



ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

SCHOOL OF LAW

**ASSESSING LEGAL, INSTITUTIONAL AND PRACTICAL CHALLENGES OF THE
OROMIA REGIONAL STATE DEVELOPMENT, DISPLACED COMMUNITY AFFAIR
AGENCY: A CASE STUDY**

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LL.M PROGRAMME IN CONSTITUTIONAL AND PUBLIC LAW

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**A RESEARCH PAPER SUBMITTED FOR THE PARTIAL FULFILMENT OF THE
REQUIREMENTS OF MASTERS OF LAW DEGREE (LL.M)**

ADVISOR: Muradu Abdo (PhD, Associate Professor of Law)

Author's Declaration

I, **Jifara Bitima**, hereby declare that the thesis entitled as '**Assessing Legal, Institutional and Practical Challenges of the Oromia Regional State Development, Displaced Community Affair Agency: A Case Study**' is my original work and that it has not been submitted for any degree or examination in any other University. I also pledge that all sources used in any form are duly acknowledged.

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Dedication

This Paper is dedicated to:

Whom the DID affect their life and Livelihoods

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Abstract

The purpose of this study is to assess legal, intuitional and practical challenges of Oromia Regional State Development Displaced Community Affair Agency (the Agency) with selected high magnitude of development displaced communities Agency Brach office (Central and Eastern).The methodology employed in the research was qualitative deploying purposive sampling method based on 55 participants drawn from government agency officials, experts, households members, academicians and politicians. The major data collecting techniques were interview, focus group discussion, observation and informal discussions. The data obtained from the participant was transcribed and analyzed thematically.

The finding indicates that the Agency does not possess real power on resettlement, rehabilitation and assistance of development induced displaced persons (DIDP). The power given to the Agency is just a coordinating role whereas real powers on these matters reside in the other agencies. Besides, the institutional structure of the Agency is not well organized. It has only five branch offices. Compared with the nature and scale of the problems of DIDP the Agency lacks accessibility, is weak in human resource and suffers from shortage of finance and logistic. Given the fact that in the Region development is continuing to displace people with its attendant loss of farmland, houses and social ties, the DIDP need formalized and institutionalized assistance from government and non-governmental organization. The newly expropriation and resettlement law is not yet accompanied by directives; on the ground, people displaced due to development projects are not getting substitute nor being properly relocated or being beneficiaries of rehabilitative schemes. Therefore, in order to solve these problems the government should restructure the Agency and mandate it to work on resettlement and livelihood reconstruction backed by strong legal and institutional frameworks

Key Words; Development Displaced Communities, Resettlement, Rehabilitation, Benefit package

Acronyms

A.A	Addis Ababa
ADB	Asian Development Bank
AFDB	African Development Bank
Art.	article
CEDAW Women	Convention on the Elimination of All Forms of Discrimination Against Women
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civic Society Organization
DID	Development Induced Displacement
DIDP(C)	Development Induced Displaced Person/communities
DIDPR	Development Induced Displaced Person Representative
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
FAO	Food and Agriculture Organization
FDRE	Federal Democratic Republic Of Ethiopia
FGD	Focus Group Discussion
FGD	Focus Group Discussion
IADB	Inter-American Development Bank
ICCPR	International Covenant on Civil and Political Right
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDP	Internally displaced person
IDRP	Involuntary Displacement and Resettlement in Development Projects
IFC	International Financial Corporation
IRR	Impoverishment Risks, Risk Management and Reconstruction

LA	Land Administration
NGO	Non-Governmental Organization
OD	Operational Directive
OIC	Oromia Investment Commission
OLAUB	Oromia Land Admiration and Use Bureau
OP	Operational Policy
OR-DDCAA	Oromia Regional Development Displaced Community Affair Agency
Proc.	Proclamation
RAP	Resettlement Action Plan
SES	Social and Environmental Standard
UDHR	Universal Declaration of Human Right
UNDP	United Nation Development Program
UNGPIDP	United Nation Guiding Principle of Internal Displaced Person
WB	World Bank

Glossary of Local Terms

Jigi/Debo: is a labor sharing/exchanging culture among households where habitually close Relatives and neighbors participate

Gammachu- is the means of expression of happiness.

Kebele: is the lowest tire of territorial administration

Afosha/idir; is customarily formal ways by which community support each other during happens, sadness times and other occasions.

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CHAPTER ONE

INTRODUCTION

1.1 Background of the study

Sustainable development requires governments to provide public facilities and infrastructure that ensure safety and security, health and welfare, social and economic enhancement, and protection and restoration of the natural environment. An early step in the process of providing such facilities and infrastructure is the acquisition of appropriate land.¹ Large-scale, capital-intensive development projects accelerated and its effects have been upsetting millions of people all over the world for many decades.²

Irrespective of their purpose, and whether initiated by governments or private companies, large-scale development or infrastructure projects typically require land, and sometimes very large tracts of land. This need for land can result in the dislocation of the people living there (i.e. physical displacement). Even in situations where people are not required to physically move, the project may still impact on their livelihoods or income generating activities, either temporarily or permanently (i.e. economic displacement), or cause other environmental and social impacts that makes continuing to live there untenable.³ Land remains the single most important source of material wealth and social prestige societies of the world of the country, land holds a significant place in the lives of Ethiopian people.⁴

Thus Ethiopia is one of the developing countries, and it has been attempting to accelerate economic growth, which requires a physically dynamic infrastructure. In Ethiopia high numbers

¹ Food and Agriculture Organization of The United Nations, Land tenure studies (10) Compulsory Acquisition of Land and compensation, Rome (2008),1

² Bogumil Terminski, Development-Induced Displacement and Resettlement: Theoretical Frameworks and Current Challenges, Geneva, May 2013.

³ Frank Vanclay (2017), Project-induced displacement and resettlement: from impoverishment risks to an opportunity for development? Impact Assessment and Project Appraisal, Vol 35:1,3-21.

⁴ Daniel Weldegebriel AMBAYE, Land Valuation for Expropriation in Ethiopia: Valuation Methods and Adequacy of Compensation, 7th FIG Regional Conference Spatial Data Serving People: Land Governance and the Environment – Building the Capacity Hanoi, Vietnam, 19-22 (October 2009).

of peoples were displaced, due to so called public purpose, by means of expropriation of property including land and other land related materials for development projects. In fact this process is expected to continue, as development is ongoing.

However, the methods of post expropriation are a significant problem in Ethiopia; many were displaced from their livelihoods and properties. The FDRE constitution clearly provides for the right to development⁵ as well as the right of the peoples to be consulted and participate in the development program.⁶ Further persons who have been displaced or whose livelihoods have been adversely affected as a result of state programs have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance⁷. Whereas the resettlement and rehabilitation or restoration of those displaced community were not properly institutionalized at federal and regional level, the government did not give high emphasis to the matter.

In 2014, the government announces Integrated Regional Development Plan for Addis Ababa and the Surrounding Special Zone of the Oromia Region, which is a long term project (25 years), this is to substantially expand Addis Ababa, which would reportedly incorporated around 30 towns and villages in the Oromia region and displaced.⁸ It covers 1.1 million hectare of land (approximately twenty fold the current size of Addis Ababa), saying that its implementation will result in the dislocation or eviction of millions of farmers and families from their land.⁹ People start protests across the Oromia region in April-May 2014 and from November 2015 to 2016¹⁰, asking development induced displacement affect, the land holding and his family's and to stop their implementation, Oromia regional state take action to established independent institution that works on the development induced displaced communities, due to resistance of the people

⁵Constitution of the Federal Democratic Republic of Ethiopia,1995,Proc,No.1,Federal Negarit Gazeta ,1st year No.1 Art 43

⁶Ibid at Art. 43(1-2).

⁷ Ibid at Art. 44(2)

⁸ Country Policy and Guidance Note Ethiopia: Oromo's including the 'Oromo Protests, Version 2.0 (November 2017),<<https://www.gov.uk/government/publications/independent-advisory-groupon-country-information-iagci>>.last accessed,October,2019

⁹ Ethiopian human right project ,Oromo protest,100days of public protest (March 2016),1-36.

¹⁰ Ibid

the master plan has been officially been scrapped or halted by ruling party in the regional State, on 13 January, 2016.¹¹ However there was a similar forceful evictions had already occurred in the past in Oromia, to meet the need of public services and other economic and social needs of the society since 1995.

As development project is implemented the situation is continuing there for based on power given to the regional council¹², are established an agency called Oromia Regional State Development, Displaced Community Affair Agency mandated to address issues of development displaced community based on Regulation No. 178/2016.¹³ This Agency has a head office and five branches¹⁴. The core objectives of the agency are; to Supporting communities displaced for development in order to ensure that they have productive socio-economical life, reliable and sustainable and to ensure that they shall be investors who contribute their due share in the growth of the area through organizing energy and resources of them;¹⁵ Ensuring that communities displaced for development shall be a participant, beneficiary and competitor in the development schemes carried out in that locality.¹⁶

The core mandate of the agency are, Initiate policies, strategies and laws focusing on rehabilitation; presents it to the concerned body; put in to practice when approved; ensures that it put in to effect¹⁷, Provides social and economic support for the formerly displaced community in order to make them have productive, reliable and sustainable life¹⁸, Follows the fairness of individual and group holding compensation estimation; shall ensure that measures shall be taken

¹¹ Ibid

¹² Proclamation No 163/2011 Reorganization and Redefinition of the Powers and Duties of Executive Organs of Oromia National Regional State art 65/1.

¹³ Regulation.No.178//2016 Oromia Regional State Development Displaced Community Affair Agency Establishment.

¹⁴Central Branch (Dukem), Eastern Branch (Adama), Southern Branch (Shashamane), Western branch (Nekemt) South West (Jimma).

¹⁵ Reg.(n 13) art 5(1)

¹⁶ Ibid art.5(2)

¹⁷ Ibid art.7(1)

¹⁸ Ibid art.7(2)

where there are discrepancies;¹⁹ Establishes, administers, utilizes rehabilitation fund²⁰, Shall work in collaboration with the concerned body in order to ensure that the community displaced for development shall benefit from job employment opportunity and market development carried out in their locality;²¹ Follows up whether the local community have got the primary place in employment opportunity created by development projects; takes and ensures that corrective actions are taken where there are gaps²² and etc. So this study is focuses on over all legal, institutional and practical challenges of the Agency on the implementation of the power and duets given to them with selected two district branch offices(central and eastern) that have high magnitude of displacements.

2 Statement of the problem

Ethiopia is a developing country, and it has been attempting to accelerate economic growth, which requires a physically dynamic infrastructure. In order to carry out this process, many projects are being undertaken and many are being proposed that require vast amounts of expropriation of land. Therefore, resettlement, rehabilitation of displaced community due to development projects are no longer a subtopic but rather a vital issue. However, to date the government still has no fixed, clearly formulated resettlement and rehabilitation policy and programs at a federal as well as regional level. Development induced displacement is continuous and working on resettlement and rehabilitation for sustainable livelihood is unquestionable, to solve the problem Oromia Regional State Established Institution that follow those issues in 2016.²³ In Oromia Regional State more than 200,000 house holders are displaced due to development program²⁴, beyond payment of compensation, formalized and institutionalized ways of assistance benefit packages, rehabilitation and resettlement for sustainable livelihoods is the responsibility of the government. A significant amount of empirical research indicates that land expropriation for “economic development” purposes has often been used as a tool for

¹⁹ Ibid art.7(6)

²⁰ Ibid art 7(14)

²¹ Ibid art 7(9)

²² Ibid art 7(13)

²³ Ibid

²⁴ Oromia Regional State Development Displaced Community Affair Agency 2018/19 Report.

benefiting private companies while failing to serve public interests and jeopardizing the land tenure rights and livelihoods of affected populations.²⁵ The problem is still not redressed. Different studies has been conducted on these area, According to Endeshaw Gebrie, conducted his research were indicated that, displaces faced different social and economic problems especially in basic infrastructures.²⁶

On the other hand, Bikila Ayele`s thesis research indicates that majority of the displaced households experienced deterioration of their economic bases; landlessness, cattlelessness and joblessness which is resulted in lack of capacity to construct house, decline in productivity and food insecurity, socio-economic marginalization weakening of social networks and deterioration of access to community services after displacement.²⁷ Dawit Addis also found that displaced persons are suffering from social problems in their new residential areas that compare with their previous home, such social problems as, they did not get someone to talk about their problems in the new residential areas, do not feel comfortable while they are playing with their new neighbors, experiencing a sense of loneliness, they don't have confidence about their social dealings and they really miss their proximate friends. Besides, psychological problems such as depression, anxiety, stress, low self-esteem had also been their major problems.²⁸ In addition Wakessa Tesemma also conducted on Challenges and Opportunities of Development Induced-Displaced Households of Adama II Wind Power Project s²⁹.

²⁵ Nicholas K.Tagliarino, Legal Limits on Government Authority to Expropriate Land, An Assessment of Expropriation Procedures in 50 Countries Across Asia, Africa, and Latin America; Paper prepared for presentation at “ World Bank Conference on Land And Poverty” The World Bank - Washington DC, March 2018,19-23.

²⁶ Endeshaw Gebrie ,Impacts of Urban Renewal Induced Displacement and Resettlement on the Economic and Social Life of Displaced People: The Case of Yeka Ayat 2 Condominium, Addis Ababa, Ethiopia , MA thesis from Addis Ababa University(May,2016) .

²⁷ Bikila Ayele, The Impacts of Development-Induced Displacement and Relocation on the Livelihoods of Households in Dukem Area , MA thesis from Addis Ababa University (June, 2014).

²⁸ Dawit Addis , Psychosocial problems of development induced-displaced persons: The case of Dejache Wube village, former residents, MA thesis from Addis Ababa University (2016).

²⁹ Wakessa Tesemma, Challenges and Opportunities of Development Induced-Displaced Households: The Impact of Adama II Wind Power Project in Focus, MA thesis from Addis Ababa University (2017).

The above and other available studies mainly focus on livelihood rebuilding, compensation, dealing with challenges' of displacement on local community around the development project and the opportunities related with displacement. However there is a less attention on Conducting the legal, institutional and practical challenges of development displaced community affair agencies. Further, the Agency set up to play this role is the first of its kind in Ethiopia as it has been established early only in Oromia and Addis Ababa. Therefore the study play an important role in filling the existing knowledge gap, in terms of understanding the legal, institutional and practical changes face the agency works on development displaced communities.

1.2 Objectives of the Study

1.3.1. General Objectives of the Study

The general objective of the study would be to assess legal, institutional and practical challenges of the Agency.

1.3.2. Specific Objectives of the Study

The specific objective of the study would be;-

- ✓ To assess the legal frameworks of Oromia Regional State Development Displaced Communities Affair Agency.
- ✓ To examine the institutional frameworks of Oromia Reginal State Development displaced communities Affair Agency.
- ✓ To assess methods of risk minimization and benefit packages given for development induced displaced communities.
- ✓ To identify the major institutional difficulties that hinder the exercise their objectives.
- ✓ To forward recommendations regarding development induced displacement and resettlement, and the possible coping mechanisms.

1.4 Research Questions

- 1) What are the legal lacunas with regard to the Oromia Regional State Development Displaced Communities Affair Agency?
- 2) How is the Agency's institutional framework structured? What are the problems in the existing institutional frameworks?
- 3) What are the benefit packages for development displaced communities to sustain their livelihoods and living standards?
- 4) What are the institutional methods to minimize risks of development displaced communities?

1.5 Significance of the study

The researcher believes that the current research would benefit to strengthening the legal framework and practical performance of the agency and also it would help new researchers and academicians to do further studies or investigation of new ideas about the subject matter with a range of practical application and improves the understanding of research ability of the researcher.

The legislatures and policy makers, other regional state and city administration agencies would be use to solve the problem of institutional and legal frameworks for resettlement and rehabilitation of development induced displaced communities.

1.6 Scope of the study

Research should be manageable in order to focus on a specific problem, taking into account available time, finance, sample size and the abilities of the researcher on his study. Unless any research is delimited to manageable size, it cannot be conducted successfully.

Even though development induced displacement is wide and generous regardless of type, its size, nature and goal, the scope of this study would be delimited to an assessment of legal, institutional and practical challenges of Oromia Regional State Development Displaced Community Affair Agency.

1.7 Methodology of the study

In conducting this research the researcher used qualitative method, that containing both doctrinal and non-doctrinal. To synthesize the laws, doctrinal approach is applied and to investigate the implementation of the laws, non-doctrinal approach has been employed. To meet the objective of the study both primary and secondary data was employed; data was collected from respective sources, which complement each other's.

1.7.1. Primary data

The primary data was obtained from a selected sample of household focus group discussions, semi-structured interviews with officials, expert, academicians and politicians and site observation.

1.7.2. Secondary data

In addition, secondary data was obtained from published and unpublished sources of materials, which are available in the form of books, journal articles, proclamations, policy briefs, federal and regional rule and regulation and pertinent academic thesis, reports, Internet and relevant literatures.

1.8 Limitations of the study

This study was faced certain limitations. Due to Covid-19 pandemic, it was difficult to travel from place to place and thus data collection took time. However, even in the face of these limitations and challenges, the researcher tried his utmost best to avoid research quality compromises.

1.9 Ethical consideration

The objective and procedure of the study briefed to all participants. In this research, the principle of voluntary participation implemented, the notion of voluntary participation is the requirement of informed consent. Regarding these facts, the researcher has got the consent of all participants. First and foremost, the researcher had explained, as the research conducted for academic purpose and finally the results of the research was benefits based on explained above significant of the study. Thus personal information or background will be kept secretly that will not be noticed nor given to any third person or party without their full permission in case the need arises. Therefore

the researcher has conducted the study by taking all ethical standard in to consideration and the issue of confidentiality assured to the participants of the study and implemented accordingly.

1.10 Organization of the Paper

The study organized into four chapters. Chapter one is an introduction that includes background of the study, statement of the problem, general and specific objectives of the study, basic research question, research methods, significant of the study, scope of the study and limitation of the study. The second chapter covers a discussion of conceptual, legal and institutional frameworks. Chapter three includes data analysis and interpretation. The fourth chapter provides conclusions and recommendations of the study.

CHAPTER TWO

DEVELOPMENT DISPLACED PERSON; THEORETICAL, LEGAL AND INSTITUTIONAL FRAMEWORKS

This chapter deals with three major above sub-titles. It explains theories of development displaced communities that deal about the impact of development displaced communities and the way to minimize the challenges. As well as normative and institutional frameworks, which can be applicable directly or indirectly through international up to national (local) frameworks.

2.1 Theoretical Framework

Different texts exist in relation to explaining the development induced displacement and its impacts. However there is insufficiency of theoretical frameworks or models, which explain development displaced communities. However, the following two theories are mostly applicable model in the world.

2.1.1 Thayer Scudder and Elizabeth Colson Four Stage Model

In 1982 these scientists proposed the so-called four stage model, the aim of which was to analyze how people and socioeconomic systems respond to resettlement.³⁰

The four stages mentioned in this model are:

1. Labelled recruitment,
2. Transition,
3. Potential development, and
4. Handing over or incorporation

In Labelled recruitment phase, the persons responsible for development projects and associated resettlement formulate development plans, often without adequate notification to the affected communities. **In the transition** period, local communities learn about the forthcoming

³⁰ T. Scudder, E. Colson, "From welfare to development: a conceptual framework for the analysis of dislocated people" [In] A.Hansen, A. Oliver-Smith (eds.), *Involuntary migration and resettlement*, Westview Press, Boulder CO, 1982. Sited by Bogumil Terminski, on Development-Induced Displacement and Resettlement: Theoretical Frameworks and Current Challenges, Geneva, (May 2013),23

displacement and its potential consequences. **Potential development** is the process following the departure of former residents, as the resettled people begin to adapt to their new home, embarking on the reconstruction of economic activities and social ties. **The last stage** of the model concerns generational integration and adaptation in the new location.

The model was originally created for the analysis of voluntary resettlement, but has also been applied in studies of more compulsory types (expropriation of property).³¹

2.1.2 Impoverishment risks, Risk management and Reconstruction (IRR)

Scholar Michael Cernea has developed theoretical model “*Impoverishment risks, risk management and reconstruction: A model of population displacement and resettlement*”. The origin of this model is both empirical and theoretical in which its primary version was applied on more than 200 projects worldwide, which were carried out by the World Bank between the years 1993 and 1994. One important feature of the model is that it focuses on both the economic and social contents of both the displacement and the re-establishment processes. It is stated that “the model’s dual emphasis, on risks to be prevented and on reconstruction strategies to be implemented, facilitates its operational use as a guide for action.

Accordingly, this model can be important for two major functions (predictive and diagnostic) The predictive function helps a researcher to predict some likely problems, which are conceptualized under the eight major impoverishment risks (1, Landlessness, 2) Joblessness 3),Homelessness 4) Marginalization 5) Food insecurity 6) Increased morbidity 7) Loss of access to common property 8) Social disarticulation).³²Which might hidden in a project.

The diagnostic functions enables both the planners and the would-be displaced to transparently recognize the risks in advance, search for alternatives to avoid displacement, and/or respond with migratory measures, bargaining strategies, and coping approaches or mechanisms.³³

³¹ Ibid

³² Michael M. Cernea; *Impoverishment Risks, Risk Management, and Reconstruction: A Model of Population Displacement and Resettlement*, Research Professor of Anthropology and International Affairs George Washington University Washington, DC., USA(2004),9-10.

³³ Ibid

The theory has detail mitigating measure of 8 identified impact of Displacement due to Development Project.³⁴ Whereas in this thesis due to wider scopes of the problems the study is focusing on the following three identified risks.

- 1) **Landlessness:** Expropriation of land removes the main foundation upon which people's productive systems, commercial activities, and livelihoods are constructed.
- 2) **Homelessness:** Loss of shelter tends to be only temporary for many people being resettled;. Lack of assess of substitution of land.
- 3) **Social Disintegration:** Displacement causes a profound unraveling of existing patterns of social organization. This unraveling occurs at many levels, when people displaced production systems, life-sustaining informal networks, trade linkages.

Therefore this model helps to examine the ways of risk, reconstruction situation of development displaced communities and the way the government or concerned body works on minimizing the impact of development-induced displaced communities and the way to cope.

2.2. Legal Framework

2.2.1 International Legal frameworks

International law is imposing limitation on state with jurisdiction of the state, in conformity with the international agreed standards to insure all human being benefit from the protection founded in international laws. At the international arena, there is no equivalent normative framework exists for development displaced persons specifically. Internally displaced person due to developments cannot be granted a special legal status comparable to refugee status³⁵. Therefor development induced displacements do not benefited from a specific and comprehensive, legally binding protection regime in international law, but they do benefit from well-established general human right standards that apply to all human beings. Accordingly the following international norms are directly or indirectly concerned on the development displaced persons.

³⁴ M.Cernea (n 32),14-28

³⁵ Catherine Phuong, The International Protection of Internally Displaced Persons , Published in the United States of America by Cambridge University Press, New York,(2005)39-47.

2.2.1.1 Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights is one of the greatest important documents in human history; it was the first UN instrument adopted that contained a list of internationally recognized human rights.³⁶ Under this declaration the right to property is proclaimed as a fundamental human right, it provides that everyone has the right to own property alone as well as in association with others' and that 'no one shall be arbitrarily deprived of his property'.³⁷ Under this article, it recognizes in general terms the fundamental nature of the right to property and limits the ability of states to arbitrarily interfere with the enjoyment of the right. It is worthy to note that article 17 protects both individual and collective property ownership rights. However, the right provided under article 17 is somewhat ambiguous; it fails to provide guidance on the terms of deprivation such as the requirement of a public interest consideration, payment of compensation or seeking informed consent of the property owners³⁸ and the ways of resettlement and rehabilitation after displacement. However, the status remains uncharted or a declaration without binding effect. Nonetheless, this declaration opens the door for the universality of human right almost accepted by all countries of the world and most countries make it part of their constitution/legal entity. Therefore, it becomes customary international law.³⁹

2.2.1.2 International Conventions

Legal protection of development and displaced person is attached with the right of property, neither the International Covenant on Civil and Political Rights (ICCPR)⁴⁰ nor the International

³⁶ Mashood A. Baderin & Manisuli Ssenyonjo, *International human rights law six Decades after the UDHR and Beyond*, School of Oriental and African Studies (SOAS), University of London (2010),9

³⁷ See UDHR (1948).Art. 17 (1) & (2).

³⁸ J.G. Sprankling, 'The Emergence of International Property Law', cited by Michael Gyan Nyarko. on *The Right to Property and Compulsory Land Acquisition in Ghana: A Human Rights Perspective* 90 North Carolina Law Review (2012), 461

³⁹ Jihad H,Bhuiyan A,*An introduction to International Human Rights Law* ,edited by Azizur Rahman Chowdhury,Md.Jahid hossain Bhijan,Leiden,Boston,(2010),128.

⁴⁰ See International Covenant on Civil and Political Rights, adopted 16 Dec. 1966, G.A. res 2200(XXI), UN GAOR, 21st Sess., Supp. No. 16, UN doc A/6316, (1966), 993 U.N.T.S. 3 (entered into force 3 Jan. 1976)

Covenant on Economic, Social and Cultural Rights (ICESCR)⁴¹ has a provision on property rights even if the Universal Declaration of Human Rights recognize.

The issue of property right under ICCPR and ICESCR are debatable, According to Belachew Mekuria, during the discussions on the formulation of the two covenants mentioned here, a draft provision based on Article 17 of the UDHR was put forward by the USA⁴², though unsuccessfully, which proposed the inclusion of ‘property’ along the right to life so that it could read “No one shall be deprived of his life, liberty, or property, without due process of law.”

In July 1951, France also submitted a proposal on the right to property, which reads:

*The states parties to this Covenant undertake to respect the right of everyone to own property alone as well as in association with others. This right shall be subject to the laws of the country in which the property owned is situated. Expropriation may not take place except in cases of public necessity or utility in circumstances defined by law and subject to fair compensation.*⁴³

Due to serious disagreement on the issues of expropriation and compensation, the draft texts were rejected with a vote of seven to six, with five abstentions. Thus, there is no express recognition of the right to property in anyone of those international covenants.⁴⁴ However, even if the two covenants are not clearly indicated, the Human Right Committee communication suggested the right to non-discrimination under art 2 ICESCR and art 2 and 26 of ICCPR that offers protection against discrimination of all forms including in the enjoyment of the right to property.⁴⁵

⁴¹ See International Covenant on Economic, Social and Cultural Rights, adopted 16 Dec. 1966, 993, U.N.T.S. 3, Annex to G.A. res 2200(XXI), (entered into force 3rd Jan. 1976)

⁴² Belachew Mekuria, Human Rights Approach to Land Rights in Ethiopia,(2011),46-47 < <https://chilot.me/wp-content/uploads/2011/04/human-rights-approach-to-land-rights-in.pdf>. >Last retrieved 11 December 2019.

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ Ibid

Explicit rights to land have been developed in different key areas of international human rights law, namely, the Convention on the Rights of Indigenous People.⁴⁶ The Convention includes a section on land, and requires States Parties to identify lands traditionally occupied by indigenous peoples and guarantee ownership and protection rights.⁴⁷ The Convention also requires the provision of legal procedures to resolve land claims⁴⁸ establishes rights over natural resources,⁴⁹ protects against forced removal.⁵⁰

Generally at the international arena, there is no equivalent normative framework exists for development displaced persons specifically. Internally displaced person due to developments cannot be granted a special legal status comparable to refugee status, the only non-binding one is UN guiding Principle of IDPs of 1998 s, whereas he only binding law is the African Convention (KC) on IDPs, which is a regional one⁵¹ and thus not universally applicable. However human rights are universal, indivisible, interdependent, and interrelated.⁵² Therefore, that States have a responsibility to ensure the full and equal enjoyment of human rights of all individuals on their territory or under their jurisdiction. This duty extends to all agents of the State, including the military and the police, and all public authorities, whether at the national, regional or local level⁵³.

This responsibility has three dimensions: to ***respect, protect and fulfill*** need of human rights. The state's *obligation to respect* means that States must refrain from interfering with or curtailing the enjoyment of human rights. *The obligation to protect* requires States to protect individuals and groups against human rights abuses. *The obligation to fulfil* means that States

⁴⁶ International Labour Organization, Convention 169, Indigenous and Tribal Peoples Convention, opened for signature Jun. 27, 1989, < <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169>>, last visited on 14 December, 2019

⁴⁷ Ibid art.14

⁴⁸ Ibid art. 14

⁴⁹ Ibid art. 15

⁵⁰ Ibid art. 16

⁵¹ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention"), 23 October 2009.

⁵² Vienna Declaration and Programme of Action Paragraph 5, Vienna: World Conference on Human Rights (June 1993)14-25.

⁵³ See General Comment No. 31(80) of the Human Rights Committee on the nature of the general legal obligation imposed on States Parties to the Covenant (CCPR/C/21/Rev.1/Add.13).

must take positive action to facilitate the enjoyment of basic human rights⁵⁴ based on this, development displaced communities have enjoyment of human right without any discrimination, especially the right to protect from forced eviction, an adequate standard of living, the right to work, access to education, adequate health care and other state assistance for livelihood reconstruction.

2.2.2 National Legal Frameworks

At the national level different legal frameworks has been adopted to accelerate the development the country through human, social, economic, political, and cultural and environmentally aspects. At national level the government tries to promulgate policies, programs rules and regulation that to protect the right of Ethiopian peoples, Regarding to development induced displaced person the following relevant legal frame works are discussed under federal and Oromia regional state.

2.2.2.1 Federal Level Legal Framework

2.2.2.1. Federal Democratic Republic of Ethiopia Constitution (FDRE Constitution)

The FDRE Constitution was enacted in 1995.⁵⁵ In Ethiopia, land ownership is constitutionally regulated as the State and People of Ethiopia⁵⁶, thus land is the property of Nations, Nationalities and Peoples of Ethiopia and cannot be subject to sale or other means of transfer or exchange⁵⁷. This means that all persons have the usufruct (using and deriving the fruits thereof) rights over the land. In addition, constitution recognizes the right of peasants and pastoralists to get land free for cultivation and grazing. It appears that peasant farmers and pastoralists have the maximum right on land for, to get land without payment; **have the right to be protected from eviction from their land**; and the usufruct right they have is not limited by time.⁵⁸

⁵⁴ see Human Rights, Handbook for Parliamentarians N° 26, published by the Inter-Parliamentary Union and the United Nations Office of the High Commissioner for Human Rights, (2016)32-33. <<https://www.ohchr.org/Documents/Publications/HandbookParliamentarians.pdf>>last retrieved on 12, December,2019.

⁵⁵ FDRE constitution (n 5)

⁵⁶ Ibid art 40.

⁵⁷ Ibid at art 40(3)

⁵⁸ Ibid at art 40 (4and 5)

As a matter of rule, peasants and pastoralists have these rights on land with the maximum possible protection. However, exceptionally these rights can be excluded for public interests. In this regard, the Constitution in its Article 40 (8) provides that:

“Without prejudice to the right to private property, the government may expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property.”

Additionally, Article 44 of the FDRE Constitution states the right of displaced persons to financial or alternative means of compensation including relocation with adequate state assistance.

All persons who have been displaced or whose livelihoods have been adversely affected as a result of State programmes have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance⁵⁹.

Generally, the FDRE Constitution provide for legal frameworks that protect citizen’s rights to private property and set conditions for expropriation of such property for public interests and the right to commensurate compensation for those who lost their rights. The compensation includes relocation with adequate State assistance.

2.2.2.1.2 Expropriation of Landholdings for Public Purposes and Payment of Compensation and Resettlement Proclamation No. 1161/2019

Expropriation of Land Holdings for Public Purposes and Payment of Compensation Proclamation No.455/2005 was repealed by this proclamation⁶⁰. The Proclamation is applicable throughout the country in rural and urban centers on matters relating to land expropriation, payment of compensation and resettlement of landholders whose land expropriated for public purposes.⁶¹ The proclamation comprised the basic principles that have to be taken into consideration in determining compensation and resettlement to a person whose landholding is

⁵⁹ Ibid art 44(2)

⁶⁰ See Expropriation of Landholdings for Public Purposes and Payment of Compensation and Resettlement Proclamation, No. 1161/2019, Art .28 (1).

⁶¹ Ibid art. 3

going to be expropriated or has been expropriated⁶². According to the proclamation the general condition, for which land and property expropriated for public purpose, which is;-

*“Decision that is made by the cabinet of a Regional State, Addis Ababa, Dire Dawa or the Appropriate Federal Authority on basis of approved land use plan or; development plan or; structural plan under the belief that the land use would **directly or indirectly** bring better economic and social development to the public.”*⁶³

Therefore, from the legal definition the term ‘public purpose’ is broad and vague; it has based on the decision of government, still problems cited by different scholars at the old expropriation proclamation have not been solved.⁶⁴ That means due to vagueness of the meaning it can be permitted to take property from one person and give it to another without the need to establish any public purpose at all.⁶⁵

The Proclamation has a basic principle, on the procedure of expropriation for public purpose and assistance of displaced peoples.

*Where land is expropriated for public purpose the procedure shall be transparent, participatory, fair and accountable.*⁶⁶

*Compensation and resettlement assistance compensation for the expropriated land shall sustainably restore and improve the livelihood of displaced peoples*⁶⁷.

According to the Proclamation appropriate Federal authority, regional, Addis Ababa or Dire Dawa cabinet have the power to decide on public purpose expropriation.⁶⁸ However, Regional, Addis Ababa, Dire Dawa cabinets may delegate Woreda or City Administrations to decide on

⁶² Ibid art 4

⁶³ Ibid art 2(1)

⁶⁴ Daniel Behailu Gebreamanuel ,Transfer of Land Rights in Ethiopia , Towards a Sustainable Policy Framework , eleven international publishing (2015)290-293

⁶⁵ Muradu Abdo ,Reforming Ethiopia’s Expropriation Law, MIZAN LAW REVIEW, (December 2015),Vol. 9, No.2 ,05-309.

⁶⁶ Proc.1161/2019(n 60) art. 4(4)

⁶⁷ Ibid art 4(2)

⁶⁸ Ibid art. 5(1)

land expropriation for public purpose.⁶⁹ In the absence of delegation power, the power of Woreda and City Administrations is to implement the decision decided by higher organ to expropriate landholdings by clearing and taking over of and allocation process of the land in accordance with the procedures.⁷⁰

According to the Proclamation, landholders whose landholdings are expropriated are entitled for compensation of property, displacement, economic and moral damages.⁷¹

Regarding resettlement, the Proclamation states, Regional States, Addis Ababa and Dire Dawa Administrations are required to establish fund for compensation payment and rehabilitation.⁷² Particularly, Regional states, Addis Ababa, Dire Dawa, shall develop resettlement packages that may enable displaced people to sustainable resettlement.⁷³ The law lays down duty of resettlement and rehabilitation on Urban and Woreda Administration.⁷⁴

2.2.2.1.2.1 Expropriation and Valuation, Compensation and Resettlement Regulation. No 472/2020

The regulation was issued by council of minster based on power and duties of FDRE Executive organs Pro. No 1097/2017 Art.5 and Expropriation of land holdings for public purpose and payment of compensation Pro..No. 1161/2019 art 26(1).

The Regulation has detailed procedures on the manners of Expropriation and Valuation, Compensation and Resettlement. Regarding development displaced communities , regulations provides; The public consultations⁷⁵; priority right to develop land to be expropriated⁷⁶; compensation for severed social relation and moral damages⁷⁷; substitution of land and house ⁷⁸;resettlement packages;⁷⁹ shareholding right of displaced whose lands is to be taken.⁸⁰ In

⁶⁹ Ibid art. 5(4)

⁷⁰ Ibid art..6 and 8.

⁷¹ Ibid art. 11-15

⁷² Ibid art.16

⁷³ Ibid art. 16(1)

⁷⁴ Ibid art. 16(3)

⁷⁵ Expropriation and Valuation, Compensation and Resettlement Regulation No. 472/2020 Art 4

⁷⁶ Ibid at art 8

⁷⁷ Ibid at art 30

⁷⁸ Ibid at art 33

⁷⁹ Ibid at art 35

case the displaced people who have lost their income because of the land expropriation do not own shares in the investment, the beneficiaries, the investor and the administration shall devise economic incentives. The details implementation of the regulations is expected to be determined by Directives.⁸¹

2.2.2.1.3 Federal Rural Land Administration and Land Use Proclamation No. 456/2005

Rural Land Administration and Land Use Proclamation (Rural Land Proclamation) implemented on rural land in Ethiopia. The Rural Land Proclamation provides detailed rights and duties of landholders on rural lands and regulates compensation payment in some of its Articles. For instance, Article 7 (3) provides that:

“Holder of rural land who is evicted for purpose of public use shall be given compensation proportional to the development he/she has made on the land and the property acquired, or shall be given substitute land thereon. Where the rural landholder is evicted by federal government, the rate of compensation would be determined based on the federal land administration law. Where the rural landholder is evicted by regional governments, the rate of compensation would be determined based on the rural land administration laws of regions.”

Accordingly, this provision took the rate of compensation must be determined on the basis of federal and regional rural land administration and use laws based on who exercised the power of expropriation. In this manner, this Proclamation presupposes the existence of regional laws governing the issue of valuation and payment of compensation. However most regional states have enacted rural land administration and use proclamations and regulations, they did not issue about evaluation and payment of compensation regulations. Rather, they are applying the federal ones. The new proclamation provides that the power to enact regulation have been given to the council of minster, whereas the regional state power is issuing directives on proper implementation of the proclamation and regulation⁸².

⁸⁰ Ibid at art 36

⁸¹ Ibid art 48(1)

⁸² Ibid art. 25(1-2)

2.2.2.1.4 Urban Lands Lease Holding Proclamation No 721/2011

The proclamation clearly stated expropriation of urban land for public interest upon payment of commensurate compensation, in advance, for the properties to be removed from the land.⁸³ A person displaced due to this action taken have the right to get a substitute plot of land within the urban center based on the size of which determined by the region or the city administration.⁸⁴

No land leasehold may be cleared, prior to the expiry of the lease period, unless the lessee has breached the contract of lease, when the use of the land is not compatible with the urban plan or the land is required for development activity to be undertaken by government. Whereas, in case of illegally occupied urban land, appropriated body shall have a power without the need to issue a clearance order pursuant to Article 27 of the proclamation and payment of compensation by merely serving a written notice of seven working days to the occupant in person or by affixing it to the property situated on the land⁸⁵

2.2.2.2 Oromia Regional State Legal Frameworks

2.2.3.2.1 Oromia Regional State Constitution

Oromia Regional state Constitution Article 40 under the “*right to property*” sub article (3) provides;

“The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of the region. Land is belongs to the people of the region and shall not be subject to sale or any other mode of transfer of ownership”.

Accordingly, when we see the above constitution provision it is similarly with FDRE constitution Art. 40(3), the main difference is the FDRE constitution is through the country (Ethiopia) where as Oromai Regional state limited to the peoples of the region. According to the

⁸³ See Urban Lands Lease Holding Proclamation No. 721/2011, Art 26

⁸⁴ *ibid* 26(2)

⁸⁵ *Ibid* 26(4)

constitution farmer and pastoralist of the region have the right to free land for grazing and cultivation as well as *the right not to be evicted from the land they traditionally hold*⁸⁶.

Another important provision concerning the security and rights of land-holders are provided under sub-articles 7 and 8 of the same provision. Any person shall have the full right to the immovable property he builds and to the Improvements he/she makes on the land by labour or capital. These rights include the right to alienate, to bequeath, and, where the right of use expires, to remove or claim compensation, concerning the expropriation law, constitution insight the way of particular law issued to determined it.⁸⁷ In fact Federal government issued expropriation and payment of compensation (proclamation) 1161/2019. However Oromia regional state is not have proclamation and regulation regarding expropriations, but Amhara Regional state and Addis Ababa City Administration both they further enacted detailed Directives and manuals.⁸⁸

The Constitution gives the expropriation power for regional state, “*the government of the region has a power to expropriate private property for public interest*”, in-this case the constitution granted for the land holders to get commensurate compensation in advance for the loss of private property.⁸⁹

In addition the regional state constitution provided that “*all the residents of the region who have been displaced or whose livelihoods have been adversely affected as a result of state programmes have the right to commensurate monetary or other means of compensation , including relocation with adequate assistance by the state*”⁹⁰.

2.2.3.2.2 Oromia Rural Land Administration and Use Proclamation No.130/2007

The Oromia Rural Land Administration and Use Proclamation No.130/2007(Oromia Rural Land Proclamation), like federal rural land proclamation these Proclamation is also providing detailed

⁸⁶ Oromia Regional State constitution Proclamation No.46/2001 Art .40(4-5)

⁸⁷ Ibid at Art 40(7).

⁸⁸ Daniel Weldegebriel Ambaye, Land Right and Expropriation in Ethiopia , Doctoral Thesis in Land Law Real Estate Planning and Land Law Department of Real Estate and Construction Management School of Architecture and the Built Environment Royal Institute of Technology (KTH Stockholm, 2013)165.

⁸⁹ ORS Constitution (n 86) 40(8).

⁹⁰ Ibid art 44(2)

rights and duties of landholders on rural lands; it regulates compensation payment the under Art 6 provides that “... the rural land use right shall be terminated only if that land is required for more important public uses.”⁹¹ It further stipulates, “... any individual or organ whose landholding is taken for public uses shall have the right to get compensation for his properties and benefits gets proportional replacement of his holding.”⁹² If replacement of holding is not possible compensation for rehabilitation shall be paid.”⁹³

Accordingly, displaced person have the right to get compensation and benefit through replacement, if there is no any equivalent land for replacement, they have the right to get compensation for rehabilitation.

Additionally, in accordance with the proclamation No.130/2007, article 29 Oromia Regional state council issued regulation No.151/2012⁹⁴ for implementation Rural Land Administration and Use proclamation. Under this regulation if the rural land taken for investment purpose it provided the right to get compensation in cash or in kind.⁹⁵ In addition, if rural land is used for Utilization for Social Services. Accordingly to the regulation the land holder whose holding is taken for the purpose of social services shall be compensated according to compensation law, for the properties he owned on that land in cash or in kind by the community or by government⁹⁶.

Regarding to the rehabilitation and resettlement, regulation give mandate for Oromia land use and administration bureau and wordea Administration, accordingly;-

“The Bureau shall follow up and take care of the land holders displaced from their holdings and paid compensation in cash in order to rehabilitate through engagement in different projects in collaboration of pertinent organizations, keeps records, and follows up the implementation.” ⁹⁷

⁹¹ Oromia Rural Land Administration and Use Proclamations Proclamation No.130/2007, A Proclamation to Amend Proclamations No.56/2002, 70/2003 and 103/2005 of, Megaleta Oromia, 15th Year, No.12, Art 6(10)

⁹² Ibid art 6 (11)

⁹³ Ibid art 6 (12)

⁹⁴ Oromia Rural Land Administration and Use Regulation No.151/2012, Megalata Oromia 18th year.

⁹⁵ Ibid art 6(4)

⁹⁶ Ibid art12 (2)

⁹⁷ Ibid art 6(5)

2.2.3.2.3 Oromia Regional State Urban Land Lease Holding Regulations No 182/2016

The Regulation is clearly provided expropriation of urban land for public interest upon payment of commensurate compensation, in advance, for the properties to be removed from the land,⁹⁸ expropriated body have the right to get substitution of land based on Art. 27 of the regulation.

Also the law provided provide expropriated bodies have the right to get substitution of land based on the urban planning. The substitution of land is vary based on expropriated properties, if it is rented government house, substitution is given based on the level of the city, if its cooperative union substitution of area of land 40M²- 120M². If land is takeoff fully or partially from Farmer, Pastoral or Sami-pastoral, and the area of land takeoff above 500M², the house hold have substitution of 500M² land ⁹⁹,if land takeoff is fully the family of above 18 years, get the minimum standard substitution of land according to the standard of the city administration .¹⁰⁰ If the expropriated land is blow 500M² substitution of land is the exact amount, and if the expropriated land is blow the standard of the city minimum standard land shall be substitute¹⁰¹.

2.3 Institutional Framework

Under this section we deal about the overall institutional fireworks of development displaced communities under international up to locally.

2.3.1 International Institutional Frameworks

In compare to the other causes of internal displacement, the major international actors taking action on development displaced persons are not institutions dealing with human rights and international humanitarian aid, but financial institutions and development agencies are serially involved , the following international institutions are the major ones;-

⁹⁸ Oromia Regional State Urban Land Lease holding Regulation No. 182/2016 Art 56(1)

⁹⁹ Ibid art 27(5) a-d

¹⁰⁰ ibid, at art.27(6) a

¹⁰¹ Ibid art 27(6) a-e

2.3.1.1. United Nation Development Program (UNDP)

Development program implemented under United Nation follows Social and Environmental Standards (SES) of International Financial Corporation (IFC), Standard No-5 (Displacement and Resettlement) standards.¹⁰²

UNDP would seek to avoid physical and economic displacement in its Projects. In exceptional circumstances and where avoidance is not possible, displacement may occur only with full justification, appropriate forms of legal protection and compensations¹⁰³. According to the literatures activities that involve physical and economic displacement, including through land acquisition or restrictions on land use or access to resources, pose impoverishment risks¹⁰⁴. These impacts may lead to social unrest and political instability¹⁰⁵. Accordingly, project implemented by support of UNDP should be incorporated the following key standard procedures;-

1. *“Screening for potential adverse impact and risks;-the appropriate body should conduct early in project design to identify potential social and environmental risk and impacts”*¹⁰⁶
2. *“Assessment of adverse impact; the requirements need to be met in Project Design and Implementation, including through impact assessment, application of management and mitigation measures, stakeholder engagement and monitoring activities”*.¹⁰⁷
3. *“Development of management and monitoring measures; Mitigation and management measures need to be developed and implemented for each impact and risk identified in the social and environmental assessment inducing so the standard requirement in action plan and management measures”*.¹⁰⁸

2.3.1.2 World Bank (WB)

The World Bank first adopted its policy on involuntary resettlement, in 1980, as an Operational Manual Statement. The policy was revised, in 1990, as Operational Directive (OD) 4.30. The

¹⁰² United Nation Development Programme Guidance Notes on the Social and Environmental Standards (SES), Standard 5: Displacement and Resettlement(2016)1-33

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid

¹⁰⁶ Ibid para.8-10

¹⁰⁷ Ibid para.11-13

¹⁰⁸ Ibid at 14-27

primary focus of the Operational Manual Statement and subsequently of the OD was on resettlement associated with large development projects. When OD 4.30 was converted to Operational Policy (OP) 4.12, in 2002, the policy incorporated the experience with resettlement over a wide range of sectors across all regions of the Bank.¹⁰⁹

According to the World Bank OP 4.12, resettlements should be avoided as far as possible. If it is not possible to avoid resettlements, the operational policies outlined in the Bank's safeguard need to be applied. The whole purpose of the operational policy is to minimize the problems that might be caused to the displaced persons. The following are the overall objectives of the Bank's policy on involuntary resettlement:¹¹⁰

- ❖ *“Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs”,*
- ❖ *“Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs”,*
- ❖ *“Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.”¹¹¹*

The Policy lists down direct social and economic impacts, which could be caused as a result of physical and economic displacement of people. To addressing these impacts, the policy requires the preparation of a resettlement plan or a resettlement policy framework where the displaced

¹⁰⁹ See World Bank. Involuntary Resettlement Sourcebook: Planning and Implementation of Development Projects, Washington DC (2004), 3

<<http://documents.worldbank.org/curated/en/206671468782373680/pdf/301180v110PAPE1ettlement0sourcebook.pdf>> last visited 12, January 2020.

¹¹⁰ See World Bank. Operational Policy 4.12: Involuntary Resettlement. Washington, DC: (2013)<<https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b0822f89db.pdf>> Last accessed December 12, 2019.

¹¹¹ Ibid at para.3

persons are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project¹¹².

2.3.2 Regional institutional frameworks

At the regional level, after recognizing weaknesses in national laws in 1980 by the World Bank pioneered and established involuntary resettlement standards for its projects regardless of a borrower country's laws on planning and implementation of the project and developed gradually to the operational mechanisms. After the World Bank's lead, the following other multilateral regional development banks adopted their own standards.

3.2.2.1 European Bank for Reconstruction and Development

EBRD Performance Requirement No.5 Land Acquisition, Involuntary Resettlement and Economic Displacement Guiding Policy framework in 2004,¹¹³ the main objective of operational works any development project which supported by the bank is¹¹⁴:-

- *“To avoid or, when unavoidable, minimize, involuntary resettlement by exploring alternative project designs”,*
- *“Mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons’ use of and access to assets and land by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation and the informed participation of those affected.”,*
- *“Restore or, where possible, improve the livelihoods and standards of living of displaced persons to pre-displacement levels”,*

¹¹² Ibid at para.6(a)

¹¹³ European Bank for Reconstruction and Development (EBRD). Environmental and Social Policy, Performance Requirement 5: Land Acquisition, Involuntary Resettlement and Economic Displacement. London, UK: EBRD(2014).<<https://www.ebrd.com/documents/environment/performance-requirement-5.pdf>> last retrieved, December, 10, 2019.

¹¹⁴ ibid art .5

- *“Improve living conditions among physically displaced persons through the provision of adequate housing, including security of tenure at resettlement sites.”*

Generally this guideline has implemented in order to achieve the above objectives based on the requirement of; - project design, consultation, grievance mechanisms, resettlement plan and implementation (resettlement action plan), livelihood restoration frameworks, compensation and benefit mechanism of displaced person from the development projects¹¹⁵

3.2.2.2 Inter-American Development Bank (IADB)

The first operational guidelines of involuntary resettlement were adopted in 1991. The Operational Policy on Involuntary Resettlement (OP-710) was adopted in 1998. As pointed out in the document people responsible for development projects should undertake every possible effort to avoid or minimize the need for involuntary resettlement. When it is not possible to avoid displacement, resettlement plan must be prepared to ensure that affected people would receive adequate compensation and rehabilitation.

The document is strongly focused on impoverishment risks analysis and minimizing problems of particularly vulnerable groups. According to the document only support operations that involve the displacement of indigenous communities or other low-income ethnic minority communities in rural areas, if the Bank can ascertain that: a) the resettlement component would result in direct benefits to the affected community relative to their prior situation; b) customary rights would be fully recognized and fairly compensated; c) compensation options would include land-based resettlement; d) the people affected have given their informed consent to the resettlement and compensation measures".¹¹⁶

3.2.2.3 African Development Bank (AFDB)

The first document concerning social aspects of involuntary resettlement was Guidelines on Involuntary Displacement and Resettlement in Development Projects (IDRP), produced in 1995. African Development Bank adopted its policy concerning involuntary resettlement in

¹¹⁵ Ibid art 11-42

¹¹⁶ Involuntary Resettlement Operational Policy and Background Paper", IADB, Washington D.C., 1998,<
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=2032100>>Last visited 15 January, 2020.

development projects in November 2003. The key goal of the policy “is to ensure that when people must be displaced they are treated equitably and that they share in the benefits of the project that involves their resettlement”.

The key objectives of resettlement policy are;-

- a) *“Avoid involuntary resettlement when feasible, or minimize resettlement impacts when population displacement is unavoidable”,*
- b) *“Ensure that displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity, and production levels are improved”,*
- c) *“To provide explicit guidance to Bank staff and to the borrowers on the conditions that need to be met regarding involuntary resettlement issues in Bank operations in order to mitigate the negative impacts of displacement and resettlement”,*
- d) *“To set up a mechanism for monitoring the performance of involuntary resettlement programs in Bank operations”¹¹⁷*

In addition other financial institution (Asian Development Bank (ADB), have its operational guideline, Organization for Economic Co-operation and Development (OECD) country like USA ,Germany ,Japan, Australia, England have their own guiding frameworks Example USA used Compulsory Displacement and Resettlement (CDR) Programs for International Development (USAID)¹¹⁸

2.2.3 Domestic Institutional Frameworks

Various institutions involve in the multistoried processes of development displaced communities (peoples) both at federal and regional levels. The institutions play various roles in the fulfillment of the objectives of development displaced communities including assistance of those displaced communities in terms of sustainable livelihood including resettlements and rehabilitation

¹¹⁷ African Development Bank Group (AfDB. Integrated Safeguards System: Policy Statement and Operational Safeguards. Tunis, Tunisia. (2013).

¹¹⁸ Guidelines On compulsory Displacement and Resettlement in USAID Programming (May 2016)1-24, <https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Guidelines_CDR.pdf>Last accessed 20, December 2019..

/reinstitution without causing serious social, economic, cultural and environmental impacts. Different institutions may take part in the processes depending on the type of projects that caused displacement and resettlement. Mostly, the following institutions play key roles at federal and Oromia Regional State level.

2.2.3.1 Federal Institutional Framework

3.2.3.1.1 Ministry of Agriculture

At federal level there is not clearly established development displacement institution, the power of expropriation given to Worde Administration if the land is located at rural area and Urban administration if the land is from Urban area.¹¹⁹

The Revised Expropriation and compensation proclamation¹²⁰ have independent articles for development displaced communities under article 16 (Resettlement). According to this provision the Regional State, Addis Ababa, Dire Dawa, shall establish fund for compensation payment and rehabilitation¹²¹. Also Regional states, Addis Ababa, Dire Dawa, shall develop resettlement packages that may enable displaced people to sustainably resettle¹²², Urban or woreda administrations shall have the duty to resettle people displaced on the basis of the resettlement package and allocated budget¹²³ according to this proclamation the power of resettlement of displaced communities are given to the Urban and Woreda administration, However at federal level Mistry of agriculture have duties to support resettlement of displaced people from rural areas.¹²⁴

2.2.3.1.2 Ministry of Construction and Urban Development

As I would discuss in the above section at the federal level there is not clearly established independent development displacement institution. New Expropriation, payment of compensation and resettlement give high power for regional and city administration, especially

¹¹⁹ Expropriation of land holding for public purpose Proclamation No.455/2005, Art 3.

¹²⁰ Proc.1161/2019 (n 60)

¹²¹ Ibid art 16(1)

¹²² Ibid art 16(2)(2)c

¹²³ Ibid art 16(3)

¹²⁴ Ibid art 22(2)b

the power of resettlement of displaced communities are given to the Urban Administration for urban displaced communities and Woreda administration, However at federal level Ministry of construction and Urban Development have duties to support resettlement of displaced people from urban areas.¹²⁵

2.2.3.2 Oromia Regional State Institutional Frameworks

Different government body of the regional state have a different role directly and indirectly but the key institution that are works on development, displaced communities are the following; -

2.2.3.2.1 Oromia Regional State Land Use and Administration Bureau

The Bureau shall have a power and duet given by the proclamation¹²⁶, The major objectives working on administration and management of rural and urban land resources in an efficient and sustainable manner without compromising the development endeavor of the future generations and to determine the scope of the rights, security and obligations of land users in accordance with the land law, land policy of the nations.

They administer the regional state urban and rural lands¹²⁷, they have mandate to “Under take study and submit to the concerned body to make compensation payment correspond with market value of the time; implements upon approval;¹²⁸ they performs urban and rural land compensation payment estimation for development and different services with concerned body in accordance with the law; causes compensation to be paid before their displacement; ***works in coordination with the concerned body to rehabilitate persons whose land is expropriated; follows up; controls it***”¹²⁹

2.2.3.2.2 Oromia Regional State Development Displaced Community Affair Agency

Oromia regional state take intimation to establish an institution that fallow up and administered the ways of development displaced communities in 2016, by establishing Development

¹²⁵ Ibid art 22(1)b

¹²⁶ Proclamation Enacted to the Reorganization and Redefinition of the Powers and Duties of Executive Organs of Oromia National Regional State No.213/2018, Art.26 (1-36), Megalata Oromaia 27th year No 6/2018.

¹²⁷ Ibid art 26(1)

¹²⁸ Ibid art 26(12)

¹²⁹ Ibid art 26(13)

Displaced Communities Affair Agency based on Regulation No 178/2016. This institution is the first institution as a country, the main objective of the institution is to support development displaced communities of Oromia regional state, in order to ensure that they have productive socio-economical life, reliable and sustainable and to ensure that they shall be investors who contribute their due share in the growth of the area through organizing energy and resources of them.¹³⁰ They ensuring that communities displaced for development shall be a participant, beneficiary and competitor in the development schemes carried out in that locality.¹³¹ Follows up whether the local community have got the primary place in employment opportunity created by development projects; takes and ensures that corrective actions are taken where there are gaps,¹³² generally the Agency has 20 listed power and duet under the establishment regulation,¹³³ According to the regulation the Agency have a principal role for development displaced communities.

2.2.3.2.3 Woreda and City Administration

Woreda and city administrations have significant power on development displaced persons. The new Expropriation Proclamation clearly states that the way of the decision on expropriation for public purpose under Art.5. According to the proclamation appropriate Federal Authority, or a Regional, Addis Ababa, Dire Dawa cabinet shall decide on the basis of an approved land use plan; or master plan; or structural plan whether the expropriated land directly or indirectly brings better development and is beneficial to the public.¹³⁴ However, the cabinet may delegate a Woreda or City Administration to decide on land expropriation for a public purpose.¹³⁵ Therefore, woreda and city administration can decide on the expropriation based on given delegations. According to the proclamation certified private institution or individual consultant valuers on the basis of a nationally approved valuation method evaluate evaluation of compensation for the property situated on land to be expropriated do valuation of property.¹³⁶

¹³⁰ Reg.178/2016 (n 13) art 5

¹³¹ Ibid art 5(2)

¹³² Ibid art. 4

¹³³ Ibid 7(1-20)

¹³⁴ Pro.No 1161/2019(n 60) art5(1)

¹³⁵ Ibid 5(4)

¹³⁶ Ibid 17(1)

However, where the organizations do not exist, valuation committee established by the relevant Urban or Woreda Administrations comprising proper professionals evaluates property. Therefore, in practice there is no independent institution or individual consultant, and committee organized by woreda and city administration.

Land requiring body submits the decision that shows the size and exact location of the land to be expropriated to the city or woreda administration, they pay money required for compensation and resettlement prior to the city or woreda administration.¹³⁷ Accordingly Woreda and city Administrations shall have the power to order the evacuation and takeover land decided to be expropriated for a public purpose and¹³⁸ responsibility to resettle the people displaced on the basis of the resettlement package and allocated budget.¹³⁹

Summary

Different texts exist in relation to explaining development induced displacement and its impacts. However, there is insufficiency of theoretical frameworks or models, which explain development displaced community related to institutional and legal frameworks. However, Thayer Scudder and Elizabeth Colson four stage model and Impoverishment risks, risk management and reconstruction (IRR): A model of population displacement and resettlement are some theoretical models that identify the problems of development induced displaced communities and helps to examine the government institution or concerned body the way of minimizing the impact of development-induced displaced communities and the way to cope because compensation alone cannot minimize the impoverishment of the displaced communities.

Also the DIDP has not independent or specific legislation. Internationally there is no equivalent normative framework exists. Nevertheless they benefited from general human right standards that apply to all human beings under UDHR and different international and regional conventions, moreover the DIDP is regulated by domestic institutional and legal frameworks.

In addition, there is a weak institutional framework of DIDP at international and regional when we compare to the other causes of internal displacement, the major international actors are not

¹³⁷ Ibid art 9(1-2)

¹³⁸ Ibid art.6

¹³⁹ Ibid art 16(3)

institutions dealing with human rights and international humanitarian aid, but financial institutions and development agencies. Whereas at domestic level various institutions involve in the processes of expropriation or land takeoff both at federal and regional levels, but there is lack of independent institution for development displaced community at federal level.

CHAPTER THREE

DISCUSSIONS AND FINDINGS

3.1 Introduction

This chapter is devoted to interpret and analyze data obtained from the Agency officials, experts and representatives of the displaced communities, academia, politicians and various stakeholders. The data mainly focus on synthesizing the legal, institutional and practical aspects of resettlement and rehabilitation benefit packages, risk and the ways to cope with risk attendant to development induced displaced communities.

3.2 Gaps in Laws Dealing with Interest of DIDPs

The International Legal Frameworks

In international legal set-up there is no specific laws related to DIDPs and UNGPIDPs soft law. The only binding law is the African Convention (KC) on IDPs, which is a regional one¹⁴⁰ and not universally applicable, the DDCs need international normative frameworks. In addition, at regional level, Ethiopia ratified Kampala Convention¹⁴¹. Therefore, international law imposes obligation on the state like duty to protect, duty to respect and duty to fulfilment, currently displaced community faces lack on fulfillment of socio and economic right.¹⁴² Therefore the government should protect forced eviction or involuntary displacement from their home and property; in case displacement is unavoidable the government bears the duty to fulfill basic socio and economic rights of the effected communities.

National Legal Frameworks

Development induced displaced issue has been handled in accordance with domestic normative frameworks and, accordingly, the Oromia Regional State Development Displaced Community

¹⁴⁰ Kampala Convention (n 51).

¹⁴¹ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation No.1187/2020

¹⁴²FGD with Lema Chifra and 4 others Farmer household DIDPR (Adama Bokku 4 May,2020).

Affair Agency works based on the federal and regional government rule and regulations. Based on the empirical study conducted for this Thesis, the writer has identified the following challenges in terms of legal frameworks.

Challenge Related to Absence of Resettlement and Rehabilitations Detailed Working Rules

Expropriation and Resettlement Proclamation No.1161/2019 is applicable throughout the country in rural and urban centers in matters relating to land expropriation; payment of compensation; and resettlement of landholders whose land is expropriated for public purpose. The old Expropriation Proclamation No.455/2005 and its implementation Regulation No.135/2007 did not have implementation procedures of resettlement and rehabilitations. In addition, the Oromia Regional State does not have specified and clear resettlement and rehabilitation regulation, directive and working manuals.¹⁴³ The only enacted regulation is Institutional Establishment Regulation No.178/2016; this regulation does not have detail working directives and manuals. Although the law provides for the right to appeal on the issue of compensation, whether such appeal is available in case of resettlement and rehabilitation is unclear. Thus, lack of resettlement and rehabilitation rules and regulations has seriously affected both the institution and affected communities.

Nevertheless, comparatively speaking the new legislation has made a lot of improvements, specialty implementation regulation No. 472/2020 have details working procedures, whereas at most areas for implementations it refers to directives for example, public consultation procedure, priority right to development, substitution of land and housing, shareholding right and etc. However, such directives has not yet been issued by Regional state, the already existing rules and regulations have not been implemented properly either.

In addition, based on Establishment Regulation of Oromia Regional State Development Displaced Community Affair Agency Art.20, the Agency has the right to enact directives. Therefore, concerned regional state institutions should enact detailed working procedures and directives for implementation of both federal and regional regulations.

¹⁴³ Interview with Yusuf Abdela, ORDDCAA Legal Director (A.A, Eth, 3 May, 2020).

The other thing is DIDPs need special policy support like other vulnerable groups of society, currently both at national and regional level there is no independent policy, Whereas policy plays a vital role to minimizing risk of affected communities and can search other alternatives, fundamental consideration during post and pre displacement, and state clearly, specific objectives and guiding principles. At present at national level policy of resettlement and rehabilitation compiled with the other policies has not focused on DIDPs for example we can see Rural Development and Environmental Policies. Although the experience of other countries and development institutions indicates that, they have their own national policy of resettlement and rehabilitation. For example, India has specific national resettlement rehabilitation of project affected communities. International and regional financial institutions have their own policy of involuntary resettlement and rehabilitation. Therefore, states such as Ethiopia without a policy on DID which provides for clear, achievable objective, principle and guideline is not in line with international and comparative experience.¹⁴⁴

Flawed Compensation and Lack of Mandatory Provision

The former land expropriation law including the newly Expropriation and Resettlement Proclamation gives too much power to the government and still farmers would be victim and opens up room for corruption.¹⁴⁵ According to the proclamation legal definition given for the term ‘*public purpose*’ is broad and vague; it based on the decision of government. A problem in the old expropriation proclamation has not been solved.¹⁴⁶

*“Decision that is made by the cabinet of a Regional State, Addis Ababa, Dire Dawa or the Appropriate Federal Authority on basis of approved land use plan or; development plan or master plan or structural plan under the belief that the land use would **directly or indirectly** bring better economic and social development to the public.”¹⁴⁷*

¹⁴⁴ Interview with Daniel Bahaylu (PhD) Associate Professor of Law, Hawassa University(Hawassa, Ethiopia 29 April, 2020)

¹⁴⁵ Ibid

¹⁴⁶ Ibid

¹⁴⁷ Muradu Abdo (n 65)

That means due to vagueness of the meaning it can be permit to take property from one person and give it to another without the need to establish any public purpose at all.¹⁴⁸ In fact the proclamation gives landholders to file objections on the public purpose decision where their land is expropriated in the absence of the fulfillment of the requirements provided under art 5 (1 and 2) which means based on land use plan; or master plan; or structural plan and the detail action plan of the master plan. However, the proclamation does not specifically provide the claim on loss of resettlement and rehabilitation. Based on past practice, the only claim for the landholder appears to on the amount of compensation money.

On the other hand, displaced communities get payment of advanced compensations, in the forms of cash or in kind. However, based on interviews conducted for this study, DIDCs are not using their compensation properly, and most DIDCs are on risk of impoverishment.¹⁴⁹ Even though the government try to improve displacement compensation somehow; the payment of compensation is still less compared with market value, displaced communities are not satisfied with the rehabilitation plan of the government, this is also cause of illegal transfer of landholding rights, and expansion of informal settlement at urban and pre-urban areas¹⁵⁰.

Therefore, in order to minimize the above problems the compensation needs improvement with market price and government resettlement and rehabilitations programs should satisfy affected communities.

One of the government risk minimizing strategy is participating in small and micro enterprise and creating their own job by using their compensation money; whereas duo to lack of limitation provision or mandatory provision on the improper implementation and usage of compensation money, most of displaced communities using compensation money for wrong and unnecessary things.¹⁵¹ Therefore, in addition to awareness creation, lack of limitation in expropriation and resettlement proclamation affects those who get compensation in the form of cash; particularly fully expropriated women's, elders and children. Thus, if same restriction or limitation should to

¹⁴⁸ Expropriation and R (n.60)

¹⁴⁹ Interview with, Tasfayee Hordofa, Director General of Eastern Agency Branch (Adama, Ethiopia 21, April 2020).

¹⁵⁰ Interview with Bekele Agonafir, Adama City Land Administration and Use office Head (Adama, Ethiopia 17 March 2020).

¹⁵¹ Interview with (n-149, n-150)

be imposed from total compensation ($\frac{1}{3}$ or $\frac{1}{4}$ or above) for saving or buying share or create income generating activity, the affected community livelihoods is reconstructed and sustainable. In addition the government or project developer should to be provide non-financial benefit in - kind compensation like job, training and improved public service or infrastructure assistance to sustain their livelihoods.¹⁵² Because as literature review for this study shows, the majority of DIDPs get compensation in cash without proper resettlement and hence rehabilitation is highly undermined.¹⁵³

Challenges Regarding Restrictive Landholding Right for the Rural Masses

According to interviews conducted for this Thesis, majority of displaced community are from pre-urban and rural land.¹⁵⁴ However, due to prohibition of rural land rules, farmers, pastoralist and semi-pastorals cannot mortgage their rural land use right.¹⁵⁵ Whereas, investors who have gotten land based on leased be able to collateralize their land right.¹⁵⁶ Surprisingly both Federal and Oromia Regional States rural land law give greater rights to investors by stating, an investor *“who has got the use right of rural land through lease or renting from government shall use the right of his assets on the land as collateral”*.¹⁵⁷ In case of non-investors the former is silent but the provision of the latter stipulates that *“any peasant or pastoralist or semi pastoralist shall not be evicted from his holding and his holding shall not be transferred to anybody or organization due to any liability or execution of judgment”*.¹⁵⁸ Both laws do not allow non-investors (farmers, pastoral and semi-pastorals) to collateralize their land rights. This problem does not exist with regard to urban landholders. Therefore, lack of clear and supportive legal provision in rural land proclamations affect socio-economic life of partially displaced community in order to participate or engage at investment and small scale business activities by mortgaging their landholding

¹⁵² Interview with, Kassa Teshager (PhD) Associate Professor of Development Studies at Ethiopian Civil Service University, (Addis Ababa, Ethiopia, 12 March 2020).

¹⁵³ M.Cerenea (n 32)

¹⁵⁴ Interview with Belay Dufera, Investment Agreement Regulation and Promotion Director of ORIC. (A.A, Ethiopia 23, March 2020)

¹⁵⁵ ORural Land Proc. (n 91)

¹⁵⁶ See Proclamation No. 456/2005, Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation Art. 8(4)

¹⁵⁷ ORural Land Proc. (n 91) 15(15)

¹⁵⁸ Ibid art 5(6)

rights.¹⁵⁹ Therefore, concerned federal and regional governments should amend the laws in favor of landholding right for the rural masses like Amhara Regional State rural land proclamation No. 252/2017, which gives right to mortgaging land use right (Art 19):

- 1. Any rural landholder may mortgage his using right to financial institution, which has been given recognition by the country's National Bank for not more than 30 years permitted by this Proclamation. Details will be determined by a regulation*
- 2. When the borrower is unable to return his debt within the period of time indicated in the loan contract and if the lender is found to be served by the land for the period of time specified in the loan contract; the scope of the right cannot exceed the right of use.*
- 3. If the lender does not develop the land by himself and transfers to a third party through rent as a result of this, the borrower is given priority as far as he agreed to take the land in contract from the lender.*

Lack of Comprehensive Social and Environmental Impact Assessment (SEIA)

According to financial institution best practices¹⁶⁰, before development project implemented, *screening for potential adverse impact and risks* early in project design to identify, potential *social and environmental risk*, *assessment of adverse impact* and *development of management and monitoring measures impacts* should be conducted.

Additionally, the FDRE Constitution and other laws also stated the need for pre-development assessment by appropriate body with full consultation and participations and, its procedure should be transparent, participatory, fair and accountable. Whereas in practice displaced communities do not fully participated, most displaced communities are displaced forcefully without meaningful and transparent ways of consultation, also the ways of compensation estimation and other benefit packages lack of transparency and fairness¹⁶¹ This also confirmed by

¹⁵⁹ Bedada Debela, Fufa Legese Investment land and Compensation Estimation and Legal Directors at OLAUB, (A.A, Ethiopia, 14 March, 2020).

¹⁶⁰ World Bank, African development Bank, European Bank of reconstruction and Asian Development Bank etc. Their own operation manual on development project standards related to land tenure, resettlement and expropriation from chapter two parties.

¹⁶¹ FGD, with, Jagna Ida'e and others, Dukem DIDC Representatives (Dukem, Ethiopia 10, April 2020).

the other respondents.¹⁶² In addition an interview reveals that, development project lack of assessment on adverse social, economic and cultural impacts and the way of management and monitoring did not based on comprehensive SEIA.¹⁶³

Country like, Japan and Brazil have public hearings and reviews procedures; they are widely used strategies in these countries to enable people to participate in decision making process. *“The public hearing provides a scope for open discussion over various institutional, social, environmental aspects of any developmental project. The public hearing brings transparency. Independent reviews are most effective when organizations / people who enjoy a relatively high degree of credibility from all stakeholders and when the methodology of the review is participatory and transparent.”*¹⁶⁴

Therefore, Regional state appropriate body should implement rule and regulations, take experience of IFC and other countries like Japan and Brazil, in the processes of displacement and resettlement, detail SEIA should be conducted and affected community should be participated in planning and implementation of the any project, also their participation is to ensure active, free, effective, meaningful, informed and associated with decision-making processes.

3.3 Institutional Challenges

Challenges Related to Institutional Structure

Expropriation and resettlement proclamation stipulates the regional and city administrations shall develop resettlement packages that enable displaced people to sustainably resettle and to establish fund for compensation and resettlement¹⁶⁵ Also the proclamation gives power and duty to regional and city administration to develop and implement resettlement packages and *to establish an independent entity that implements and governs this framework or appointed from*

¹⁶² FGD with Hirko Bejiga and the others, Adama DIDC Representatives (Adama, Ethiopia 4 May 2020 and FGD with n-171.

¹⁶³ Interview with Dessalegn Wakgari , Director of Social –Development at Central agency Branch (Dukem, Ethiopia, 26 March, 2020)

¹⁶⁴ World bank (n 109)

¹⁶⁵ Expropriation and R. (n 60)art16(1)

*the institution to bear this responsibility*¹⁶⁶. The Oromia Regional State established independent Institution called Development Displaced Community Affair Agency based on Regulation No.178/2016 prior to coming into force of this new law. Nevertheless, there are challenges related to institutional accessibility to the people concerned. The system of government in Oromia is entirely structured as regional, zonal (special and ordinary), district (*woredas*), city administration and *kebele*¹⁶⁷. However, the institutional structure of Oromia Regional State Development Displaced Community Affair Agency (ODDCAA) is a head office and 5 branch offices. The branch offices function with merging of three up to four zonal administrations¹⁶⁸. For Example, the central agency situated at Dukem City covers 4 zonal administration (Finfinne Special Zone, South West Shoa Zone, West Shoa Zone and North Shoa Zone) and 8 City Administrations (Burrayu City, Sebeta City, Holota City, Gelan City, Dukem City, Lega Tafo Laga-Dadhi City, Ambo City and Waliso City Administrations). The institution does not have its own structure in all zones, cities and woreda administrations¹⁶⁹.

At present time data indicates 211,302 DIDPs from 46 development projects at the region, the data is not exhaustive only from 46 projects, from this 105,603 male households and 105,699 female households. Development project is located indifferent zones, city and *woreda* administrations.¹⁷⁰ Therefore, the development displaced communities face a problem regarding to access service and assistance in the nearest administrative agency, these could be create problem on socio – economic of the communities¹⁷¹.

One of the Agency head said that “the overall institutional structure of the Agency is not well structured, the current structure looks like the palate-taste structure, having 5 branch for 21 zone, 324 woreda and other 21 city administration is unthinkable,

¹⁶⁶ Ibid art 23(2)

¹⁶⁷ Currently Oromia reginal state have 21 zones, 324 woredas, 19 city administration (10 grade A city and 9 Grad B) 660 Kebele administration.

¹⁶⁸ See Figure.1. ORDDCAA Institutional Framework Structure Flow Map.

¹⁶⁹ Interview with, Ato Sisay Hirpha, Directors of HRM, at ORDDCAA (A.A, Ethiopia, 20 April, 2020).

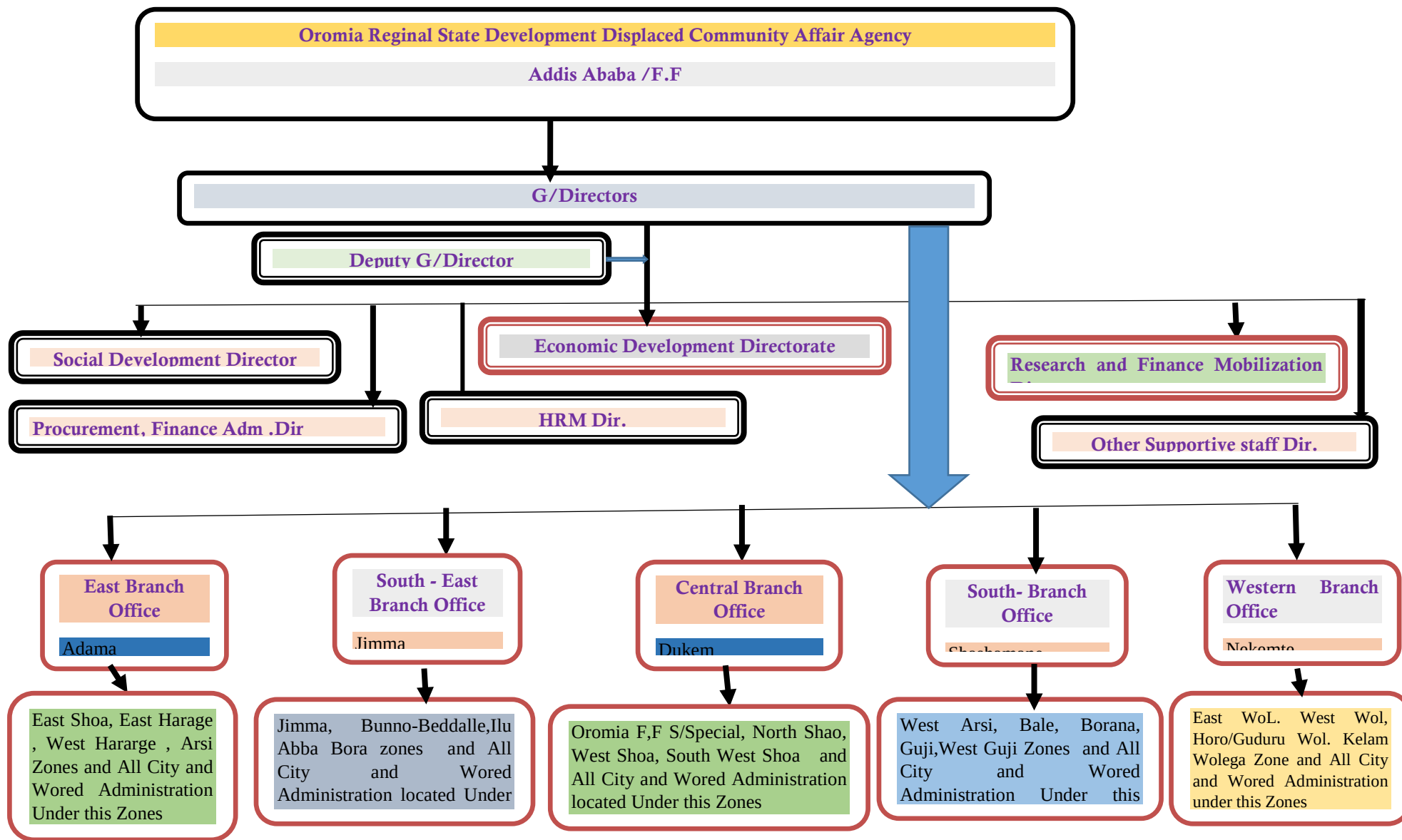
¹⁷⁰ Interview with Baharu Gashe, Planning and Monitoring and Evaluation of ORDDCAA, (A.A 12 May 2020)

¹⁷¹ ibid

compared with the problem of DIDP the institution needs reform, restructuring with full machinery's, currently the government gives less attention to this institution¹⁷².

¹⁷² Interview with, Anonymous Person, Head of Agency Branch, date and place is left for secret.

Figure.1. Oromia Regional State Development Displaced Community affair Agency Institutional Framework:



Scarcity of Human Power

Institutional objectives to be attained by combined efforts of various resources, which involve division of labor, capital and technology. Human resource is a crucial one; an organization without sufficient human resource is difficult to achieve its entire mission, vision and values.

Table 1: - Oromia Regional State Development Displaced Community Affair Agency and Its Branch Human Resource Sources Numerical Data.

No	Human Resource Data	Expected HR	Currently	From 100 %
1	Head Office	78	44	56.41
2	Branch Office(5) (central, Eastern, South west, Western , Southern)	31*5(Branch)=155	64	41.29
Total		234	100	42.73

Source; From Oromia Regional State Development Displaced Community Affair Agency Human Resource; April 2020.

Based on interviews undertaken and data obtained, the total number of the human resources from head office up to branch is **100/234**.¹⁷³ This means the Agency human resource capacity is below 50% (**42.73**), not only that, the Agency lacks skilled human power, lacks of advance training and has problem of employment turnover.¹⁷⁴

¹⁷³ Interview with, n-169

¹⁷⁴ Ibid.

Table 2 Data of Human Resource at Selected (Central and Eastern) Branch Agency

No	Place	Expected No	Currently	From 100 %
1	Central Branch	31	13	41.93
2	Eastern Branch	31	12	38.70
Total		62	25	40.32

Source; From Oromia Regional State Development Displaced Community Affair Agency Human Resource; April 2020.

Based on in depth interview with the Central Agency¹⁷⁵ and Eastern Agency¹⁷⁶ the selected institution does not have sufficient human resource, most employees are supportive staff. Therefore, the Agency needs to fill their human resource shortage because currently they work under inefficiency or incapacity constraint to serve DIDCs.¹⁷⁷

Weak Monitoring and Evaluation

Based on key informant interview, the way of development displaced communities monitored and evaluated not well organized. The institutional follow-up is very weak since the number of zones and city administration, as well as the allocated budget and logistics does not permit to this.¹⁷⁸ Displaced communities, those who get compensation and other land replacement as a benefit cannot gate proper training, awareness and follow-up, displaced communities mostly use compensation money for inappropriately; they do not it use effective and efficient ways.¹⁷⁹ Most land replacement was sold and are not attained their objective of sustaining livelihood.¹⁸⁰ The Agency gives less attention to getting compensation money or in kind. Therefore, development displaced communities needs training, monitoring, technical support. In addition they should to

¹⁷⁵ Interview with Desalegn Wakgari , Director of Social –Development at Central agency Branch (Dukem, Ethiopia, 26 March, 2020)

¹⁷⁶ Interview with, (n-149)

¹⁷⁷ Ibid

¹⁷⁸ Interview with anonymous person from ORDDCAA.

¹⁷⁹ FGD with, Lema Tesfaye and others DIDC representative (Dukem, Ethiopia, 10 April, 2020), n- 161,n-162.

¹⁸⁰ Ibid

be settled in the place where keeping with urban economic integrations.¹⁸¹ Central Agency Social Directorate said that “we have only one old vehicle; our coverage is very large and the institutional budget is blow one woreda budgets, therefore conducting monitoring and evaluation and other technical and financial assistance is very challenging.”¹⁸²

Challenge of Cooperation and Collaboration with the others

The power to administer land, to prepare land for development project, and transfer data on land has been given to the Land Administration and Use Office.¹⁸³ In addition, Land Administration Institution has a duty to perform urban and rural land compensation, payment estimation for development and different services.¹⁸⁴ On the other hand, Land Administration office has duty to assist resettlement and displacement of the development communities with concerned bodies.¹⁸⁵ Likewise on the expropriation and resettlement proclamation, the power to resettlement given for woreda and city administration. Whereas the Development Displaced Communities Affair Agency does not have such kind of mandates. Based on in-depth interview DDCAA faces problem of collaboration with these organizations, lack of engagement and partnership with stakeholders¹⁸⁶, this is also confirmed with Oromia Investment Commission¹⁸⁷ and urban and woreda administrations expert and officials¹⁸⁸.

Regarding to this ORDDCAA admits the existence of the problems and claims, the institutions expected to collaborate with our Agency did not understood problems of displaced community as a common issues and concerns.”¹⁸⁹ Therefore, in order to solve the problems of development displaced communities, the regional state should take correction through institutional reform by

¹⁸¹ Interview with,(n162)

¹⁸² Interview with anonymous person, (Dukem, 26 March,2020)

¹⁸³ Power and duty Proc.(n .126) at Art. 26(1,4 and 5)

¹⁸⁴ Ibid art 26(13)

¹⁸⁵ Ibid at (n 106)

¹⁸⁶ Interview with Miressa Fite and Milkessa Midhaga (PhD) Oromia land Administration and Use Bureau (OLAUB) leaders (A.A, Ethiopia 10 March ,2020

¹⁸⁷ Interview with Belay Dufera and Kuma Daba, OIC, Investment Agreement and Promotion Expertise (A.A,Ethiopia,23 March 2020)

¹⁸⁸ Interview with Anonymous person, Akaki Woreda Administration (Akaki,Ethiopia 6 May,2020),(n-150).

¹⁸⁹ Interview with (n 170, n 149)

mandating the Agency or formulate legal platform of cooperation and collaboration with concerned stockholders.

Challenge of Independent Institution at Federal Level

At national level there is not independent institution of DIDCAA, however high number of large development projects owned and implemented by federal government (industrial park, roads, railway, dam, university, airport etc.) This development projects have taken enormous places and are displacing vast number of landholders. The experience of best resettlement rehabilitation of some countries like China and India indicates, well institutional structured from top to bottom and committed with solving the problem that DDCs are facing.

*The institutional capacity and responsibilities for resettlement work in China are structured into a complex set of organizations. Specialized institutional capacity for resettlement work has been created at every administrative level, starting from the central government and ministries and going down to the provincial level, to prefecture level, to each county, and to the village. The local village committees are required to be involved in the day to day implementation of resettlement*¹⁹⁰

Therefore, not having an independent development displaced institution at federal level is a great challenge and not meets with best resettlement and rehabilitation of comparative countries.¹⁹¹ Beside this, based on interviews conducted for this Thesis the problem of institution of DID is also associated with land issue and land administration (LA). LA institution emanates from the age long history of the nation. However, with the advent of federalism it is all confused. Land belongs to the state and the administration left to the regions. Therefore, it needs policy and structural reforms.¹⁹²

¹⁹⁰ Michael M Cernea, Special articles, Financing for Development Benefit-Sharing Mechanisms in Population Resettlement (Economic and Political Weekly March 24, 2007)1045.

¹⁹¹ Ibid

¹⁹² Interview with(n 144)

3.4 Challenges Regarding Benefits Package of Displaced Community

The benefit package of displaced community provided in the new proclamation as ***property compensation, displacement compensation, land substitution, compensation for economic loss and moral damage compensation***. Hence, the new enacted proclamation is better than the old one but the law lacks applicability due to lack of detailed directives, manuals and working procedures, it's not yet implemented; in its all about, the following are benefit package related challenges;-

Lack of Benefit from Development Projects

According best practice OP and OD of financial institutions, the first priority is avoidance of displacement due to development project, however, where it is not possible, resettlement activities should be conceived and executed as sustainable development programs, *providing sufficient investment resources to enable the persons displaced by the project to share in project benefits, provide alternative project design, accesses to training and credits*. In the study area development displaced communities are getting compensation alone they are not gets alternative project design and accesses to training and credits.¹⁹³ Also yet to access opportunity to share from development program. Therefore even if the law provides such kinds of right was not promulgated before, the new expropriation proclamation is not yet accompanied by directives and not implemented, still development displaced communities are vulnerable.

Lack of Alternative Project Design

According best practice OP and OD of financial institutions, one of the benefit package of DIDPs was alternative project design, currently development displaced communities does not benefited from alternative project design. However some city administration like Dukem and Modjo take initiation by themselves try to create some project design, and benefited small number of DIDCs, nevertheless large number of displaced community faces lack of alternative project design either from government or from developer project. Therefore in order to participate on sustainable livelihood reconstructions and income generating activity appropriate regional state should to develop necessary alternative project designs as well as working on the implementation of the right to share from development projects. In addition provide technical

¹⁹³ FGD with (n 179, n- 161, n-162).

and professional support for affected communities, to ensure displaced communities engaged in investment endeavors by jointly or individually mobilizing their resources, prepares detail working procedures and developing the experience of Dukem and Modjo City Administration.

Best Experience of Same City Administrations

City administrations like Modjo and Dukem should take their own initiation to help displaced communities to engage in income generating activities. See the **blow figure 1**, Dukam City Administration built the working place and fulfilled the machinery, then 20 displaced housed and their family open garment production by contribution of 100,000 birr money for initial capital; the raw material is supplied from Eastern industrial Zone.

(Displaced communities are displaced at 2nd face of Eastern industrial park developments)



Figure 2 Working Place of DIDC with machinery (Garment Industries) built by Dukem City Administration, April 2020

In fact, Oromia regional state take initiation and enacted investment administration regulation No.208/2019, which minimize barrier to entry of the farmers, pastoral and semi-pastoralist to investment, and the way of DIDPs get benefit sharing from conducted investment project. However, due to lack of directives for implementation, affect DIDPs not benefit from the enacted regulations. Therefore Oromia regional state investment board should enact directives for implementations.

Resettlement and Rehabilitation Fund Constraint

According to interview conducted for this thesis, the majority benefit package is payment of compensation money. However, in addition to this the law provided regional state to establish resettlement and rehabilitation fund for development displaced communities. Thus in 2018 Oromia regional state established resettlement and rehabilitation fund at regional level. The main financial source is from government budget; the total amount of capital is 5 mil birr.¹⁹⁴ Regarding to implementation, 2.5 Mil. Birr used for displaced communities of Central Agency and the remaining 2.5 Mil. Birr given for Eastern Agency displaced communities.

Based on data obtained, Central Agency allocated fund for displaced communities of 2 small and micro enterprises of selected 5 city administrations, the maximum amount of loan for one micro enterprise is 250,000 Birr, one micro enterprise consists of 1-5 groups; currently 10 micro enterprises have benefited¹⁹⁵. Also from the Eastern Agency, 10 micro and small enterprises of displaced community benefited. However, currently the Agency faces shortage of resettlement and rehabilitation fund, even if the fund is revolving (repayable) based on 1- 3 years grace period; so far none of enterprises have starting to payback¹⁹⁶.

The FGD conducted with displaced communities' show that they question lack of equal beneficiary from these funds¹⁹⁷ and they said compared with the number of displaced community the allocated budget is small and the ways the funds allocated is lack of transparency, lack of rule and regulations.¹⁹⁸

In addition, the DIDPs claims organized and formalized resettlement and assistance benefit packages from government and development project¹⁹⁹ Therefore, the Agency should work on should work on sustainability of the resettlement and rehabilitation funds, developing fund through different mechanism (by asking donation money from different development project, NGO, Woreda and City Administrations).

¹⁹⁴ Interview with Mengistu Lemma, Director of Social –Development at Central agency East Shoa (Adama, Ethiopia, 26 March, 2020), (n-175)

¹⁹⁵ Interview with (n 173)

¹⁹⁶ Interview with (N 159)

¹⁹⁷ FGD, with n-171, n-188, n-172.

¹⁹⁸ Ibid

¹⁹⁹ Ibid

The good practices DIDPS Resettlement and Rehabilitation of China²⁰⁰

The good practices of Resettlement and Rehabilitation. Developmental Projects of China

- a. In the Shanghai Sewerage Project, most DIDPs expressed satisfaction with provisions that increased their rents but provided nearly double the housing space and included indoor kitchens and sanitation facilities.*
- b. Specialized training at technical schools, municipal vocational training centers, or training centers at large enterprises were provided. The training was linked to jobs already promised to the DPs*
- c. Again another project, the Second Red Soils Area Development Project provided one permanent job per household in construction or in the agro-processing enterprise caused by displacement.*
- d. Then, Xiaolangdi Resettlement Project encouraged non-agricultural employment for some displaced farmers. To ensure sufficient employment to acquire skills, the project provided five-year job guarantees.*
- e. Again, consultations with people in areas to be affected by the Second Henan Provincial Highway Project led to the design of highway underpasses at regular intervals to restore access to divided lands, markets, or other facilities.*
- f. Liaoning Environment Project deposited some of its land compensation funds in the bank and distributed the annual interest to the elderly, students, and laborers in prorated shares.*

²⁰⁰ World Bank (n 109)

Generally, compensation alone cannot prevent DIDC from impoverishment; compensation alone cannot in itself restore and improve their livelihood. The fact is that, numerous projects that do pay compensation fail to restore livelihoods and leave people worse off.²⁰¹ Therefore, our country should follow the financial institutions resettlement and reconstruction policy.²⁰² Enshrined development program should ensure that displaced people receive resettlement assistance, preferably under the project and provide improved their standards of living, income earning capacity, and production levels. In addition, take a lesson from experience of some countries (China, Brazil, Canada, Columbia and Japan) that already make investments additional to compensation for post-displacement reconstruction.²⁰³

3.5 The Way of Minimizing Risk of Development Displaced Community

M. Cernea articulated the impact of development projects on displaced communities. According to him, development displaced communities face 8 risks that listed under chapter two, however, due to the scale of the problem the researcher focused on the following identified risks only (Landless, Homeless and Social Dis-integrations). Therefore, based on IRR model the researcher assess the way of the agency minimizing these risks.

1. Landlessness

Cernea writes Expropriation of land removes the main foundation upon which people's productive systems, commercial activities, and livelihoods are constructed. This is the principal form of decapitalization and impoverishment of displaced people unless the land basis of people's productive systems reconstructed elsewhere, or replaced with steady income generating employment, otherwise landlessness sets in and the affected families become impoverished.²⁰⁴

Thus based on interview, majority of development displaced communities leads their livelihoods away from agriculture. Therefore due to landlessness DIDCs faces socio and economic problems.²⁰⁵ Mostly as an Agency, the way of coping with this problem is payment of

²⁰¹ Michael M. Cernea, Compensation and benefit sharing: Why resettlement policies and practices must be reformed, Water Science and Engineering, Mar. 2008, Vol. 1, No. 1, 89–120

²⁰² See IFC, WB OP at Ch/2

²⁰³ M. Cernea (n 201)

²⁰⁴ M. Cernea (n-32)

²⁰⁵ Interview with (n-149, n 170, n 175)

compensation, displaced compensation. Merely substitution land with land applies if there is a vacant land only, in practice there is no vacant land at study area.²⁰⁶

Thus land based livelihood displaced communities need land replacement than compensation money because land is everything and problem arise on the landlessness is not expressed by single word, it has more than. According to focus group discussion made, most of the displaced communities lost their land like agricultural land, grazing land and communal lands.²⁰⁷ The government gives compensation; however, as the displaced communities are highly agrarian, the livelihoods based on agriculture majority of displaced communities, and families face landless economic, social and cultural messes.²⁰⁸

Data gathered for this study revealed that more than 80% of displaced communities come from rural land and pre-urban areas.²⁰⁹ The main source of income before displacement was farming, on- farming activities daily employment, small business, on-skilled worker etc. After displacement everything is changed, job is scare; however, every individual does not affected similarly.²¹⁰ Therefore, the Regional State should work on proper planning and implementation of resettlement process beyond the compensation. In addition, giving priority right to development, encouraging, facilitating to engage in modern mechanized agriculture by injecting financial and technical supports.

2. Homelessness

One of the identified impacts by IRR model is the loss of home, whereas sometimes the government facilitates temporary housing; but in order to overcome this risk the affected community should need permanent shelters²¹¹.

Nevertheless Urban Lands Lease Holding Proclamation provide for a person displaced due to urban land expropriation for public interest to get a substitute plot of residential land within the

²⁰⁶ Ibid

²⁰⁷ FGD with Fayisa Gurmu and others (Adamaa 27 April 2020) (n-161,-162, 179).

²⁰⁸ Interview with N-150, 175

²⁰⁹ Interview with (n-175,178,150)

²¹⁰ FGD with (n 161,162,179 ,n 207)

²¹¹ M.Cernea (n 32)

urban center based on the size of which determined by the region or the city administration.²¹² In Oromia Regional State Urban Land Lease Holding Regulations No 182/2016 provides expropriated bodies have the right to get substitution of land based on the urban planning. The substitute land varies based on expropriated properties, if the property is government house, based on the level of the city administration²¹³, the substitution of land is given by union-cooperative 40M²- 120M².²¹⁴ If land is taken fully or partially from the farmer, pastoral or semi-pastoral is large plot and above 500M², the households have the right to get substitution of 500M²; if land taken is fully, the family of landholder ages above 18 years old can gets the minimum standard substitution of land according to the standard of the city administration.²¹⁵ But if the expropriated land is blow 500M², substitution of land is the exact amount of land and, if the expropriated land is blow the standard, minimum standard land shall be substituted.²¹⁶

Thus in practice, as focus group discussion shows, not all but the majority of DIDCs face a serious challenge to get substitution of land.²¹⁷ These problem also confirmed by other respondents.²¹⁸ The same is true in the case of DIDCs due to the expansion of Eastern Industrial Zone located at Dukem City.²¹⁹

In case of Rural Land Administration, Federal Rural Land Use Proclamation No. 456/2005, Art .7(3) provide that, a persons displaced due to public interest from rural land shall be given compensation proportional to the development he has made on the land and the property acquired, or shall be given substitute land thereon. Also under Oromia Regional State Rural Land Administration and Use Proclamation No.130/2007 Art 6 provides that, the rural land use right shall be terminate only if that land is required for more important public uses.²²⁰ Moreover, it further stipulates, any individual or organ whose landholding taken for public uses shall have the

²¹² Urban Land Lease. Pro.(n 98) art 26(2)

²¹³ Level given by Regional state for City administration, the level ranked by 1st level, 2nd level ... -4th.

²¹⁴ OR Urban Land Reg.(n 98) at Art. 27(5) a-d 1st level city 40, 2nd level 60, 3rd level 80, 4th level 120m²

²¹⁵ Ibid at Art. 27(6) a-

²¹⁶ Ibid at Art. 27(6) a-e

²¹⁷ FGD with (n 161, n,207)

²¹⁸ FGD with-(n 162,n 179)

²¹⁹ FGD with (n 179)

²²⁰ OR Rural Land Pro(n 91)art 6(10)

right to get compensation for his properties and benefits gets proportional replacement of his holding.²²¹ According to the proclamation, if replacement of holding is not possible compensation for rehabilitation shall paid.²²²

Therefore, according to these proclamations, displaced persons have the right to get compensation and benefit through replacement of land, if there is no equivalent land for replacement, they have the right to get compensation for rehabilitation.

In addition, Oromia Regional State Council rural land regulation No.151/2012, also stated, if the rural land taken for investment purpose, it is provided the right to get compensation in cash or in kind.²²³ Moreover, if rural land used for utilization for social services, the landholder whose holding taken for the purpose of social services shall be compensated according to compensation law, for the properties he owned on that land in cash or in kind by the community or by government.²²⁴

Therefore, from the above legal provisions the law does not clearly stipulate mandatory provision by which a rural land displaced persons to acquire substitution of land for house/resident, this problem is high in case if a farmer is fully displaced from his/her land.

If there is not replacement land in rural area the means of giving substitution of residential land for house hold and his family of above 18 years does not clearly stated, like urban regulations. Thus DIDCs face challenge to get substitution of land. Based on interviews conducted, about 334 households displaced communities from Akaki woreda 4 kebele administration (Hechu, Gameda, Gimashe, Insilale and Oda-Nabe) are displaced due to public purpose development project out of this 41 households who were fully expropriated from their land, all did not get replacement land for relocation.²²⁵ This was also conformed with DID community representative of Hechu Kebele Administration.²²⁶ This indicates that compared with urban land, substitution of

²²¹ Ibid, art.6 (11)

²²² Ibid, art. 6 (12)

²²³ Rural Land Regulation (n 94)art 6(4)

²²⁴ Ibid art 12(2).

²²⁵ Interview with (n 175,n 170)

²²⁶ FGD with Addisu Melka and other4 DIDC, Akaki Woreda Hechu Kebele (Akaki,Ethiopia 3May, 2020.

residential rural land expropriated communities lacks of operational frameworks regulation or directives.

Development displaced communities are displaced from both urban and rural areas. If displaced communities are under the boundary of urban land, the law grants replacement of land for residential for landholders house hold 500 M2 and 105-200 M2 for their family above 18 years old based the standard of their city administrations.

In practice, interviews show that development displaced communities are not uniformly getting replacement of land; they are a lot of delays, corruption, maladministration problem, mostly woreda and urban administration cannot work on replacement of land for house before displacement at both central and eastern branches. For example, around 115 displaced communities of Central Oroma (to Adama Industrial Park) in 2008 E.C. have not yet obtained replacement land and they are currently facing the problem homeless.²²⁷

The challenge of development displacement in rural area is higher than urbans; there are not rules and regulations that allow DIDCs in rural areas to get substitution residential urban land. Thus, due to lack of implementation of regulation at urban land and, not having clear regulation in relation to rural areas, displaced communities are facing challenge of homeless²²⁸ Therefore, the Regional State should to issue regulations like urban land and concerned body to implement the right to get substitution of residential land for affected community and their family according to the rules and regulations to be issued.

3. Loss of Social integration

M. Cernea also explained displacement causes a profound unraveling of existing patterns of social organization. This unraveling occurs at many levels. When peoples forcibly moved, production systems, life-sustaining informal networks, trade linkages, etc. collapse.²²⁹ Customarily most displaced communities are living together, mainly social integration like “*Dabo/Jigii, Afosha, Walgargaaruu, Gaddaa fi Gammachu*” are commonly known traditional

²²⁷ FGD with (n-179,n-161,n 162, n-207)

²²⁸ Ibid

²²⁹ Cernea (n-201)

custom.²³⁰ According to literature the way of minimizing risk of social dis-integration is working on development of their social- ties and providing one-site resettlement or together resettlement without affecting their social networks.

In practice, according to focus group discussion, DIDCs does not resettled in the same place where the social network and social tie maintained.²³¹ On this regard the Agency said, displaced community are not displaced at the same area, sometimes displaced communities are small in number and the settlement is in urban areas with other communities and in some cases displaced communities are large in number and leading to lack of getting land used for resettlement from land admirations. In such cases, social disintegration can happen.²³² Ex Dabe Soloqe Boku Shanan *kebele* Adama Industrial Park displaced community did not resettled in one place; they get replacement land with merging with urban dweller; in addition, lack of basic infrastructure (waters, electric lights, roads, health centers and schools) is the main problem. For example, displaced communities (Eastern Industrial Park of Dukem and Adama) which occurred 8 years ago and Adama industrial park 3 years ago did not get the above infrastructures²³³.

Thus, the way forward for government to minimize this risk remedy lack of planning, lack of resettlement action plan, lack of detailed SEIA and lack of work on the social ties of the communities. Even if the new proclamation provides for payment of moral damages, still due to non-enactment of detailed directives, affected and currently displaced communities does not benefiting from such scheme.

Generally, the above problems are not exhaustive list of risks attendant to development displacement; improper handling of displaced community is violation of human right; that is why the issue of displacement is the center of politics in our country and particularly in Oromia Regional state. Displaced community does not get consideration; moreover, displaced communities remain without fair compensation, resettlement and rehabilitation. The issue of Addis Ababa Master Plan is the earliest memory that starts protest over the Regional State in

²³⁰ FGD with (n-161, n162,n 179,n 207)

²³¹ Ibid

²³² Interview with, (n-175,n170)

²³³ FGD with (n-161,n 162,n 179,n 207)

2015-2016 and creates political instability, as a result domestic and foreign properties worth million-billion were burnt.²³⁴

Therefore, the risks of displaced communities are not confined to displaced community alone, it is a risk of the wider society, they affecting social, economic, political, cultural and environmental conditions, Thus, in order to make sustainable development, the government should revise a policy to balance both the interests behind developmental projects and interests of displaced people, establish strong institutional and legal frameworks of development displaced communities and working with on the sense of belongingness.²³⁵

²³⁴ Interview with, Merera Gudina (PhD -Professor) Oromo Federalist Congress Chairperson (A.A, Ethiopia, 24 March, 2020)

²³⁵ Interview with(n-152)

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

4.1 Conclusions

Development induced displacement (DID) is a situation where people are forced to leave their homes and property due to development projects. Hence, DID is continuous and working on resettlement and rehabilitation for sustainable livelihood is unquestionable, beyond payment of compensation, formalized legal and institutionalized ways of assistance benefit packages, rehabilitation and resettlement is the responsibility of the government.

Therefore, this study identifies the legal, institutional and practical challenges of Development Displaced Community Affair Agency of Oromia Regional State on selecting two area in which high magnitude of development induced displacement is arisen (Central and Easter Agency).

Thus, in the case of challenges and gaps in legal frameworks; at international arena DIDCs do not have specific legal frameworks, their affairs mostly regulated by domestic legal frameworks and general international bill of rights. Therefore, both regional and national constitution provide that DIDCs have the right to commensurate monetary or alternative means of compensation, including relocation with adequate state assistance, also newly enacted expropriations and resettlements are expected to improve the way of expropriation and resettlement. In practice the main challenge and gaps are lack of implementation and detail rules and regulations on resettlement and rehabilitations.

In case of institutional challenges, at regional level independent institution is established. Nevertheless, the institution does not have mandate and resource, the institutional structure is very feeble that comparing with problem of development induced displaced communities, only 5 branch offices from 21 Zones, 334 Woredas and 39 City Administration is unthinkable, the institution structure like palate- test and cannot address real problems; the institutional capacity of the agency is very weak. Therefore, in order to solve the problem the Regional State should to take institutional reforms.

In case of benefit package, the literatures, WB (OP) and IFC best practices indicate that affected communities benefit from alternative project design, investment resource and opportunity to

share in project and access to train, employment, credit and well-established resettlement and rehabilitation., However, in the study area, even if the law provides for payment of property compensation, displacement compensation, economic loss, moral damage compensation and substitution of land, priority of development, share on investment benefits, the main challenges the DIDCs are facing are: lack of implementations, specially lack of alternative project design, lack of priority for development, lack of substitution of land and constraint of resettlement and rehabilitation fund and lack of benefiting from the development projects.

In case of mode of minimizing risk of affected community, the IRR model developed by Michael Cernea identified that, DIDCs face severe long-term hardship and impoverishments. The present study indicates losses of land, homes and social disintegrations are the most impacts of the displaced communities. To cop up with this risk or impact, the government try to pay compensation money and substitution of land at urban areas, the problem is not uniform, the impacts is also different from city to woreda admirations. Mostly, the copying strategy faced problems of mode of identifying risk and its mitigation, lack of comprehensive social and environmental impact assessment, weak monitoring and evaluation as well as awareness creation. Therefore, it needs special policy due to grave risks to affected people's fundamental human rights and thus it should been managed via a policy that is consistent with relevant standards and tools from international human rights law and best practices of other countries like China, Japan and Brazils.

4.2 Recommendations

Based on the analyses made and the conclusions arrived at in this study, I recommend the following:

1. At the international arena, no equivalent normative framework exists for development displaced persons specifically like refugees. Therefore development displaced communities need global legal frameworks; the existing UN-GPIDP is not binding, the only binding instrument is Africa Union (regional level) Kampala Convention on IDPs.
2. Ethiopia has been ratified international conventions and KC with reservations. Hence, ratification of any international convention is by no means an end by itself and the government commits itself in more transparent way to respond to problems of DIDPs associated with protection, respect and fulfillment of international obligations.

3. Large scale development projects owned and implemented by Federal Government (e.g. industrial parks, roads, railways, dams, universities and airports), displaced vast number of landholders. Therefore, not having specified development displaced institution at federal level poses great challenges and so far given little attention. Therefore, the Federal Government should reform its institutional structure in order to address risk of affected community and making sustainable development and well-being of the society and established independent institution that follows up and support these communities.
4. At national level the Federal Government should promulgate better new expropriation and resettle proclamation that gives opportunities to have share from development projects, priority right for development, economic compensation and moral damage compensation. Alternatively the newly enacted law needs detail directives. Therefore, regional state should pass detail directives and works for their implementations.
5. In expropriation and resettlement proclamation, the power to enact directives for substitution of land, house for temporary and permanent displacement given for regional states. Therefore the regional state should to be enacted directive both for rural and urban land.
6. At regional level Investment Regulation No. 208/2020 gives opportunities to have share from development project and priority right for development. However, the existing laws lack enforcement mechanism and transparency; lack of detailed directives. Therefore, the Oromia Investment Board should to be enacted directive and take immediate action for the enforcement mechanism.
7. Under Expropriation and Resettlement proclamation and Oromia Regional Rural Land Regulation No.151/2005, the power of resettlement is given to urban and woreda administrations. In addition, the mandate of expropriation, resettlement and rehabilitation, giving substitution of land and creating jobs opportunities is given to an others institutions. Whereas, Development Displaced Community Affair Agency does not have such mandate. Therefore, in order to prevent shifting or avoidance of liability due to lack of a single institution charge of the matter, the Regional State should create institutional reform or design institutional collaboration platform or to give full mandate to the Agency.
8. Comparing with problem development displaced communities, the institutional structure of the Agency is week and only having 5 branch office is unthinkable. Therefore the institutional structure should be restructured and decentralize based on problem solving

institutions or redressing the problems of the displaced communities at nearest local governance (City and Woreda) administration.

9. As study indicates DIDCs faced impact of Loss of Land, House and Social-disfigurations. Therefore, risks of displaced communities are not confined to displaced community alone, it is a risk of the wider society affecting social, economic, political, cultural and environmental ways. Thus, in order to make sustainable development, the government should revise a policy to balance both the interests behind developmental projects and interests of displaced peoples. Particularly, the Regional Government should study issues of impoverishment risk, Risk management and reconstruction (IRR), cost benefit analysis of development project, social survey with consultation and participation of effected communities. In addition in case if the physical displacement is unavoidable to ensure prepare resettlement and rehabilitation action plan and durable solution based on (IFC and WB (OP) and best practice and experience of other countries (China, Japan and Brazil).
10. Finally at regional state there is not NGO/CSO works on these matters. Therefore the Regional State should create conducive environment for NGO/CSOs to participate in the process of development-induced displacement, planning and implementation because they promote advocacy related, to creation of public awareness on displaced right, advocate for and on behalf of vulnerable groups (poor, elders ,children and women), lobby for better compensation, transparency on land acquisition process, resettlement, rehabilitation and benefit packages and also help government institution on the matters.

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