low-cost labour is one of the main nontax factors for the location of export-oriented FDI.[121] Because export-oriented investor's choice of the type of incentives is different from local market-oriented investors, countries have to match the type of incentives provided with the industry they are selecting.[122]

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113 UNCTAD (n 8) 9
114 Singh & Jun (n 86) 7, 18 & 19
115 Singh & Jun (n 86) 21
116 Singh & Jun (n 86) 21
117 Singh & Jun (n 86) 20
118 Robert J. Rolfe et al 'Determinants of FDI incentive preferences of MNEs' (1993) *Journal of International Business Studies, a second quarter* at 336 & 337
119 as above
120 as above
121 Ajayi (n 92) 35
122 Robert J. Rolfe et al (118) 352

2.2.6 The role of export-oriented foreign direct investment in developing countries

Developing countries change their policies from import substitution to export-oriented development polices by liberalizing their economy as it is evidenced by much amount of inflows of export-oriented FDI into developing countries in the last few years.[123] The increase in export and the integration of Southeast Asian countries, mainly China into the world economy has brought excessive economic growth and reduced poverty rate.[124]

Recognizing the fact that export-oriented FDI is a major tool to boost their export at the international market and to bring economic development through bringing new technology, skill, and management that are essential to increase export performance, countries mainly developing nations are competing to each other to attract export-oriented FDI.[125]

Export-oriented FDI is expected to be well connected with the local economy than domestic market-oriented FDI since it is driven by the host country to utilize the country's locational advantage such as low labour cost and natural resources; therefore, export-oriented FDI brings relatively higher impact on the host country.[126] It also encourages local firms to participate in the export market by bringing information about the export market and it encourages suppliers to supply more quality raw materials necessary for the export market.[127] Because the export-oriented FDI focuses on the external foreign market, it does not negatively affect local firms too. These are the reasons why countries like China, Mexico, Costa Rica and Hungary mostly attracted export-oriented FDI and successful on the global market.[128] Mainly, China utilized export-oriented FDI significantly to its export success and economic growth. As fifty per cent of China's export is carried out by foreign-invested enterprises, it is said that export-oriented FDI stimulates China's economic reform. Its economic zones or industrial parks attract a large number of export-oriented multinational enterprises.[129]

It is argued that FDI inflows and exports promote economic growth and create employment opportunities. Especially in the manufacturing sector, the growth in export

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123 Masipa (n 84) 2

124 Roldan Muradian 'Is China a Threat to Mesoamerica's Development' (2007) 5 *Seattle Journal for Social Justice* at 798

125 Jaya Prakash & Pradhan Vinoj Abraham 'Attracting export-oriented FDI: Can India win the race?' (2005) 156 Working Paper at 2 & 19

126 Prakash & Abraham (n 125) 3

127 Prakash & Abraham (n 125) 3

128 Prakash & Abraham (n 125) 3

129 The World Bank Group 'Foreign Direct Investment – the China story' July 16, 2010 https://www.worldbank.org/en/news/feature/2010/07/16/foreign-direct-investment-china-story (accessed 01 August 2019)

increase job creation for low wage workers.[130] EOI is traditionally attracted using SEZ programmes.[131] In the 1960s, the East and South-East countries successfully developed export-oriented development strategies using SEZ programmes and Asia currently has three-quarters of the world SEZs.[132]

Sub Saharan African countries use SEZ programmes to boost their manufacturing and export capacity.[133] Through this programme, countries aim at attracting low skill labour intensive EOI such as the apparel industries.[134] African governments adopted the SEZ programmes to bring rapid economic development as East Asian economies in the 1990s.[135] In Ghana, for example, in 1995 the government started the EPZ programme to promote its export, that resulted in increased export earnings of US $417.5 million in 2001 from US$159.7 million in 1995.[136]

Developing countries use the apparel industry to promote industrialization because it is believed that the industry plays a significant part in the economic development of their country since it creates employment opportunities for several people.[137] The figure revealed in 2015 by the World Trade Organization (WTO) showed that the value of the apparel export in the world accounted to US$445 billion and the value of the textile export US$291 billion in the same year, and the value chain of the garment industry is very active, and it has been still there since the 1970s.[138] The highest producers of the industry are Asian countries including Bangladesh, India and China, but China has become the largest exporter of clothing, textile, footwear and leather since 2010 by taking the place of the European Union world share with 54% and 76% production and employment creation in the apparel industry respectively.[139] The apparel industries are characterized by their frequent changes in their location searching for low cost hence countries in order to remain attractive for the industry, must change their business environment according to the need of the industry otherwise the industries leave their country as long as they obtain a better location with a lower cost.[140] Thus, the global apparel industries

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130 Masipa (n 84) 1 & 2
131 UNCTAD (n 8) 139
132 UNCTAD (n 8) 141
133 UNCTAD (n 8) 149
134 UNCTAD (n 8) 149
135 UNCTAD (n 8) 149
136 Ajayi (n 92) 109
137 Mamo Mihretu & Gabriela Llobet 'Looking Beyond the Horizon: A Case Study of PVH's Commitment to Ethiopia's Hawassa Industrial Park' (2017) World Bank Group at 13
138 as above
139 as above
140 Mihretu & Llobet (n 137) 15

have been shifting from their location in Asia to African countries, especially east African countries because of the increase in the cost of production and compliance in Asian countries with international standards.[141]

2.3 Foreign direct investment inflows in Ethiopia: A historical perspective

2.3.1 Economic environment

Ethiopian socio-economic system changed from the feudal system to the socialist system in 1975, and it lasts until 1991. The socialist system was characterized among other things by political instability, the centralized economic planning system and restriction and nationalization of local and foreign-owned private enterprises.[142] The statistics of FDI inflows and stock during this period are not obtained.[143] In the post-socialist system, the country transformed into an open market-based economy. The liberalization process after 1992 promotes FDI inflows into the country. According to UNCTAD's investment reports, the value of the FDI inflow into the country changed from US$ 0.000 in 1992 to US$ 3.3 billion in 2018.[144] Ethiopia has also become one of the countries that register the highest poverty reduction rates in the world. The country's poverty declined from 45.5 per cent in 2000 to 23.5 per cent in 2016.[145] Ethiopia's economy has grown largely and registered 10.3% average growth a year from 2006 to 2017 in contrast to African countries average 5.4% growth.[146] It is also predicted that the country's economy remains the fastest economy in Sub Saharan African countries with 8.5% growth from 2019 to 2020 and 7.5% by 2023.[147]

Ethiopia's economic strategy has been based on strong macroeconomic policies; a suitable investment environment and infrastructure development are also some of the reforms that help economic growth.[148] The government plans to continue these reforms included in the investment programmes until 2020 as part of the country's Second Growth and Transformation Plan (GTP II).[149] Ethiopia has been shifting from agricultural-based economy and plans to make the industries sector the major part of its GDP in order to transform the country to an

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141 Mihretu & Llobet (n 137) 15
142 UNCTAD (n 6) 9
143 UNCTAD (n 6) 25
144 UNCTAD (n 7); UNCTAD (2018) (n 8)
145 UNDP (n 10)
146 The World Bank in Ethiopia (n 3)
147 Edinger & Ntsoane (n 12) 3
148 Edinger & Ntsoane (n 12) 3
149 Edinger & Ntsoane (n 12) 3

industrial-based economy by 2025 with 47% contribution to the GDP, and the service sector is expected to contribute 32% to the GDP and the agricultural sector estimated 21%.[150]

For the justification of economic growth, a study that systematically reviewed researches on factors of FDI in Ethiopia revealed that there are different factors that either positively or negatively affect FDI in Ethiopia. For example, the growth of real GDP, trade liberalization, devaluation of the local currency is considered as positive impacts to attract FDI to the country. On the other hand, factors such as inflation, inadequate infrastructure and high-interest rate are mentioned as having a negative relationship with FDI.[151]

2.3.2 Significance of industrial parks

Industrial Parks are essential policy tools to boost economic transformation by attracting investment; promote the transfer of technology and knowledge, innovation and to create employment and decent working environment.[152] The development of industrial parks is one of the main strategies of the GTP II to increase the manufacturing sector by 25 per cent per year and to further obtain US$30 billion from the garment sector alone by 2030.[153] Industrial Parks have the significance to address challenges related to a country's industrialization process, such as lack of capital, infrastructure, foreign exchange, land acquisition, procedural requirements, and weak capacity.[154] The construction of industrial parks in Ethiopia started in 2014 with the establishment of Ethiopian Industrial Parks Development Corporation (IPDC), and within three years several industrial parks were built and started operations until 2017.[155] Industrial parks have also been built by private investors, such as the Huajian company, that involved in constructing a group of industrial parks to produce shoe throughout the country.[156]

Parks are mainly developed in sector-specific specialized forms to increase the economy of scale and efficiency.[157] Except the Dire Dawa Industrial Park that is intended for different types of export-focused sectors, the Hawassa Industrial Park specializes in textile and apparel, Bole Lemi Industrial Park in textile and apparel and leather, Mekelle Industrial Park

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150 Edinger & Ntsoane (n 12) 4

151 Habtamu Legese ‘Determinants of foreign direct investment in Ethiopia: Systematic review’ (2018) 6 *International Journal of Business and Economic Development* at 45

152 United Nations Development Programme (UNDP) ETHIOPIA | National Human Development Report 2018 Industrialization with a Human Face (2018) at 15

153 as above

154 as above

155 as above

156 as above

157 Ethiopian Investment Commission (EIC) ‘An investment guide to Ethiopia’ (2017) at 8

in textile and apparel and leather, Arerti Industrial Park in building materials and furniture and Debre Berhan Industrial Park in agro-processing.[158] In addition to government's provision to industrial park incentives to boost export and competition, parks are linked to ports by electric railway lines and roadways, and they use renewable energy and 'zero liquid discharge (ZLD) technology'.[159]

Nevertheless, it is worth noting that developing an industrial park needs planning possible ways for their successes in addition to setting practical objectives.[160] Considering the country's specific comparative advantage and global experiences in industrial park development are important to achieve the goal of building parks in Ethiopia.[161] Ethiopia can use industrial parks to experiment with major reforms related to such as financial regulations, labour laws and others.[162] Industrial parks could also solve environmental issues by labelling them as 'Eco-Industrial Parks'.[163]

2.3.3 Significance of export-oriented foreign direct investment

Ethiopia, after the transition to market-oriented economic policy in 1992, has followed the export-led strategy.[164] The government has adopted different policies; mainly agricultural development led to industrialization and industrial development policy to promote exportable agricultural and manufactured products.[165] The country also promotes FDI to play a significant role in the production of exportable products; thus, FDI constitutes a large share of investment in the country.[166] Many foreign investors have already been engaging in the export-oriented cut flowers, fresh vegetables, high-value crops and animal products; and other foreign firms are also attracted by limestone for cement production, opal and gold.[167]

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158 EIC (n 157) 9
159 EIC (n 157) 8
160 UNDP (n 152) 15
161 as above
162 as above
163 as above
164 Ministry of Trade 'Ethiopia's Perspective on EBA' (2017) Presentation to the Mid-Term Evaluation of the EU's GSP http://www.gspevaluation.com/wp-content/uploads/2016/12/Ethiopias-Perpective-on-EBA.pdf (accessed 02 July 2019)
165 as above
166 World Economic Forum 'Ethiopia is Africa's fastest-growing economy' (2018) https://www.weforum.org/agenda/2018/05/ethiopia-africa-fastest-growing-economy/ (Accessed 14 August 2019)
167 Demeke Atlaw et al 'Development of Foreign Direct Investment in a Rising Africa: A case study of Ethiopia' (2014) Photon 114 *The Journal of Economics* at 91&92

Ethiopia is one of the pioneers to start the 'Made in Africa Initiative' project initiated by Ms Helen Hai, who is UNIDO's Goodwill Ambassador, to make Africa the centre of global manufacturing markets.[168] The establishment of the first successful Chinese factory called Hujian near Addis Ababa in 2011 and the inflow of FDI in light manufacturing show that the initiative can work for Africa.[169]

Ethiopia continued as one of the highest investor destinations in Africa, with a significant increase in FDI inflows from US$ 288 million in 2010 to 3.3 billion in 2018.[170] It remained the main challenge to attract FDI in the country. However, currently, the government gives high consideration for the development of road, electricity and other facilities that are considered as incentives for foreign investors.[171] Because of the development of infrastructure, manufacturing and industrial parks, the increase in FDI has been improved twofold since 2013.[172] According to the Ethiopian Investment Commission (EIC), in 2017 the growth of FDI inflows reached 46%, and the inflows also expected to increase since the government plans to continue developing infrastructures and industrial parks.[173] FDI inflows are increasing in the manufacturing sector particularly in light manufacturing such as in textile and garment, leather, agro-industry, electronics from mainly Chinese and Indian foreign investors which has sat up their firms' nearby places where they found raw materials for the textile production.[174] The recent African Continental Free Trade Area (AfCFTA), which plans to increase intra-Africa trade by 60% in 3 years, also expected to increase investment in the country.[175]

In addition to the above economic growth and infrastructure development, some of the other conditions the EIC mentioned as favourable conditions that make the country a preferred destination of foreign investors in Africa are:-[176]

- The country's population size which is about 100 million and that makes Ethiopia the 2nd most populous country in Africa
- The presence of about 54 million trainable and active labour force with a globally competitive labour cost, flexible labour law, having more than 1,300 technical and

168 UNDP (n 10)
169 UNDP (n 10)
170 Edinger & Ntsoane (n 12) 7
171 Atlaw et al (n 168) 92
172 Edinger & Ntsoane (n 12) 7
173 EIC (n 157) 5
174 Edinger & Ntsoane (n 12) 21
175 Edinger & Ntsoane (n 12) 21
176 EIC (n 157) 5 & 23

Vocational Education and Training institutes that can admit about one million students a year

- The preferential market access to the USA through African Growth and Opportunity Act (AGOA), to European Union through Everything But Arms (EBA) scheme, to India, Japan Canada, China, Turkey, Australia and New Zealand
- Strategic location the country has near to the Middle East, Europe and Asia

The government gives the most important consideration for selected areas of investment. For example, in the agricultural sector, it gives priority for such as horticulture, cotton, palm tree, coffee and tea plantation.[177] From the manufacturing sector, it gives priority to textile and apparel, leather and leather products, agro-processing, pharmaceuticals, chemical products and metal and engineering industry.[178]

The government also offers impressive benefits for manufacturing industries since it intends to make the manufactured products for the export market, and it envisages to bring the country the manufacturing hub of Africa.[179] The significant benefits the government offers for manufacturing industries are: - [180]

- Equipped industrial parks
- a large number of trainable labour at a competitive cost
- low priced energy supply
- plenty of industrial raw materials. For example, Ethiopia is the primary supplier for leather industries.

A research made by the World Bank in 2012 also shows that one of the factors that influence Chinese and Indian investors in Ethiopia is low labour wage.[181] Moreover, another research stated that the increasing number of populations and government's attention to the expansion of educational institutions could be a reason for the low labour force that results in the increase in foreign investors in the country.[182]

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177 EIC (n 156) 10
178 EIC (n 156) 6
179 Ministry of Trade (n 165)
180 EIC (n 156) 6
181 Guangzhe Chen et al 'Manufacturing FDI in sub-Saharan Africa: Trends, Determinants, and impact.' (2015) World Bank Group at 26
182 Atlaw et al (n 168) 242

2.3.4 Legal framework for foreign direct investment

2.3.4.1 The Constitution

According to the Constitution of the Federal Democratic Republic of Ethiopia (FDRE), the government must enact laws to ensure that all Ethiopians benefit all resources of the country.[183] The government, in order to improve the economic conditions of the citizens, must make sure that all Ethiopians have equal opportunity and to encourage an equal share of wealth among the people.[184] The government also has the responsibility to control land and other natural resources of the country and ensure the people commonly benefit the resources according to article 89 (5) of the Constitution.

The government, thus, has a duty for the full utilization of the resources of the country by the people through formulating policies and strategies. The constitution also states whether the federal government or the regional governments has the power to legislate matters related to natural resources and trade and investment. According to article 55 (2)(a) & (b) of the Constitution, the power to legislate law on matters related to the use of land and other natural resources, foreign trade and interstate commerce falls under the jurisdiction of the Federal Government. The power to enact the commercial code also vested to the Federal Government.[185] Thus, the federal government has been given the power to regulate interstate commerce, including investment.

2.3.4.2 Investment Laws

The government has repeatedly amended the investment legislations. The current investment Proclamation No. 769/2012 (as amended) states about the reason for its enactment under its preamble. According to the preamble, the government revised the previous investment proclamation to further expand investment particularly in the manufacturing sector, to increase competition between investors and facilitate the transfer of technology, to ensure the proper use of incentives, to improve transparency and efficiency of the investment management system and to further attract investment through industrial zone development. Proclamation No. 849 (2014) has also been enacted to amend some of the provisions of Proclamation No. 769 (2012) without repealing the whole proclamation. For the applicability of the proclamation particularly related to investment incentives and to limit areas that are specifically reserved for

[183] The Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1 (1995) article 89 (1)
[184] The Constitution Article 89 (2)
[185] The Constitution Article 55 (4)

domestic investors, the government legislated Regulation No. 270/2012 (as amended). It was also amended in 2014 partly by Regulation No. 312 (2014); thus, both regulations are applied currently.

There are sectors reserved only to Ethiopians and to the government. There are also sectors permitted for a joint venture with government and sectors open to foreign investors. The frequent amendment of the investment legislation reduced the number of sectors that were not open for foreign investors. Numbers of service sectors such as banking, insurance and broadcasting service are only opened to domestic investors.[186] Others such as the distribution of electrical energy, postal services excluding courier service are only reserved for the government.[187] Sectors like manufacturing of weapons and telecom services are permitted for a joint venture with the government according to article 6 of Proclamation No. 769 (2012).

Generally, FDI is encouraged in many sectors. The government open most of the manufacturing and agricultural sectors to foreign investors according to regulation number 270/2012 (as amended) and the schedule attached to it.

To ease domestic and foreign investment, the government has established a one-stop shop system that is given by the EIC to investors engaged in manufacturing sector according to article 30 (2) of Proclamation No. 769 (2012). The EIC gives one-stop shop by providing all the necessary services, for example, giving a business license, commercial registration, trade name registration and allowing customs duty exemptions. It also performs activities on behalf of investors related to such as land, loan or residence permit as per their request by establishing a relationship with appropriate federal executive organs. The EIC takes at least five days to complete the required steps and give investors the investment license unless the investor has satisfied the whole requirement, in that case, EIC only requires five hours to issue the investment license.[188] Nonetheless, according to the 2019 World Bank Doing Business Report, 11 procedures and 32 days take to start a business in Ethiopia.[189]

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[186] Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulation No. 270 (2012) article 3

[187] Investment Proclamation No. 769 (2012) article 6(1)

[188] Ethiopian Investment Commission http://www.investethiopia.gov.et/index.php/faq/general-faq.html (accessed 10 August 2019)

[189] World Bank Group 'Doing Business Report' (2019) at 170

2.3.4.3 Industrial Park Laws

The government gives prime consideration for the development of industrial parks to facilitate industrialization in the country. The government enacted the Industrial Park Proclamation No. 886/2015 and Industrial Parks Council of Ministers Regulation No. 417/2017 to attract and expand FDI, to create employment opportunity, to promote export and generally to facilitate the country's economic transformation using industrial parks.[190] According to the Industrial Park Proclamation No. 886/ 2015 article 2(1), the industrial park is an area having defined boundary and with major infrastructure and constitute special economic zones, export processing zones, technology parks and the likes. Industry parks are established only to attract FDI,[191] and parks are expected to be means of job opportunities, transfer of knowledge and technology and boasting of export as it is stated under article 5(3) of the Regulation No. 417/2017. The production in the industrial parks are focused on value chain productions, and 100% production is exported to the main destinations that are United States, Asia and European countries.[192]

2.3.4.4 The Second Growth and Transformation Plan (GTP II)

The Second Growth and Transformation Plan (GTP II) run from 2015 to 2020. According to GTP II, the country plans to become a lower middle-income country in 2025.[193] To this end, the GTP II has planned to increase the country's export to 40% by mainly targeting at specific manufacturing industries that are textile and garment, metal and engineering, chemical and construction inputs, agro-processing, pharmaceutical, meat, milk and honey industries.[194]

2.4 Conclusion

FDI has played an essential role for developing countries which have not the capital to invest. Developing countries use export-oriented FDI as an essential tool for development since it brings new investment, technology, expertise and export opportunities. Export-oriented FDI increases export and promote the country's economic growth and create employment.

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190 Industrial Park Proclamation No. 886 (2015) the Preamble

191 UNDP (n 10) 6

192 UNDP (n 10) 6

193 National Planning Commission 'Federal Democratic Republic of Ethiopia Growth and Transformation Plan II (GTP II) (2015/16-2019/20)' (2016) at 138

194 GTP II at 138

Ethiopia has followed the export-led strategy, and export-oriented FDI has played a significant role in the country's economy. The country's average economic growth is the fastest in Sub Saharan African countries. The country has set different favourable conditions to attract EOI. Labour is one of the factors the government has mentioned to foreign investors regularly.

CHAPTER THREE

THE INTERNATIONAL BEST LABOUR PRACTICE AND ETHIOPIAN LABOUR REGULATIONS RELATED TO EXPORT ORIENTED FOREIGN DIRECT INVESTMENT

3.1 Introduction

This chapter deals with whether there is a relationship between labour regulations and export-oriented industries; and the international labour standards and soft laws that set internationally accepted labour rules which are expected to be followed by countries and the EOI. Besides, it explores Ethiopian employment laws that regulate the relationship between EOI and workers; thus, it discusses the historical development of labour regulation in Ethiopia; source of employment law in Ethiopia; involvement of trade union in Ethiopia and Ethiopian national employment policy.

3.2 Relationship between labour regulations and export-oriented industries

In many developing countries, there is steady economic growth compared to the growth of their population and shortage of capital that is deemed as the main limitation for economic growth in these countries.[195] It is believed that the ineffective use of the labour force is also another challenge.[196] Lack of capital leads the labour force not to be utilized effectively since they need capital to work with.[197] Thus, it seems that these countries policies focus on ways of maximizing the practical usage of labour to advance their economic growth and when it is economically reasonable to exchange labour in order to obtain capital.[198]

Export-led economic growth has been increased in the world for the past twenty years since developing countries require new industrialization strategy because they can effortlessly access world market and they are not required to raise the purchasing power of the population using this approach.[199] Other global factors, such as a huge supply of cheap labour that balance the high wage demand in the corporation home countries is another reason that contributes to the expansion of EOI.[200] For example, South Korea exporting low-cost labour-intensive

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[195] International Labour Office (ILO) 'World employment program' (1969) at 57
[196] as above
[197] as above
[198] as above
[199] S.K. Cho 'The Dilemmas of Export-Led Industrialization: South Korea and the World Economy' (1985) 30 *Berkeley Journal of Sociology* at 67 & 81
[200] Cho (n 199) 67

manufacturing products has been the basis of increased employment, foreign exchange and economic growth. Other poor third world countries are following South Korea's strategy and provide cheaper labour and more incentives to shift the direction of EOI towards themselves.[201]

The main reason for the expansion of EOI is low skilled labour-intensive industries. The labour strength has been decreasing through time. The reason for this is related to how EOI is working. For example, in the garment and textile industries, productions are usually made in EPZs by manufacturers that have taken inputs directly from parent MNEs and export the final product after making some addition. [202] This strategy which is called horizontal segmentation, reduce the economic power of local manufacturer since they can obtain inputs only from MNEs and required to sell at a low price depending on the international market.[203] Traditionally, producers bargain input price or switch another supplier to maintain the low input price, but if it is not impossible to keep the price low, they transfer the cost to consumers.[204] Nevertheless, in the segmented system, both options do not work, rather the holding MNEs buy the inputs to provide to the local manufacturers and sell the final products produced by the local manufacturer to the world market.[205] The main production cost in these structures is the labour cost; therefore, the minimum cost leads manufacturing companies to change production places to other countries very easily.[206]

The high mobility of capital permit companies to easily move to another country where there are low wage and weak workers union since time and distance are not problems of these companies to relocate to other places.[207] Knowing this fact, it is challenging for countries to fulfil the demand of the workers because their main priority is economic growth through attracting FDI.[208] Furthermore, depending on the market, local manufacturers are required to produce on short notice that negatively affects workers because of such forced overtime and individual production quotas.[209]

States that require economic growth and increased employment opportunities unable to suggest corporations the way they handle their workers since the holding MNEs which reside

[201] Cho (n 199) 80
[202] Mark Anner 'The impact of international outsourcing on unionization and wages: evidence from the apparel export sector in Central America' (2011) 64 *Industrial and Labor Relations Review* at 306
[203] as above
[204] as above
[205] as above
[206] Anner (n 202) 306 & 308
[207] Anner (n 202) 307
[208] Anner (n 202) 307 & 308
[209] Anner (n 202) 310

in another country are the one that gives decisions. Countries may be influenced to reduce workplace standards; otherwise, the investor may leave their country.[210] They threaten the state to leave the country to obtain extreme benefits.[211] Because of globalization MNEs can run their business globally and establish their company very easily into another country where there are no restrictive regulations.[212] Even though a country's tax system, skilled workforce or infrastructure have effects on the inflow of EOI, the low wage and less restrictive labour regulation that enables, for example, easy dismissal of workers plays a big role in attracting such industries.[213] In Asia, for example, EOI that are found in EPZs depends on low wage employment and they are mainly dominated by industries such as garment and textile, food processing, toy and electrical appliance rely upon cheap labour.[214] The EOI found in Asia's EPZs are considered as 'footloose' that need cheap labour and based on high import and add low domestic value.[215]

Countries desire to compete for each other to attract MNEs by reducing their labour standard and making workers wage low, by weakening trade unions and collective bargaining system and risking workplace safety. One of the examples that show governments lower standard to attract EOI is EPZ programmes.[216] Non-standard types of contracts such as contracts for homework and on-call are also results of weak labour standards. Women workers and unskilled workers are exposed to such contracts.[217]

According to the OECD report, for example, United Kingdom made its labour law flexible in order to attract FDI because the country considered the rigid labour regulation as an obstacle to corporations ability to react in a competitive market and to employ additional workers that increase the rate of employment.[218] Thus, currently, in the United Kingdom, working time and employment rules are flexible than the other European Union States.[219]

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[210] K Calitz 'The Harmonisation of Labour Law in Southern Africa' (2008) 41 *De Jure* at 225

[211] Dennis A. Rondinelli 'Export Processing Zones and Economic Development in Asia: A Review and Reassessment of a Means of Promoting Growth and Jobs' (1987) 46 *The American Journal of Economics and Sociology* at 96

[212] Calitz (n 210) 226

[213] Calitz (n 210) 226

[214] Rondinelli (n 211) 95

[215] Rondinelli (n 211) 95

[216] Calitz (n 210) 225

[217] Calitz (n 210) 226 & 227

[218] Bernard Casey et al 'Flexibility, quality and competitiveness' (1999) 168 *National Institute Economic Review* at 72

[219] Casey et al (n 218) 72 & 73

In South Asia labour law is no longer considered as a regulation that protects worker's rights; instead it is taken as a means to guarantee rapid economic growth by attracting investment to the region.[220] It is believed that rigid labour laws harm economic development since it hinders companies not to do their business depending on the need of the market; furthermore, it is stated that putting or enforcing standards is expensive so countries can minimize their costs without having or enforcing them.[221] Even if the law is rigid, however, if there is no mechanism to enforce the law, the system is considered flexible.[222]

Because of export-led industrialization, countries in the region establish EPZs to increase their earnings from exports.[223] These EPZs are excluded from the scope of labour law. In India labour law enforcement is made purposely weak, number of members required to form trade union in Bangladesh is very high, that is 30% of the total number of workers in the company, collective bargaining is not possible for trade unions unless they represent one third of workers in the company and trade union powers are purposely decreased across the region.[224]

The other challenge in protecting workers rights using the labour law in the region is the presence of several laws enacted to regulate labour relations with different usage of terms and coverage in India, Bangladesh, SriLanka, Nepal and Pakistan.[225] However, there is an effort to merge the number of labour legislations; for example, Pakistan is attempting to decrease the number of labour laws from twenty-seven to six.[226]

China's flexible labour law is also mentioned as a major example to support the notion that flexible law leads to economic growth.[227] China's low wage related to other big Asian countries is regarded as one of the determinants to attract investment in the country further.[228] Currently, because of the increase in labour cost, companies have changed their destination to other Asian countries to look for cheap labour.[229]

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220 Kamala Sankaran 'Labour laws in South Asia: The need for an inclusive approach' (2007) International Institute for Labour Studies at 2 & 3

221 Sankaran (n 220) 11

222 Sankaran (n 220) 11

223 Sankaran (n 220) 5

224 Sankaran (n 220) 5

225 Sankaran (n 220) 6

226 Sankaran (n 220) 6

227 Sankaran (n 220) 11

228 Mark Ellyne & Junyan Yu 'China's Success Attracting FDI and Lessons for South Africa' (2017) Presented at the Biennial Conference of the Economic Society of South Africa August 29 – 1 September 2017 at 13&14

229 Ellyne & Yu (n 228) 8

In Africa, Kenya, for example, has attracted EOI garment and textile industry mainly because it has accessed the export market offered by African Growth and Opportunity Act (AGOA) in addition to the labour regulation which is also more flexible in employing and dismissing of workers.[230] In Mauritius, even though the labour Act is used in the whole country, the Industrial Expansion Act excludes the labour Act's applicability in EPZs.[231] Trade union activities in the EOI are practically prohibited.[232] There has also been mandatory overwork in the EOI apparel industries.[233]

The burning issue here is how countries can attract EOI and advance their economy while protecting their workers' rights. The perfect answer would be the presence of best labour standards in all countries and a system to effectively sanction governments and corporations that are against these standards though this happens in an ideal world.[234]

3.3 International labour standards and soft laws

3.3.1 International Labour Organization

ILO's binding conventions and non-binding recommendations which are used as guidelines are regarded as international labour standards.[235] International labour standards are a wide-ranging legal tool its purpose is advancing the situation at the workplace by creating fundamental standards at works at the global level.[236]

ILO was founded for two purposes which are encouraging social justice and abolishing unreasonable countries race to lower labour standards.[237] ILO member states are represented in the ILO by trade unions, employers and governments in a tripartite form.[238] Even though all ILO member states have not yet ratified all conventions and have similar standards, they should ratify conventions related to core labour standards, which are freedom of association, the right

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[230] Ajayi (n 92) 122
[231] ILO (n 199) 9
[232] ILO (n 199) 9
[233] Xavier Cireraa & Rajith W. D. Lakshman 'The impact of export processing zones on employment, wages and labour conditions in developing countries: systematic review' (2017) 9 *Journal of Development Effectiveness* at 353
[234] Calitz (n 210) 228
[235] Public International Law: International Labour Law http://unimelb.libguides.com/internationallaw/labour_law (accessed 29 August 2019)
[236] as above
[237] Calitz (n 210) 228
[238] Calitz (n 210) 228

to collective bargaining, the abolition of child labour, the elimination of forced labour and the elimination of employment discrimination.[239]

ILO has 181 conventions, and from its 175 members only 138 have ratified the convention on freedom of association, 130 have ratified the convention on discrimination and the United States which is the supporter of the advancement of core labour standards has ratified 12 conventions alone but without ratifying conventions related to freedom of association and collective bargaining conventions.[240]

Nevertheless, ILO's international standards could not adequately protect workers' rights mainly because of the absence of tribunal in the ILO to recourse against countries which does not respect its standards.[241] ILO, thus, has been considered as a weak institution and given little recognition from policymakers and scholars.[242] ILO is criticized as even though it is present in the world for an extended period, it could not bring anything visible; but for an organization which has existed since the First World War, there are times to be active and times be considered as less significant.[243] Besides, recently, ILO is in the process of change to improve its structures by taking the practical approaches of other international organizations and by learning from its experience. The first ILO's significant modification is its Declaration on Fundamental Principles and Rights at Work in 1998.[244] According to the Declaration, ILO member states should promote and respect four fundamental labour standards, namely freedom of association, the abolition of child labour, elimination of forced labour and non-discrimination in employment. Since these fundamental labour standards based on the constitution of ILO, the standards apply to all ILO member states even though they have not ratified the convention and it is automatically applied without considering the economic status of member countries. Such applicability of the Declaration establishes a commonly applicable labour regulation and protect labours rights in the world. Secondly, ILO formulates a strategy to promote member states to ratify eight conventions which are regarded as core labour rights to encourage ratification of the specific conventions, that resulted in around 500 ratifications

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239 Calitz (n 210) 228

240 Sarosh C. Kuruvilla & Anil Verma 'International labour standards, soft regulation, and national government roles' (2006) at 8

241 Calitz (n 210) 228

242 Laurence R. Helfer 'The future of the International Labour Organization' (2007) 101 *American Society of International Law* at 391

243 as above

244 as above

of the core labour standards.[245] ILO has also effectively persuaded countries to ratify other ILO conventions that the countries had not ratified them. Thirdly, ILO is revising the old instruments because the organization adopted conventions and recommendations since 1919 and has required states to replace the old treaties by the revised conventions.[246]

The reason for ILO pressurizes ratification of conventions is because it considers that when states adopt a treaty, it will be included in the domestic legislation that resulted in improved labour norms worldwide.[247] The application of the standards is left to the countries even though there is a grievance system in the ILO if there is a failure in the applicability of the standards.[248] However, the ILO has no disciplinary power but only use moral influences; for example, many countries adopt ILO treaties but not applying labour regulations; as a result, extensive violation of human rights found in their country; also, the ILO lack the resources to enforce labour regulations.[249] Enforcement is a big challenge for the organization. ILO does not force countries that violate its standards to leave the organization because once they leave the organization, ILO will lose its influence in that country.[250]

ILO uses its tripartite arrangement for enforcement purpose. If the party is in the ILO tripartite system as workers, employers and government one of them can notify to the ILO about the labour abuses, which are assessed by an ILO Committee and communicated during ILO Conferences and through ILO publications but If there is continuous violation, additional investigation can be carried out using Commission of Inquiry according to article 33 of the ILO Constitution.[251] In exceptional severe violations, ILO uses article 33 to enforce its standards. Nevertheless, article 33 has raised in 2000 for the first time in the ILO's 85 years history against Burma, which consistently utilized forced labour.[252] The ILO called all United Nations agencies to stop carrying out any program assistance in Burma that resulted in a universal ban against the country, and ILO influenced foreign investors not to invest in Burma. Burma's case is the exceptional case from ILO's ordinary dealing with violations, and before that incident, the ILO had only used technical assistance and the supervision system.[253]

[245] as above
[246] Helfer (n 242) 392
[247] Kuruvilla & Verma (n 240) 8
[248] Kuruvilla & Verma (n 240) 8
[249] Kuruvilla & Verma (n 240) 8
[250] Kuruvilla & Verma (n 240) 8
[251] Kuruvilla & Verma (n 240) 8
[252] Kuruvilla & Verma (n 240) 9
[253] Kuruvilla & Verma (n 240) 9

The other mechanism ILO uses is the global report of the director-general which is made with countries annual report with a short description about the state and its violations of labour rights, but countries tried to force the ILO to stop publicizing country-specific violations in the global director-general report, but ILO did not accept the question by stating that ILO has an obligation to publicize real situations.[254] There are some changes recorded because of this ILO mechanism such as Bahrain permits trade unions, and other countries Qatar, United Arab Emirates and Oman request the ILO for technical assistance to form trade unions.[255] This shows ILO's effort to influence oppressive countries to bring change using limited resources.

However, ILO has taken action depending on the type of violations; and it classifies states by the level of abuses to interfere in their domestic matter not to create conflict with its member states.[256] ILO's report is used by other international organizations, for example, the OECD to classify countries according to their level of labour protection, and the US National Research Council has been studying how countries are breaching labour standards using ILO reports.[257] These instances indicate that the ILO reports are reliable to be used for further reports that show the country which is mentioned as a violator of labour rights need to change the situation.[258] Hence, even though ILO is criticised as an ineffective organization, it has specific mechanisms to limit countries labour right violations; plus ILO's system should be considered as a soft mechanism than hard legislation.[259]

3.3.2 Corporate Code of Conduct

Because of globalization, States cannot exercise their full sovereignty to enact their labour law since they want to attract investment.[260] Thus, the attention is diverted from states to MNEs which will be bound by a code that is considered as a better standard and not to use the lower standards even if countries provided them.[261] The codes have considered as successful since buyers in economically advanced countries prefer goods made ethically or follow fundamental labour principles.[262]

[254] Kuruvilla & Verma (n 240) 9
[255] Kuruvilla & Verma (n 240) 9
[256] Kuruvilla & Verma (n 240) 10
[257] Kuruvilla & Verma (n 240) 10
[258] Kuruvilla & Verma (n 240) 10
[259] Kuruvilla & Verma (n 240) 11
[260] Calitz (n 210) 223
[261] Calitz (n 210) 228
[262] Kuruvilla & Verma (n 240) 13

The shifting of state control to regulate labour relations to the private initiatives primarily brings company level codes of conduct and afterwards because of the participation of companies and civil society organizations it resulted in a system of private regulation considered as corporate social responsibility (CSR), which is including labour, social, and environmental issues incorporates necessary business activities.[263] But this is considered as another form of pressure for corporates during this time when the effect of labour union reduced and public regulation is weak.[264]

With the development of CSR, developed countries brand manufacturers form a network of different suppliers called global value chain (GVC) in the developing countries wherever low labour costs are available.[265] The GVC system is based on the power of top international corporations and forms unequal power relations between main firms and their suppliers in developing countries.[266] Although the GVC system has involved mainly on the relationships between market actors in the value chain, there are effects of states, labour regulatory frameworks and civil society participants in determining how the GVC networks are governed.[267] GVCs are considered as buyer driven in light manufacturing factories such as in apparel industries. For example, in China, the apparel industry contributed 18.9% to the country's total employment when it was the largest garment exporter in the world in 2004, and its global export share was 26.6%, however, the working environments in the industries were evidenced by long working hours, low wage and negative environmental impacts.[268] These were related to the competitive global market environment among the international garment industry to fulfil the continuous buyers' demands worldwide for lower prices and higher quality product within a short period.[269]

CSR has been described as soft regulation since the 1990s, and they have been implemented by MNEs to regulate the conduct of their global suppliers and this encouraged the development of social networks of consumer movements that consist of trade unions and NGOs to influence industries to take social responsibility for workers through the "name and shame" strategy, which resulted in industries adoption of codes of conduct to regulate minimum

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[263] Chris King-Chi Chan & Khalid Nadvi 'Changing labour regulations and labour standards in China: Retrospect and challenges' (2014) 153 *International Labour Review* at 514

[264] as above

[265] Chan & Nadvi (263) 515

[266] as above

[267] as above

[268] as above

[269] as above

labour standards for their suppliers; and formation multi-stakeholder initiatives within the networks of trade unions and NGOs.[270]

The application of the codes at the supplier level, however, is difficult for supervision. According to Ethical Trade Initiative (ETI), the leading international multi-stakeholder initiatives, disclosed that even though the application of CSR initiatives support for advanced working conditions in general, the impact is limited only to the upper level suppliers, and could not support the establishment of standards at the lower suppliers level in the network in order to improve labour rights, including freedom of association and engage in collective bargaining.[271] These results are similar with other several case studies made in China, that showed private regulations were ineffective in improving labour rights, mainly when trade unions are not legal.[272]

The development of soft regulations creates a chance for trade unions, NGOs and companies to form tripartite collaboration.[273] NGOs have taken the initiative to adopt a strategy of 'constructive engagement' with industries to influence leading companies using public media exposure, and this resulted in influencing companies to come to negotiation especially when it is difficult to do so for trade unions since such exposure has adversely affected the image of companies and their brands.[274]

Several industries, however, forced to participate in the tripartite collaboration especially with the NGOs to challenge the repeated NGO criticisms against companies and they take the engagement as a chance to counterclaim particularly when claims are not validated or deceptive.[275] Thus, it is found out by the Ethical Trading Initiative (ETI), the Council on Economic Priorities Accreditation Agency (CEPAA), and the US Apparel Industry Partnership that the collaboration of companies and NGOs with trade unions have the common advantage to address the issue of labour standards.[276]

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[270] Chan & Nadvi (n 263) 516
[271] as above
[272] as above
[273] George Tsogas 'International labour regulation: What have we learnt so far?' (2009) 64 *Relations Industrielles / Industrial Relations* at 84
[274] as above
[275] as above
[276] as above

3.4 Ethiopian labour regulations considering international best labour standards

3.4.1 Regulation of labour activities in Ethiopia

Ethiopian labour regulation has been developed very slowly; and the culture, religion and legal situations contribute to the slow development.[277] It was believed that except priesthood other types of works were done by the lower class population.[278] Slavery was also another problem.[279] Taking into account the adverse effect of this attitude, in 1908, the country's king Emperor Menelik enacted a law that prohibits insults against workers based on what they were doing or working, though the impact of the law was minimal to bring a change on the society.[280]

The government committed to abolish slavery and strengthen the labour relation. The country has also become a member of ILO since 1923 and ratified and enforce 21 ILO conventions.[281] The conventions that are ratified by Ethiopia, according to the FDRE Constitution article 9 (4), are considered as part of the law of the country.

3.4.2 The source of employment law in Ethiopia

Ethiopian source of employment law could be categorized into public and private sources.[282] Some of the sources which are considered as public are the FDRE Constitution and the newly enacted labour proclamation no. 1156/2019 which repealed the labour proclamation no. 377/2003 (herein after called the previous proclamation) and its amendment proclamations no. 466/2005 and no. 494/2006. Other laws such as the federal civil service proclamation no. 515/2007, public servants' pension proclamation no. 714/2011 and its amendments, private organization employees pension proclamation no. 715/2011 and its amendments are considered as sources of public employment laws in Ethiopia. Regulations of the Council of Ministers and directives of different agencies are also considered as a public source of the employment law. The Federal Supreme Court Cassation decisions are employment sources as well since they are binding at all levels of the court in the country.[283]

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[277] Mahari Redae 'Employment and Labor Law' (2009) Teaching Material at 6
[278] as above
[279] as above
[280] Redae (n 277) 5 & 6
[281] International Labour Organization (ILO) country profiles Ethiopia https://www.ilo.org/dyn/normlex/en/f?p=1000:11110:0::NO:11110:P11110_COUNTRY_ID:102950 (accessed 29 August 2019)
[282] Mahari Redae at 7
[283] Federal Courts Proclamation Reamendment Proclamation No. 454/2005 article 2 (1)

It is essential to mention that the labour proclamations apply to the private sector, whereas civil service laws regulate the civil servant. Furthermore, while making labour law is the jurisdiction of the Federal Government, Civil Service laws are made at the Federal and state level concurrently.[284] Private sector employees such as managerial employees and domestic workers are excluded from the labour but covered by the Ethiopian Civil Code of 1960. However, the labour law has criticized for its exclusion of domestic workers from its scope since they do not have bargaining power as the managerial employees to conclude employment contracts that benefit them.

The other kind of source of law is a private source that emanates from private acts such as contracts of employment and collective agreement which are made based on bilateral agreements and work rules; these are usually unilateral acts.[285]

This section examines Ethiopian labour regulations vis a vis the international best labour standard. Accordingly, the next subsections deal with the country's commitment to protect labour right on its constitution, ILO conventions and the previous labour proclamation which was used for the last 15 years in order to understand the new changes made on the new labour proclamation. The newly enacted proclamation no. 1156/2019 will be analysed in the next chapter in light of export-oriented industries.

3.4.2.1 The Constitution

The FDRE Constitution of 1995 states that the government has a responsibility to create employment opportunities for citizens.[286] The Constitution, under article 41 (6) also states that the government should have policies that increase the chance for the unemployed and the poor to get a job. Accordingly, the government, under its Second Growth and Transformation Plan (GTP II) states its plan to increase employment opportunities, and it commits itself to encourage FDI in order to expand employment opportunities.

The constitution under article 89(8) also states the government's responsibilities to promote the living standard of the labour force. Consequently, in the public sector, the government has a minimum wage for public sector employees. However, there is not a minimum wage system for private sector employees. According to article 42 (2) of the constitution, workers should have been given reasonable rest time. The Constitution allows

[284] The Constitution Article 55 (3)
[285] Redae (n 277) 8 & 9
[286] The Constitution article 41 (7)

maternity leave with full pay and left the length of the maternity leave to be decided by the labour proclamation depending on the type of work and the wellbeing of the mother and the child.[287] Women are also granted equal employment opportunity, equal pay and promotion under the Constitution.[288] Related to child labour, the constitution stated that no child is forced to go through exploitative practices or works that are harmful to her/his education or wellbeing.[289] In addition, article 18 (2) (3) of the constitution states that no one is obliged to do forced labour and trafficking for whatever reason is forbidden. Besides, the Constitution allows freedom of association for any reason in general and allows workers to form association or trade unions.[290]

3.4.2.2 ILO Conventions

This section discusses ILO conventions Ethiopia ratified and has not yet ratified closely related to the subject under discussion. Ethiopia Ratified ILO's Convention called Unemployment Convention,1919 (No.2) that promote employment opportunities in 1966 but has not yet ratified the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 188). Regarding the minimum wage, Ethiopia has not ratified ILO's Minimum wage Fixing Convention, 1970 (No. 131), its purpose is protecting workers, mainly from extremely low wages.[291] Ethiopia has not yet ratified both ILO conventions that regulate Hours of Work in Industry Convention, 1919 (No. 1) and Hours of Work in Commerce and Offices Convention, 1930 (No. 30). Ethiopia has not also ratified Holidays with Pay Convention (Revised), 1970 (No. 132), Holidays with Pay Convention, 1936 (No. 52) and Holidays with Pay (Agriculture) Convention, 1952 (No. 101). The purpose of working time regulation and providing a work daily and weekly rest days and annual holidays is to give enough rest time and to protect the worker from excessive working hours that bring negative impacts to workers' health and their families.[292] By regulating working hours, the convention protects workers' health and ensure their productivity.[293]

[287] The Constitution Article 35 (5) (a)
[288] The Constitution Article 35 (8)
[289] The Constitution Article 36 (1)(d)
[290] The Constitution article 31&42
[291] Minimum wage Fixing Convention, 1970 (No. 131) the Preamble
[292] International Labour Organization (ILO), International Labour Standards on Working time https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang--en/index.htm (accessed 29 August 2019)
[293] as above

Ethiopia ratified Workers with Family Responsibilities Convention, 1981 (No. 156) which aim at creating equality between men and women workers who have family responsibilities, but has not ratified Maternity Protection Convention, 2000 (No. 183) which promote pregnant women workers protection. Ethiopia ratified the Minimum Age Convention, 1973 (No. 138) in 1999 and the Worst Forms of Child Labour Convention, 1999 (No. 182) in 2003. The country also ratified the Termination of Employment Convention, which regulates the protection of workers' rights during the termination of contracts of employment by the initiative of the employer.[294]

The country also ratified the Equal Remuneration Convention, 1951 (No. 100) in 1999 and the Discrimination in Employment and Occupation Convention, 1958 (No. 111) in 1966. Ethiopia also ratified Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 1963 which aim at advancing the labour situation and establishing peace at the workplace.[295] It also ratified the Tripartite Consultation Convention, 1976 (No. 144) in 2011, its purpose is creating effective tripartite consultation system between government, employers and workers to ensure the implementation of labour standards.[296]

3.4.2.3 The Labour Proclamation

The previous labour proclamation no. 377/2003, that is recently amended by the new labour proclamation, defined an employer as a person or an undertaking that hire one or more natural persons in return of wage.[297] The employment contract between an employer and worker did not require to be in a special form, so it can be made in writing or orally.[298]

The labour Proclamation limited the regular working hours eight hours per day and 48 hours per week.[299] The daily working hours could be increased to ten hours when it was necessary, but it should not pass the maximum hours set for a week. According to article 89 (1) and 90 of the previous labour proclamation, the regular working hours for young workers who were between the age of 14 and 18 shall not be more than seven hours per day. Employing

294 Termination of Employment Convention, 1982 (No.158) article 2, 3 and 4
295 Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) the Preamble
296 Tripartite Consultation Convention, 1976 (No. 144) the Preamble
297 Labour Proclamation No. 377/2003 article 2 (1) & (4)
298 Previous Labour Proclamation article 2(1) & (4)
299 Previous Labour Proclamation article 61 (1)

a person under the age of 14 years was forbidden.[300] It was also forbidden to let young workers do overtime work, night work, and works on holidays.[301]

The previous labour proclamation, as it was stated under article 77 (1) a & b also provided 14 working days as annual leave for the first-year service and one extra working day was increased for every additional service year. The previous labour Proclamation prohibited any agreement to renounce the right to annual leave.[302] It was not allowed to change annual leave to wage payment unless at the time of termination of employment contracts when the leave that was not taken shall be changed into cash and paid to the worker.[303] A worker would obtain annual leave each year, but it could be postponed for two years depending on the working conditions.[304] The previous labour law also gave maternity leave with pay for pregnant women 30 consecutive days before she gave birth and 60 consecutive days after she gave birth.[305] However, there was not paternity leave under the labour Proclamation.

Forced labour was not also allowed; thus, workers have the right to leave their job without giving any reasons according to article 31 of the labour Proclamation.[306] However, employers could not terminate workers employment contract when they want. Employers needed to strictly follow the grounds listed under the labour law to terminate the employment contract with notice or without notice. Some reasons were not acceptable to terminate employment contract such as termination based on sex, religion, nationality, pregnancy, marital status and membership in a trade union.[307]

Termination grounds without notice were listed under article 27(1) of the previous labour proclamation. Some of the grounds were, repeated lateness from work, or absent from work for five consecutive working days or ten working days within one month or thirty working days within a year in which case the employer had a right to dismiss the worker without giving notice. Giving a reasonable notice period was, however, required from employers to terminate the contract with notice depending on workers period of service.[308]

[300] Previous Labour Proclamation article 89 (2)
[301] Previous Labour Proclamation article 91
[302] Previous Labour Proclamation article 76 (1)
[303] Previous Labour Proclamation article 76 (2) & 77 (5)
[304] Previous Labour Proclamation article 78 (2) & 79 (5)
[305] Previous Labour Proclamation article 88 (3)
[306] International Labour Organization (ILO) 'Decent work country profile ETHIOPIA' (2013) at 32
[307] Previous Labour Proclamation article 26 (2)
[308] Previous Labour Proclamation article 28 (1) & 35 (1)

If workers did not longer fit the work assigned to them because of health, loss of capacity or unwillingness, the employer could dismiss them with giving notice period according to article 28 (1) of the previous labour proclamation. Reduction of the workforce was also allowed, but the reduction should at least affect 10% of the employees, and other requirements mentioned under article 28 (3) and 29 of the previous labour proclamation should be fulfilled. If employers did not follow the termination requirements exhaustively listed under the labour law, they were obliged to pay to the workers such as severance payment and compensation depends on the case.

The previous labour proclamation promoted freedom of association for both employers and employees.[309] Ten or more numbers of workers in one organization could form a trade union, according to article 114 (2) of the labour proclamation. If there was more than one trade union in the organization, the one that had majority support shall be registered.[310] Collective bargaining could be requested by one of the parties in writing, and the bargaining should be started within ten days, and both parties were expected to bargain in good faith as per article 130 (1) & (2) (4) of the previous labour law. The agreement would be registered by the Ministry of Labour and Social Affairs and the agreement would prevail over the labour proclamation if it was more advantageous than the labour law to the workers.[311]

Even though the above labour law provisions seem in line with ILO conventions, violation of these rules is reported especially by export-oriented supply chain providers. For example, such companies found at Hawassa industrial park has been criticized for their repeated violation of labour rights even against their labour standard by purposely ignoring them or failed to check them.[312] The reported violations by the companies are shouting and humiliating; verbal abuses of workers by the managers and threatening to dismiss them; forced overtime; unlawful wage deduction and working extra time without payment during break time; frequent collapsing of workers at the workplace because of overwork, lack of adequate rest and other factors; harsh disciplinary measure such as deducting wage for speaking loudly; sexual abuse against women by managers in exchange to promotion; discrimination against pregnant workers and considering them as workers who are avoiding work thus companies do not want to employ if they know that the women are pregnant or an intention to be pregnant

[309] Previous Labour Proclamation article 113 (1)
[310] Previous Labour Proclamation article 115 (1)
[311] Previous Labour Proclamation article 134 (2)
[312] Worker Right Consortium (n 51) 6

and a research revealed that in some circumstances managers check the women's pregnancy even by putting their hands on the women's stomach.[313] Hence, it is worth mentioning here that labour law is considered as flexible for the industries as long as the provisions are not enforced.

The other concern related to the previous labour law was because it did not have a minimum wage system. The need for a minimum wage and practical challenges to set a minimum wage in the country is discussed as follows.

(a) Minimum wage

Individual employment contracts or collective agreements determine wage. There is no minimum wage level set under the labour Proclamation. Thus, the business sector can have a different minimum wage level, unlike the public sector.

Different countries set a minimum wage system either per hour or per month payable to the workers, but not all countries set a minimum wage system in their jurisdiction instead these countries leave the decision to the contracting parties, the employer and the employee.[314] The Ethiopian government used both systems because when it set a minimum wage for the public sector, it left the private sector to set their minimum wage by themselves.[315] The justification behind this policy seems that in a public sector, the government is the only employer so that it put a rule that obliged itself whereas in the case of the private sector, since the government is following a market economy in which the demand and supply side determine price, the government wanted to leave regulating the minimum wage to be negotiated and decided by the parties based on their demand and supply.[316] Even though the minimum wage set by the public sector can be used as the basis for the private sector, the absence of minimum wage for the private sector or the deregulation of minimum wage creates a wrong perception that taking the labour as an object its price is determined by the fluctuation on the supply and demand side.[317]

Because of the absence of minimum wage, Ethiopia's wage rate at the private sector has become the lowest around the world, hence, for example, the minimum wage paid at the industrial parks by the apparel EOI is US$25, and the maximum wage is US$50 per month.[318]

[313] Worker Right Consortium (n 51) 6
[314] Redae (n 277) 68
[315] Redae (n 277) 68
[316] Redae (n 277) 69
[317] Redae (n 277) 69
[318] Worker Right Consortium (n 51) 7

According to the research made by Worker Rights Consortium, there are still lowest wages paid by the apparel industries and the income the workers have obtained is never enough to live a minimum way of a dignified life. Even though the wages are minimum to the lowest level because there is not a minimum wage level, the wage could not be illegal.[319] The justification given by the apparel industries for such low wage rate is that since the industry creates many job opportunities for the local population, as long as the workers live in their village the job is a better opportunity than involving in an informal economy whatever the wage would be.[320] The reason does not seem plausible since the wage earned by many workers is too small even to feed themselves and their family.[321] The government want to attract investment by stating that there is cheap labour that accepts a wage of "1/7 of China and 1⁄2 of Bangladesh."[322] The government has given this promise because there has not been a minimum wage system for the private sector in the country unlike other developing apparel exporting countries; but the absence leads the industry environment unstable that hurt the companies, workers and the country itself.[323]

The basis for such low wage at the private sector, however, is the comparison the government and the industries made with the public sector, where the minimum wage paid to a public servant is US$26 or 750 birr per month.[324] Besides, according to the survey made by the government showed that the income earned by 52% of workers in the country is below 1000 birr or around US$35 that shows the country's wage level is low.[325] Nevertheless, these reasons do not justify the lowest wage the EOI are paying in Ethiopia that is US$26 while they are paying US$95 in Bangladesh, US$180 in Vietnam, US$207 in Kenya, US$244 in South Africa, US$309 in Thailand and US$326 in China.[326]

From the perspective of the EOI, the cost of labour is a significant factor to decide their location. Particularly for the garment industry, the highest cost in addition to the cost of the raw material is labour cost.[327] For example, the company called PVH which is the second biggest garment industry in the world, earning more than US$8 billion dollars annually, before

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[319] as above
[320] as above
[321] as above
[322] Worker Right Consortium (n 51) 3
[323] Worker Right Consortium (n 51) 3
[324] Barrett & Baumann-Pauly (n 9) 12
[325] Barrett & Baumann-Pauly (n 9) 12
[326] Barrett & Baumann-Pauly (n 9) 9
[327] Mamo Mihretu & Gabriela Llobet 'Looking beyond the horizon: A case study of PVH's commitment to Ethiopia's Hawassa Industrial Park' (2017) World Bank Group at 22

decided to settle in Ethiopia made a comparison of the labour wage between Ethiopia and other countries such as Kenya, Uganda, Bangladesh and chose Ethiopia because of the substantial low wage offered to the company.[328] The increase in the country's population, particularly the growing number of working-age by 14 million within a decade until 2015 is taken as an advantage for the country to be chosen by the apparel industries.[329] The challenge with the Ethiopian labour force is lack of experience in the industry compared to other countries such as Kenya where the labour force is more familiar to work in a factory, more skilled and productive.[330] Despite these facts, PVH, for example, willing to choose Ethiopia than Kenya to use the low wage advantage the country has been offering. These show the extent the apparel industries are attracted to low wage.

(b) Practical challenges to set a minimum wage in Ethiopia

According to the research made at the Hawassa industrial park, the major problem for EOI is workers' lack of experience in the factory environment, because of that they do not recognize the outcome of their activities such as absenteeism, lateness and talking with colleagues while they are not completing their task which is not tolerable in a factory environment.[331] In order to avoid these factories usually give less than a week training for their new employees, but it has complained that it is too short to train the basics for many of the workers.[332] The minimum education level to be employed, for example, at Hawassa industrial park is completing at least grade eight and it is required to be more than 18 years old.[333]

The other problem is the language and culture difference between workers and foreign managers who are obliged to use interpreters when they want to talk to the workers since many workers speak Amharic. The cultural difference has also been a challenge since many workers have left their jobs because of shouting and mistreatment from the employers and this is a violation of human rights for many workers', but the employers see this as part of their supervision and carrying out their duty.[334]

For many of the investors, the overall labour cost is also increasing in the country than what was promised by the government to provide cheap labour because of workers' lack of

[328] Mihretu & Llobet (n 328) 11 & 22
[329] Mihretu & Llobet (n 328) 22
[330] Mihretu & Llobet (n 328) 22
[331] Barrett & Baumann-Pauly (n 9) 12
[332] Barrett & Baumann-Pauly (n 9) 12
[333] Barrett & Baumann-Pauly (n 9) 12
[334] Barrett & Baumann-Pauly (n 9) 13

industry related experience, training cost and the like, thus, companies complained that producing a cloth in Ethiopia is more expensive than producing in Bangladesh.[335]

However, things are also challenging for the workers whose income is very low compared to the income earned in the construction work or the informal sector so that workers could not afford to buy enough food, to pay for transportation and for housing, that resulted in repeated strikes at the park. [336] Also, there is no well-organized trade unions in the country in general and especially at the industrial parks to play a strong and leading role to push for improved salaries or working environment even though the law permits freedom of association.[337]

Government has been still hoping the success of the export-led strategy using EOI at the industrial parks through time because it believes that the employment opportunity at the manufacturing sector is the means to alleviate the growing population from poverty, and it also plans to assure respecting workers' rights and it is dealing with setting of minimum wage for the private sector in order to improve the amount of the lowest payment and to provide companies with a constant minimum amount they should pay for their workers and to plan accordingly.[338] Some companies are in favour of the setting of minimum wage even though the EOI is always pursuing low cost, the turnover at the parks and the training cost leads them to believe that the presence of minimum wage creates a better and predictable working environment.[339]

3.4.3 Involvement of trade union in Ethiopia

Ethiopia enacted a law that permitted the establishment and operation of trade unions in 1963 and ratified the related two ILO Conventions that are Convention No. 87 and 98 the same year.[340] The Labour Relation Proclamation of 1963 emphasised the significance of associations and collective bargaining and stated that in order to improve the living standard of the population, voluntary association of workers and industries with the objective of better labour condition in all industries through the collective bargaining of workers and employers are necessary. After the 1963 Labour Relation Proclamation, within one year, 109 trade unions

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[335] as above
[336] as above
[337] as above
[338] as above
[339] as above
[340] Mehari Redae 'The Legal Framework for Trade Unionism in Ethiopia: A Historical Perspective' Law' (2013) 1 Law, Social Justice & Global Development Journal (LGD) at 10

were formed in the country; among them, the most prominent workers' organization, the Confederation of Ethiopian Trade Union (CETU) was also created the same year in April 1963.[341] CETU comprises nine federations of national trade union industries and 702 trade unions with more than 370 000 total members and established with the purpose of protecting the rights and interests of workers, supporting the unity of workers, provide capacity building training, promote human right, equality and peace, and contribute for the productivity of workers and the overall reduction of poverty of the country.[342]

However, it is reported that CETU's capacity inside the confederation is low. According to ILO report, because of lack of capacity, CETU could not even participate in the Poverty Reduction Strategy Process (PRSP) which is adopted by ILO and the World Bank in order to reduce poverty and promote decent work that consists of activities related to labour rights, social protection and dialogue, and employment.[343]

The number of workers associations established within one year showed the need of the workers to create associations since it is believed that usually, the disadvantaged groups desire to unionize in order to get better acceptability in promoting their rights.[344] As it is learned from complaints presented to ILO, the issue and demand for forming an association is the issue of workers than employers. The number of associations created in the country was also allowed to form the tripartite system with governments and employers.[345] Afterwards, the government also enacted the labour proclamation separately from the Civil Code because of the pressure at the domestic and international level. Workers repeated strikes, and the increasing number of industries and shared knowledge and experience contribute to having a separate labour regulation in the country.[346]

3.4.4 Ethiopian national employment policy

The Ethiopian labour force is growing relatively very fast to the whole population because the young working-age dominate the country's population statistics.[347] More than the number of old peoples who are found in the labour force, the number of below 15 years age young

[341] Confederation of Ethiopian Trade Union (CETU) file:///C:/Users/User/Downloads/CETU-Ethiopia%20(4).pdf)
[342] Confederation of Ethiopian Trade Union (CETU)
[343] Lawrence Egulu 'Trade Union Participation in the PRSP Process' (August 2004) Social Protection Discussion Paper Series No. 0417 (poverty reduction strategy process) at 34
[344] Mehari Redae (n 340) 11
[345] as above
[346] as above
[347] National Employment Policy and Strategy of Ethiopia (NEPS) (2009) at 1

population who join the working age each year are higher.[348] Because of the high growth of the labour force and a limited number of new jobs created in the industrial sector, unemployment remains a big challenge for Ethiopians.[349] In other words, the imbalance between the excess supply of labour force relative to the small amount of employment opportunity or demand that need low new labour force is the result of unemployment in the country.

The agricultural and informal sector dominates employment in Ethiopia. Numbers of workers are employed either in the agriculture sector or involved in the informal urban activities, but the income they obtain from these sectors are very low, and they are regarded as the cause of the "working poor" population; as it is known that one of the causes of poverty is low level and inadequate wage earned by workers, hence, rather than unemployment, low wage and low productivity resulting in poverty.[350]

The labour market institution in the country is also very weak to protect workers' rights and balance labour market imperfection.[351] There are different institutions that are established to protect workers' rights and interests related to wage, promotions, benefits, employment and the like. The majority of the labour market institutions in Ethiopia are found in the public sector except for some institutions in the private sector, so that, the vast portion of the workforces' interests cannot be addressed, and they remain unprotected.[352] Furthermore, employment service in both private and public sectors are very weak to provide essential services such as to give information that resulted in job insecurity, poor social dialogue system and weak labour market service.[353]

The thesis discusses the significance of employment policy and the policy in the private sector as follows.

(i) Justification for employment policy

Creating employment opportunities are related to poverty reduction and growth of a country when properly directed by policies which can affect factors of the labour market. Ethiopia with the massive number of workforce need to have a policy framework that governs the balance

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348 as above
349 as above
350 as above
351 as above
352 as above
353 NEPS (n 349) 1

between labour demand and supply, that protect the right and interest of workforce and that brings a solution for unemployment and the working poor. Accordingly, the country prepared the National Employment Policy and Strategy (NEPS), which serve as a framework to increase employment and reduce poverty in the country.[354]

To realize Ethiopian vision to become a middle income country in 2025 and to accomplish the Millennium Development Goals (MDGs), creating employment opportunities is one of the strategies of the country.[355] It is accepted that employment and the level of income obtained plays a significant role in the reduction of poverty and for the promotion of economic development in the country. The Ethiopian government, thus, plans to create numbers of jobs since it believes that creating a job is a means to growth and the increase in the creation of employment is the primary basis that brings a reduction of poverty in the country.

For a country like Ethiopia where there is an abundant source of the labour force compared to other factors of production such as capital, efficient use of the labour force makes economic growth easier and bring the poor and unemployed population out of poverty. The country in order to reduce poverty sustainably, need to create enough amount of job and ensure it is distributed effectively for the whole population; need to consider the disadvantage part of the society particularly the women and youth workforce and need to make sure that the employment opportunities either self-employment or wage employment created are distributed equally among the population; and formulate an integrated policy and institutional reform.[356] The strategic effort that concerned about the labour demand, supply and market institution is the only means that connect employment, economic growth and poverty reduction in the country.

The NEPS has three main components which are improving economic growth, promoting social welfare and bringing political stability.[357] The policy aims at improving the economic growth of the country by effectively using the abundant labour force and bringing sustainable development plus by utilizing the country's labour force productively. The quality and quantity of the jobs created by the country determine the level of poverty the country is in; thus, the employment policy supports the economic growth to be inclusive and shared by the poor part of the population too, by using employment policies that balance the demand and

[354] NEPS (n 349) 2
[355] NEPS (n 349) 12
[356] NEPS (n 349) 12
[357] NEPS (n 349) 13

supply side of the labour force. NEPS formulate standards to achieve active employment, decent working condition and ensure social welfare in the country. Political stability is also another objective of the employment policy. If a country has a vast number of unemployed workforce, mainly unemployed youth and trained part of the population, they could be the cause of political instability for the country; thus, employment policy provides a framework that brings the balance for supply and demand side of the labour.

(ii) Employment policy in the private sector

Agriculture is playing a significant role in creating employment in the country. However, the agriculture sector should be firmly connected to the industry and service sector to bring sustainable development and reduce poverty, and there should be transformation through time from agricultural to the industry sector.[358]

The country created a strategy in order to increase new jobs in the private sector. One of the strategies of the country is promoting investment, particularly the labour-intensive manufacturing industries since the manufacturing sector creates a large amount of employment and boost development.[359] Since the manufacturing sector of Ethiopia is very weak and do not support the high demand side of the labour force, the industry should be transformed to the high level so that it can create enough formal employment in the country. Because high labour-intensive sectors, including textile, food, chemicals, leather sectors able to create a large number of employments, the government targets to create favourable conditions to increase the number of such industries. Hence, in order to increase the number labour-intensive industries, the government plans to support the industries by identifying a place for the industrial zones in each region of the country, leasing land to labour-intensive industries with lower cost, having transparent procedures, enhance the research and development program to technology, identify the tax system that create a challenge in doing business and providing tax incentives and establishing collaboration with the service sector to create dialogue.[360]

3.5 Conclusion

Because of the lack of capital, developing countries need to effectively utilize their labour resource in order to bring economic development using export-led industrializations as a

[358] NEPS (n 349) 19
[359] NEPS (n 349) 19
[360] NEPS (n 349) 19 & 20

strategy. This resulted in the expansion of export-oriented FDI, and its primary motivation is cheap labour and flexible labour law. Countries in need of economic growth and creation of employment have been losing their power to enact labour regulations according to the best international labour principles, instead prioritize the interest of the industries. However, ILO Conventions and corporate code of conducts are playing a role in protecting labour rights though it is minimal.

Ethiopia, as part of the global nation, ratified ILO Conventions and adopted labour regulations to protect labour rights. However, it is still a challenge for the country to respect the standards as it is seen from the violation of labour rights by the industries and the absence of a minimum wage system in the country.

CHAPTER FOUR

ANALYSIS OF THE NEW LABOUR PROCLAMATION AIMED AT ATTRACTING EXPORT ORIENTED FOREIGN DIRECT INVESTMENT INTO ETHIOPIA

4.1 Introduction

This chapter discusses the significance of amending the labour proclamation and amendments made on the new labour proclamation namely on a probation period, termination of employment contract by the worker and by the employer, overtime work, annual leave and minimum wage.

4.2 Purpose of amending the labour proclamation

As it is mentioned in the previous chapter, Ethiopia enacted a new labour proclamation no. 1156/2019 recently to govern labour relations in the private sector. The new labour proclamation repealed proclamation number No. 377/2003 and its amendments that used for more than 15 years. The drafting of the new proclamation was started four years ago to have a labour regulation that goes in conformity with the rapid economic growth of the country through promoting investment and employment while creating a conducive work environment.[361] Giving a solution for practical problems created during the application of the law and filling the gaps of the previous labour regulation was also a drive to amend the regulation. During the drafting process, different stockholders, notably Ethiopian Employers Federation and Ethiopian Trade Union Confederation (CETU) have participated. However, the first publicized draft proclamation that was prepared by the Ministry of Labour and Social Affairs (MOLSA) was criticized as it disregarded the right of workers by changing more worker favourable provisions. The government then changed the amendments made on the draft and put many of the provisions as it is in the previous labour proclamation no. 377/2003.

According to the newly approved labour proclamation, the purpose of having new labour regulation is: -[362]

- To maintain industrial peace by governing the primary workers and employers relations

[361] Ministry of Labour and Social Affairs (MOLSA) Draft proclamation https://chilot.me/wp-content/uploads/2018/12/draft-labour.pdf (Accessed 03 June 2019)
[362] New Labour Proclamation no. 1156/2019, the Preamble

- To promote productivity and competition that contribute to the development of the country
- To promote investment without scarifying the necessary workers' rights

4.3 Amendments made on the new labour proclamation

4.3.1 Probation period

The purpose of the probation period is to give the employer the chance to inspect whether the worker is appropriate for the position. According to the previous labour proclamation, the probation period should not be more than 45 consecutive days.[363] However, the new labour proclamation article 11 (3) increase the probation period to 60 working days. According to the commentary of the new labour law, the purpose of extending the probation period is the complaint raised by many employers because the period 45 days is too short of achieving its purpose.[364] The country has been planning to transform from agriculture to industrialized economy and opens new jobs to many new employees who need close supervision. The law considers the problem faced by the current employers and taking in to account the country's future economic growth plan. The country's plan to become the hub of industries in Africa using export-led strategy is believed to increase new employment opportunities in the country. Hence, employers need a longer time to assess whether the employees are suitable for a specific job before they are placed permanently. Considering the country's economic growth ambition, the draft labour proclamation prepared by the Ministry of Labour and Social Affairs set ninety working days for the probation period.[365] However, the final approved new labour proclamation reduces the period to sixty working days counted, starting from the first day of employment. It is worth noting that under the previous labour law, the period is counted consecutively while under the new proclamation the period considers only working days. In these days, the employer cannot test the employees whether they are suitable or not to the position and thus unable to fully use the right the law gives them to check during the period. Thus, the new law allows employers to test workers during working days. During the probation period, if the employee unfits the position, the employer has the right to terminate the contract of employment without notice or compensation. Consecutive days include holidays and rest days.

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[363] Previous labour proclamation article 11(3)
[364] Ministry of Labour and Social Affairs (MOLSA) *Draft labour proclamation commentary* (2019) trans at 5
[365] Draft proclamation at 4

Similar to the previous labour law, the new proclamation requires the probation period to be in writing, unlike the contract of employment which is not required to be in any particular formality.[366] Thus the employer can terminate the contract of employment referring this provision only if the agreement for the probation period is made in writing.

4.3.2 Termination of contract

(i) Termination by workers

The new proclamation requires employees to give thirty days prior notice to the employer and terminate the contract of employment for any reason similar to the previous rule.[367]

However, the draft proclamation stated about amending the provision and increase the notice period up to ninety days for positions where limited numbers of experts are available.[368] The purpose behind increasing the notice period was to give the employer enough time to substitute the resigned worker. It was intended particularly for positions where there are shortages of experts in the manufacturing sector.[369] The draft also planned to list the types of jobs which has limited experts available. Furthermore, the draft law intended to increase the amount of compensation paid by workers up to ninety days of wage if the worker terminates the contract without giving ninety days' notice to the employer. However, the new proclamation has left increasing the notice period given by a worker and keep the thirty days' notice period and compensation as it is in the previous proclamation without considering whether experienced substitutes are available depending on the positions.[370] Thus, if the worker terminates the contract without giving notice for thirty days, the worker is required to pay thirty days wage compensation only to the employer whether the employer could get a trained substitute to fill the position within thirty days. These could be a problem for the EOI, which may lose its international market share if they do not keep deadlines because of the unexpected termination of workers.

(ii) Termination by employers

The new proclamation listed grounds of termination with notice and without notice exhaustively similar to the previous labour proclamation.[371] Related to termination without

[366] New Labour Proclamation article 5 & 11 (3)
[367] New Labour Proclamation article 31
[368] Draft proclamation at 9 & 10
[369] Draft proclamation at 10
[370] New Labour Proclamation article 31 & 45 (5)
[371] New Labour Proclamation article 27 (1) & 28 (1)

notice, the previous labour proclamation set repeated lateness and absence of five consecutive days as a ground of termination without notice. The legislator made some amendments on these grounds of termination by stating that the wording repeated lateness is ambiguous and regarding absenteeism workers usually absent for four consecutive days and come at the fifth day using the opening of the provision.[372] Accordingly, the new proclamation states that absenteeism for a total of five days in six months and eight times lateness in six months are causes of termination without notice unless it is justified by a collective agreement, contract of employment and the proclamation itself.[373]

However, the draft proclamation entitled the employer to terminate the contract of employment of a worker who is late or absent for two days within a month or five days within six months.[374] The draft made the outcome the same for both late and absent worker. According to the draft, workers discipline is key to the company to stay competitive in the international market. Both lateness and absenteeism disturb the industries work discipline and negatively affect their global competitiveness.[375] The draft seemed to transfer a strong message to the workers considering the export-oriented industries since they produce for the export market and compete at the global market. These propositions of the government raised many objections that stated the draft did not consider the country's real-life such as transportation problem, and it profoundly affects women who have double social roles at home and workplaces.[376] Hence, the new proclamation changed the draft proposal and loosened the rule related to tardiness and absenteeism. It is noticeable from the shift the legislator made after the draft that the objections highly influence it. Nevertheless, tardiness and absenteeism remain the significant challenges of EOI in the country.

Other grounds such as deceitful or fraudulent acts, improper use of any property of the employee are listed as reasons to terminate the contract of employment without notice according to article 27(1) of the new labour proclamation. The new proclamation also allows employers to terminate the contract of employment by giving prior notice if the worker cannot carry out their duty depending on a periodic performance evaluation that protects workers from excess and inappropriate use of the power of employers.[377] The law requires employers to give

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372 MOLSA commentary at 6
373 New Labour Proclamation article 27 (1) (a) (b)
374 Draft proclamation at 8
375 Draft proclamation at 8
376 Senay Lemma 'Labour Bill: Let's Talk More About It' (02 September 2019) Addis Fortune https://addisfortune.net/columns/labour-bill-lets-talk-more-about-it/ (accessed 01 July 2019)
377 New Labour Proclamation article 28

from one to three months' notice depending on the numbers of years the workers served at the company.[378] The issue here is whether the export-oriented industries that the country bases its economic growth could wait for workers for such long notice period and be competitive at the world market which usually requires the quality product within a short period.

4.3.3 Overtime work

The new proclamation increased the overtime hours to four hours per day and twelve hours per week from two hours per day and around five hours per week.[379] The new proclamation retains the regular working hours that is eight hours a day and 48 hours per week.[380] However, it allows overtime work above these hours when there is force majeure, accident, urgent work, and to substitute absent workers whose duty is uninterrupted.[381] The legislator's intention behind the increase in the overtime period while maintaining the working hours is to give a chance to EOI which are competitive at the international market to use overtime hours to finish their production on time.[382] According to the commentary of the new proclamation, there are plenty of circumstances which prevent the industry from producing the required amount within the regular working hours. If the production gap is not compensated by overtime work and the industry cannot produce according to the time the global market needs, the drawback is not only to the employees or the factories but also the country itself. Furthermore, it stresses the need to work hard for long hours to lift the country out of poverty.[383] When it increases the overtime working hours, it also increases the rate of payment by one fourth or 0.25 rate, which is multiplied by the daily hourly rate compared to the existing proclamation.[384] The rule tries to create a suitable environment for the success of the industries by extending the overtime period.

4.3.4 Annual leave

The new proclamation made a slight change in annual leave periods. It increases the fourteen working days leave days to sixteen working days on the first year of the service and one

[378] New Labour Proclamation article 35 (1)
[379] Previous Labour Proclamation article 67 (2) and New Labour Proclamation article art 67(2)
[380] New Labour Proclamation article 61 (2)
[381] New Labour Proclamation article 67 (1)
[382] MOLSA commentary at 8
[383] MOLSA commentary at 8
[384] New Labour Proclamation article 68 (1)

additional leave day will be given every two years, unlike the previous law which gave one additional day for every year of service.[385]

The initial intention behind amending this provision was that the annual leave on the existing labour law is considered too much to go in line with the production need and economic growth of the country.[386] The complaints of many employers about the extended annual leave was also another reason for the amendment of the provision. Accordingly, the provision was drafted in a way that the labour law can contribute to the increase in the production capacity of the industries and the reduction of poverty.[387] The draft, thus, planned to give working days for a worker who has worked consecutively for five years as opposed to the previous labour proclamation which entitled workers fourteen working days for one-year service.[388] However, the government withdrew its attention from the economic need of the country to protect labours right and made a slight change on the new proclamation.

4.3.5 Minimum wage

The previous labour proclamation does not set a minimum wage that is a minimum amount employer required to pay to a worker. The country has not also ratified the ILO convention of the Minimum Wage Fixing Convention, 1970 (No. 131). Thus, minimum wage rates have been determined by the contract of employment and collective bargaining.

It is argued that the absence of a minimum wage system applicable to the private sector and the weak collective bargaining effort in the country allow employers to pay the lowest wage.[389] The government has been successful in attracting many foreign investors. However, the government attracts these investors by promoting the country as a low wage country.[390] Ethiopian Investment Commission (EIO) graphically shows Ethiopia's wage as very low and states that there is not a minimum wage system for private sector workers.[391] The lack of a minimum wage in the country leads workers to go beyond low base wages. According to a study made by Barrett & Baumann-Pauly, and CNN report, the apparel export factories in

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[385] Previous Labour Proclamation article 77 (1) (a) (b) and New Labour Proclamation article 77 (1) (a) (b)
[386] Draft proclamation at 14
[387] Draft proclamation at 14
[388] Draft proclamation at 14
[389] Worker Right Consortium (n 51) at 12
[390] Ayele Gelan 'Economic commentary: Ethiopia's la wage is a curse, not a blessing' (25 April 2018) http://addisstandard.com/economic-commentary-ethiopias-low-wage-is-a-curse-not-a-blessing/ (accessed 10 July 2019)
[391] as above

Ethiopia pay workers the lowest wage in the global apparel industry.[392] Workers monthly wage does not cover their basic needs such as housing, shelter and food.[393] Because of the low wage, workers in different industrial parks went on strike different times.[394]

On the other hand, there are interests to work in industrial parks. It is reported that several young men and women have applied to be employed by factories in the Hawassa industrial park.[395] They choose the job at the industrial parks from being daily labourer at the construction sector because the income in the factories are more stable than the construction sector even though the wage at the construction sector is higher than the wage paid by EOI.[396] In addition to the readiness of the labour force to accept the low wage job, the minimum monthly wage that has been set for public servants as the US$25 per month by the government also raised as one of the comparison points for the factories at the industrial parks to pay the lowest wage.[397]

Despite the fact that the government has still used the low wage in the country as one of the factors to attract export-oriented FDI particularly the textile industries and could not pass specific policy decision to set a minimum wage, the new proclamation include a provision that allows dialogue between different stakeholders and research to set a minimum wage. The new proclamation opens the chance for the introduction of the minimum wage for the private sector by allowing the establishment of a wage board.[398] The wage board shall be established by the Council of Ministers that determine the powers and responsibilities of the board. Members of the wage board shall be representatives of the government, employees, trade unions and other stakeholders. However, the Amharic version of this provision include representatives of employers as members of the wage board. According to the new proclamation, the minimum wage will be periodically amended based on studies related to the economic development, labour market and other considerations.[399]

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[392] Barrett & Baumann-Pauly (n 9) 9; Aisha Salaudeen 'Ethiopia's garment workers make clothes for some of the world's largest clothing brands but get paid the lowest (13 May 2019) https://edition.cnn.com/2019/05/11/africa/ethiopia-garment-workers-lowest-paid-intl/index.html (accessed 10 July 2019)

[393] Barrett & Baumann-Pauly (n 9) 9

[394] Ethiopia: workers strike for a union in Hawassa industrial park www.industriall-union.org (accessed 10 July 2019)

[395] Noel Minwagaw Low wage cast shadow on industrial parks, Fortune (25 May 2019) https://addisfortune.news/low-wages-cast-shadow-on-industrial-parks/ (accessed 15 August 2019)

[396] as above

[397] Worker Right Consortium (n 51) 12

[398] New Labour Proclamation article 55(2)

[399] New Labour Proclamation article 55(2)

The provision is a good start to establish a minimum wage system in the country. Setting a reasonable minimum wage is essential to protect, especially desperate unemployed workers not to go beyond the law base wage.

In addition to the above amendments, the new proclamation: -

- Increased minimum working age from fourteen to fifteen years of age.[400]
- Increase maternity leave from ninety consecutive days to ninety working days[401]
- Introduced a regulation that entitles workers to receive severance payment in case of workplace sexual harassment or sexual violence[402]
- Related to workforce reduction, it included workers with a disability with workers who are not subjected to prior reduction and keep the other procedural requirements of workforce reduction.[403]

4.4 Conclusion

The government amended the labour proclamation that was applicable for 15 years in order to promote the rapid economic growth of the country by encouraging FDI while protecting the fundamental rights of workers. Even though the government started the amendment by making a substantial change in the existing labour proclamation, because of widespread criticism, it left many of the draft amendments and approved the new labour proclamation without significant change from the previous proclamation. The main amendments made by the new proclamation are the probation period that is extended from forty five consecutive days to sixty working days, permission given to employers to terminate the contract of employment without notice if the worker is absent for five days and late for eight times within six months period and increased overtime hours to four days per day and twelve days per week. The establishment of the labour board to set a minimum wage is also one of the main amendments made on the new proclamation.

[400] New Labour Proclamation article 89
[401] New Labour Proclamation article 88(3)
[402] New Labour Proclamation article 39 (1) (d)
[403] New Labour Proclamation article 29 (d)

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.1 Conclusion

This paper has discussed that developing countries use export-oriented FDI as an important tool to increase their export and boost their economic growth. One of the main factors that attract export-oriented FDI is flexible labour law and the resulting cheap labour. Although the international labour standards and corporate code of conducts try to set principles for governments and companies, respectively, their effectiveness is minimal to influence them. Developing countries in need of economic development are, thus, continue competing to attract these industries by deregulating their labour laws. The economic growth of the Asian countries is mentioned as the success story of attracting export-oriented FDI using flexible labour law and cheap labour.

Ethiopia has also used the labour regulation to attract export-oriented industries at its industrial parks to transform the country's economy from agriculture to industry-led economy in 2025. Even though Ethiopia ratified about 21 ILO Conventions and having labour regulations, different labour right violations are reported that shows the flexibility of the labour law in order to attract export-oriented FDI. The absence of the minimum wage system in the labour law has also been considered as one factor the country provides to attract EOI. Furthermore, the government recently enacted new labour proclamation by repealing the labour proclamation no. 377/2003 which was applicable for fifteen years. The country planned to amend the labour regulation in order to address the country's economic progress and need that is not well stipulated under the previous proclamation. The legislature focused on satisfying the requirements of the export-oriented industries since they are considered as a means to reduce poverty and unemployment in the country. The draft proclamation clearly showed the government's policy interest to make the labour law more investor-friendly and to mostly attract export-oriented industries.

However, after the labour proclamation open to public discussion, and after many criticisms, the government changed most of the amended draft proclamation provisions which were considered as pro industries and recently enacted the new labour proclamation no. 1156/2019 that is mostly similar with the previous labour proclamation. Even though it is undeniable that the new proclamation has brought some changes to solve some actual problems, it does not make essential changes that show policy shift as it was mentioned in the draft proclamation.

The significant new changes made by the new proclamation are the probation period that is extended from forty five consecutive days to sixty working days, permission given to employers to terminate the contract of employment without notice if the worker is absent for five days and late for eight times within six months period and increased overtime hours to four days per day and twelve days per week. The provision set for the establishment of the labour board to set a minimum wage is also one of the main amendments made on the new proclamation.

The extension of the probation period made on the new labour proclamation gives factories longer time to evaluate and dismiss workers who are unfit to the position without paying any compensations. The provisions related to tardiness and absenteeism also have the same outcome, but it may also encourage workers to come on time and without being absent. Regarding the establishment of the wage board, from government's perspective, it is considered as progress since the government does not have policy determination yet to set the minimum wage in the country and it is still using the cheap, abundant labour force and absence of minimum wage to attract investment. The establishment of the minimum wage is also advantageous for factories and workers because it reduces the repeated work strikes and brings predictable working environment and efficiency. However, considering the characteristics of EOI which move easily looking for flexible labour law and low labour wage, unless the minimum wage set by the government is still lesser comparing the wage in other countries around the world, the country will not use the low wage to attract EOI. That will have an adverse effect in attracting EOIs, which choose Ethiopia to take advantage of low wage and low production cost and government's effort to transform the country to an industrialized economy in 2025 using export-led strategy.

5.2 Recommendations

1. Ethiopia needs a labour law that is as flexible as the draft labour proclamation particularly applicable to export-oriented FDI situated at industrial parks in order to transform the country into an industrialized economy using export-oriented FDI. Otherwise, it is challenging for a landlocked country with 105 million population, to compete and attract these industries which are always looking for flexible labour law and cheap labour.

2. If the country is using the same labour law for all industries, the only leverage remained for the government to attract EOI is the minimum wage determination. Even though setting the minimum wage is beneficial for both the employers and the employee to bring industrial peace, predictability and efficiency, it should not kick the investors out of the country or discourage others not to come to invest. On the other hand, the minimum wage should at least be enough to cover workers food, housing and transportation cost.

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