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**RECONCILING HUMAN RIGHTS AND EVICTIONS FOR PUBLIC
PURPOSES IN ETHIOPIA: APPRAISAL OF THE LAWS AND PRACTICES
WITH FOCUS ON SOME SELECTED SITES IN ADDIS ABABA CITY**

BY
MILKIYAS BULCHA

May, 2015

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**PREPARED UNDER THE SUPERVISION OF
ABERA DEGEFA (ASSISTANT PROFESSOR)**

**A THESIS SUBMITTED TO SCHOOL OF LAW, ADDIS ABABA
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FOR THE DEGREE OF MASTER OF LAWS IN HUMAN RIGHTS LAW**

**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
SCHOOL OF LAW**

May, 2015

Declaration

I hereby declare that this work is an original work and has not been presented in any other institution before. All referred materials are duly acknowledged.

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APPROVED BY EXAMINATION BORD

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List of Abbreviations and Acronyms

AAIHP-Addis Ababa Integrated Housing Programme
ACHHPR-African Charter on Human and Peoples Rights
CEARD-Convention on Elimination of all forms of Racial Discrimination
CEDAW- Convention on Elimination of all Discriminations against Women
CESCR- Committee on Economic Social and Cultural Rights
COHRE-Center on Housing Rights and Evictions
CRPD- Convention on the Rights of Persons with disabilities
CPRs –civil and political Rights
CPRs- civil and political rights
EPRDF-Ethiopian People’s Revolutionary Democratic Front
ESCRs- Economic Social and Cultural Rights
FDRE- Federal Democratic Republic of Ethiopia
FGD-Focus Group Discussion
ECtHR- European Court of Human rights
HRC-Human Rights Committee
ICCPR- International Covenant on Civil and Political Rights
ICESCR- International Covenant on Economic, Social and Cultural Rights
MDG-Millennium Development Goal
OAU-Organization of African Union
OHCHR- Office of High Commissioner for Human Rights
HRBA-Human Rights Based Approach
NHRAP- National Human Rights Action Plan
MDG-Millennium Development Goal
TVET- TECHNICAL & VOCATIONAL EDUCATION and TRAINING
UDHR-Universal Declaration of Human Right
UNCH-United Nation Charter
UNHRC- United Nation Human Rights Council

Abstract

The objective of this research is to investigate whether evictions for public purposes in Ethiopia has been reconciled with human rights laws or not. Ethiopia's eviction laws and practice, focusing on three eviction sites in Addis Ababa has been analyzed. The researcher used qualitative in approach and combination of doctrinal and socio-legal research in type. Desk reviews of primary documentary and secondary sources, interviews, personal observation and FGDs with government officials, victim evictees were employed to collect data from participants. Comparative and thematic analyses were used to diagnose the Ethiopian eviction legal regime and practices against the standards set forth under international human rights laws.

The research has revealed that although FDRE Constitution and other legislations guaranteed the right not to be evicted, the laws and practice are inconsistent with the standards set forth by international human rights instruments. First, only the government authorities determine public purposes which lead to evictions using top-down approaches without any consultation with the victims. Against the eviction order and administrative tribunal decisions, victims have no right to recourse remedy from regular courts which is dare to fair trial right. Second, since laws do not recognize the right not to be evicted as rights of everyone, private tenants and informal settles are subjected to arbitrary evictions and public tenants have been deprived alternative accommodations. Evictees able to prove ownership right to home or land use rights are entitled compensations without guarantee of sustainable right to livelihood. Third, the laws and practice do not consider competing human rights while designing and enforcing evictions for public purposes. This leads the processes and outcomes of evictions unfriendly to human rights which in turn have placed the life of evictees' to deplorable conditions. The rights to livelihood, food, life, adequate housing, freedom of choices of residence, right to privacy and security of person have been adversely affected. Fourth, both practice and the eviction legal regimes have not been acquainted with the disproportionate impacts of eviction on vulnerable group of the societies including aged persons, women, and children.

To reconcile human rights and eviction for public purposes, the research recommends the government to amend or repeal all the laws inconsistent with human rights and to adopt human rights friendly eviction laws. The study urges policy makers and concerned authorities to envisage competing human rights using legality, legitimate aim and proportionality tests, to follow human rights based-approaches, to conduct human rights impact assessment before, during and after evictions, to rehabilitate the livelihood of evictees and to make available the fair trial guarantees.

Key words: eviction, public purpose, human rights, livelihood

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CHAPTER ONE

General Introduction

1.1 Background of the Study

The phenomenon of evictions has been increasing worldwide¹. Enormous numbers of individuals and families are being forcefully evicted from their home and land without adequate alternative accommodation and deprived of the right of access to appropriate legal or other protections.² The Commission on Human Rights has indicated forced evictions as gross violation of human rights.³ The executive director of UN HABITAT described the phenomena of forced evictions as ‘a global epidemic’.⁴ In Africa, 70 % of urban population is living in slums that is attributable to the increasing number of evictions of urban slum-dwellers, aggravated not only because the continent has remained undeveloped, but also due to the official inattention to human development.⁵

The historical development of resettlement, villagization and displacement or evictions in Ethiopia goes back to the formations of Ethiopian State, had continued during the *Derg* and has been a contemporary phenomenon of the EPRDF regime.⁶ In rural areas, between years 2003 and 2005 alone, the Ethiopian government resettled over 180,000 families in more than 100 villages which are primarily aimed at tackling

¹Urquhart, "Globalized eviction"(29 March 2006) Guerrilla News Network, available at: <http://szamko.gnn.tv/print/2162/Globalized_Eviction>; United Nations Human Settlements Programme (UN-HABITAT), Forced Evictions - Toward Solutions? (2005 Advisory Group on Forced Evictions), p. 2.

²Reaffirming the definition once used by the UN Economic and Social Council, the CESCR define evictions as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”; see CESCR, General Comment No. 7 (1997): The right to adequate housing (article 11 of ICESCR); see also Forced Evictions E/CN. 4/ Sub.2/2005, 2 May 2005, and Office of the High Commissioner for Human Rights Fact Sheet No. 25, Forced Evictions and Human Rights (1996, Office of the High Commissioner for Human Rights) at 1-6.

³Commission on Human Rights resolution 1993/77, para. 1.

⁴UN-HABITAT Forced Evictions, supra note. 1

⁵UN-HABITAT Guide to Monitoring Target 11: Improving the Lives of 100 Million Slum Dwellers (2003, UN HABITAT) pp. 4-8. See also the UN Human Development Report 2006 (2006, United Nations Development Programme) as cited in Paul De. Ocheje, in the Public Interest": Forced Evictions, Land Rights and Human Development in Africa, in Journal of African Law, Vol. 51, No. 2 (2007), pp. 173-214.

⁶Mulatu Wubne, “Resettlement and Villagization,” in Thomas P. Ofcansky and LaVerle Berry, eds., *A Country Study: Ethiopia* (Library of Congress Federal Research Division, 1991), <http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field%28DOCID+et0056%29>, (last accessed July 10, 2014)); See also Tegenge Gebre Egziabher, ‘Towards an Urbanization Policy in Ethiopia’, in Beyena Doilicho, Mekete Belachew and Tegegne G. Egziabher (eds.), *Migration and Urbanization in Ethiopia: Proceedings of the Second Annual Conference*. Addis Ababa: Association of Ethiopian Geographers((1999).p.33

the unending food insecurity in the country.⁷ In 2013, the Ethiopian government planned to resettle 1.5 million people in four regions: Gambella, Afar, Somali, and Benishangul Gumuz.⁸ From Gambella Region alone, 70,000 individuals have already been evicted from their lands under the plan of making available ‘access to basic socio-economic, infrastructures and to bring socioeconomic and cultural transformation of the people.’⁹ Beyond this, there is planned upcoming eviction in the Growth and Transformation Plan of 2010/2011-2014/2015 regarding urban developments.¹⁰

Evictions in Addis Ababa City have been by far more rampant and unremitting than of the countryside. Addis Ababa is characterized by recurrent evictions induced by, among other things, public purposes developments. The City has been undergoing a major transformation as evidenced by the expansion of road networks, schools, healthcare institutions, hotels, condominiums, real estates, banks, shopping centers, and many other businesses.¹¹ Considering the poor housing and environmental condition of the Addis Ababa City, the City Development Plan provides the upgrading and redevelopment of inner-city slums based on a local development plan.¹² This resulted with both inter-city and intra-city evictions of many people. According to the Center on Housing Rights and Evictions (COHRE), in 2002, the Addis Ababa City Administration began evicting 10, 000 people from Bole Bulbula area in order to develop the city’s International Airport.¹³ Further, 30, 000 people were evicted¹⁴ from land being cleared by foreign investors in preparation for sale. People were evicted from Arat Kilo, Senga Tera, Kazanchis and other places in the city as a result of Urban Renewal projects. Condominium houses were built at

⁷Gebre Yntiso, Stakeholders Participation in resettlement Decision- Making in Ethiopia, *Journal of Development Research*, Vol31, No.1, (2009), p.1.

⁸ Ibid.

⁹ Human Rights Watch Report, ‘Waiting here for Death: Displacement and Villagizations in Gambella, (2012), p-2 available at <http://www.hrw.org> , accessed on 15 March, 2014.

¹⁰ FDRE Growth and Transformation plan 2010/2011-2014/2015(Vol.II Policy Matrix), p.17.

¹¹ Gebre Yintetu, Urban Development and Displacement in Addis Ababa: The Impact of Resettlement Projects on Low-Income Households, in *Eastern Africa Social Science Research Review*, Volume 24, Number 2, June 2008, pp. 53-77 (Article).

¹² Office for the Revision of the Addis Ababa Master Plan (ORAAMP). 2000. Policy environment assessment for urban planning in Addis Ababa. Addis Ababa, Ethiopia.

¹³ Ethiopia: Bole Sub-City Eviction Order Violation of Law of Land – APAP, Daily Monitor (29 May 2007), <<http://allafrica.com/stories/200705310424.html>> (accessed 13 January, 2014); See also August 2005) 1/3 Evictions Monitor (Newsletter of the Geneva-based Centre on Housing Rights and Evictions (COHRE). Available [www.internal-displacement.org/.../\\$file/Evictions_Monitor_aug05.pdf](http://www.internal-displacement.org/.../$file/Evictions_Monitor_aug05.pdf), accessed 13 May, 2014.

¹⁴ Ibid.

different sites in the city and outskirts of the city to provide houses for those evictees and homeless residents.

In contradistinction to this, the urban, peri-urban and rural settlers and residents have been complaining for the adverse effects of the development plan, and the constructions that have been undertaken have unsympathetically affected their livelihood, water, food, life, privacy, housing, children's educations, environment, insufficient compensations, security of tenure, scarcity of other social services and etc.¹⁵ Apart from allegations brought to the National Human Rights Commission, Human rights Watch and Amnesty International repeatedly reported the case of evictions in inner and countryside violating human rights in Ethiopia.¹⁶ The USA, one of the giant donors to Ethiopia government has also challenged the Ethiopian development induced evictions by setting conditions with increased accountability for funding development assistances and economic supports for any activity that directly or indirectly involved in evictions.¹⁷

Therefore, this study focuses on the area of which both the link and anxiety between human rights of freedom from eviction and public purpose persuaded evictions are markedly rampant in Addis Ababa city. The study has two parts: first it has looked into Ethiopia's eviction legal regime. Then, it focused on the practices of evictions in three different sites from which people were and are being evicted both from the inner and around the city. The first is *Arat kilo* eviction site which has been claimed for city beatification and land re-development by private investors. The second is *Summit* eviction site from where farmers were evicted to let way for Condominium houses have been built under the AAIHP and the City expansion plan. The third eviction site is Gullale sub-city Woreda 2 eviction to make it accessible for 'government palaces expansion project' starting from November 2013.¹⁸

¹⁵Supra note 9, p .56.

¹⁶Supra note 3. See also Oakland Institute, "Understanding Land Investment Deals in Africa: Country Report: Ethiopia," 2011, <http://media.oaklandinstitute.org/understanding-land-investment-deals-africa-ethiopia>, (accessed January 11, 2014).

¹⁷See The House Appropriations Bill (2014): Africa (p.1294) SEC.7042, para-3, <<http://atlantablackstar.com/2014/01/31/us-congress-passes-bill-tamper-land-grabs-related-forced-evictions-ethiopia/>> accessed July 26, 2014).

¹⁸See Arada Sub-city, Arat Kilo, Ldp.(Official Document) Unpublished. Accordingly, 2010/ 2011 the Urban Renewal project conducted in the Arat kilo area resulted with evictions of 950 households. Some of them were re located in *Samit* Condominium from where the farmers had already been evicted from the land. The Case of the Evictions in Gullalle Sub-City woreda 2 has been carried out from November 2013 until February, 2014.

1.2 Statement of the Problem

Human Right to freedom from eviction is rights guaranteed under UDHR, ICESCR, ICCPR, CEDAW, CEARD and CRC.¹⁹ The right not to be evicted includes but not limited to, right to adequate housing, legal security of tenure, the human right to choose one's residence, to determine where and how to live, and to freedom of movement, the human right to livelihood and land, the human right to freedom from arbitrary interference with one's privacy, the right to living in healthy environment, and the right to educations. Whenever evictions occurred, it would inevitably affect the arrays of human rights of evictees²⁰.

Upholding human rights value whilst in endeavor to bring development is one of the challenges facing the entire world but chronic to developing countries. Since public Purpose is an elastic concept, it does not have fixed and absolute objectives that all could agree and convinced with.²¹ No one volunteers to be an evictee without benefit sharing; no citizens are ready to sacrifice their individual interests for the sake of public in the absence of consensus between the evictee and the government as to what constitutes public purpose. Needless to state, the redevelopment plan, infrastructure projects etc are activities conducted for public benefits, but, unless device is designed to maintain the equilibrium, the tension between public purposes and human right of freedom from evictions, it would invariably be associated with violation of human rights. The issues of who has legitimate power (absolute power of the state or joint agreement with people), how and when do public purposes lead to eviction of people and who decides it are matters that determine whether the eviction is accepted or not. In case evictions are unavoidable and justified on the very legitimate grounds, states shall ensure procedural safeguards before, during and after carrying out evictions.²² Thus, in case of justified and unavoidable evictions, the next question is, therefore, to enquire the compatibility of the Ethiopia's eviction regime laws and the

¹⁹See Article 25 of UDCR, article 11 of ICESCR, article 22 and 26 of ICPPR, article 14 of CEDAW, article 5 of CEARD and article 27 of CRC.

²⁰Bartolome, J.L, et al, Displacement, Resettlement, Rehabilitation, Reparations and Development Final Draft, Cape town: WCD, (2000), p.9; See also *Olga Tellies and Others v Bombay Municipal Corporation and Others*, (AIR (1986) SC 180).

²¹Daniel Weldegebriel, Land Rights and Expropriations in Ethiopia, Doctoral Thesis in Land Law, Royal Institute of Technology (Stockholm), 2013, pp.167-179.

²²Common article 4 of the ICCPR and ICESCR state that 'the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society'.

practice of the eviction procedure adherent to the international, regional and national human rights normative standards and the treaty bodies jurisprudence.

Due to the interdependency of all human rights, evictions recurrently contravene with various human rights.²³ Thus, while manifestly breaching the ESCRs, the practice of forced evictions may also result in violations of CPRs, such as the right to life, the right to security of the person, the right to not to interfere with privacy, family and home and the right to the peaceful enjoyment of possessions. Evicting people from where they normally settled may force them to change their livelihood which severely affects right to food - one of the most basic rights for human dignity. Denial of right to food indirectly would overwhelmingly jeopardize right to life. Furthermore, social networks of evictees are disrupted as a result of eviction.

Where evictions do occur, appropriate measures have to be taken to ensure that no form of either direct or indirect discrimination is involved.²⁴ Vulnerable individuals and groups all suffer disproportionately from the practice of eviction owing to their own circumstances. In case the old aged people were neglected from being considered especially due to their inability, they would be disproportionally victimized from the eviction motivated by developments. Women's rights in general and the right to freedom from eviction in particular have been frequently violated than of men owing to frequent denial of basic social services, discriminated (directly or indirectly, de facto or de jure), victims of gender-neutral laws and social policy which either exclude them or disregards women's situations, and discrimination from cultural stereotypes, beliefs and harmful practices. Thus, gender base consideration is relevant to ensure the right not to be evicted of women as it disproportionally put women lives in a dangerous position than male mainly for the vulnerability nature of women. Evictions which affect women almost invariably constitute the eviction of children.²⁵ Children are naturally vulnerable and need utmost care because of their mental and physical immaturity. Above all eviction affects the right to education of children by causing school dropouts or increasing the costs of education. Private and public houses tenants are usually ignored to be considered as affected people in every eviction sites in Ethiopia.

²³ Super note, no.2, CESCR, General Comment No. 7,para.4

²⁴ CESCR,GC No 7, para-10.

²⁵ UN-HABITAT, Quick Guideline for Evictions: Housing the poor in African cities,(UN Human Settlement Programme)2011,p.16.

Thus, the current research has made human rights impact assessment to look into whether the eviction is justified under the laws and practice; the procedure compatible or not with the standards set forth under human rights laws; whether or not the eviction adversely affects other human rights and whether or not it accommodates the situations of the vulnerable groups in the course of implementing development induced evictions.

1.3 Review of Related Literature

There are very few researches so far which have been conducted on the human rights of freedom from eviction in Ethiopia which are concerned with public interest demands evictions. By and large there is shortage of literature in the area of the human rights of freedom from evictions despite the prevalence of the problems. A few researches related to right to adequate housing in Ethiopia were conducted so far. For Example, Dejene in his thesis on “Realizations of Right to housing in Ethiopia” found out that “Ethiopia has not adopted adequate measures to realize the right to housing.”²⁶ His study found mainly lack of legislative measures and other measures employed were implemented in discriminatory manners. In addition, to this research conducted which is entitled ‘The Right to Adequate Standard of Living With specific Focus on the Right to Adequate Housing: The institutional and Legal frameworks in Ethiopia’ found out that the whole ESCRs in general in Ethiopia are incorrectly considered as non- justiciable human rights due to the lack of specific legislation and institutional problems.²⁷ Furthermore, in his article “The Constitutional Protection of Economic and Social Rights in the Federal Democratic Republic of Ethiopia”, Sisay Alamahu, has discussed the arrays of evils due to the non-justiciability of the right to housing in Ethiopia.²⁸ Almost all of these research works mainly focused on the realizations of the right to housing in Ethiopia with the right to receive housing that entails positive obligations to the government rather than dealing with the right that has been taken away- freedom from evictions, which imposes immediate and negative obligations on the state. The aforementioned research works fall short of discussing the discourse on justifications of the government that bases on public purposes in

²⁶Dejene Girma, The Realization of the Right to Housing in Ethiopia, LLM thesis, University of Pretoria. (Unpublished), 22 Oct 2007, p-44.

²⁷Armaye Assefa, ’The Right to Adequate Standard of Living With specific Focus on the Right to Adequate: The institutional and Legal frameworks in Ethiopia, ’LLM thesis, Addis Ababa University.(Unpublished), November 2011, pp.57-58.

²⁸Sisay Alamhu, Justicability of the Right to Housing and Health in Ethiopia, the Legal and Policy Framework, Action Professionals Association for the People, 2006, pp. 5-15.

which clear violations of some individual or group rights is tolerated as necessarily evil that leads people to be evicted from their home or land they possessed would be compromised.

Research on the issues of expropriation focusing on the law and the practice in Oromia was conducted in 2011 by Girma Kassa which revealed the inadequacy of compensation payable for expropriation of rural landholdings.²⁹ It is not the realm of this research to re-examine the adequacy of expropriation; rather it focuses on exploring whether the law and practice of eviction in Ethiopia is compatible with international human rights laws by addressing the livelihood of evictees. Girma's research was not human rights based examination of Ethiopia expropriation legal regimes. Appealing to article. 15 (2) (e) of the Civil Procedure Code, Girma argued that against any eviction order and administrative tribunal decisions, victims would have right to recourse remedy from regular courts. But he did not have respond on the new land lease proclamation No 721/2011 which stipulates that the decisions of the urban land clearance and compensation cases appellate tribunals on issues of law and facts including claims for substitute land shall be final. As a matter a fact there is no two final. Owing to the rule of interpretation of laws, it is also not safe to argue that the civil procedure code prevails over the newly enacted land lease proclamation. Let that as it may, in practice courts in Ethiopia have a tended to relinquish jurisdiction on the legality of public purposes which would be solely determined by public authority. Unlike Girma's argument, this researcher argued that legally and practically courts are denied power to entertain cases containing issues of legality of public purposes issues in Ethiopia except on amount of compensation. Contrasting to Girma this researcher analyzed the issues of expropriation in terms of eviction which has strong link with situation of human rights.

There have been a few researches conducted concerning the impacts of the development induced displacements or evictions in Addis Ababa with limited area coverage, limited rights at issues and only focused on specific right holders. Fekadu's thesis revealed that children's right to participation, housing, health and educations were affected as a result of development induced displacements.³⁰ He argued that

²⁹Girma Kasa, Issues of Expropriation: The Law and the Practice in Oromia, 'LLM thesis, Addis Ababa University.(Unpublished), November 2011,pp 50-59.

³⁰Fikadu Malede, The Human rights of Children in Development Induced Relocation from Arat kilo to Jamo No.1 with particular reference to the right to participation, housing, health and education', MA thesis, Addis Ababa University.(Unpublished), (2011), pp70-90.

relocations are permissible by the Ethiopian laws and policies but the process does not conform to human rights. It seems that there is a gap between Ethiopian laws and the international human rights laws of which he did not deal with. Furthermore, Kalkidan's thesis divulges that the development induced displacement would bring challenges to the protections of socio-economic rights.³¹ It is once again worth reiterating that these researches have inadequately investigated the human rights conditions of the persons whose freedom from evictions are being violated in the country. Both researches lack legal analyses to the eviction regime laws in Ethiopia and the practices observed were only limited to inter-city displacement.

Unlike the previous works, this study intended to reach not only the eviction practice in the inner-city for land redevelopment and public concessions but also evictions contiguous of the city due to the expansions of the Addis Ababa city on farm land under the Addis Ababa Integrated Housing Programme (hereinafter AAIHP). Besides, because of the previous studies' focus on solely social science stand, they did not depend much on the standards set forth under international, regional and national human rights laws and jurisprudences developed thereof. In addition, though these earlier studies scantily touched the impacts of evictions on ESCRs, none of them carefully looked into the impacts of the evictions in light of CPRs of the victims of evictions. Apart from earlier studies, this researcher has robust stance that in devoid of integration of human rights, the horrible impacts of evictions would not be averted.

Hence, as noted from the above review, many researches and articles have been written on the right to freedom from evictions were inadequately studied, lacks integrations approach to human rights to solve the problems from their grassroots level and were partially studied the impacts of evictions on ESCRs isolating them from CPRs. Moreover, the hitch of evictions in Addis Ababa city is still continuing in widespread manner. Hence, this research is believed to fill the gaps and to find out lasting and comprehensive solutions to the problems and reconcile human rights and evictions for public purpose in Ethiopia.

1.4 Research Questions

This study aims at answering the following central questions:

³¹Kalkidan Lakew, Development Induced Displacement: Challenges to the protections of Economic and Social Rights: The Case of Lideta Sub-City. MA thesis, Addis Ababa University.(Unpublished), (2011), pp.1-3.

- Can eviction be justified solely based on the existence of any public purposes driven developments exclusively determined by the government?
- If eviction is justified and unavoidable, are Ethiopia's eviction legal regime and practices of the eviction procedure adherent to the international human rights standards?
- What are the undesirable effects of evictions on the right to life, the right to choose one's residence, determining where and how to live, and right to privacy from CPRs?
- And what are the adverse impacts of evictions on right to livelihood, right to food and right to adequate housing from ESCRs?
- What are the disproportionate impacts of evictions on the vulnerable segments of the society including old aged persons, sub-tenants, informal settlers, children, and women?
- For evictions inconsistent with human rights, what remedial measures are available both under international and national human rights laws?

1.5 Objectives of the Study

This study has both general and specific objectives. The general objective of the research aims to study whether the evictions regime laws and practices in Ethiopia are adherent to human rights standards or not. The research also endeavors to assess the practices of evictions whether the government upholds other human rights in the efforts to realize another human right using public purpose projects. Hence, it intends to test the integration approaches to human rights in eviction process. Further, the study is going to appraise whether the eviction laws and practices are designed in sensitive to protecting the human rights of other beneficiaries while the government makes an effort to realize human rights of other groups. The specific objectives of the study are:

- To explore the justifications of evictions of Ethiopia under the laws and practices visa-avis- international, regional and national human rights standards and jurisprudences.
- To examine whether the Ethiopia's legal regime and practices of the evictions procedure are adherent or not to the international human rights standards.
- To divulge the undesirable effects of evictions on the rights to life, right to choose one's residence, right to privacy and security of person, right to adequate housing, right to livelihood and right to food.

- To investigate the disproportionate impacts of the evictions on sub-tenants, informal settlers, on old aged persons, women and children.
- To look into the remedial measures available both under international laws to which Ethiopia is party and national human rights regimes for evictions inconsistent with human rights

1.6 Methodology

1.6.1 Approach of the Study

The research is combination of both doctrinal and socio legal research type. It is doctrinal since the study starts with investigating eviction legal regimes of the country and look for the compatibility of the laws with the international human rights standards to which Ethiopia is party. The study is also socio-legal research as it aims at examining the impacts of the evictions on certain protected human rights and on the specific vulnerable groups of the society. In order to answer the major research questions and to attain objectives of the study, the research is designed in qualitative approach. As such Comparative and thematic analyses methods were used in the study, the researcher thoroughly diagnosed the Ethiopia eviction legal regime and practices from all angles against the standards set forth under international human rights laws of which Ethiopia is party.

1.6.2 Data Collection Method and its Type

Both primary and secondary data sources have been used in conducting this research. Tools used to gather data are primary documentary sources, interviews, FGD, and personal observations. The primary documentary sources used in this study are international and domestic human rights laws, treaty and charter bodies' jurisprudences, Court cases related to human rights, and others. FDRE Constitution, Expropriation Proclamation No. 455/2005, Urban Land Lease Proclamation No. 721/2011, Regulation No.135/ 2007, Addis Ababa City Charter, Proclamation No. 272/2002 have been analyzed in relation to justifications, procedure, challenges to human rights and disproportionate impacts to the vulnerable of eviction in Ethiopia. Ethiopia Urban Development Plan and Strategies, FDRE Human Rights Action Plan, the Growth and Transformation Plan GTP, Addis Ababa Integrated Housing Development Program (AAIHDP) were also evaluated as secondary sources in light

of international human rights instruments and jurisprudences. The study also has used the relevant literature materials as secondary sources.

In addition, face-to-face interviews and FGD data collection methods were employed accompanying with free pilot observations. These were employed in the study while Case studies were carried out on some selected sites in Addis Ababa where the evictions have already taken place (the *Sammit area* farmers evicted from their land for sake of Condominium Houses have been built on the site. Evictions from *Arat kilo area* for city beautification and land redevelop project), and evictions for public Concession (The government palace expansion project in *Gullale Sub-City, Woreda 2*).

Unstructured interviews were utilized in order to get the holistic understanding of the evictee interviewees' (individuals or households) located inside the proposed eviction sites to identify the effects of eviction before, during and post evictions on their livelihood and other human rights such as right to food, life, freedom of choice of residence, right to adequate housing, and right to privacy and security of person. And semi-structured interviews were used to know specific information from key informants regarding to the research questions. Key informant interviews for this study were the eviction victims' community leaders, concerned officials, bureau heads, department heads, senior experts from FDRE Ministry of Urban development and Construction, Land Development and Management Bureau, department of Land Provision, Marketing and Tenure, judges of Addis Ababa City Government Urban Land Clearing and Compensation Cases Appellate Tribunal, and officials from Addis Ababa City Government Compensation and Rehabilitation Department and officials from Sub-Cities. FGD discussions were carried out with concerned government officials, with groups of evictees displaced from the inner-city and from farm lands to discuss and to obtain group opinion concerning human rights and eviction for public purposes.

1.6.3 Sampling Techniques

Both purposive and random sampling techniques were used to determine participants. Participants from concerned government officials and vulnerable groups were selected through purposive sampling. Selecting participants based on purposive sampling methods has been used to probe specific data with regards to specific human rights and specific right holders' situations, whereas systematic random sampling techniques were employed to choose participants from the eviction victims.

1.6.4 Sampling Size

From all the three eviction sites participants were selected for the study and sampling size was determined by data saturation and the researcher discontinued interviewing the evictees when he got all the necessary information from them. All of the evictee respondents have replied similarly to the interview questions provided by researcher.

1.7 Scope of the Study

The interface between human rights and evictions for public purposes are long list. Thus, owing to the time and resource constraints, this research is limited to some specific human rights challenges and specific right holder's situations in eviction practices on the selected eviction sites. The specific human rights studied are right to life, right to choice once residence, right to privacy from CPRs and right to lively hood, right to food, right to educations of children and right to adequate housing from ESCRs. It is not the ambitions of the researcher to include in the study the entire rights subjected to violations in the eviction procedures for some of them are studied by another researcher as noted above or it might be researched in subsequent studies. For that reason, this study delves only on selected human rights- both from CPRs and ESCRs impact assessment, to the evictions for public purposes, on one hand and on some selected vulnerable groups, particularly the old aged persons, sub-tenants (private and public tenants) and informal settlers, children and women on the other hand.

The study was delimited to only three eviction sites among the numerous eviction plots have been taking place in the Addis Ababa City. The sites were intentionally selected to serve the study in enlightening the targeted human rights and affected right holders situations before, during (live) and post-evictions. To this end, case study with reference to Addis Ababa City was conducted mainly because evictions are widespread and rampant in the inner city than any other towns in Ethiopia. This researcher, thus, believes that the selected case study result can best warrant getting an image of the problem of eviction not only of the Addis Ababa City but also to the overall evictions carried out in the country.

1.8 Ethical Considerations

Ethical consideration to all the string steps the researcher has gone through to get empirical data is essential to assert at this point. This researcher has got numerous copies of letters from the Dean of School of Law at Addis Ababa University

appealing all the concerned government officials, experts, department heads, bureau heads, committee members, individuals to cooperate the researcher in letting access to collections and willing to be interviewed in the course of this study. Hence, the researcher has contacted and communicated with the FDRE Ministry of Urban development and Construction, Land development and management Bureau, and Land Provision, Marketing and Tenure department. The researcher also frequently consulted Addis Ababa City Administration Land development and management office, Compensation and Rehabilitation department, and Land development and management office of Gulale sub-city to explore the practice and legal implications of eviction regulating laws policies and programme.

In addition, the Addis Ababa City Government Urban Land Clearing and Compensation Case Appellate Tribunal judge was interviewed to probe from practical cases how they apply the laws and resolve claims of the victims as a result of evictions for public purposes. Furthermore, the researcher has come across many individuals and groups who have been directly or indirectly affected by the evictions that took place at the selected sites mainly to examine their human rights situations prior to, during the course and post evictions.

Both government officials and individuals whom researcher interviewed have consented verbally for their name to be freely cited in the research, and none of them asked for anonymity. Consequently, the researcher has freely divulged the name of all the informants as they have permitted.

1.9 Significance of the Study

Studying how to reconcile eviction for public purposes with human rights has multi dimensional aspects in contemporary Ethiopia. Nonetheless, the subjects remain controversial since there are no comprehensive studies conducted on it. Thus, this research is significant in many ways. It can serve as a standing step for advocacy groups, legislators, researchers, evictees and government agencies. The policy makers and other incumbent organs of the government have shown little concern towards the right not to be evicted; the human rights based approaches to development and legitimate ways to put limitation on human rights. Hence, the study has shown a clear picture how unjustified eviction affects other human rights of evictees. It also harks back the government to devise mechanisms to bring about development while upholding human rights values. By doing that, the research elucidates to all the stake holders that development and human rights have complimentary goals. Furthermore,

the research will also give insight to the researchers and subsequent studies that might come up with detail and specific study on all human rights subjected to limitation owing to eviction for public purposes.

1.10 Organization of the Study

The research report is organized into five chapters. The first is an introductory chapter. The second chapter presents concise theoretical concepts on human rights and public purpose derived evictions. The first section of the chapter conceptualizes the notion of eviction, public purposes and briefly overviews human rights. The second section of chapter is devoted to finding out the interplay between human rights and public purposes development planning. The third chapter explores the international, regional and national legal frameworks governing evictions. Chapter four is devoted to analysis of the Ethiopia/Addis Ababa (?) Laws on Eviction and attempt to present the analysis of data gathered based on interviews FGD and field observations.

Finally, the paper presents the findings with conclusion and recommendations in the last chapter as ways forward.

Chapter Two

Human rights and Public Purpose Driven Evictions

2.1 Introduction

In all over of the World, eviction has been frequently used as the only means to implement the public purposes development planning. It is carried out often interconnected with, *inter alia*, including tenure insecurity, development and infrastructure projects, large international events, such as the Olympic Games, urban redevelopment and ‘City beautification’ initiative, property market forces and ‘gentrification’, absence of State support for the poor, political conflict, ethnic cleansing and war.¹ In spite of its human cost, those who implement eviction usually substantiate the eviction in the name of ‘development’ – and, by implication, as intended for the general public welfare. States with all their agencies use persuasive ‘developmental’ language, often backed up by complicated technical slang, in an attempt to defend actions which are, in most cases, totally indefensible.

It follows that the relationship and the intersection between development and human rights has multifarious courses. Thus, it needs to conceptualize the interplay between public purpose development which causes eviction and basic human rights norm that prohibits evictions ranging from the bill of rights to other core human rights², regional and domestic human rights laws. However, before studying and fixing what kind of correlation exists between human rights and developmental project that may causes eviction, it needs to define first the concept of eviction and public purposes and then their affiliation with human rights.

Under this chapter attempts have been made to determine the point of reconciliation between human rights standards and public purpose development derived evictions mainly through critical analyses to classical theoretical justification of public purposes, human rights based approaches to development and analysis through the balancing tests of limitation of human rights. The chapter is organized into two

¹United Nations Human Settlements Programme (UN-HABITAT) Forced Evictions - Toward Solutions? (2007, Advisory Group on Forced Evictions), Second Report of the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT, p. 3

²The core international Human rights instruments under the supervision of UN core are ranges from ICCPR and ICESCR to the CRPD, CRC, CEDAW, CAT, ICEARD, ICPRAW and the most recent ICPAED and ICRPD.

sections. The first section conceptualizes the notion of eviction, public purposes and briefly overviews human rights. Under this section, eviction and public purpose is defined and general overview of human rights is presented. The second section of the chapter is devoted to finding out the interplay between human rights and public purposes development planning. To this end, the section is dedicated to discover going across classical theoretical approaches to public purpose development, rights based approaches to development and mechanisms devised to limit rights by employing the flexibility of international human rights laws.

2.2 Eviction, public Purposes and Human rights: Conceptual framework

2.2.1 Eviction defined

The term eviction originates from the Latin expression ‘ēvictus’ to mean having recovered one's property by law³. Similarly, in Middle English, when for the first time eviction case recorded in 1530s, the phrase “eviction” had used in a sense of expelling a person, especially a tenant, from land, a building, etc., by legal process, as for nonpayment of rent⁴. From its classical definition, eviction is the removal of a tenant from rental property by the landlord or from their possession of property which were foreclosed by mortgagee. At the time, a landlord cannot evict *residents* without filing an eviction lawsuit. Likewise, in legal-dictionary, eviction is defined as the removal of a tenant from possession of premises in which he or she resides or has a property interest done by a landlord either in the form physically disturbing the tenant enjoyments of home or through constructive way of cutting off the services that contribute to the habitability of the promises⁵.

In common parlance ‘to evict means to deprive a person against his or her will of home or the use of land or access to all resources on land which is linked to a right of residence or right use land. Eviction constitutes, among other things, an act of driving out, act of throwing out, deprivation of possession, and ejection, and expulsion, take-over of property by other individual person (landlord) or the State.

³ <http://dictionary.reference.com/browse/evict> accessed on September 20, 2014.

⁴ Ibid.

⁵ <http://www.search.ask.com/web?q=legaldictionary.thefreedictionary.com%2F%2Fdict.aspx%3Fword%3D%20eviction&o=101699&l=9&qsrc=2871>.

In many case, forced eviction involves involuntary removal of persons from their homes or land, which is directly or indirectly attributed to the State. Eviction brings about the effective riddance of the possibility of an individual or group living in a particular house, residence or place, and the assisted (in the case of resettlement) or unassisted (without resettlement) movement of evicted persons or groups to other areas⁶.

Initially, forced evictions are not viewed as issues of human rights, rather as a simple side effects of developments of urban renewal, or a consequence of armed conflict, or an aspect of environmental protection or energy generation by for example, hydroelectric dams. The Committee of Economic Social and Cultural Rights (hereinafter CESCR) has defined the term ‘forced evictions’ as *“the permanent or temporary removal against their will of individuals, families and or communities from the homes and or land which they occupy without providing access to appropriate forms of legal or other protection.”*⁷

From human rights standpoint, eviction occurs whenever the government fails to respect the right to house or land uses and when dispossessions of house and or land by private individuals are tolerated. Thus, evictions can be viewed as infringement of States to their negative obligations contained in the right to adequate housing. The definition of ‘eviction’ given by human rights treaty body envisages that eviction is violation of right to adequate housing by away of interference of the full enjoyment of the rights. From this perspective, one can deduce what amount to ‘eviction’ that is prohibited under ESCRs. First of all, there is no prohibition of evictions which is carried out in accordance with the domestic law which in conformity with the provisions of international human rights laws. Secondly, it is not only the State but also the acts of private individuals are attributable to materialize evictions.

However, there have been arguments regarding the use of the term “eviction”. The CESCR utilized the expression ‘eviction’ or ‘forced eviction’ interchangeably to convey that the term has a sense of arbitrariness and illegality of interference in to

⁶United Nations, Fact Sheet No 25 - Forced Evictions and Human Rights.

⁷ CESCR, General Comment 7: Forced Evictions, adopted on 16 May 1997, UN doc. E/1998/22, annex IV, Para 4.

right to house or use land. But others have criticized the expression and propose instead to use the term “illegal evictions” on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms to the ESCRs. In views of the committee, the use of term ‘illegal eviction’ is not appropriate term to give to impose negative obligation on States to right to adequate housing. Similarly, the term “unfair evictions” suggested to be utilized in place of ‘forced eviction’ or ‘illegal eviction’. Once again the committee dropped the use of the term “unfair evictions” as it is even more subjective seeing that it fail to refer any legal framework at all and as the international community, especially, Commission on Human Rights, has opted to refer to “forced evictions.”⁸ The term eviction was preferred by the CESCR and human rights Commission to other terms, because it most aptly conveys all senses of the arbitrariness, illegality and unfairness nature of eviction. The term also has widespread usage throughout international laws.⁹

From these viewpoints set in the discussions of the definition of eviction, the term remains controversial since there is no accepted all agreed definition and all suggested options also suffer many similar defects. It has also been argued that a single definition of eviction would not adequately cover all the evictees experience and it would lead to the exclusion of rights protected from the realm of negative obligation of States to the right to housing. The term eviction is not synonymous with, relocation, displacement and expropriation which are not defined under international human rights laws jurisprudence.¹⁰ Terms such as relocation, resettlement and redevelopment each infer a neutral or even positive aspect of this process, implying that affected groups are actively ‘relocated’, ‘resettled’ or ‘developed’ to supposedly improved housing conditions.¹¹ These terms, ignore the direct and indirect coercive aspect of evictions and it has an implication of accepting eviction as an inevitable byproduct of economic growth and development.

⁸ Ibid. para. 5.

⁹ Ibid.

¹⁰ For example, under both General Comment No. 4 on the right to adequate housing (article 11) and General Comment No. 7 on the right to adequate housing and eviction (article 11), the human rights treaty body has never used terms like “expropriation” and “displacement”. The committee used terms “eviction” or “forced eviction” interchangeably when the act seems inconsistent with international human rights norms.

¹¹ Scott Leckie, When Push Comes to Shove: Forced Eviction and Human Rights, Habitat International Coalition (Amsterdam, The Netherlands, 1995), p.11

However, the FDRE Constitution uses eviction¹², displacement¹³ and expropriation¹⁴ and similar terminologies interchangeably for the same concept. Nowhere in the constitution could one find the meaning and definition of these terms. The concept of expropriation was first given under article 1460 of 1960 Ethiopian Civil code vindicating the phrase expropriation proceedings are actions which the competent authorities force owners to give up the ownership of an immovable property required by such authorities for public purposes.¹⁵

Throughout this research, the word “eviction” was employed with due regard to the possibility of mentioning the other terminologies as well, when necessary. The term eviction used here could be “forced eviction”, “unfair eviction”, “illegal eviction”, “expropriation”, or “displacement” and or for all brands of evictions that are inconsistent with human rights. Hence, the working definition of “eviction” for this thesis is permanent or for short-term taking away of individuals, families and/or group of people from the homes and/or land which they occupy involuntarily or forcefully in devoid of adequate justification and or regardless of rational behind it, conducted without procedural safeguards, in the manner incompatible with international human rights law standards at all phases of t forcefully and unlawfully imposing eviction, disregarding other human rights at stake and without duly consideration of its disproportionate impacts on vulnerable groups.

Yet, according to the CESCR, evictions which are carried out in accordance with the law and conform to the provisions of the International Human Rights laws are justifiable.¹⁶ Thus, eviction could be associated with numerous factors. The rapid growth of cities, globalizing economic forces, measures of structural adjustment, withdrawal of State interventions for securing the rights of disadvantaged groups, ongoing and often systematic discrimination, and other forces also contribute to the prevalence of evictions. Eviction occurred in urban area has been associated with the justification of urban redevelopment and ‘beautification’ initiatives, aimed at drawing investment into previously neglected areas and creating ‘world-class’ cities,

¹²Article 40(4) of FDRE Constitution.

¹³Article 40(5) of FDRE Constitution.

¹⁴Article 40(8) of FDRE Constitution.

¹⁵Article 1460 of the 1960 Ethiopian Civil Code.

¹⁶Supra note .5, para 5 and 11.

preparation of mega events (such as major sport events) or conducted under the pretext of serving “public interest”.¹⁷ In rural areas, however, it takes place for development projects (infrastructures, dams, and roads), mining, and expansion of cities, extractive and other industrial activities. The detail justification of eviction is dealt in the next chapter. Following is a brief and elaborated concept, definition and meaning of public purposes which may reconcile human rights and eviction as limitation.

2.2.2 Public Purposes

The phrase ‘public purposes’ also known as “public use” is broadly defined along the lines of public “safety, health, interest, or convenience”¹⁸. From this viewpoint, ‘public use’, for instance, includes the taking of land to build a school, municipal building or a public park. As discussed in foregoing section, the doctrine of eviction rests in resistance to the right of individuals to enjoy their human rights to have adequate house or use of land on which they rely to the habitability of the promises in decent life. If evictions are required to be consistent with human right, it calls for striking the fair balance between the public well-being, and human rights of freedom from eviction and associated human rights.

The concepts of ‘Public purposes’ primary originated in the works of Hugo Grotius of 1525, who dealt with the compulsory acquisition of land for public purpose were freely be determined by the government.¹⁹ The usage of the phrase “Public purposes” is diverse under different countries’ jurisprudence, but with almost all similar connotations. In USA, it is known as “public use”; whereas in Europe it is usually known as “public interest” and under Ethiopian law both “public purposes” and “public interest” are employed under different legislations to refer exactly the same thing.²⁰ Under Ethiopian urban Lands Lease Holding Proclamation, “public interest” is

¹⁷Malcolm Langford and Jean du Plessis, Dignity in the Rubble? Forced Evictions and Human Rights Law

¹⁸West's Encyclopedia of American Law, in Lehman, J. & et al (eds.), Eminent Domain, Vol.4, 2nd ed. San Francisco, London and Munich: Thomson Gale, p.125; see also <http://www.florida-eminent-domain.com/public-purpose.html> accessed on 21 September, 2014.

¹⁹Daniel Weldegebriel,, Land Rights and Expropriations in Ethiopia, Doctoral Thesis in Land Law, Royal Institute of Technology (Stockholm , 2013),pp.167-179.

²⁰See the US Constitution Fifth Amendment; Article 1 of Protocol No. 1 of European Human Right Treaty; and the article 40(8) of FDRE Constitution respectively as cited in Daniel, supra note 15., pp 188-189; Article 2(7) of Urban Lands Lease Holding Proclamation No. 721/2011 and see also article

used as a substitute of “public purposes” which has defined as *“the use of land defined as such by the decision of the appropriate body in conformity with urban plan in order to ensure the interest of the people to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development”*.²¹ But the previous legislation uses the term “public purposes” for exactly the same concept unlike the latter proclamation. In expropriation of land holding for public purposes and payment of compensation proclamation, “public purpose” is defined word by word identical to the meaning provided under lease holding law.²²

In each of the above jurisprudence, the terms public interest and public purposes have the same goal. “Public interest” is defined as “the general welfare of the public that warrants recognition and protection, while, “public purpose” has been defined as “an action by or at the discretion of government for the benefits of the community as the whole”.²³ This definition given by Black’s Law Dictionary characterizes both terms, by means of its objective, to mean the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division, as, for example, a State, the sovereign powers of which are exercised to promote such public purpose or “public business”. From the definition given above, it is a governmental action or direction that purports to benefit the populace as a whole.

The concept of “public purposes” has been tough subject for years due to various reasons. First of all, the question that what degree of “public good” is sufficient enough to meet the requirements of “public use or public interest”, to exercise of the power of “eminent domain”²⁴ warrants good reasons. The purpose, say to be for the public, should be determined by what the government would do and who benefits from the works. For example, taking of land to build or expand a public road or highway, taking of land to build a school, municipal building or a public park are indisputably would amount to public purpose. There have been a lot of arguments to justify these mentioned works could constitute public purposes. The traditional belief

2(5) of Expropriation of landholding for public purposes and payment of compensation proclamation no.455/ 2005.

²¹Article 2(7) of Urban Lands Lease Holding Proclamation.

²²Article 2(5) of compensation proclamation no.455/ 2005.

²³ Black’s Law Dictionary, 7th edition, p, 1246.

²⁴ Supra note. 15.

that “ultimate ends justifies the means” political philosophy, concern with the moral development of citizens as the purpose of the city-State, protection of natural rights, and the utilitarian’s assertion of the greatest good for the greatest number rational behind for public purposes.²⁵ However numerous scholars agree that the concept of public purpose most serves for political utility. For example Stephen K Bailey wrote that, the phrase “public interest” is the decision-makers anchor rationalization for policy which caused pain.²⁶ For Bailey, the "public interest" rationale is more often a myth than a credible explanation for forced evictions.

The second point that renders the concept of “public purposes“ for argument is the question of who determines certain “public good” is really amount to public purposes under which eviction is justified albeit the procedure to be followed consistence with human rights. In *Hawaii Housing Authority v. Midkiff* case, the USA court held that the government has practically free judgment to exercise its power of eminent domain to advance any feasible public purpose with showing the majority of the public would tangibly and directly benefit from the works to be done by the name of public use.²⁷ In similar manner in case of *Kelo v. City of New London* an integrated development plan designed to renew its poor economy by the city of New London, the court held that “the general benefits a community enjoyed from economic growth qualified such redevelopment plans as a permissible “public use” under the takings section of the Fifth Amendment of the USA Constitution.²⁸ However this discretion is not without limit. In Europe, the ECtHR apparently rejected the government plan of eviction which drawn under the pretext of public purposes in declaring that ‘democracy does not simply mean that the views of a majority must always prevail.’²⁹

From the above discussions, though the governments have had unlimited discretionary power in determining what amount to public purpose, the executive and

²⁵ Ibid.

²⁶ WAR Leys, ‘The relevance and generality of ‘the public interest’, in CJ Friedrich (ed.), The Public Interest (Atherton Press, 1966), p.237.

²⁷ Garnett, N. S, The Public-Use Question as a Takings Problem, Geo. Wash, (2003) L. Rev., 71, 934. P. 940 as cited in Daniel supra note no.19, p.195.

²⁸ Ibid.

²⁹ In *Young, James and Webster* ECtHR held that ‘democracy does not simply mean that the views of a majority must always prevail’. A balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position: judgment of 13 August 1981, A 44, Para. 63.

legislative organ would be checked by the courts. The blank check concept of public purposes cannot capriciously be used by the executive and the legislative organs due to the existence of judicial oversight to protect individuals' rights from being violated. As a result, the people could challenge the public purpose projects that may affect their rights. In addition, one can also grasp from the European court of human rights (hereinafter ECtHR), the concept of public purpose not necessarily justified on the number of beneficiaries from the public purposes. Public purpose curtails the powers of eviction enforcing authority from being arbitrarily making use of their powers on one hand and at the same time justifies the government action of legitimate limitation on individual rights on the other hand.

The other ways of balancing the interest to be gained by community at large and curbing adverse effects of the public purpose projects are currently best debated in rights based approach to development and mechanism of legitimate limitation to human rights.

2.2.3 Human Rights : An- overview

Human rights are founded on the idea that all persons have certain fundamental rights that they are entitled to merely because they are human. In its very nature, human rights are universal values and legal guarantees that protect individuals and groups against actions and omissions primarily by State and the State sponsored agents interfere to fundamental freedoms, entitlements and human dignity.³⁰

Some of the most important characteristics of human rights are that they are universal to mean birthright of all human beings, focusing on the inherent dignity and equal worth of all human beings.³¹ This means, human rights are foreign to no culture, native to all nations, worldwide entitlements belong inherently to all human beings of all ages irrespective of any grounds of discrimination. Human rights are equal, indivisible, interdependent and indivisible as one cannot get full enjoyments of type

³⁰Patrick Machlem, What is International Human Rights Law? Three Applications of Distributive Account (Texas: Bernard Andre Rapoport Center for Human Rights and Justice University of Texas School of Law, 19 November 2007) as cited as in Michelo Hunsungule, The Historical Development of International Human Rights, pp.1-5.

³¹From the world conference on Human Rights, Vienna 1993.

of rights in isolation from the other rights.³²From the nature of interdependence and interrelatedness treating all human rights in equal manner on the same footing with the same weight would aid to addresses the violation of one right is derivation from the denial of other rights.³³For instance, farmer's eviction from cultivable land may cause for deprivation of right to food and the denial of right to food in turn cause violation of right to life and other related rights. These rights are integrally related. As a result, it is impossible to make ranks in hierarchy of human rights that are more or less important, more or less fundamental.

Human rights are found incorporated in numerous international human right conventions and guaranteed under customary international laws as well.³⁴Substantive human rights are not limited to the enumerated rights within treaties, but also include rights and freedoms that have become part of customary international law which bind all states irrespective of being they are party or not to a particular convention.³⁵In addition to the rights protected in the treaties, there has been a growing works of treaty body's jurisprudence in elaborating the scope of rights as well as various regional treaties in monitoring how the treaties are being implemented by State parties. Besides, quite numbers of human rights are set out in the declarations and resolutions passed by UN general Assembly and Human rights Councils.³⁶Furthermore, human rights are directly or indirectly warranted protection

³²Ibid.; As international community affirmed the holistic notion of human rights indivisibility and interdependence, one cannot fully enjoy the right to life disregarding or in violation of right to food, right to health, right to water, right to house and any other rights which are fundamental to life. If one takes away one right, then it cause to take away the other(s) i.e. denial of food is denial of livelihood, deprivation of shelter is refusing liberty and freedom, and ultimately the right to life and all that goes with life.

³³See the Vena Declaration and Plan of Action on World Conference Human Rights, adopted on June 25, 1993, part1, para .5.

³⁴To date, there are about core 9 international human rights treats, namely ICCPR with its two optional protocols, ICESCRS, CRC, CEDAW, CAT, ICEARD, ICPRAMW and the most recent are ICPAED and ICRPD.

³⁵There are some rights, i.e. prohibition of torture, freedom from slavery, crime against humanity, and prohibition of genocide which are recognized as having a special status as norms of *jus cogens*(peremptory norms of customary international law), which means that there are no circumstances whatsoever in which derogation from them is permissible; see also the Human Rights Committee observation in its general comments No. 24 (1994) and No. 29 (2001), that some rights in the International Covenant on Civil and Political Rights reflect norms of customary international law. The International Law Commission also has reached to conclusion from its observations that the prohibitions of torture, slavery, genocide, racial discrimination and crimes against humanity, and the right to self-determination are widely recognized as peremptory norms on State responsibility

³⁶See for example the preamble of Basic Principles and Guidelines on Development-Based evictions and displacement, UN General Assembly Resolution adopting the UN Guidelines on Development

under different UN Specialized agencies.³⁷ Apart from the UN “Charter-based system of human rights protection”³⁸ which applies to all member States, and “treaty-based system” that applies only to States parties, many States in Africa, the Americas and Europe have also assumed binding human rights obligations at the regional level and have accepted intercontinental monitoring.³⁹

To realize the full enjoyments of the rights, some conventions impose “immediate” realization of rights while others entail only “progressive” taking in to account “available resources” of the country in question.⁴⁰ But, in both, the achievement of human rights requires States to adopt appropriate measures, including legislative, judicial, administrative or educative measures, in order to fulfill their legal obligations.⁴¹ Still some of the rights of ESCRs, specifically, the obligation not to discriminate, take steps, monitor progress, and satisfying the minimum essential level are known as “Core obligation or Survival Kit”⁴² of each rights require immediate realization. Based on the steps to be taken by State, Human rights impose either positive or negative duties. This means that it obliges states, primarily, to do certain things and or prevents them from doing others. Still retrogressive measures to any kind of obligations by human rights are totally prohibited.⁴³

Theoretically, for some scholars, all human rights obligation involve *three* elements of duties of the State i.e. “duty to respect, to protect and to fulfill”⁴⁴ while other scholar recommend the states to undertake four layers of obligations under bill of rights. G.J.H. Van Hoof described the four layers of duty of States as “an obligation to

based displacements: Annex 1 of the report of Special Rapporteur on adequate housing as a component of the right to an adequate standard of living A/HRC/4/18.

³⁷See Conventions on International Labor Organization, UNICEF, UN-HABITAT, etc.

³⁸Under UN human rights systems there charter based and treaty based system of monitoring the enforcement of human rights.

³⁹African human rights system, Inter-American human rights system and European human rights system.

⁴⁰Supra note. 21, common article 2 of ICCPR and ICESCR which set forth most of the rights under CPR requires immediate realization and relatively most of the rights under ESCR entail progressive realization of rights.

⁴¹Ibid.

⁴²Asbojian Eide, Economic Social and Cultural Rights-a Text book, (Asbojian Eide, Katarina Krause, Allan Rosas eds.), Martinus Mijhoff Publishers, 2nd ed., (2001), pp.263-300.

⁴³See CESCR, General Comment No. 3(Fifth session, 1990), UN doc.E/1991/23, The nature of State Parties Obligations (art.2(1) of ICESCR) para.2-6.

⁴⁴Asbjorn Eide, “Economic, Social and Cultural Rights as Human Rights”, in Asbjørn Eide, Catarina Krause and Allan Rosas, (eds.), Economic Social and Cultural Rights: A Textbook, (Martinus Nijhoff Pub.,1995), pp. 35 - 40.

respect, an obligation to protect, an obligation to ensure, and an obligation to promote.”⁴⁵ The African Commission on human and people’s rights also approaches the nature of state obligation in its quarter layers.⁴⁶

States duty to respect for human rights principally occupies not interfering with the human rights enjoyment. To protect is taking positive steps to guarantee that others from not interfering with another rights. Thus, States are responsible if interference by private individuals or entities in the enjoyment of human rights are tolerated or if the State sponsored the interference instead of protect. Moreover, human rights laws lay responsibility on States to make available effective remedies in the event of violations.

The complete range of human rights encompasses economic, social and cultural rights and civil and political rights, as well as the right to development.⁴⁷ Right to life, freedom from torture, the right to freedom of movement and residence, privacy, equality before the law, fair trial, the right to education, right to health, employment, and the right to adequate standard of life including food, water and housing are some of the human rights which belong equally to every person. Specifically, right to adequate housing is one of the core issues of the human rights from socio-economic rights which guarantees all its components⁴⁸, protection against evictions, and ensure the housing needs of vulnerable groups’.⁴⁹

Freedom from eviction obliges the State to not to interfere arbitrarily with the right to housing and guarantees other human rights subjected to violation by cautioning States to take due cares of evictions that may carried out for public purposes. The general

⁴⁵G.J.H. van Hoof, “The Legal Nature of Economic, Social and Cultural Rights: A Rebuttal of Some Traditional Views”, in P. Alston and K. Tomaševski, (eds.), The Right to Food, Dordrecht/Utrecht:Martinus Nijhoff/SIM, (1984), pp. 106-107.

⁴⁶The Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria, Communication No.155/96, African Commission Human and Peoples' Rights, 2001(hereinafter SERAC Case).

⁴⁷See the common article 2 of both covenants to civil and political rights and Economic social and cultural rights that impose obligation on the states with different realization mechanism; See also the

⁴⁸The seven components of adequate hosing were deliberated by the CESC under the general Comment No.4 on article 11(1) of ICESCR: adequate right to housing.

⁴⁹Article 11(1) of ICESCR; See also the 1996 UN Conference on Human Settlements (Habitat Agenda) para.60; see again the components of right to adequate housing and prohibition of forced eviction have been addressed by the CESCR under general comment no 4 and 7 respectively.

prohibition on evictions, therefore, obliges the states to bear immediate obligation. In order to make the enjoyments of freedom from eviction meaningful, home or land rights have been conceptualized from a human rights perspective because it is impossible to attribute human dignity to a landless or homeless person living in meanness. It is difficult to see how those who were dispossessed of land can live a dignified life. Seeing that, John Locke treats proprietary interest in land as coming from the same normative source as the right to life⁵⁰.

In Ethiopia, article 40(3) of the 1995 FDRE Constitution recognizes land use rights under chapter three along with other multiple fundamental rights and freedoms. What is more, and particularly relevant to a number of human rights challenges is how reconciling eviction for public purposes without being inconsistent with human rights and fundamental freedoms is made. In the following section, attempt is made to systematically review the discourse on old theoretical debate between public purpose and rights on one hand and the ever emerging debate between development and human rights on the other sides.

2.3 Human Rights and Public Purposes Development Planning: Complimentary or Conflicting?

2.3.1 Public Purposes Development Vs. Human Rights: Classical Theoretical Approaches

On one hand, as discussed in previous section, the general benefits that community enjoyed from economic growth or development are arguably qualified as a permissible public interest. On the other hand, even if eviction is justified by public purposes, indisputably it has undesirable impact on the enjoyment of individual human rights. Thus, it requires legitimate and fair balancing between the ultimate goal intended to be achieved and the rights at venture due to evictions. If not fairly waited and designed, tension exists between those public purposes and other rights will remain unsettled. The continuing tension lays on answering the question ‘to what extent the government can restrict the individual human rights, i.e. during eviction, to

⁵⁰Michael Akomaye Yanou, Access to Land as a Human Right: The payment of Just and Equitable Compensation For Dispossessed Land in South Africa,(2005),p. 33.

serve the common good and what is the extent the public interest protection has been used as a pretext for government to curve or erode human rights’.

Reconciling the tension between public purpose development and human rights has been not easy for the scholars and remain challenging both theoretically and practically. Even human rights principle by itself does not really resolve these tensions between competing interests; rather, it provides the vocabulary for arguing about which interest should prevail and how best to achieve the ends we have chosen.⁵¹ The normative human rights law encapsulates that all human rights are to be protected and promoted to the greatest extent possible before other interests are even taken into consideration,⁵² but it does not visibly provide the system of prioritization among the rights themselves. To show the obscurity to thump the balance of the competing rights, one scholar explained that “we face between societies where people accept modest sacrifice for a common good or a more continues society where groups selfishly protect their own benefits.”⁵³ Other group claims that human rights may be overweighed by other important considerations of collective good based on “interest model”.⁵⁴ In exploring how to making prioritization between rights and public purposes and how to exactly ascertain the relative waits to be given to human rights and public purposes, there have been existing theories how the public purpose could best be understood. From many theories available which advocate the foundation of public purposes, Held has conveniently identified three general categories that are *preponderance or aggregative theories*, *unitary theories* and *common interest theories*.⁵⁵

2.2.2.1 Preponderance Theory

Preponderance or aggregative conceptions begin from an individual definition of interests, whereby individuals are seen as the best judges of their own interests.⁵⁶ For this theory, public interest has no independent content; rather, could be based on

⁵¹A.Clapham, Human rights: A Very short Introduction, Oxford University Press,(2007), p.1

⁵²Aileen McHarg, “Reconciling Human Rights and the Public Interest: Conceptual Problems and Doctrinal Uncertainty in the Jurisprudence of the European Court of Human Rights”, in Modern Law review, vol. 62. P.674.

⁵³Ibid.

⁵⁴Ibid.

⁵⁵“The Public Interest and Individual Interests”), as cited in Aileen Mc Harg (ed.,) Reconciling Human Rights and the Public Interest: Conceptual Problems and Doctrinal Uncertainty in the Jurisprudence of the European Court of Human Rights, in Modern Law review, (New York: Basic Books, (1970), vol.62,p. 674.

⁵⁶Supra note .47, p.674

simply by aggregating individual interest. The theory advocates the individual human rights shall be given priority before the public interest and the latter is embodied in the former.

The aggregative theory has been objected claiming that there is no practicable mechanism for determining what in the interest of a preponderance of individuals is.⁵⁷ The opponents of this theory argue that, it is logically impossible to maximize the satisfaction of disparate individual interests in straightforward sense.⁵⁸ For this reason, they propose that satisfying individual interest must be traded off against each other and sacrificed to the greater satisfaction of others.⁵⁹ As this involves sacrificing the interests of the few to those of the many, regardless of the merits of their respective claims measured against other standards, the opponent's argument to the preponderance theory are unsound as far as individual human rights values is concerned.

2.2.2.2 Unitary Theory

Under unitary theories, public interest is treated as overriding interests that not only exceed but also settle actually at odds individual interests.⁶⁰ For Unitarians, public or social choice objectively made by majority number of the society ought to be given high credits. However, this theory is also opposed for different reasons. Foremost, practically there is a strong danger that powerful groups will simply identify their own interest with the public interest, conveniently ignoring minority claims.⁶¹ For another thing, how the majority comes together to have a sound which may prevail over individual interests; how can we know the merits of the majority resolutions; and who adjudicate the merits, are some questions which has no answer under this theory. Thus, this theory is inappropriate to describe the relationship between the individual and the collective interests, since in any conflict the majority interest would not necessarily prevail.

⁵⁷ Social Choice and Individual Values (New Haven: Yale University Press, 2nd ed., 1963) as cited in Aileen, *supra* note .48, p.675

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

2.2.2.3 Common Interest Theory

Under Common interest theories there is distinction between individual interest and interests which all members of the public have in common.⁶² This theory is different from both theories above by admitting the possibility of individuals/groups may make mistakes in identifying their interests and differentiates self-interested from ideal-regarding or altruistic behavior.⁶³ For the proponents of this theory, public interests are not simply interests which individuals accidentally happen to share; rather, they are discovered by asking ‘what sort of society do we wish to live in?’ and ‘how best can we achieve those goals?’ It benefits all members of the society rather than one which attaches only to particular individuals or groups. The assumption is that no one will be harmed because of such public interest. For Benn, common interest is ‘the interest of no-one special’.⁶⁴

This theory has not also escaped from critics. Since it is only through political mechanisms that the public as a collective entity can make itself heard, this suggests that valid judgments about public interest. Common interest may vary over time and between different types of political organization.⁶⁵ On other hand this theory has no answer in case the distanced common interest mistakenly made competes with legitimate individual interests for example rights bestowed to human being embodied in human dignity.⁶⁶ Above all this theory cannot adequately reconcile the competing interest between human rights and the public interest. The important designations ‘public interest’ uses to limit the arbitrary nature of eviction and puts legitimate limitation on human rights include “interest of the affected whose right being limited and of the public in general.”⁶⁷

⁶² Ibid, p.676

⁶³ Ibid.

⁶⁴ Ibid, p.678

⁶⁵ The Public Interest and Individual Interests (New York: Basic Books, 1970), pp 122-159.

⁶⁶ For example, even in “ticking time bomb scenario”, torture of suspected terrorist has not been justified despite there is legitimate fear of bombs which buried at the palace where a large number of populations exist.

⁶⁷ See for example section 6 of South Africa, Prevention of Illegal Evictions Act 1998, as cited in Malcolm Langford and Jean du Plisses, Dignity in the Rubble? Forced Evictions and Human Rights Law, p.17

2.2.3 Human Rights and Public Purpose Development Linkage: Rights-based Approaches to Development Towards the Reconciliation

The debate on making taxonomy of human rights goes back to the end of Second World War and continued until the end of cold war in the world politics.⁶⁸ The approaches to human rights classification in to generations comes as a result of the debate between world blocks to have unified human rights instrument encompassing all or separate conventions dealing with different rights based on the nature of the right itself. From the generation of rights, the third generation includes solidarity rights, right to development people's rights and etc. Though classifications of human rights in such way focuses on deviation among the rights, as some are more germane and some are less relevant.⁶⁹ In contexts of this thesis, the approaches to the concepts of development given by developing States have often proven inadequate and narrowly focused. To define development they concentrate on GDP or increases on FDI as primary outcomes as opposed to holistic social, economic and cultural development aiming to place facilities and infrastructure at the disposal of other human rights and values.⁷⁰ Developing States further argue that they are not ready for rushed democracy as the westerns know it yet, and for them economic rights and internal security come first and human rights comes latter.⁷¹

The above argument does not sound good for many. The separation thesis between development and other human rights is not legitimate quest to bring the development wanted as both are fundamental to life. The right to development makes the concept of indivisibility and interdependence of human rights from not be left mere rhetoric.⁷² Against the developing States case, the human rights scholars and the western governments argue that development is embodied in inherent human dignity along with other human rights. Development is inseparable from other rights. Thus, they propose the holistic approaches to development. This has been clearly manifested

⁶⁸Allan Rosas, "The right to development", in Asbjorn Eide, Katarina Krause, Allan Rosas (eds.): Economic, Social and Cultural Rights- a Textbook, (Martinus Nijhoff Publishers, 2nd ed., (2001)), p. 119

⁶⁹ Ibid.

⁷⁰ Swan Poel, H. & de Beor, F., Introduction to Development Studies, 1997, p 124

⁷¹ Fredric, Human rights and You, (Warsaw, Poland), p.5

⁷² Philip Kunig, "Human rights Approaches to the right to development", in S.R.Cheoudhuy et al.(eds.), The right to development in international law, (Kluwer Academic Publisher, Netherlands,(1992)), pp.83-86.

in the saying of the report of the UN Secretary General that “We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights”⁷³.

The legal base of right to development evolves bases on bill of rights which declares in no case people deprived of its own means of subsistence.⁷⁴ The relevant and binding international human rights instrument which has recognized the right to development as to date is African Charter Human and people Rights (ACHPR).⁷⁵ The declaration of the right to development includes the contents of the right to development which includes, recognizing the indivisibility and interdependence of human rights⁷⁶, both individual and groups beneficiary⁷⁷, public participation, fulfillments of basic needs and social justice.⁷⁸

According to human rights-based approach to development, all human rights are universal, indivisible and interdependent and interrelated which need equal recognition and practical application.⁷⁹ Development lays down the creation of open and transparent institutions and processes for participation by civil society in the political, economic, social and cultural life of the country; commitment to diversity and equality of outcomes in law, policy and practice. Moreover, it is about to prioritizing the needs of vulnerable and disadvantaged groups, and the adoption of special measures to assist these groups to gain access to opportunities, resources and social services.⁸⁰ As poverty is a brutal denial of human rights, development is a tool to eradicate poverty, in both case people are the center of all development activities. Development project conducted in disregard of human rights is considered as making another circle of human rights violation; not to solve poverty. By doing that, development creates a range of effective mechanisms of

⁷³Report of the UN Secretary-General, ‘in larger Freedom: towards development, security and human rights for all’, 2005.

⁷⁴Common article 1 of ICCPR and ICESCR and article 25 of the UDHR.

⁷⁵Article 22 of ACHPR.

⁷⁶The preamble, article 2 and 3 of Declaration on the right to development adopted by the UN General Assembly Resolution 41/128(1986).

⁷⁷Ibid.

⁷⁸Ibid, article 2(3)

⁷⁹This was affirmed by the World Conference on Human Rights in The Vienna Declaration and Programme of Action, June 1993, UN doc. A/Conf 157/23, Part I, para. 5.

⁸⁰Ibid; See CESCR, General Comment No. 3 (Fifth session, 1990), UN doc. E/1991/23, The nature of States parties obligations (art 2(1) of the International Covenant on Economic, Social and Cultural Rights) adopted by UN Committee on Economic, Social and Cultural Rights, paras. 10 - 12.

accountability to ensure respect for human rights. Evictions for public purposes developments are one of the areas of which development and human rights come to intersect each other.

Normative human rights serve as a crosscutting in regulating State lead development ethics by providing protection measures before, during and post-eviction in terms of time.⁸¹ It also gives procedural and substantive shield to possible adverse impacts of eviction⁸². The link between human rights and development is best described as development, especially, the sustainable one places people at the core and views human as both the means and end of development.⁸³ Developments become unsustainable, when it ignores people and unable to provide system of protection for possible abuse such as rule of laws⁸⁴. Human rights and sustainable human developments are interdependent and mutually reinforcing than having contrasting goals⁸⁵. This means that an argument which claims the existence sharp dichotomy between human rights and developments is deceitfully. As the essence of developmental purposes projects are endeavors to convey freedom from poverty and poverty is a human rights violation, and then development is a means of achieving a realization of fundamental freedoms-freedom from want.⁸⁶

From the above points, both human rights and development share the apprehension for ensuring that eviction do not conducted arbitrarily. Both also address the vulnerable and fair balance with other rights potentially affected. All peoples that affected by the eviction should not suffer deterioration in their living standards irrespective of their ownership right on the land and home they occupied during eviction. Further, one can safely conclude that development is not limited to building physical infrastructure but also includes human development. Human rights violations are both cause and consequences of poverty, while genuine developmental endeavor would ensure the full realization of human rights as it countering poverty. One can also safely conclude that in genuine public purpose development, no separation thesis

⁸¹ Integrating human rights with sustainable human development: A UNDP policy document (January, 1998), pp. 5-56, see also Basic Principles and Guidelines on Development-based Evictions and displacement: Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living A/HRC/4/18, preamble.

⁸² Super note, no.1, CESCR, General Comment No. 7, para.15; See also World Bank policy 4.12, Involuntarily settlement (2001).

⁸³ Supra note.81,p.9

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ UN Working Group on the right to development (October, 1995).

will be made as development is elements of human rights. Therefore, as human rights cover all aspects of life, it would be center for development. This means that while poverty violates it where as development fulfill human right. Thus, unless one contradicts with oneself, no development is wanted overlooking the human rights and no enjoyment of human rights unless core minimum standard of life set forth by international human rights treats are realized as a result of letting-up poverty.

Moreover, both economic development and human developments are fundamental to ensuring human rights of all. However, in order to make the development sustainable, it requires dedication from the States to fulfill minimum standards of ranges of human rights. Just achieving higher income for few , making accessible few social services and building infrastructure are not suffice to bring right-respecting development; it also necessitate to respect people's right to express their views freely and participation in any public purposes policy decision making.

While the complexity and magnitude of the challenges facing States in their efforts to fighting poverty through developmental projects of public purpose can be momentous, international human rights law is flexible enough to address them effectively.

2.3.4 Public purpose development lead eviction as Human rights limitation: Balancing the competing rights

Balancing individual rights against general welfare requires the harmonizing tests. Evicting individuals from their land and home are undoubtedly interferences with human rights. However whether the evictions amount to violations of rights protected depends on how it conducted based on the 'balancing test criteria' of human rights limitations usually make use of analyzing government interference with rights: legality, justifications and proportionality.⁸⁷In attempts to reconcile the public purpose and human rights one can approach it using the flexibility embodied in the human rights instruments themselves.⁸⁸While the complexity and magnitude of the challenges facing the State in their efforts to combat poverty through public purpose

⁸⁷Article 4 of ICESCR.

⁸⁸Common article 4 of ICCPR and ICESCR, Article 4 of the ICESCR states that limitations imposed on the enjoyment of rights should be 'determined by law' and should be done solely for the purpose of 'promoting the general welfare in a democratic society.'; See also article 12(3) of ICCPR.

development which may cause eviction can be significant and international human rights laws are flexible to address them effectively. From this flexibility of human rights, individual rights who are protected by international human rights laws can validly be restricted in case where it is necessary for the broader public interest as ways of exception. By doing so it is possible to draw a distinction between justified interferences grounded on public purposes and violation of human rights which are unjustified, illegal and disproportionate with rights protected. Generally, States may restrict human rights, essentially, in reservation to treaties, limitation to rights, and derogation to rights under different circumstances. Measures justified by public purposes i.e. evictions, would fall under the limitation clause to rights. Limitation is using balancing tests to weigh those competing interests in ways of legality, justification and proportionality.⁸⁹

2.3.4.1 Legality

All human rights treaties provide that any act of States to restrict the full enjoyment of rights and freedoms must be set out within, or authorized by, a prescription of law.⁹⁰To fulfill the legality requirements say to be legitimately restricted rights, the law, among other things must be consistent with human rights conventions, must not arbitrarily and unreasonable, accessible, precise and should provide safeguards and effective remedies.⁹¹The HRC has suggested that laws allowing evictions should use precise criteria and may not confer unfettered discretion on affected people.⁹²The validity of the substantive content of such laws should also be tested by the broader human rights law requirements.

2.3.4.2 Legitimate aim

The permissible legitimate purposes for the interference vary depending on the rights subjected to the possible limitations as well as on the human rights treaty in question. National security, public safety, public order, health, morals, and the human rights

⁸⁹Ibid. see also the Policy on competing human rights, Ontario Human Rights Commission, available on Internet: www.ohrc.on.ca, accessed on September 26, 2014.

⁹⁰See, for example, HRC, General Comment No. 29; Siracusa Principles (E/CN.4/1985/4, annex, paras. 15 and 17); “Report of the United Nations High Commissioner for Human Rights and Follow-up to the World Conference on Human Rights–Human rights: a uniting framework” (E/CN.4/2002/18, annex, paras. 3 (a) and 4 (a))

⁹¹See the European Court of Human Rights in *Sunday Times v. United Kingdom*, N° 6538/74, Judgment of 26 April 1979, Para. 49.

⁹²HRC, General Comment No.27(1999),para13

and freedoms of others are considered as legitimate aim to be able to limit rights.⁹³The important objective of general public wellbeing often used as a pretext to broaden State powers in other areas.⁹⁴

Government eviction of squatters and other tenant must be justified on the grounds of “pressing public interest”. Developmental projects, construction of housing are to list some that validly amount to pressing public interest. For example, evicting people from their home or land by the name of public purposes, but failure or delay of implementing the public purposes project is not constitute “pressing social needs”.⁹⁵ The arbitrary decisions of the government to coin some project is serving public purposes are not suffice. Compelling and overriding public interest should exist to serve as public purposes which justify evictions.⁹⁶However, the legitimate aim itself shall be evaluated constantly by ensuring the proportionality test by mitigating the impacts of eviction on affected persons.⁹⁷

2.3.4.3 Necessity and Proportionality

To impose sound limitation on human rights, legality and legitimate public purposes are not suffice; it also requires to measure the proportionality of the government act to achieve the desired goals and particular human rights to be restricted. According to the HRC, proportionality plays pivotal role in limiting the limitation on human rights by dictating that limitation to the rights must be “least intrusive” to achieve the desired goal while upholding the rights under limitation.⁹⁸ The CESCR explained that “in cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality”.⁹⁹ Due to the strict requirements of proportionality test by human rights laws, no limitation on

⁹³For example the CESCR under its General Comment No .7 explained that in cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality

⁹⁴ Ibid.

⁹⁵R. Gordon, T. Ward, T. Eicke, The Strasbourg Case Law, Sweet & Maxwell, London,(2001), p.1125-1138.

⁹⁶UN Commission on Human Rights, UN Guiding Principles on internal Displacement(1998),para6(2)(c)

⁹⁷In Residents of Joe Solvo Community of the Western Cape vs. Tubelisha Homes and other case, the Constitutional Court of south Africa ruled that public purpose is imposed requirements of ensuring proportionality.

⁹⁸HRC, General Comment no 27, supra not 77, para 14

⁹⁹CESCR, General Comment No 7,para 14

right is justified in totally denying the rights in question. If balance has not been properly struck between the rights to be limited and another rights required to be given priority, even with the existence of legitimate public purposes, it would amount to violation of rights say to be limited.

In jurisprudence of ECtHR, What is often referred to as “necessary is an additional safeguard which requires States to demonstrate that the limitations should be the only way to achieve the existing “pressing social need”.¹⁰⁰ In *Handyside case*, the Court ruled that any limitation on the free enjoyment of rights and freedoms must be necessary in the pursuit of a pressing objective, and its impact on rights and freedoms strictly proportional to the nature of that objective.¹⁰¹ As a general matter, given the consequences of poverty on human rights, there is no doubt that the respond to poverty through varies developmental projects which may resulted in eviction to get way for implementation of such project is an important objective which can, in principle, permit the limitation of certain rights. To be justifiable, however, the imposition of such a limitation must satisfy various requirements. Rights can be restricted to the extent that the limit placed on them is proportionate to the aim pursued.¹⁰²In the dearth of safeguards the rights by proportionality test from abuse in pretext of legitimate aim, it entails the risk of undermining or even destroying the rights on the grounds of defending it.¹⁰³

Proportionality requires strict necessity test by obliging the State wants to limit certain rights for public purposes to cautiously choose from various ways the objective could be achieved before resorts to limit the rights.¹⁰⁴ Concerning evictions which carried out for public purpose, the CESCR instruct that prior to carrying out any evictions, all feasible alternatives shall be explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.¹⁰⁵

¹⁰⁰R. Gordon, T. Ward, T. Eicke, *The Strasbourg Case Law*, Sweet & Maxwell, London,(2001), p.1125-1138.

¹⁰¹*Ibid.*

¹⁰²*Supra* note 47, p.99

¹⁰³*Ibid*,p.101

¹⁰⁴CESCR, General Comment No 7,para 13; see also the Supreme Court of Canada, *Rodriguez v. Attorney general of Canada* (1993)3S.G.R, para.519

¹⁰⁵*Ibid.*

Proportionality in strict sense is a consequential test founded on the appropriate relationship between the benefits gain by limiting rights from the public purpose and the damages to the rights. Based on that link, it is to balance between the marginal least intrusive to right demanded by public purpose and how to exercise the rights. From this proportionality requirement a State cannot validly limit human rights by public purpose project if the conducts bring entire denial of rights, arguing for the ultimate goal by any means.

Though there is no scientific or precise ways to balance between competing human rights and evictions for public purpose development, there are principles that organizations must consider when they deal with competing rights situations.¹⁰⁶ First of all, situations in which rights, interests, and values may seem to compete, human rights will usually hold a higher status than interests and values. In this case simple cost-benefit analysis that eviction can be justified if it ultimately benefits many people than those affected due to eviction will not work in case of human rights. Next, there should be an understanding on the integration ever exists among human rights; no rights are absolute nor hierarchy amongst human rights and rights may not extend as far as claimed. Furthermore, there should be an aim to respect the importance of both sets of rights and public purposes, but core of a right is more protected than its periphery.

2.4 Conclusion

Despite the International Human rights laws prohibit, in practice the State uses eviction as a means of attaining their public purposes development programs. On one hand the State is obliged to ensure development to improve the living standards of all its citizens by ensuring core minimum standard of living. On the other hand, the State is duty bound to make sure that the measures to realize human rights shall not be obstruct the realization of other rights. These create a paradox to the government's obligations. In order to make sure the human rights for certain groups of the society, the government shall take utmost great care to not to end up with defying the rights of other groups. Thus, the eviction results and process for any reason are supposed to depend on core minimum standards set forth under international human rights instruments.

¹⁰⁶Ibid.

From the theoretical sketch we noted under this chapter, States commonly carry out eviction using the justification of public purposes determined by the discretion power of government as provided by classical theoretical approaches. Due to the progress of the international community on the dynamic concept of development, rather than discretion power of the State, people have begun to be considered as center of development. Thus, rights-respect development dimension has led the international community to adopt human rights based approach to development (HRBAD). Under the HRBAD, the mere existence of public purposes is not sufficient to evict people from their home or land. It requires genuine public participation, upholding human rights and taking measures to avoid disproportional impacts of development on vulnerable groups of the society. Furthermore, human rights laws impose limitation on any public purpose developments driven evictions by demanding the State to justify it based on legality, unconcealed legitimate aim and proportionality test mechanism to fairly prioritize between competing human rights.

Chapter Three

International, Regional and Domestic Normative Human Rights Legal Frameworks Protecting Evictions

3.1 Introduction

Respecting, protecting and fulfilling the right not to be evicted depend, *enter alia*, on understanding the scope of the rights guaranteed under international, regional and national human rights instruments. Besides, the full enjoyment of the right is determined by how the rights are legally interpreted, and by the extent of corresponding obligations imposed on the State to realize the rights. Moreover, how striking the fair balance between violations of the rights and imposing legal, legitimate and proportionate limitations on the same rights are crucial determinant factor to ensure not only for enjoyment of the rights not to be evicted but also help as means to achieve the fullest satisfactions of other multiple human rights. The availability of an enforceable remedy to the violation of the rights under human rights laws have also enormous contribution to protect, respect and fulfill undertaking of the State parties obligations resultant to the rights of every one to not to be evicted.

The right not to be evicted from one's home or right to use land is fundamental human rights protected under international bill of Human rights; Regional Human rights systems and domestic Laws as well. Freedom from fear of eviction is the best depictions of the notion of security tenure as elaborated by the Committee of Economic Social and Cultural Rights (CESCR). And legal security of tenure is the first amongst the factors that authenticates the adequacy of right to adequate housing.¹⁰⁷ Tenure takes various forms including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements. In the expression of the CESCR, legal security of tenure guarantees legal protection against forced eviction, harassment and other threats to the right to adequate housing.

Article 25 of UDHR, article 17 of ICCPR and article 11(1) of the ICESCR are international bill of Human rights which protected the right not to be forcibly evicted from one's home or right to use land. Apart from this normative recognition of the rights, both the Human Rights Committee (HRC) and CESCR expounded on the

¹⁰⁷CESCR, General Comment No. 4 (1991): The right to adequate housing (article 11), para. 8

scope of the right to freedom from evictions and clarified the duty bearers and right-holders in case of eviction. The scope of limitation on the rights not to be evicted when evictions are justified for legitimate public purposes, the procedure to be followed by law enforcing authority and the corresponding obligations as well as consideration of vulnerability has been further developed by the treaty bodies and charter bodies¹⁰⁸ of UN.

The purpose of this chapter is, therefore, to make the first descriptive analysis to the right not to be evicted as premises for normative legal frameworks against which the Ethiopian laws and practice of eviction for public purposes to be analyzed. Under this chapter, the human rights legal frameworks prohibiting evictions are dealt with in a broader sense encompassing human rights norms, principles, ideas, values, discourse and arguments pertaining to protection from evictions. The first section is devoted to the international legal frameworks for protections of eviction. The second section briefly presents the legal protection to the right to freedom from evictions provided by the Regional Human rights systems namely Europe, Africa and Inter-American human rights Systems. Finally, the chapter discusses the Ethiopian human rights protection of the right not to be evicted in closely looking at FDRE constitution, other subsidiary legislations regulating evictions, and public purposes development policies and programs cause for evictions.

3.2 International Legal Frameworks for Protection of Evictions

3.2.1 The scope of the Rights to Freedom from Eviction

Article 55 of the United Nation Charter (UNCH) States that alongside with its member States the UN shall promote and observe a higher standard of living for all. The charter pledges to the human rights but without containing any naming of specific rights. This UN promise to human rights were begun to be accomplished when the first international codifications of human rights-UDHR- among other things came up with proclaiming the rights to housing which includes prohibition of eviction. Thus, in

¹⁰⁸See for example, the UN Basic Principles and Guidelines on Development-based Evictions and Displacement (2007) adopted; 1993Presented in the report of the UN Special Rapporteur on Adequate Housing,MiloonKothari,A/HRC/4/18,February2007.Availableat:http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdfavailable <http://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx> and www.hic-sarp.org;see also United Nations Commission on Human Rights Resolution 1993/77, 'Forced Evictions', March 1993; see again United Nations Commission on Human Rights Resolution 2004/28, 'Prohibition of Forced Evictions', April 2004.

terms of international bill of human rights, the right to adequate housing was first recognized in the UDHR under article 25(1) in stating that:

“Everyone has a right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”.

It may be argued that since the UDHR is a declaration it has no legally binding force, and it only serves as mere aspirations often referred to as “common standard of achievement”.¹⁰⁹ As a result, some argues that the protection of the right not to be evicted incorporated under UDHR has no compulsory legal warranty. Nonetheless, it would be difficult to argue to date that the UDHR has no binding force as all the rights in UDHR have been almost included under those binding documents-ICCPR and ICESCR. In supporting this view, Philip, claims that the UDHR has acquired the status of *jus-cogent* international law by the reason of the consent practice of the States.¹¹⁰ Thus, with regard to protections of eviction as Stated in article 25 of UDHR, it puts normative solid foundations to the rights incorporated in subsequent conventions which have binding force on the State parties to the binding international human rights instruments.

Deriving the content of the right to freedom from evictions as is found in article 11 ICESCR adequate standard of life and in article 17 of ICCPR is an arduous task due to the fact that protection of eviction is derivative of the right to adequate housing on one hand and eviction can be a ground for the violations of many other rights on the other hand. Nevertheless, in light of the CESCR’s general comment on the right to house in general and the forced evictions in particular as deliberated by the General

¹⁰⁹Scott Leckie, From Housing Needs to Housing Rights: An analysis of the Right to Adequate Housing Under International Human Rights Law, (The International Institute for Environment and Development , London,(1992), p.15.

¹¹⁰Alston Philip, International law and the right to food, in the right to Food (eds., Alston and Tomasevaski, 1984),p.22; To show this consent practice of the states ,for example, see article 13(2) of FDRE Constitutions which has given recognition to the UDHR in stating that ”The fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia”.

Comment no. 4 and no. 7 respectively, attempt is made to analyses the scope of the rights protected by virtue of freedom from eviction.

Article 11(1) of the ICESCR States that:

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent”

From the provision of the convention, the adequate right to housing is guaranteed along with rights considered as basic needs for life. The term “adequacy” has intentionally utilized to qualify that the scope of the rights will be determined based on numerous factors. With regard to what constitute adequacy, the CESCR reiterated that the adequacy of the right housing will be determined by taking in to account the aspects of the rights which includes legal security of tenure, availability of services, affordability of the houses, habitability of the house, accessibility of the house, location and cultural adequacy of the house.¹¹¹ From the CESCR jurisprudence, therefore, it is not only deprivation of shelter that constitute eviction nor unsecured tenure only, but also denial of service to utilize home, exposing individuals to costly rental house, very remote location of houses from place of regular work or any other social facility, inaccessibility of houses to own or to get rent and cultural inadequacy of house all would amounts to evictions.

Secondly, the real meaning of the Convention in defending freedom from eviction must be read in conjunction with other human rights in general and has to be taken as the rights of everyone to an adequate standard of living. CESCR described the scope of protections of eviction by affirming that the interrelationship and interdependency which exist among all human rights causes forced evictions frequently resulted with violation of other human rights. From this point, one can identify what the State can do and cannot do by virtue of the right to freedom from eviction which is

¹¹¹ General Comment No 4, Supra note no.1, Para. 8.

indivisible and interdependent with other human rights. The first thing, here is, the State cannot ensure the right to housing, by disregarding the right to food which may be adversely affected as a result of eviction.¹¹²In *Bandhua Mukti Morcha vs. Union of India*, case the court aptly discovered the integration approaches to human rights in stating that:

*“The fundamental right to life which is the most precious human right ... must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may ... enhance the dignity of the individual and the worth of the human person. We think that the right to life includes right to live, with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about ”*¹¹³.

Likewise, in *SERAC vs. Nigeria case*, the Commission for ACHPR systematically inferred the right to food from the rights to life and the deprivation of right to food may occur due to the eviction of people from their cultivable land. According to the Commission, the right to shelter goes further than the provision of a roof over one’s head. The State cannot make prioritization between two or more human rights which are considered as fundamental for life.¹¹⁴If the State attempts to make prioritization among the rights fundamental to adequate standard of life, the realization of the prioritized rights become meaningless as the violations of the ignored rights will bring the same effect to the survival of human being with decent life. As a result, States cannot justify the violation of one right under the duty to fulfill other rights for the reason that those rights are interdependent and violation of one may cause for the denial of another. Similarly, in *Olga Tellis case*, the Indian Supreme Court found out that the eviction from land cannot be separately treated from the right to livelihood if the evictee solely rely on the land they occupied to their livelihood.¹¹⁵

¹¹²The Social and Economic Rights Action Centre and the Center for Economic and Social Rights v. Nigeria

¹¹³*Bandhua Mukti Morcha v Union of India*, AIR 1984 SC 802

¹¹⁴*Ibid.* From SERAC case, as part of its rationale, the African Commission on Human and Peoples Right explained that eviction took place due to destruction of land and farms, it caused also the violation of right to life.

¹¹⁵*Olga Tellis v Bombay Municipal Corporation and Others*, (AIR (1986), sec.180.

The right not to be evicted has also been recognized under ICCPR. Article 17(1) provides: “*No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence ...*” According to the HRC, the main purposes of this provision is to protect and enhance the liberty of individuals -the existence, autonomy, security and wellbeing of every individual in their own private sphere.¹¹⁶ The HRC noted that the term home under article 17 of the ICCPR has to be understood to indicate the place where a person resides or carries out his usual occupation.¹¹⁷ There is strong linkage between these rights and the right to freedom from eviction.¹¹⁸ The purpose of the human right against arbitrary or unlawful interference with the home is justified to protect the security and autonomy of the person in their home. It is in their home that people are able to be themselves in the private and personal senses. That is fundamentally important for the person’s social and family life and the attainment of their full potential as an individual.

From the above points , the scope of rights to freedom from eviction as protected under the article 11(1) of ICESCR is not limited to protecting the roof over one’s head or land use right, it also includes other rights those are fundamental to adequate standard of life. It indicates that freedom from eviction cannot be fully ensured by integration of rights in the ICESCR but also it can include those rights not expressly enshrined in the convention. Likewise, the UN Sub-Commission on the Promotion and Protection of Human Rights reaffirmed the strong tie between violations of other ranges of human rights during eviction in saying that:

“the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the

¹¹⁶HRC, General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honor and Reputation, UN Human Rights Committee, 32nd session (8 April 1988).

¹¹⁷Ibid, para.5

¹¹⁸Kevin Bell, Protecting public housing tenants in Australia from forced eviction: the fundamental importance of the human right to adequate housing and home, (Monash University Faculty of Law Costello Lecture, (2012), unpublished), pp.13-14.

right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment.”¹¹⁹

In the same manner, the UN Commission on Human Rights designated that “forced eviction constitutes a gross violation of human rights.”¹²⁰ Furthermore the CESCR, vindicated that evictions, in practice, usually results with violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.¹²¹

Like ICESCR, the CRC also has labeled the same rights fundamental to life together with the right to adequate housing. Article 27(3) of the CRC pronounces that:

“State parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing”.

The right to be protected from evictions has emerged from courts and quasi-judicial bodies concerns with civil and political rights, i.e. the right to respect for the home, right to privacy, right to life and right to freedom of movement and protection from torture.¹²² The Human Rights Committee has commented on the right to freely choose one’s residence as follows: *“Subject to the provisions of article 12, paragraph 3, the right to reside in a place of one’s choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory”.*¹²³

From the above discussion, the scopes of the right not to be evicted are not limited to unsecured tenure of home and land. Since limitation of the rights also adversely affect affects much more human rights, the right cannot be fully enjoyed in isolation from many more rights from CPRs and ESCRs. As a result, it imposes both negative and

¹¹⁹The Sub -Commission on the Promotion and Protection of Human Rights, resolution 2003/17, para.1.

¹²⁰UN Commission on Human Rights, resolution 1993/77, 10 March 1993, para 1.

¹²¹CESCR, General Comment No7,para.4

¹²²Article 17 of ICCPR.

¹²³HRC, General Comment No. 27: Freedom of movement, (Article 12 (1999), Para. 7.

positive obligation needed to be ensured both in result and in conduct of the duty bearers. The next section is devoted to dealing with the obligation of States corresponding to the right not to be evicted.

3.2.2 The Obligation of States to the Right not to be Evicted

In all human rights conventions, State parties are primary duty bearers to undertake the full realization of rights protected under conventions. Appealing to provisions of the domestic law, including, the national Constitution to justify a failure to perform or give effect to obligations under the human rights treaty is prohibited.¹²⁴ Once they ratified human rights treaty, States cannot justify their disobedience by raising the system of government or their political economic policies.¹²⁵ As eviction touches a large numbers of human rights the nature of obligation correspondently arise from the right not to be evicted have also multidimensional aspects. But the States are not only responsible for their own interference in the protected rights. The obligation to respect the right to housing requires that States not to carry out forced evictions, while the obligation to protect obliges them to prevent forced evictions that may be carried out by non-State actors such as landlords, developers and paramilitary forces.¹²⁶

There have been evolutions of conceptual debate on the typology of the State obligation to wards certain human rights.¹²⁷ Either through four layers (respect, protect, promote and fulfill) or through tripartite typology (respect, protect and ensure) State commit to giving effects to the rights enshrined in the human rights conventions. In *SERAC vs. Nigeria* case, the commission for ACHPR critically identified four layers of obligations identical to what Asbjorn Eide proposed in 1980s and the commission deliberate on the universal application of the State obligation to all rights which entail a combination of negative and positive duties. Unlike the African Commission, the treaty bodies particularly the CESC and HRC preferred to

¹²⁴ HRC, General Comment No.31, Para. 4; see also article 27 of the Vienna Convention on the Law of Treaties.

¹²⁵ CESC, General Comment No 3, para.3-4.

¹²⁶ Supra note. 1.para 8.

¹²⁷ Some scholars proposes four layers of obligations that imposed on the state, namely, respect, protect, promote and fulfill; whereas, other suggested the tripartite typology of duties of states; For detail see Oliver De Schutter, International Human rights Laws: Cases, Materials and Commentary, Cambridge University Press, Newyork, (2010),p.242; see also Henry Shue, "The Interdependence of duties", in Philip Alston and Katarina Tomasevski (eds.), the right to food(the Hague: SIM, Martinus nijhoff, 1985), pp. 83–95.

deal with the nature of State obligation into tripartite typology.¹²⁸ As viewed by the CESCR, the State obligation to respect, protect and fulfill is not the only analytical tool which has been used in order to clarify the content of States' obligations. The Committee applied the '4A's scheme (availability, accessibility, acceptability, and adaptability) applicable across all social and economic rights.¹²⁹

Since the aim of the research is not to analyze all the types of State obligation in detail, the following discussion corresponds to each of these levels of State responsibilities concerning the right not to be evicted. Common Article 2 (1) of the ICESCR and ICCPR deal with the obligation of States parties under both Covenants. Article 2 of both covenants are of particular importance to grasp a full understanding of the obligations of State corresponding to the right not to be evicted and must be seen as having a dynamic relationship with all of the other provisions of the Covenants.

3.2.2.1 Obligation to Respect

This obligation to respect entails that the State to refrain from any actions which interferes with the enjoyments of any rights.¹³⁰ Eviction and interference with other rights constitute violation of the obligation to respect. Since this obligation not requires availability of resources, it imposes immediate realization and hence not subjected to progressive realization. Progressively realized rights are owing to the resources required for the realization of rights they are incapable of immediate implementation. But at pretext of progressive realization it is prohibited to take retrogressive measures.¹³¹ No right can be permitted deliberately to suffer an absolute decline in its level of realization, unless the relevant duty-bearer can justify this by referring to the totality of the rights in force in the given situation and fully uses the maximum available resources. However, Obligation imposed on State by the corresponding right not to be evicted are of both combination of immediate and progressive realization duties.

¹²⁸ CESCR General Comment No.3 and HRC general Comment no.31 on the nature of state obligations; the Maastricht guidelines on Violations of economic, Social and cultural rights (1997) (adopted by a group of academic experts meeting in Maastricht 22–26 January 1997), Para. 6

¹²⁹ CESCR, General Comment No.13, para.6

¹³⁰ S.Lekie, The Justifiability of Housing Rights, p.10, available at <http://www.uu.nl/faculty/leg/nl/organisatie/departementen/departementrechtsgelerdheid/organisatie/onderd accessed on 23 November,2014>.

¹³¹ Ibid. See also, CESCR General Comment No.3, para 3-5.

3.2.2.2 Obligation to Protect

Duty to protect necessitates the State party to protect persons within their jurisdiction from violation of their freedom from eviction that is carried out by non-State actors including business entities and private individuals rent givers.¹³² Thus, it requires the State to take positive actions. Positive obligation demands the State to act or do something to ensure protections of unjustified evictions that may be committed from any source. The State can comply with such obligations through all appropriate means including by means of enacting legislations that prohibit eviction. In contrast to this, negative obligations of the State forbid the States themselves to act in any way which would directly or indirectly encroach up on the right to freedom from eviction. It obliges the State to refrain from evicting the slum or squatter settlements, informal settlers, private and public tenants in a ways inconsistent with international human rights laws. Duties to protect eviction of the State parties involve both positive and negative obligations.

3.2.2.3 Obligation to Fulfill

The obligation to fulfill incorporates both an obligation to facilitate and an obligation to provide.¹³³ With its two dimension the obligation entails that the government must progressively realize the full enjoyment of freedom from eviction. Hence, it demands to ensure the rights not only through conducting something neutrally, but also it needs to ensure the rights to be realized in result with doing some adjustments. The CESCR has made it clear that the obligations of States parties include both obligation of conduct and obligation of result.¹³⁴ Obligation of conduct demands that the State has to undertake a specific step in order to ensure freedom from eviction. For example, States should adopt national strategies to enable suitable enjoyments of the rights to freedom from eviction by preparing human rights impact assessments before conduction of any evictions for public purposes, allowing all access to alternative accommodation in case of unavoidable evictions, ensuring the livelihood of all affected peoples etc are obligation of conduct.

¹³² Supra note. , CESCR, General Comment No.7, para 14.

¹³³ See for example Right to adequate food as a human right, Study Series No. 1, New York, 1989 (United Nations publication, Sales No. E.89.XIV.2)) as cited in the CESCR, General Comment No. 12, para.15.

¹³⁴ CESCR, General Comment No.3, para 4-5.

Obligation of result entails attaining a particular outcome through active implementation of policies and programmes. It requires employing special measures; however, conduct and result cannot be separated. The concepts of obligation of conduct and result provide an effective tool for monitoring the implementation of ESC rights. It also shows that realization of the right not to be evicted to is a dynamic process involving both immediate and long-term intervention.

3.2.3 Right Holders

In general, for all human rights conventions, once ratified, it imposes legally binding obligations on the State party. The obligations require them either to refrain from interfering with or to do something to the individuals' rights over whom they can exercise legitimate State authority.¹³⁵ Article 11(1) of ICESCR also frames the right holder of the right to freedom from eviction as convention recognizes "*the right of everyone*". In addition, the international Convention on Elimination of All forms of Racial Discrimination incorporated the right to housing with prohibition of racial discrimination in all its forms and to guarantee the right of every one without basing on any ground of discrimination.¹³⁶ Furthermore, the CEDAW requires the State party to the covenant to eliminate discrimination against women, particularly the rural women, to ensure adequate living conditions, including housing, sanitation, electricity and water supply.

Hence, no one is excluded from the protection accorded by the ICESCR for the rights not to be evicted. Every individuals or groups comprising individuals are beneficiaries of the right without contingent on any grounds of disparities. States cannot make distinctions among individuals on the ground of the economic status of the person, whether the person is owner of home or sub-tenant, whether the person rented from public or from individuals. We can also infer from the CEARD and CEDAW that, prohibition of eviction by merely gender neutral taking measure to ensure formal equality is not suffice to bring about equality of result to every person who is right holder. It need to go beyond that to consider the attendant circumstances in which some segments of the society might affected disproportionately due to the eviction.

¹³⁵ Sieghart Paul, *The international Law of Human rights*, Claredon Press, Oxford, (1983), p 15.

¹³⁶ Article 5(e) (iii) of the Convention on Elimination of all Forms of Racial discrimination.

3.2.4 Procedural Guarantee

As discussed above, in principle, eviction is prohibited under international human rights law. Notwithstanding that, in case it is unavoidable, the State needs to sufficiently justify the necessity for the eviction and required to procedural guarantees. Due to such rigorous requirements essential to justify eviction and the foreseeable impacts of eviction on human rights, States are required to explore fully all possible alternatives before they plan and carry out evictions. As we have seen in chapter two, the classical approaches of the States' "“eminent domain” theory of public purposes justification for eviction is not proper to execute eviction as solely discretion of government when the eviction contends with fundamental human rights. Human Rights based approach to development and legitimate limitation clauses provided by the human rights treaties have to be appropriately followed by the government to carry out rights-respect eviction. Consequently, only in exceptional circumstances, when prior law authorized and carried out in accordance with international human rights law that eviction is allowed. In most of the case eviction is justified when it undertakes exclusively for the purpose of promoting the general welfare in reasonable and proportional to the other rights limited. Once eviction is justified on its substance, the international human rights laws provides procedural guaranty what prior eviction preparation are required from the State, how it shall be conducted without refuting human rights, and what follow-up measures shall be done post-evictions.

3.2.5 Pre- Eviction

The CESCR t has clearly stated what the State has to ensure before an eviction take places.¹³⁷ These procedures before eviction includes: First, legislative and other measures should adequate to prevent and, punish forced evictions carried out without appropriate safeguards, by the State or none-State actors. Second, the State should exhaust all viable alternatives in consultation with the affected people to avoid, or at least minimize the adverse effects it would bring on human rights. Third, the State has to make accessible all legal remedies to those who will be affected by eviction orders. Moreover, without discrimination on any ground all the concerned individuals could have a right to get adequate compensation for any property affected as result of

¹³⁷ CESCR, General Comment No.7,para.9-14

eviction Like the CESCR, the Basic Principles and Guidelines on Development-Based Evictions and Displacement provide the procedures to be followed by the State prior to implement evictions.¹³⁸ According to the guideline, appropriate notice shall be served to all affected people; effective, advance and relevant information which includes proposed comprehensive resettlement plans and efforts to protect vulnerable groups shall be disseminated; reasonable time period for public review and the provision of legal, technical and other advice to affected people about their rights and options shall be provided.

3.2.6 During Eviction

In the course of eviction, numerous activities¹³⁹ have to be complied by the eviction enforcing authorities. These are the mandatory presence of government officials, allowing access to neutral observers, ensuring protection of dignified human rights, ensuring steps to be taken to avoid disproportionate effect of eviction on vulnerable groups, ensuring necessity and proportionality in case of use of force, guarantying the time of eviction to be appropriate to effected, and ensuring no one is subject to direct or indirectly be discriminated or arbitrarily deprived of property or possessions as a result of demolition. In addition to the UN guideline, the CESCR illustrated that consultations with affected people shall be genuine, and the notice must adequate and reasonable.¹⁴⁰

3.2.7 Post Eviction

The procedural protections to be applied after an eviction took place are also significant in determining whether the eviction conducted for public purposes would be reconciled with human rights or not. Both the UN guidelines and the General Comment No.7 of the CESCR demand State that, after eviction, the immediate provision, fair compensation and sufficient alternative accommodation, or restitution shall be ensured. The State shall provide minimum basic essential needs for evicted people or groups, especially, for those who are unable to provide the needs for themselves i.e. to let them have safe and secured access to food, water and sanitation,

¹³⁸UN High Commissioner on Human Rights, Basic Principles and Guidelines on Development-based Evictions and Displacement: Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18), para. 5

¹³⁹Ibid, Para 45-51

¹⁴⁰CESCR, General Comment No 7, para .14.

basic shelter, livelihood sources, housing and other s fundamental rights to life. The guidelines particularly include that the State should ensure that members of the same extended family or community must not be separated as a result of evictions.¹⁴¹

3.2.8 The Link between Eviction and other Human Rights

Evictions, particularly, unlawful or forced evictions usually result in the horrible devastation of human rights. In views of UN Commission on human rights, the practice of forced eviction carries an unpleasant infringement on human rights, in particular, the right to adequate housing.¹⁴² It has been assumed that, whenever evictions occurred, it would be inevitable to affect the livelihood of the evictee¹⁴³, disintegrates social networks, marginalizes the poor households to the peripheral, interrupts child educations or increases costs that may result in school dropouts, exposes the vulnerable groups to be marginalized or indirectly discriminated. Forced evictions are extremely traumatic that threaten the human dignity.¹⁴⁴ Concerning this, the African Commission on Human and Peoples' Rights has once observed:

'Wherever and whenever they (evictions) occur, forced evictions are extremely traumatic. They cause physical, psychological and emotional distress that entails losses of means of economic sustenance and increase impoverishment, it causes physical injury and in some cases sporadic deaths, it breaks up families and increase existing levels of homelessness''.¹⁴⁵

Similarly, the International Human Rights Clinic has depicted the impact of eviction as grave threats to human rights and its outcome on those affected can often be characterized as a human tragedy".¹⁴⁶ According to the Amnesty International, the human costs of forced evictions are at once enormous, ramified and

¹⁴¹See the Guideline, supra note. 31, para.46

¹⁴²UN Commission on Human Rights, resolution 1993/77, para. 1.

¹⁴³Bartolome, J.L, et al, Displacement, Resettlement, Rehabilitation, Reparations and Development Final Draft, Capet won: WCD, (2000), p.9.see also *Olga Tellis v Bombay Municipal Corporation and others*, (AIR (1986), Sec. 180.

¹⁴⁴Lilian Chenwi, Eviction in South Africa: Relevant International and National Standards, (Community Law Centre, University of the Western Cape),(2008),p.2.

¹⁴⁵Social and Economic Rights Action Centre and the Centre for Economic and Social Rights vs. Nigeria (best known as SERAC case), Communication 155/96, and 2001 AHRLR 60 (ACHPR 2001) Para. 63.

¹⁴⁶International Human Rights Clinic, ESCR-Net, the Price of Steel: Human Rights and Forced Evictions in the POSCO-India Project (New York, NYU School of Law, 2013).

interconnected.¹⁴⁷ Eviction with multiplication of individual and social impoverishment through homelessness, insecurity and social isolation, humanitarian catastrophes- hunger, disease, lack of access to means of livelihood, loss of personal goods and property, loss of personal freedom and liberty, personal injury or death.¹⁴⁸ In some cases due to eviction, children are forced to leave school, farmers stop producing food, and people lose their cultural links as traditional lands are confiscated.

From the above discussion, it follows that eviction attacks the values that lie at the hearts of the binding international human rights instruments. It has a direct impact on the enjoyment of quite number of human rights, in particular the rights to life, liberty and physical integrity, right to adequate housing, right to food, right to education and etc. Despite the multi-destructive impact of eviction even that of for public purpose, its externalities on human rights has been recognized at the highest level of the UN Human Rights Council, CESCR, HRC, UN HABITAT and Global Strategy for Shelter.

Due to these uncountable human costs of eviction, international human rights law provides remedies mainly that should be implemented by the State parties to various human rights conventions. The subsequent section concentrates on remedies for evictions carried out by the State under the pretext of public purposes development, illegally, forcefully, without sufficient justifications, and generally by disregarding human rights laws.

3.2.9 Remedies for Unjustified Evictions

A violation of the right not to be evicted and associated rights occurs when a State fails in its obligations to ensure that they are enjoyed without discrimination or in its obligation to respect, protect and fulfill human rights. Or it may happen unintentionally when the State in good faith unable to strike the fair balance between the public purpose developments aimed to be achieved and human rights might be limited. As repeatedly discussed in the preceding sections, often a violation of the

¹⁴⁷ See Fact Sheet No 25, Forced Evictions and Human Rights (1996, Office of the High Commissioner for Human Rights), p. 9 ; See also UN-HABITAT Guide to Monitoring Target 11, improving the Lives of 100 Million Slum Dwellers (2003, UN HABITAT), pp. 2-13.

¹⁴⁸ Ibid.

right not to be evicted is coupled with violation of other rights, *inter alia*, the right to adequate housing, right to livelihood, right to food, right to life and etc.

Like in any human rights violation, all people are threatened with or subjected to eviction will have a right to access to timely remedy.¹⁴⁹ The remedies available for the violation of the right not to be evicted includes fair hearing, access to legal counsel, return, restituted, resettlement, rehabilitation, and compensations.

The very notion of rights entails, in addition to a substantive claim, the possibility to have recourse to a national — judicial, administrative, legislative or other — authority in the event that a right is violated. Every person who claims that his or her rights have not been respected must, therefore, be able to seek an effective remedy before a competent domestic body vested with the power to provide redress and to have its decisions enforced.¹⁵⁰

Revision of legislation is another remedy recommended to the violation of the same rights when the law itself is caused for materialization of arbitrary eviction. In such case the State should carry out a comprehensive review of relevant national legislations with view to ensuring the compatibility of the national law with international human rights standards and numerous right based development and evictions guidelines. Hence, if the earlier legislations are inconsistency with human rights standards, the State need to repeal or amend and or enact new laws to ensure the right to freedom from eviction. Specifically, the State should criminalize the evictions that may occur at private level.¹⁵¹ The State party should go further beyond that in designing development policies and strategies which caused for the existence of the eviction regulating laws disregarding human rights. As a result, there should be due process of laws in which the evictee can have appeal right before competent, independent and impartial tribunals which would review the administration tribunal decision.

The right to effective remedy implies that the victim of human rights violation is entitled to reparations for the extremely suffered. The State's obligation entails *inter*

¹⁴⁹See Article 2(3)(a-c) of ICCPR and Article 2 of the ICESCR; see also Approved by a group of experts in international law meeting, at Maastricht(Netherlands) from 2 to 6 June 1986 as cited in Fact sheet 25 forced eviction and Human Rights,

¹⁵⁰Article 2(3) of ICCPR.

¹⁵¹CESCR, General Comment No. 7, para. 13-14

alia bringing to justice those responsible for the violation, including public officials or State agents, and taking measures to prevent its recurrence. Indemnification for financial or non-financial damages to the evicted is one mechanism to repair human rights violation.

3.3 Regional Human Rights Instruments Protecting Evictions

Article 8(1) of the European Convention for the protection of Human Rights and Fundamental Freedoms provides: 'Everyone has the right to respect for his private and family life, his home and his correspondence'.¹⁵² Article 8(2) prohibits interference with that right by a public authority unless (among other things) it is 'in accordance with the law and is necessary in a democratic society'. Relying on these normative provisions of the convention, the ECtHR once held that a person has the right – (a) not to have his or her privacy, family, home or correspondence interfered with. In case *Connors vs. United Kingdom*, the court interpreted article 8(1) of the convention the legality of procedure to be followed in carrying out eviction as: "The eviction of the applicant and his family from the local authority site was not attended by the requisite procedural safeguards, namely the requirement to establish proper justification for the serious interference with his rights and consequently cannot be regarded as justified by a "pressing social need" or proportionate to the legitimate aim being pursued. There has, accordingly, been a violation of Article 8 of the Convention."¹⁵³

The Inter-American system of human rights provides protection in sustains of evictions and housing rights. Article 31 of the OAS Charter provides the following:

"In order to accelerate their economic and social development, in accordance with their own methods and procedures and within the framework of democratic principles and the institutions of the Inter-American system, the Member States agree to dedicate every effort to achieve the following basic goals:...(k) adequate housing for all sectors of

¹⁵²European Convention for the Protection of Human Rights and Fundamental Freedoms opened for signature 4 November 1950, 213 UNTS 221 (entered into force 3 September 1953).

¹⁵³See *Connors v United Kingdom*, (European Court of Human Rights, Application no. 66746/01, 27 May 2004)

the population and (l) urban conditions that offer the opportunity for a healthful, productive and full life....”

In addition, article 26 American Convention on Human rights recognizes economic, social and cultural rights in view of achieving them progressively but with undertake to adopt appropriate measures including legislative and other measures. The right to not be evicted is undoubtedly embodied in both CPRs and ESCRs of the region.

In Africa, the Charter on Human and Peoples’ Rights (ACHPR) forms the basis of human rights law in member States of the AU. The Charter does not recognize the right to adequate housing, nor expressly provides protection against evictions. Although under the context of the right of all peoples to freely dispose of their wealth and natural resources “*[i]n the case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to adequate compensation*”.¹⁵⁴

Despite the devoid of clear stipulation of the right to not be evicted in the charter, the African Commission Human and Peoples Rights steadily inferred by reading in the rights not clearly provide in the charter looking it in the guaranteed rights. In *SERAC case*, the commission systematically derived the right to food from the rights to life; the deprivation of right to food may occur due to the eviction of people from their cultivable land.¹⁵⁵

3.4 Legal and Policies Frameworks Regulating Evictions in Ethiopia

3.4.1 The FDRE Constitution

The FDRE Constitution is the first and supreme law that guarantees protections and regulates evictions for public purposes in Ethiopia. The Constitution gives effect to human rights in general into *four* ways. Firstly, more than one third of its content has devoted on human rights, including the right not to be evicted, either as part of the Bill of Rights or in National Policy Principles and Objectives.¹⁵⁶ Accordingly, the Constitution incorporates various human rights encompassing the civil and political

¹⁵⁴ Article 21 of the ACHHPR.

¹⁵⁵ See *SERAC case*, supra note. 38.

¹⁵⁶ Chapter 3 of the FDRE Constitution deals with fundamental rights and freedoms and chapter 10 set forth the national policy principles and objectives, Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995 (hereinafter cited as FDRE Constitution).

rights to socio-economic rights along with group or solidarity rights.¹⁵⁷ As far as the right to freedom from eviction is concerned, article 40(3) the constitution recognizes that land is a common property of nation, nationality and people and hence, an exclusive vested to State and People. This provision is an integral component of the right to freedom from eviction. The constitution also enshrined the economic, social and cultural Rights¹⁵⁸ and “to the extent the country’s resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security”.¹⁵⁹ Besides, every Ethiopian has given the right to choose his or her means of livelihood, occupation and profession. Moreover, the Constitution guaranteed for the prohibition of eviction, the right not to be displaced and procedural guarantee for affected people in case evictions demanded for public purposes.¹⁶⁰

Secondly, the Constitution puts the international human rights treaties ratified by Ethiopia to be an integral part of the law of the country.¹⁶¹ Ethiopia has acceded to ICCPR, ICESCR, CRC, and other core human rights instruments.¹⁶² Since the country has been party to most international human rights treaties that set minimum human rights standards universally, Ethiopia has an obligation to recognize, respect, ensure and fulfill the right not to be evicted as enshrined in ICCPR and ICESCR.

Thirdly, the constitution devised a mechanism of authoritative interpretation of human rights pronouncing as those fundamental rights and freedoms protected in the chapter three to be interpreted in a manner conforming to the principles of the UDHR, ICCPR and other international human rights instruments adopted by the country.¹⁶³ Lastly,

¹⁵⁷To illustrate some of the rights : right to life, to security of the person, to liberty, protection against cruel, inhuman, or degrading treatment or punishment, banning of slavery and trafficking in human beings for whatever reason, and forced or compulsory Labor, right to equality and equal Protection of the law from civil and political rights and the right to freely engage in economic activities, equal access to publicly funded services, the right to labor, housing, food water, health and educations from Economic social and cultural rights and the right to development and environmental rights from solidarity rights.

¹⁵⁸Article 41 of the of FRDE constitution, Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995 (hereinafter cited as FDRE Constitution).

¹⁵⁹Article 90(1) of FRDE constitution.

¹⁶⁰Article 40(8) of the Constitution.

¹⁶¹Article 9(4) of the FDRE Constitution; Notwithstanding the academic debate on the exact status of international human rights instruments in the Constitution, it recognize as binding laws that impose duties on all Federal and State legislative, executive and judicial organs at all levels to respect for themselves and enforce it.

¹⁶²Article 9(4) of the FDRE Constitution,. Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995 (hereinafter cited as FDRE Constitution).

¹⁶³Article 13(2) of FDRE Constitution.

non self-executing rights can be read in those completely guaranteed rights as inviolable and inalienable rights.¹⁶⁴ For instance, the right to life¹⁶⁵ can only get meaningful protection if and only if we protect the fundamental necessity for life such as right to food, health facility, water, and housing. Hence, the protection from eviction could possibly and fairly be read in right to food which in its turn integral requirement to right to life.

3.4.2 Other National legislations

The main legislations that aim to give effect to regulate evictions, displacements and expropriation of home or land for public purposes are Re-enactment of Urban Land Lease Holding Proclamation no. 272/2002, Urban Land lease holding proclamation no.721/2011, Expropriation of Land Holding for Public Purposes and Payment to Compensation, Proclamation No 455/2005, and appropriation of land for government works and payment of compensation for property by proclamation no. 401/ 2004.

There are also regulations, decrees and orders adopted by federal and Addis Ababa City Administration Cabinet that define the procedures and circumstances in which eviction is legalized and conducted. Regulation No.135/ 2007, Addis Ababa City Charter, and Directive No 19/ 2006 E.C as amended are relevant normative legal regime to regulate evictions carried out in the Addis Ababa City. The relevant provisions in the above laws as well as provisions in other legislations that place limits on evictions are set out in the subsequent parts of this research. The detail analysis on these laws will be made in the coming chapter.

3.4.3 Policies and Programs

In addition to laws and regulations, there are numerous national policies, strategies and programs as well as operation manuals that directly or indirectly set out government's justification to carry out evictions, mainly for public purposes, the procedure to enforce it, and evolution of the policy and programmes.

¹⁶⁴ Adem Kassie, Human Rights Under Ethiopian Constitution: A descriptive Overview, in Mizan Law re view, Vol. 5 No.1, (2011), p.44; See supra note 6, *Bandhua Mukti Morcha v Union of India*, AIR 1984 SC 802; see also SERAC case in which the ACHPR verified the integration approaches to human rights in similar to the 1993 Vienna World Conference on Human Rights, (Para. 5) which addresses the implicit recognition of the independence, interrelatedness and indivisibility of all generations of human rights by incorporating them on equal footing without any difference in consequence are now dominating the human rights jurisprudence as meaning full protection of one rights cannot be made in isolating rights fundamental to another.

¹⁶⁵ Article 10(2) and article 14 of the Constitution.

Urban land development and management policy and strategy which was adopted in 2013, is one of the relevant policy and strategy directly deals with how to conducting evictions. Under that policy the efficacy of the policy measured by the loyalty of the policy to ensure the development of the chosen political economy of the country.¹⁶⁶ The same policy and strategy was initiated based on four pillar principles that guided the enforcements of the substantive content of the policy including evictions or otherwise relocations.¹⁶⁷ These pillar principles are the constitution and the federal system, globalization and free market economic system, rapid growth and public usability and the developmental State and good government.

The policy reaffirmed article 40 of the constitutional provision in relation to land which has significant with the right not to be evicted. But the policy tended to avoid using human rights language. It seems that it gave greater deal of attention to economic growth and changing slum area to the ‘world class cities’.¹⁶⁸ From the policy more emphasis was given for rapid economic growth which may ensure the fulfillments of human rights by eradicating poverty. Nevertheless, the adverse impacts of eviction for public purposes on other human rights might be incidentally occurred unless otherwise programmed and emphasized by the policy maker. The policy fails to consider the competing human rights while the government makes an effort to bring economic growth and infrastructure development. The other flaw of the policy is that it repeatedly declares land as the sole property of the government.¹⁶⁹ By gainsaying the Constitutional provision of human rights, it denied the people’s right common ownership on the land with government. The policy would have been promoting human right based approaches to development to be entrenched up to local government which contributes for its realization to the greatest extent possible before other interests.

As discussed in Chapter two of this research, rights-based approach to development is explained as a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Human Rights-Based Approach to

¹⁶⁶FDRE, Ministry of Urban Land Development and Construction, Urban land development and management policies and strategy, (Amharic Version Addis Ababa), Nehassei 2005, p.1.

¹⁶⁷Ibid, pp.4-11.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid, pp.15-16.

Development integrates the norms, standards, and principles of the international human rights system into the plans, policies and programmes of developments. This is because as confirmed in the Vena Declaration and Plan of Action of the 1993vWorld Conference of Human rights, development, human rights and democracy are inter-related and interdependent. Most of the Ethiopia's development policies, programmes and strategies is claimed that all use development languages in terms of ensuring public welfare and economic and infrastructure development. Albeit the practice otherwise, Urban land development and management policy and strategy fail to boldly integrate human rights as one of its pillar and objectives of achievement. While the Ethiopia State has signed international agreements which demand, on the one hand to respect, protect and fulfill human rights of not to be evicted and associated rights, and on the other hand, the government by this policy and strategy committed to bring all round development at any cost and by any means. Hence, the policy dissociated developments from human rights.

Since development is best conceptualized as a two edged sword in cutting two ways, it needs mainstream human rights both as a means use to implement and end goal to be achieved.¹⁷⁰ The dissociating development from human rights are resulted with lack of accountability, short of empowering the people, exclusion of people from the beneficiary of development and decision making on matters concern them, discrimination and inattention of vulnerable groups of the society. Above all developments which ignores human rights from the center of its policies and strategy, are usually implemented arbitrarily without giving due attention for the possible competing human rights.

FDRE Ministry of Urban Development and Construction, Urban Land Development and Management Integrated City Redevelopment Operational Manual has addresses the capacity of the evictees to build houses on substitute land, the alternative choice of residence area to be given to evictee, consultation, the reasonability of the time of carrying out eviction and etc. However, similar to the policy, it has never used human rights language in corroborating the eviction operation manuals with human rights based approaches to development. The manual puts the eviction as the only means of letting way for the city beautification project. As a result, it does not provide

170Kathleen E. & et al (eds.), Human Rights in the Twenty-First Century: A Global Challenge, Martinus Nijhoff Publishers (1993), pp. 695-698.

exhaustion of finding all viable alternatives before planning and carrying out evictions.

In June 2011, the United Nations Human Rights Council (UNHRC) unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs)¹⁷¹. To promote the implementation of the UNGPs within their respective national contexts, the UNHRC called on all Member States to develop National Action Plans. National Human rights Action Plan (here in after, NHRAP) is a primary mechanism which enables the State to consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights.¹⁷² As envisaged by UN Office of the High Commissioner for Human Rights (OHCHR) the NHRAP benefits the States to raise awareness of human rights issues among government officials, security authorities, civil society organizations, and the general public.¹⁷³ The NHRAP also mobilizes a broad spectrum of society in a cooperative atmosphere, propose realistic activities, set achievable targets, promote linkages with other national programs, particularly in the areas of development and education, and generate commitment to action.¹⁷⁴

FDRE NHRAP was adopted towards the country's commitment for being a member of UNHRC.¹⁷⁵ The NHRAP aims at strengthening a better implementation of human and democratic rights as stipulated in the Constitution. The Action Plan included how coordinated implementations of activities are made by various government bodies on public purposes programmes including eviction. It was intended to address gaps in good governance that has been a challenge in fully ensuring human and democratic rights. The good part of the document is it's an encouraging step toward comprehensively diagnosing and addressing human rights violations in Ethiopia. Nevertheless, the document misdiagnoses and ignores structural mechanisms and official policies that violate citizens' human rights.¹⁷⁶ The Right to Adequate Housing section of the NHRAP focuses on urban homelessness addresses in it well, but makes

¹⁷¹Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, U.N. Doc. A/HRC/17/31 (2011), available at <http://www.businesshumanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>; See also Office of the United Nations High Commissioner for Human Rights, Professional Training Series No. 10: Handbook on National Human Rights Plans of Action, U.N. Doc. HR/P/PT/10 (Aug. 29, 2002) available at <http://www.ohchr.org/Documents/Publications/training10en.pdf>.

¹⁷²World Conference on Human Rights, June 14–25, 1993, Vienna Declaration and Programme of Action, p. 71, U.N. Doc. A/CONF.157/23 (July 12, 1993).

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵The Federal Democratic Republic of Ethiopia, "National Human Rights Action Plan 2013–2015," draft translation, 2013, available on www.ertagov.com accessed on 21 November, 2014.

¹⁷⁶ Ibid, p. 130.

no mention of rural land eviction owing to public purposes to displaced farmer communities.¹⁷⁷ It also disregards the right to food and the prevalent food security may be caused due to eviction of farm land for the sake of city expansions.¹⁷⁸

3.5 Conclusion

In this chapter the study has revealed that the human right not to be evicted is firmly entrenched within the International, Regional and Ethiopia's domestic human rights legal frameworks. Apart from HDHR and other binding human rights conventions, the treaty bodies, charter bodies, regional human rights Commissions, human right courts have developed jurisprudence that acknowledges even in eviction for public purposes development multiple human rights usually violated. The right not to be evicted is therefore viewed as the meeting points of the inter-related, interdependence and integration nature of human rights. As a result, the corresponding obligations imposed on the State from the right not to be evicted may consist of obligations of positive and negative natures, obligation to conduct and result, progressive and immediate obligations, or may tripartite types of obligation(respect, protect, and ensure), or and in four layers(respect, protect, promote and fulfill) obligations. However, States in good faith wants to carry out public purposes development which might cause evictions, should conduct unavoidable in accordance with human rights approaches to development and within a margin of imposing valid limitations to human rights principles.

Though broadly understanding of chapter three of FDRE Constitution guarantees to protect, respect and ensure the right not to be eviction, the Ethiopia's evictions regulating legislations, developmental policies, strategies, plan of action and programmes are not designed in harmony with the Constitution. Inadequately includes human rights issues as a mainstream in eviction for public purposes against the principles and conditions set by human rights based approaches to development. They have totally ignored the negative impacts of uncontrolled developments. The document reviews of several policies and programmes related to eviction for public purposes have showed that there is no preparation and planning on the possible competing human rights.

¹⁷⁷Ibid,
¹⁷⁸Ibid.

Chapter Four

The Human Rights and Eviction for Public Purposes in Ethiopia: the Law and Practices

4.1 Introduction

In the previous chapter, we noted that Ethiopia has legal frameworks which directly or indirectly standardize, allow and regulate evictions for public purposes. Moreover, the country has been party to numerous international human rights laws that prevent unjustified eviction. Furthermore, the fundamental rights and freedoms have been incorporated with chapter three of FDRE Constitution. Effective legislative measures are, *enter alia* plays pivotal role to circumvent arbitrarily evictions and guarantee security of tenure. The law to play such role should fully comply with international human rights standards. However, sometimes even if some good laws do exist, the law enforcing authority may freely negate owing to unequal power relationship exists between the poor community to be evicted and the authorized body which determines the public purpose might causes eviction.¹

Eviction as defined in chapter two of this research has both negative and positive effects. It has been claimed harmful because in most cases it contravenes with human rights laws. Yet, evictions which are justified on well founded ground and are carried out in accordance with dictates of international human rights laws are not prohibited. How to maintain the fair balance between its unpleasant impacts and validly fostering its dynamism is always challenging. Thus, the notion of evictions and its practices has been remained the most contentious issues in Ethiopia. The loops of language used to explain the magnitude and the phenomena of evictions in Ethiopia are similar to many other large eviction projects around the world. Officials would not like to hear the term eviction. To quote one official from Ministry of Urban Development, Housing and Construction: *“I do not like to use and hear the term ‘eviction’ as it has only negative connotation; the appropriate term instead of eviction is re-location”*.² Evictions are explained in other terms such as relocation, displacement

¹UN-HABITAT, Quick guide line for Evictions: Housing the poor in African Cities, (UN Human settlement Program), 2011, p.7.

²Interview with Mr. Israel Tesfaye, Land Development and Management Bureau Head, one of the key informant interviews from the FDRE Ministry of Urban Development and Construction, conducted on November 17, 2014.

and/or resettlement often exceedingly technical, and invariably connected with notions of ‘public interest’.³ In contrast, the FDRE Constitution and subsequent legislation use the term ‘eviction’. For instance, article 40(4) of the constitution utilizes the term in saying that “*Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession.*” The subsequent sub-article of the same provisions of the Constitution uses the ‘displacement ‘and ‘expropriation’ to convey the same concepts with eviction.⁴What is common to all terms used by the law is that people should leave their habitations -home or land in case the place is needed or is required for public purposes.

In Ethiopia, predominantly, in Addis Ababa the government is likely to continue the policy of eviction for public purposes in probable future including in the three sites selected for this research, from which thousands of residents were evicted to let way for condominium projects. Almost all the evictees from the Sammit area are farmers who used to cultivate land at the outskirts of the city. An eviction carried out at *Arat-kilo* area-from the inner city, is part and parcel of the land re-development and city beautification purposes of the city administration. And evictions conducted at *Gulalle* sub-city has been prepared for giving way for the public concession- expansion of federal government palace compound to be constructed there. The question is, have these evictions been done according to the international and national human rights standards that the country obliged to observe or not.

As discussed repeatedly under preceding chapters any eviction must be justified and authorized by law, carried out in accordance with international human rights law, undertaken solely for the purpose of general public welfare, reasonable and proportional. Similarly, in case eviction is unavoidable, procedural protection shall be provided to all and shall be applied to all with special consideration of vulnerable groups, irrespective of whether they hold title to home and property under domestic laws or not. The purpose of this chapter is, therefore, to examine whether the eviction regime laws and practices in Ethiopia are adherent to international human rights

³ Ibid.

⁴See Article 40(5) and (8) of Proclamation No.1/1995, proclamation of the constitution of Federal Democratic republic of Ethiopia, Federal Negrit Gazette, 1st year no.1, Addis Ababa 21st August 1995 constitution(Hereinafter the Constitution).

standards or not. To this end, the research under this chapter, first appraises the justification of eviction for public purposes legally and practically provided in Ethiopia with its focus on some cases from eviction sites in Addis Ababa City. As a result,, the study weighs against the eviction procedures set forth under the law and its implementations in Ethiopia with that of the standards set forth by international human rights laws. Finally, it examines the adverse impacts of eviction on specific human rights and its disproportionate impacts on some right holders using the human rights balancing test tools. By doing that, the research seeks to reconcile the eviction for public purposes and human rights in Ethiopia.

The chapter is organized into four sections. The first section is devoted to the justifications of evictions under the Ethiopian legal regimes regulating evictions, policies and development programs which lead to eviction. Hence, empirical data collected from the eviction sites have been analyzed within the contexts of the international and national human rights standards. Under the same section, the research explores whether the law and practices of eviction is reconciled with human rights norms in light of justification of eviction. The second section investigates the eviction procedures provided by the laws and the practices with focus on the selected three eviction sites e. The third section r explores whether the law and policy actions of evictions for public purpose projects are adequately addressed the adverse impacts of eviction on other human rights such as the right to housing, food, livelihood, freedom of movement and choice of residence, the right to privacy and home. And the last section examines whether the Ethiopian laws and practice addresses the disproportional impacts of eviction on vulnerable groups of the society when evictions are carried out for the desired public purposes.

4.2 Justifications of Eviction: Limitation of Human Rights or a Price Paid for Public Purposes Development?

Irrespective of the context of the use of the concept eviction, the FDRE Constitution allows the government to evict or expropriate private property (including home or land use right) for public purposes project on the basis of advance payment of compensation commensurate to the value of the property. The Proclamation No.455/2005 also provides the justification to evict people from their home or land for public purposes among other things include, the government needs to use land for

development works carried out for public services, the growing urban centers and/ or the increasing number of urban dwellers have demanded land redevelopment for the construction of dwelling houses, infrastructure, investment and other services as well as preparation and provision of land for development works in rural areas has become necessary.⁵ The latest Land Lease Holding Legislation stipulates that the rapid economic growth claimed to be registered in the country has necessitated continuously and increasingly the demand for urban land.⁶ However, the Constitution failed to define what constitutes “public purposes” and who ultimately decides whether certain projects are fully intended for public purposes or not. The subsequent proclamations have defined the concept of public purposes and public interests interchangeably. Proclamation no 272/2002, uses “Public Interest” and defines it as what an appropriate body determines as a public interest in conformity with Master Plan or development plan in order to continuously ensure the direct or indirect usability of Land by peoples, and to progressively enhance urban development.⁷ In similar manner, the Land Lease Hold Legislation defines public interests to mean the use of land defined as such by the decision of the appropriate body in conformity with urban plan in order to ensure the interest of the people to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.⁸

From the definition given by eviction regulating legislation, one can pinpoint several elements of the definitions which have considerable nexus with human rights. First, Public interest has been defined in circular description. The proclamations fail to define what precisely and exactly constitute public purposes developments that might cause for limitation of private rights. Secondly, what makes a purpose to be for a public is determined subjectively by the ‘appropriate body’. The appropriate body is defined as “a body of a region or a city administration vested with the power to

⁵Expropriation of Land Holding for Public Purposes and Payment of Compensation, Proclamation No 455/2005, Federal Negarit Gazeta, 11th Year, No. 43, 15th July, (2005), (hereinafter proclamation No. 455/2005), preamble, para. 1-2.

⁶Urban Land Lease Holding Proclamation No 721/2011, Federal Negarit Gazeta, 18th Year No. 4 Addis Ababa 28th November, (2011), herein after proclamation No. 721/2011.

⁷Article 2(7) of proclamation no 272/2002, Re-enactment of Urban Land Lease Holding Proclamation No. 272/2002, Federal Negarit Gazeta, 8th Year No 19, 14th May 2002 (hereinafter proclamation No. 272/2002).

⁸Article 2(7) of proclamation no. 721/2011; see also article 2(5) of the proclamation No. 455/2005.

administer”.⁹From the definition, it can be thought that the only arbiter have to pronounce final say on the public purpose of certain project is only the administrative body. For this reason, it excludes people from being decision maker on what constitute public purpose. The law authorizes the administration with vested power to initiate and administer public purposes that could cause eviction. Thirdly, the benefits from public purpose may perhaps only to benefit the public indirectly. In such case, eviction for public purposes development in Ethiopia need not necessarily give direct benefits to public at large and the evictees as well. To put simply, straight reimbursement from the said public purpose is not necessarily required in Ethiopia to evict people from their home or land. Fourthly, the law only demands the compatibility of public purposes developments with Master Plan or development plan of the city in devoid of expressly requiring human rights criterion in a clear language.

The noteworthy issue here is that, the constitution stipulates that land is a common property of the people and the government.¹⁰Similarly the government has duty bound at all times to promote the participation of the people in the formulation of national development policies and programmes.¹¹Against these well-founded constitutionally guaranteed rights, the land lease holding legislations excluding the people authorizes only the government to conclude what public purpose is. From this, there is discrepancy between the proclamation and the constitution. The eviction governing legislation of Ethiopia follows the old discretionary power of the government embodied in the classical justifications of the public purposes.¹²The fact that the people are not allowed to jointly determine what constitutes public purpose and/or challenge if they think otherwise clearly contradicts with both human rights based development approach and with system of limitation of rights under human rights law.¹³

⁹ Ibid, Article 2(8).

¹⁰Article 40(3) of the Constitution.

¹¹Article 89(6) of the Constitution.

¹²For detail see the discussions made under chapter two of this research, pp. 13-15. Under the unitary and common interest theory of public purposes, once the government revealed the existence of public purposes which satisfies the interests of the majority number of the society, the aimed plan will be carried out at any means at any cost.

¹³UN High Commissioner on Human Rights, Basic Principles and Guidelines on Development-based Evictions and Displacement: : Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18), para. 5-6; See also United Nations Comprehensive Guidelines on Development-Based Displacement, preamble, para.5 says that “Reaffirming that development is a comprehensive economic, social, cultural and political process,

In practice, officials argue that the resettlement/ evictions carried out so far, in Addis Ababa City and elsewhere in the country, are voluntary and are aimed to benefit the public.¹⁴ On the Ethiopia report to the UN Human Rights Council UPR, the deputy Minister of Foreign Affairs argued that *“any displacement in rural or urban area is carried out for the benefits of the evictee themselves in connection with public purposes and as such no violations of human rights occurred so far in connection with eviction for public purposes.”*

The government alleges that social services, housing, city beautification to acquire ‘world class city’, standard and cleaning and leasing land to investors ensure welfare of larger society than benefits the evictee would have got if not evicted. According to the officials, the overarching goal is “to tackle poverty, ignorance and to usher in a new era of Ethiopian renaissance.”¹⁵ Contrary to the Ethiopian position on public purposes developments, the CESCR, under its General comment No.7 brazen out the ideas that the country shall developed at any cost by any means.¹⁶ In its concluding observation to Ethiopia, the CESCR urged the country to take appropriate measure to improve the involuntarily relocation prevailing and entails forced eviction in the country.¹⁷ As the same time development smoothes the progress of the enjoyment of all human rights, however, lack of development may not be invoked to justify the abridgement of internationally recognized human rights.¹⁸ In Ethiopia, all laws

which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from.’; see also CESCR, General Comment No.7, para. 13. The committee explained from what time the state should consult with concerned people about eviction for public purposes in stating “States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders”.

¹⁴Supra note.2; see also the speeches of Birhane G/kiristos, FDRE Ministry of Foreign Affairs, Deputy Minister, on the fourth report of Ethiopia to UN Human rights Council held in Geneva, Ethiopian Herald, 13 July 2014, available on www.mfa.gov.et, accessed on September 14, 2014. See also the interview conducted with Birhanu Kebede, Ethiopia’s Ambassador to United Kingdom by the Ethiopian Herald published 13 July 2014; see also the televised speech made by the H/ Mariyam Dassaiegn, FDRE Prime Minister, EBC, 21 December 2014. All the top government officials assert that “Ethiopia development initiatives are being undertaken without violation of human rights of the people.” They further declares “acts of organizations call themselves advocator of human rights such as Amenity International, Human Rights Watch, Ok land Institute, Survival International are a year old fault –finding mission and painting the Ethiopian development with black ink to impose their neo liberal political agenda of the Westerners.

¹⁵Ibid.

¹⁶CESCR, General Comment No. 7 para. 19

¹⁷ CESCR, Concluding Observation on the Ethiopian 2nd and 4th periodic Report

¹⁸ Vena Declaration and Plan of Action, para. 10)

reserved the power to determine what constitutes public purposes solely to ‘appropriate’ government body. Whereas in rights respect development, public participation at initial step to decide what amount to public purpose is not only central to addressing poverty, vulnerability and inequity, but also plays significant roles to accelerate the attainment of development goals of the country.¹⁹

The noticeable rationalizations of evictions carried out in the three eviction sites selected for this research are different. *Arat kilo* site eviction took place as a result of government decision to renewal of the older part of the city and evictions to clear land to be given for private investors. In rights respecting development, if there is legitimate purpose to evict people for general welfare or social needs; that social need has to be “the pressing social needs”.²⁰ Hence, humanity is placed at the center to do even good for them. In *Connors vs. United Kingdom*, ECtHR held that an eviction which has not attended procedural safeguards, explicitly the necessity to ascertain proper justification for the serious interference with human rights cannot be regarded as justified by “pressing social need” or proportionate to the legitimate aim being pursued.²¹ From the ECtHR jurisprudence the existence of legitimate aim solely is not suffice to justify evictions for public purpose. Further it needs to prove the public purposes intended must be exceedingly demanded by social needs that benefits both the affected and the general public as a whole. As the requirements of eviction for public purpose the Ethiopia laws do not require from the authority to necessarily prove direct benefits of both the affected and the general public. Indicating the indirect benefits of which the ‘appropriate body’ have opinion would be enough.

Informant from *Arat kilo* site eviction explained the justification as follows:

“The government told us that the place dominated by unsafe slum surroundings, overcrowded, in adequate housing, poor quality of water and sanitations. Though the authority told us that the eviction was good for us by taking away from such humiliating places due to the city

¹⁹ Supra note. 13, para.2-3

²⁰ Supra note .16, para.

²¹ *Connors vs. United Kingdom*, (European Court of Human Rights, Application no. 66746/01, 27 May 2004)

renewal project, however the government had never considered our future livelihood.”²²

The officials from the City Administration also reasoned out that the evictions that took place at *Arat kilo* in providing numerous justifications.²³ First, the area had to be exploited as it is more productive for investments and other business centers than for residential purposes. Thus, the evictions are considered as directly contributing to boosting economic growth of the country has been recorded for the last ten years. He also stated that the government had performed its obligation to provide housing for those who were living under less quality home. As a result of such many homeless individuals got tenure security. Further, the eviction shall be justified as it was conducted by the concerned authority.

Despite the government reasoning of evictions for the public welfare, evictees from the site disclosed their hesitations for drawbacks of evictions.²⁴ Informants described the phenomena of their eviction as follows:

“From the beginning, the government decided for our eviction without prior consultation with us but only informed us the inevitable plan of our eviction; In the course it interrupts our children education, we are totally deprived of our means of livelihood, located us very far away from our job place. Despite we paid sacrifice, the project is too remote to benefit the public as not yet the alleged construction has conducted on the place; setting the land unused for the last 5 years shows that there was no imperative public purpose at the time and now; the amount of compensation paid as alternative to our possession was inadequate while the government lease the land which it took from us in skyrocket price to the rich.”²⁵

²²Interview with Tizita Tadesie, from 4 kilo Eviction sites, 23 September 2014.

²³Interview with Mr. Adem Nuri key informant interview Compensation and Rehabilitation department head at Addis Ababa City Government, on December 21, 2014.

²⁴FGD conducted with evictees from 4 Kilo eviction sites now located at Sammit Condominium area, December, 2014

²⁵ Ibid.

The officials have also asserted that there has been over delay performances on the parts of the government to achieve public purpose planning caused by the eviction.²⁶ From this point it can be stated that though the existence of public purpose nature of the government assertion is undisputable, it has evidently proved that there has no pressing social needs to the development purposes to evict people from their home or land in the absence of adequate alternative accommodations and fair compensations.

Evictions carried out at *Sammit* area was done on farm lands both for the expansion of city and to accommodate the overcrowded masses of the older city dwellers by providing condominium houses built on the farm land.²⁷ The government primarily claims the reason of the eviction by saying, *“Government requests the land in order to build condominium houses which solves acute housing problems in the city; proportionally it is good to benefit the large number of the society than those scattered few farmers who cultivate lands not in mechanized way”*. According to the city government of Addis Ababa, houses development enterprise needed the land for the integrated housing project. For them, since Addis Ababa is expanding from time to time, expansion in infrastructure facilities and more condominiums as a matter of the town’s master plan is required for public purposes. In contradistinction to the explanation given by the government officials farmer evictees from the *Sammit* area elucidated the tragedy of the eviction as severe and unjustifiable projects. Informants from the site explained as follows:

“All of the farmlands s we were living on farming and doing everything on have been taken away from us. We had totally lost our means of livelihood; we did not have other occupation or business other than farming land. Alternative farm land was not given to us. We lost our former neighbors for the land is now occupied by new settlers from town who cannot communicate with us using our native language. Our occupation is changed from farming to becoming home guards of the

²⁶Interview with Mr., Muluneh Horodofa, president, Addis Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, on November 17, 2014; see also interview with Alemayh Fissiha, Gulale sub-city woreda 2 Construction and housing development office head, on 17 November 2014.

²⁷Supra note.23, Interview with Mr. Adam Nuri, Key informant interview, Compensation and Rehabilitation department head at Addis Ababa City Government, on December 21, 2014.

new comers on our land we were born on and we have possessed for long”²⁸.

From the above, the public purposes- AAIHDP, which caused to evict farmers from their land are challenged on the ground that the program totally ignores or compromises another public purposes- the significant number of farmers right to food, social tie, means of sustainable livelihood, etc.

For the evictions experienced at *Gulale* sub-city Woreda 2, the officials have pointed out that it was planned for expansion of government compound palaces.²⁹ All officials unanimously argued that such works are unavoidable services for public purpose and are legally allowed under the expropriation of land for public works.³⁰ Whereas, the evictees oppose the government justifications with varying counter arguments. Firstly, the government unduly finished initiation stage of the plan of eviction without consulting³¹ the community. Some of the evictees, specially, sub-tenants, have never heard the information about the eviction until three days were left.³² Put differently, the government has failed to consult all concerned who have been affected by the eviction. Compensation has been paid for those who could be able to show their legal possession. However, the compensation scheme failed to comprise the sustainable livelihood of the evictees. Even the compensation paid for the assets fixed on the land was very low and not enough to afford building replacement houses on the alternative land given for them.³³ In some cases the house estimated to 500,000 birr unfairly diminished only to 20,000 birr.³⁴ Above all they said they have lost the communal life they had built for the long period of time.³⁵ They further complained that the government would have expanded the palace to other areas rather than “destroying their life”. Moreover, the evicted victims allege that prior to eviction the government did not exhaustively search for all possible alternatives to eviction.

²⁸FGD with panels of former farmers currently serving as security guard of the gates of the condominium houses of the Sammit site.

²⁹Supra note. 23, Adem; see also supra note.26, interview with Alemayh Fissiha, Gulale sub-city woreda 2 official.

³⁰Ibid; see also the proclamation No. 401/2004 Appropriation of Land for government Works and Payment of Compensation for Property, the preamble, para 1-3.

³¹Interview With Mr. Kumsa Yadessa, from Gulale sub-city Evictions sites, on 5 January 2014;

³²Interviwe with Wayesa Amasa, former private tenants of the Gulale sub city eviction area, on 13 August 2014.

³³Interview with Miss. Yeneayehu Channie, from Gulale sub-city eviction Area, on 5 January 2014.

³⁴Ibid.

³⁵FGD with panels of former residents of the Gulale sub-city evictees, 16 June, 2014.

One of the informants said, “Neither building nor land is destroyed, but it was our life, our livelihood, our neighbor, our community, our family that is demolished”.³⁶ The eviction destroys such social bondages in the name of the government compound expansion plan from which the life of the people sprinkled as salt. The residents have lived there for about from 40 up to 80 years. The area is accessible to social services, religious and other facilities. Despite the urgent eviction notice and the removal of the residents from the place in less than three months, the intended public purpose such as the government palace compound expansion has not yet began. According to the officials, the delay is as a result of lack of coordination among different sectors of the administration and insufficient preparation from the government to pursue the intended public purposes.³⁷ The laws allow the government to evict people within 90 days from giving eviction notice.³⁸ Hence, eviction order which limits human rights of residents is carried out by authorities even for the ill-planned public purpose which is not pressing social needs and remote from benefiting both the public at large and affected evictees as well. The human rights laws allow that for pressing social needs and legitimate public interest the government can proportionally limit certain human rights in lesser amount to achieve higher level of public purposes developments which contribute for the full enjoyment of other human rights. But the government here fails to achieve the intended purposes while people have already been evicted from their home and land to let way for the said public purposes.

There has been dissenting ideas not only on the necessity and nature of the ‘public purposes projects lead to eviction but also questioning the existence of legitimate aim alleging that “public purposes” concept in Ethiopia, particularly, in Addis Ababa has been used by the government as red herring.³⁹ For example, the former top senior officials of the current administration argues that all rounded evictions ongoing in Addis Ababa City and expansion to the surrounding village have hidden political agendas behind them than imperative public purposes required.⁴⁰ Ermiyas⁴¹, argues that

³⁶ See Supra note.24 and supra note; see also the common article 2(7) to proclamation No 721/2011 and 272/2002.

³⁷ Supra note.26, interview with Alemayehu,

³⁸ See for example, article 27 of proclamation No.721/2011.

³⁹ Ermiyas Leggase, *Yemeles “Tirufatoch”*: Balebet Alba Ketema, (Netsenat Publishing Agency, 2014), pp. 41-57, available on www.npabooks.com accessed on 5 August 2014.

⁴⁰ Ibid.

⁴¹ Mr.Ermiyas Leggase was former Minister *de etate* of Government Communication affairs

the newly emerging land redevelopment plan comes to an agenda of the ruling government as the vacant lands in the city had been already exploited and no more unoccupied land is found since numerous decrees have been issued by the city government cabinet to legalize illegally occupied lands.⁴²

Forgoing discussion on the laws and practice reveals that though the FDRE Constitution recognizes public participation as norm to carry out any public purpose project, the other laws regulating eviction for public purposes are not designed in similar approach. There is no agreement between the government and the people affected by the eviction at all sites on necessity of such public purpose lead their life to deplorable condition. The research identified that in the process of eviction, government claims, the end goal would justify the means used considering the ultimate goal of the projects would have been for public wellbeing. The government assumes that the human rights of people might be fairly compromised as the costs to be paid for future development is normal and happens everywhere. As a result, the eviction for public purposes lacks to put humanity at the center of the development. The development projects aimed by the government centered on infrastructure developments; it does not consider people as beneficiaries of the development. It unfairly burdens on the current generation to bring development, even if the eviction sacrifices the livelihood, life, liberty, social tie and property of the eviction victims, for the purpose of public purposes development. It does not strike the fair balance of intergenerational equity.

The justifications provided by the government have been seen contested constantly with most of the affected evictees. As the land has been set as joint ownership of the government and people of the country/ evictees need to be joint decision maker on the eviction plans that concerned them. In the lenses of legality, the justifications of government fall short of conducting according to the laws. There is no system of eviction impact assessment before eviction. The people are serving the economy rather than the economy serving the people by the development planned in Ethiopia. There is also no mechanism to check the legality of planned evictions from taking place once it is decided by the government. Hence, the public purpose based argument of government lead evictions are gainsaid of what is required under international and

⁴²Supra note.35, pp.58-98.

domestic human rights laws. The ‘public purposes’ used in Ethiopia or Addis Ababa City as justifications of evictions have been proven evidently not participatory, insufficient, remote from either direct or indirect benefitting the public and highly contested by people at large more often than not by eviction victims.

4.3 Eviction Procedure

Under international human rights law, evictions may only be carried out as a last resort, once all other feasible alternatives to eviction have been explored and appropriate procedural protections are in place. As it can be noted from the discussion of chapter three, procedural principles that are need to be met to comply with international standards include consultation and participation of affected people and communities, adequate notification, effective administrative and legal recourse, prohibition of actions resulting in homelessness, prohibition of actions resulting in deterioration of housing and living conditions, and provision of adequate relocation and/or adequate compensation before evictions are implemented. In the following paragraph, the manner in which eviction is carried out is discussed

As provided by the CESCJ jurisprudence and various guidelines of development lead evictions and displacement, States are required to take into account plentiful factors before endorsing any eviction issues and making them effective. Making sure that prior national legislative full compatibility with international human rights law is the first step. As discussed in preceding sections, the Ethiopian eviction regime laws have similar stipulation with human rights whereas in most cases it refutes and set forth standards that are below the international human rights laws secured rights. The meaning of public purposes which directly and indirectly benefits the public at large has not been illustrated by the eviction regulating laws. The legislations also do not require the consent of the people that are affected due to the public purpose project before the government passes decision that cause eviction for public purpose. Furthermore, the laws neither allow substitute allowance for livelihood lost nor mandatory employment is allowed as a priority for the evictees. To the worst, the laws do not provide the human rights and social impact assessment as precondition before conducting eviction by the authority. Furthermore, the law denies the fair trial rights when the victims want to get review of decision rendered by administrative tribunal to regular courts.

According to article 28 (1) of proclamation No. 721/2011, a person served with eviction notice or any other person alleging infringement of his/her right or benefit as a result of the order may submit his grievance to the appropriate body, together with evidences substantiating his cause, within 15 working days after receipt of the order. The legislation allows appeals against the decisions of the appropriate body can be lodged to the Appellate Tribunal within 30 days from receipt of the decision from administration.⁴³ Though the land lease holding legislation says that the Tribunal shall be free of any influence except the law, but the same law put the tribunal accountable to the City administration who decides the eviction.⁴⁴ The decisions of the Tribunal on issues of law and facts including claims for substitute land shall be final.⁴⁵

Appeal to regular court is allowed only as regard to the issues of amount of compensation.⁴⁶ Except the administrative compliance to the body decided eviction and appeal to administrative tribunal, the eviction victim of eviction has no independent court forum to get remedy on the issues of laws and facts undergoing eviction in Ethiopia. Regarding the amounts of compensation, appeal is admitted only after the evictees have handed over the house or the land subject to the clearance order. Thus, neither interim measures nor procedural guarantee is available in Ethiopia to protect people from unrecoverable human costs of eviction. This denial of appeal to the regular court except on issues of compensation is completely against the right to fair trial as provided under article 14 of the ICCPR which provides that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Let alone denial of appeal to regular courts, the CESCR under its general Comment No. 7 has noted that the provision of legal aid is one of the procedural guarantee should the State fulfill in case of eviction for public purpose. Here even if the eviction is justified for the existence of legitimate aim such as public purposes, the State's failure to provide legal aid and to the worst deprivation of the right to fair trial by independent, competent and impartial tribunal is what makes the eviction incompatible with human rights.

⁴³By virtue of Article 30 of the proclamation No.721/2011 appellate tribunal known as urban land clearing and compensation cases appellate tribunals are established by regions and city administrations.

⁴⁴Article 30(4) of proclamation No. 721/2011.

⁴⁵Article 28 of the proclamation No.721/11.

⁴⁶Article 29(3) of proclamation No. 721/2011

However, it may be argued that since there is no term ‘only’ compensation under article 29 of the proclamation No. 721/2011, due to the article 37(1) of the FDRE Constitution and article. 15 (2) (e) of the Civil Procedure Code, against any eviction order and administrative tribunal decisions, victims would have right to recourse remedy from regular courts. According to article 37 of the Constitution, everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power. From the wording of the provision justiciable matter could be brought to regular and administrative tribunal in using alternative conjunction ‘or’. Based the national legislation including the Constitution, there is no mandatory norm which enable eviction victims to recourse remedies from regular courts against decisions of administrative tribunal. As a matter a fact there is no two final. Owing to the rule of interpretation of laws, it is also not safe to argue that the civil procedure code prevails over the newly enacted land lease proclamation. Let that as it may, in practice courts in Ethiopia have a tended to relinquish jurisdiction on the legality of public purposes which would be solely determined by public authority.

Genuine consultations with the affected evictees are other requirements which shall be arranged before carrying out eviction. The FDRE Constitution provides the necessity of consulting the people before conducting eviction for public purposes. New Urban Land Lease Holding Proclamation provides that where urban landholding is decided to be cleared by the concerned body having the power to evict, the possessor of the land shall be served with a written clearing order stating the time the land has to be vacated, and the amount of compensation to be paid.⁴⁷ Similarly, article 16 of Proclamation No 272/220 states that once the appropriate body decides that the eviction is necessary to commit for a public interest, it simply clear and take over an urban land by issuing clearance order in writing to the concerned person. In the same way, article 3 of Proclamation No.455/2005 stipulates the procedure of notification of expropriation order shall notify the landholder in writing, indicating the time when the land has to be vacated and the amount of compensation to be paid. From all these legislation there are no requirements of consultation with affected people in order to carry out evictions for public interest. It follows that the Ethiopia’s eviction regulating legislations which allows eviction for public purpose, but denies the people from

⁴⁷Article 27(1) of the proclamation No.721/2011,

consulting and joint decision maker on the issues concerns them are, incompatible with the Human rights based approaches to development.

Article 5 of the Addis Ababa City Administration Cabinet directive No. 19/2006 stipulates that once land is required for public purpose development, at least $\frac{3}{4}$ th of concerned stakeholders shall conduct meeting and if the quorum required is not met on the first meeting, the second meeting shall be conducted. If similar situation happened on the second meeting, the meeting would be conducted with available number of stakeholders. The directive also limits the agenda of the meeting to only to discuss on the importance of the project and the execution procedure of eviction. Similar to other proclamation and regulation governing eviction in Ethiopia, the directive also fail to acknowledge the people as decision maker on any developmental project concerning them.

The data collected through interviews conducted with informants affected by the eviction indicate that they learnt about the fact they should leave the sites and the potential exodus areas from the officials of the sub-city, *woreda and Kebeles*.⁴⁸ However, the informants described there is information gap in hearing the process of evictions. They said that the news about their eviction was suddenly heard. Decision was passed by the government without consulting them. As a result the meeting of the evictee with the officials has no role than convincing the public to leave the place if not the government uses bull dozers to clear the land for what they deem serve public purposes.⁴⁹ In addition the consultation not included all people who were evicted from the site.⁵⁰ This is mainly because; the government only considers the government/kebele tenants and those who have ownership rights of house or use right to land. Private tenants who rented house from the private individuals were out of the ambitions of the officials to consult with them. Thus, they were alienated from the discussion about evictions that affect and concern them. In all eviction sites, since the majority of the evictees are private tenant and informal settlers who cannot prove the fact that they acquired the land legally. From the practice, the government has organized meetings with evictees, but its sole purpose is to notify the communities the unavoidable eviction; rather than consulting them.

⁴⁸FGD with Gulale city evictees, November 23, 2014.

⁴⁹Article 31(&5) of the proclamation No.721/2011.

⁵⁰Supra note.33, interview with Key informant, November 24, 2014.

In the issues of adequacy of the notice, the officials assert that they convene a number of meetings with concerned people.⁵¹ Information was also dispatched through magazines, newspapers and brochures that have easily been available around the eviction area. Nevertheless, the evictees claim that they were unable to speak with the officials as those who give suggestion and ask questions were prepared by the government to speak and play an exemplary role in showing of the total acceptance of the planned eviction.⁵² From the *Gulale* sub-city Woreda-2 eviction sites, one informant explained that:

*“Though I was raising my hand to have my say during the meetings we had with officials, they gave me no chance. Only a few individuals who conform to the administrative got chances to speak while the majorities were eager to unveil their contentions. If in rare case chances had been given to the genuine participant who challenges the eviction, the official would tag them as anti-development.”*⁵³

From this point it can be concluded that public meetings are always conducted with the affected people to convince them, not to hear their voices and avoid the planned eviction if they opposed. On the other hand, the authorities manipulate the meetings by giving secret orientation to the priory prepared spokesman and women from the assembly. Thus, there is no genuine consultation with people as all meetings are held under strong influence of the officials. In practice, the government may hold meetings with owners, public tenants (those who lived in public rental houses), but the majority, subtenants (those who sublet rooms from public tenants), and tenants of private premises are evidently ignored. Despite the evictees legitimate claim, in some place the government invariably tag all those who opposed evictions as anti-development.⁵⁴ Whereas some officials admits the faulty implementation of eviction

⁵¹Supra note. 24 and supra note.25.

⁵²Interview with Tesfaye Kiltu, Former farmers and Committee chair of the former kebele 28 under Yeka sub-city from Sammit Eviction sites, 20 December 2014; Interview with student Yosef Kumsa, from Gulale sub-city Eviction area, on 28 November, 2013; see also Interview with Awal Reda, from 4 kilo Eviction sites, on 23 September 2014.

⁵³Supra note. 29.

⁵⁴Interview with Mr Saboka shows that the main bottleneck obstacles of the land redevelopment policy and the programs of the country is the anti-development ideology and according to the official, always the government faces 25% of the evictee area people will not accept the development projects initiated by the government.

practice due to lack of integration and cooperation exists in between inter-sectors and hierarchically in government offices.⁵⁵

The research found out that the consultations with the concerned people of all eviction areas were not genuine and the notice was also inadequate as they heard it orally from the authorities as if it was straightforward issues. The Ethiopian eviction legal regimes stipulate mandatory written notices to the evictees. In practice, written notices are served to the evictees from inner city. Nevertheless, in eviction sites of farm land against farmer evictees there are no written ways of giving notice which are strictly requirements under the general comment on 7 of CESCR and domestic laws as well. Resettlement usually begins with notice (a 'citation') to affected persons, information meetings, and service of a removal order. Residents are given up to ninety days notice to remove their effects and demolitions are then carried out. These procedures appear to be consistently followed and well-known to slum residents from the inner city both *Arat Kilo* and *Gulale sub-city* but are not written in some areas, particularly for farmer evictees.⁵⁶ Thus, in a very clear transgression article 4(1) of Proclamation No 455/2005 which provides for the handing of a written notice to a person whose land is about to be expropriated, the administration evicted many farmers with mere unofficial and oral orders.

Similar situation prevails as far as concerning the procedures during the eviction carried out at *Arat Kilo* and *Gulale Sub-City* eviction sites. In both cases, the eviction operational policy is applied and formal resettlement action plans were drawn up and implemented, including through the provision of compensation to those entitled under Ethiopian laws. However, in eviction sites carried out on farmers land, a more ad hoc approach is followed.⁵⁷ For instance, farmers complain that the compensation was not paid them in advance before demolitions of houses and destruction of their farm land.⁵⁸ The ancient buried dead bodies were uncovered during the excavating works conducted for the Condominium houses were neither reburied nor compensation was

⁵⁵Supra note. 23, interview with Mr. Adem; See also supra note 26, interview with Mr Alemneh

⁵⁶Interview with Ture Bedhadha, Former farmer from Sammit Eviction sites, 24 September 2014; Interview with Rettaa Tadela, Former farmer from Sammit Eviction sites, 24 September 2014; Interview with Girma Leggasie, Former farmer from Sammit Eviction sites, 24 September 2014.

⁵⁷Supra note. 44, interview with Mr. Tesfaye, the Committee chair at 2000 E.C while the eviction began in the site by the Addis Ababa city trustee Administration.

⁵⁸Ibid.

paid for the same as no one was there to claim.⁵⁹ The informant expressed it as the worst brutality of the development lead by the government in stating: *"the eviction enforcing authority disregarded the law and operates in a manner reducing human dignity by digging our ancestor's burial-ground and put unknown place the remnants"*.⁶⁰ Once the appropriate authority decides the land needed for public purpose, say city beautification or to build condominium house, there is no excuse even on burial ground. Regulation No.135/2007 allows public purpose to be conducted on the burial ground up on payment of compensation to reburial of the remnants.⁶¹

On the day of eviction contrary to the requirements under international human rights law no government officials present while eviction is ongoing.⁶² In some cases the authorities order police forces and bulldozers to demolish houses.⁶³ The time of carrying out eviction is not considering the children education. For instance, numerous students of low income family evicted from *Gulale* sub-city to *Sammit* area have dropped out of schools in the academic year⁶⁴

The current eviction laws and practices in Ethiopia do not sufficiently prohibit evictions which adversely affect multiple human rights in many respects. The major problems are the exclusion of the sustainable development from the compensation package. The absence of policies mechanism how to strike the fair balance between the right to housing and the right to food is considerable characters of the eviction in Ethiopia.

4.4 The Adverse Impacts of Eviction on Human Rights

As discussed under preceding chapters, evictions induced by public purposes development and poverty affect the enjoyment of human rights. It has been discussed in this paper that in Ethiopia the public purposes used as justifications of evictions have been proven evidently insufficient, remote and highly contested by other people more often than by eviction victims. The eviction procedure employed by the law

⁵⁹Ibid.

⁶⁰Interview with Alemu Ergu, Former farmer from Sammit Eviction sites, 24 September 2014; see also an interview with Getu Rorrissa, Former farmer from Sammit Eviction sites, 24 September 2014.

⁶¹Article 11-13 of the regulation No.135/2007.

⁶²Supra Note.52.

⁶³Ibid.

⁶⁴Supra note. 31.

enforcing authority also has shown in most of the cases and places are inconsistent with requirements set out by international and domestic normative human rights laws including the FDRE Constitution and other subsequent legislations. The absence of human rights mainstreaming in eviction for public purposes make the eviction carried out in the country unjustified which constitute gross violations of a ranges of internationally recognized human rights. The CESCR under its general comment no. 7 made clear that evictions cannot be justified when resulted in rendering individuals homeless, put people to deplorable condition and/or cause for the violation of other human rights.⁶⁵

The most important human rights applicable to evictions as explained in this paper are : livelihood, the right to food, the right to education, and the right to security of the person, security of the home, the right to life, the right to adequate housing and freedom of choice of residence. These rights are derived from the ICCPR and ICESCR both of which were ratified by Ethiopia.

4.4.1 The Impacts of Eviction on Livelihood

The term “livelihood” refers to means of securing the basic necessities -food, water, shelter and clothing for life. Basically, livelihood is defined as a set of activities, involving securing water, food, , medicine, shelter, clothing and the capacity to acquire above necessities working either individually or as a group by using endowments (both human and material) for meeting the requirements of the self and his/her household on a sustainable basis with dignity.⁶⁶From this point, one can conclude livelihood are not the rights *per se*, rather activities are usually carried out repeatedly to make use of an adequate standard of living as provided in article 11(1) of ICESCR. Nevertheless, one cannot entirely and efficiently address the right to adequate standard of living independently from the conception of livelihood.

In unavoidable evictions, the livelihood of the evictee has been unconditionally considered under the international human rights law. State parties are obliged to make sure that all the individuals concerned have a right to adequate compensation for any property, both personal and real property, which is affected. Alternative

⁶⁵ CESCR, General Comment No. 7 (1997): The right to adequate housing (article 11), para.17.

⁶⁶ *Oxford Dictionary of English*. Oxford University Press, 2010. Oxford Reference Online. Oxford University Press. Malmo hogskola. Accessed on 23 November 2014.

accommodation known as compensation under the Ethiopian legal system is payable in cash for building, crops, ripe and unripe perennial crops, for relocation of property, for protected grasses, for mining license, and for burial-ground.⁶⁷ And Compensation is defined as “payment to be made in cash or in kind or in both to a person for his property situated on his expropriated landholding.”⁶⁸

In practice there is no compensation in kind allocated in Ethiopia, including all the eviction sites in Addis Ababa.⁶⁹ The bases and amount of compensation is determined based on property situated on the land and for permanent improvements the evictees made to such land.⁷⁰ Beyond protection that has been given under the proclamation, the regulation issued by Council of minister is intended to cover how to assist the evictees to restore their livelihoods in post evictions.⁷¹ It entitles the evictees to be provided with a plot of land capable of serving similar purposes the land would otherwise have been used either for residential or for growing crops.⁷² In addition, article 19 of Addis Ababa City Administration directive no.19/2006(E.C.) social and psychological attachment of the original place of evictee is compensated exactly to 6000 Ethiopian birr. Based on this, it may be argued that the Ethiopia eviction legal regime gives protection for livelihood of evictees’ future life. However, the law framed in lenient and permissive norm that the government would simply indulge in giving compensation for the crops ten times the price of the average yield of the crops obtained from the land.⁷³

In practice, no rehabilitation schemes are devised by the government to sustain livelihood of the evictees.⁷⁴ Concerning the impact of eviction on their livelihood, one of the evictee informants from the *Arat Kilo* area described it as: “*Before I left my previous place, I used to get income from renting Kebele houses of which I myself was government tenant and selling locally prepared injeras; but now as a result of the*

⁶⁷Article 11-13 of Regulation No.135/2007, Payment of Compensation for property situated on landholdings Expropriated for public purposes Council of Ministers Regulation No. 135/ 2007(hereinafter Regulation No.135/2007).

⁶⁸Article 2(1) of Expropriation of landholdings for Public Purposes and Payment of Compensation Proclamation No.455/2005(hereinafter proclamation No.455/2005).

⁶⁹Interview with Mr. Adam Nuri, Key informant interview, Compensation and Rehabilitation department head at Addis Ababa City Government, on December 21, 2014.

⁷⁰Ibid. article 7(1).

⁷¹Para.1 of the Regulation No.135/2007

⁷²Article 15 of Regulation No.135/2007.

⁷³Ibid, article 16(2).

⁷⁴Supra note. 40, interview with key informant.

*eviction for public purposes, the income was terminated and I lost all my customers.*⁷⁵ Another key informant from the same site explained that: *”The government provided us better condominium houses with secure tenure, with private toilet and well prepared sewage system than before, better access to electricity and potable water as compared to the previous residences. However, we do not have sustainable livelihood as our means of income is totally cutoff as a result of eviction.”*⁷⁶

From the FGD held with evictees from the *Gulale sub-city* one participant from the group explained as follows:

*”We did not have other means of income other than giving rent houses making it in small classes of cells. Incomes from these private renters have had help our food, our children’s’ study fee, and cover costs of other social services such as health, ‘idir’, closing, water, transportation and others. Government forced us to leave the place giving us only three months notice. The administrators gave us 51 thousand birr as compensation of the building and gave us another substitute plot of land. But they did not provide us with compensation for terminated income we used to get on which our lives have been depended.”*⁷⁷

Though the Ethiopia legal system provides compensation alternative to houses that are demolished or replacement land for residential house, and replacement farm at rural area, it is none of the ambitions of the law to include the terminated incomes to be compensated as a result of eviction for public purposes. The researcher learnt that the government justifications for the absence of protections schemes to the livelihood of the evictees for the sake of public purposes are at least for three main reasons. First, the fact that the country has remained undeveloped for long and owing to lack of resources, it has become heavy burdens for the government to include the future livelihood into its compensation package.⁷⁸ Secondly, the government depends on the political economy or economic system led by Development State through revolutionary democracy, tried to reach far in all-rounded development mostly

⁷⁵ Interview with Tizita Tadesie, from 4 kilo Eviction sites, 23 September 2014.

⁷⁶ Interview with Tadelech Ume, from 4 kilo Eviction sites, on 23 September 2014.

⁷⁷ Interview with Interview with student Kirubel Kidane, from Gulale sub-city Eviction area on 2 January 2014

⁷⁸ Supra note .40, see also Supra note.23, interview with Mr. Adam.

economic growth which requires all citizen to pay the price of development by sacrificing some benefits.⁷⁹ According to the official, since the country has entered into the tracks of all rounded development, the absence of protection for livelihood of the evictee is the costs shall be paid by citizen to foster the developments to leave behind the developed country to the generation to come.⁸⁰ Thirdly, although there is an endeavor to establish a departments with role and functions of rehabilitating the evictees, due to the insufficient legal protection to the livelihood of the evictee during eviction for public purposes, there is no an institution which has legally mandated to carry out rehabilitation tasks whenever eviction takes place.⁸¹

However, to all human rights conventions ratified, the Ethiopian government as States parties has duty bound to undertake the full realization of rights protected under the conventions. Invoking provisions of the domestic law including the national Constitution to justify a failure to perform or give effect to obligations under the human rights treaty is prohibited.⁸² Once they ratified human rights treaty, States cannot justify their disobedience by raising the system of government or their political economic policies.⁸³

The AAIHP aimed to see cities without slum by the year 2020 and reduction of poverty taking into account housing as essential human needs, of particularly, for the low income households at the same time creating job opportunity and promoting economic use of urban land.⁸⁴ The program undeniably resulted with a great sense of relief for and improved tenure security for some in having stable place to live.⁸⁵ But in the majority of the case the empirical evidence shows that, at the same time, the programme could not solved the sustainable livelihood questions of the evictees. Above all, it made the farmers homeless and landless, left them starved by changing

⁷⁹Interview with Key informant interview with officials from Ministry Urban development, Housing and Construction: Interview with Mr. Israel Tesfaye, Land Development and Management Bureau Head, FDRE Ministry of Urban Development and Construction, on November 17, 2014.

⁸⁰Ibid.

⁸¹Supra note. 40; Mr. Adam explained that the office which assigned to deal with Compensation and Rehabilitation is an independent agency from the city government cabinet structure and hence the office has not mandated under the Addis Ababa City charter to carry out rehabilitation tasks for the evictees.

⁸²HRC, General Comment No.31, Para. 4; See also article 27 of the Vienna Convention on the Law of Treaties.

⁸³CESCR, General Comment No 3, para.3-4.

⁸⁴Addis Ababa Integrated Housing Development Program (unpublished Official document), pp2-27.

⁸⁵Interview with FGD from 4 kilo Eviction sites convened on 25 December 2014 reveals that the Condominium house relived the acute housing problems in the city center and it has been used as a means of acquiring house ownership which the government subsidies for the low income households.

their occupation from farmers to daily laborer for the new residents and investors and to other informal employees. Since the government compensates them in the intention that the farmer evictees will familiarize urban way of life after certain years, no programme is designed to make the evictees future life to become sustainable life in the city.⁸⁶

Though the Ethiopian government is committed to undertake its obligation of providing the right to housing for some people and is appreciated in line of article 2(1) of the common article to the ICESCR and ICCPR, the particular system of government or economic system cannot be used to justify the deprivation of other human rights protected under human rights law as human rights are neutral to any type and any system of government.⁸⁷ Consequently, in the State party in which any significant number of individuals are deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failure of discharging obligations under human rights laws.⁸⁸

In addition, even if most of the ESCRs require progressive realization, to the maximum resource available in the country, CESCR deliberated that a minimum core obligation of the rights essential for life are required from State to be immediately fulfilled. It is not plausible argument for the government in putting the right to life as inalienable and inviolable right while justifying the deprivation of right to livelihood based on available resources and the economic system the government follows. In one case the Indian Supreme Court defined the right to life to include right to livelihood in saying that:

“If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with

⁸⁶Supra note. 24; See also supra note. 2, interview with Key informant from Ministry of Urban development and construction.

⁸⁷ CESCR, General Comment No.3, para.8

⁸⁸ Ibid.

the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an Integral component of the right to life.”⁸⁹

As one can understand from case in the article cited above the court utilized the integration approaches to rights in reading the right to livelihood in right to food and right to life. In similar case, under Ethiopian law since the constitution recognizes undeniable and inviolable right to life, and the right to life can be ensured among other things by complement to right to food, right to livelihood is inviolable for the same reason here. From this argument, one can conclude that both the eviction regime laws and practices do not address the concerns of the evictees from inner city and farmers whose livelihood depends on land they occupied on. But the law facilitates the landholding system by eviction for industrialization, infrastructure development, city beautification and urbanization. Regarding to their right to livelihood one informant and former residence of Sammit area describes it like this:

*“I was born and raised on this land. Despite the fact the place is adjacent to the capital city of the country I have never gone to school to read and write. What I know is only plowing land throughout my life. But now I do not have a single parcel of land. The government promised us to give a compensation which suffice us and which will be left over for our children. Nevertheless, the cash we took for compensation is finished within three months. The government bought our land with 3.5 birr/per square kilometer and resold to the richest in millions of birr.”*⁹⁰

Obviously the Ethiopian government endeavor to bring about economic and infrastructure development has to be considered as part and parcel of ensuring the full enjoyments of human rights. For unavoidable justified eviction, displacing population is not prohibited. What amount to an eviction which contravenes with array of human rights is evicting people without designing appropriate policy and legal frameworks

⁸⁹Olga Tellies and Others vs. Bombay Municipal Corporation and Others, (AIR (1986) SC 180), [79 F-H, 80 A-B].

⁹⁰See supra note .2, interview with Mr. Tesfaye.

which would help the evictee to establish their livelihood?⁹¹ Based on this test, the Ethiopian law and practice failed to cover livelihood under its compensation scheme for eviction for public purposes clearly violates manifold human rights. It disregards one of essential conditions imposed by both sustainable development and human rights that prohibit trade off decision in any rights respected development for the sake of fulfilling other rights. Above all, the government has not designed a policy of urbanization and development that does not guarantee alternative livelihoods for those farmers who have been evicted from their land and homes.

4.4.2. Right to Food

The right to food is one of the fundamental human rights comprehensively recognized under article 25 of UDHR, article 11 (1) of ICESCR of which Ethiopia is party. The human right to adequate food is of critical significance for the satisfaction of all rights that demands more immediate and urgent steps to ensure the essential right to freedom from hunger and malnutrition.⁹²For example, when people are not able to feed themselves and face the risk of death by starvation, malnutrition or resulting illnesses, their right to life would also be at stake. The CESCR asserted that since the right to food has inseparable link to intrinsic dignity of the human person, it require adopting appropriate economic, environmental and social policies towards oriented to the eradication of poverty.⁹³

The CESCR identified lack of access to available food as the roots of the problem of hunger and malnutrition rather than lack of food.⁹⁴In the committee's view availability of food is one of the normative content of the right to adequate and sustainable food which intrinsically relevant to understand the adverse impact of eviction on the right to food. Availability has been referred to as the possibilities either for feeding oneself directly from productive land or other natural resources, or for well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.⁹⁵

⁹¹The Copenhagen Programme of Action, World Summit for Social Development, adopted 12 March 1995.

⁹² Article 11(2) of ICESCR; see also the CESCR, General Comment No.12, para.1.

⁹³ Ibid. CESCR, General Comment No.12.

⁹⁴ CESCR, General Comment No 12, para.5

⁹⁵ Ibid,para.12

Accordingly, the primary obligation of States corresponding to the right to food is not to provide food for every person, it is to respect the space available to everyone to enable them get their own means to produce their own food or to obtain it through exchange.⁹⁶ Dispossession of the farm land put off the individuals from taking care of their own food needs by the use of their land use rights.⁹⁷ From this point it can be asserted that eviction is one of the root causes for the violations of right to food. Some time the State contribution to evict the farmer to promote what the dominant group considers to be overarching national goals i.e. constructions of condominium houses on farm land which destroy the established livelihood of farmers have been best described as “development racism”.⁹⁸

The F.D.R.E Constitution States that “*Ethiopian peasants have the right to obtain land and the protection against eviction from their possession.*”⁹⁹ Land Holdings for Public Purposes and Payment of Compensation legislation recognizes that where an urban administration decides to expropriate a landholding, it shall notify the landholder, in writing, indicating the time when the land has to be vacated and the amount of compensation to be paid.¹⁰⁰ It further recognizes that *a rural landholder whose landholding has been permanently expropriated shall, in addition to the compensation payable under Article 7 of this Proclamation, be paid displacement compensation which shall be equivalent to ten times the average annual income he secured during the five years preceding the expropriation of the land.*¹⁰¹ Regardless of whether the land used for farming or not, the new urban land legislation defined urban land to mean land located within an administrative boundary of an urban center recognized by the urban plan.¹⁰²

In practice, both the government officials and the affected group have confirmed that the farmer evictees from the *Sammit* area farm land were not entitled a substitute plot

⁹⁶ Allan Rosas, “The right to development in Economic Social and Cultural Rights”, in (A. Edie, et al, (ed.), *Kluwer Law International*, Netherlands, 2nd ed, 2001,) p.135.

⁹⁷ Ibid.

⁹⁸ Ibid, p.143.

⁹⁹ Article 40(4) of the FDRE Constitution.

¹⁰⁰ Article 4(1) of the proclamation no 455/2005, A Proclamation to Provide for the Expropriation of Land Holdings for Public Purposes and Payment of Compensation proclamation No. 455/2005.

¹⁰¹ Ibid, Article 8(1) of Proclamation No. 455/2005

¹⁰² Article 2(2) & (8) of proclamation No.721/2011.

of farm land.¹⁰³ For one thing the law is lenient that in case it is impossible to provide replacement land with respect to land used for growing crops compensation payable shall be 10 times the price of the average yields of crops obtained from the land.¹⁰⁴ The government justifies that since the land is of urban land, irrespective of the farmers use it; the government will only compensate them in cash of the amounts 10 consecutive products of the fruits of the land.¹⁰⁵ Scholars challenge the justification for fixing this amount as unidentified and baseless.¹⁰⁶ The fixed ten years annual income, based on the average annual income of the previous five years has no economic or legal basis, and as a result, remains a source of discontent, complaint and frustration for most of the farmers who lose their holdings. Continue from this....

In practice, the concept of rehabilitation for the durable livelihood of the person affected has newly initiated at the sub-process, compensation and rehabilitation department under Addis Ababa City Government land development and management bureau¹⁰⁷. However, for one thing, the right to get rehabilitation in case of eviction for public pursues has no legal protection under the Ethiopian laws. On other hand, there is no institution legally mandated to carry out the rehabilitation functions at the city administration.

The communities of the *Sammit* area inhabitants were farmers and families whose entire livelihood depended on the use of their land. The area was one of the four rural *woredas* governed under the Addis Ababa City Administration.¹⁰⁸ Based on the City plan the decision to transform this rural area into an urban has demanded the eviction of farmers from their land to give way to build condominium house is unreservedly

¹⁰³Supra note.2, Interview with Mr. Israel Tesfaye; See also supra note. 23, Interview with Mr. Adam Nuri, ; see also Interview with Tesaye Qilxu as cited above, Former farmers and committee of the kebele farmers association from Sammit Eviction sites, on 20 December, 2014.

¹⁰⁴Article 16(2) of Regulation No.135/2007

¹⁰⁵Ibid; see also supra note. 69, interview with Officials from Ministry of urban development and construction and Addis Ababa City Government.

¹⁰⁶Daniel Weldegebriel, Land Valuation for Expropriation in Ethiopia: Valuation Methods and Adequacy of Compensation, p.20.

¹⁰⁷ Supra note. 23. From the interview conducted with Mr. Adem, the researcher learned that the office to which the delegated to carry out rehabilitation has no mandate to do that by the Addis Ababa City Charter. See also article 19 of the Addis Ababa City Cabinet amended Directive 19/2006 on Compensation and Replacement land.

¹⁰⁸Interview with official from the Ministry of Urban Land and Construction, Addunga Saboqa(Land Provision, Marketing and Tenure administration, senior expert, interview conducted on 22, November 2014; see also supra note 23, interview with Adem, key informant interviews from Addis Ababa City Government.

justifiable under various proclamation and regulations of the eviction regime laws.¹⁰⁹ For some officials the urban expansion to the nearby farmers land is an inevitable natural incident that might occur everywhere.¹¹⁰ In such case since farmers will no longer remain farmers, in view of that the government gives them compensation that will enable them customize urban way of life.¹¹¹

According to the key informant interview from the city Administration the initiation has been taken by Addis Ababa city Government rehabilitation scheme is assigned to Compensation and Rehabilitation department under Land development and management office.¹¹² It was planned to train the farmer evictees and other evictees from inner city to enable them to keep business of urban farming and animal husbandry or to engage them in construction industry as daily laborers.¹¹³ In practice there is a gap between a rhetoric promise and reality that no evictees have been trained so far to feed themselves. What is going on is the department which is assigned to the tasks of rehabilitation of the evictees has signed memorandum of understanding with financial institution and with TVET to continually train the evictees. Nevertheless, the official admitted that no any post-eviction impact human rights assessments are conducted that show the intended training has been given. The office of Compensation and rehabilitation at Addis Ababa City Government also only sends the lists of evictees to the training and financial institution.¹¹⁴

The loss of access to the farm land for the sake of clearing land for the condominium houses that are built there leads to individuals land use rights to substantially limited space to cultivate crops and graze cattle. Farmers are increasingly forced to change their means of livelihood from farming to other activities to search for their daily food. Some of them have become guards being paid with low salary and other are forced to become daily cheap laborers. As a result, their food securities have diminished. One of the former residents from the *Sammit* area explained that:

¹⁰⁹See for example article 2(7) of proclamation No. 721/2011, article 2(5) of proclamation No. 455/2007. Under both legislation the appropriate body will define the and determine public interest or public purposes taking into account and the urban plan in order to ensure the wellbeing of the people to get benefit of direct or indirect from the use of the land and to consolidate sustainable socio- economic development.

¹¹⁰Supra note.2, interview conducted with Mr Israel Tesfaye

¹¹¹ Supra note.23, interview with Adem.

¹¹² Ibid.

¹¹³ Ibid; see also supra note 2.

¹¹⁴Supra note.25.

“If you are educated or being trained, though the place is changed to town, there are more options to change work as means of your life; in the rural areas, land is everything! Through all our age, our lives were solely depending on cultivating land. So if land is taken away, our entire livelihood, food, social and family life is disrupted. This is what happened on us.”¹¹⁵

Similarly, one of the committee members from the evicted site/ Kebele explained what he observed as *“By bulldozer hundreds of houses, crops and livelihoods were destroyed and thousands of farmers rendered homeless. To the worst, subsequent failure to provide an effective remedy has only compounded victims’ misery pushing them deeper into poverty.”¹¹⁶*

In practice, once the concerned body determines that the land is required for public purpose- building condominium houses, to benefit the large number of homeless or those who were living under slum area, evicting farmers is justifiable upon advance payment of compensation. From the farmer’s point of view, the right to food of the significant number of farmers evicted from the land should equally be treated in the same footing of the government claim of providing right to adequate housing. The farmers further argue that if their land is needed for public purpose, based on law; majority of them complain that the administrations’ refutation of their right for a replacement plot of land after their former land is subjected to eviction is unacceptable.¹¹⁷

Hence, both the government and the evictee farmer’s argument bases on invoking competing human rights- right to adequate housing vs. right to adequate food. Though the government by virtue of articles 2 and 11(1) of the ICESCR has an obligation to realize both rights, apparently the government rash to weighing the balance between right to food and right to housing and gave priority to right to adequate housing to satisfy the ever increasing city population. From both the human rights laws and UN human rights based development guidelines perspectives, the State party which is obliged to be concerned with right to adequate housing of the city dwellers is at the same time should also need to consider the right to food of the farmers who would be

¹¹⁵ Interview with Girma Badhadha, Former farmers from Sammit Eviction sites, on 23 December 2014.

¹¹⁶ Supra Note. 94.

¹¹⁷ Ibid; Supra note. 106; see also Article 15 of Regulation No 135/2007

evicted to give way to the condominium house built on the land. Trading off all the right to food of the farmers for the sake of the right to housing of the city dwellers also contravenes the MDG of which Ethiopia signed intention to give priority to halt extreme hunger rather than to shelter.

As it has been discussed by the researcher in chapter two, when the human rights seem to conflict with or competes with each other or when limitations of one person rights are necessary to allow other to exercise their rights, international human rights law provides the harmonizing tests. Evicting farmers from their cultivable land which affects their right to food are undoubtedly interferences to rights to food. In principle, such eviction is prohibited. The CESCRs concluded that forced evictions are *prima facie* incompatible with the requirements of the ICESCR.¹¹⁸ Both development and human rights stipulation do not dictate that individuals cannot be evicted from their home or land use under any circumstances.¹¹⁹ Where sufficient justifications exist for their eviction, the law enforcer shall exercise in ensuring the immediate human needs and other rights. Evictions that are carried out in accordance with the law and in conformity with the provisions of the International Human Rights Covenants are not prohibited and would not be considered as forced eviction.¹²⁰ The balancing test typically used to analyze government interferences to one right for the sake of fulfilling other rights considering it as public purposes are: legality, legitimate purposes and proportionality.¹²¹

The Ethiopian eviction regime law existence is one thing to fulfill the principles of legality in balancing test. However, the law is not accessible by all communities for farmer's evictees with absence of legal aids provision by the government as which aggravates the problems. In some cases the laws do not give greater care to the prevention of eviction under which the government decides what constitute public purposes based on subjective criteria. In most cases the law gives less protection in prevention of arbitrary eviction for public purposes which have negative impact on right to food than the standards set forth under the international human rights laws.

¹¹⁸ CESCR, General Comment No 7(1999), para.1

¹¹⁹ Ibid, para. 5

¹²⁰ Ibid, para.4

¹²¹ For detail see discussions made under chapter two, section 2. 2.4 of this research.

The government actions of giving priority for the adequate housing prior to right to food, despite the country has been the world's largest recipient of food aid is challenging to the existence of legitimate interest.¹²² Based on mounting evidence, it seems that food is more pressing public interest than right to adequate housing.¹²³ Thus, it gives the impression that the government action ends up with unduly balanced between rights to food and right to housing. Worst of all, there are no policies on competing human rights that exist in Ethiopia. As a result the eviction enforcing officials both the federal and Addis Ababa City administration officials are not aware of the potential conflict arises between the right to food of the farmers and the right to housing of the other people. In its proportionality test, the principle is that limitation to the right to food must be "least intrusive" to achieve the desired goal (the right to adequate housing) while upholding the rights under limitation.¹²⁴ Herewith, the government made trade off right to food for the right to housing. What makes the government action as the one-sidedness intervening to the protected - right to food, is the absence of compensation to the future livelihood of the evictees. Thus, the State violates the right to food of the farmers by disproportionately interfering with the farmers' existing access to food, without providing them with some alternative means to access their food.

Still the government cannot take housing as public purposes isolating the right to food as if not. Both rights are recognized under article 11(1) of ICESCR as "*the right of everyone to an adequate standard of living for himself and his family*". Further, for the case at hand it is impossible to prioritize between right to food and right housing based on public vs. individual interest. For one thing, both the right holder of the house and the food are many in number. On other hand the government has no disaggregated data of evictees from both the inner city and from the farm land.¹²⁵ In *SERAC vs. Nigeria* case the ACHPR held that the State cannot make prioritization

¹²²Food and Agriculture Organization of the United Nations website, <http://www.fao.org/hunger/en>, (accessed September 23, 2014); Organization for Economic Co-Operation and Development website, <http://stats.oecd.org>, (accessed September 23, 2014); see also Oakland Institute, "Understanding Land Deals in Africa: Ethiopia," 2011, pp. 9–10.

¹²³Supra Note. 94 and 106 interviews with farmers evicted from Sammit proved that priority should be given to right to food before the right to housing to this researcher that "if you eat you may stay the full night hiking on the try by which one can escape from being eaten by animals. On the other hand, one cannot escape from hunger unless provided food.

¹²⁴HRC, General Comment no 27, para 14.

¹²⁵ Supra note.23, Interviews with Mr. Adem; see also supra note. 2, interviews with Mr. Israel.

between two or more human rights which are considered as fundamental for life.¹²⁶ The ACHPR systematically inferred the right to food from the rights to life in case the deprivation of right to food may occur due to the eviction of people from their cultivable land. Similarly, in *Olga Tellis case*, the Indian Supreme Court found that the eviction from land cannot be separately treated from the right to livelihood if the evictees solely rely on the land they occupied on to their livelihood.¹²⁷

Here, the human rights law does not ban eviction of people even from cultivable land demanded to build houses on it; rather, it prohibits the eviction of farmers from their farm land without substitute farm land or without enabling them to get sustainable means of livelihood.

4.4.3 Right to Life

Right to life is fundamental and supreme to all rights.¹²⁸ Article 6(1) of the ICCPR recognizes the right to life as the right to every human being which is inherently conferred by creature. According to the HRC, the right is prerequisite to other rights for the reason that all arrays of human rights are fully enjoyed by existing person. Put differently, if there is no protection to right to life but for other rights; the protection would not be genuine and futile. Correspondently, the deprivation of basic necessity for life would affect right to life definitely. Since the right to life cannot properly be understood in restrictive manner, protection to the right requires the State to take positive measures including adopting the measures to illuminate malnutrition.¹²⁹

The Addis Ababa city has been experiencing expansion in all directions. In order to improve the acute housing problems in the inner-city, upgrading and complete redevelopment of inner-city slums, land acquisition measures associated with urban renewal, housing renovation, city beautification programs, infrastructure projects, private and public construction projects, the farmers bordering the city have to be evicted from their farmlands. The former farmers from the *Sammit* eviction site explained that:

¹²⁶ Ibid.; see also SERAC case, on that case as part of its rationale, the African Commission on Human and Peoples Right explained that eviction took place due to destruction of land and farms, it caused also the violation of right to life.

¹²⁷ *Olga Tellis v Bombay Municipal Corporation and Others*, (AIR (1986), sec.180.

¹²⁸ HRC, General Comment No 6, para. 1.

¹²⁹ Ibid,para.5

We know only farming. Farming is our livelihood, but the government took away our land. For us land is everything ranging from material to build homes, cultivating crop for food and as an instruments to the place culturally we worship our God. We really depend on land for survival. Since we deprived our land, we have nothing to eat. The eviction rendered us to starvation. The new comers, the educated, who have occupation, supported by the government are living luxurious life on our land at our cost.”¹³⁰

It is evidently proved that such urbanizations can shift the livelihood of the rural people from agriculture to other activities. Farmers complain about insufficiency of compensation and lack of other economic options to make life sustainable. If there are no alternative provisions of farm land given to them, no alternative means of livelihood than farming, and they do not know how to manage the money for compensation they might get, their right to livelihood predominantly their right to food is jeopardized that ultimately put their right to life under question.

4.4.4 The Right to Adequate Housing

The right to adequate house which enshrined under article 11(1) of the ICESCR is also an integral part of the law of the land by virtue of article 9(4) and 13(2) of the FDRE constitution. The right to an adequate standard of living in Article 11 of the ICESCR includes a right to housing. By General Comment No.4, the CESCR identified seven criteria for evaluating the “adequacy” of housing available to every person. Under that one of most important criteria set forth considered to evaluate and ensure the adequacy of the right to housing ingredient is security tenure.¹³¹ Tenure security requirement as components of right to housing is legal protection against evictions. Thus, right to be free from eviction is a component of adequate right to housing not only for those ownership rights of home or formal settlers but also applies to those informal settlers, sub-tenants of public or private houses. This results in a focus on protecting domestic life, rather than property interests *per se*, linking this right with the right to privacy in the home under the ICCPR.

¹³⁰ See FGD with farmers from Sammit eviction sites, 12 November, 2014.

¹³¹ CESCR, General Comment No. 4

Displacing people and providing them “shelter on once head” not make the eviction lawful. In order to make the eviction acceptable, the alternative houses provided shall be adequate. And the CESCR has given due care for the term “adequacy” that it has to be interpreted in broad manner. Informants from the *Arat Kilo* known as *Basha wolde chilot* site explained that though the government provides the better houses than before, they claim that the eviction distanced them from proper facilities.¹³² The new does not allow access to employment options, schools, childcare centers and other social facilities.¹³³ Thus, provision of inadequate housing caused by the eviction from their prior home or land is violation of the article 11(1) of the rights of everyone to an adequate standard of living for himself and his family including adequate right to housing.

In Addis Ababa City, evictions for public purposes are both cause and effects of the violation for right to adequate housing. For those evicted from the inner city and provided condominium houses where the facility and the location not allow for the access to job, education center, and etc, it resulted with inadequate housing. Under international human rights law the standard set forth binding the State is adequate housing. Whereas the large majority of the population in the city with low income private tenants and informal settlers are always remain rendered homeless. Likewise, in the case of farmer’s eviction from their home and land without substitute land or house, the eviction rendered them homeless.¹³⁴

4.4.5 The Right to Choice of Residence

The right to freely choose once place of residence has been interpreted as to take in protection against all forms forced domestic evictions.¹³⁵ This means that even where people are illegitimately occupying their current residence, they still have a right not to be arbitrarily moved somewhere else against their will. This right applies to any person irrespective of showing their ownership or use right to land or home. In

¹³²Interview with Fikirt Endale, from 4 kilo Eviction sites, 23 September 2014; see also Interview with Awal Reda, from 4 kilo Eviction sites, 23 September 2014.

¹³³ Ibid.

¹³⁴Interview with Ture Bedhadha, Former farmer from Sammit Eviction sites, 24 September 2014; see also interview with Rettaa Tadela, Former farmer from Sammit Eviction sites, 24 September 2014. Both interviewees explained that for 7 years we repeatedly asked them to give them alternative land for housing. Majority of the evictees are leaving in hats and some stay on open air the full night as a result of the eviction.

¹³⁵Article 12(1) of ICCPR; see also the HRC, General Comment No.27 (1999), Para 7.

addition article 41(1 and 2) of the FDRE Constitution stipulates that: “Every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood of his choice anywhere within the national territory. Every Ethiopian has the right to choose his or her means of livelihood, occupation and profession”.

The Human Rights Committee has commented on the right to freely choose one’s residence as follows:

*“Subject to the provisions of article 12, paragraph 3, the right to reside in a place of one’s choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory”.*¹³⁶ The HRC has noted the strong connection between eviction and the freedom of choice of residences. When rights to not to be evicted violated by the State party or State sponsored and or tolerated eviction, the evictee’s freedom of choice of once residence invariably be violated.

The right to freely move within one’s own country and to choose one’s place of residence is set out in Article 12 of the ICCPR as well as Article 12 of the ACHPR. Evictees which have no any accommodative alternative under the Ethiopian legal regime and the farmer’s evictions without substitute land are indirectly restricting their choice to residence. In the assertion of one of the government officials, if the farmers want to remain farmers, since 84 % of Ethiopian lands are cultivable they can go and be engaged in farming activities outside of Addis Ababa and the area.¹³⁷ From the informants, evictees have never consented and did not wish to move from their land or home, but the government forces them directly by police force or by means of indirect intimidation and tags of “anti-development”.¹³⁸ This unquestionably limits the rights of the evictees to choose residences. It means that they are forced to leave some area in order to establish their livelihood even the place on which they do not want to reside.

From the above points, it can be asserted that farmers who are evicted from their land without being given alternative farm land in the expanding City or for some public purposes would force and struck the farmers to the countryside is undeniably the

¹³⁶ Ibid.

¹³⁷ Supra note. 2.

¹³⁸ Supra note. 124.

violation of right to freedom of choice of residences. Furthermore, eviction of farmers in the aim of changing their livelihood from farming to the other urban way of life is violation of the socio-economic and cultural rights set forth under article 41 of the FDRE constitution which guarantees every Ethiopian to freely keep economic activity and to pursue a livelihood of one's choice and means of livelihood, occupation and profession.

4.4.6 The Right to Privacy and Security of Person

The right to Privacy and security of person are recognized by ICCPR and FDRE constitution as well. Article 26(1) of FDRE Constitution lays down that everyone has the right to privacy which shall include the right not to be subjected to search for his home, person or property, or the seizure of any property under his personal possession. Restrictions may possibly be placed on the enjoyment of the right to Privacy and Security of person in compelling circumstances and in accordance with specific laws.

The Constitution further illustrated the purposes for which the right might be restricted *inter alia* shall include safeguarding of national security or public peace, the prevention of crimes or the protection of health, public morality or the rights and freedoms of others. Thus, limitation of the right to Privacy and security of person of the evictees are truly possible when the eviction is necessary to allow others to exercise their rights and to achieve the public goals. Apart from the factual existence of the public purpose and prior laws provides that, the rights can only be restricted to the extent proportionate to the aim pursued. The concept of proportionality is common to determine the limitations to any human rights might be restricted.

The right not to be evicted has also been recognized under ICCPR. Article 17(1) provides: *"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence ..."* According to the HRC, the main purposes of this provision is to protect and enhance the liberty of individuals -the existence, autonomy, security and wellbeing of every individual in their own private sphere.¹³⁹ The HRC noted that the term home under article 17 of the ICCPR has to be understood to

¹³⁹HRC, General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honor and Reputation, UN Human Rights Committee, 32nd session (8 April 1988).

indicate the place where a person resides or carries out his usual occupation.¹⁴⁰ In other words, even where individuals do not have legal rights to their homes and workplaces, their possession and use of such property may not be curtailed in an unlawful or arbitrary manner.

There is strong linkage between the right to privacy and the right to freedom from eviction.¹⁴¹ The purpose of the human right against arbitrary or unlawful interference with the home is justified to protect the security and autonomy of the persons in their home. It is in their home that a person is able to be themselves in the private and personal sense. That is fundamentally important for the persons' social and family life and the attainment of their full potential as an individual.

All persons are protected from unlawful or arbitrary interference with their personal and family life as well as their home. The right to privacy is the other frequently violated right in any eviction.

In addition, FDRE Constitution recognizes the right to privacy and security of person as "Every person has the inviolable and inalienable right to life the security of person and liberty."¹⁴² However against this constitutionally stipulation, eviction regime legislations allow use of force to enforce clearance order to person opposed or refused eviction.¹⁴³ For one thing public purpose nature of any project is determined by the government body. On the other hand there is no system of checking this administration decision's legality as fair trial by the regular courts are not allowed in the case of fact and laws of eviction needed to be remedied. In the absence of independent arbiter to entertain the cases of eviction between the government and evictees there is possibility of occurrence of arbitrarily eviction. Hence for the sake of arbitrary eviction, citizens' right to privacy and security of person is subjected to violation. In most cases, according to the informants from the eviction sites, for example, during clearing land to *Sammit* condominium housing project forced

¹⁴⁰Ibid, para.5

¹⁴¹Kevin Bell, Protecting public housing tenants in Australia from forced eviction: the fundamental importance of the human right to adequate housing and home.(Monash University Faculty of Law Costello Lecture, (2012), unpublished), pp.13-14.

¹⁴²Article 14 of the FDRE constitution.

¹⁴³Article 19(3) of proclamation No. 272/2002; see also article 31(4) of the proclamation No. 721/2011; see again article 25(4) of the Addis Ababa City Cabinet Directive No 19/2014.

displacement, arbitrary arrest on the challengers and property demolition by bulldozers are observed.¹⁴⁴

From the above discussions, eviction in most of the cases violates the right to privacy and security of person. It has also been revealed that Ethiopian laws regulating eviction do not give due care and provide maximum protection to curb system of abusing powers during enforcement of evictions. In practice, it has empirically proved that practice of evictions, particularly, which were carried out on the farmers' land is resulted in violation of the right to security of person and privacy.

As eviction challenges some specific rights, it also disproportionately affects some specific rights holders. The next section is devoted to dealing with the impacts of eviction on vulnerable groups even though the reasons of their vulnerability may vary from one group to the other.

4.5 The Disproportionate Impacts of Eviction to Specific Right Holders: Sub-tenants, Informal settlers, Old aged, Women and Children

Though the government has an obligation to ensure and treat all equally, it needs to take into account the circumstances of vulnerable groups. Thus, disadvantaged groups must be accorded with full protection from eviction which may expose them to homelessness, with priority given to: elderly, children, physically or mentally disabled, the terminally or chronically ill, women and sub-tenants. The HRC has not only noted that disadvantaged groups should be “ensured some degree of priority consideration” in the provision of housing,¹⁴⁵ but also recommended that such groups should be provided with particular protection from forced evictions:

Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable The non-discrimination provisions

¹⁴⁴Interview with Ture Bedhadha, Former farmer from *Sammit* Eviction sites, 24 September 2014; Interview with Rettaa Tadela, Former farmer from *Sammit* Eviction sites, 24 September 2014; see again interview with Girma Leggasie, Former farmer from *Sammit* Eviction sites, 24 September 2014.

¹⁴⁵CESCR, General Comment 4 (1991), paragraph 8(e). See also paragraph 11

*of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, and appropriate measures are taken to ensure that no form of discrimination is involved.*¹⁴⁶

The CESCR underlines the fact that every time even during economic calamity whether caused by a process of adjustment, of economic recession, or by other factors, the vulnerable members of society can and indeed must be protected by the adoption of vulnerable targeted programs.¹⁴⁷ Forced eviction is the most catastrophic events for the vulnerable people owing to their circumstances. Forced evictions intensify discrimination, isolation and consistently affect the most socially, physically vulnerable and marginalized sectors of society, more than ever, women, children, minorities and indigenous peoples. Similar to CESCR, the commission of human rights Stated that during evictions occurred, the women, children, youth, older persons, indigenous people, ethnic all vulnerable groups suffer disproportionately from the practice of forced eviction.

In this study the vulnerable groups in eviction, as aptly identified by the CESCR, are also discussed as Sub-tenants, informal settlers, women, children, and old aged persons.

4.5.1 Sub- tenants and Informal Settlers

According to the urban land lease holding legislation, once the appropriate body decides the eviction of which they reckoned as public purpose, they offers compensation in cash only to the possessor of land who acquired it from authority.¹⁴⁸ The English version of the article 12(2) of the proclamation no.721/2011 entitle that any person displaced due to urban renewal program shall be entitled to a substitute plot of land. In contrary, the “Amharic” version of the same provision of the law put precondition that only the old possessor of a plot of land legally acquired before the urban center entered into the leasehold system or a land provided as compensation in kind to persons evicted from old possession will be protected from arbitrary eviction. As a result, lawful tenants of government or Kebele owned residential houses in

¹⁴⁶Ibid, General Comment No.7, para.10.

¹⁴⁷See CESCR, General Comment No. 3, para. 12; see also the UNDP, *Human Development Report*, Oxford, Oxford University Press, 1990

¹⁴⁸Article 2(8), 12(4) and article 26 of the proclamation no.721/2011.

Addis Ababa only are entitled for facilitated purchase of condominium housing unit if evicted for public purposes.

Whereas the law does not provide any protection to private tenants of residential houses subjected to be cleared as a result of the planned eviction public purpose. Worst of all, article 27(4) of the proclamation no.721/2011 States that:

“If a house subject to a clearing order issued pursuant to sub-article (3) of this Article is rented, the body which received the order shall take the necessary action to terminate the contract of rent prior to the expiry of the notice period”.

From this point, it can be asserted that both private and government tenants will not be compensated in case the land or houses they used to reside in are subjected to clear for the public purpose. Thus, one can genuinely conclude that protections of eviction is not rights of every person in Ethiopia against article 11(1) of ICESCR, relatively rights for only those could markedly prove the legal ownership of certain house or legal possessor of the land.

The authority has power to clear illegally occupied urban land by merely serving a written notice for seven working days to the settlers in person without any alternative accommodation.¹⁴⁹ Concerning this, CESCR noted that house demolition as a punitive measure is inconsistent with the norms of the content of the right to adequate housing.¹⁵⁰ Evaluating the currently Ethiopian land lease holding legislation relating to right holder protection from eviction, it appears inconsistent with international human rights laws as the laws clearly permit forced eviction against the unlawful occupier. The law has not defined what amounts to unlawful occupiers. But perhaps it is to mean those informal settlers who cannot prove that they acquired the land. There is no law that regulates the sub-tenants protection from arbitrarily evictions in Ethiopia. As result the government does not consult informal settlers and private tenants the eviction plan for public purposes. The law has totally ignored them from being concerned both at private eviction committed by the rent givers and during mass influx eviction for public purposes. Following the law the FDRE Federal Supreme Court Cassation bench in *Government Housing Agency vs. Tsige Beyene et al* case,

¹⁴⁹Ibid, Article 26(4)

¹⁵⁰ CESCR, General Comment No 7, para. 13.

did not take into account the general protection that the citizens should get from being homeless.¹⁵¹

In *Murad vs. Bole sub-city land development and city neither Beautification office*, the Addis Ababa City Government Urban Land Clearing and Compensation Case Appellate Tribunal has held that informal settlers have neither right to be consulted nor alternative accommodation in case of eviction for public pursues.¹⁵² In its several decisions the tribunal interperated the law as to who should be beneficiary of alternative accommodation in case of unavoidable evictions for public purposes under the Ethiopian laws. The tribunal only entertains case claim on amount of compensation if and only if the compliant brings legal documents showing t ownership of the land. Informal settlers, public house tenants and private tenants have no right to get alternative accommodation both under the law and practice.

In similar manners, the jurisprudences from Addis Ababa City Government Urban Land Clearing and Compensation Cases Appellate Tribunal decision have proven that only the owner of the house or legally possessor of the land will be protected from eviction.¹⁵³ However, the international human rights laws of which the country abided by states that the right not to be evicted does not presuppose ownership home or possession of land rights. ICESCR recognizes *the right of everyone* who may be affected as a result of eviction order. Based on article 11(1) of ICESCR, the CESCR expounded that unavoidable eviction for pressing public purpose itself shall not be carried out in making people homeless; fair rent which consider the situation of private renters shall be focused; and the State should aware the fact that all citizen of

¹⁵¹*Government Housing Agency v. Tsige Beyene et al*, Federal Supreme Court cassation Division, File 31634, Judgment 4 March 2000 EC; see also *Government Housing Agency v. Debiritu WoldeHana*, Federal Supreme Court cassation division, file no .34456, Judgment 5 March 2000.

¹⁵²*Murad Zayid v. Bole sub-city Land Development and City Beatification Office*. Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, File No. 261/ 2005, Judgment 9June 2006

¹⁵³*Gasit Getahun v. Nifas Silk Lafto Sub-city*, Addis Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, File No. 661/ 2006, Judgment 9June 2006; see also *Yeshi Gebayeh v. Addis Ababa City Kirkos Sub-city Land Development and City beautification office*, Addis Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, file no. 647/2005, judgment 2 march 2005; see again *Gemechu Sembato vs. Bole Sub-city Land Development and City beautification office*, Addis Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, file no. 643/2004, judgment 26 October 2005; see *Darbe Teklawold et al four people vs. Yeka Sub-city Land Development and City beautification office*, Addis Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, File no. 654/2006, and judgment 23 December 2006; *Birhanu Aseffa vs. Akaki Kaliti Land Development and City beautification office*, Addis Ababa City Government Urban Land Clearing and Compensation cases Appellate Tribunal, file no. 659/ 2006, judgment 15 April 2006.

all States have a right to expect their governments to be concerned about their shelter needs.¹⁵⁴

In practice, from the *Gulale* sub-city and from *Arat* kilo eviction sites, both informal settlers and private tenant evictees, did not get any prior information about the fact that their renters home or land requested by the government as a result of public purposes.¹⁵⁵ Their rent givers suddenly and overnight tell them to leave the house within three days.¹⁵⁶ Private rent givers would tend to hide the undertaking eviction though they discuss with government, however, worried by termination of their incomes they get from these tenants, they become reluctant to disclose the eviction until its final call. The impact of such hidden eviction unfairly puts the evictees under traumatic suffering on their livelihood, security of tenure, unnecessary expenses of finding expensive rent houses nearer to their student school, their job place and other social ties. Due to the gaps of the law and injustice practice of eviction in the country, significant number people of the eviction area bears the costs of eviction.

Since the law allows the private rent givers to terminate the contract of rent until the final date of the notice, the private tenants will not be given adequate and sufficient notice from their renters and frequently occurrence of evictions by the State and non-State actors.

4.5.2 Old aged persons

Although Ethiopia is a young country with 46 %of the population under the age of 14, over 5% of the Ethiopian population are aged 60 years and above.¹⁵⁷ This proportion of older persons is anticipated to nearly double to 9% by 2050.¹⁵⁸ Old aged person means men who live to 60 can expect to live an additional 15 years and older women an additional 16 years after their 60th birthday. Migration to urban areas for work, family support and medical care increasingly brings older persons to city centers. An

¹⁵⁴See CESCR, General Comment No. 7 para 13; see also the CESCR concluding observation on Panama(1991) para.3, CESCR Concluding observation on Canada(1992), para.106; See also the UN Global Strategy for Shelter to the year 2005 GA Resolution 43/181,p.13

¹⁵⁵FGD convened with evictees from Gulale sub City Woreda 2 on 20 December, 2014.

¹⁵⁶Interview with Mr. Wayessa Amasa, sub tenants from Gulale sub-city eviction site, on 13 February,2014; see also interview with Mr. Yonis Hayilu, sub-tenants from Gulale Sub city, on 13 February,2014.

¹⁵⁷The FDRE, Developmental Social Welfare Policy (DSWP),1996, preambles.

¹⁵⁸Ethiopian's Plan of Action on older persons (1998 - 2007) E.C

area where older persons are most vulnerable is in case of the eviction for public purposes that led them to unsustainable livelihoods, insecurity due to re-locations.

The Ethiopian Plan of Action on older persons provides various incentives to families caring for older persons and facilitates the construction of homes free of charge for voluntary families assisting lonely older persons within their premise. The Human Rights of the old Aged person include the indivisible, interdependent and interrelated human rights *inter alia*, covers the right to an adequate standard of living, including adequate food, shelter and clothing, the human right to adequate social security, assistance, and protection, the human right to freedom from discrimination based on age or any other status, in all aspects of life access to housing, and social services, the right to full and effective participate in decision-making concerning their well-being.¹⁵⁹ Here the research only focuses the human rights of old aged person in connection with eviction.

The first specific right holders who face unbalanced consequences of all the negative eviction process are Old aged¹⁶⁰ people who have often been overlooked in disasters and conflicts, and their concerns have rarely been addressed by emergency programmes or planners. The area in which the older aged faces vulnerability is in case of the eviction for public purposes which led those to unsustainable livelihoods, unsecured locations.

In *Gulale* sub-city eviction sites the old aged evictees with old possession, the government provides them alternative land. However, informants responded that they cannot build replacement houses not only due to the unaffordable cost of

¹⁵⁹ Articles 2, 22, and 25 of UDHR, Articles 2, 7, 9, 11, and 12 of ICESCR, UN General Assembly *Proclamation on Ageing*, para. 2; see also the *Habitat Agenda*, paras. 17 and 40 specially the consideration of old aged person's situation during eviction states that "Older persons are entitled to lead fulfilling and productive lives and should have opportunities for full participation in their communities and society, and in all decision-making regarding their well-being, especially their shelter needs. Their many contributions to the political, social and economic processes of human settlements should be recognized and valued. Special attention should be given to meeting their evolving housing and mobility needs in order to enable them to continue to lead rewarding lives in their communities.

¹⁶⁰ The term 'elderly' or older person has different meaning in different countries; it is mainly explained and is related to chronological age, functional Age as well as retirement age. According to the UN definition older persons are those people whose age is 60 years and over. The definition has gained acceptance in Ethiopian context as it coincides with the country's official retirement age

construction which currently has reached high price with the inadequate compensation paid to them by the government but also because of their inability due to their age.¹⁶¹

As one of the interviewee responded:

*“When the government officials told us that we should leave our home and/or land, we told them that most of the old age persons evicted from this place have no livelihood than pension. Health status of most of us is not good. If the government forced us to leave this place we will die. Government means people. If that is the case why should have the government decided such and intimidates us? After all, what is development means? Why should we be under the conditions of development observer than beneficiary? For all this questions, the authority disregarded our concerns. Since the government determined to pursue the project at any cost no change is allowed after all”*¹⁶²

The plan of action for older persons and the developmental social welfare policy have tried to address the vulnerability of the old aged person. In case of housing provision, some priority will be given to the older persons. Nevertheless, there are no special measures given to the older in case they evicted for public purposes. Above all the Ethiopian legal regime of eviction for public purposes regulations, proclamation and decrees failed to address the disproportionate impacts of eviction on the old aged person as a result of their age.

4.5.3 Women

The CESSR gave due emphasis to the women circumstances along with other vulnerable groups even whenever eviction is unavoidable. Women are inexplicably affected, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights, including homeownership, gender based violence and sexual abuse when they are rendered homeless.¹⁶³ Most of the time women become disproportional victim of eviction due to the historical legacy which

¹⁶¹Interview With Mr. Kumsa Yadessa(80 years old), from Gulale sub-city Evictions sites, on 5 January 2014.

¹⁶²Ibid, Interviews conducted to old aged persons during eviction undergoing at Gulale subcity.

¹⁶³ Ibid.

denies their right to ownership of home and use of land.¹⁶⁴ The UN Human rights Commission resolution 2001 reaffirmed that eviction from home and land have a disproportionately severe impact on women.

Women in Africa suffer disproportionately from eviction for the reason that mostly they are informal and lived unsecured tenure as compared to their male counterparts due to their historical deep-rooted deprivation of their rights caused by gender inequality.¹⁶⁵ Women's rights have been frequently violated than of men owing to frequent denial of basic social services, discriminated (directly or indirectly, de facto or de jure), victims of gender-neutral laws and social policy which either excludes them or disregards the women's situations, and discrimination from cultural stereotypes, beliefs and harmful practices. To the worst, women are disproportionately burdened than men when the States fail to fulfill its obligations under ICESCR due to a number of factors.

The FDRE Constitution stipulates women shall be guaranteed equal and effective protection without discriminating because of their sex¹⁶⁶, equal enjoyments of rights protected with men¹⁶⁷, and particularly ensuring equality of result by considering the situations of women by allowing them affirmative action.¹⁶⁸ The national policy of women aimed at mainstreaming gender into existing laws and any policies and development programs of government.

Some of the policies consider the vulnerability of women due to their sex and the legacy of past injustices, and support women to enjoy their rights to adequate housing in case of condominium lotto's. For instance, the Ethiopian government has decided that during the condominium apartment lotto, 20% of them will be allocated to

¹⁶⁴See for example the UN Human rights Commission resolution 2001/34 which entitled "Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing". The commission reaffirmed that forced relocation and forced eviction from home and land have a disproportionately severe impact on women. The resolution also urged governments to comply fully with their international and regional obligations and commitments concerning land tenure and the equal rights of women.

¹⁶⁵In 1995, the data from the 4th world Conference on Women in Beijing indicated that women works 13% longer hour than their men counterpart of which the 2/3 of the burden is spent devoid of payment; 0.5 million of women die annually due to pregnancy related causes; 70% of peoples living in absolute poverty and 74% of illiterate peoples were women. See also Human Development Report 1995, 1995, pp. 4, 33, 88 and 91; See also World Health Organization, Maternal Mortality, Fact Sheet No. 348, and May 2012.

¹⁶⁶Articles 7 and article 25 of FDRE Constitution.

¹⁶⁷Article 35 of FDRE Constitution.

¹⁶⁸Ibid.

women without competition with males. If the government have carried out its obligation that might have been achieved progressively, for strong reason the same procedure and special measure ought to be sought to the rights not to be evicted that call for immediate realization.

The world Survey Report of 2014 on synergies between sustainable development and gender equality recommended quest for undeniable policy change needed. The policy report shows that any public purpose project which fails to deal with gender issues and disregard the disproportionate impacts of eviction on women and girls are not sustainable. Gender issues in developmental project aspect has been increasingly recognized in principle 20 of the Reo Declaration, and Beijing Declaration and platform for action both which calls for all government to integrate gender concerns into policies and development programs. From all international norms that advocates for gender mainstreaming in every pillar of development, the link between ensuring gender equality and development project is important to ensure equality in result.

In practice, during eviction for public purposes no special considerations have been given for women.¹⁶⁹ According to the official from eviction sites of Gulale sub-city, resource limitation and existence of multiple priority requiring factors are peril to addressing women issue in case of eviction. Based on that, it may be argued that the State shall provide houses for the evictee women to the extent of maximum available resources which demands progressive realization. However, the government should have planned and take all measures before invoking the progressive realization of rights.¹⁷⁰ There are still gaps on programming and planning as there is no disaggregated data of women evictees, or prior impact assessment of eviction on women. As a result gender is insufficiently integrated in the evictions for public purpose policies and strategies. Subsequent laws deals with eviction has no duly included the gender issue during evictions. Even the guaranteed rights already been made by the Constitution is diminished by poor law enforcement bodies performance.

¹⁶⁹Interview with official from Gulale Sub-city, Wored 2, (Alemayehu, Construction and Housing Development head)

¹⁷⁰ Article 2 of ICESCR

4.5.4 Children

Evictions which affect women almost invariably constitute the evictions of children as well since the women are primarily care givers of children.¹⁷¹ A research conducted on “Urban Children and the Physical Environment” explained that:

*“The impacts of eviction for family stability and for children’s emotional wellbeing can be devastating; the experience has been described as comparable to war for children in terms of the developmental consequences. Even when evictions are followed by immediate relocation, the effects on children can be destructive and unsettling.”*¹⁷²

Apart from their mental and physical devastation impacts of eviction on children, it has become causes for deprivation of their education. Other children are reported to have abandoned the hope of continuing their schooling because they have no alternatives.¹⁷³ When children are unable to attend school due to a forced eviction, the right to education is sacrificed.¹⁷⁴ Interruption of education of children is one of the frequently invoked rights by parents to refuse to accept the eviction for public purposes ordered by government. Right to education is not only rights *per se* but also assists as a fundamental and means to achieve other human rights.

One informant from Gulale sub-city eviction site made clear that:

*“My three children dropped out of the school as a result of eviction which took place at the time of students’ learning. There has been no any private or public schools at the place where we were relocated. With my income I could not afford to educate them all taking such far and long traveling from home. As a result, children were forced to quit School. Thus, following the eviction, I lost everything. I could not pay their school fees because I have not got the means to pay them”.*¹⁷⁵

¹⁷¹UN-HABITAT, Quick guide line for Evictions: Housing the poor in African Cities, (UN Human settlement Program), 2011, p.16.

¹⁷²COHRE, Defending the Housing Rights of Children: A project in collaboration with Cordaid (Netherlands, (2006)), available on www.cohre.org.

¹⁷³Ibid.

¹⁷⁴Fact Sheet No.25, Forced Evictions and Human Rights.

¹⁷⁵Interview with families of children drop out schools from Gulalale sub-city

On the other hand ministry of education characterizes the impacts of school dropouts of students due to eviction as follows:

“Family displacement from their vicinity has been one of the reasons behind to school drop outs in Ethiopia including in Addis Ababa. In a given education system, the occurrence of drop out is considered as wastage. Since students could not finish the intended class of the academic year the resources allotted for that year would be taken as great loss for us.”¹⁷⁶

In the case of evictees from Gulale sub-city for the land to be cleared for the national government compound to be built there, eviction took place during the students on learning for the academic year. As a result, students of poor family were forced to drop out the school. For those who continued their study coming from newly located area, the cost of transportation increased and it affected the livelihood of family.

One respondent from the *Gulale* sub-city explained family disintegration as:

“We have 8 children from which five of them are below 18. The authority of the woreda forced us to live the place within 3 months. They gave us one year house rent compensation alternative to our houses until we construct our houses on the alternative land given us. With the amount of compensation given us, we cannot construct house owing to the increment of construction materials. We forced to find rent houses to live in with all our children. However, our rent giver refused to allow all of us to live together with all our children to live in the same house. They told us that the maximum number of persons allowed to live in the rented house shall be three. As a result, we were forced to find other houses to the left of the children. Three by three our children have sprinkled in the city”¹⁷⁷.

From the above respondent, though the government tries its best to provide compensation alternative to the home, it failed to consider the situations of children. Due to the Ethiopia urban land policy failure to incorporate the best interest of the

¹⁷⁶Ministry of education, Communication and Public Relation Directorate, director interview with Ethiopian Herald,2014.

¹⁷⁷ Interview,

child during eviction, evidently, it is found to be violating the child rights recognized by the FDRE constitution¹⁷⁸, their obligation under CRC¹⁷⁹, and violates the family law when family is scattered as a result of evictions.¹⁸⁰ In support of this idea, the South Africa Constitutional Court held that “it would not be in children’s best interests to break up the family unit without justification”.¹⁸¹ In the *Grootboom* case, despite the court found no violations of the right to housing based on the clear evidence of a rational housing program designed to solve a pressing problem in context of scarce financial resources, the court find out violations under the provision of the constitution which gives every child have unqualified to shelter.¹⁸²

As it can be seen from the responses to interview discussed above eviction is among other things critical challenges to right to education by forcing the students from poor family to drop out schools. Eviction is ordered by other sectors of government which has no concerns to education. There is no synchronization between the two sectors on one hand and due to human rights issues has not been made main streaming on the other hand, the eviction program did not consider the right to educations of students from poor families.

Ethiopia has not fulfilled her obligation under article 12 of ESCRS (the provision of free of charge and compulsory elementary education and duties under CRC. Parents are being charged for elementary education because of the eviction adds to costs of education.

4.6 Conclusion

To conclude, the eviction legal regime of Ethiopia in general and practices from the eviction sites of Addis Ababa City in particular are not fully adherent to both international human rights standards and domestic human rights guaranteed by the FDRE Constitution. Evictions which are said to be carried out for ‘public purpose’ are not sufficiently justified based on pressing social needs, remote to benefit the public directly or indirectly, top-down imposition by the authority excluding the people from the center of development.

¹⁷⁸ Article 34 of the FDRE constitution.

¹⁷⁹ Article 12 of CRC

¹⁸⁰ Article 219 of FRF code.

¹⁸¹ *Grootboom vs. Oostenberg Municipality and Others* 2000 (3) BCLR 277 (C).

¹⁸² *Ibid*, para .289 C–D

Even for evictions which have legitimate purposes, concerned authorities implement the evictions in disproportion to human rights limited and follow procedures unfriendly to human rights and their approaches to development. There is no programme on competing human rights. As a result, numerous human rights, including the right to food, livelihood, the right to adequate housing, the right to life, freedom of choice of residence and the right to privacy of home have been evidently proved frequently violated. Hence, both the process and outcome of eviction are apparently resulted in violation of human rights. Finally, the laws and practices do not clearly address the disproportionate impacts of eviction on private tenants, informal settlers, old aged persons, women and children.

Chapter Five

Conclusion and Recommendations

5.1 Conclusion

Freedom from fear of eviction is the individual right to live somewhere in security, in peace and in dignity. The right not to be evicted from one's home or right to use land is fundamental human rights protected under international bill of human rights, regional human rights systems and domestic laws. Despite the fact that the right not to be evicted mostly seems derivation of tenure security aspects of the right to adequate housing under ESCRs, it is also guaranteed by CPRs. Practices from the UN human rights treaty bodies, UN human rights Council, European Court of human rights, African Commission on human and Peoples rights, South African Constitutional Courts and the Indian Supreme Court all proved that full enjoyments of the right not to be evicted would only be possible through, understanding the interdependence and integration of all human rights. The right not to be evicted has closely linked with other numerous human rights, *inter alia*, the right to life, livelihood, right to food, freedom of movement and choice residences, the right to Privacy and Security of Person. Due to the consistently existing deep-seated correlation between those rights with the right to freedom from eviction, it can have enormous adverse effects on the enjoyment of the other human rights.

In this paper five fundamental research questions have been raised. The first is the obligations of Ethiopia towards protection of the right to every person not to be evicted in arbitrary, illegitimately and disproportionately whenever eviction is carried out for public purposes. Subsequently, what constitutes public purpose and who determines it in Ethiopia as justification of eviction were analyzed. Procedural guarantee for unavoidable evictions, undesirable effects of evictions on specific rights, disproportionate impacts of evictions on the vulnerable segments of the society, and remedies to evictions conducted inconsistent with human rights standards are critically explored.

These questions were addressed based on combination of both doctrinal and socio legal researches. Unwavering methodologies were employed to gather and analyze data including a desk review of primary and secondary materials, personal observations to the eviction sites, in depth interviews and FGD discussions with

government officials, evictees from the inner-city, and evicted farmers to explore pertinent information to answer the research questions. Therefore, the following conclusions are drawn from the thorough investigation made by the researcher. The appraisal made by this research discovers that, eviction frequently occurs in Ethiopia in general and in Addis Ababa City in particular for City beautification, City expansion under the Addis Ababa Integrated Housing Development Program to nearby farm lands, and for other public works. There is a legislative gap which allows the authorities tremendously and quickly to evict people. The government justifies that eviction is the only means and exclusive of which developmental projects are aimed would be unattainable. Since the right not to be evicted does not forbid developmental projects from being carried out, in which case the displacement of the people could be justified. Similarly legitimate public purpose development cannot be made in depriving human rights. This shows that human rights and public purposes development are complimentary and mutually reinforced.

Though there are circumstances which make eviction inevitable for genuine public purposes and pressing social goals, still the government alone cannot decide, and enforce eviction solely based on its discretionary power. Archival reviews of this research clearly found out that Human Rights Based Approach to Development and limitation clauses provided by human rights laws impose certain condition and restriction on developmental projects by putting human rights at the center of any development schemes.

The research has revealed that although the FDRE Constitution and other legislations endows with prohibition of arbitrary eviction, the laws and practice in some cases are inconsistent with the standards set forth by human rights laws. Incompatible with the Constitution, the subsidiary laws have full of gaps, drawbacks and deficiencies, insufficiently safeguard all human rights susceptible to violation when eviction is being carried out. It is only government authorities who absolutely determine public purposes which causes eviction without genuine consultation with the victims of the dislocations, and evictees are only notified and convinced to leave the place. Against the eviction order and administrative tribunal decision, the victims have no right to recourse remedy of regular courts to challenge the legality of eviction which is dare to fair trial right. The laws do not recognize the right not to be evicted as the rights of everyone which have become causes for the arbitrarily eviction of private tenants and

informal settlers. The right is partially protected for those who could prove ownership right to home or land use rights. Even for those legal owners the laws entitle alternative accommodation paid as compensation, sustainability of their livelihood has not been included. In practice the government does not consider competing human rights while enforcing eviction. The right to food, the right to life, the right to house, freedom of choice of once residence, the right to privacy and security of the evictees have been frequently violated.

Concerning the legitimacy of the projects which cause eviction, government alleges that the end would justify the means taking into account that the ultimate goal would be for public welfare. However, there are no guiding policies to resolve potential problems of competing human rights and no human rights impact assessment mechanisms have been ever conducted before carrying out eviction for the said public purpose. In the absence of mechanism of balancing competing rights, both urban land granting to public concessions and to private investors as if it indirectly contributes for development carries risks of devastating human rights impact. These perils occurred before, during and after evictions are carried out to make way for land re-development and city beautification, for constructions of publicly funded projects on tenants possessed land and integrated house development project in Ethiopia on farmers' residence land. Thus, the human rights of people might be unfairly compromised as the costs to be paid usually to bring development. As a result, the eviction for public purposes lacks to put humanity at the center of the development. The developments aimed by the government centered merely on infrastructure developments; it ignores people as the center of and beneficiaries of the said development. It unfairly put burdens on the evictees to bring development even in sacrificing their livelihood, life, liberty, social tie and property of the eviction victims, for the sake of the controversial public purposes perception in Ethiopia.

The research has also found out that alternatives to eviction were not explored in consultation with potentially affected people and no impact assessments whatsoever are known to have been conducted. As a result, policies and strategies were not developed to avoid or minimize evictions. Infringing international human rights laws standards, the evictions conducted for public purposes were not sufficiently justified by law or undertaken for the purpose of promoting the general welfare.

The procedural requirements for ensuring respect for human rights while the evictions were being carried out were also flagrantly violated. Many farmers suffered from the destruction of their crops, livestock and personal possessions. Despite such significant losses of housing, land, property and livelihood resources, compensation is not fair and was generally not provided in advance. When compensation was given, losses of livelihood were uncouned and the process was characterized by a lack of participation. Effective dissemination of information and meaningful consultation about eviction and resettlement options were not conducted and appropriate notice of eviction was not provided to affected people in some eviction sites. On the contrary, some affected communities did not learn the specific public purposes for which their homes are demolished or land had been taken away until bull dozers are brought up with police force. Others faced a campaign of intimidation and pressure to give up their land and accept the minimal compensation offered by the government.

After evictions, affected people suffered a severe retrogression of their enjoyment of nearly all economic and social rights, including the human rights to livelihood, adequate housing, food, work, and education. From the nature of interdependence of human rights, deprivation of evictees' ESCRs lead to violation of CPRs among other things freedom of choice of residence, right to life, the right to privacy and security of person. Farmers were left homeless and landless, while other evictees from the inner-city were provided with housing; their means of livelihood and other facility are compromised. In each study sites, the majority of households reported increased food insecurity, deterioration of livelihoods and loss of income earning opportunities as a result of their eviction. In some cases, the forced evictions led to extreme hunger and possibly starvation.

Many of the families of the farmers in the study areas, especially Sammit area, resorted to illegal migration to inner city after they lost their land to the project of Integrated Housing Development Programme of Addis Ababa City Government. Those who remained had no choice but to work as cheap laborers in the constructions ongoing there and some of them become insecure employees of new settlers as guard, where work is irregular, conditions are poor and payment is generally very low to enable most households to make needs met. This shifts the farmer's livelihood from their own land cultivators to a guard of the same land which they were born and raised on. Interviewees unanimously affirmed that they preferred to farm their own land and

reap the benefits of their labor for their families as they had done prior to the beginning of the condominium house project.

Both the eviction laws and practices do not recognize the disproportional effect of eviction on vulnerable groups of the society. Despite the existence of legal formalism concerning special concerns of women and children and people with disability as well, eviction for public purpose affects them and disproportionately increased their vulnerability. Gender is insufficiently integrated in the evictions for public purpose policies and strategies. Subsequent laws deals with eviction have not duly included the gender issue during evictions. Even the guaranteed rights have already been made by the Constitution is being diminished by poor law enforcement bodies performance. Above all the Ethiopian legal regime of evictions for public purposes regulations, proclamation and decrees failed to address the disproportionate impacts of eviction on the old aged person due to their age.

Most importantly the compensation schemes do not consider the situations of Women, children, old aged persons, private tenants, informal settlers and other vulnerable groups. As a result, in some case large families were exposed for breakdown and scattered. Evictions are not only cause for the school dropout of children evicted with their parents, but also increased the costs of education against the government undertaking to ensure and fulfill free and compulsory primary education. Eviction victims have been denied access to an effective remedy at the local and national levels. None of the families who were illegally evicted from their land were granted their right to return and no efforts were made to rehabilitate the displaced.

In general, the study has revealed that the benefits and burdens shared between the evictees and those who acquired the lands are excessively disproportionate. Government does not seem to bother to search for alternatives to eviction in violating its obligations imposed by human rights laws. Evictees are excluded from having role in decision-making. The processes and the outcomes of evictions are not human rights-friendly.

5.2 Recommendations

Justified evictions for public purpose development projects are vital not only for the economic development of a country as end goals but also a means to ensure maximum

enjoyments of human rights. However, the importance of such projects is becoming problematic as they have negative impacts on the enjoyment of human rights. Hence, to avoid the negative impacts of evictions for public purpose projects and to reconcile with human rights standards the following recommendations are made:

- Eviction implementing authority should conduct comprehensive human rights impact assessments before and after carrying out evictions for public purposes. The assessments should be conducted in line with international standards and include meaningful consultation with affected communities.
- In order to reconcile human rights and eviction for public purposes the government should prepare policies and program clearly set mechanisms how to strike the fair balance between expected competing human rights. To do this the government has to follow human rights based-approach to development and comply with the requirements of valid way of limitation of human rights. Only then will the country's eviction projects (development) have human rights within its central goal.
- The concerned authorities have to establish compelling reasons for the eviction and it should convince the people to be partners in the development effort. For evictions which are not for pressing social needs, insufficiently justified, not imminently implemented and remote to make use by public, the government should discontinue forced evictions and encroaching the community and private land or home. To implement justified eviction in rights respected way, the government needs to show undisputed existence of legitimate and pressing reason behind the eviction.
- The government should also take legislative and policy reform measures to all the incompatibilities have been found between the Ethiopia eviction legislations and human rights laws. The government should review and amend all the laws inconsistent with standards set forth by international human rights an instrument, unless which attributed for arbitrarily eviction and put the life of evictee's to deplorable condition. Specifically, policy makers and eviction enforcing authorities have to envisage the interdependence, inter-relatedness and generally integration approaches to human rights.
- Enforceable eviction legal regimes, when private tenants and informal settlers are evicted for public purpose, friendly to international human rights standards should be adopted. The law should protect against any arbitrary eviction, and

should provide the private tenants and informal settlers a right to be consulted genuinely on public purpose nature of the projects which might evict them, offer them the adequate and advance notice, grant them alternative accommodation, and finally ensure that none of the evictees would remain homeless or landless. Specifically, the right not to be evicted should be considered as rights of every one and there should be legal guarantee enable and support dispossessed families and communities to return to their land for those unjustified eviction, build adequate housing and reestablish their livelihoods so that they may live in security and dignity..

- Affected people should have saying on determination of public purposes at all stages and could be able to challenge the legality of public purpose before independent and competent tribunal once administrative tribunal remedies has been sought exhaustively. The government should ensure fair trial and accessible how judicial remedy has to be sought from regular courts which is legitimate, accessible, predictable, transparent, human rights compatible.
- The government should provide rehabilitation services to the evictees lost their means of livelihood, deprived of their right to food which in turn affects their right to life from all sites. Furthermore, towards reconciling human rights and eviction for public purposes, the government should provide guaranteed means of livelihood.
- The government should adopt special measures to avoid or minimize disproportionate impacts of eviction on vulnerable groups of the society.

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Annex-1

Key Informant Interview Questions with Concerned Government Officials

Name _____ Government Organization _____ Position _____ Address _____

Questions

1. What are the causes of evictions? What benefits the evictee will get?
2. How do you determine public purposes? Do people voluntarily leave their home or land without imposition?
3. Do you recognize the existence of competing rights among the human rights and between the right holders when you implement eviction for public purposes?
4. What is public purpose? Do you think that the claims of city beautification, land renewal and other factors grounds were sufficiently justify evictions?
5. Do you conduct human rights impact assessments before you initiate any project which results with eviction for public purposes?
6. How do you maintain proportional balance between the rights of farmers who were evicted from their land and others who have requested provisions of condominium house and fair balance between right to food and right to house?
7. How do you maintain proportional balance between public purposes for city beautification and the right to livelihood of the evictee who have some attachments with the land they were living on before they evicted from the city center to relocate at peripheral?
8. Do you explore feasible alternative options prior to eviction?
9. If the evictees do not comply with the public purposes or development agendas you proposed what do you do?
10. Do you conduct genuine consultation with affected groups by eviction?
11. Do you provide adequate and reasonable notice for all affected persons prior to eviction? Specifically, do the private and informal settlers officially get informed?
12. Do you take any complaints of unlawful eviction? If you found it is illegal, what remedy available for the evictee?
13. What procedural guarantees are available to challenge the administration decision and tribunal on the legality, legitimacy and proportionality of eviction?
14. Do compensations paid to evictees include their sustainable livelihood?

15. Do claims by the evictees exceed minimal interference with rights?
16. How do you evaluate the post eviction human rights situations of the evictees in relation to right to food, right to life and right to adequate housing?
17. What justifications are available to exclude the future sustainable livelihood of the evictee?
18. Do you provide alternative land as compensation to the farmer evictees? If not what are the government plans or programs to ensure their right to food?
19. How do you balance the evictees' right to choice of residence, security of person and home with the public purpose development you intended to implement?
20. Do you think that all evictees are equally affected by the impacts of eviction?
21. Is there a program for protecting sub-tenants and informal settlers from arbitrary eviction?
22. Do policies and programs specifically address the needs of the most vulnerable groups?
23. What specific measures are foreseen for sub-tenants (private and public tenants), old aged, women, children and farmers?
24. What measures are foreseen to prevent the vulnerable from becoming rendered homeless or vulnerable to violations of other human rights?
25. What do you think about the impacts of eviction on the evictee children's right to education?
26. What specific measures were foreseen so that children's schooling is not disrupted?

Annex-2

Interview Guide Questions with Farmer Evictees

Name _____ **Age** _____ **Occupation** _____

No. of families _____ **Addresses** _____

Questions

1. What are the causes of your evictions? Do you believe that the eviction benefits you?
2. Did you participate in determining public purpose? Have you voluntarily left your home or land without undue imposition?
3. Do you think that the government claims of city beautification, land renewal and provision of housing for the city-dwellers grounds are sufficiently justify your evictions?
4. Did the authorities consult you to explore feasible alternative options before your eviction?
5. How do you describe the manner and means used to inform you about your eviction? Do you think the evictions have adequate reasoning?
6. Did you oppose the plan?
7. Do you believe the authority have conducted genuine consultation with you?
8. To where do you take your complaints for the evictions you believe are forced, illegal, and inappropriate?
9. Did you get effective remedy? What kinds of remedy are available for you?
10. What procedural guarantees are available to challenge the administration decision and tribunal on the legality, legitimacy and proportionality of eviction?
11. Does compensation paid to you include your right to food and ensure sustainable food security?
12. How do you evaluate your post eviction human rights situations in relation to right to food, right to life, right to adequate housing, freedom of choice of residence, security of person and home?
13. Did you get an alternative land as compensation of the farm land you were evicted from? If not what are the government plan or program to ensure your right to food?

14. Have you satisfied with decision of the Administrative tribunals? If not, did you appeal?
15. In what alternative economic activities you were engaged?
16. Is there any training, assistance or advice given to you from the authorities on how to do business by the money paid to you as compensation for the land evicted?
17. Do you have any prior experiences on other economic activities than agriculture?
18. How do you explain the impacts of eviction to you?

Annex-3

Interview Guide Questions with Evictees from the Inner-city

Name _____ **Age** _____ **Occupation** _____

No. of families _____ **Addresses** _____

Questions

1. Has there been any short, medium- or long-term negative impact on the livelihoods of the relocated communities?
2. What are the causes of your evictions? Do you believe that the eviction benefits you?
3. Did you get alternative accommodation for your evictions?
4. What are facts you need to prove to get compensation?
5. Does compensation paid to you include your livelihood, right to food and ensure sustainable food security?
6. Did you participate on determining public purpose caused for your eviction? Do you voluntarily left your home or land without undue imposition?
7. Do you think that the government claims of city beautification and land renewal grounds sufficiently justify your evictions?
8. Did the authorities consult you to explore feasible alternative options before your eviction?
9. How do you describe the manner and means used to inform you about your eviction?
10. Do you think the notice were adequate and reasonable?
11. Do you think that the time was appropriate?
12. Did you oppose the plan?
13. Do you believe that the authorities conducted genuine consultation with you?
14. To where do you take your complain for the evictions you believe are forced, illegal, and inappropriate?
15. Did you get effective remedies? What kinds of remedies are available for you?
16. What procedural guarantees are available to challenge the administration decision and tribunal on the legality, legitimacy and proportionality of eviction?

17. How do you evaluate your post eviction human rights situations in relation to right to food, right to life, right to adequate housing, freedom of choice of residence, security of person and home?
18. Did the eviction increase your cost of living?
19. Did you get an alternative land as compensation of the land you are evicted from?
If not what are the government plans or programs to ensure your right to adequate housing?
20. Are the alternative houses given to you adequate?
21. How do you explain the disproportional impacts of eviction because of your old aged? Are there any specific measures given to you by authorities to minimize your vulnerability to eviction?
22. How do you explain the disproportional impacts of eviction because of your gender? Are there any specific measures given to you by authorities to minimize your vulnerability to eviction? Do you think gender is adequately mainstreamed in eviction for public purpose projects?
23. How do you explain the impacts of eviction on the evictee children's right to education?
24. What specific measures were foreseen so that children's schooling is not disrupted?

Annex-4

Questionnaires for Focused Group Discussion with Government officials

1. What are the factors that contribute to evictions in Ethiopia? What is/are justifications of eviction in Ethiopia/ Addis Ababa City?
2. Would you please explain whether evictions for public purpose in Ethiopia are limitation of human rights or a price paid for public purposes development?
3. Shall we discuss how, when, by whom, eviction(s) carried out. Is there procedural guaranty before, during and post eviction?
4. Can we discuss mechanisms used how to strike the fair balance between rights restricted during eviction for public purposes and the ultimate goal intended by public purpose projects? How do you uphold specific human rights (i.e. livelihood, food, and life, and housing, choice of residence, privacy and security of person) might be challenged during eviction?
5. Would you explain ways to prevent disproportionate impacts of unavoidable eviction on specific right holders (i.e. sub-tenants, informal settlers, old aged, women and children)?
6. Would you illustrate remedies available for the evictees for evictions carried out in a way incompatible to human rights law standards?

Annex-5

Questionnaires for Focused Group Discussion with Evictees

1. Can you explain the reason for your evictions? Do you think it benefits you?
2. Would you explain your role in determining the nature of the public purposes that caused your eviction?
3. Would you please discuss the ways, how, when, by whom, you were evicted from your home or land?
4. Can you illustrate procedural guaranty you may be provided with before, during and post eviction?
5. Can you explain the impacts of eviction on your specific human rights (i.e. livelihood, food, and life, and housing, choice of residence, privacy and security of person)?
6. Explain the disproportionate impacts of unavoidable eviction on specific right holders (i.e. sub-tenants, informal settlers, old aged, women and children).
7. Could you discuss available remedies for the evictions you believe are unfair, unlawful and disproportional to the rights affected?