

**ADDIS ABABA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE STUDIES**  
**CENTER FOR HUMAN RIGHTS**

THE PRACTICE OF PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT  
ASSESSMENT IN OROMIA REGIONAL STATE: CASE OF HABESHA STEEL MILLS

PLC

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## Declaration

I declare that “Public participation in environmental impact assessment: case of Habesha steel mills in Dukem town” is my own work and that all sources that I have used or quoted have been indicated and acknowledge by means of complete references.

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## **Abstract**

The need for public participation in Environmental Impact Assessment has been widely accepted under national and international human rights instruments. Ethiopia has recognized the system of Environmental Impact Assessment as it contributes to sustainable environmental protection efforts, fosters implementation of the right to clean and healthy environment, and facilitates the public participation in decision making process. Hence, decision-makers in Ethiopia are expected to use EIA to consider the impacts of their actions on the environment. One of the central elements of EIA process is public participation. The main objective of this study are, to examine the practicability of public participation in EIA process particularly for the case of Habesha Steel Mills Plc. to address this objective interviews with concerned parties, observation and document analysis of the EIA document taken into account. Based on this, I have argued that the practicability of public participation in EIA is insignificant, the laws concerning the use of EIA are inadequate, low level of public awareness, the public were not involved early enough during the project planning and EIA process, adequate information was not provided to the public, and the public concern or inputs not have impact on decision making process. The study concludes by proposing relevant solutions and recommendations.

***Key Words:*** *Public Participation, Environmental Impact Assessment, Habesha Steel Mills Projects, Ethiopia*

## Acronyms

- COPS – Conference of Parties
- EEPCo –Ethiopian Electric Power Corporation
- EIA – Environmental Impact Assessment
- EIAP - Environmental Impact Assessment Proclamation
- EPA – Environmental Protection Authority
- EPE–Environmental Policy of Ethiopia
- ERA – Ethiopian Roads Authority
- IAIA – International Association for Impact Assessment
- NGOs – Non-Governmental Organizations
- NIP – National Implementation Plan
- REAs – Regional Environmental Agencies
- REPB – Regional Environmental Bureaus
- SEUs – Sectoral Environmental Units
- UDHR –Universal Declaration of Human Rights
- UN – United Nations
- UNCED - United Nation Conference on Environment and Development
- UNECE – United Nations Economic Commission for Europe
- UNEP – United Nation Environment Program

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# CHAPTER ONE: INTRODUCTION

## 1.1. General background

The establishment of Universal Declaration of Human Rights hereinafter UDHR of 1948, paved a new era for the protection and promotion of Human Rights at international arena. However, the issues of human rights to environment came into being as a global agenda after two decades. The 1972 UN Stockholm conference bridged human rights, health and environment (Shelton, 2002, p. 6). Since then, the international community responded by establishing international legal instruments, specialized organs and agencies to address problems related to these three identified agendas in which health is considered as important intersection point that links human rights with environmental protection (Shelton, 2002, pp. 5-7).

The UN Stockholm conference on human environment (1972), which finally adopted Stockholm declaration, is considered the stepping stone in the history of the rights to clean and healthy environment at which State parties to the declaration were initiated to develop their own environmental laws in relation to the liability and compensation of victims that included obligation to ensure health environment for their people. The participants of the Stockholm Conference proclaimed:

*“Both aspects of mans environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights even the right to life itself”*(Stokholm Declaration of United Nations conference on human environment, 1972, princ.1).

The *UN Stockholm Conference* also established the interconnection of human rights, health and environmental protection under its principle 1 by stating “Man has the fundamental right to

freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being’’

The UN General Assembly Resolution 45/94 also strengthened the Stockholm declaration by declaring that, all individuals around the world have the right to live in adequate environment for their health and well-being (United Nations General Assembly Resolution, 1990, no.1).The resolution encouraged all parties to realize health and clean environment for their people. After the formulation of Stockholm declaration different countries started to follow the rights based approaches to legislations and decision making related to environment. Environmental protection comes to be considered as one of the pre-conditions for the attainment of internationally recognized human rights, especially to ensure the rights to life and health of citizens (Shelton, 2002, p. 3).

The United Nation Conference held at Rio de Janeiro in (1992), elucidated human being as a centre for sustainable development and entitled to live in harmony with the nature. The conference has crafted the standards that would govern states on the utilization of their resources in order to ensure sustainable development that meets the need of present generation without jeopardizing that of future generations ( UN Rio Declaration on Environment and Development, 1992, princ.1&3).

In addition to this, Rio Declaration illustrated the importance of public participation in environmental issues by stating:

*Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and*

*activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available (principle.10)*

The Aarhus convention (1998) was considered milestone towards putting detailed and minimum standard concerning public participation in environmental decision making, and some regional human rights instruments also elaborated public participation in general terms. Under different international and regional human rights instruments the rights to participation in decision making considered as the rights to respect for private and family life, property rights and as the rights to satisfactory environment (Ebbesson, 2002, p. 3).

Concerning with environmental issues public participation has two elements; the right to heard and the right to affect the decision proposed by proponents and government (Mohammad, 2014, pp. 8-9). In stating procedural rights to environment, the most profound provision is Aarhus convention of of 1998, which adopted by United Nations Economic Commission for Europe(UNECE). The former secretary general of UN, Kofi Anan affirmed that “ though Aarhus Convention is regional in scope, its significance is global which clearly indicates Environmental Democracy” (Boyle, 2012, p. 622)

Moreover, Boyle, (2012), pointed that public participation is a central element in ensuring sustainable development and the inclusion of Aarhus style procedural rights into human rights law significantly advances the objective of Rio declaration. Particularly article 6-8 of Aarhus convension focuses on procedural rights which helps to legitimize decisions to attain sustainable development(Aarhus Convention of UNECE, 1998). As Boyle (2012) meantioned participation is empowerment and one of the mechanism through which the people practice their democratic

rights. Especially having opportunity to participate in environmental decision making is the most useful and direct means of influencing the balance of environmental, social, and economic interests (Boyle, 2012, p. 625)

Although the path to sustainable development is much dependent on the decision of political leaders, it is essential to recognize that its effective achievement will only be realized through wide involvement and consensus of the people. The local community should be conscious of the proposed project, its expected impacts, and has to ensure that values and local knowledge of the community is properly understood and considered in the project.

In order to consider possible impacts of proposed project prior to decision on its implementation, the Environmental Impact Assessment was first formally introduced in United States of America as part of major tools in national environmental policy act of 1969 ( Damtie & Bayou, 2008)

Principle 17 of Rio declaration also introduced Environmental Impact Assessment/EIA/ as precondition to conduct developmental projects to predict its impacts on the natural environment (Rio Declaration on Environment and Development, 1992).According to Wood (1995)as cited in Scott and Ngoran, (2003),EIA became a requirement before conducting development activities in more than one hundred countries around the world.

Moreover, the UN general Assembly resolution of World Charter for Nature proclaims the following principles that guide and judge human conduct affecting nature;

*All planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities; all of these elements shall be disclose to the public by appropriate means in time to permit effective consultation and participation (The United Nations General Assembly Resolution, 1982, principle. 16).*

Principle 23 of the 37/7 UN resolution also guaranteed people to take part during legislation, by ensuring their participation in decision making either individually or in group. Each and every stake holder acting individually and in association with others shall be responsible to realize the world charter on nature and the UN general assembly resolution 37/7, of 1982, including during political participation (The United Nations General Assembly Resolution, 1982, principle. 17).

Environmental legislation will only be effective when individual communities have full right to environmental information and are empowered to fully participate on environmental decision making (Aarhus Convention of UNECE, 1998)

The public involvement in issues that affect communities' livelihood ensures the presence of democratic culture; allows the people to incorporate their fears, knowledge and values, and to build their confidence toward the proposed project. It also improves the quality, effectiveness and efficiency of the project through collaborative decision making, and helps the surrounding community to better understand their environment as well as interfere when environmental problems happen using local experience (Hughes, 1998, as cited in Aregbeshola, 2009, p.23).

As elaborated under United Nation Environment Program (UNEP) conducting EIA for different developmental projects enhance administrative transparency and accountability among proponents, government agencies and indigenous peoples which paves way for public participation in decision making and planning development projects (United Nations Environment Program, 1988, princ.7&12).

The Hague declaration of the second international forum of indigenous peoples and local communities on climate change of (2000), come up with different recommendations to protect indigenous people from the consequence of environmental pollution (The Hague Declaration of

Second international forum on climate change, 2000, Recmend.1 (a-g)).The recommendation entails, indigenous peoples and representative of their local organizations should be incorporated and consulted during decision making on developmental projects planned around them. The declarations also proposed that conference of parties (hereinafter, COPS support the indigenous peoples as equal partner at every level of decision making including “needs assessments, case studies, and national and international policy making concerning climate change impacts, causes and solutions”’(Recommendation No. 2-4).

Meaningful participation is beyond simply arranging public meetings or hearings to collect public comments; rather it is a process of engaging people in decision making and paying special consideration to public interest and sayings during decision making as well as direct involvement of all voices in planned effort to make responsible and sustainable decision (US Environmental Protection Authority as cited in Wasserman, 2012).

Normally environmental impact assessment is believed as a tool used to assess and mitigate the impacts of the proposed developmental projects. As elaborated under the writings of Bolshakova, et.al.(1998), effective EIA at least applies two types of public participation: *these are public scoping of EIA and public review of the EIA documents*. Public scoping means public identification of the impacts and alternatives to be studied in the EIA which can be considered as the most important step of participation in EIA process. Whereas public reviewing of the EIA constitutes the review of documents and due consideration of submitted comments are as a necessary prerequisite to ensure accountability of the whole process(Marianna Bolshakova,Jiri Dusik,& Magda Toth Nagy, 1998).

When we come to Ethiopia, the country has put in place a legal framework that recognizes the importance of public participation in designation of development projects including EIA process. Ethiopian Constitution which is considered as supreme law of the land provide the legal framework from which different laws shall be developed to guide various sectors( Damtie & Bayou, 2008). The 1995 constitution of the Federal Democratic Republic of Ethiopia paved away for the enactment of laws that guide EIA. As far as public participation in developmental projects concerned, the constitution affirmed that the designation and implementation of developmental programs and projects in the country should not damage or destroy the environment and recognizes the rights of the people to be consulted and participate in the designation as well as implementation of the projects that affect them (Art, 92 of the constitution).

The Ethiopian Environmental Policy of 1997 under 4.1.(a) establishes one of the basic objectives of the policy is to integrate population planning, resources management, and the rehabilitation of and care for the environment to ensure a sustainability of life (Ethiopian Environmental policy, 1997, P.23).

Following the formulation of environmental policy in 1997, the Environmental Impact Assessment proclamation was declared to determine the procedures that should be followed and standards required to evaluate the impacts of the projects. The EIA proclamation paved a way for public participation in environmental decision making. It obliged the proponents, consultants and environmental bodies to incorporate comments made by the public into the EIA study report (Environmental Impact Assessment Proclamation, 2002).

In EIA process, incorporation of aboriginals' traditional knowledge is mandatory and they should be given greater power in policy decision making and in EIA research (Sallenave, 1995).

Hence, this study is concerned to examine the practice of public involvement in EIA by taking into account the case of Dukam town Habesha Steel Mills PLC. According to EIA principles better decision-making emanates from; stakeholders involvement in the process and the identification of alternatives, to encourage sustainable development, increase transparency and quality in relation to environmental matters.

Accordingly, the researcher would be focused on analysis the practicability of access to information, and public participation during EIA of the identified project based on provisions elaborated under Ethiopian legal frame works and others. Gaps between provisions and practices with respect to public participation during the process of decision making and other steps of Environmental Impact Assessment would be investigated and analyzed as per the constitution of Ethiopia and other environmental laws of the country.

## **1.2. Statement of the Problems**

Because of its proximity to the capital city and having favorable conditions for investment, Dukem Town is serving as one of the largest investment destinations in Ethiopia. The expansion of the investment project in Oromia special zone surrounding Finfinne in general and Dukam town in particular has both negative and positive impacts on environment and the surrounding people. In order to minimize the expected negative impacts of the projects, the Ethiopian government, based on provisions of Rio Declaration, designed an Environmental Impact Assessment proclamation 299/2002 and obliged the proponents of the project to conduct EIA before implementation of the developmental projects. Environmental Impact assessments help to predict and manage the environmental effects that a proposed development activity might entail and thus enables to bring about planned development. Additionally, assessment of possible impacts on the environment prior to the endorsement of a project or program is acknowledged as an effective instrument of harmonizing and incorporating environmental, economic, cultural and social issues into a decision making process in a manner that promotes sustainable development. However, practical implementation of EIA laws in Oromia region implies lack of coordination among sectors, limited involvement of stakeholders, weak supervision and absence of tangible environmental auditing (Sorecha, 2012).

Damtie and Bayou (2008) and Raffeis (2012) pointed out that public participation, one important elements of EIA, was mostly not considered in Ethiopia though it is expected that the new projects need to conduct EIA. It is also found that many consultants write their supposition instead of including factual concerns of the public ( Damtie & Bayou, 2008).

The study conducted on Akaki woreda, where Dukem town is found, reveals that direct release of toxic materials to rivers, ground water and open lands from the discharge of industrial wastes and effluents; inadequately designed septic tanks; and municipal wastes and sewages were found to be among the major pollution sources. The leakages and discharges of such toxic effluents and wastes without detoxifying them were found to have changed the water and environmental quality of Akaki *Woreda* and have harmed life of the surrounding community (Eshetu, 2012).

Based on WHO drinking water guideline, the research conducted by Gebre and Rooijen (2009) affirmed that the water quality of the little and Great Akaki river basins have been classified as very badly polluted water which is not recommendable for drinking.

It can be argued that many of these problems partially emanated from lack of effective implementation of EIA process and its monitoring.

One important purpose of EIA is assessing the views of the affected communities or interested groups and the stakeholders found at different levels. Public participation helps the project to be understood by those groups and to incorporate their fear and concerns into the documents to pass appropriate decision either to approve or cancel the document.

Hence, this research emphasized on investigating the practicability of public participation during EIA in Oromia Regional State with case of Habesha Steel Mills PLC, located in Dukam town. In this research three possible elucidations would be given: the stakeholders may not be involved early enough in the project process; the process of engaging the public may be underprovided and ineffective; and the public may had inadequate access to information about the proposed project. This research has examined these three important issues.

### **1.3. Research Questions**

The main qualitative research questions that guided the researcher were as follows:

1. Do the Ethiopian EIA proclamation conform to the international environmental rights instruments?
2. Do the public in Dukam town Xedecha kebele have adequate information and awareness to effectively participate in the EIA process of Habesha Steel Mills project?
3. How and to what extent did the public participate in the EIA process of Habesha Steel Mills project?
4. Did the public influence the decision making process of Habesha Steel mills factory and the decision incorporated the comments of the public?

### **1.4. Significance of the study**

The study primarily investigated the practice of public participation in Oromia Region in EIA process with the case study of Habesha Steel Mill Plc, located in Dukam town. To this end, the study can have the following significances:

- ❖ Providing information for concerned government bodies and decision makers relevant and research based information's with reference to the practicability of the rights to public participation during EIA.
- ❖ The research can provide awareness and hence contribute to the effective practicing of the rights to participation in environmental issues in Ethiopia, specifically in EIA.

- ❖ It can also contribute to policy makers' understandings of the practical implementations of public participations in decision making process of EIA and helps to pinpoint gaps for inaction of further legal instruments if needed.
- ❖ It can also be helpful basis for those interested in conducting further research on right to health and clean environment in Ethiopia, mainly concerning the application of EIA.

### **1.5. Scope of the study**

The study is limited to appraisal of the practical exercising of the rights to public participation in EIA, specifically focusing on Oromia Special Zone surrounding Finfinne, the case of Habesha Steel Mills Plc, located in Dukam town. Therefore, the research emphasized on evaluation of the implementation of public participation in EIA process starting from the early stage of EIA to decision making, and rights provided under Ethiopian constitution.

### **2. Objectives of the study**

The main objective of this study is to assess the practicability of the right to public participation in EIA process in Oromia Regional State with case of Habesha Steel Mills PLC project, located in Oromia Special Zone Surrounding Finfinne, Dukam town. This research has specifically examined the level of awareness of the people and their access to information on EIA; ways of public participation in EIA; the degree of public involvement, and the extent of their influence indecision makings related to environmental concerns of a project.

### **3. Research Methodology**

#### **3.1. Research design**

In order to understand the research problem from the viewpoint of the population considered in the study, this research has adopted qualitative approach. Qualitative method is especially effective in obtaining culturally specific information about the values, opinions, behaviors and social context of the study population. This approach is also appropriate to provide textual (words) description of how the surrounding communities experience the rights to access to information and participation in decision making in EIA process to offer information about human side of the problem by using ‘case study’ method of investigation. This approach also enables us to carry out an in-depth analysis of how local community is involved in environmental decision making process and how far they have an access to information concerning its consequences during EIA study for newly to be established developmental projects.

For this research purpose Dukem town was selected on the basis of its location on the vicinity of Addis Ababa city, as it hosts large industrial plants. The Habesha Steel Mills is preferred for this case study based on suggestion of authorities from the town, since most of the projects in Dukam town where one of the largest industrial zones in Ethiopia (Eastern Industrial Zone) is located, are claimed to lack EIA documents, rather have environmental management plans. Although Habesha Steel Mills factory’s first phase project also did not have EIA document, it has prepared EIA document to meet its requirements as per the EIA proclamation of Ethiopia and the region for its expansion program conducted in 2013. Moreover, this factory is criticized by the local people and government institutions for its pollution of the environment and lack of effective implementation of mitigation measures.

### **3.2. Sample Size and Sampling Techniques**

By taking into account the objective of the research and characteristics of the study population, the researcher used non-probability sampling method of purposive sampling mechanism. The observed samples were selected on the basis of the researcher's judgment by considering representativeness of the study population and connection of respondent's job responsibilities to the EIA process. Hence, the study population is selected based on two criteria: their proximity to the study project selected for this research in the town, and their representativeness of the study population. The researcher has especially included members of the community who were said to have participated in EIA process and as their names were attached with the EIA study document. Other responsible bodies like Dukam town Environmental Protection Office, administrative sectors, consultant that prepared EIA document, proponent of the project, and the Oromia Rural Land and Environmental Protection Bureau were also included as sources of information.

In order to get accurate information about the practicability of public participation in decision making with regard to EIA, the researcher has included women, youth, kebele leader and other stakeholder as sources of information. Especially, representatives of the communities living near by the Habesha Steel Mills factory and more than half of farmers whose names are listed under EIA document report as participants were interviewed.

The selection of sample size for this research is determined based on saturation theory (the point in data collection when new data no longer brings additional insights to the research questions), and the needed size to represent the variation within target population. The study population for this thesis, therefore, includes individuals who were said to have participated in EIA meetings during the period of impact assessment for the expansion phase of Steel Mills' project, and other

concerned stakeholders. Additionally, the concerned government bodies from Xadecha *Kebele*, Dukam town's Environmental Protection Office and Administrative sectors, Oromia Land and Environmental Protection Bureau, and the consultant of the project were incorporated as samples of this research.

### **3.3. Data sources**

The data is collected from both primary and secondary sources. For the purpose of collecting primary data, qualitative methods like: interview with key informants using self administered questions and field observation were used. The interviews with key informants were carried out using unstructured questions, and open ended questions. The interview was taped and detail notes were taken. Regarding secondary sources, books, journals, official statistical sources, international conventions, Ethiopian constitution, proclamations and other publications were reviewed. Specially, the EIA documents of Habesha Steel Mills project was critically analyzed as a secondary data under this study.

### **3.4. Ethical Considerations**

In order to conduct the research on the practicability of public participation in EIA coordination of the concerned government structures, proponents, the consultant and local communities were found to be highly important to get relevant data. Accordingly during data collection procedure, sensitive approach and confidentiality to the informants was highly considered. I also considered ethical values and norms of the concerned community. The key respondents and officials were informed both orally and by showing the letter given by the university to build their confidence toward the objective of the research.

### **3.5. Limitations of the Study**

The depth and width of this research constrained by a number of factors including lack of adequate literature specifically concerning public participation in EIA, The implementers of the project where not interested to give data concerning their project, it was found to difficult to get the local communities specifically those said to be involved in the process of EIA of the Habesha Steel Mills project due to lack of their contacts and exactly their home address. Contacting the former kebele chairperson who said to be participated and approved the project was not easy task

### **3.6. Organization of the paper**

The thesis divided into five chapters including conclusion and recommendations. Hence, it is organized as follows:

Chapter one is an introductory part of the thesis and deals with background of the study, statement of the problem, research questions, objective, significance, scope and methodology of the research.

Chapter two of the research has focused on literature reviews related to theories and concepts of public participation in EIA. The theories of participation in decision making and the concepts of EIA are elaborated. The chapter is used to give an insight into this study and help to establish the criteria of effective public participation as elaborated under different international human rights instruments and by considering experiences of different countries concerning EIA. Under this chapter, concept and theory of public participation in EIA, identification of who the public are, significance and importance of public participation in EIA, the rationale and need for public

involvement, and objectives of public participation are discussed based on different international and regional human rights instruments as well as related literatures.

Chapter three emphasizes on the relevant policies, legislatives and institutional frameworks for public participation in Ethiopia. Under the chapter, Ethiopian environmental policy, legislative instruments and institutional frameworks concerning public participation in plans, programs and EIA process are discussed.

Chapter four of this research deals with the extent of practical implementations of the rights to public participation in EIA process with case study on Habesha Steel Mills PLC that is located in Dukam town. The full analysis of the research is discussed under this chapter.

The last chapter is about conclusion on opportunities and challenges of public participation in EIA that answers objectives of the research and give recommendations.

## CHAPTER TWO

### THEORIES AND CONCEPTS OF PUBLIC PARTICIPATION IN EIA

#### 2.1. Introduction

Basically human right to environment comprises two important set of rights (Boyd, 2012, p. 3). These are substantive environmental rights which constitute the rights to live in clean, health, safe and sound environment and procedural environmental rights which can be realized through ensuring access to information, enhancing public participation and access to justice when rights violated (Amechi, 2009).

The rights to public participation in environmental decision making emanated from three important sources: these are constitutional rights, specific environmental laws including EIA, and administrative laws (Bolshakova et.al, 1998). For instance in the newly independent countries of Europe (Moldova, Belarus, Russia, and Ukraine) the rights to participation in decision making related to environmental issues elaborated under their constitution. Whereas, in the central eastern and western European countries the rights to public participation in decision making is enshrined under administrative laws and others (Bolshakova, et.al.1998).

At international level, Rio declaration under its article 10 set the standards that the states facilitate and encourage public awareness on environmental issues. (... States shall facilitate and encourage public awareness and participation by making information widely available, Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided). According to this declaration, the state should provide each national the information about the environment. In addition

state should facilitate and encourage public awareness. At the regional level, *Aarhus Denmark* convention has very interesting provision. Article (1) of the convention reads:

*“In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.”*

This convention recognized the right to access to information for the public in environmental matters.

The rights to public participation in decision making can be elucidated under constitutions in different ways. These are the rights to association, the rights to free assembly, to free expression, to petitions in the government in environmental issues and etc. The legislative power of the people also manifested through taking decision under their control in environmental matters. Under this chapter the researcher emphasized on reviewing some literatures concerning with public participation in EIA, the theories and concepts of public participation in EIA, techniques and importance of public participation in EIA and rationale for public involvement and other points.

## 2.2. Review of related literatures

To realize the rights to clean environment and sustainable development, EIA has been recognized as a tool that help to achieve environmental objectives. However, while implementing these laws there are many gaps and challenges observed to ensure environmental rights which provided under Ethiopian Constitution.

Although a number of researches conducted regarding the practicability of EIA in Ethiopia and other countries, most of them focused on the gaps observed at policy and guidelines level, others emphasized on evaluating the programs of the government by comparing with provisions, some others also focused on analyzing the theoretical discourse of EIA whereas some of the researchers stressed on the negative economic, social and cultural impacts caused by lack of effective implementation of EIA.

To come up with findings most of the researchers were methodologically emphasized on government authorities as a source of information those who are responsible for implementation of laws than stressing on the public aspect of the problems. while elucidating the significance of this research it is important to review some literatures that enables us to clearly understand the status of public participation in EIA implementation at different levels.

Scott and Ngoran (2003) for instance, examined the theories and practices of public participation in EIA based on case studies from three countries: England, Denmark and New Zealand. They stressed on producing reasons for public participation, comparing which countries are better than others in implementing EIA, techniques for public participation and investigating the extent of public involvement. Their finding reveals that, the aim to answer the reality of the extent that public participation influences or informs the EIA process during decision making was seen to be

limited in all three cases. Alternatives were not considered. Finally they recommended that “ power to the people must be respected” by giving them opportunity to participate and influence in environmental decision making.

Here it is important to take into account that those researchers mostly focused on investigating the degree of public influence during decision making than the degree of public participation on the EIA process. Since these three countries are among developed and democratic nations the awareness level of the people to take part on planning of projects, notification mechanisms and participation techniques were not this much a problem but, what matters most was about the limits to influence the decision according to the finding of this research.

Other research conducted by Aregbeshola (2009) in south Africa was done on Gautrain railway project by focusing on the process of public participation in the project and the degree of involvement during decision making in environmental matters. The finding of her research shows that “ public participation during the early stage of the project was not enough, education information was not provided for the public, and public inputs were not this much considered during decision making.” However, the study indicated that through a course of time the process enhanced participants understanding compared to the early stage of the project.

To see from the very beginning of this research questions, it mainly emphasized to examine the effectiveness of the participation process and stressed on whether the participation was enough or not since, there were already public involvement in the process of EIA. It evaluates the education of information and participation. In addition to this the researcher finding mostly focused on the social phenomena of environmental concerns and its sustainability than emphasizing on human rights angle of the project.

These two above mentioned research findings commonly share some conclusions. That was inability of the public to influence the decision making process of both projects by raising their concerns. This means the decision taken at both projects applied *technocratic* way of decision making (top-down follow of the decision) which finally affects the community and sustainability of the project.

When we come to the Ethiopian case, some researches have been undertaken regarding the implementation of EIA laws, theories and practices. One of these researches were conducted by Damtie and Bayou (2008) which emphasized on over view of environmental impact assessment in Ethiopia, gaps and challenges. This research sorted out the main problems that hinder effective implementation of EIA. Lack of awareness, political commitment of the government, and appropriate application of EIA laws were identified as a main findings of the research.

This research primarily focused on the implementation of theories and practices of EIA based on analysis of EIA laws, interview with proponents and authorities by focusing on provisions and its practices. Public perception specially the local communities didn't included from the primary sources. The research stressed on EIA laws at document level not evaluating its practicability at specific project level. If the research emphasized on the Implementation of EIA at community or the affected level the finding of this research may be come up with other relevant results.

Another research conducted by Getu (2013) by focusing on the defiance of EIA in Ethiopian floriculture industry pointed that EIA in this sector are very weak and sidelined. As a result workers in that industry and the surrounding communities were suffering from *unsafe waste disposals, depletion of water resources, unregulated and high chemical conception, risk on workers and arbitrary expropriation* were common as a result of lack of effective implementation

of EIA laws. The methodology of this research was conducted based on analysis of fourteen EIA report documents and interview with experts. The finding mostly points that lack of effective implementation of EIA laws specifically absence of mitigation measures resulted in the violation of social and economic well being of constitutionally guaranteed rights ( Getu, 2013).

In addition to this the resercher also pointed that, neither international instruments nor national provisions effectvilly implemented in Ethiopia during EIA of floriculture industry including the rights to participation and access to information on the impacts of the projects for the public. The researcher investigated different points at which EIA implementation became ineffective. Lack of guinin public consultation considered as one of the problem in EIA of floriculture industry by this research.

Sorecha (2012) who conducted another research regarding the implementation of EIA with case study from two woredas ( Lume and Ada'a from Eestern showa zone) identified lack of political commitment to implement EIA laws, absence of public participation in decision making, lack of EIA follow up, absence of awarness about EIA and failure of proponents to implement their project as per EIA document were the main problems.

The research entails lack of awarness and public involvement in EIA as a factors that contribute for absence of effective implementation of EIA however, the finding didn't produced some reseons that contribute for absence of stakeholders involvement. Hence, my research focused on examining reseasons that contribute for failure of effective public involvement in environmental decision making.

Another research carried out by Girma (2012) by emphasizing on whether the system of EIA in Ethiopia is adequate both in law and in practice. Accordingly the research finding stipulated that,

the system of EIA in Ethiopia is not adequate both in law and practice. The finding elaborated “use of EIA is inadequate, the institutions are facing many problems, and EIA is often not used to make decisions, most of licensing bodies do not use EIA certificate as a pre condition to issue licenses, and environmental protection agencies do not carry out pre- and post EIA evaluation monitoring.” Under this research lack of relevant public involvement in EIA process also elaborated as a key problem which needs to be solved.

Methodologically, most of the above reviewed literatures stressed on analysis of the laws and practices of EIA by using different policies, proclamations and guidelines including international human rights instruments. Review of secondary sources and interview with relevant implementing organs at different level also parts of the research method. A few cases also analyzed concerning with the practicability of EIA and stakeholder involvement. Proponents, consultants, and authorities are sources of information in all above reviewed materials with a few interview with the public specially the community and other stakeholders. However, conducting the research on the practicability of EIA specially based on the public view or stakeholder’s perception is mandatory to understand the gaps and challenges in EIA practice.

Hence, this research which entitled with the practicability of public participation in EIA process come up with some of new findings based on the stakeholders point of view concerning its practicability and effectiveness during the process of decision making as per the Ethiopian EIA proclamation, Oromia Regional State EIA proclamation and international human rights instruments.

## **2.3. Theory and conceptual over view of Public Participation in EIA**

In order to understand the concept of public participation in decision making, it is important to give some lights about its theoretical foundations. According to Richardson and Razzaque (2006), the involvement of stakeholders in environmental decision making has been subjected to two schools of thought known as *process perspective* and *substantive perspective* (Aiyeola, et.al, 2014). Substantive perspectives beliefs that public involvement improves the result of the decision making whereas, process perspectives entails the democratic process that is experianced in substantive perspective which beliefs participation as a means. Depending on these two school of thoughts there are many theorists who elaborated the importance of public participation in EIA ( Aiyeola, et.al, 2014: 2). Among these Rational Elitism and Liberal Democracy is the main theories of public participation in environmental matters(Aiyeola, et.al, 2014:14).

### **1. The Rational Elitism School of Thought**

The proponents of this group of thought beliefs in the participation of the experts with little incorporation of the public. Experts prefered for their technicality in one hand and important to to minimize the coast in another. This philosophy gives more priority for representation and formulation of decision by elite groups.

Lawrance (2000) as elucidated under the writings of Morgan (2012), the rationalist theory of decision making model best adresses EIA by involving neurtal professionals acting as a processor of the information which enables to evaluate alternatives with planners and the public.

## **2. Liberal Democratic School of Thought**

This school of thought believes in inclusion of individual persons during decision making to ensure the rights to participation in democratic governance. As liberal democratic school of thought public participation in decision making creates conducive environment for stakeholders since it involves the community in designation, planning and implementation of developmental projects and enable them to monitor the impacts of the projects in the surrounding people (Aiyeola et,al, 2014).

Hence, this study applies liberal democratic type of participation theory, since it encourages public involvement in procedures of EIA and decision making process.

### **2.3.1. Definition of Public Participation in EIA**

There is no universally accepted definition of public participation. Different scholars defined public participation in different ways. According to Murrumba (2008), Otto Spankers and Aaron (2014), public participation is a mechanism through which the practice of consulting and involving members of the public ( the interested and affected parties) in the process of agenda setting, decision making and policy formulation concerning with environmental issues.

In addition based on the writings of Canter(1996), Zhinqing Zhou (2014) explained public participation as communication process throught which environmental problems and needs examined and addressed by responsible bodies to inform the public about the impacts and ways of improvement of studies, projects, plans, programs or policy formulation or evaluation by incorporating all concerns, opinions and needs regarding resource utilization, alternative development, controlling mechanism and any other information that help for decision making(Zhou, 2013, p.4)

From both definitions one can understand that, public participation in EIA is a mechanism through which the public involve in the process of planning, designing, and establishment of development projects, to contribute for and defend ones claim by incorporating own fears, experience and concerns, which enhance transparency of the project as well as empower stakeholder to influence decision making process during environmental impact assessment, which contributes for sustainable development and ensure democratic rights in environmental governance.

### **2.3.2. Who are the Public or stakeholders in EIA?**

At the first place, we have to define the subjects of this right. This is to show that who should be consulted or participate at the time of conducting the EIA. The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus, Denmark), under its article 2(4) and (5) defined the public who should participate in the environmental matters. Accordingly, sub-article (4) of the convention defines the public as one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups. Sub-article 5 of the convention, specifically, defines the public concerned. Thus pursuant to this definition, the public concerned” means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest. From this, we can define the public as all People and institutions that have an interest in the successful design, implementation and Sustainability of the project.

These stakeholders should actively participate in the process of EIA in decisions on planning and management to share information and knowledge and to contribute to the project and its success to ultimately enhance their own interests. Accordingly, stakeholders can include, among the others, government agencies, NGOs, the community, experts, human right activities, projects donors, private sectors, youth, women, indigenous people, trade unions and others (United Nations Environment Program, 2002).

The term stakeholder in EIA indicates a whole people and institutions that have an interest in successful design, implementation and sustainability of the project (Hughes, 1998)

From this it is possible to conclude that the term public in EIA constitutes those parties affected by or benefit from the proposed projects including concerned and interested bodies. Therefore, individuals or the group of people living nearby the place of the establishment of the project have the rights to know proposed project, its expected impacts, the way their concerns and local values are understood under the project, their views carefully listened and well addressed to minimize their fears and build confidence on the newly proposed project (United Nations Economic Commission for Europe, 2006).

### **2.3.3. Rationale for Public Participation**

There are various grounds for public participation in different developmental projects and environmental matters that affect the surrounding people and the natural environment. Though there are many rationales for stakeholder's involvement in the designation, planning and programming of projects, let us see some of the reasons that obliged the proponents and the government to include people in the process of EIA. These are:

- ❖ **Normative or Democratic Sovereignty Perspectives:** - In the society governed by democratic system public participation is considered as one of the democratic rights of the citizens. This implies that the public must be given the chance to involve in decision-making processes of any project that affects or likely to be affect their lives if they are interested to do so(Brynard, 1996, pp. 39-51).So participation of the public in EIA enhances participatory democracy in which their interest taken into account while decision making and promotes democratic rights.
- ❖ **Instrumental perspective:** - this perspective justifies that public participation in developmental projects will help the result of decision making process to build the public confidence, trust, legitimacy, credibility and accountability of the proposed project among stakeholders(Pretty, 1995).
- ❖ **Substantive perspective:-** this perspective considers the public as source of alternative information, knowledge and experience that help to develop the proposed project by incorporating their fears and concerns to come up with collaborative decision making and ensure sustainability of the natural environment and development.
- ❖ **Improved decision perspective:-**most of the time the quality of decision making depends up on the inputs and analysis from the public and the government which comes from ongoing participation process. Especially enhancing public participation during the early stage of the project planning keeps away all stakeholders from potential conflicts. Finally the decision is more acceptable to the public because they are participated and incorporated their concerns.
- ❖ **Empowerment perspective:** -according to this perspective public participation in developmental projects viewed as a mechanism through which people equipped with

different skills, values, attitudes and knowledge that helps to control their own lives. This perspective affirms that participation is an end by itself and a means to self improvement.

#### **2.3.4. Techniques of Public Participation in EIA**

According to Wasserman (2012), public participation is an open, ongoing, two way communications between government and other stakeholders, to gather different options, perspectives and values from the voice of the public to make better and more appropriate decision that facilitate favorable condition for sustainable development. Public participation is not simple and single duty that can be accomplished through one way communication from government agencies to the public. Rather it accommodates different tasks and duties to ensure the real public inclusion in decision making process.

Public participation in EIA can be achieved through organizing public hearings, arranging public comment periods, public meetings, small group or focus group meetings, advisory group workshop, news releases, newsletters, public comment forms, announcement through media, developing project program website, survey or polls, briefing by public officials, using social media to dialogue about the project and etc(Wasserman, 2012).

Techniques of public participation identified in different writings based on natures of activities and mechanisms of stakeholder's involvement. For instance according to Mackay (1998) Participation technique can be viewed as a systematic information collection, dissemination, and consultation to meet the primary goal of the project (as cited in Aregbeshola, 2009). Additionally Public participation also considered as a means and as an end (Aregbeshola M. T., 2009). Participation as a means indicates the use public participation to realize some prearranged goal or

objective whereas participation as an end entails improving the ability of the people to participate in developmental projects rather than striving to achieve pre determined goal or objective.

There are so many participation techniques employed to ensure public participation in the process of EIA and decision making. However, for this research purpose four important techniques of public participation will be elaborated as follow:

- ❖ **Manipulation:-** in this technique public participation is conducted simply to fulfill the formality required by government or by the law or to cover-up with little form of well intended public participation which helps to come up with fake generalization (Arstein, 1969, as cited under Aregbeshola, 2009). It is a kind of one way communication from proponents to the public through which participants are informed about the project, what proponents intended to do or what they already have done (Pretty, 1995).
- ❖ **Consultation:-**this is a kind of public participation conducted through stakeholder's involvement by the means of consultation. This technique enables the public to express their views and their concerns including sharing their local knowledge and values with the projects. This kind of participation paves away for dialogue among the public and proponents to come up with best alternatives for environmental conservation(Pretty, 1995). However, in this process the authority ( the government) has a power to evaluate the information collected from stakeholders and come up with a decision about the course of action(Tish Grylin, 2002)
- ❖ **Joint participation:-**according to this technique the duty to share the initiative and information's vested on the hands of participants and the authority. They are given equal power during decision making and interdisciplinary methods are used during decision making process (Selman, 2004, as cited Aregbeshola, 2009).

- ❖ **Partnership/Collaborative:**-under such techniques peoples are empowered to negotiate and engage in the process with authorities, although one of the parties involve than the other one. Through this technique decisions are always made through the consensus of authorities, proponents and the public (Mitchell, 2002 as cited in Aregbeshola, 2009).

## 2.4. Environmental Impact Assessment

There is no common definition of Environmental Impact Assessment (EIA) different scholars defined in various ways. However, many of them share common sentences while defining EIA called a process of identifying the consequences of proposed project. Among this the definition given by International Association for Impact Assessment (IAIA) is more the sophisticated one. The association defined EIA as “the process of identifying, predicting, evaluating and mitigating the bio-physical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made” (International Association for Impact Assessment, 2009, 1).

EIA is a mechanism of information collection and analysis that are accomplished in support of decision-making, elucidated within legal and institutional frameworks, based upon the concepts and methods of interdisciplinary science, and open to public involvement and input by those who are directly affected by or interested in proposed developments (Scott and Ngoran, 2003).

Based on time framework Lumsden (2001) categorized the objective of EIA in to two: these are; immediate aim of EIA and Long term aim of EIA.

*The immediate aim of EIA is to inform the process of decision-making by identifying the potentially significant environmental effects and risks of development proposals. The ultimate (long term) aim of EIA is to promote sustainable development by ensuring that development proposals do not undermine critical resource and ecological functions or the well being, lifestyle and livelihood of the communities and peoples who depend on them. (ascited in Scott and Ngoran, 2003).*

Therefore, EIA is an important tool that helps decision maker to pass appropriate decision that save the environment from destruction and promote sustainable development which meets the need of present generation without harming the coming ones. Based on Kennedy (1098) Looijen elaborated EIA as a planning tool to minimize negative impacts and EIA as decision making instrument to judge the acceptability of the project based on environmental costs. In EIA process proponents, competent authority, consultants, institutions for EIA, the public, and study group are considered as main actors (Looijen, 2004: p.5).

## **2.5. Importance of Public participation in EIA**

Public participation in decision making can be perceived in deferent ways. These are participation as a policy and strategy, participation as communication, participation as conflict resolution, and participation as a therapy(Wengert, 1976).The indigenous knowledge of the local people also plays a pivotal role in shaping the project proposal. In order to accomplish the projects successfully proponents are expected to create public understandings toward the project to enhance the acceptance of their project among local peoples through information notification. The inputs acquired from public meeting or a hearing enhances the acceptance of the project since different alternatives and local values enable them to handle the project in successful manner. Since public participation ensures the transparency of the project process, the company may boost its acceptance by increasing image building (Pagannone, 2012 )

### **2.5.1. Participation as policy and strategy**

In order to ensure the rights to be consulted and involved during decision making that may affect the life of the public inclusion is desirable policy to be implemented in different ways. As a

policy it is important to define the nature of public involvement and how it relates to decision making responsibility to fill constitutional insufficiency.

Whereas other advocates considered participation as strategy to accomplish unstated or stated objectives. For government authorities, public participation may help as a major technique to get political support and legitimacy that hence makes its enhancement a natural strategy.

### **2.5.2. Participation as communication, conflict resolution and therapy**

In democratic society government is designed to serve the people, the concern and saying of the people is mandatory to make better decision. Collecting information through communication and awareness creation to the public about the project improves the administrative decision.

In another way public participation in planning and implementation of projects is believed to better way to reduce tensions and resolve conflicts. Since public participation in environmental decision making enhances transparency, understanding, tolerance as well as void mistrust and biases which helps as conflict resolution mechanism (Wengert, 1976).

Increasing public involvement in environmental decision making also serves as a therapy to cure social problems like poverty by encouraging alienated parts of the society toward decision making, eliminate the adverse effects of racial prejudice and other form of discrimination.

The basic principles of sustainability assure the mutual interdependence of environment and development, their complementarities and a mutually reinforcing (Ahmad and Sammy, 1995 as cited in Looijen, 2004). EIA helps to bridge development and environment to ensure development that is “*economically efficient, socially equitable and responsible and ecologically sound*”(Looijen, 2004: p.4).

## **CHAPTER THREE**

### **LEGISLATIVES, POLICIES AND INSTITUTIONAL FRAMEWORKS FOR PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT OF ETHIOPIA**

#### **3.1. Introduction**

The establishments of Universal Declaration of Human Rights (UDHR) in 1948 brought new beginnings in the universalization of human rights history. As stated under article 21 of UDHR citizens are empowered to take part in the governance of their own countries. The International Covenant on Civil and Political Rights of 1966 under its (Art.25) also envisaged the rights to participation of citizens in public affairs either directly or through their representatives.

There are a number of international human right agreements adopted and ratified by countries that recognize the importance of public participation in EIA. Among these instruments, principle 7 of the UNEP's goals and principles of EIA recognizes the need for public involvement and comments in the process of EIA before decision making (Girma, 2012). The Rio Declaration of (1992) under its Article (10) recognizes the need for public participation in environmental decision making as a whole. Article 17 of the same declaration mentions about the importance of EIA for proposed development activities. Furthermore, the plan of action adopted at Rio Declaration, known as *Agenda 21*, elucidated public participation as one of the precondition for the attainment of sustainable development. It also recommended the participation of stakeholders such as local populations, non-governmental organizations, local authorities, workers business and industry, farmers and other potential victims in development and environmental matters.

Other international instrument dealing with the right of public participation is the *Desertification Convention*. This convention obliged member states to allow public participation in the EIA of projects that have likely adverse effect on biological diversity. This convention is important in its participatory approach, which allows integrated commitment of all actors such as national governments, scientific institutions, local communities and authorities, and non-governmental organizations, including international partners (Convention to Combat Desertification, 1994).

Ethiopia was one of the signatories of Rio declaration that emphasized on how to ensure environmental friendly sustainable development and which realized participation of stakeholders during planning and implementation of developmental projects (Sorecha, 2012). Following that, a number of major comprehensive environmental agreements have been adopted as a basis for state obligations with respect to ensuring sustainable development. In line with *Agenda 21*, Ethiopia introduced EIA Proclamation to tackle significant adverse impact of projects on environment and the livelihood of the surrounding people. Public participation which is provided as one of the preconditions for the attainment of sustainable development is also incorporated in Ethiopian EIA proclamation (Environmental Impact Assessment Proclamation No., 299/2002).

The Convention on Desertification and Convention on Biodiversity are the other international instruments which Ethiopia is the party and has an obligation to accomplish any projects in accordance with these agreements (Convention to Combat Desertification, 1994).

Ethiopia has also ratified other multilateral environmental agreements that encourage public participation during EIA of projects. These are: The Basel Convention on the Control of Trans boundary Movement of Hazardous wastes, The United Nations Framework Convention on

Climate Change, The Vienna Convention and the Montreal Protocol for the Protection of the Ozone Layer, The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; and The Stockholm Convention on Persistent Organic Pollutants and others (Sorecha, 2012).

In response to the implementation of Stockholm convention Ethiopia has prepared National Implementation Plan (NIP) in 2006 in accordance with Stockholm convention (Environmental Impact Assessment Proclamation No., 299/2002). The main objective of the NIP is to prepare a comprehensive and realistic action plan for effective management of (persistent organic pollutants) POPs chemicals and protection of human health and environment from the harmful effects of POPs chemicals in Ethiopia by reducing and ultimately eliminating the use and release of these chemicals as per the requirements of the Stockholm Convention and national sustainable development objectives. It Creates public awareness on the requirements of the Stockholm Convention and ensure the participation of the public in addressing the adverse impacts of POPs chemicals was among the specific objectives of NIP.

In Ethiopian legal system, the supreme law of the land; the FDRE Constitution under article 9(2) provides that international instruments ratified by Ethiopia are an integral part of the law of the land (FDRE constitution, 1995). The incorporation of EIA obligation in various international human rights conventions and regulations of international financial institutions encouraged global understanding and practices. Ethiopia also under the influence of those above mentioned international human rights instruments to accomplish developmental projects and include the concerns of people as per the standards assumed through treaty or customary international law (Getu, 2012). It also requires ensuring that all other environmental policies and laws of Ethiopia

are respected including international conventions and treaties of environment to which the country is a signatory.

Moreover, institution for environmental protection is established and the country has several procedures, guidelines and laws governing environmental issues in socio-economic development projects and programs as enshrined in environmental proclamations, laws, policies and strategies of the federal government as well as regional governments. In this chapter, the researcher has analyzed the existing national legislations, policies, and existing institutional frameworks on the right to public participation in environmental matters in process of various socio-economic development endeavors of Ethiopia.

### **3.2. Legal frameworks for public participation in EIA in Ethiopia**

The existing laws prior to 1994 were for many reasons considered being less successful in significantly preventing and avoiding harms to environments, mainly owing to their less practical enforceability due to their nature as a mere policy obligations to refrain from activities affecting human health and certain components of environment.

Moreover, most of the administrative and judicial laws were found to lack appropriate incentive measures that encourage rational behavior in management of natural resources and protection of the environment (Salient features of environmental laws in the Ethiopia, n.d).

Due to the gradual recognition for the importance of incorporating environmental concerns in national development processes, successive environmental protection legislations and procedures were adopted by Ethiopian government since the mid 1990's. "Environmental sustainability is recognized, in the constitution and in the national economic policy and strategy as a key

prerequisite for lasting success” (EPA, 1997).The range from constitutional provisions down to preparation of various sector- specific environmental guidelines as discussed in this chapter.

Ethiopia is appreciated in adopting many legal provisions, procedures and policies on protection of the environment despite the inabilities to tackle the widely observed damages to environment. In this case, the country is sometimes dubbed as having the “toothless environmental legal frameworks”(Getu, 2012).

### **3.2.1. The FDRE constitution**

The FDRE constitution that was adopted in 1995 has incorporated the basic articles that recognize the environmental issues and rights of public participations in various developmental and democratic processes. Moreover, this constitution is viewed as the grand and foremost legal provision that has clearly provided the basic and comprehensive principles and guidelines for environmental protection and entailed the adoption and implementations of various environmental policies, regulation and sector- specific guidelines in development activities.

Among the relevant articles to environmental rights provided under the constitution, article 44 of the constitution states that every individual person has the right to live in clean environment and the government has the mandate to create conditions for this sound and healthy environment.

Moreover, Article 92 of the constitution has clearly provided a framework for the enactment of environmental legislations and implementation of effective environmental management systems. It stipulates that the design and implementation of any development project or program shall not

damage or destroy the environment. The inclusion of such important provisions of sustainable environmental concerns in the supreme law of the country is considered as equivalent to fundamental human rights to environment (Salient features of environmental, n.d).

Eventhough the Ethiopian constitution donot elaborated the term EIA word by words under its provisions, it has assured that developmental activities should not harm the environment to attain sustainable development. The provisions that encourage the rights to public involvement, development and the rights to live in clean invironment enshrined under Ethiopian constitution constitutes the following rights:

- ❖ *Article 43. 2:- Nationals have the rights to participate in national development and in particular to be consulted with respect to policies and projects affecting their community.*
- ❖ *Art 85 sub article 1 of the FDRE constitution also mandated the federal and regional government organs to be guided by the constitution while implementing the environmental laws and policies.*

In addition, it is the constitutional rights of the people to have full consultation and to the expression of views in planning and implementation of the project which affect them. It is also provided under article 89(6) of the FDRE constitution that the Government shall always promote the participation of the people in the formulation of national development policies and programs, which in fact includes the policies and programs on the environmental issues.

Furthermore, the full text of article 92(3) of FDRE constitution reads: *“people have the rights to full consultation and to the expression of views in the planning and implementation of*

*environmental policies and projects that affect them directly*". According to this provision, it is the people's right to be consulted, to express their views (both positive and negative) in the planning and implementation of the project and by doing so they express their sovereignty through their direct participation. The latter article brings of public participation to the issue of environment.

Accordingly, consultation and community participation is an indispensable part of decision making process in development activities and EIA could be considered as one of the most essential tools to achieve above mentioned environmental rights provided under the constitution (Damtie and Bayou, 2008).

### **3.3. Environmental Policy of Ethiopia**

Ethiopia has adopted Environmental policy in 1997 prepared by EPA and approved by Council of Ministers based on policy and strategy recommendations of Ethiopian Conservation Strategy (Yonas Teklemichael.n.d; EPA, 1997). Ethiopia has not developed as such comprehensive environmental policy until 1997 (Damtie and Bayou, 2008). The environmental policy laid foundation for the procedures of EIA in determining the scope and key elements of the process.

The Environmental Policy of Ethiopia (EPE) addresses different environmental issues. The basis for the Environmental Policy of Ethiopia (EPE) is article 92 of the constitution of the Federal Democratic Republic of Ethiopia. The policy addresses many types of environmental issues related to urban environmental health, hazardous industrial waste management, air pollution and climate changes.

The overall objective of environmental policy is to promote sustainable social and economic development of the country through, inter alia, sustainable management and utilization of natural resource of the country. Among the specific objectives the environmental policy seeks to achieve are ensuring the conservation, development and sustainable use of essential ecological processes and life support systems, biological diversity and renewable natural resources and empowerment and participation of the people in environmental management(Environmental Protection Authority, 1997).

The policy provides a number of guiding principles that indicate and require strong adherence to sustainable development with high commitment to address the need:

- ❖ To ensure the EIA consider not only physical and biological impacts but also address socio-economic, political and cultural conditions.
- ❖ To ensure the public and private sector development programs and project recognize any environmental impacts early and incorporate their containment into the development design process
- ❖ To recognize that public consultation is an integral part of EIA and ensure that EIA procedures make provisions for both an independent review and public comment before consideration by decision makers.
- ❖ To realize that an EIA always includes mitigation plan for environmental management problems and contingency plans in case of accidents.

Generally the policy sets the scene for developments and projects with in Ethiopia, particularly those of national significance and underpins the regulatory requirement for EIA, pollution

control and requires the developers to aspire the highest international standard of environmental and social management for development projects which can be realized through involvement of stakeholders.

### **3.4. Environmental impact assessment proclamation**

The need to take the environmental concerns into development activities have emerged to ensure sustained and successful developments in Ethiopia since late 1990's. To this effect, appropriate laws, policies, administrative procedures and environmental protection institutions were enacted for a pro-active evaluation and management of environmental consequences of development project (programs) in the country. The establishments of the institution called Environmental Protection Authority (EPA) and the introduction of Environmental Impact Assessments (EIA) procedures considered as major achievement as a practical move to curve any irreversible damages that could emerge from implementations of various socio-economic projects and programs (Tekelemichael, 2008).

Ethiopia's partial exercise of EIA process could be dated back to 1980s when the donor funded projects of water resource developments begun practicing the assessment of environmental and health effects of such projects prior to legalized requirements of EIA. Subsequently the former Ethiopian Valley Development Agency adopted EIA in its guidelines for feasibility studies of medium irrigation projects (Solomon, 2006 in Damtie and Bayeo, 2008). The Environmental Impact Assessment (EIA), as a legally required document is, relatively recent exercise in Ethiopia (Damtie and Bayeo, 2008:16) that came into force with the adoption of Environmental Impact Assessment Proclamation *No.299/2002* by the House of Peoples' Representative in 2002.

The preamble of (2002) Ethiopian EIA proclamation declares that, EIA creates a fertile ground for sustainable development, promotes the implementation of the rights to clean and healthy environment, contribute for consolidation of transparency and accountability, enable the public to participate in the planning and decision making process of projects which may affect them and their environment. The EIA proclamation of Ethiopia also recognizes the relevance of public participation both when EIA study is done by proponents and during evaluation of impact study by appropriate environmental protection bodies. Its implementation and monitoring is delegated to Ethiopian environmental Protection Authority (EPA) and regional environmental bureaus. The law under Art 2(2) defines environmental impact as:

*“Any change to the environment or its components that may affect human health or safety, flora, fauna, soil, air, water, climate, natural or cultural heritage, other physical structures, social, economic or cultural conditions”.*

Similarly, Environmental Impact Assessment (EIA), under sub-article (3) of Art(2) of the same proclamation is defined as “the methodology of identifying and evaluating in advance any effect be it positive or negative, which results from the implementation of a proposed project or public instrument”. The proclamations has also attached liability to the project proponent for any damage arising from the project even if it has passed the required environmental standards by getting approval from relevant environmental authorities or agencies (Art 3(4)). The use of independent consultants during EIA study is also permitted under this proclamation to conduct EIA study of projects in article 7(2).

Article 9(2(c)) of the proclamation obliged the authority or relevant regional environmental agencies they shall “refuse the implementation of the project if it is convinced that the negative impact cannot be satisfactorily avoided”. Projects that get approval of environmental soundness are given a pass by attaching conditions that need to be fulfilled to eliminate or reduce the adverse impacts if the mitigation mechanisms have convincingly indicated that the negative impacts can be effectively countered.

The law also imposes the responsibility to redo the impact assessment if significant unforeseen occurrence happened, even after the approval, to address the implications of new observations. Monitoring of compliance with environmental commitments and obligations imposed on the proponent is given to the Authority (EPA) or regional environmental agencies with power to order the implementation of rectification measures if the proponent fails to meet its commitments. EIA is also set as a requirement by the new criminal code in Article (521).

The Ethiopian EIA guideline (2003) lists the various stages involved in the environmental impact assesment process. The major procedures in Ethiopian EIA proclamationare screening, scopping, environmental impact study, reviewing and decision making. The pre-screening consultations between proponents and environmental authority is also recommended to improve effectiveness of the assesment system.

At the screening stage, the proponent is required to submit an initial Environmental Assessment report called project profile or *screening report* which helps to determine whether or not the project proposal requires EIA. The outcome at this stage can be one of the three decisions: No EIA is required; preliminary assessment is needed; or for full scale assessment is required. The

next stages of process will continue only if the decision on the screening report required to proceeding with the assessment. Subsequently, major issues and effects to be considered in the study are decided in study scoping stage. The purpose of scoping is to design effective environmental impact study in the way that can address the concerns of potentially affected groups and understand their values through interaction with concerned stakeholders. The basis for public participation in EIA comes at this stage, as put in the procedure.

In this case, we understand that all projects are not required to undertake detailed environmental impact assessment in Ethiopia. There are lists of major project categories identified by the environmental guidelines (2005) that are subjected to the EIA process based on the criteria of having likely negative impacts on environment.

Although, the EIA system varies across countries, the basic requirement in the procedure is a thorough evaluation of projects' potential environmental impacts at its planning stage and before a grant of license by relevant authority. This would help the public authorities and the developer to improve the project in planning and decision making. This should also be provided with analysis of alternatives of executing the projects described in all feasibility aspects, with impacts associated with each alternative (Schroll, 2002 cited in Scott &Ngoran 2003). One key purpose of EIA is to provide information for decision makers to determine whether a project should be implemented through a process that incorporates views of potentiall affected group (Abate, 2012).

### **3.4.1 The public participation in EIA process in Ethiopia**

Public participation is among the core objectives of Ethiopian environmental policy. The part of Ethiopian environmental policy document reads; “to recognize that public consultation is an integral part of EIA and ensure that EIA procedures make provisions for both an independent review and public comment before consideration by decision makers”.

The proclamation that established EIA (Art.15) specifically empowers the public participation at two stages of EIA study and its evaluation with environmental protection authority or relevant regional agencies. It puts the need for public participation as follows:

- 1) “The Authority or the relevant regional environmental agency shall make any environmental impact study report accessible to the public and solicit comments on it”.
- 2) “The Authority or the relevant regional environmental agency shall ensure that comments of the public particularly that by the communities likely to be affected by the implementation of a project are incorporated into the environmental impact study report as well as in its evaluation”.

This clearly shows that the project proponents and the authorities are not obliged to incorporate the public particularly the community likely to be affected by the project at the decision-making stage. This can be considered as the other legal gap in public participation in EIA process in Ethiopian environmental laws. This indicates that it is below the international standard level. For instance, regarding the stages of the public participation, Rio declaration under its Article 10

provided that, *Environmental issues are best handled with the participation of all concerned citizens, at the relevant level and the opportunity to participate in decision-making processes shall be ensured.* Although this is international document is not binding, it laid down environmental principles and standards. It sets that the public participation should be ensured at all relevant level and finally, at the decision making level.

Similarly the Hague Declaration of (2000), under recommendation number (3) provided indigenous peoples should be considered as equal partners at every level of decision making concerning climate change impacts, causes and solutions.

In order to decide whether public participation in EIA is well recognized in Ethiopia and before mentioning the extent of its recognition, it is important to examine provisions and the existing situations. Accordingly, the need for consulting and incorporating views of the affected communities is provided in Article 3(5) of the EIA proclamation of 2002 for projects prior to approval of the environmental impact study reports in EIA process. This has clearly incorporated the right to public participation in the planning process of development projects that likely have impacts on environment. The environmental impact study report is expected to “contain sufficient information to enable the relevant environmental authority or agency to determine whether and under what conditions the project shall proceed” (Art. 8, Procl. no. 299/2002). An EIA guideline was then prepared by EPA in 2003.

The objectives of EIA are twofold. The immediate purposes of aiding informed decision making in the EIA process for approval of the project, and the long-term aim of promoting sustainable development by ensuring proper protections of ecological functions and livelihood of communities who are dependent on the critical natural resources shared by the project. The

multi-stage processes of EIA involves the public participation at each stage, particularly the ultimate decision whether or not the development project should proceed is made with public consultations and participation by concerned government agency.

The EIA proclamation also addressed the trans-regional impact assessment under article 6, which obliged proponents to carry out the EIA of the projects that is likely to produce a trans-regional impact which insures the involvement of the communities likely to be affected in each region have been consulted and their views and concerns incorporated.

This article imposes duty on proponents to conduct EIA by involving communities that are likely to be affected in any region. But the provision limited only to communities likely to be affected not incorporate other stakeholders. This means it is not the duty of proponents to consult other components of the public like interested groups, NGOs, Civil society and others during EIA of projects with trans-boundary impacts.

Article 9 of the EIA proclamation also entails about review of environmental impact study report. Accordingly, the authority (FEPA) and regional environmental protection agencies shall, after evaluating an environmental impact study report by taking into account any public comments and experts opinion within 15 working days:

- A. Approve the project without conditions and issue authorization
- B. Approve the project and issue authorization with condition
- C. Refuse implementation of the project

In addition to that, there are also other difficulties to implement EIA proclamations as far as public participation concerned, particularly at EIA evaluation stage because, there are no bounding instruments like regulations and directives which can guide the mechanisms of participation as well as notification (Girma, 2012). In another ways article 9(2) of the proclamation obliged authorities to take action within 15 days but there is no separate time provided for public participation to evaluate impact studies instead the proclamation envisaged 15 working days for collecting comments, reviewing reports, and taking action.

Well functioning environmental institutions and proper regulatory frameworks are considered to be prerequisites to the effective application of EIA (Damtie and Bayou, 2008). Studies on the Ethiopian EIA practices indicate that the country is on the positive track in implementing EIA process as experiences are accumulalating from practical engagements. The project proponents both from private owners and government agencies, particularly at federal level, are increasingly submitting their environmental impact study reportst to EPA or regional agencies (Damtie and Bayou, 2008). The studies also indicate a gradually growing momentum of government's commitments through enacting of new laws, establishment of environmental council and growing interests for capable environmental units by sectors.

However, Damtie and Bayou (2008) have identified major challenges and gaps in EIA processes of Ethiopia, including lack of awareness on the EIA, weak capacity of both proponents or available environmental consultants and EPA to conduct and monitor implementation of EIA process, less effective mechanisms of EIA processes and lack of effective public participation in EIA process. Low awareness on the importance of EIA is found to have made the implementation more difficult as project owners and investors consider the requirement as mere

bureaucratic hurdle, ‘costly’, and ‘anti- development’ process. The power hierarchical structure of EPA is complained to be lower than many of the government offices that it supervises and the budget allocated for its monitoring activities are claimed to be too low on the basis of study on the EPA’s role and capacity.

A growing consensus has emerged on the need to involve multiple stakeholders in process of environmental assessment studies and its evaluations (Girma, 2012). However, there are many unresolved issues with respect to public participation in Ethiopian environmental laws. The environmental proclamations are criticized for their inability to provide subsidiary (additional) laws that can raise awareness of concerned stakeholders and their level of participation in the process of guideline preparations, EIA studies and evaluations.

As far as defining who the public under Ethiopian legal regime are, the definition of the public concerned or the public that has the right to participate in the planning and implementation of the project is not given. It seems that the legislators intended the definition of the public should be given under the regulation to be enacted by the council of ministers for the effective implementation of the proclamation. But, the Oromia EIA Proclamation defines stake holders as an organ of the government, non-government or private dealing with the environmental issues in the region and thus concerned about environment. As also mentioned the preceding sections, there is also the envisage directive enactment for the effective implementation of the proclamation. As aforementioned, we have no such implementing directive in force. The existence of such big legal gap created a confusion as to the determination of the “who should be the public and stakeholders” when the given project is to be established and when the issue of the obligation of consulting the people arises.

### **3.5. Environmental Impact Assessment Guideline Documents**

The Ethiopian environmental protection authority prepared procedural guide lines in 2003, which stipulates the background and general guidance to EIA and environmental management in the country. The guide line document elaborates for EIA standard procedures, describe the roles, list of projects which require full EIA, partial and no need of EIA study, and obligation of all stakeholders expected to participate in the process. The EIA guide line which published in 2000 by EPA also illustrates projects that should be subjected to EIA. Accordingly, sectors subjected to conduct EIA are agriculture, industry, transport, mining, dams and reservoirs, tannery, textile, hydro-power generation, irrigation and resettlement projects.

The guidelines also describes about the stages that should be followed in EIA procedures. Especially the guideline pointed four important stages. According to EIA guide line produced by EPA in (2003), decision is made on the requirement and the level of EIA during the screening stage. At this stage incorporating the degree of public interest is the essential point (Dominik Ruffeis et.al, 2012:35-36)

The EPA guideline of (2003), also eborated the detail descriptions that shoul be incorporated under scooping stage. Here proactive public consultation is recommended and emphasized to realize the inclusion of all stakeholders with minimum standards. This requirements include the consideretion of alternatives, involvement of relevant institutions and the public, consideretion of concerns forwarded by stakeholders specifically those the affected and enterested groups,

discription of public participation undertaken with mitigation and monitoring mechanisms (Ruffeis et.al, 2012).

Following EIA study, reviewing will be conducted to ensure whether the impact assessment report is really examined or not (EPA, 2003). Concerning the reviewing of environmental impact assessment study report (EIASR), EIA proclamation of 299/2002, affirms the EPA or regional environmental agencies shall make decision based on public comments and experts opinion. As elaborated under EPA guideline of (2003), reviewing can be conducted at different stages of EIA.

After reviewing the EIASR, decision making is the core point of EIA process. As mentioned under EIA procedural guideline of (EPA, 2003), the decision decides whether or not the proposal shall proceed or not. It must be comprehensive, consultative, participatory and way of influencing others to behave responsibly and sustainably (EPA, 2003 as cited in Ruffeis et.al, 2012).

### **3.6. Institutional framework for EIA in Ethiopia**

The important formal environmental institutions in Ethiopia include the Environmental Protection Authority (EPA), regional Environmental Protection Agencies or bureaus (REPB), and sector specific environmental Units (SEUs). Moreover, some environmental NGOs are also active in the country. The framework for their existence and involvements in environmental concerns are discussed in next few subtopics.

### **3.6.1. Federal Environmental Protection Authority (EPA)**

The Ethiopian government, by proclamation no. 295/2002, has established the Environmental Protection Authority (EPA) as an autonomous institution responsible for the coordination of activities needed to ensure implementation, monitoring and management of environmental objectives provided under the constitution and the basic principles set out in the environmental Policy of Ethiopia (Negarit Gazeta, 2002). The Authority is mandated to prepare policies, laws, regulations and procedures that individuals or the public need to abide by to ensure the safety of human well being and harm to environment is avoided or reduced from any socio-economic developments projects, programs or policies.

Similarly, the proclamation no. 299/2002 enacted subsequently, provides for the requirement of Environmental Impact Assessment (EIA) for major projects under appraisal of EPA and relevant regional environmental bureaus.

Regional environmental bureaus are authorized by the proclamation to serve as coordinating agency in the process of environmental decision makings of the respective regions in line with the relevant environmental protection policies and guidelines.

### **3.6.2. Regional Environmental Bureaus (REPB)**

The proclamation no. 299/2002 in article (3) has also provided for designation of environmental protection unit for competent sectors and environmental protection agencies for regional states. Accordingly Oromia Regional State also enacted EIA proclamation No.176/2012. Article 12 of the proclamation obliged the Oromia rural land and Environmental protection bureau to include

opinion of the public, particularly of the affected community in EIA. Based on existing national environmental policy and through engagement of public participation in decision process, the agencies would follow up the implementations of federal environmental standards, and coordinate preparation, implementation and review of their regional conservation strategies; perform environmental monitoring and report environmental status of their regions to the federal authority. Moreover, the proclamation that established the EPA and the regional environmental agencies (REAs) have also mandated that each competent agency shall designate “Sectoral Environmental Units” (SEUs) that will coordinate and follow up the activities public projects and government instruments in the sector in order to ensure its compliance with environmental laws and requirements. However, recent study shows that only few government ministerial offices and agencies have established their own environmental units (SEUs).

Ministerial offices established their own environmental units are (Ministry of Mining, Ministry of Agriculture, and Ministry of Water and Energy); Ethiopian Roads Authority (ERA), and Ethiopian Electric Power Corporation (EEPCo) (Mulugeta, 2012).

## **CHAPTER FOUR**

### **ANALYSIS OF THE PRACTICABILITY OF THE PUBLIC PARTICIPATION IN EIA PROCESS: THE CASE OF HABESHA STEEL MILLS PLC**

#### **4.1. Introduction**

The Chapter is organized in to seven main parts, besides this introduction. The first part presents a brief presentation of an overview of Dukam town. The second section gives us a brief description of the Habesha Steel Mills PLC that exists in the Oromia Special Zone Finfinne area of Dukem town. The third section deals with analysis of the EIA document report. The fourth part focuses on the level of the awareness that the people of this area have on the mechanisms which helps them to participate effectively in the EIA of the Habesha Steel Mills. The fifth part emphasized on way, extent and stages of public participation in EIA process.

Part six deals with the identification of who is the public expected to participate and influence decision making and the last part discusses the status of public influence on decision making in the EIA process. Under this section the interviews conducted with the peoples living on that area, vice chair person of Xedecha kebele, environmental experts both from dukam town Environmental protection office and Oromia Rural land and environmental protection bureau including the deputy head of the bureau, administrative structures of dukam town, Consultant who produced the EIA document, and proponent of the project to understand the status of public involvement and influence in the process of decision making in the EIA of Habesha steel mills are briefly analyzed.

## **4.2. Brief Introduction of the Dukam Town**

Dukem is found in Oromia region, one of Oromia special zone surrounding Finfinne to the east. Its astronomical location is 8°45'25''-8°50'30'' North Latitude and 38°51'55'- 8°56'5'' East Longitude. The total population of Dukem town including urban and rural is about 40,189(forty thousand one hundred eighty nine).it was founded in 1914.Dukem is one of the reform towns in the region and has a city administration municipality and four kebeles. The town has integrated development plan which was prepared in 2008( Dukam town finance and economic development office, 2016).

It covers about 3586 km<sup>2</sup> by having 503 farmers in the town. There are about 196 types of large and medium scale industries having 24, 102 workers exist in Dukem. Among, there are 26 metal and engineering private owner ship totally, including 8 foreign and 18 domestic owner ship. ( Dukam town finance and economic development office, 2016).

## **4.3. Over view of the Habesha Steel Mills**

Habesha Steel Mills Factory was founded in 2007 GC at a distance of 40 km from Addis Ababa to the east in the Oromia regional state under Oromia Special Zone surrounding Finfinne, Dukem town in Xedecha kebele (Gilo Consultant, 2012, p. 29). Though the Ethiopian EIA proclamation 299/2002 obliged the proponents to conduct EIA, the Habesha STEEL Mills first phase project didn't conduct EIA at that time.

However, the second phase of the project expansion took place in 2013 GC which full EIA proposed study of the “Ribbed Bars Plant” manufacturing has been conducted by Gillo Development Consultants Service on behalf of Habesha Steel Mills PLC. According to the company consultant the company project site covers total area of 65,663m<sup>2</sup> that obtained from

the government by lease. Furthermore, the proposed Ribbed Bars Plant indicated the company to be established on 5 hectares that obtained from the government (Gilo Consultant, 2012, p. 8).

The owners of the company are Indians. The company established under Ethiopian law mainly concentrates in the manufacturing of infrastructure products (EIA document of the Habesha steel factory, 2013, p. 28). According to the document the company has a production capacity of 36000 ton of ribbed bars per annum. The company also produces wide range of grades of ribbed bars (ferro) from 8mm to 32mm in conforming to national and international standards.

The objectives of the project incorporate boosting the infrastructure projects of the country, save hard currency, provide employment, and stimulate healthy market competition. Now a day the company employed more than 700 employees as a permanent and temporary basis.

#### **4.4. Analysis of the Habesha Steel Mills EIA document**

The EIA document of Habesha Steel Mills Company more or less incorporated the minimum standards that any EIA report expected to fulfill as per the Federal and Oromia EIA proclamations. Accordingly the document included the nature of the project, positive and negative impacts, information on likely trans-regional impacts, mitigation measures to reduce the negative impacts, the procedures of self auditing and monitoring during the implementation of the projects and operation.

As discussed in the document (EIA report), the project has economic, environmental and social benefits. Among these the contribution of the project to the national economy, creation of investments opportunities for the country, employment opportunities specially for women, enhancement of rural infrastructural development and others.

The adverse impacts of the project also includes soil erosion during construction, soil contamination by chemicals and fuels, impact on ambient air quality, impact on ambience noise levels, impact on water quality, impact due to operation of melt shop (the major source of emission), impact due to oppression of rolling mill (emission to air from hot rolling oxide particles will be released), and adverse impact due to wire drawing operation specially chemical wastes (EIA Report of Habesha Steel mills, 2013).

The social and cultural impacts of the project also illustrated under the EIA document report of Habesha Steel Mills project. Among negative impacts the noise and the smoke released by the factory considered as the main impacts affecting the workers in the company and the surrounding farmers. Moreover, the document discusses the positive impacts for the nearby communities.

The document also incorporated mitigation measures of the all for mentioned adverse impacts of the project. The document also discussed under page (15&36), about the public participation and the perception of them on the project. Accordingly, relevant government organizations such as town administration officials, trade, industry, agriculture, and health offices including the local community have participated during EIA study report (EIA document of the Habesha steel factory, 2013). However, the relevance and reliability of public participation in the Habesha Steel Mills project will be presented in the next titles mainly to address research questions based on the opinions of the public bodies.

The document also mentions that, *“the site is located in an area at 1 to 2 km distance from residential area and there is no settlement in the proximity of project area.”*

However, during data collection my observation was quite different from above mentioned report. The factory is between residential houses, local restaurants, one private seeds storage, and

farm lands at the back. The steel mills are not far more than 100m from residential houses and other social services. Kelbesa Bekuma is one of the social impact assessment experts at Oromia rural land and environmental protection bureau. Based on environmental audit of the Habesha steel mills conducted by the bureau, one of the problems identified was location of the project near to residential houses and farm lands (K. Bekuma .personal communication may 21, 2016).

Since the land has taken from the surrounding farmers especially during the second phase of the project, displacement of the farmers didn't incorporate as one of the negative impacts of the project. Sh. Tulu (personal communication, May 19, 2016) said "I haven't any information about the project; we already see as our lands taken away, the factories built, and start operation, even we didn't get opportunity to ask some clarifications about our lands taken away"

"As a member of the community if I had information about the project I oppose the establishment of this factory between our residential houses, because of that nowadays we are suffering more from swages and smoke, but I couldn't get a chance to forward my fears and comments during the early stage of the project" ( K. Balcha personal communication may 20,2016). Similarly, T. Beletu (personal communication, May, 2016) raised the impacts of the project on her farm lands near by the factory.

From this one can understands that, EIA document of Habesha steel mills didn't created awareness about the project and incorporated the concern of local communities and this raises the question on the reliability of the document which discusses about public participation during the EIA process of the project starting from the early stage.

#### **4.5. The level of the awareness of the people on participation in the EIA**

For the purpose of analyzing the practicability of the public participation in the environmental impact assessment process of the Habesha Steel Mills factory, I have used EIA document of the factory, data. I mainly, based my analysis on the interview, EIA document analysis and different legal provisions. Accordingly, the concerned people, Dukam town environmental protection office, the dukam town administrative structure, the Oromia rural land and Environmental protection Bureau, the consultant of the Habesha steel Mills who prepared the EIA document and the proponent of the project interviewed. In addition, the factory's EIA document is used as analyzing the practice. The laws are also analyzed for the purpose of showing the existence of the legal gaps. Under this particular section what I'm going to do is to prove whether the people affected by the Habesha Steel Mills PLC knows that they have the right to participate in EIAs process as concerned stakeholders or not. This is important because, the people should, at the first place, be aware of or know that they have the rights before standing to protect their right.

Sisay Debela one of the farmers living near Habesha Steel Mills Factory during the interview said "inviting the surrounding people for consultation depends up on the consent of the proponent, consultants and government organs, I don't think consulting the surrounding people is their responsibility." He added, by the initiation of kebele leaders and municipal administrators we participate in different developments like building schools, constructing roads by contributing money, and we work different environmental conservation structures and plant tree. The farmer misunderstood the rights to participation in developmental projects and didn't aware of as he has the rights to participation or consultation during EIA process and decision making (S.Debele. personal communication may, 2016).

Admasu Taressa is among the youth residents of Xedecha kebele near the factory, concerning the awareness level about their rights he said “somehow I know my rights but, no one invite us to express our concerns and no one works to increase the awareness level of the community as far as participation in EIA concerned”(A.Taressa.personal communication may 20, 2016)

On the other hand, “we don’t know that we have such rights as participating and to be consulted on the projects implementation and planning, what we only know is that it is the government who took our land that the government has the right to use it in any way it think fit for they told us the same”(K.Tulu. parsonal communication may 20, 2016). Other farmers living around Habesha steel factory raised the same thing during interview (M.Mulatu.K.Balcha.personal communications may 19, 20216).

Abraham (the Dukam city EIA expert) confirm the same. He said that “there is public awareness department in our office but, it is difficult for me to say our office worked awareness creation concerning public participation in EIA process.” He also mentioned that No media is doing on the public awareness creation regarding their right to participate on the plan and the implementation of project that affect their environment. Particularly, in case of the Habesha Steel Factory the people didn’t get any kind of awareness, neither the Environmental protection office nor the proponents didn’t worked on awareness creation and initiate them for participation (A.Berhanu. personal communication may 19, 2016).

Other informant Shimelis young man living in the Xaddacha Kebele of Dukam a place where the Company located added;“As a youth, they didn’t allow us to participate in any the project issue in general about the impact of the project on the environmental issue in particular in the Habesha Steel Factory. Further, he mentioned that as a result of the absence people’s participation in the

EIA of the Habesha steel Mills; it is affecting the health of the people since its impact was not investigated truly, if we had information about the project we didn't allow for its construction”(Sh.Tulu.personal communication may 20, 2016). The deputy head of Oromia National Regional rural land and environmental protection bureau Ato Mohammed on his side argued that, “in past days the public participation was put aside for the country favors the expansion of the investment over the environmental protection. It is since the past two years that we start to consider the public participation as the core part of the EIA process” (Mohamed interview, 2016). He is arguing that since in former time our country follows prioritizing the investment expansion than other issues, we were not accepting the public participation as the integral part of the EIA process, (which is completely wrong perception) thus we didn't work on the public awareness of these rights. If that is the general strategy of the country nothing makes the case of the Habesha Steel Mills special or unique he added.

Despite the fact that having the awareness and information of the right precedes claiming the right at the time when it violated, many people who were affected by the Habesha Steel Mills PLC didn't know that as the part of public they had the right to be consulted and participated in EIAs process. In other words, in my research area, let alone participating in the planning and implementation of the project and forwarding the views as to the way by which handling of the environmental impacts of the project, many of them do not know that they have these rights.

From this one, can safely conclude that those peoples who affected by the establishment of the Habesha Steel Mills were not in position to know their right to be consulted, to participate in general EIAs process of this particular project. Nor the country was in a position to promote these rights as provided in the constitution and in the EIAs objectives.

#### **4.6. The extent and nature of public participation in the EIA process of Habesha steel factory**

As mentioned under chapter three of this research, Ethiopia has put in place a legal framework that recognizes public participation in EIA process. Seeing the practice, particularly the case of Habesha steel Mills Factory, the public participation was not considered. Let alone to the environmental issue, but also in the issue of their compensation. “The Habesha steel factory didn’t call anyone for discussion. I got my land fenced, no one asked me, informed. They only told us that we should sign and collect the compensation for it is the government who take our land”(D.Walde.personal communication may 20, 2016)

In its environmental Impact Assessment, Habesha steel factory alleged that the concerned public (presumably, the Xadecha Kebele people) participated and agreed. The document lists the name of about eight persons, seven with their signature and one person without mentioning the last name. The document clearly mentioned that these persons who their name listed in the document agreed with establishment of the factory depending on EIA study of the project (EIA Report of Habesha Steel mills, 2013).

**Note that: Debele welde is one of the eight people mentioned in the public participation report.**

**When asked about his participation in the EIA, Debele stated:** “I cannot read and write; I don’t know who put my signature there. I didn’t make any kind of agreement, even not me no one from the Kebele is called for discussion on the issue of the establishment of the Habasha steel factory. They didn’t gave us no idea about the impact of the factory on the environment”(D.Walde.personal communication may 20, 2016).

**Waqe Adare the other person whose name was listed under the EIA document report**

He also strengthened what Dabale waldee fore mentioned. “During the expansion of the project, the company took away my land, but I haven’t got a chance to say something concerning my property, at that time there were no vacuum for public participation at all. I didn’t participate on the EIA process of the project. Once they took our lands, they do not want to hear our saying.”(W. Adare. personal communication may 20, 2016).Waqe adds “the signature which signed in front of my name is not mine, this is fake signature.”

**The other person whose name listed in the report and said to be participated is Korsatullu**

He said: “They told us nothing, no one was consulted, I never seen the public called for discussion on its establishment. They may call people for giving them compensation.”(K.Tulu. personal communication may 20, 2016). The EIA document of the habesha steel mills which prepared by Gilo Consultants included the name of peoples said to be participated and their comments. But only two paragraph of the document even talks about public comments. The first paragraph reads:

*“To this effect, public consultation was undertaken (during the scoping) and the impacts study. The consultation involves people living in the area closer to the project site. The participants were men, women and youth members. During public consultations, it was noted that the local people has positive attitude toward the implementation of the proposed project as they can get an employment.”*

Wezero ZebiderWakjira is the expert of EIA at Oromia Rural Land and Environmental Protection Bureau. She said “Now days we heard the information that the Kebele chairman and

the project proponents in many cases agreed secretly and make an arrangement that simulates the public participation”(Z.Wakjira. personal communication my 22, 2016).

The other interviewee confirmed the same, by saying, “I personally know the people mentioned in the EIA public participation documents of the Habesha steel factory. They are not the only people their land is taken away. We are about 150 families living nearby the factory and its expansion taken away land from us. The factory is simply misleading the authorities; these people didn’t consult and agreed”(M.Umbatu.personal communication may 19, 2012). Even if they did it is not only them from the 150 farmers that have to be informed or consulted”(M. Umbatu.personal communication may 19, 2016).

From this, one can safely conclude that the name of the people mentioned in the public participation document report of the Habesha Steel Factory is not reliable. Despite the essentiality of public participation in the project, the factory didn’t consult and call the public for the participation; rather it arranged the mechanism of persuading the authorities.

The other point to be considered under this EIA document is that, it says “these persons agreed that the factory is not affecting the air” (EIA Report of Habesha Steel mills, 2013). Gizachew Mijena Deputy Head of Dukam environmental protection office and Environmentalist evaluated this statement by two directions. First those farmers said to be participated are not environmental experts to say the factory is not affecting air quality or not. Secondly, the statement by itself is false, since our Environmental management Audit report on the Habesha steel mills shows contrary to the fore mentioned statement. Even the factory is one among the most environmental polluting factories in the town.

Similarly, what I get from all of the people and institution I interviewed is diametrically opposite to this. “The people around the factory are the victims of many diseases; the agricultural land

which located near by the factory is destroyed because of the polluted liquids that discharged from the factory. You cannot breathe fresh air there for the air is polluted by the gases emitting from the factory”(D.Walde.personal communication may 20, 2016). In the factory’s area some kind of crops cannot grown while in case of some crops it is extremely hazardous to reap them because of the gases from the factory affect the health of people. “Regarding the factories’ environmental impact, anyone can tell you, that is affecting our crops and our health. “Shumbura” cannot grow near the factory, it burns the products”(K.Tulu. parsonal communication may 20, 2016).

The Habesha Steel Factory EIA main document also incorporated under its report that other stakeholders were participated and consulted during the EIA process. The document reads:

*“Discussion and consultation has been conducted with the local people and relevant organizations that include district administration officials, Trade and industry, agriculture, health office and the neighboring projects. This enable to catching background information significant to impact assessment and environment management, and in particular to identify any areas of specific concern which needed to be addressed by the owners. The consultation made were aimed at providing relevant information about the company; discussion on possible adverse and beneficial of the factory to the community and to collect recommendations on ways of tackling the perceived adverse effects and maximizing the benefit of the project”(EIA document of the Habesha steel factory, 2013, p. 15).*

As we can understand from this part of the EIA document, the factory is alleging that the public body (different government sectors) mentioned herein above are consulted and participated in its EIA process. They get the relevant information about the project (its benefit and adverse effect)

and gave their comment then, accordingly the recommendations are collected; as alleged by the factory.

The stakeholders, however challenges the reality of what is provided in the document. Ato Girma Wollega the head of Dukam town government communication office affirmed that consultants many of the time simply put the list of different sectors and individual person's for the sake of fulfilling formality or cover-up as they participated the public but, the reverse is true (G.Wollega.personal communication may 20, 2016).

Ato Gizachew Mijana deputy head of Dukam town Environmental protection office also pointed the same idea. "at the town administration level there are different stakeholders expected to take part in EIA, for instance agricultural office of the Dukam town to comment on the effect of the factory on farmers and farm lands, land administration office to approve whether the proposed project is appropriate at a given place or not, investment office to check the reliability of EIA process and Environmental protection office at the town level. However, the practice is quite different from this; proponents simply show their EIA report approval certificate to relevant stakeholders after decision already made. Sometimes even environmental protection office of the town and our experts didn't know how EIA process of certain projects made and approved. The regional environmental protection bureau simply send us one copy of the EIA report for follow up which contributes for fake preparation of EIA report without effective public consultation(G. Mijena.personal communication may 21, 2016).

Senior adviser of Oromia Environmental Protection Bureau and Deputy Bureau head Mohamed Ibrahim also strengthened this idea. He said not all but some of Consultants prepare EIA document report without knowing even the project site (M.Ibrahim.personal communication may 24, 2016). They prepare the document by sitting here in Addis Ababa for the project to be

conducted in Dukam town by closing their offices and collecting fabricated data from different sources. He added some consultants consider EIA as a business as usual than considering as a real tool for decision making and way of public empowerment in decision making on their environmental matters.

Abraham (EIA expert at Dukam environmental protection office) also told me his observation. Some of EIA documents simply copy pasted from other EIA reports and sometimes the EIA report prepared and submitted for Steel Mill factory may be copied from EIA report produced for tannery industry. This entails that some consultants simply copy and paste EIA documents without Conducting the real public participation and EIA report which paves a way for the violation of the rights to public participation in EIA process.

In some cases, what the people take as the public participation is the meeting they called only for taking of the money for compensation. In such meetings, what the proponents of the project are telling the community is either or all of the following as a researcher heard from communities in Xedecha Kebele dukam town:

- That the land is taken by the government and for the land is the property of the government one can't oppose it.
- That once project is established it helps the society by establishing different social services such as road, clean water projects, health centers, job opportunities and schools.
- Therefore, they should collect the compensation.

The proponents of the project never talked the issue of the adverse effects of the project in general and the issue of environment impact in particular. "They simply got our land fore-granted; they gave us no idea about the impact of the factory on the environment no discussion

or consultation at all. They simply deceived us; they deceived us as children”(D.Walde.personal communication may 20, 2016).

Further the youth and the women as part of the public has the right to participate and/or informed of the establishment of the project. It is their constitutional rights. Nevertheless neither the youth nor the women are consulted as parts of the public. Astonishingly, the EIA document report of the Habesha Steel Factory indicated that the men, women and youth members of the society participated during the scoping and impact study of the project. Regarding this Zebidar said “consultants many of the time list the name of women as they participated but, in reality women didn’t take part in the EIA process.”

Admasu Taressa a youth living in Xedecha kebele near Habesha Steel Mills Factory said: “as a youth I am very sad to see this factory near our resident, it is polluting the environment, the smoke enters to our home, now many of our family were affected by common cold and other disease. No one asked us, no one informed us, if there was a chance to participate during the EIA I was ready to ask them and inform them my concern but no one invited us during the early state of the project”

This EIA Document of Habesha steel Mills was prepared by Gilo Consultans. Kayyo Shanqule is the consultant at Gillo Development Consultancy service, who prepared the EIA document for Habesha Steel Factory. On an interview with him he said “I do not recall that the youth and women participated in the EIA of the Habesha Steel Factory”.(K.Shanqule. personal communication on may 23, 2016). During the interview the consultant said “ I remember that the kebele chair person of Tedecha kebele selected representatives from the community, then we consulted, they raised their concerns and comments including the adverse effects of the project, and their comments included to the document.” But as aforementioned there was no one person

told me consulted during the EIA of the project. The document also tells us only about the positive aspects of the project raised by the public. Here what the consultant told me and what really included to the document was different. This contradiction may entail that the EIA document is fake, made only to fulfill the formality without taking the real facts in the ground as well as in the community.

Preparing fake documents of EIA which provide inaccurate information to the community or the authority leads to criminal punishment. As per article 19(2) of Oromia Environmental Impact Assessment proclamation (2012), where the advisor or any organ who is in charge of undertaking EIA study presents poor quality data or false or wrong information or submit false statement in Environmental Impact statement report, Results in criminal punishment ranging from fine of thirty thousand to sixty thousand in case of legal person and imprisonment of three years to seven.

. Besides this, regarding the Habesha Steel Mills PLC, my conclusion is that there is no public involvement at any stage of EIA process. The PLC's proponent approved their EIA by deceiving the regional authorities by preparing the fake public participation and agreement report. Neither the youth nor the women participated in the EIA process. Since what the people is called for is only so that they collect the compensation, not to consult them about the environmental impact of the project It can be easily said that all in all there were not public participation in the project's EIA process. What the proponents of the project told the people was that they will give them different kinds of the basic social services. Therefore, there was no public participation of any form and at any stage of the EIA process prepared by Habesha Steel Mill PLC.

#### **4.7. Who are public that has the right to participate and influence the decisions?**

As mentioned under chapter three of the research, there are the legal gaps that call for enactment or\and the amendment of the existing laws regarding the ensuring of the right to public participation in the EIA process. Particularly, the regulation and directive should be enacted as per they envisaged in the proclamations and the article 15(2) of EIA proclamation should be amended so that it can ensure the right of public participation at all level of EIA process which includes the decision making stage.

Attributed to this legal gap, the concept of the public concerned and the stakeholders is practically confusing; different people, sectors and experts uses it differently. In the past days, the only stakeholders are the land administration authorities and the investment commission or agency as the case it may be (G. Mijena.personal communication may 21, 2016).

Practically, when the land on which the project is to be established is taken from the farmers the public to be consulted includes the community's adults, youth and women. Otherwise, if the land up on which the project is to be established is from the government (for instance, the case of the industrial zone) there is no need of the consulting or calling the public participation specifically the community but this is great mistake (M.Ibrahim.personal communication may 24, 2016).This reflects that there is the misunderstanding of the concepts of "public concerned".

As we can understand from the wordings of Mohamed, if the land is not from farmers the latter is not considered as public concerned and thus, there is no need to consult them. For instance, in case of the project established in the Industrial zone, there is no reason the people living surrounding the industrial park to be consulted, this is what practically happening. But can we say that those people should not be among public concerned? My answer is negative, for the

project established can affect these people by discharging effluents to their farm land for instance. This is the result of lack of legal instrument which clearly put that who should be the public concerned at both regional and country level.

Regarding the Habesha Steel Mills PLC, as analyzed in the preceding sections; since there is no public participation at all the question of who should be the public concerned cannot be an issue.

#### **4.8. The status of public influence on decision makings in the environmental issues**

Effective public participation is characterized by the community acting with full information, equal access to decision-making institutions, and implementing its jointly articulated objectives

Consultation and community participation is an indispensable part of decision making process in development activities and EIA could be considered as one of the most essential tools to achieve above mentioned environmental objectives. Coming to the EIA, the EIA guideline of (2003) lists the various stages involved in the environmental impact assesment process. The major procedures in Ethiopian EIA proclamation are screening, scoping, environmental impact study, reviewing and decision making. The pre-screening consultations between proponents and environmental authority is also recommended to improve effectiveness of the assesment system.

According to EIA Proclamation, the public must participate at two stages: During the making of the EIA statement report and during the review process of EIA statement report.

*“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access, to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the*

*opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided". Rio art.10*

According to this declaration, the public shall have the opportunity to participate in decision-making process, which includes their participation in the decision to be given regarding the EIA process. The Ethiopia legal regime, however, do not require the participation of the public participation at the decision making stage of the EIA process.

In case of the Habesha steel Mills, at the first place there is no public participation at any stage and hence, there is no public participation at the decision making stage. No public comments and recommendation is considered by the authorities at the time of the decision making and evaluation of the EIA statement report.

This implies that there is no public participation at any stage of the EIA process of Habesha Steel Mills in general and at the decision-making stage in particular. Since no recommendation and comment of the public was taken in to consideration, I can say the approval of the EIA is not influenced by the public participation; so zero or no influence of the people.

## **Chapter Five**

### **5.1 CONCLUSION AND RECOMMENDATION**

#### **5.1.1. CONCLUSION**

The 1995 Constitution of the Federal Democratic Republic of Ethiopia provides a strong constitutional foundation for the introduction and effective implementation of the EIA system. It stipulates that development programs and projects in the country should not be conducted in a way that causes damage to the environment. In addition, it provides the right of citizens to live in a healthy and clean environment and the right to be consulted and to express their views on the planning and implementation of plans, programs, strategies, policies and projects that affect them.

However, in case of public participation in the Habesha Steel Mills Project, the degree to which the public could be involved in each project EIA process was limited. Public involvement should not be limited to a single step of the EIA. Right from the early stages the public should be involved in the process right through to the monitoring stages. It is believed that if the process is reiterative, there will be more to gain from the process than current practices yield.

Although the EIA proclamation contains specific provisions relating to public participation in EIA process, it does not provide for how long this participation should stay other than simply requiring environmental protection organs to take measures on proponents of the projects that are prepared without passing through EIA.

The EIA proclamation enacted at Federal and Oromia regional state are not adequate by it selves in order to make EIA more effective. Its effective implementation requires the issuance of specific instruments like regulation and directives. However, neither federal nor Oromia regional state issued effective directives and regulation.

Despite the fact that having the awareness and information of the right precedes claiming the right at the time when it violated, many people who were affected by the Habesha Steel Mills PLC didn't know that as the part of public they had the right to be consulted and participated in EIAs process. In other words, in my research area, let alone participating in the planning and implementation of the project and forwarding the views as to the way by which handling of the environmental impacts of the project, many of them do not know that they have these rights.

Regarding Public participation in the Habesha Steel Mills PLC, there is no public involvement at any stage of EIA process. Neither the youth nor the women participated in the EIA process. Since what the people is called for is only so that they collect the compensation, not to consult them about the environmental impact of the project. Attributed to legal gaps, the concept of the public concerned and the stakeholders is practically confusing; different people, sectors and experts uses it differently. In the past days, the only stakeholders are the land administration authorities and the investment commission or agency as the case it may be.

This implies that there is no public participation at any stage of the EIA process of Habesha Steel Mills in general and at the decision-making stage in particular. Since no recommendation and comment of the public was taken in to consideration.

### **5.1.2. Recommendation**

To have effective stakeholders' participation in the EIA process in the country, the following recommendations should be considered:

- ❖ The constitutionally guaranteed rights of the people to participate and be consulted in any development activity that could affect them must be realized in its full sense, both during the preparation of the EISR and the review process of EIA.
- ❖ Regulations and Directives spelling out the rights and duties of stakeholders, the methods of their participation and the corresponding obligations of proponents and environment agencies to ensure their participation at various stages should be made.
- ❖ As the knowledge level on EIA is very low among public concerned, efforts must be made to enhance awareness of the community and other concerned bodies EPA should have a real commitment to engage stakeholders in practice as well. Finally, NOGs should raise stakeholders' awareness so that they can make meaningful participation in and contribution to the EIA
- ❖ Emphasis must especially be made on key stakeholders various government officials, people directly affected by development programs and projects, and for all interested groups during EIA study process
- ❖ Environmental protection Authority should revise its guidelines so as to clearly provide for the right of stakeholders to participate in the EIA process at every stage.
- ❖ The Environmental protection Authority proclamation should be amended to create conducive environment for stakeholders' participation. For instance, article 9 of the Proclamation which requires the EPA to take action on EIA reports within 15 days should be amended as this is a very short time to engage stakeholders on EIA evaluation.

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