



SEEK WISDOM, ELEVATE YOUR INTELLECT AND SERVE HUMANITY!

Addis Ababa University

አዲስ አበባ ዩኒቨርሲቲ

ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

SCHOOL OF LAW

**VIOLATING THE RIGHT TO DEVELOPMENT IN THE NAME OF
DEVELOPMENT IN ETHIOPIA:**

The Case of Integrated Housing Development Programme of Addis Ababa City

Betru Dibaba Entellie

Addis Ababa, Ethiopia

May, 2020

ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES
SCHOOL OF LAW

**VIOLATING THE RIGHT TO DEVELOPMENT IN THE NAME OF
DEVELOPMENT IN ETHIOPIA:**

The Case of Integrated Housing Development Programme of Addis Ababa City

Betru Dibaba Entellie

**A Thesis Submitted to Addis Ababa University, School of Law, in Partial Fulfillment of the
Requirements for the Award of the Degree of Master of Laws (LL.M) in Human Rights Law**

Advisor: Dr. Yonas Tesfa Sisay (Ph.D)

Addis Ababa, Ethiopia

May, 2020

DEDICATION

This thesis is dedicated to all impoverished farmers in the name of development in Ethiopia.

It is also dedicated to my late father, Dibaba Entellie, who would have been proud.



**VIOLATING THE RIGHT TO DEVELOPMENT IN THE NAME OF
DEVELOPMENT IN ETHIOPIA:**

The Case of Integrated Housing Development Programme of Addis Ababa City

Betru Dibaba Entellie

Advisor: Dr. Yonas Tesfa Sisay (Ph.D)

A Thesis Submitted to Addis Ababa University, School of Law, in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Laws (LL.M) in Human Rights Law

APPROVAL SHEET BY THE BOARD OF EXAMINERS

Approved by Board of Examiners

	Name	Date	Signature
1.	-----	-----	-----
2.	-----	-----	-----

This thesis is submitted for examination with my approval as an Advisor.

Advisor: Dr. Yonas Tesfa (Ph.D)

Date: -----

Signature: -----

DECLARATION

I, Betru Dibaba, hereby declare that this thesis is original and has never been presented in any other institution. To the best of my knowledge, I also declare that any information used has been duly acknowledged.

Betru Dibaba

Date: -----

Signature: -----

ACKNOWLEDGMENTS

I would like to thank my advisor Dr. Yonas Tesfa Sisay (Ph.D), not only for his invaluable and constructive comments throughout the processes to develop this thesis but also for his willingness to be my advisor at a time when he was so busy. He consistently steered me in the right direction whenever I needed it.

I want to acknowledge Takele Uma, Deputy Mayor of Addis Ababa City, and all the team at the Office of the Mayor for the convenience they showed me. I cannot forget to express my gratitude to Sileshi Sihin and Hizkyas Dufera for their supports during the data collection.

Finally, I must express my profound gratitude to my families for providing me with unfailing support and continuous encouragement throughout the years of study and the process of researching and writing this thesis. This accomplishment would not have been possible without them.

ACRONYMS

AU: -----African Union

EPRDF: ----- Ethiopian Peoples' Revolutionary Democratic Front

FDRE: ----- Federal Democratic Republic of Ethiopia

GNP: ----- Gross National Product

RTD: ----- The Right to Development

UDHR: ----- Universal Declaration on Human Rights

UN: ----- United Nations

UNDP: ----- United Nations Development Programme

UNDRTD: ----- United Nations Declaration on the Right to Development

TABLE OF CONTENTS

Contents	Pages
DEDICATION	iii
APPROVAL SHEET BY THE BOARD OF EXAMINERS	iv
DECLARATION	v
ACKNOWLEDGMENTS	vi
ACRONYMS	vii
TABLE OF CONTENTS	viii
ABSTRACT.....	x
CHAPTER ONE	1
INTRODUCTION	1
1.1. Background.....	1
1.2. Statement of the Problems	6
1.3. Literature Review.....	8
1.4. Objectives of the Study	10
1.5. Research Questions	10
1.6. Scope and Area of the Study.....	11
1.7. Methodology	12
1.7.1. The Approach of the Study	12
1.7.2. Sources of Data	12
1.7.3. Population and Sampling	13
1.8. Significance of the Study	14
1.9. Chapterization	14
CHAPTER TWO	15
DEVELOPMENT AS THE RIGHT TO DEVELOPMENT	15
2.1. Paradigms of Development.....	15
2.1.1. Development as Modernization	15
2.1.2. Development as Fulfilment of Basic Needs.....	17
2.1.3. Development as Freedom.....	18
2.2. Development as Human Right	21
2.3. Duties of States on the Right to Development	22
CHAPTER THREE	24
DEVELOPMENT AND THE RIGHT TO DEVELOPMENT IN ETHIOPIA	24
3.1. Recognition and Locus of the RTD in the Constitution.....	24
3.2. Contents of the RTD under the Constitution.....	27
3.3. Policy and Legal Frameworks Dealing with Development	27
3.3.1. Urban Development Policy	28
3.3.2. Expropriation Proclamation	29
3.3.3. Urban Lease Proclamation	32
3.4. Right to Development in the Developmental State.....	33
3.5. Right to Development in Medemer.....	34
3.6. Justiciability of the RTD in Ethiopia	36
CHAPTER FOUR.....	38

VIOLATING THE RIGHT TO DEVELOPMENT UNDER THE INTEGRATED HOUSING DEVELOPMENT PROGRAMME	38
4.1. Brief of the Programme: Emphasis on the Addis Ababa City	38
4.2. The Farmers as the Holder of the Right to Development	39
4.3. Evaluating the Programme in Light of the Right to Development	40
4.3.1. Approaches Inconsistent with the Right to Development	40
4.3.2. Undermined the Right to Self-determination	42
4.3.3. Disregarded the Right to Participation in Development	44
4.3.4. Denied Victims of Development Harms Adequate Compensation.....	47
4.3.5. Ignored the Fair Distribution of Benefits of Development	49
4.4. Post-violation Platforms.....	53
CHAPTER FIVE	57
CONCLUSION AND RECOMMENDATION	57
5.1. Conclusion	57
5.2. Recommendation	60
5.2.1. Notional Recommendations on the Concept of Development	60
5.2.2. Legal and Policy Recommendations on the Right to Development.....	60
5.2.3. Recommendations to Redress the Violation	61
BIBLIOGRAPHY	63
ANNEX	74

ABSTRACT

In Ethiopia, a rhetoric of development has created a range of consciously pursued policies, laws, and practices. Among others, the notion is informed by a developmental state model which lacked embedded autonomy. Development programmes are major vehicles. The Integrated Housing Development Programme of Addis Ababa City is the conversion of farmlands into urban housing units, a fait accompli. In this research, the unit of analysis focuses on the entitlements to self-determination, participation, and fair distribution of benefits. The programme replicates the narrow notion of development in Ethiopia, violating the right to development of the victim farmers in the name of development. Therefore, this study argues, the objective of development should be mainstreaming human person at the centre and full platforms need to be designed to restore the victims of the programme as closely as possible rather than a figurative language.

Keywords: Development, RTD, Housing Development Programme, Ethiopia, Addis Ababa City

CHAPTER ONE

INTRODUCTION

1.1. Background

V *IOLATING THE RIGHT TO DEVELOPMENT IN THE NAME OF DEVELOPMENT IN ETHIOPIA: The Case of Integrated Housing Development Programme of Addis Ababa City*, a topic of this thesis, is informed by human rights law and development discourses. Since the adoption of the UDHR, the relationship between human rights and development has been on nearly parallel tracks.¹ Development thinking has shifted from a growth-oriented model to a human development model, which has been defined as a process of enhancing human capabilities.² The notion of development is redefined under the UN Declaration on the RTD, UNDRTD hereinafter:

*[D]evelopment is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and all individuals based on their active, free and meaningful participation in development and the fair distribution of benefits resulting therefrom.*³

Development becomes a process of improvement of well-being or the improved realization of fundamental freedoms- along the lines of Amartya Sen's notion of development. In his book, *Development as Freedom*, Sen sees development as a process of expanding the real freedoms that people enjoy.⁴

¹ UN General Assembly, The Universal Declaration of Human Rights, Resolution 217 (A) II, 1948.

² UN Development Programme, Human Development Report, 2016, p. 25.

³ UN General Assembly, Declaration on the Right to Development, Resolution 41/128, 1986, Preambular Paragraph 2. It is not a binding convention but, as is often the case with soft law documents, can lead to further legally binding effects through treaties or the crystallisation of state practice and *opinio iuris* into customary international law.

⁴ Amartya Sen, *Development as Freedom*, Alfred A. Knopf Inc., New York, 1999, p. 36.

There is no uniform policy prescription that can be followed by all countries in pursuing the objectives of development.⁵ However, the nature of the policy adopted should be path-dependent.⁶ Furthermore, policies that affect different aspects have to be applied together so that they reinforce each other in the process of attaining the desired development outcomes. While development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgment of internationally recognized human rights.⁷ It is this notion that attaches development with the RTD. The UNDRTD lays the groundwork by stating:

*The RTD is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.*⁸

RTD is an entitlement to the comprehensive process of development. It is the human person who is the central subject of development- being the active participant and beneficiary.⁹ The entitlement to self-determination which includes the exercise of the inalienable right to full sovereignty over natural wealth and resources is explicitly recognized as one element of the RTD.¹⁰ The World Conference on Human Rights also reaffirmed the RTD as a universal and inalienable right, and an integral part of fundamental human rights.¹¹

⁵ UN Human Rights, Office of the High Commissioner, Realizing the Right to Development, Essays in Commemoration of 25 Years of the UN Declaration on the Right to Development, Geneva, 2013, p. 60.

⁶ S. Storm and C.W. Naastepad (Eds.), Globalization and Economic Development: Essays in Honour of J. George Waardenburg, Edward Elgar Publishing, 2001.

⁷ World Conference on Human Rights, Vienna Declaration and Programme of Action, 1993, Paragraph 10.

⁸ Id. Supra note 3, Article 1 (1).

⁹ Id. Article 2 (1).

¹⁰ Id. Article 1 (2).

¹¹ Id. Supra note 7, Paragraph 10.

The RTD is also recognized under the African Charter on Human and Peoples' Rights, the African Charter hereinafter, with due regard to peoples' freedom and identity.¹² It has been the focus of several cases that have come before the African Commission on Human and Peoples' Rights, African Commission hereinafter.¹³ The African Commission underlined effective and meaningful participation- as an instrument to prevent and combat development hazard¹⁴ and fair distribution of benefit- as the basic argument to the obligation not to cause any harm in development and the fulfillment through national policies in the Endorois case.¹⁵ This case involved the displacement of the Endorois community, an indigenous community, by the government of Kenya from their ancestral land. The project to be undertaken was the conversion into governmental game reserves of the lands around Lake Bogoria on which the pastoral Endorois community grazed livestock as well as performed religious ceremonies.¹⁶ According to the grievance, the people concerned were not consulted in the formulation of the project. Moreover, they were not given the promised compensation. The case clarified the RTD as both

¹² African Charter on Human and Peoples' Rights, Adopted June 27, 1981, Entered into Force October 21, 1986, Article 22.

¹³ African Commission on Human and Peoples' Rights, Centre for Minority Rights Development and Minority Rights Group International (on behalf of the Endorois Welfare Council) vs. Kenya, Communication 276/2003; Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) vs. Nigeria, Communication 155/96; Democratic Republic of the Congo vs. Burundi, Rwanda, and Uganda, Communication 227/99; Kevin Mgwanga Gumne, *et al* vs. Cameroon, Communication 266/2003.

¹⁴ Development hazard occurs when development policies are imposed from above, without any opportunity to participate for those affected at the grassroots. Instead of creating improvements in respect of access to resources and increasing opportunities for the rights holder in development, the reality reflects development hazard, actually imperiling the individual considered to be the holder of the RTD. Development hazards have different faces including eviction, displacement, loss of livelihood, pauperization, impoverishment, etc.

¹⁵ African Commission on Human and Peoples' Rights, Centre for Minority Rights Development and Minority Rights Group International (on behalf of Endorois Welfare Council) vs. Kenya, Communication 276/2003: 27th Annual Activity Report of the African Commission, 2010, Paragraphs 129, 227, 228, 283,289 and 298.

¹⁶ *Id.* Paragraph 104.

constitutive and instrumental, and a violation of either procedural or substantive element constitutes a violation of the RTD.¹⁷

In Ethiopia, the following contexts are in order on the RTD. Firstly, the above global and the regional human rights regimes are part of the national human rights system owing to ratification¹⁸ or for their interpretative role.¹⁹ Particularly, Ethiopia has ratified the African Charter in 1998 and voted for the adoption of the UNDRTD. Hence, Ethiopia has the responsibility to promote, protect, and fulfill the right. Secondly, the FDRE Constitution explicitly guaranteed the RTD as the right to improved-living standard, sustainable development, and participation and to be consulted in development policies.²⁰

Though much progress was expected, inequitable distribution of costs and benefits is accrued from development in Ethiopia. It manifested in displacement including forced eviction, loss of livelihoods, change in way of life, and so forth caused by large scale projects.²¹ For instance, the Omo-Kuraz Sugar Development Project targeted the Lower Omo Valley to develop one of the largest ever state-led agriculture schemes in the country.²² The project relied on irrigation schemes to be established from the Gibe III Dam and includes the construction of sugar factories

¹⁷ Id. Paragraphs 128, 277, 281 and 283.

¹⁸ The FDRE Constitution, Proclamation No. 1/1995, Federal Negarit Gazeta, Article 9 (4).

¹⁹ Id. Article 13 (2).

²⁰ Id. Supra note 18, Article 43 (1 and 2).

²¹ The Oakland Institute, *Miracle or Mirage? Manufacturing Hunger and Poverty in Ethiopia*, 2016; Human Rights Watch, *Abuse-Free Development, How the World Bank Should Safeguard Against Human Rights Violations, Forced Villagization in Ethiopia*, 2013; Human Rights Watch, “Waiting Here for Death”, *Displacement and Villagization in Ethiopia’s Gambella Region*, 2012; The Oakland Institute, *Understanding Land Investment Deals in Africa, Country Report: Ethiopia*, 2011.

²² “Omo-Kuraz Sugar Development Project.” <http://www.etsugar.gov.et/index.php/en/projects/kuraz-sugar-developmentproject> (Accessed on May 15, 2020).

accompanied by 100,000 to 175,000 hectares of sugarcane plantations.²³ It is estimated that the schemes affected 200,000 pastoralists.²⁴ There was no meaningful pre-project assessment, and forests are cleared, wildlife habitat is lost, and livelihoods are destroyed.

The Integrated Housing Development Programme, programme hereinafter, is one of the national development initiatives lamented for violating the RTD, in particular. The programme is one of the pillars of the Urban Development Policy of Ethiopia initiated in 2005.²⁵ The mandate of the programme is to reduce slum areas by 50 percent and address and improve the unemployment percentage in the capital within five years, through the building of nearly 400,000 units nationally.²⁶ In the past 15 years, more than 385,00 units have been constructed at the national level.²⁷

The programme is formally implemented in Addis Ababa City.²⁸ It involved the conversion of farmland into housing units. From its design to implementation, it is bemoaned as non-participatory, non-accountable, discriminatory, inequitable, and non-transparent. The Addis Ababa City Government Rehabilitation Project Office for Displaced Farmers Due to

²³ The Oakland Institute, *Miracle or Mirage? Manufacturing Hunger and Poverty in Ethiopia*, 2016, p. 6.

²⁴ *Ibid.*

²⁵ The FDRE Ministry of Urban Development and Construction, (Approved by Council of Ministers), *Urban Development Policy*, March 2005.

²⁶ UN-Habitat, *Condominium Housing in Ethiopia: The Integrated Housing Development Programme*, 2011, p. 13.

²⁷ Ethiopia Semonegna (<https://semonegna.com/>), *Online Magazine*, March 06, 2019. (Accessed on April 22, 2020).

²⁸ Addis Ababa (Amharic: አዲስ አበባ, “new flower”), also known as Finfinne (Afaan Oromo: *Finfinnee*, “natural spring”), is the capital and largest city of Ethiopia. According to the World Population Review (worldpopulationreview.com/world-cities/addis-ababa-population, accessed on May 10, 2020), the City has a population of 4,793,699 inhabitants. Addis Ababa - Finfinne also serves as the capital city of Oromia, one of the nine regional states in Ethiopia.

Development,²⁹ now reconstituted as Farmers and Urban Agriculture Development Commission, Farmers' Commission hereinafter, is established to ensure that farmers who are displaced due to development are paid compensation and design new projects that ensure to sustainably improve their living conditions.³⁰

1.2. Statement of the Problems

Development projects are a fundamental tool for increasing well-being. This thesis illustrates what is done in the name of development does not automatically bring improvement of entitlements for its supposed beneficiaries. Instead, it could also victimize them.

Ethiopia has been launching different development programmes to transform the country's economic growth and development since 1995. However, the growth endeavors paid no or little attention to the RTD. The discourse on economic growth tends to focus more on material economic improvement. Children, women, and men- the very subjects of development- still live in need of the fulfillment of their entitlement to a life of dignity, freedom, and equal opportunity. Participation in policy formulation, implementation, and evaluation of development programmes is disregarded or executed from top to bottom. Laws enacted and policies prescribed under the guise of development do not justify legislative compliance towards the realization of the RTD.

²⁹ Regulation to Provide the Establishment of the Addis Ababa City Government Rehabilitation Project Office for Displaced Peasants Due to Development, Addis Negari, No. 79/2016, Article 5.

³⁰ The Addis Ababa City Government Executive Organs Re-establishment Proclamation, No. 64/2019, Addis Negari, Article 11 (22).

Among others, Urban Policy,³¹ the Expropriation Proclamation,³² and the Urban Land Lease Proclamation³³ do not guarantee towards the full realization of the RTD.

The situation is acute in Addis Ababa City where the Integrated Housing Development Programme converted farmlands into housing units. According to the data gathered from Yeka, Bole, Akaki Kaliti, Nifas Silk Lafto, and Kolfe Keraniyo Sub-cities by the Farmers' Commission, 37,000 farmers have been identified and registered as displaced farmers due to development.³⁴

Farmers who lost their livelihoods describe the programme as a deliberate project to intervene in their way of life by altering their economic, social, and physical environments. They aver that the programme is undertaken on their land, nonetheless, they have never been consulted, participated, and benefited therefrom. The effects accruing from the programme, from design to implementation, resulted in the violation of their RTD.

In this research, the focus is on the entitlement to self-determination, participation, and fair distribution of benefits of development as instruments to prevent and combat development hazards. The researcher carried out a full analysis and used it to propose appropriate recommendations.

³¹ Id. Supra note 25.

³² The Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation, Federal Negarit Gazeta, No. 455/2005; The Expropriation of Landholdings for Public Purposes, Payment of Compensation and Resettlement of Displaced People Proclamation, Federal Negarit Gazeta, No. 1161/2019.

³³ Urban Lands Lease Holding Proclamation, Federal Negarit Gazeta, No. 721/2011.

³⁴ Addis Ababa City Administration Farmers and Urban Agriculture Development Commission, Displaced Farmers' Due to Development Information, 2018 and 2019.

1.3. Literature Review

Connected to the background and significance of the study, a review of prior studies related to the research problems under the study is central. Regarding literature written on the topic under study, it was difficult for the researcher to find literature directly related to the topic. Most of the literature on the discourse of development in Ethiopia is enthused by the political economy or pure economics and are largely descriptive macroeconomic review. Therefore, human rights law per se, the researcher broke the topic into concepts that mainly address issues of development, the relationship between human rights and development, and the RTD.

A few pieces of research related to conceptualizing the RTD in Ethiopia were conducted so far. For example, Belay Getachew analyzed the applicability of the RTD in the Ethiopian context.³⁵ He claimed that the lack of specific directives or instruments and the absence of effective evaluation and monitoring programmes that led to the absence of effective public participation in different development activities are challenges to the right in Ethiopia.³⁶ Hence, the study was purely descriptive. Fekadu Malede's thesis revealed that children's right to participation, housing, health, and educations were affected as a result of development-induced displacements in Addis Ababa City.³⁷ Kalkidan Lakew's thesis discloses that the development-induced displacement would bring challenges to the protection of socio-economic rights.³⁸ Both pieces of research entirely focus on the effect of development activities on human rights and lack profound legal analyses.

³⁵ Belay Getachew, *Critical Analysis of the Applicability of the Right to Development in the Ethiopian Context*, LLM Thesis, Addis Ababa University, (Unpublished), 2009.

³⁶ *Id.* P. 125.

³⁷ Fikadu Malede, *The Human Rights of Children in Development Induced Relocation from Arat Kilo to Jamo No.1 with Particular Reference to the Right to Participation, Housing, Health and Education*, MA Thesis, Addis Ababa University, (Unpublished), (2011), pp. 70 - 90.

³⁸ Kalkidan Lakew, *Development Induced Displacement: Challenges to the Protections of Economic and Social Rights: The Case of Lideta Sub-City*, MA Thesis, Addis Ababa University, (Unpublished), 2011.

An Article written by Abdi Jibril on the RTD in Ethiopia acclaims the importance of the jurisprudence of the African Commission to assess Ethiopia's performance in the realization of the right.³⁹ Mesenbet Assefa also wrote reflections on the RTD which discusses the legal framework governing the RTD, the theoretical controversies surrounding its articulation, and the prospects of its implementation.⁴⁰ A more comprehensive research work done by Milkiyas Bulcha divulges to find out lasting and comprehensive solutions to the problems to reconcile human rights and evictions for a public purpose in Ethiopia.⁴¹ According to Milkiyas, to reconcile human rights and eviction for public purposes, the government should prepare policies and programmes setting mechanisms on how to strike the fair balance between expected "the competing human rights".⁴² However, the research problem is framed inappropriately and conceptually delinquent. Whether the implementation of one right results in the violation of another is not well shown and the conclusion is not replicable. It is diverted from the established norm in human rights laws that all human rights are interdependent.⁴³ Conceptually, the implementation of development projects does not entail eviction or other human rights violations.

The present research differs from these in several ways. As shown above, most researches and articles written on the RTD are descriptive. Other works deal with the interplay between development discourses and human rights. This research goes further by studying the violation of the RTD under a case study. It constructs detailed doctrinal aspects within the concept of

³⁹ Abdi Jibril and Eva Brems (Eds.), *Human Rights and Development, Legal Perspective from and for Ethiopia*, Volume 111, 2015.

⁴⁰ Mesenbet Assefa (Ph.D), *Reflections on the Right to Development: Challenges and Prospects*, *African Human Rights Law Journal*, Volume 10, 2010.

⁴¹ Milkiyas Bulcha, *Reconciling Human Rights and Evictions for Public Purposes in Ethiopia: Appraisal of the Laws and Practices with Focus on Some Selected Sites in Addis Ababa City*, LLM Thesis, Addis Ababa University, (Unpublished), 2015.

⁴² *Id.* P. 120.

⁴³ World Conference on Human Rights, *Vienna Declaration and Programme of Action*, 1993, Paragraph 5.

development and its effect on the RTD through an empirical approach. It can be the first comprehensive research to study development as the RTD and demonstrate the violation of the RTD arising from development discourse in a practical sense. It also abridges the time gap between the undertakings of the programme that led to the violation of the RTD and the post-violation platforms.

1.4. Objectives of the Study

Much of the researches on the RTD in Ethiopia talks about development and human rights in abstract terms, ignoring the serious lessons that can be learned from development programmes now reckoned as development tragedies. The general objective of this research, therefore, is to examine the laws, policies, and practices, and to provide a showcase that development undertakings may result in the violation of the RTD.

The specific objectives of the research are:

- To conceptualize how the notion of development is understood in Ethiopia;
- To demonstrate how the rhetoric of development has been used to violate the RTD;
- To make the Integrated Housing Development Programme of Addis Ababa City a showcase that development undertaking may result in the violation of the RTD; and
- To recommend post-violation platforms to rehabilitate the farmers from the hazard of the programme.

1.5. Research Questions

The core question of the research is to analyze how development is understood and practiced and violated the RTD in Ethiopia.

Specifically, this research aims at answering the following questions:

- How the essence of development is understood in Ethiopia?

- Whether the laws and policies enacted and practices followed in the name of development are compatible with the RTD?
- What does the Integrated Housing Development Programme of Addis Ababa City represent about the RTD?
- How can Ethiopia ensure the duty of legislative compliance and redress violation of the RTD arising from development projects like the Integrated Housing Development Programme of Addis Ababa City?

1.6. Scope and Area of the Study

The main theme of the study covers pertinent laws, policies, and models of development in Ethiopia. The year 1995 is taken as an opening time in this study for its relevancies. It is since this time that development as a human right is reaffirmed at the national level, the inspiration for cross-reference to relevant human rights instruments is made, and the legal regimes the study covers are enacted.

RTD has multiple aspects, dimensions, and elements. Nevertheless, this research focuses on entitlements to self-determination, participation, and fair distribution of benefits as the basic argument not to cause any harm in development and combat development hazard.

The Integrated Housing Development Programme of Addis Ababa City is taken as a case study of the research. The programme was first implemented at Bole Gerji site, the whereabouts of the displaced farmers due to the programme is unknown and sampling can hardly be conducted. Thus, based on a purposive selection, Bole Arrabsa and Koye Fetchie sites are chosen.

1.7. Methodology

1.7.1. The Approach of the Study

This research is a combination of doctrinal and empirical.⁴⁴ It is partly doctrinal since the study starts with reviewing laws and policies and investigate their compliance with international human rights standards on the RTD. As “development” may mean different things, the definition provided by UNDRTD is upheld as a working definition in this research.

The empirical part aims at examining the effects of these laws and policies along with the practice of the programme on the RTD. To answer the research questions and to attain its objectives, the research is designed in a qualitative approach- involves laws and practices with perceptions and experiences among others. Further, the qualitative approach is essential for verifying the validity of results, understanding the causal relationships between the variables, and understanding the relationships between respondents. Towards the variables, the laws, and the concept of development informed by the laws and policies are independent variable while the RTD and its violation are dependent variables.

1.7.2. Sources of Data

Towards the doctrinal part, pertinent laws and policies are consulted and purposively selected pieces of literature are reviewed, which are primary and secondary sources respectively. Among others, the Urban Development Policy, Expropriation, Lease, Condominium proclamations and Condominium Registration Directive, and documents of the developmental state model of the EPDRF and the Medemer of the Prosperity Party are consulted.

⁴⁴ See Mike McConville and Wing Hong Chui (Eds.), *Research Methods for Law*, Edinburgh University Press Ltd, 2007, pp. 3 - 4. The doctrinal, also called “black letter”, research aims to systematize, rectify and clarify the law on any particular topic by a distinctive mode of analysis to authoritative texts that consist of primary and secondary sources. The empirical approaches represent an approach of studying law in the broader social and political context with the use of a range of other methods taken from disciplines in the social sciences and humanities.

As the research is partly empirical, for the case study on the programme, data are gathered from the impacted population and other key-informants through unstructured interviews and focus group discussions. The researcher also witnessed the impacts of the programme on the farmers through personal observation. Unstructured interviews are conducted with stakeholders at government institutions which include the Ministry of Urban Development and Construction, the FDRE Planning and Development Commission, Addis Ababa City Administration Housing Development and Administration Bureau, Addis Ababa City Administration Housing Development Corporation, and the FDRE Human Right Commission, and Addis Ababa City Administration Farmers and Urban Agriculture Development Commission. The interviews with professionals who have experience in the subject matter including at the Ethiopian Human Rights Council and focus group discussions at individuals' levels have been also conducted. Interviews and focus group discussions are conducted in face to face in Afaan Oromoo and Amharic, and translated to English. All the translations are mine.

Based on the reviewed laws, policies, and literature, and collected data from interviews, interpretation, analysis, and conclusions are drawn.

1.7.3. Population and Sampling

The population in the case study comprises of victim farmers of the Integrated Housing Development Programme of Addis Ababa City. The study has not covered individuals the programme is intended to benefit. It must be recognized that it is not possible within the confines of the present study to provide an exhaustive description of all the subjects and beneficiaries of the RTD in the programme.

From the sites where the programme is implemented, Bole Arrabsa and Koye Fetchie sites are selected as the target population. Data shows that more than 37,000 heads of farmers are displaced due to the programme.⁴⁵ Both purposive and random sampling techniques are used to determine participants by giving due attention to their knowledge or expertise and firsthand experience on the topic under consideration. Among the targeted population, samples are selected and are determined by data saturation. The researcher discontinued interviewing the

⁴⁵ Id. Supra note 34.

impacted victims when necessary information is received, and when they replied similarly to the interview questions.

1.8. Significance of the Study

Studying how development is understood, implemented in Ethiopia, and its impact on the RTD has multi-dimensional significances. This research could be a locus to study the RTD holistically- from its normative aspect to its implementation and violation in a practical way in Ethiopia.

Its findings and recommendations will be essential in creating awareness for the holder of the RTD in general in Ethiopia. In particular, it will enable the farmers to vindicate their right. It will also have significance resulting in policy and legal reform on development discourse and the RTD. Finally, it serves as a reference for further researches.

1.9. Chapterization

This research is organized into five chapters. This part, as the first chapter, is an introduction. It contains, but not limited to, the background, statement of the problem, research questions, research objective, and methodology.

The second chapter deals with pertinent literature on conceptual and normative frameworks on development and the RTD. Towards this selected literature, global, and regional human rights instruments and jurisprudence are explored.

The third chapter explores legal and policy documents and frameworks and their practices in Ethiopia. It critically scrutinizes how the RTD is violated.

Chapter four is devoted to the case study of the research. It presents and analyzes the Integrated Housing Development Programme of Addis Ababa City based on the legal and institutional frameworks on the subject matter, data gathered via interviews, and field observations from Bole Arrabsa and Koye Fetchie sites.

Finally, chapter five presents the findings of the study as a conclusion and recommendation.

CHAPTER TWO

DEVELOPMENT AS THE RIGHT TO DEVELOPMENT

2.1. Paradigms of Development

The concept of development is one of the most controversial terrains in multidisciplinary scholarship informed with both theory and practice. The meaning attributed to the idea of development differs depending on the paradigm within which it has been conceived. This part explores the historical and intellectual evolutions in scholarly thinking about how and why development does or does not take place by examining three major and often competing development paradigms.

2.1.1. Development as Modernization

Initially, development had been conceived as national economic growth signifying increment in GNP.⁴⁶ In this conception, which is referred to as mainstream development discourse, development was regarded as a linear economic path achievable only when developing countries followed the same economic itinerary that had been taken by developed countries—industrialization and increased productivity within the framework of a free-market economy.⁴⁷ Taking this path was considered a natural process with a universal application to escape from underdevelopment.⁴⁸ Such an understanding identified development with modernization which

⁴⁶ Gutsavo Esteva and Wolfgang Sachs (Eds.), “Development” in *The Development Dictionary: A Guide to Knowledge as Power*, (2nd Edition, London/New York: Zed Books), 2010, p. 8.

⁴⁷ Id. p. 362

⁴⁸ Md. Saidul Islam, *Paradigms of Development and Their Power Dynamics: A Review*, *Journal of Sustainable Development*, Volume 2, No. 2, 2009, p. 24.

views development as the replication of Western modes of life and production in poorer countries.⁴⁹

Development as a process of modernization was also understood to signify a shift from traditional society to a modern one.⁵⁰ This conception of development made a dichotomy between modern and traditional societies and advocated that the unscientific manner of managing resources was the cause that hindered traditional societies from being industrialized and developed.⁵¹ What traditional societies should do to become a modern society would be to rationalize the allocation of resources and get rid of cultural, institutional, and structural barriers that prevented them from developing.⁵²

This conception of development is Eurocentric in the sense that it has been exclusively informed by Western thoughts and experiences disregarding the knowledge and experience of the non-West.⁵³ The modernization paradigm of development has also been criticized by dependency theorists as ahistorical for its failure to account for the historical causes of underdevelopment.⁵⁴ Dependency theory views underdevelopment as an outcome of the asymmetrical power relationship between the prosperous capitalist states and the poor Third World countries.⁵⁵ Proponents have contended that the orthodox conception of development has failed to address

⁴⁹ Sam Adelman and Abdul Paliwala (Eds.), *Law and Development in Crisis in the Third World*, Hans Zell Publishers, 1993, p. 2.

⁵⁰ *Id.* Supra note 48, p. 25.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ Andre Gunder Frank, *Latin America: Underdevelopment or Revolution*, (New York: Monthly Review Press), 1969, p. 40.

⁵⁴ Paul Baran, *The Political Economy of Growth*, (New York: Monthly Review Press), 1957; and Samir Amin, *Unequal Development* (New York: Monthly Review Press), 1976.

⁵⁵ *Id.* Supra note 48, p. 27.

the historic connection between development and underdevelopment by mystifying the relevance of colonial exploitation in the development of the West and the underdevelopment of the Third World.⁵⁶

2.1.2. Development as Fulfilment of Basic Needs

The failure of the mainstream development discourse opened a way to bring an end to the suffering and deprivation of millions of the world population by eradicating absolute poverty. For instance, the International Labour Organization proposed a development strategy that targeted employment, and the World Bank introduced a development scheme that focused on growth with redistribution.⁵⁷ At the conceptual level, the proposals marked noticeable progress in the development discourse in considering poverty eradication, as opposed to economic growth, as objective.

The basic needs approach has been primarily concerned with eradicating absolute poverty-persistent malnutrition, illiteracy, unsafe drinking water, inadequate sanitation, parasitic disease, severely limited access to health care, and bleak prospects for productive employment.⁵⁸ Resolving these adversities requires meeting the basic needs. However, several questions have been raised against the basic needs approach. One of the problems was defining what would constitute the bundle of basic human needs because there were no universally applicable criteria.⁵⁹

⁵⁶ Jan Nederveen Pieterse, *Dilemmas of Development Discourse: The Crisis of Developmentalism and the Comparative Method*, *Development and Change*, Volume 22, 1991, p. 14.

⁵⁷ Paul Streeten and Shahid Javed Burki, *Basic Needs: Some Issues*, *World Development*, Volume 6, No. 3, 1978, p. 411.

⁵⁸ Van B. Weigel, *The Basic Needs Approach: Overcoming the Poverty of Homo Economicus*, *World Development*, Volume 14, No. 12, 1986, p. 1424.

⁵⁹ Paul Streeten, *Basic Needs: Some Unsettled Questions*, *World Development*, Volume 12, No. 9, 1984, pp. 972 - 978.

2.1.3. Development as Freedom

The mainstream discourse is concerned primarily with the efficient, least-cost allocation of scarce productive resources and with the optimal growth of these resources over time to produce an ever-expanding range of goods and services.⁶⁰ The experience of the 1950s and 1960s, when many developing nations reached their economic growth targets but the levels of living of the masses of people remained unchanged, signaled that something was wrong with this narrow definition of development.⁶¹ Amartya Sen, in his book, *Development as Freedom*, has introduced a new paradigm of development that can be taken as alternative development thought.⁶² Development has been redefined as a process of expanding the real freedoms that people enjoy.⁶³

Understanding development in terms of enhancing substantive freedoms shifts the focus from the means that have instrumental importance in the development process to the ends that makes the development process vital.⁶⁴ For Sen, substantive freedoms denote the capability of a person to do or to be a variety of things he/she values and has reason to value. Substantive freedoms as ends of development are constitutive of development and involve removal of deprivation of basic freedom to survive which includes lack of basic access to food, health care, education, and economic opportunities.⁶⁵ It also involves the removal of systematic deprivation of basic civil and political freedoms.⁶⁶

⁶⁰ Michael P. Todaro and Stephen Smith, *Economic Development*, 11th Edition, 2012, p. 7.

⁶¹ Id. P. 14.

⁶² Id. Supra note 4.

⁶³ Id. P. 3.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

Sen identified two distinct attitudes in the development process.⁶⁷ One view sees development as a fierce process, also called the hard-knocks attitude, with much blood, sweat, and tears, a world in which wisdom demands toughness.⁶⁸ An alternative outlook sees development as essentially a friendly process.⁶⁹ This study is companionable with the latter attitude. Expansion of freedom is viewed as both the primary end and the principal means of development.⁷⁰ The end and means of development can be called the constitutive role and the instrumental role of freedom in development, respectively.⁷¹ To cater to this need, the concept of human development, its measurement through the Human Development Index, was introduced by UNDP in its first Human Development Report in 1990.⁷²

Thus, approaches in which human rights thinking can be applied in development can be explored as approaches to integrated human rights into development discourse. Stephen Marks suggests seven approaches.⁷³ I retrieve only three approaches for this study.

A. *Holistic Approach*: Rather than concentrating on individual components, the holistic approach involves looking at the whole human rights framework.⁷⁴ The holistic approach avoids the misleading categorization of human rights.⁷⁵ The approach is reaffirmed in the

⁶⁷ Id. P. 35.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Id. P. 36.

⁷¹ Ibid.

⁷² UN Development Programme, Human Development Report, 1990.

⁷³ Stephen Marks, Arjun Sengupta, *et al* (Eds.), *Reflections on the RTD and Human Rights*, Sage Publications, New Delhi, 2005.

⁷⁴ Id. P. 24.

⁷⁵ The opposite trend is dividing human rights into categories deemed different by nature specifically of distinguishing between civil and political rights, on the one hand, and economic, social and cultural rights, on the

Vienna Declaration,⁷⁶ and Maastricht Guidelines.⁷⁷ A UNDP policy paper has outlined the strategy for integrating human rights into sustainable human development and called for a universal and holistic approach, stressing the indivisibility and interrelatedness of all human rights.⁷⁸

B. *The Capability Approach: In Development as Freedom*, Sen argued that development is not the acquisition of more goods and services but the enhanced freedom to choose the kind of life one values.⁷⁹ These enhanced choices are called capabilities.⁸⁰ The notion of the capability approach is a combination of opportunity and functioning, what a person manages to do or to be (doings and beings), and any such functioning reflects a part of the state of that person.⁸¹ Martha Nussbaum is overt in linking capabilities to human rights. Nussbaum produced an explicit account of central capabilities or elements of the good life, that should be the goal of public policies, which have equivalent human rights.⁸² People must be free to exercise their choices and to participate in decision-making that touches their life.

C. *The RTD Approach*: The RTD approach to development is to consider development as human rights. The UDHR, by proclaiming the right of individuals to be free from fear and want, aspires towards the creation of an international order where the human rights of

other. It has been argued that the former are freedoms from or *droits-attributes* whereas the latter are right to or *droits-creance*.

⁷⁶ Id. Supra note 7, Paragraph, 5.

⁷⁷ Maastricht Guidelines on the Violation of Economic, Social and Cultural Rights, 1997.

⁷⁸ UN Development Programme, Development Report, 1993.

⁷⁹ Id. Supra note 4, p. 3, 289.

⁸⁰ Id. Pp. 75 - 121, 131.

⁸¹ Amartya Sen, Development as Capability Expansion, Harvard University, 1997, p. 44.

⁸² Martha C. Nussbaum, Capabilities and Human Rights, Fordham Law Review, Volume 66, Issue 2, 1997.

individuals may be enjoyed to the fullest extent.⁸³ Judge Kéba M'Baye in a lecture he delivered defined development as a human right.⁸⁴ Consecutive works, including the establishment of International New Economic Order⁸⁵, provided the basis for what is now called the UNDRTD.

2.2. Development as Human Right

Development as RTD was explicitly recognized first by the African Charter, subsequently proclaimed by UNDRTD, and reaffirmed by the 1993 Vienna Declaration. The contents of the RTD can be analyzed based on the text of the African Charter, UNDRTD, and different jurisprudences of the African Commission. Based on the UNDRTD, this research spells out three pillars: there is an inalienable human right that is called the RTD; there is a particular process of economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized; and the RTD is a human right by which every human person and all peoples are entitled to participate in, contribute to and enjoy that particular process of development.⁸⁶ The Independent Expert on the Right to Development, Arjun Sengupta, describes it as “the right to a process of development, consisting of a progressive and phased realization of all the recognized human rights, such as civil and political rights, and economic, social and cultural rights” as well as a right-based process of economic growth.⁸⁷

⁸³ Id. Supra note 1, Article 28.

⁸⁴ Judge Kéba M'Baye, “Le Droit au Développement Comme un Droit de L’Homme [The RTD as a Human Right], Leçon inaugurale de la Troisième Session d’enseignement de l’Institut International des droits de l’Homme [Inaugural Address of the Third Teaching Session of the International Institute of Human Rights], in *Revue des droits de l’homme*, Volume 5, 1972, p. 503.

⁸⁵ UN General Assembly, Declaration on the Establishment of a New International Economic Order, A_RES_3201(S-VI), 1974.

⁸⁶ Id. Supra note 3, Article 1 (1).

⁸⁷ Arjun Sengupta, *The Human Right to Development*, Oxford Development Studies Volume 32, 2004, p. 182.

The African Commission began to develop a body of jurisprudence on the right. In the Endorois case, it reaffirmed the wording of the UNDRTD that level of participation should be active, free, and meaningful, and they should also benefit from the results of development.⁸⁸ The Commission observed that community members were informed of the impending project as a *fait accompli*, and not allowed to shape the policies or their role in the Game Reserve.⁸⁹

2.3. Duties of States on the Right to Development

The UNDRTD asserts the central role of the state as the duty-bearer. Article 3 (1) says that states have the primary responsibility for the realization of the RTD. Similarly, the African Charter,⁹⁰ the Vienna Declaration,⁹¹ and various UN resolutions on the RTD⁹² also emphasize the respective role of the states as the main duty-bearer. Accordingly, States have the duty to:

- formulate appropriate national development policies;⁹³
- undertake, at the national level, all necessary measures for the realization of the RTD;⁹⁴
- take steps, individually and collectively, to formulate international development policies that pursue the full realization of the RTD;⁹⁵

⁸⁸ Id. Supra note 15, Paragraph 281.

⁸⁹ Id. Paragraph 281.

⁹⁰ Id. Supra note 12, Article 22 (2).

⁹¹ Id. Supra note 7, Paragraph 10.

⁹² Id. Supra note 3, Articles 2 (3), 3 (3), 4 (1), 5, 6 (3), and 8 (1).

⁹³ Id. Article 2 (3).

⁵⁸ Id. Article 8 (1)

⁹⁴ Id. Article 8 (1).

- encourage the observance and realization of human rights’ and to cooperate for this purpose;⁹⁶
- take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights;⁹⁷ and
- encourage popular participation in all spheres as an important factor in the development and the full realization of all human rights.⁹⁸

Failure to respect the right of peoples to self-determination, their right to permanent sovereignty over natural resources, and massive and flagrant violations of human rights is a serious obstacle to the realization of the RTD.⁹⁹ The adoption of inappropriate or destructive development strategies, on the pretext that human rights must be sacrificed to achieve economic development, has been a further obstacle to the realization of the RTD.¹⁰⁰

⁹⁵ Id. Article 4 (1).

⁹⁶ Id. Article 3 (3) and 6 (1).

⁹⁷ Id. Article 6 (3).

⁹⁸ Id. Article 8 (1).

⁹⁹ Id. Article 5.

¹⁰⁰ Id. *Supra* note 5, pp. 50 – 52.

CHAPTER THREE

DEVELOPMENT AND THE RIGHT TO DEVELOPMENT IN ETHIOPIA

2.1. Recognition and Locus of the RTD in the Constitution

Like other human rights, the implementation of the RTD starts from domestication to the national level. Based on this line of understanding, RTD is enshrined under the FDRE Constitution. However, the Constitution fails to provide solid content and scope of the right. How the right is articulated also raises issues as to the modalities of its enforcement. The RTD in the Constitution can be grasped in four frames.

Firstly, the Constitution explicitly recognizes the RTD as a “democratic right”.¹⁰¹ Since dichotomy is made between human rights and democratic rights under the Constitution, its connotation in human rights’ language is discussed later in this Chapter.

Secondly, the Constitution makes reference to the principles of international human rights for their interpretative role.¹⁰² It outlines that interpretations of Chapter Three of the Constitution, including the RTD, should be in a manner conforming with the principles of the UDHR, and other instruments adopted by Ethiopia. In particular, interpretation of Article 43 of the Constitution should be made in light of the authoritative interpretations. The African Commission followed this approach based on the instruction given to it by the Charter¹⁰³ in the

¹⁰¹ Id. Supra note 18, Article 43.

¹⁰² Id. Article 13 (2).

¹⁰³ Article 60 of the African Charter enjoins the African Commission to draw inspiration from International law on human and peoples’ rights including the UN Charter and other instruments adopted by the UN and by African countries in the field of human and peoples’ rights. Article 61 also empowers the Commission to draw inspiration from other general or special international conventions, laying down rules expressly recognized by member States of the African Union, African practices consistent with international norms on human and peoples’ rights, customs generally accepted as law, general principles of law recognized by African states as well as legal precedents and doctrine.

Endorois case.¹⁰⁴ This modality will potentially facilitate the proper interpretation of Article 43 of the Constitution.

Thirdly, internationally ratified human rights are part of the human rights legal system of Ethiopia.¹⁰⁵ Therefore, the African Charter, since its ratification in 1998, became part of the Ethiopian national human rights system. Ethiopia also voted for the adoption of the UNDRTD.

Fourthly, some provisions of the Constitution deal with national policy principles and objectives which either establish important guarantees or have direct relevance to the interpretation of fundamental rights, including the RTD.¹⁰⁶ Articles 89 - 92 provides detailed provisions of economic, social, cultural, and environmental policy objectives.¹⁰⁷ This Chapter of the Constitution is a reinstatement of Articles 41 – 44, excluding Article 42 (rights of labor), except that it is articulated in terms of the duties of the government.

However, the locus and contents of the RTD in the Constitution poses challenges. The Constitution unduly makes a distinction between human rights and freedoms, Articles 14 - 28, by one side, and human and democratic rights, Articles 29 - 44, by another side. According to the Constitution, human rights and freedoms emanate from the nature of mankind, are inviolable and inalienable¹⁰⁸ while democratic rights shall be respected.¹⁰⁹ Two things can be inferred from Article 10. The first inference is that human rights and freedoms are derived from the nature of man and as such universal. Democratic rights are the rights of citizens derived from their

¹⁰⁴ Id. Supra note 15, Paragraph 283.

¹⁰⁵ Id. Supra note 18, Article 9 (4).

¹⁰⁶ Id. Chapter Ten.

¹⁰⁷ Id. The whole purpose of Chapter Ten of the Constitution is to guide organs of the government in the implementation of the Constitution, other laws and public policies, as national policy principles and objectives; Article 85 (1).

¹⁰⁸ Id. Article 10 (1).

¹⁰⁹ Id. Article 10 (2).

juridical and political status. So, the distinction seems to depend on the difference in the bearers of the rights.

The second inference is that human rights are to be accorded relatively robust protection as “inviolable and inalienable” rights as compared with democratic rights which are just to be respected. These inferences are further reinforced when one consults the Minutes of the Council of Representatives of the Transitional Government during its deliberations on what was then the draft Constitution. From the Minutes, the Chairperson of the Constitutional Drafting Commission believed that a distinction could not be made between the so-called “democratic” and “human” rights since all human rights are interdependent and inseparable.¹¹⁰ A different view was forwarded by the then Chairperson, who believed that human rights emanate from our humanity and cannot be subject to any limitations while democratic rights that arise out of citizenship or membership in a particular group could be subject to limitations.¹¹¹ The view of the then Chairperson won the day and was accepted by a majority of its members.

The assertion that “some rights” do not emanate from the nature of mankind and as such are less deserving of constitutional protection doesn’t have support. The interdependence, indivisibility, and interrelatedness of human rights will undoubtedly render unacceptable any attempt to make a distinction in terms of the degree of protection. Both lines have lost their potency now. The African Charter, as ratified by Ethiopia, emphasized that human rights cannot be dissociated from one another in their conception as well as universality.¹¹² A decade later, the Vienna Declaration and Programme of Action announced that all human rights are “universal, indivisible and interdependent and inter-related.”¹¹³ Therefore, the deviation to detach the RTD from other recognized human rights is against international human rights standards.

¹¹⁰ See Minutes of the Discussion on the Draft Constitution at the Council of Representatives, 1994.

¹¹¹ Ibid.

¹¹² Id. Supra note 12, Preambular Paragraph 8.

¹¹³ Id. Supra note 7, Paragraph 5.

2.2. Contents of the RTD under the Constitution

RTD under the Constitution has both the substantive and procedural elements. Fulfilling only one of the elements will not satisfy the RTD¹¹⁴ Among others, it guarantees the right to participate in the development and the right to be consulted in development policies and projects.¹¹⁵ The Constitution does not clarify the level of participation.

The Constitution also lacks a provision that entitles the right holders to share the benefits of development projects. Perhaps, Article 43 (4) opens a window for interpreting the right in a way entitling beneficiaries of the right to share the proceeds of development. Nonetheless, the way the provision is articulated does not offer a clear message as to whether, for example, the benefits of development should be distributed fairly. The African Commission in Endorois case has held that failure to guarantee a “reasonable share” in the profits of development projects amounts to a violation of the RTD.¹¹⁶

2.3. Policy and Legal Frameworks Dealing with Development

The absence of implementation of RTD, resulting from the absence of policies that go beyond lip service is an obstacle to the realization of the RTD.¹¹⁷ The failure to come up with detailed laws explaining the particulars of the RTD is a violation. To ensure the full exercise and progressive enhancement of the RTD, UNDRTD provides that states should take steps including the formulation, adoption, and implementation of policy, legislative, and other measures.¹¹⁸ Under the African Charter, states parties are enjoined to ensure the

¹¹⁴ Id. Supra note 15, Paragraph 277.

¹¹⁵ Id. Supra note 18, Article 43 (2).

¹¹⁶ Id. Supra note 15, Paragraph 228.

¹¹⁷ Stephen P. Marks (Ed.), *Implementing the Right to Development: The Role of International Law*, Program on Human Rights in Development, 2008, p. 75.

¹¹⁸ Id. Supra note 3, Article 10.

exercise of the RTD in their local jurisdictions.¹¹⁹ This should be done by taking legislative and other measures.¹²⁰ This duty of adopting legislative measures is further buttressed in the Endorois case. The African Commission found Kenya to have violated the RTD for failing to take legislative measures for the realization of the right guaranteed under the Charter.¹²¹

Another challenge that may arise in Ethiopia in the enforcement of the RTD is the absence of comprehensive legislation dealing with development discourse that encompasses the RTD. It affects the justiciability elements of the RTD, mainly the remedy element. There are legislations and policy documents that could have addressed issues associated with development in Ethiopia. However, such laws fail to comprehensively deal with the RTD as discussed next.

2.3.1. Urban Development Policy

Formulated in 2005, the National Urban Development Policy has two principal packages- Urban Development Package and Urban Good Governance Package.¹²² The Urban Development Package has different pillars including Micro and Small Enterprise Development Programme and Integrated Housing Development Programme. The Urban Good Governance Package, on the other hand, consists of institutional development, systems reforms and capacity-building measures to promote the implementation of good urban governance practices in urban centers to facilitate accelerated and sustained urban development.

¹¹⁹ Id. Supra note 12, Article 22 (2).

¹²⁰ Id. Article 1.

¹²¹ Id. Supra note 15, Recommendation No. 1.

¹²² Id. Supra note 25.

According to an official of the FDRE Planning and Development Commission, after discussing the content of the policy, it has not brought the expected result.¹²³ Development policies, in general and this policy in particular, have not been made in broad discourse.¹²⁴ The discourse in Ethiopia is a departure from human-centered, welfare, and human life development. Another interview conducted at the Ministry of Urban Development and Construction provides the same position.¹²⁵ An expert from the Ethiopian Human Rights Council also maintained the argument that the Urban Development Policy of Ethiopia promotes forced urbanization.¹²⁶ The policy has to address different needs at different levels. A gap between the livelihoods requirement of individuals and the policy in addressing livelihood requirements has to be reconsidered. The gap highlights the government's failure to address the vulnerabilities of the urban differential status of households in diverse urban centers which constitutes a violation of the RTD.

2.3.2. Expropriation Proclamation

Expropriation¹²⁷ takes place in the name of development. This is reaffirmed in the Expropriation Proclamation that the government needs to use the land for development works it carries out for public services.¹²⁸ It provides a general condition for which land and property can be expropriated for a public purpose and defines the basic principles and considerations for

¹²³ Interview: Endalkachew Simie, Deputy Commissioner, FDRE Planning and Development Commission, March 27, 2020.

¹²⁴ Ibid.

¹²⁵ Interview: Abuye Aneley, Head, Policy Research and Advisory Bureau, Ministry of Urban Development and Construction, April 24, 2020.

¹²⁶ Interview: Dan Yirga, Senior Human Rights and Legal Expert, Ethiopian Human Rights Council, May 5, 2020.

¹²⁷ It is a procedure whereby the state takes away privately held land and/or the property thereon for public interest without the consent of the owner and against payment of compensation.

¹²⁸ The Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation, Federal Negarit Gazeta, No. 455/2005, Preambular Paragraph 1.

compensating a person whose landholding is expropriated. FDRE Constitution permits the expropriation of property provided that the taking would be for “public purpose” activities:¹²⁹ However, the Constitution neither defines the term “public purpose” nor does it indicate the activities that might constitute “public purpose” activities.

The Proclamation provides for expropriation of and compensation for land in both rural and urban areas.¹³⁰ “Public purpose” is the tag under which land or holdings thereon can be expropriated. According to the Proclamation:

*“Public purpose” means the use of land defined as such by the decision of the appropriate body in conformity with urban structure plan or development plan to ensure the interest of the peoples to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.*¹³¹

In practice also, “public purpose” is a justification to violate human rights in Ethiopia. Once the land is decided for “public purpose”, the landholder cannot challenge whether the land is expropriated for public purposes or not. For that matter, landholders can be on the road amid expropriation for development. In that case, the landholders will be out of the development processes. There is no way to assert whether people should be consulted. The notice should be considered as part of the public discussion aiming at creating awareness about a potential expropriation action. In Ethiopia, it is used entirely as a warning to inform the person about the amount of money he/she would receive as compensation and the timeframe within which he/she is supposed to vacate from the place.¹³²

¹²⁹ Id. Supra note 18, Article 40 (8).

¹³⁰ Id. Supra note 128.

¹³¹ Id. Article 2 (5).

¹³² Id. Supra note 128, Article 4 (2).

This Proclamation is repealed by Proclamation No. 1161/2019 to redress the drawbacks.¹³³ However, most of the main flaws are maintained. For instance, the party who is dissatisfied with the decision has the right to continue his claim, however, for the continuance of the development, he has to surrender his holdings.¹³⁴ The good part of the new law is an encouraging step towards the amount of compensations and schemes of rehabilitation. In the former law, the displacement compensation is equivalent to ten times the average annual income secured during the five years preceding the expropriation¹³⁵ while in the new law, it is increased to fifteen times the highest annual generated during the preceding three years.¹³⁶ The variables of the formula, however, are the same. The use right is not to be taken into account. Since expropriation of holdings on the pretext of “public purpose”, which is the reinstatement of the repealed law, is still at the heart of the new law and, hence, not fundamentally different.

The reason for ousting the right to remedy on whether the land or any holdings on it is expropriated for public use or not relates to the scarcity of resources, particularly land. Mention of resources is made by Limburg which provides that “lack of resources should never be used by states as an excuse for not progressing with a human rights programme; the obligation of progressive achievement exists independently of the increase in resources; it requires the effective use of resources available.”¹³⁷ In line with the Limburg principle, the researcher does not believe that lack of resources is a justifiable argument by the government of Ethiopia to violate the RTD. Attention should be paid to equitable and effective use of and access to the available resources.

¹³³ Expropriation of Landholdings for Public Purposes, Payments of Compensation, and Resettlement of Displaced People Proclamation, Federal Negarit Gazeta, No. 1161/2019.

¹³⁴ Id. Article 20 (2).

¹³⁵ Id. Supra note 128, Article 8.

¹³⁶ Id. Supra note 135, Article 13.

¹³⁷ Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, (UN doc. E/CN.4/1987/17, Annex; and Human Rights Quarterly, Volume 9, 1987, Paragraphs 23 and 38.

Regulation for the Payment of Compensation reiterates that any person claiming eligibility for compensation shall produce evidence of legitimate possession of the expropriated landholding and ownership of the property entitling compensation.¹³⁸ It is the cost replacement method which is employed in Ethiopia.¹³⁹ This compensation is presumed to enable the loser to go to the market and fetch similar property of a comparative utility.

2.3.3. Urban Lease Proclamation

In Ethiopia, a leasehold is a cardinal and exclusive landholding system to transfer urban land. The Urban Land Lease Proclamation also uses the language of development.¹⁴⁰ It prioritizes the interest of urban centers to ensure sustainable urban development and equitable benefits by defining and detailing procedures and principles to enhance land delivery and to capture the value of the land. According to the Proclamation, an urban land shall be permitted to be held by lease in conformity with plan guidelines and laws on tender or through allotment.¹⁴¹ As a matter of policy, bare land is not subject to any lease kind of rights.¹⁴² A leaseholder of urban land uses the land for the prescribed purpose within the period stated in the lease contract but not exceeding ninety-nine years.¹⁴³

¹³⁸ The Council of Ministers Regulations on Payment of Compensation for Property Situated on Landholdings Expropriated for Public Purpose, Federal Negarit Gazeta, No. 135/2007, Article 22.

¹³⁹ To get a market value of a property, appraisers mostly employ three methodologies, namely comparative sales approach, income capitalization approach and replacement cost approach.

¹⁴⁰ Id. Supra note 33, Preambular Paragraph 2.

¹⁴¹ Id. Article 7.

¹⁴² Id. Supra note 18, Article 40 (4). The right to ownership of rural and urban land as well as all natural resources is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.

¹⁴³ Id. Supra note 33, Article 21.

Only active leasehold right is compensable. This can be a denial of compensation for the possessions created. For projects having special national significance, land can exceptionally be given by allotment, not by tender.¹⁴⁴ Special national significance is defined as projects having outstanding contributions to the success of the country's growth and transformation.¹⁴⁵ The problem is the absence of objective criteria and uniform practices. One project may be given the status of special national significance while another may not be.

Further, according to the Proclamation, old possessions should be converted to lease holding within four years from the effective date of the Proclamation.¹⁴⁶ However, without amendment to this part, it is operational hitherto for almost ten years. In effect, old possessions can be denied of conversion to lease holding, even compensation may not be payable in case of expropriation.

2.4. Right to Development in the Developmental State

The EPDRF and the government it formed have been reiterating its commitment to building a developmental state since 2001, more aggressively since the 2005 election. The concept of "developmental state" has ideological and structural components.¹⁴⁷ A developmental state is ideologically developmentalist in that it conceives its mission of ensuring economic development, usually interpreted to mean high rates of accumulation and industrialization.¹⁴⁸

The state-structure side of the developmental state emphasizes the capacity to implement economic policies sagaciously and effectively.¹⁴⁹ Such a capacity is determined by various

¹⁴⁴ Id. Article 12 (1(g)).

¹⁴⁵ Id. Article 2 (21).

¹⁴⁶ Id. It is done on 28th November, 2011.

¹⁴⁷ Thandika Mkandawire, Thinking About Developmental States in Africa, Cambridge Journal of Economics, Volume 25, No. 3, 2001, p. 290.

¹⁴⁸ Id. P. 290.

¹⁴⁹ Id. P. 290.

factors- institutional, technical, administrative, and political. Undergirding all these is the autonomy of the state from social forces so that it can use these capacities to devise long-term economic policies unencumbered by the claims of myopic private interests.¹⁵⁰ This is what Peter Evans has called “embedded autonomy”.¹⁵¹

The developmental state model in Ethiopia is undergirded by the framing of poverty as an existential threat to the peoples. The Ethiopian case raises a question of whether developmental statehood is a plausible option where the state itself, and the social foundations on which it rests are far more weakly established. In practice, the regime was controlled by self-interested individuals and this imposed a need to seek performance legitimacy through the project of a developmental state. The import of developmental state to Ethiopia did not take into account economic, technical, and social parameters and a choice of priorities on the basis participation of the people. It did not create necessary structures and institutions to ensure the effective participation of the people, fairness in the distribution of the fruits of development. In effect, the developmental state of Ethiopia is excessively interventionist and dispossessive.¹⁵² Coincided with exploitive laws hindering the participation of the citizenry, its emulation is a violation of the RTD.

2.5. Right to Development in Medemer

Abiy Ahmed (Ph.D), the Prime Minister of Ethiopia since April 2nd, 2018, authored a book called “Medemer”.¹⁵³ Medemer, Amharic term, can be translated to accretion or synergy. The

¹⁵⁰ Id. P. 290.

¹⁵¹ Peter Evans, *Embedded Autonomy: States and Industrial Transformation*, Princeton University Press, 1995, p. 12.

¹⁵² For instance, following the protest against the Addis Ababa and the Surrounding Oromia Special Zone Integrated Development Plan (2014-2038), protests resulted in the death, injuries and mass arrest for many individuals as well as property damage. According to the government, the purpose of the plan was to integrate the City and Oromia through infrastructure projects, in the process ensuring effective provision of basic social services.

¹⁵³ ዐቢይ አሽመጽ (ዶ/ር)፣ መደመር፣ 2012 እ.አ.አ.

book is a comprehensive socio-political-economic perspective necessitated by the events of the past decades in Ethiopia. In the book, Medemer is defined in terms of its objective:

*The main objective of Medemer is to enlarge the political and economic achievements, redressing past mistakes, and fulfilling the interest and needs of the intergeneration. Hence, Medemer is a path approach to problematizing. In terms of finding a solution, [Medemer] it combines from inside and outside.*¹⁵⁴

The book criticized the developmental state model. The critics revolve around why the ideology could not bring a positive result.¹⁵⁵ According to Abiy, taking economic failure alone as the overall reason for the country's backwardness is wrong and the model should have been only a bridging line for private engagements.¹⁵⁶ During the past two decades, the focus was on the expansion of capital goods, not on human capability.¹⁵⁷

The Medemer of Prosperity Party is to substitute the developmental state of the EPDRF.¹⁵⁸ The way the researcher sees it, the concept advocated by Abiy vividly mirrors Sen's conception of development which takes human wellbeing flourishment as the primary end of development. Taking the book as background, the Party has published socio-economic, and political documents, and one talks about economic and social prosperity.¹⁵⁹ The argument in the book and the document is in line with the argument of Sen and Nussbaum that development is about the

¹⁵⁴ Id. P. 40.

¹⁵⁵ Id. Pp. 26 – 31.

¹⁵⁶ Id. P. 24.

¹⁵⁷ Namera Gebeyehu (Ph.D), Economy Advisor, Office of the FDRE Prime Minister, May 12, 2020.

¹⁵⁸ Ibid.

¹⁵⁹ ብልጽግና ፓርቲ፣ ኢኮኖሚያዊና ማህበራዊ ብልጽግናን ለማረጋገጥ ትልም እና ፈተናዎች፣ የካቲት 2012 እ.አ.አ.

increase in the quality of life.¹⁶⁰ Finally, Abiy argued, the backlogs of poverty could be cleared and prosperity will be achieved through Medemer.¹⁶¹

2.6. Justiciability of the RTD in Ethiopia

Justiciability presupposes the availability of remedy by an ordinary court of law. To be meaningfully juridical, human rights must be subject to the scrutiny of a court of law or another judicial or quasi-judicial process.¹⁶² Justiciability depends on three conjunctive pillars: claim, setting, and remedy.¹⁶³ The Constitution provides that the Federal and State legislative, executive, and judicial organs have the responsibility and duty to respect and enforce the provisions of Chapter Three.¹⁶⁴ The researcher wants to be bound by the pillars and see its *status quo* in Ethiopia in detail. The claim is about the violation of human rights protected.¹⁶⁵ The RTD is recognized in the human rights system of Ethiopia, as discussed above

The pillar of setting is the judicial or quasi-judicial body with jurisdiction to hear and review violations of the rights guaranteed.¹⁶⁶ In the current practice of courts in Ethiopia, there is a meager trend of applying constitutional provisions directly. This trend is created by the absence of clarity in understanding the power of interpretation of the Constitution granted to the House of

¹⁶⁰ Martha Nussbaum and Amartya Sen (Eds.), *Quality of Life*, 1993, p. 95.

¹⁶¹ *Id.* Supra note 153, p. 269.

¹⁶² Alice Diver and Jakinta Miller (Eds.), *Justiciability of Human Rights Law in Domestic Jurisdictions*, 1993, p. 26.

¹⁶³ Frans Viljoen, *National Legislation as a Source of Justiciable Socio-economic Rights*, *ESR, Review* 6, No. 3, 2005, p. 6; Takele Soboka, *Exception as Norm: the Local Remedies Rule in the Context of Socio-economic Rights in the African Human Rights System*, *The International Journal of Human Rights*, Volume 16, No. 4, 2012, p. 556.

¹⁶⁴ *Id.* Supra note 18, Article 13 (1).

¹⁶⁵ Takele Soboka (Ph.D), *Exception as Norm: The Local Remedies Rule in the Context of Socio-economic Rights in the African Human Rights System*, *The International Journal of Human Rights*, Volume 16, No. 4, 2012, p. 556.

¹⁶⁶ *Id.* P. 557.

Federation.¹⁶⁷ Further, the FDRE Constitution has the Directive Principles of State Policy where the RTD is touched on. It is not clear from the text of the Constitution whether these principles are justiciable and can be enforced in courts. The House of Federation so far has not come up with any solution.¹⁶⁸ Therefore, the enjoyment of the RTD will face similar difficulty unless accompanied by comprehensive legislation explaining it.

The third pillar is a remedy. The Constitution lacks a general or specific remedy clause. However, the established jurisprudence is “*ibis jus ibis remedies*”- when there is right, there is the remedy. In the Ogoni case, the African Commission welcomed the opportunity to make clear that there is no right in the African Charter that cannot be made effective.¹⁶⁹

It is also imperative to go through the explanatory document of the FDRE Constitution. The document asserts that the RTD is unjusticiable.¹⁷⁰ Therefore, the RTD is categorically placed beyond the reach of the courts in Ethiopia. This is incompatible with the principle that human rights are indivisible and interdependent. While entering *erga omnes* obligation by ratifying international human rights instruments, denying its justiciability at the domestic level, at the same time, is a practice of ritualism that constitutes a violation of the RTD, among others.

¹⁶⁷ Id. Supra note 18, Article 83 (1).

¹⁶⁸ Id. Article 68. The power to interpret the Constitution is vested in the House of Federation, the upper chamber of the Ethiopian Parliament. It receives expert opinions from the Council of Constitutional Inquiry which considers constitutional disputes in the first instance.

¹⁶⁹ African Commission on Human and Peoples’ Rights, Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) (on behalf the Ogoni community) vs. Nigeria, Communication 155/96, 2001, Paragraph 68.

¹⁷⁰ House of Peoples’ Representatives, Explanatory Document of the Draft Constitution, 1994, p. 98.

CHAPTER FOUR

VIOLETING THE RIGHT TO DEVELOPMENT IN THE NAME OF THE INTEGRATED HOUSING DEVELOPMENT PROGRAMME

4.1. Brief of the Programme: Emphasis on Addis Ababa City

Development projects are major vehicles of development. The Integrated Housing Development Programme is one of the five pillars of the Urban Development Policy of Ethiopia designed in 2005.¹⁷¹ It is a national government-led and financed housing provision programme for low-and middle-income households.¹⁷² The programme is an integrated approach to address urban problems- recognizes the opportunity for housing to stimulate the economy, create employment, and improve the capacity of the construction and financial sectors.¹⁷³ It was designed to build 400,000 units nationally within the first five years of the programme.¹⁷⁴

The programme is aggressively pursued in Addis Ababa City as 10/90, 20/80, and 40/60 housing schemes.¹⁷⁵ According to the current data, 5,486 blocks comprised of 728 communal facilities, 13,964 shopping units, and 155,214 housing units are built under 138 pilots of sites in Addis Ababa City from 2005 to now.¹⁷⁶ However, the researcher observed inconsistency across different data inventories. The ICT inventory provides 167, 294 housing units, and 10, 842 shopping units are built and transferred to the beneficiaries.¹⁷⁷ Another data shows 224, 290

¹⁷¹ Id. Supra note 25.

¹⁷² Ibid.

¹⁷³ Id. Supra note 26, p. 14.

¹⁷⁴ Ibid.

¹⁷⁵ Addis Ababa City Directive to Provide Home-seeker's Registration, Addis Negari, No. 1/2012, Article 2 (8).

¹⁷⁶ Addis Ababa City Administration Housing Development and Administration Bureau, Transition Period Interim Office, Transition Period Works Final Report, 2020, p. 74.

¹⁷⁷ Id. P. 75.

housing units are transferred for the beneficiaries.¹⁷⁸ Notwithstanding this incompatibility, in Bole and Akaki Kality Sub-cities where the samples are taken, 29,806 and 50,237 housing units, respectively, are built including units not transferred to the beneficiaries.¹⁷⁹

4.2. The Farmers as the Holder of the Right to Development

The UNDRTD states that the RTD is an inalienable right by which human persons and peoples are entitled to participate in the process of development and the right to an equal share of the benefits.¹⁸⁰ The individual nature of the right is highlighted under the concept of “all individuals.”¹⁸¹ UNDRTD made the human person as the central subject of the RTD.¹⁸² It has also referred to the right as the right to people like the African Charter. However, the term “people” is far from clear.

The Endorois case clarifies the beneficiaries of the RTD.

*The Endorois are an indigenous community and that they fulfill the criterion of “distinctiveness.” The African Commission view that Endorois consider themselves to be a distinct people, sharing a common history, culture, and religion ... is satisfied that the Endorois are a “people”, a status that entitles them to benefit from provisions of the African Charter that protect collective rights... [T]he alleged violations of the African Charter are those that go to the heart of indigenous rights- the right to preserve one's identity through identification with ancestral lands.*¹⁸³

¹⁷⁸ Id. Pp. 78, 84.

¹⁷⁹ Ibid.

¹⁸⁰ Id. Supra note 3, Articles 1 (1), and 2 (3).

¹⁸¹ Id. Preambular Paragraph 2, Article 1 (3).

¹⁸² Id. Preambular Paragraph 13, Articles 1 (1), and 2 (1).

¹⁸³ Id. Supra note 15, p. 389.

In this regard, the Working Group on the RTD has also listed groups as beneficiaries of the RTD.¹⁸⁴ The constructive interpretation has to lean towards seeing the farmers, whose farmlands were converted to the housing units, as a holder of the RTD in the programme. Considering the beneficiary of the RTD to cover the entire population of a given state does not make the object and purpose of the right effective. It is imperative to understand RTD as the right of the human race in general. Therefore, the farmers under this research are holders of the RTD individually or/and as a group.

4.3. Evaluating the Programme in Light of the Right to Development

4.3.1. Approaches Inconsistent with the Right to Development

Development projects are expressed by the logical framework approach, an approach employed to design, monitor, and evaluate projects based on cause-effect relations between inputs, outputs, and goals.¹⁸⁵ The approach is widely used to structure the main components of a project by visualizing the logical connections between intended inputs, planned activities, and expected results.¹⁸⁶ The theme of this research departs from this view of development projects and joins emerging literature that recognizes project complexity and uncertainty of development projects.

The logical framework approach is used in the programme under a case study.¹⁸⁷ According to the interview conducted with an official, initially, when the German Technical Corporation started implementing the programme in Addis Ababa City and commencing the design of the pilot housing project in Bole Gerji site, the assumption was that there will be improved situations

¹⁸⁴ Report of the Working Group on the Right to Development on its Second Session, E/CN.4/1994/21, 1994, pp. 9 - 10.

¹⁸⁵ Kari Ortegren, *The Logical Framework Approach*, 2004, p. 3

¹⁸⁶ *Id.* P. 6.

¹⁸⁷ FDRE Ministry of Urban Development and Construction, *Urban Housing Supply Strategy Framework*, 2013, p. 34.

before the project planning taking place.¹⁸⁸ The site was intended to resettle government renthouse holders.¹⁸⁹ In development *per se*, inputs, activities, and outputs are processes in development programmes. They are not in themselves a measure of success or failure.¹⁹⁰ If we adopt the perspective that the development programme is an institution, we need to consider power dynamics between the actors involved in it as well as the level of stakeholder participation in identifying project goals and processes. This is particularly important in the areas of participation in and equitable share of benefits from development that require a participatory mode of planning. Making a pre-project assessment itself is a contribution to empowerment at the grassroots level. These are relevant in the capability approach for the selection of functionings and the assessment of well-being changes after the implementation of the programme.

Another approach used in the programme is the supply-side approach.¹⁹¹ The approach invites the government to directly deliver housing provision from design to transfer.¹⁹² This relates to the developmental state, the model Ethiopia has been using. According to one official, beyond the model, the reason is that the government is granting subsidies in the form of a loan with low interest rate and the swindle steadfast while looking for other approaches such as a cooperative scheme that involves demand-side approach.¹⁹³

¹⁸⁸ Interview: Senait Damtew, Head, Addis Ababa City Administration Housing Development and Administration Bureau, March 27, 2020.

¹⁸⁹ Ibid.

¹⁹⁰ Francesco Burchia, *et al*, The Development Project as an Institution for Agency and Capability Expansion: The Case of the Njombe Milk Project, *European Journal of Development Research*, 2014, p. 20.

¹⁹¹ Id. Supra note 187, p. 1.

¹⁹² UN-Habitat, *The Challenges of Slums*, Earthscan Publications Ltd, 2003, p. 224.

¹⁹³ Id. Supra note 188.

Broadly speaking, the approaches are policy tragedy. On one side, the Urban Development Policy nurtures private ownership of houses. On the other side, the programme is implemented under these approaches which foster public and collective ownership. The approaches violate individuals' free choice and limit their agency. It is difficult to estimate and assess production rate; contradicts market conditions, and segregates the deprived at specific sites. The official during the interview added that the problem goes beyond this. There have been people who were supposed to be beneficiaries but have not been benefited because they do not fulfill minor formalities such as having residents' identity cards.¹⁹⁴ Unexpectedly, others were being registered in their absence or where they were not at all, and even when they were on the lot they declined to take over the house.¹⁹⁵ The demand-side approach is flexible that allows potential beneficiary households the right to choose quality as well as the location of the housing.¹⁹⁶ However, this is not to mean the implementation of the right should depend on objective methods of realizing it.

4.3.2. Undermined the Right to Self-determination

The right to self-determination is a cardinal principle in modern international law, commonly regarded as a *jus cogens* rule. It is one of the core elements and has a particular application in the RTD. According to the UNDRTD, self-determination is an ongoing process of choice to ensure that communities can meet their social, cultural, and economic needs and embodies the right to dispose of natural resources and wealth freely.¹⁹⁷ By this right, they determine their political status and freely pursue their economic, social, and cultural development.¹⁹⁸

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Id. Supra note 190, p. 20.

¹⁹⁷ Id. Supra note 3, Article 1 (2).

¹⁹⁸ Id. Supra note 7, Paragraph 2.

In the Endorois case, the complainants combined the right to self-determination¹⁹⁹ and the right to natural resources²⁰⁰ to claim the RTD. They also argued that encroachment upon these two rights compromised their choices and capabilities in terms of liberty in their action,²⁰¹ and, therefore, interfered with their RTD. They also contended that the eviction destroyed their way of life and sources of income.²⁰² In resolving this question, the African Commission had to address the right to territorial and economic self-determination as an important element of the RTD. Apart from being incorporated in the African Charter,²⁰³ the right to self-determination is also recognized in numerous international instruments.²⁰⁴ The African Commission accepted that freedom of choice is a core element of the RTD.²⁰⁵ The Commission felt that people should be given the choice to develop their potential and this cannot be done without territorial and economic self-determination.

In this research, in line with the objective and purpose of the RTD, self-determination is understood as a procedural right- entities have a right to see their position taken into account whenever their futures are being decided. That may not amount to a right to secede or even to a right to autonomy or self-government, but it does amount to a right to be taken seriously.

An interviewee from Bole Arrabsa explained the situation:

¹⁹⁹ Id. Supra note 12, Article 20.

²⁰⁰ Id. Article 21.

²⁰¹ Id. Supra note 15, Paragraph 128.

²⁰² Id. Paragraph 126.

²⁰³ Id. Supra note 12, Article 20.

²⁰⁴ International Covenant on Economic, Social and Cultural Rights, and International Covenant on Civil and Political Rights, 1969, common Article 1 (1); Declaration on the New International Economic Order, 1974, Article 4; The Report of the World Summit for Social Development, 1995, Articles 26 (k) and 14 (e).

²⁰⁵ Id. Supra note 15, Paragraph 278.

*The land was transferred to me from my ancestor. That is how our generation got here. We grew up hearing a dictum “land is our bone”. If there is no land, no generation. We never had given a choice to determine whether our land should be used for the programme. And, now, we do not know the fate of our children as we are dispossessed. We are dumped like unwanted items.*²⁰⁶

With the same content of speech, another interviewee from Koye Fetchie explained how the programme tainted their entitlement to self-determination:

*We used to have a way of life. We sow wheat, lentil, spine, and others and feed ourselves and others who have no. Now, because of the programme, we lost belongings up to sense of community. Our old way of life is being interfered. We used to practice Irrecha- a thanksgiving festivity- and other spiritual, cultural and social celebration. Now, as a community, we are divided and our longstanding way of life is interrupted.*²⁰⁷

Freedom of choice must be present as a part of the RTD. Without self-determination, it is not possible for the farmers to fully overcome the legacy of dispossession in and around the City. The farmers were unable to determine for themselves the processes and forms of development that are appropriate for their socio-cultural and economic circumstances. In particular, as their right to self-determination is comprised, they could not uphold their agency in the processes of the programme. The loss of entitlement to live according to a set of their values and beliefs, and to have that respected by others constitutes a violation of the RTD of the farmers.

4.3.3. Disregarded the Right to Participation in Development

UNDRTD sees development as a comprehensive process aiming to improve the well-being of the entire population and all individuals based on their active, free, and meaningful

²⁰⁶ Interview: Chala Alemu, Farmer, Bole Sub-city, Bole Arrabsa, May 03, 2020.

²⁰⁷ Interview: Tilahun Demissie, Farmer, Akaki Kality Sub-city, Koye Fetchie, May 03, 2020.

participation.²⁰⁸ Protection of the basic interests of affected people requires informed, self-reliant participation: the varying social impacts and consequences of development interventions can never be determined a priori; adequate knowledge of these impacts and of all the steps necessary to prevent harms can only be generated through full disclosure, and open debate and review of project plans and actions proposed.²⁰⁹

Starting from being participatory to the provision of options to key stakeholders, the programme is a short-sighted initiative.²¹⁰ Interview illustrations from the selected sites squarely show the absence of any form of prior consultation and participation in the process of the programme. For instance, a farmer from Koye Fetchie explained the situation in the metaphor of the ready-made suit.

*The housing is brought to us like a ready-made suit. We told it does not fit to us, it can be scratched out the next day. They told us we have to wear it, even for a day. We had no clue about the programme till they come and told us we have to leave the land to them. We were looking after and intrinsically attached to our farmland. But the government alone determined for what purpose it has to be used. We were forced to leave it under the gunpoint.*²¹¹

The metaphor shows subjection, coercion, and intimidation. Another farmer from Bole Arrabsa site said the leeway of the above metaphor:

²⁰⁸ Id. Supra note 3, Preambular Paragraph 2, Article 1 (1).

²⁰⁹ James C.N. Paul, The Human Right to Development: Its Meaning and Importance, *Third World Legal Studies*, Volume 11, 1992, pp. 29 – 30.

²¹⁰ Focus Group Discussion: Masresha Taye (Ph.D), Doctoral Researcher, Institute of Development Studies, University of Sussex, May 10, 2020.

²¹¹ Interview: Gebru Habtu, Farmer and Representative of the Galan Kersa Farmers' Committee, Akaki Kality Sub-city, Koye Fetchie, May 4, 2020.

Leave alone prior consultation and participation in the processes of the programme, we were not given enough time to think about how we should feed our children and survive. Farming was our degree and master degree. When they come around the beginning of the summer of 2012, the farmland was ploughed and made ready for severing. As the season was the sowing time, most of us were on the farmland. Because we were not informed about the programme. Officials, hosted by military men, come and ordered us to stop because “the land is needed for development,” else to send us to the unknown desert. We were told to leave or to be arrested. Our children who were challenging the order were arrested and tortured. They were given a lesson to teach others and not to oppose the development programme when going back to home.²¹²

According to officials working on the wellbeing of the farmers and whose family were subjected to this kind of forced development, farmers in and around Addis Ababa City have lost their agency.

They were not capable to participate in the development programme. Because they are not educated even though they are living in and around the City while others travel miles to come to the City for education. Not only the farmers, but their children also are not in school. There has been a structural challenge that took them in this status.²¹³

In this regard, the African Commission argued even if the beneficiaries ignore their right to participate, they should be educated and kept informed to ensure their inclusion in development projects that are directly linked to achieving the RTD.²¹⁴ The farmers’ lives were not enhanced to

²¹² Interview: Shiferaw Tesema, Farmer, Bole Sub-city, Bole Arrabsa, May 03, 2020.

²¹³ Interview: Alemayehu Rorrisa, Rehabilitation and Service Development Directorate Director, Addis Ababa City Administration Farmers and Urban Agriculture Development Commission, May 06, 2020.

²¹⁴ Id. Supra note 15, Paragraph 272.

participate and, rather, excluded from the process of the programme.²¹⁵ Therefore, the lack of a necessary scheme reduced their participation in the process. All the interviewees provided that the government come to them only to take over their land and not to participate in the process of the development. Those who opposed the process were arrested without due process of law, tagged as “anti-development.”²¹⁶ The right to free, active, and meaningful participation demands the expansion of the capability of those entitled to participate inspired by the clause of equality and non-discrimination paying special attention to the most vulnerable.

4.3.4. Denied Victims of Development Harms Adequate Compensation

UN Human Rights Commission produced a set of Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law.²¹⁷ Housing, land and property restitution, and in their absence, compensation for displaced persons are firmly grounded within the core principles of many fields of international law.²¹⁸

The targeted population from both sites uniformly lamented that the amount of compensation is ineffective. The farmers were paid 18.76 birr per square meter. Ethiopia follows cost replacement to recompense the damage caused as a result of expropriation. Even though it is possible to reach market value through the use of the replacement cost approach, the approach is defective. It does not give market value for the displaced people. For example, it does not

²¹⁵ Id. Supra note 128, Article 4 (2). It provides the period of notification to be given shall be determined by directives provided, however, that it may not, in any way be less than ninety days.

²¹⁶ Interview: Anbessu Gebreamlak, Farmer and Bole Arrabsa Farmers’ Representative, Bole Sub-city, Bole Arrabsa, May 10, 2020.

²¹⁷ UN Commission on Human Rights, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 61st Session, 2005.

²¹⁸ UN Commission on Human Rights, Principles on Housing and Property Restitution for Refugees and Displaced Persons- The Pinheiro Principles, 2005.

consider the value of the location on which the building rests. It also disregards consequential damages. Another problem is that the measurements were made in the absence of the concerned farmers.²¹⁹

*The amount was nominal and we were not aware of how to manage the money. We did nothing with the money. Some took the money and left everything, including the family. Some are told that they took the money while not. Because of this, there was my neighbor, Girma Dadi, who got sick and died.*²²⁰

The interview data taken from Bole Arrabsa adduce the same.

*We received the money without free consent. They told us to give up on the land and take the money, or be in prison. The process was forceful. The money we received was like dew. We don't know where it went. We used to plough and sell the returns to buy salt. We had neither experience in managing the money nor received any training for the same purpose.*²²¹

Despite the nominality of the compensation, all farmers during the interview uttered misappropriations such as reduction of the size of their land, refusal of the promised payment, bribery, etc.²²² The problems raised by the farmers are accompanied by the laws, and policies, discussed in Chapter Three, that do not guarantee the right to the fair distribution of development harm. The amount of compensation is ineffective to make the victim whole. The farmers were evicted from the land where they have patrimonial, emotional, and spiritual attachments.²²³ The

²¹⁹ Interview: Alemu Tabor, Farmer, Bole Sub-city, Bole Arrabsa, May 01, 2020.

²²⁰ Interview: Niguse Talila, Farmer, Kality Sub-city, Koye Fetchie, May 06, 2020.

²²¹ Interview: Eftu Hararu, Farmer, Bole Sub-city, Bole Arabsa, May 06, 2020.

²²² Interview: Dereje Belete, Farmer and Representative of the Bole Arabsa Farmers Committee, Bole Sub-city, Bole Arabsa, May 09, 2020.

²²³ Id. Supra note 126.

paid compensation does not, thus, cover all meaningful harms. The amount should have included both pecuniary damages and non-pecuniary or moral damages, such as pain and suffering, emotional distress, and interruption of the victim's life plan.

4.3.5. Ignored the Fair Distribution of Benefits of Development

UNDRTD is explicit on the fair distribution of the benefits of development. One of its provisions provides that states have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and all individuals.²²⁴ Put it simply, a development project should benefit most of those who would be adversely affected by its implementation. It evokes access to basic resources, education, health service, food, housing, employment, and the fair distribution of income.²²⁵

Not only the programme ignored their fair distribution of benefit therefrom, it also victimized them. Most of the farmers are now guardsmen, others are street-beggars, or drunk, or no one knows whereabouts of others.²²⁶ A managerial official in the area and family of a victim farmer from Koye Fetchie site answered the following when he was asked whether the programme has benefited his family:

My father used to provide us the livelihood from the land. After taking over of the land, we lost our livelihood. Our ancestors were living here for an immemorial time. My family used to get water from spring around and here. Now, it is polluted and dried. They have no alternative access to water and electric light while the newcomers are in better off while both are living in the same vicinity.²²⁷

²²⁴ Id. Supra note 3, Article 2 (3).

²²⁵ Id. Article 8 (1).

²²⁶ Interview: Getu Taddese, Farmer, Bole Sub-city, Bole Arrabsa, May 10, 2020.

²²⁷ Interview: Nano Alemu, Chief Executive Manager, District 11, Akaki Kality Sub-city, May 01, 2020.

The Vienna Declaration extends the notion of equitable access to the benefits of development to embrace the notion of intergenerational equity.²²⁸ Such developmental needs include for example employment, education, health, nutrition, housing facilities, crime prevention, and the wellbeing of children.²²⁹ In this regard, in the sites selected for the case study, it is clear on the ground that the means of livelihood of the farmers is discontinued.²³⁰ They are hardly able to make sustenance to make a family. Farmers complain that even during this COVID-19 their children could not have access to television curricula that transmit education because of a lack of electric power.²³¹ Besides, students returned from different universities because of COVID-19 complain they have no access to infrastructures.²³² Development must be looked at not only from the viewpoint of immediate benefits to society but also from the long-run merits it generates to the coming generations.²³³

Hence, a provision on a fair distribution of benefits is a valuable instrument to address problems in the development process. It entails viewing development's benefits as an entitlement of the entire population to improve their well-being.²³⁴ According to the interviewees, the programme

²²⁸ Id. Supra note 7, Paragraph 11.

²²⁹ Furthermore, the Independent Expert proposes the right to food, the right to primary education and the right to primary health as the three rights vital to practically implement the RTD.

²³⁰ Interview: Geremew Gobana, Investigation Expert, FDRE Human Rights Commission, May 05, 2020.

²³¹ COVID-19, Coronavirus disease, is an on going pandemic and the defining global health crisis of our time caused by severe acute respiratory syndrome coronavirus 2 (SARS-COV-2). The World Health Organization declared the outbreak a Public Health Emergency of International Concern on 30 January, and a pandemic on 11 March. In particular, Emergency State Proclamation to Prevent, Control, and Reduce the Impact of COVID-19, Proclamation is declared in Ethiopia and among the measures taken, closing of all schools in the country is one, No. 3/2020.

²³² Focus Group Discussion: Habtamu Sisay, Sisay Nigusie, Sisay Seboka, and Getinet Girma, University Students of Victim Farmers, Bole Sub-city, Bole Arrabsa, May 10, 2020.

²³³ Interview: Bedilu Tadesse, Human Rights Consultancy Service Team Leader, FDRE Human Rights Commission, May 05, 2020.

²³⁴ Arjun Sengupta, On Theory and Practice of the Right to Development, Human Rights Quarterly 24, 2002, p. 848.

made them what they do not want to be and what they do not want to do.²³⁵ Of particular concern is their generally poor housing situation compared to others who were benefited from the programme on the land of the farmers, including inadequate water and light. The vulnerability of the farmers as groups affected by the programme, the insecure tenure they have over their traditional lands, and the culturally inappropriate alternatives left them in unsecured condition.

As to joblessness, it occurred for the programme restructured the existing economic system of the farmers. The farmers from the selected sites held that they were not allowed to be a guard and many left the area, and others obliged to work as daily laborers.²³⁶ Another development hazard they are facing is food insecurity. This occurred when the farmers were forced to uproot their livelihood, placing them in a vulnerable position to chronic sustenance insecurity.²³⁷

The researcher correspondingly observed that while the beneficiaries of the programme have access to clean water and light, while the farmers who lost their livelihood and still living in the environs are denied access. Their pet animals are suffering for no grazing land and water or else dirty. Here, it is crucial to see the hazard as a violation of the RTD based on the non-implementation of the entitlement to a fair distribution of benefits. However, one should bear in mind that implementing the RTD is more than just fulfillment of the right to food, education, or health.

The hazard is backed by general legal and policy regimes, as discussed in Chapter Three, and the legal regime of the particular programme. The Condominium Proclamation intended to implement other alternatives of urban land use in addition to plots basis urban land use to narrow the imbalance between the demand for the supply of housing through making a great number of people benefit and commonly hold a small size of urban land.²³⁸ According to the Addis Ababa

²³⁵ Interview: Shewaye Boke, Farmer, Bole Sub-city, Bole Arabsa, May 09, 2020.

²³⁶ Interview: Teshome Sintayehu, Farmer, Kality Sub-city, Koye Fetchie, May 06, 2020.

²³⁷ Interview: Legese Belete, Farmer, Bole Sub-city, Bole Arabsa, May 09, 2020.

²³⁸ Condominium Proclamation, Federal Negarit Gazeta, No. 370/2003.

City Proclamation, home-seeker or potential beneficiary of the programme is who had continuously resided for two years in Addis Ababa City, who can adduce statement of the clearance of his own house or a plot of land on account of the programme or another development undertaking, or who have neither own private house and plots of land nor have ever purchased units.²³⁹ It goes on to provide that a stock of units shall be reserved for home-seekers to be displaced from their place of residence on account of development undertaking and shall have priority to purchase units as per the decision of the City Cabinet.²⁴⁰ However, the reservation of and priority to purchase the units are intended to benefit those displaced from the inner of the City on account of development undertakings.

The particulars of the proclamations supposedly to be determined by directives, Addis Ababa City Cabinet made directive on the home-seekers registration.²⁴¹ The directive lists three criteria for one to be eligible for the registration. The chapeau of the criteria begins with “any resident” of the City who is 18 years and above age, lived and living in the City for at least two years, and consecutive two years out of the City but who can adduce evidence about the detail is eligible for the registration.²⁴² The pounded problem is the farmers had neither residents’ identity cards nor given the status of those displaced on the account of development. This is an unjust paradox- while the programme targeted their holdings, they are formally denied to be considered as residents and excluded to be benefited therefrom. In accord with the right to the fair distribution of the benefits of development, the programme should have reserved a certain portion of built housing units to holders of the land from the beginning.

²³⁹ Proclamation to Provide for the Responsibilities of the City Government Organs in the Transfer of the City Government Houses and its Execution, Addis Negari, No. 19/2005, (as Revised by No.7/2009), Articles 2 (1), 4 (2), and 5 (2).

²⁴⁰ Id. Article 6 (1).

²⁴¹ Id. Supra note 175.

²⁴² Id. Article 7.

4.4. Post-violation Platforms

Noncompliance to obligations generates an obligation to make reparation. The government admitted the violation since 2015 following the protest against the Integrated Master Plan which is discarded well along. In 2016, Addis Ababa City Administration Rehabilitation Project Office for Displaced Farmers Due to Development, Rehabilitation Project Office was instituted to rehabilitate the victim farmers.²⁴³ Currently, the Project Office is reorganized as Addis Ababa City Farmers and Urban Agriculture Development Commission.²⁴⁴ In both cases, the farmers who are victims of development hazards are called “displaced farmers due to development.” The researcher has not found the naming proper. In its contemporary form, development is human friendly and does not, unavoidably, entail displacement. In human rights resonance, such as “victims of development hazards” sounds better-off for uplifting character and calls for reexamination.

The Commission has the following powers and duties, but not limited to:²⁴⁵

- Ensure that farmers who are displaced for development purpose are paid with a responsible reimbursement; get a replacement land with tenure certificate and having the necessary infrastructures in place;
- Cause for the provision of shelter, in collaboration of with the concerned organs of the city government, for those farmers displaced from their residential area due to development to participate in the permanent and temporary job opportunity programmes and enable them to benefit from same; follow up that they get priority in created job opportunities in their vicinity based on the training they have received;

²⁴³ Id. Supra note 29, Article 5.

²⁴⁴ Id. Supra note 30, Article 11 (22).

²⁴⁵ Id. Article 37.

- Design new projects that ensure to sustainably improve the living condition of farmers; cause for the provision of manufacturing and selling centers for the projects;
- Facilitate conditions for farmers, who displaced from their holdings to engage in better development and investment opportunities through combining their reimbursement; support and follow up same;
- Cause for the organization of those farmers who are displaced from their holdings due to development under cooperative laws and other relevant commercial laws; establish follow up and support the same.

To be benefited from the platforms, one has to go through screening and registration processes.²⁴⁶ According to the official of the Commission, the immediate cause to establish the institution to rehabilitate the farmers was the overall grievances against development hazards in and around the outskirts of the City.²⁴⁷ Admitted the violation, as a passage to post-violation schemes of redress, the government started to screen and register farmers to give them units of houses from the programme.²⁴⁸ Following a direction given by the Cabinet of the City Administration in 2019, the Management Board²⁴⁹ decided to reserve 22,915 housing units for farmers and their children without a draw.

²⁴⁶ According to the Directive of Addis Ababa City Government Displaced Farmers Due to Development Rehabilitation and Support Framework, Addis Negari, No. 2/2018, screening and registration mean selecting and organizing farmers and their families to be beneficiary of the rehabilitation framework, Article 2 (11).

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Regulation on the Addis Ababa City Government Roads Authority, Water and Sewerage Authority, Housing Development Corporation Management Board Establishment, Addis Negari, No. 107/2019.

In line with the decision of the board, a directive is enacted to allocate certain pilots of houses from the programme to the displaced farmers and their families.²⁵⁰ However, the definition given to the victim farmers is restrictive and does not include the farmers who lost their farmlands:²⁵¹

“አርሶ አደር” ማለት በከተማዉ አስተዳደር ክልል ዉስጥ የሚኖር በግብርና ይዞታ መሬቱ ላይ በሚሰራዉ የግብርና ስራ በሚያገኘው ገቢ እራሱንና ቤተሰቡን የሚያስተዳድር ሰው ነው።

The farmers, however, expressed the inadequacy and impropriety of the decision. Furthermore, the past and present injustices could not enable them to trust any promise.²⁵² For the farmers, the promise is undelivered and it is a tool to silence their grievances.²⁵³ When their right to be consulted and participate in the process was not upheld, the delivery of the promise remains to consider them as beneficiaries of a charity.²⁵⁴ In regard of the transfer of houses, the definition given to “persons displaced due to development” excludes a person having individual land holding or own house.²⁵⁵ Hence, a farmer who lost his farmland or house from one area and who has another holding or house in another place within the vicinity of the City may not be eligible for the benefit of having a house in turn.

In the absence of active, free, and meaningful participation, the claim of an equitable share of benefits from the programme is rhetoric. One senior farmer who declined to tell his name from

²⁵⁰ በአዲስ አበባ ከተማ አስተዳደር በልማት ምክንያት ከይዞታቸው ለተፈናቀሉ ተገዢ አርሶ አደሮችና ቤተሰቦቻቸው የጋራ መኖሪያ ቤቶች /የኮንደሚኒየም / አሰጣጥ መመሪያ ቁጥር 005/2011.

²⁵¹ Id. Article 2 (8).

²⁵² Interview: Gebru Habtu, Farmer and Representative of the Galan Kersa Farmers’ Committee, Bole Sub-city, Koye Fetchie, May 4, 2020; Interview: Dereje Belete, Farmer and Representative of the Bole Arabsa Farmers’ Committee, Bole Sub-city, Bole Arabsa, May 09, 2020.

²⁵³ Interview: Bulbula Damie, Farmer, Bole Sub-city, Bore Arabsa, May 09, 2020.

²⁵⁴ Interview: Bedada Bifa, Farmer, Kality Sub-city, Koye Fetchie, May 03, 2020.

²⁵⁵ A Regulation to Implement a Proclamation to Provide for the Responsibilities of the City Government House and its Execution No. 19/2005 (as Revised as No 7/2009), Addis Negari, No. 38/2009, Article 2 (5).

Bole Arrabsa described the irreversibility of the harm. He desperately said, “*Erga bineensi darbee sareen dutte*” to mean, “*After the passing of the hyena, the dog barked.*” Farmers from Koye Fetchie also maintain the same meaning, whatever comes to rehabilitate them will hardly reverse the harm they have sustained.²⁵⁶ Hence, discrepancies exist between publicly stated platforms and what is materialized to rehabilitate the victims of the programme.

²⁵⁶ Interview: Gete Gurmecha, Farmer, Akaki Kality Sub-city, Koye Fetchie, March 03, 2020.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.1. Conclusion

The UNDRTD, African Charter, and Vienna Declaration of 1993 proclaimed that development is a universal and inalienable human right, and acknowledged the RTD as an integral part of fundamental human rights. Accordingly, everyone is entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development in which all human rights and fundamental freedoms can be fully realized. Analysis from the works of Amartya Sen, international laws, and practices at UN and AU indicates the existence of a consensus as to the need for the following elements to be part of the concept of development:

- the human person should be regarded as the subject, means and end, and not the object of the development process;
- free, active and meaningful participation in the development process and fair distribution of the benefits of development;
- development undertakings must conform to fundamental human rights;
- respect for the principles of equality and non-discrimination is essential.

In designing development policies, a primary concern should, therefore, be how to protect those affected by its consequences, and in particular, how to secure their access to decision-making on such policies and their execution. Yet, the current applications of the RTD have not delivered substantive changes at the national and local levels. It is not just economies that are to be expanded but human persons themselves as means and end of their development.

In this research, doctrinal and empirical approaches are employed to conclude the existence of a violation of the RTD in the name of development in Ethiopia. Development discourse in Ethiopia can be understood from the laws, policies, and practices in the country. The

Constitution is a *lex imperfecta*: it recognizes the RTD under Article 43 in an aspirational manner. Among others, it does not include important aspects such as the level (active, free and meaningful) of participation, the right to a fair share of benefit, and the particular aspect of self-determination in development processes. The right is not justiciable according to the explanatory document of the Constitution.

Development through expropriation, urbanization, lease system, developmental state, etc. are occurring through exclusive and dispossessive processes. The new Expropriation Proclamation reinstates the “public purpose” definition given by the repealed one in its broadest sense as one that gives “direct or indirect” benefit to society and invites a variety of limitless projects and activities, which in effect, leave the requirement in vain. On top of that, the power of courts in deciding whether a certain project indeed meets the public purpose requirement or not is ousted out. Other laws also, including the Urban Lease Proclamation entertains capital goods and economic gains through forced urbanization as the main attributes of development. The same applies to the urban policy of Ethiopia. It is top-down, promotes involuntary growth through the taking of land, and has no adequate space for public consultation in terms of prior and informed consent and participation. These laws, policies, and practices are informed by the developmental state model in the discursive frame. The model was emulated to Ethiopia without encompassing necessary ideological and enough structural nexus in favor of the interest of development.

The research is also based on the case study of the Integrated Housing Development Programme of Addis Ababa City. The programme is a conversion of the farmlands into urban housing units in a *fait accompli* with no options left to choose. The farmers were informed of the impending programme as a done deal, and not allowed their role in shaping it. The logical framework and supply-side approaches are used to design and deliver the programme which compromised the free choices. Bole Arrabsa and Koye Fetchie sites being selected as the target population, extensive regard has been made to aspects of the farmers’ entitlements to self-determination, participation, and fair distribution of the benefit from the programme. Having established the violation-based approach of the programme, the entitlements would have been employed to prevent and combat the hazards. The following can be generalized from the data taken from the two sites. The government approached the farmers without their free choice, to expropriate the

farmland on which they entirely depended. The expropriation was full of intimidation, force, and undelivered promise. That hindered their entitlement to actively, freely and meaningfully participate as stakeholders through the participatory process that would have been stimulated by the government or through actions from below at their initiative.

The absence of entitlement to a fair distribution of benefits and harms of the programme implies a violation which perversely harmed the farmers. The programme converted the farmlands into housing units and resulted in the hazards- displacement, eviction, homelessness, impoverishment, pauperization, loss of livelihoods, etc. The farmers are also divided as a community and displaced from their traditional and ancestral land. The RTD of the farmers is violated as the programme highly decreased their well-being. The other issue addressed in this study is compensation. The expropriation laws of Ethiopia follow cost replacement as compensation. Under the existing circumstances, the money, less than 20 birr per square meter, paid as compensation to the farmers is short of the necessary sum. Hence, instead of being the beneficiaries, farmers at the grassroots of the programme become victims of the hazard.

In line with the decision of the African Commission on the Endorois case, this study concludes that the inadequacy of the participation, in terms of free, prior and informed consent, and fair distribution of benefit left the farmers feeling disenfranchised from a process of the programme which had of utmost importance to their life. In line with Sen's *Development as Freedom*, lack of political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security reduced their agency in the processes of the programme. The area has deeply disadvantaged people, who lack basic opportunities for health care, sanitary arrangements or to clean water, functional education, or gainful employment, or economic and social security.

Therefore, from the doctrinal and empirical findings, this research concluded that development is conceived in Ethiopia as a fierce process with a hard-knock attitude. Such a narrow concept neglects the RTD. Development policies and laws insufficiently safeguard the RTD and prone to a violation when projects are carried out. As a result, the manifest disregard to put the human person at the center of development process is the underlying cause for violating the RTD. The programme under the case study, informed by the current policies, laws, and practices, is a showcase that Ethiopia violates the RTD in the name of development.

5.2. Recommendation

Based on the above conclusion, the following recommendations are forwarded.

5.2.1. Notional Recommendations on the Concept of Development

1. Once development is no longer viewed merely in terms of growth of national income or even per capita income, but in the sense of the creation of conditions conducive to the full realization of the individuals' potential in every aspect of their being, it is an aspiration which should be pursued in Ethiopia.
2. The gap highlights the government's failure to address the vulnerabilities of individuals, communities, and peoples whom development programmes and projects affect. Hence, policies and laws should be revisited and improved to fill the existing gap and be able to enhance local social, economic, and political development, and expand human capabilities.
3. To move forward with its development goals, the government needs to increase its commitment to prior consultation and participatory development process.

5.2.2. Legal and Policy Recommendations on the Right to Development

1. The RTD should be seen as to have the concern of how development is carried out that encompasses participation and fair distribution of benefit, among others, in the overall development processes.
2. While formulating and implementing development policies, laws, and policies, the objectives should be to realize and appropriate to the rights-based process of development.
3. Development policies and laws incompatible with the RTD need to be revised so that Ethiopia discharges the *erga omnes* obligations to respect, protect, and fulfill.

4. The RTD has to be mainstreamed, beyond ritualism, as a compelling legal principle for addressing development hazards.

5.2.3. Recommendations to Redress the Violation

1. *Structural Injunction*: The impact of the programme resulted in development hazards, constituting a violation of the RTD, is ongoing. A structural injunction has to be granted to encompass broader measures designed to reduce and prevent similar or other violations in the future.
2. *Declaratory Relief*: Declaration that the fact violation was committed, which is forward-looking can be used to clarify the victims' ongoing legal rights. Though it is symbolic, it can also be a remedy for non-pecuniary injuries such as interference in culture or the traditional way of life.
3. *Retrospective Assessment*: Implications of the programme activities should have been made before its inception. The government should now take retroactive steps of reassessment to fully and formally recognize the hazard. While the reassessment can be linked with the RTD, it should include explicit references to internationally recognized human rights.
4. *Affirmative Action*: As the farmers are disfranchised from the City, new and innovative legal and institutional mechanisms have to be designed to tackle the hitherto urban divide and bridge this divide.
5. *Partial Restitution*: In the case study, the level of violation involves irreversible harm, making full restitution unattainable. Still, some form of partial restitution can be accomplished. For instance, the residual land can be restored for use of the farmers or inadequate and denied compensation can be made adequate and effective to help them put their lives back on track. The focus has to be on specific relief designed to restore the farmers as closely as possible, rather than figuratively making them whole through compensation.

6. *Grievance Mechanisms*: Effective grievance mechanisms need to be in place. The state's duty to respect, protect, and fulfill for proscribing certain responsibilities has little impact without accompanying mechanisms to investigate violations and abuses. Non-judicial mechanisms play an important role alongside judicial processes. Yet they have to be within the well-functioning rule of law institutions, where they may provide a more immediate, accessible, affordable, and adaptable recourse.

BIBLIOGRAPHY

International Laws

1. African [BANJUL] Charter on Human and Peoples Rights, OAU Doc. CAB/LEG/67/3 Rev. 5, 1986
2. UN General Assembly, International Covenant on Economic, Social and Cultural Rights, Resolution 2200A (XXI), 1969
3. UN Assembly, International Covenant on Civil and Political Rights, Resolution 2200A (XXI), 1969
4. UN General Assembly, Declaration on the New International Economic Order, 1974
5. Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights, UN doc. E/CN.4/1987/17, 1987
6. Maastricht Guidelines on the Violation of Economic, Social and Cultural Rights, 1997
7. UN General Assembly, Declaration on the Right to Development, Resolution 41/128, 1986
8. UN General Assembly, The Universal Declaration of Human Rights, Resolution 217 (A) II, 1948
9. World Conference on Human Rights, Vienna Declaration and Programme of Action, 1993

National Laws

1. A Regulation to Implement a Proclamation to Provide for the Responsibilities of the City Government House and its Execution No. 19/2005 (as Revised as No 7/2009), Addis Negari, No. 38/2009

2. Addis Ababa City Directive to Provide Home-seeker's Registration, Addis Negari, No. 1/2012
3. Addis Ababa City Government Displaced Farmers Due to Development Rehabilitation and Support Framework Directive, Addis Negari, No. 2/2018
4. Addis Ababa City Government Executive Organs Re-establishment Proclamation, Addis Negari, No. 64/2019
5. Condominium Proclamation, Federal Negarit Gazeta, No. 370/2003.
6. Proclamation on the Expropriation of Landholdings for Public Purposes and Payment of Compensation, Federal Negarit Gazeta, No. 455/2005
7. Proclamation on Urban Lands Lease Holding, Federal Negarit Gazeta, No. 721/2011
8. Proclamation to Provide for the Expropriation of Landholdings for Public Purposes, Payment of Compensation, and Resettlement of Displaced People, Federal Negarit Gazeta, No. 1161/2019
9. Proclamation to Provide for the Responsibilities of the City Government Organs in the Transfer of the City Government Houses and its Execution, Addis Negari, No. 19/2005, as Revised by No. 7/2009
10. Regulation to Provide the Establishment of the Addis Ababa City Government Rehabilitation Project Office for Displaced Peasants Due to Development, Addis Negari, No. 79/2016
11. The Constitution of the Federal Democratic Republic of Ethiopia, Federal Negarit Gazeta, Proclamation No. 1/1995
12. The Council of Ministers Regulations on Payment of Compensation for Property Situated on Landholdings Expropriated for Public Purpose, Federal Negarit Gazeta, No. 135/2007

Books, Thesis, and Articles

1. Abdi Jibril, Eva Brems (Ed.), Human Rights and Development, Legal Perspective from and for Ethiopia, Volume 111, 2015
2. Amartya Sen, Commodities and Capabilities, 1985
3. Amartya Sen, Development as Freedom, Alfred A. Knopf Inc., New York, 1999
4. Amartya Sen, On Economic Inequality, Oxford University Press, 1997
5. Andre Gunder Frank, Latin America: Underdevelopment or Revolution, (New York: Monthly Review Press), 1969
6. Arjun Sengupta, *et al* (Eds.), Reflections on the RTD and Human Rights, Sage Publications, New Delhi, 2005
7. Arjun Sengupta, On Theory and Practice of the Right to Development, Human Rights Quarterly Volume 24, 2002
8. Arjun Sengupta, The Human Right to Development, Oxford Development Studies Volume 32, 2004
9. Bard A. Andreassen and Stephen P. Marks (Eds.), Development as a Human Right: Legal Political and Economic Dimensions, 2010
10. Belay Getachew, Critical Analysis of the Applicability of the Right to Development in the Ethiopian Context, LLM Thesis, Addis Ababa University, (Unpublished), 2009
11. Claude Ake, Democracy and Development in Africa, The Brookings Institutions, 1996
12. D. Beetham (Ed.), The RTD and Its Corresponding Obligation in Development as a Human Right: Legal, Political and Economic Dimension, Harvard School of Public Health, 2006

13. Fikadu Malede, The Human rights of Children in Development Induced Relocation from Arat kilo to Jamo No.1 with Particular Reference to the Right to Participation, Housing, Health and Education, MA Thesis, Addis Ababa University, (Unpublished), 2011
14. Frans Viljoen, International Human Rights Law in Africa, Oxford University Press, 2007
15. Frans Viljoen, National Legislation as a Source of Justiciable Socio-economic Rights, Review 6, No. 3, 2005
16. Gutsavo Esteva and Wolfgang Sachs (Eds.), “Development” in the Development Dictionary: A Guide to Knowledge as Power, (2nd Edition, London/New York: Zd Books), 2010
17. Hans-Otto Sano, Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development, Human Rights Quarterly, Volume 22, No. 3, The Johns Hopkins University Press, 2000
18. Irene I. Hadiprayitno, Development Hazard: A Violation-based Approach to the Right to Development, The Chinese Journal of Global Governance, No. 3, 2017
19. James Ferguson, the Anti-Politics Machine: “Development”, Depoliticization, and Bureaucratic Power in Lesotho, 1994
20. Jan Nederveen Pieterse, Dilemmas of Development Discourse: The Crisis of Developmentalism and the Comparative Method, Development and Change, Volume 22, 1991
21. K. Ginther, Participation and Accountability: Two Aspect of the Internal and International Dimension of the RTD, Third World Legal Studies, 1992
22. Kalkidan Lakew, Development Induced Displacement: Challenges to the Protections of Economic and Social Rights: The Case of Lideta Sub-City. MA thesis, Addis Ababa University, (Unpublished), 2011
23. Mahbub ul Haq, Reflections on Human Development, New York: Oxford University Press, 1995

24. Martha C. Nussbaum, Capabilities and Human Rights, *Fordham Law Review*, Volume 66, Issue 2, 1997
25. Mashood A. Baderin and Manisuli Ssenyonjo (Eds.), *International Human Rights Law, Six Decades after the UDHR and Beyond*, School of Oriental and African Studies, University of London, Brunel University, 2010
26. Md. Saidul Islam, *Paradigms of Development and Their Power Dynamics: A Review*, *Journal of Sustainable Development*, 2009
27. Mesenbet Assefa, *Reflections on the Right to Development: Challenges and Prospects*, *African Human Rights Law Journal*, Volume 10, 2010
28. Michael P. Todaro and Stephen Smith, *Economic Development*, 11th Edition, 2012
29. Milkiyas Bulcha, *Reconciling Human Rights and Evictions for Public Purposes in Ethiopia: Appraisal of the Laws and Practices with Focus on Some Selected Sites in Addis Ababa City*, LLM Thesis, Addis Ababa University, (Unpublished), 2015
30. Paul Baran, *The Political Economy of Growth*, (New York: Monthly Review Press), 1957
31. Paul Streeten and Shahid Javed Burki, *Basic Needs: Some Issues*, *World Development*, Volume 6, No. 3, 1978
32. Paul Streeten, *Basic Needs: Some Unsettled Questions*, *World Development*, Volume 12, No. 9, 1984
33. Peter Evans, *Embedded Autonomy: States and Industrial Transformation*, Princeton University Press, 1995
34. Philip Alston, *Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Development Goals*, *Human Rights Quarterly*, Volume 27, Number 3, 2005

35. Philips Alston (Ed.), *Globalization and the RTD in Peoples' Rights*, Oxford University Press, 2001
36. R. Malhotra, *Towards Implementing the RTD: A Framework for Indicators and Monitoring Methods, Development as a Human Right, Legal, Political and Economic Dimensions*, Volume 201, 2006
37. Richard Brinkman, *Economic Growth Versus Economic Development: Toward a Conceptual Clarification*, *Journal of Economic*, Issues 29, 1995
38. S. Storm and C.W. Naastepad (Eds.), *Globalization and Economic Development: Essays in Honour of J. George Waardenburg*, Edward Elgar Publishing, 2001
39. Sam Adelman and Abdul Paliwala (Eds.), *Law and Development in Crisis in the Third World*, (Hans Zell Publishers), 1993
40. Samir Amin, *Unequal Development*, (New York: Monthly Review Press), 1976
41. Siobhan MCinerney-Lankford, *Human Rights and Development: A Comment on Challenges and Opportunities from a Legal Perspective*, *Journal of Human Rights Practice*, Volume 1, No. 1, 2009
42. Takele Soboka, *Exception as Norm: The Local Remedies Rule in the Context of Socioeconomic Rights in the African Human Rights System*, *The International Journal of Human Rights*, Volume 16, No. 4, 2012
43. Thandika Mkandawire, *Thinking About Developmental States in Africa*, *Cambridge Journal of Economics*, Volume 25, No. 3, 2001
44. Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, (2nd Edition, Polity Press), 2008
45. Timothy Mitchell, *the Rule of Experts, Egypt, Techno-Politics, Modernity*, 2002

46. Van B. Weigel, The Basic Needs Approach: Overcoming the Poverty of Homo Economicus, World Development, Volume 14, No. 12, 1986

47. በቢይ አክሲዮን (ዶ/ር)፣ መደመር፣ 2012 እ.ኤ.አ

Communications, Documents, and Reports

1. (Approved by) House of Peoples’ Representatives, Explanatory Document of the Draft Constitution, 1994
2. Addis Ababa City Administration Farmers and Urban Agriculture Development Commission, Displaced Farmers’ Due to Development Information, 2018 and 2019.
3. Addis Ababa City Administration Housing Development and Administration Bureau, Transition Period Interim Office, Transition Period Works Final Report, 2020
4. African Commission on Human and Peoples’ Rights, Communication 276 / 2003 Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of Endorois Welfare Council) vs. Kenya, 2010
5. African Commission on Human and Peoples’ Rights, Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) vs. Nigeria, Communication 155/96, 2001
6. FDRE Ministry of Urban Development and Construction, (Approved by Council of Ministers), Urban Development Policy, March 2005
7. FDRE Ministry of Urban Development and Construction, Urban Housing Supply Strategy Framework, 2013
8. Human Rights Watch, “Waiting Here for Death”, Displacement and Villagization in Ethiopia’s Gambella Region, 2012
9. Human Rights Watch, Abuse-Free Development, How the World Bank Should Safeguard Against Human Rights Violations, Forced Villagization in Ethiopia, 2013

10. Human Rights Watch, *Waiting Here for Death, Displacement and Villagization in Ethiopia's Gambella Region*, 2012
11. Ministry of Works and Urban Development, *Integrated Housing Development Programme of the Federal Democratic Republic of Ethiopia*, African Ministerial Conference on Housing and Urban Development, Abuja, Nigeria, 28-30 July, 2008
12. Oakland Institute, *Miracle or Mirage? Manufacturing Poverty and Hunger in Ethiopia*, 2016
13. The Oakland Institute, *Understanding Land Investment Deals in Africa- Country Report: Ethiopia*, 2011
14. UN Commission on Human Rights, 54th Session, *The Right to Restitution, Compensation and Rehabilitation for Victims of Grave Violations of Human Rights and Fundamental Freedoms*, 1998
15. UN Commission on Human Rights, 61st Session, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005
16. UN General Assembly, Human Rights Council Fifteenth Session, *Right to Development Report of the High-level Task Force on the Implementation of the Right to Development on its Sixth Session, (Right to Development Criteria and Operational Sub-criteria)*, Geneva, 2010
17. UN Human Rights, Office of the High Commissioner, *Realizing the RTD, Essays in Commemoration of 25 Years of the UN Declaration on the RTD*, Geneva and New York, 2013
18. UN-Habitat, *Condominium Housing in Ethiopia: The Integrated Housing Development Programme*, 2011
19. UN-Habitat, *The Challenge of Slums: Global Report on Human Settlements*, 2003

20. UN Human Rights Office of the High Commissioner, Realizing the RTD: Essays in Commemoration of 25 Years of the UN Declaration on the RTD, 2013

21. ብልጽግና ፖረቲ፣ ኢኮኖሚያዊና ማህበራዊ ብልጽግናን ለማረጋገጥ ትልም እና ፈተናዎች፣ የካቲት 2012 እ.ኤ.አ

Websites

1. <http://www.unhrchr.ch/development/appraoches-04.html> (Accessed on February 23, 2020)
2. <http://www.undp.org./rbap/rights/Nexus.htm> (Accessed on February 23, 2020)
3. Ethiopia Semonegna (<https://semonegna.com/>, Online Magazine, March 06, 2019. (Accessed on April 22, 2020)
4. World Population Review (worldpopulationreview.com/world-cities/addis-ababapopulation, Accessed on May 10, 2020)

Interviews

1. Focus Group Discussion: Dr. Masresha Taye (Ph.D), Habtamu Sisay, Sisay Nigusie, Sisay Seboka, and Getinet Girma, University Students of the Victim Farmers, Bole Sub-city, Bole Arrabsa, May 10, 2020
2. Interview: Abuye Aneley, Head, Policy Research and Advisory Bureau, Ministry of Urban Development and Construction, April 24, 2020
3. Interview: Alemayehu Rorrisa, Rehabilitation and Service Development Directorate Director, Addis Ababa City Administration Farmers and Urban Agriculture Development Commission, May 06, 2020
4. Interview: Niguse Talila, Farmer, Kality Sub-city, Koye Fetchie, May 06, 2020
5. Interview: Senait Damte, Head, Addis Ababa City Administration Housing Development and Administration Bureau, March 27, 2020

6. Interview: Gete Gurmecha, Farmer, Akaki Kality Sub-city, Koye Fetchie, March 03, 2020
7. Interview: Alemu Tabor, Farmer, Bole Sub-city, Bole Arrabsa, May 01, 2020
8. Interview: Anbessu Gebreamlak, Farmer and Bole Arrabsa Farmers' Representative, Bole Sub-city, Bole Arrabsa, May 10, 2020
9. Interview: Bedada Bifa, Farmer, Kality Sub-city, Koye Fetchie, May 03, 2020
10. Interview: Bedilu Tadesse, Human Rights Consultancy Service Team Leader, FDRE Human Rights Commission, May 05, 2020
11. Interview: Bulbula Damie, Farmer, Bole Sub-city, Bore Arabsa, May 09, 2020
12. Interview: Chala Alemu, Farmer, Bole Arabsa, March 03, 2020
13. Interview: Dan Yirga, Senior Human Rights and Legal Expert, Ethiopian Human Rights Council, May 5, 2020
14. Interview: Dereje Belete, Farmer and Representative of the Bole Arabsa Farmers Committee, Bole Sub-city, Bole Arabsa, May 09, 2020
15. Interview: Eftu Hararu, Farmer, Bole Sub-city, Bole Arabsa, May 06, 2020
16. Interview: Endalkachew Simie, FDRE Planning and Development Commission, Deputy Commissioner, March 27, 2020
17. Interview: Gebru Habtu, Farmer and Representative of the Galan Kersa Farmers' Committee, Bole Sub-city, Koye Fetchie, May 4, 2020
18. Interview: Geremew Gobana, Investigation Expert, FDRE Human Rights Commission, May 05, 2020
19. Interview: Getu Taddese, Farmer, Bole Sub-city, Bole Arrabsa, May 10, 2020

- 20.** Interview: Nano Alemu, Chief Executive Manager, District 11, Akaki Kality Sub-city, May 01, 2020
- 21.** Interview: Shewaye Boke, Farmer, Bole Sub-city, Bole Arabsa, May 09, 2020
- 22.** Interview: Shiferaw Tesema, Farmer, Bole Sub-city, Bole Arrabsa, May 03, 2020
- 23.** Interview: Teshome Sintayehu, Farmer, Kality Sub-city, Koye Fetchie, May 06, 2020
- 24.** Interview: Tilahun Demissie, Farmer, Akaki Kality Subcity, Koye Fetchie, May 03, 2020
- 25.** Interview: Nemera Gebeyehu (Ph.D), Economy Advisor, Office of the FDRE Prime Minister, May 12, 2020

ANNEX

1. Interview Guide Questions: Addis Ababa City Agriculture and Farmer's Rehabilitation Commission
2. Interview Guide Questions: Addis Ababa City Administration Housing Development and Administration Bureau, and Housing Development and Management Corporation
3. Interview Guide Questions: FDRE Plan and Development Commission
4. Interview Guide Questions: FDRE Human Rights Commission
5. Focused Group Discussions: Dr. Masresha Taye, 4 University Students of the Victim Farmers
6. Interview Guide Questions: Farmers of the Bole Arrabsa and Koye Fetchie Sites
7. Interview Guide Questions: Ethiopian Prosperity Party
8. Interview Guide Questions: Ministry of Urban Development and Construction
9. Interview Guide Question: Ethiopian Human Rights Council

Interview Guide Questions

For the Officials of the Addis Ababa City Agriculture and Farmer's Rehabilitation Commission

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with the utmost confidentiality.

1. Respondent Profile

- 1.1. Name of Respondent: _____
- 1.2. Sex: Male ___ Female ___ Age: _____
- 1.3. Educational Background: -----
- 1.4. Official capacity -----
- 1.5. Duration of engagement with the institution -----

2. Interview Guiding Questions

1. How do you understand and express the concept of development in Ethiopia?
2. How that understanding of development affect the right to development in Ethiopia?
3. What is the place of the right to development in development policies and laws? Is it observed?

4. Do you think the right to development is given due attention in the country? How and why?
5. What are the major factors (legal, institutional, or others) that explicitly contributed to the non-observance in the policies and laws?
6. Do you think the right to development is observed during the design and implementation of the Addis Ababa condominium programme?
7. What are the elements of the right being violated?
8. Whose right to development is violated in the programme?
9. How many of the farmers are identified to be the victims of the programme according to the data of the Commission?
10. What are the available remedies to them? are these up to farmers' expectations?
11. What are the main legal, practical, and operational factors that hinder the Commission not to perform to the expected level in rehabilitating the farmers?

Interview Guide Questions

For the Officials of Addis Ababa City Administration Housing Development and Administration Bureau

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with the utmost confidentiality.

1. Respondent Profile

- 1.1. Name of Respondent: _____
- 1.2. Sex: Male ___ Female ___ Age: _____
- 1.3. Educational Background: -----
- 1.4. Official capacity -----
- 1.5. Duration of engagement with the institution represented -----

2. Interview Guiding Questions

1. How do you understand and express the concept of development in Ethiopia?
2. How that understanding of development affect the right to development in Ethiopia?
3. What is the place of the right to development in development related policies and laws?
Is it observed?

4. Do you think the right to development is given due attention in the country? How and why?
5. What are the major factors (legal, institutional or others) that explicitly contributed to the non-observance in the policies and laws?
6. Do you think the right to development is observed during the design and implementation of the Addis Ababa condominium programme?
7. What are the elements of the right being violated?
8. Where lies the problem of the programme?
9. Whose right to development is violated?
10. Is there a way to revise the programme? How and what is the mechanism?
11. What are the main legal, practical, and operational factors that hinder the Corporation not to perform to the expected level in checking the observance of the right in development programmes and the programme in particular?

Interview Guide Questions

For the Official of the FDRE Plan and Development Commission

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with the utmost confidentiality.

1. Respondent Profile

- 1.1. Name of Respondent _____
- 1.2. Sex: Male ___ Female ___ Age: _____
- 1.3. Educational Background: -----
- 1.4. Official capacity -----
- 1.5. Duration of engagement with the institution (the Commission) represented -----

2. Interview Guiding Questions

1. How do you understand and express the concept of development in Ethiopia?
2. How that understanding of development affect the right to development in Ethiopia?
3. What is the place of the right to development in development policies and laws? Is it observed?
4. Do you think the right to development is given due attention in the country? How and why?

5. What are the major factors (legal, institutional, or others) that explicitly contributed to the non-observance in the policies and laws?
6. Do you think the right to development is observed during the design and implementation of the Addis Ababa condominium programme?
7. What are the elements of the right being violated?
8. Whose right to development is violated?
9. Is there a way to revise the programme? How and what are the mechanism?
10. What are the main legal, practical and operational factors that hinder the Commission not to perform to the expected level in checking the observance of the right in development programmes and the programme in particular?

Interview Guide Questions

For the Employee of the Ethiopian Human Rights Commission

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**” I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with utmost confidentiality.

1. Respondent’s Profile

- a. Name of Respondent: _____
- b. Sex: Male ___ Female ___
- c. Educational Background: -----
- d. Official capacity -----
- e. Duration of engagement with the institution (the Commission) represented -----

2. Interview Guiding Questions

1. How do you understand and express the concept of development in Ethiopia?
2. How that understanding of development affect the right to development in Ethiopia?
3. What is the place of the right to development in development-related laws? Is it observed?
4. Do you think the right to development is given due attention in the country? How and why?
5. How effective has EHRC been in carrying out its power to follow up on the implementation of the right and investigation in cases of violations? Has the Commission ever received any complaint on the right?
6. What are the major factors (legal, institutional or others) that explicitly contributed to the violations of the right?
7. What mechanism does the Commission use to investigate in case of violation?

8. Do you think the right to development is observed during the design and implementation of the Addis Ababa condominium programme?
9. What are the elements of the right being violated?
10. Whose right to development is violated?
11. Is there any complaint of violation ever received from the programme?
12. How did the Commission handle and process the violation complaints about the programme?
13. Does the Commission follow different mechanisms in handling and processing such complaints in comparison with complaints of other human rights violations?
14. Do you think the commission has given due attention to the programme so that the right would have been observed?
15. What are the main legal, practical and operational factors that hinder the Commission not to perform to the expected level in the investigation of the violation resulting from the programme?
16. In general, how do you assess the Commission's power of investigation on the right to development during the process of the programme?
17. What possible remedies can be availed for the victims of the violation?

Interview Guidelines

For the Impacted Farmers at the Bole Arrabsa and Koye Fetchie Condominium Sites

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with utmost confidentiality.

1. Personal Profile of Respondent

- a) Name: _____
- b) Number(s) of family: _____

2. Interview Guideline Impacted Farmers

- 1) As a resident of Bole Arabsa/Koye Fetchie, what do you know about the right to development?
- 2) What do you know about the integrated housing development programme?
- 3) What do you know about Bole Arabsa/Koye Fetchie condominium site?
- 4) Have you been, directly and indirectly consulted and participated during the process of the programme?
- 5) In your opinion, how should the programme be designed and implemented?
- 6) What are the negative impacts?
- 7) In your opinion, what measures should be taken to redress the impacts?

Focused Group Discussions

1. Respondent Profile

1.1. Name of Respondent _____

1.2. Sex: Male ___ Female _____ Age: _____

1.3. Educational Background: _____

2. Guiding Questions

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled **“Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City”**. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with utmost care.

1. What is development?
2. How it relates to human rights in general and the right to development in particular?
3. How development is understood and practiced in Ethiopia, in general?
4. Whether this understanding has a problem with the right to development?
5. Whether the integrated housing development programme complied with the standards of the right to development?
6. If not, what is the incompliance? How it can be expressed?
7. How should the programmed have been designed and implemented?

Interview Guide Questions

For the Official of the Ethiopian Prosperity Party

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with the utmost confidentiality.

1. Respondent Profile

- a. Name of Respondent: _____
- b. Sex: Male ___ Female ___ Educational Background: _____
- c. Official capacity: _____

2. Interview Guiding Questions

- 2.1. How do you understand and express the concept of development in Ethiopia since 1995?
- 2.2. How that understanding of ‘development’ affected the right to development in Ethiopia?
- 2.3. What is ‘development’ in Medemer/ Prosperity Party?
- 2.4. Is ‘development’/the right to development one factor to deviate from the developmental state of EPDRF?
- 2.5. Do you think the right to development is given due space in Medemer/Prosperity Party? If yes, How?

Interview Guide Questions

For the Employees of the Ministry of Urban Development and Construction

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with the utmost confidentiality.

1. Respondent Profile

A) Name of Respondent _____

B) Sex: Male ___ Female ___ Age: _____

C) Educational Background: _____

D) Official capacity: _____

E) Duration of engagement with the institution represented: _____

2. Interview Guiding Questions

2.1. How do you understand and express the concept of development in Ethiopia?

2.2. How that understanding of development affect the right to development in Ethiopia?

2.3. What is the place of the right to development in development policies and laws? Is it observed?

- 2.4. Do you think the right to development is given due attention in the country? How and why?
- 2.5. What are the major factors (legal, institutional or others) that explicitly contributed to the non-observance in the policies and laws?
- 2.6. Do you think the right to development is observed during the design and implementation of the Addis Ababa condominium programme?
- 2.7. What are the elements of the right being violated?
- 2.8. Whose right to development is violated?
- 2.9. What are the main legal, practical and operational factors that hinder the Ministry not to perform to the expected level in checking the observance of the right in development programmes and the programme in particular?
- 2.10. Is there a way to revise the programme? How and what is the mechanism?

Interview Guide Questions

For the Employees of the Ethiopian Human Rights Council

I am Betru Dibaba, a graduating student at Addis Ababa University, post-graduation program at School of Law, in Human Rights Law Stream. I am working on a thesis entitled “**Violating the Right to Development in the Name of Development in Ethiopia: The Case of Integrated Housing Development Programme of Addis Ababa City**”. I believe it is quite imperative to discuss with you and hear your thoughts on the subject of my inquiry. I assure that information provided and views expressed will solely be used for academic purposes and treated with the utmost confidentiality.

1. Respondent Profile

- a. Name of Respondent: _____
- b. Sex: Male ___ Female ___ Educational Background: _____
- c. Official capacity: _____
- d. Duration of engagement with the institution (the Council) represented -----

2. Interview Guiding Questions

- 2.1. How do you understand and express the concept of development in Ethiopia?
- 2.2. How that understanding of development affect the right to development in Ethiopia?
- 2.3. What is the place of the right to development in development related laws? Is it observed?
- 2.4. Do you think the right to development is given due attention in the country? How and why?

- 2.5. How effective has EHRC been in carrying out its power to follow up on the implementation of the right and investigation in cases of violations? Has the Council ever received any complaint on the right?
- 2.6. What are the major factors (legal, institutional, or others) that explicitly contributed to the violations of the right?
- 2.7. What mechanism does the Council use to investigate in case of violation?
- 2.8. Do you think the right to development is observed during the design and implementation of the Addis Ababa condominium programme?
- 2.9. What are the elements of the right being violated? Whose right to development is violated?
- 2.10. Is there any complaint of violation ever received from the programme?
- 2.11. How did the council handle and process the violation complaints about the programme?
- 2.12. Does the council follow different mechanisms in handling and processing such complaints in comparison with complaints of other human rights violations?
- 2.13. Do you think the council has given due attention to the programme so that the right would have been observed?
- 2.14. What are the main legal and practical factors that hinder the council not to perform to the expected level in the investigation of the violation resulting from the programme?
- 2.15. In general, how do you assess the Council's power of investigation on the right to development during the process of the programme?
- 2.16. What the remedies are available for the victims?



**በአዲስ አበባ ከተማ አስተዳደር
የአርሶ አደርና ከተማ ግብርና ልማት ኮሚሽን**

**በአዲስ አበባ ከተማ አስተዳደር በልማት ምክንያት ከይዘታቸው
ለተፈናቀሉ ተገጂ አርሶ አደሮችና ቤተሰቦቻቸው የጋራ መኖሪያ ቤቶች
/የኮንደሚኒየም / አሰጣጥ መመሪያ ቁጥር 005/2011**

**ሀምሌ /2011 ዓ.ም
አዲስ አበባ**

ይዘት
መግቢያ..... 92

ክፍል አንድ..... 93

ጠቅላላ ድንጋጌዎች..... 93

1. አጭር ርዕስ..... 93

2. ትርጓሜ..... 93

3. የመመሪያዉ አስፈላጊነት..... 94

4. ወሰን..... 95

5. የመመሪያው መርሆዎች..... 95

ክፍል ሁለት..... 96

6. የጋራ መኖሪያ ቤቶች /ኮንደሚኒየም/ ዓይነት..... 96

7. የጋራ መኖሪያ ቤቶች /ኮንደሚኒየም/ ተጠቃሚዎች እና የተጠቃሚነት እድል..... 96

8. የኮንደሚኒየም መኖሪያ ቤት ተጠቃሚ ለመሆን የሚያስችሉ መስፈርቶች..... 96

9. የእጣ አወጣጥ ሥነ-ሥርዓት..... 97

10. የኮንደሚኒየም የመኖሪያ ቤቶች እርከክብ..... 97

11. ለሌላ አካል ማስተላለፍን በተመለከተ..... 98

12. የጋራ መኖሪያ ቤት /የኮንደሚኒየም/ ተጠቃሚዎች መብቶች እና ግዴታዎች..... 98

ክፍል ሦስት..... 100

13. የቅሬታ አቀራረብና አፈታት ሥርዓት..... 100

14. ተጠያቂነት..... 100

15. የመተባበር ግዴታ..... 100

16. ስለትርጉም አሰጣጥ..... 100

17. ተፈጻሚነት የሌላቸው መመሪያዎች..... 101

18. መመሪያውን ስለማሻሻል..... 101

19. መመሪያው ስለሚጸናበት ጊዜ..... 101

መግቢያ

የአዲስ አበባ ከተማን ሁለንተናዊ እድገት ለማፋጠን ሲባል በተካሄደው የልማት እንቅስቃሴ ምክንያት በከተማዋ ዳርቻ እና ማስፋፊያ አካባቢዎች የሚኖሩ አርሶ አደሮች ያለ በቂ ካሳ ከይዙታቸው እንዲለቁ እየተደረገ የቆየ በመሆኑ፤ በተሰጣቸው አነስተኛ ካሳም ቢሆን መቋቋም የሚችሉበት ስርዓት የተዘረጋበት አግባብ ስላልነበረ በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮችን ለከፋ ኢኮኖሚያዊና ማህበራዊ ችግር ተጋልጠዋል።

በመሆኑም የአርሶ አደሮች የልማት መብት በመጣሱ እንዲቋቋሙ መፍትሄ መስጠት አስፈላጊና የመንግስት ግዴታ ሆኖ ተገኝቷል። ስለሆነም የአዲስ አበባ ከተማ አስተዳደር ካቢኔ በተሻሻለው የአዲስ አበባ ከተማ አስተዳደር ቻርተር አዋጅ ቁጥር 361/1995 በተሰጠው የህግ ስልጣን መሠረት የአዲስ አበባ ከተማ አስተዳደር የአርሶ አደር እና ከተማ ግብርና ልማት ኮሚሽን በአዋጅ ቁጥር 64/2011 እንዲቋቋም ተደረጓል።

ኮሚሽኑ በአዋጁ ከተሰጠው ሥልጣንና ተግባር መካከል አንዱና ዋነኛው ለከተማ አስተዳደር ብሎም ለሃገሪቱ የልማት እንቅስቃሴ እድገት ሲባል በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮችን ኢኮኖሚያዊና ማህበራዊ ተጠቃሚነታቸውን ማሳደግ ነው። በመሆኑም እነዚህን አርሶ አደሮች ከገቡበት ኢኮኖሚያዊና ማህበራዊ ችግር ከማውጣትና በዘላቂነት ከማቋቋም አንጻር ከአዲስ አበባ ተጨባጭ ሁኔታ አኳያ በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮች ዋነኛው እና ቁልፍ ችግራቸው የመኖሪያ ቤት እጦት እና ዕለታዊ ህይወታቸውን የሚመሩበት ቋሚ ገቢ አለመኖር በመሆኑ ትኩረት ስጥቶ መፍታት ይጠበቅበታል።

በመሆኑም በልማት ምክንያት የተፈናቀሉ ተጎጂ አርሶ አደሮቹን እና ቤተሰቦቻቸውን ፍትሃዊ ተጠቃሚ ከማድረግ አንጻር ቅድሚያ ሰጥቶ የመኖሪያ ቤት ችግራቸውን መፍታት አስፈላጊ በመሆኑ በአዲስ አበባ ከተማ አስተዳደር በልማት ምክንያት ለተፈናቀሉ ተጎጂ አርሶ አደሮቹ እና ቤተሰቦቻቸው እንዲሰጡ የተፈቀዱትን የጋራ መኖሪያ ቤቶች /የኮንደሚኒየም/ በፍትሐዊነት፣ በግልጽነት እና ትክክለኛ ህጋዊ አሰራርን በተከተለ መንገድ ለማስተግበር እንዲቻል ይህ መመሪያ ቁጥር 005/2011 ሥራ ላይ እንዲወልድ ወጥቷል።

ክፍል አንድ
ጠቅላላ ድንጋጌዎች

1. አጭር ርዕስ

ይህ መመሪያ “በአዲስ አበባ ከተማ አስተዳደር በልማት ምክንያት ከይዘታቸው ለተፈናቀሉ ተጎጂ አርሶ አደሮችና ቤተሰቦቻቸው የጋራ መኖሪያ ቤቶች /የኮንደሚኒየም/ አሰጠጥ መመሪያ ቁጥር 005/2011” ተብሎ ሊጠቀስ ይችላል ።

2. ትርጓሜ

የቃሉ አገባብ ሌላ ትርጉም የሚያሰጠው ካልሆነ በስተቀር በዚህ መመሪያ ውስጥ፤

1. “አስተዳደር” ማለት የአዲስ አበባ ከተማ አስተዳደር ነው፤
2. “ከተማ” ማለት የአዲስ አበባ ከተማ አስተዳደር ነው፤
3. “ቻርተር” ማለት የተሻሻለው የአዲስ አበባ ከተማ አስተዳደር ቻርተር አዋጅ ቁጥር 361/1995 ነው፤
4. “ኮሚሽን” ማለት በአዋጅ ቁጥር 64/2011 መሰረት የተቋቋመ የአዲስ አበባ ከተማ አስተዳደር ከማዕከል እስከ ወረዳ ያሉትን የአርሶ አደርና ከተማ ግብርና ልማት መዋቅር ማለት ነው፤
5. “ኮሚሽነር” ማለት ኮሚሽኑን ለመምራት በሚመለከተው አካል የተሰየመ የበላይ ኃላፊ ነው፤
6. “ጽህፈት ቤት” ማለት በኮሚሽኑ ሥር የሚገኝ የክፍለ ከተማ እና የወረዳ አርሶ አደር እና ከተማ ግብርና ልማት ጽህፈት ቤት ማለት ነው፤
7. “በልማት ምክንያት የተፈናቀለ ተጎጂ አርሶ አደር” ማለት በአዲስ አበባ ከተማ ክልል ውስጥ በግብርና ስራ ተግባር ላይ ኑሮውን መሠረት አድርጎ እየኖረ የነበረ እና እየኖረ ያለ ለልማት ሥራዎች ሲባል ከይዘታቸው የተፈናቀለና ተጎጂ አባወራ ወይም እማወራ አርሶ አደር ሲሆን ቤተሰቦቹን የሚያጠቃልል ነው፤
8. “አርሶ አደር” ማለት በከተማዉ አስተዳደር ክልል ውስጥ የሚኖር በግብርና ይዘታ መሬቱ ላይ በሚሰራው የግብርና ስራ በሚያገኘው ገቢ እራሱንና ቤተሰቡን የሚያስተዳድር ሰው ነው፤

9. “የአርሶ አደር ቤተሰብ ” ማለት በአርሶ አደሩ ስር እየተዳደረ ያለውን የአርሶ አደሩን ልጅ፣ ሚስት ወይም ባል እና በርሱ ስር የሚተዳደሩትን ያጠቃልላል፤
10. “ልዩታ” ማለት በከተማው አርሶ አደር እና ከተማ ግብርና ልማት ኮሚሽን በተዘጋጁ ፕሮጀክቶች እና የስራ ዕድሎች በመጠቀም መልሶ በማቋቋም ተጠቃሚ የሚሆኑ አርሶ አደርና የአርሶ አደር ቤተሰቦችን የመምረጥና የማደራጀት ሂደት ነው፤
11. “ተጠቃሚ” ማለት በአዲስ አበባ ከተማ አስተዳደር ክልል በልማት ምክንያት ከይዘታቸው ተፈናቅለው ለኢኮኖሚና ማህበራዊ ችግር የተጋለጡ ተጎጂዎች እና በቀጣይ በልማት ምክንያት ተነሿ የሚሆኑ አርሶ አደሮች እና የአርሶ አደር ቤተሰቦች ናቸው።
12. “ባለድርሻ አካላት” ማለት ከስራው ጋር በቀጥታ ግንኙነት ያላቸው እና ተጽዕኖ ሊፈጥሩ የሚችሉ የመንግስት አካላት፣ የልማት አጋሮች፣ ተጠቃሚዎች እና የህብረተሰብ ክፍሎችን ያካተተ ነው፤
13. "የጋራ መኖሪያ ቤት /ኮንደሚኒየም/ " ማለት ለመኖሪያ ቤትነት አገልግሎት እንዲውሉ በከተማ አስተዳደሩ አማካኝነት ተገንብተው በልማት ምክንያት ከይዘታቸው ለተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦች እንዲሰጡ ውሳኔ የተሰጠባቸው እና ለኮሚሽኑ የተላለፉ ባለ ሦስት፣ባለ ሁለት እና ባለ አንድ መኝታ ከፍል ያላቸው የጋራ መኖሪያ ቤቶች /ኮንደሚኒየም / ማለት ነው።
14. "እጣ" ማለት የጋራ መኖሪያ ቤቶችን /ኮንደሚኒየም/ በልማት ምክንያት ከይዘታቸውን ለተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦች ያለምንም አድሎ ኮፒተራይዝድ በሆነ መልኩ ቤቶችን ለተጠቃሚዎች ለይቶ ለመስጠት እንዲቻል የተመረጠ የጋራ መኖሪያ ቤት አሰጣጥ ዘዴ ነው።
15. "ሰው" ማለት የተፈጥሮ ወይም በህግ የሰውነት መብት የተሰጠው አካል ነው።

3. የመመሪያዉ አስፈላጊነት

በከተማ አስተዳደሩ አማካኝነት ለከተማዋ ልማት ሲባል የልማት መብታቸው ሳይጠበቅላቸው ከይዘታቸው ለተፈናቀሉ እና ተጎጂ ለሆኑ አርሶ አደሮች እና ቤተሰቦቻቸው ከደረሰባቸው ኢኮኖሚያዊ እና ማህበራዊ ችግር እንዲወጡ

ለማስቻል እና ያለባቸውን የመኖሪያ ቤት ችግር ለመፍታት በከተማው አስተዳደር የተፈቀዱ የጋራ መኖሪያ ቤቶችን በፍትሐዊነት፣ በግልጽኝነት እና በትክክለኛ ህጋዊ አሰራር እና የአርሶ አደሮችን ነባራዊ ሁኔታ ባገናዘበ መልኩ ለመስጠት መመሪያውን ማወጣትና ሥራ ላይ ማዋል አስፈላጊ ሆኗል።

4. ወሰን

ይህ መመሪያ በአዲስ አበባ ከተማ አስተዳደር በልማት ምክንያት ከይዘታቸው ለተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦቻቸው እንዲሰጡ በተፈቀዱ የጋራ መኖሪያ ቤቶች /የኮንደሚኒየም/ እና የቤቶቹ ተጠቃሚ እንዲሆኑ በተለይ ላይ ተፈጻሚ ይሆናል።

5. የመመሪያው መርሆዎች

1. መስራት የማይችሉ እና ምንም ገቢ የሌላቸው ተብለው የተለዩ በእጣ አወጣጥ ሂደቱ ቅድሚያ ተጠቃሚ የሚሆኑበትን ሁኔታ ማመቻቸት ፤
2. ግልጽኝነትና ተጠያቂነትን ተግባራዊ ማድረግ በሚያስችል የአሰራር ሥርዓት መሰረት በዚህ መመሪያ በተዘጋጀ እጣ ማወጫ ዘዴ ብቻ ተጠቃሚዎች የሚደርሳቸውን ቤት በእጣ ብቻ እንዲያገኙ ይደረጋል፤
3. በዕጣ የሚሰጡ የጋራ መኖሪያ ቤቶች የተጠቃሚ አርሶ አደሮችን አሁን ያሉበት የመኖሪያ አካባቢ ከግንዛቤ ወስጥ እንዲገባ ይደረጋል።

ክፍል ሁለት

የጋራ መኖሪያ ቤቶች ዓይነት እና የአሰጣጥ ሁኔታ

6. የጋራ መኖሪያ ቤቶች /ኮንዶሚኒየም/ ዓይነት

1. በአዲስ አበባ ከተማ አስተዳደር ቤቶች ልማት ቢሮ ባለ ሦስት መኝታ ቤት ፣ባለ ሁለት መኝታ ቤት እና ባለ አንድ መኝታ ቤት ተብለው ከከተማ አስተዳደሩ በልማት ምክንያት ለተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦቻቸው እንዲሰጡ ተለይተው ዝርዝራቸው ለኮሚሽኑ የተሰጡ የጋራ መኖሪያ ቤቶች ናቸው።

7. የጋራ መኖሪያ ቤቶች /ኮንዶሚኒየም/ ተጠቃሚዎች እና የተጠቃሚነት እድል

1. የጋራ መኖሪያ ቤት /ኮንዶሚኒየም/ ተጠቃሚ የሚሆኑት በምዝገባ፣ ልዩታ እና መረጃ አያያዝ መመሪያ ቁጥር 001/2009 መሰረት የተመዘገቡ እና የተለዩ በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦቻቸው ናቸው።

2. በአንቀጽ 7 በንዑስ አንቀጽ 1 የተጠቀሰው እንደተጠበቀ ሆኖ ለጋራ መኖሪያ ቤት እጣ ውድድር ውስጥ በአባወራ ፣በእማወራ እና የአርሶ አደር ቤተሰብ ሆነው እድሜያቸው 18ዓመት እና በላይ የሆኑ እንዲሳተፉ ይደረጋል።

3. በአንቀጽ 7 በንዑስ አንቀጽ 1. የተጠቀሰው ቢኖርም በጋራ ለሚኖሩ አባወራ እና እማወራ ከአንድ በላይ የመኖሪያ የቤት እድል ተጠቃሚ መሆን አይችሉም።

4. በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደር ቤተሰብ ሆነው ትዳር መስርተው በጋራ የሚኖሩ ከሆነ ከአንድ በላይ የመኖሪያ ቤት እድል ተጠቃሚ መሆን አይችሉም።

8. የኮንዶሚኒየም መኖሪያ ቤት ተጠቃሚ ለመሆን የሚያስችሉ መስፈርቶች

1. በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደር እና ቤተሰቦቹ በምዝገባ እና ልዩታ ሂደት ውስጥ ያለፉ።

2. በልማት ምክንያት ከይዙታቸው የተፈናቀሉ ተጎጂ አርሶ አደር አባወራ /እማወራ ስር በቤተሰብ አባልነት የተመዘገበ እድሜው ከ18ዓመት እና በላይ የሆነ።

3. በዘህ መመሪያ የተቀመጡ የተጠቃሚዎች መብትና ግዴታዎችን ለማክበር በፊርማው ያረጋገጡ ።

9. የእጣ አወጣጥ ሥነ-ሥርዓት

1. የመኖሪያ ቤት ተጠቃሚ እንዲሆኑ የተለዩ በልማት ምክንያት ከይዘታዉ የተፈናቀለ ተጎጂ አርሶ አደሮች እና ቤተሰቦቻቸዉ በተዘጋጀዉ ኮምፒተራይዝድ በሆነ የእጣ አወጣጥ ሥርዓት መሰረት የመኖሪያ ቤቶችን እንዲያገኙ ይደረጋል፤
2. በዘላቂ ቀጥታ ድጋፍ የተመዘገቡና የተለዩ አባወራዎች /እማወራዎች የባለ ሦስት መኝታ ቤት በመጀመሪያ እና በአንደኛ ወለል ላይ በቅድሚያ በዕጣ እንዲያገኙ ይደረጋል፤
3. ከዘላቂ ድጋፍ ተጠቃሚዎች የሚተርፉ የባለ ሦስት መኝታ የጋራ መኖሪያ ቤቶች /የኮንደሚኒየም/ ከዘላቂ ድጋፍ ተጠቃሚ ዉጭ ላሉ ለሌሎች አባወራ እና እማወራዎች በዕጣ እንዲያገኙ ይደረጋል፤
4. ከሁሉም አባወራዎች የሚተርፉ የባለ ሦስት መኝታ የጋራ መኖሪያ ቤቶች /የኮንደሚኒየም/ እድሜአቸዉ ከ18ዓመት እና በላይ ለሆኑ በዕጣ እንዲያገኙ ይደረጋል፤
5. ቀሪ ባለሦስት መኝታ ቤቶች እና ባለሁለት እና ባለአንድ መኝታ ቤቶች እድሜአቸዉ ከ18ዓመት በላይ ለሆኑ በልማት ምክንያት ከይዘታዉ የተፈናቀለ ተጎጂ አርሶ አደር ቤተሰቦች በእጣ የሚሰጥ ይሆናል።

10. የኮንደሚኒየም የመኖሪያ ቤቶች እርክክብ

1. የኮንደሚኒየም መኖሪያ ቤት እጣ የወጣለት በልማት ምክንያት የተፈናቀለ ተጎጂ አርሶ አደር ወይም ቤተሰብ የአዲስ አበባ ከተማ አስተዳደር የአርሶ አደር እና ከተማ ግብርና ልማት ኮሚሽን በሚያዘገጀዉ ፕሮግራሞች እና ዉል መሰረት እርክክብ የሚፈጸም ይሆናል፤
2. በልማት ምክንያት የተፈናቀለ ተጎጂ አርሶ አደር ወይም ቤተሰብ የሚሰጠዉን የጋራ መኖሪያ ቤት /የኮንደሚኒየም/ በእጣዉ መሰረት እርክክብ ለማድረግ አሰፈላጊ ተያያዥ ወጪዎች በአዲስ አበባ ከተማ አስተዳደር የሚሸፍን ይሆናል።

11. ለሌላ አካል ማስተላለፍን በተመለከተ

1. ማንኛውም የጋራ መኖሪያ ቤት /የኮንድሚኒየም/ የተሰጠው በልማት ምክንያት የተፈናቀለ ተጎጂ አርሶ አደር ወይም ቤተሰብ ቤቱ ከተሰጠው እለት ጀምሮ እስከ አስር ዓመት ባለው ጊዜ ውስጥ ለሌላ አካል በማንኛውም መንገድ ማዛወር አይችልም ፤

2. በአንቀጽ 11 ንዑስ አንቀጽ 1 የተቀመጠው እንደተጠበቀ ሆኖ የኮንድሚኒየም መኖሪያ ቤት የተሰጠው የልማት ተነሽ አርሶ አደር ከዚህ ዓለም በሞት የተለየ ከሆነ በህግ የመወረስ መብት ያላቸው የቤተሰብ አባላት ሊወርሱና በስማቸው ሊያዙሩ ይችላሉ።

12. የጋራ መኖሪያ ቤት /የኮንድሚኒየም/ ተጠቃሚዎች መብቶች እና ግዴታዎች

1. የጋራ መኖሪያ ቤት /የኮንድሚኒየም/ ተጠቃሚ የሚሆኑ በልማት ምክንያት የተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦች መብቶች።

- ሀ. አርሶ አደሩ የተሰጠውን ቤት ለተፈቀደለት ዓላማ ወይም አገልግሎት የመጠቀም፤
- ለ. አብረው ከሚኖሩ ሌሎች ነዋሪዎች ጋር በመቀናጀት የህንጻውን ደህንነት ለመጠበቅ በሚያስችል መልኩ ለውል ሰጭ እና ለሚመለከተው የመንግስት አካል በማሳወቅ እድሳት እና ጥገና የማድረግ፤
- ሐ. በአካባቢው በተዘረጉ መሰረተ ልማቶች በአካባቢው ካሉ ነዋሪዎች ጋር እኩል ተጠቃሚ የመሆን፤
- መ. በአካባቢው ነዋሪዎች በሚቋቋሙ ማህበሮች፣ እድሮች ወ.ዘ.ተ. የመደራጀት፤
- ሠ. በአካባቢው በሚካሄዱ ልማቶች እኩል ተሳታፊ እና ተጠቃሚ የመሆን መብት አለው።

2. የጋራ መኖሪያ ቤት /የኮንድሚኒየም/ ተጠቃሚ የሚሆኑ በልማት ምክንያት የተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦች ግዴታዎች።

- ሀ. ኮሚሽኑ በማንኛውም ጊዜ ከተጠቃሚው መረጃዎችን ሲፈልግ በወቅቱ የመስጠት እና ለሚነሱ ጥያቄዎች ተገቢውን ምላሽ የመመለስ፤

- ለ. አርሶ አደሩ የሚሰጠውን ቤት በተቀመጠው የማስተላለፊያ ጊዜ ገደብ ውስጥ ቀርቦ ለዚህ ተግባር በተዘጋጀው ወል መሰረት ቅድመ ሁኔታዎችን አሟልቶ እና ፈርሞ የመረከብ፤
- ሐ. የተረከበውን ቤት በጋራ ህንጻ መተዳደሪያ ደንብ መሰረት የመጠቀም፤
- መ. በተረከበው ቤትና የጋራ መጠቀሚያ ላይ ህገ-ወጥ ግንባታዎችን ከማከናወንም ሆነ ግንባታ የማፍረስ ስራዎችን ከመስራትና ማንኛውንም በዲዛይኑ ከተቀመጠው ውጭ ውስጣዊም ሆነ ውጭዊ የቅርጽ ለውጥ ያለማድረግ፤
- ሠ. የውሃና መብራት ቆጣሪዎችን በስሙ ለማዞር እና ሌሎች ተያያዥነት ያላቸውን የማስፈጸም ስራዎችን የመከታተልና የማስፈጸም፤
- ረ. ተጠቃሚው በልማት ምክንያት ይዞታውን የለቀቀ አርሶ አደር ስለመሆኑ እና በሥሩ የሚተዳደሩ ቤተሰቦቹ እድሜያቸው ከ18 ዓመት በላይ ስለመሆናቸው ወ.ዘ.ተ. የሰጣቸው መረጃዎች /ማስረጃዎች/ የተጭበረበሩ ወይም የተሳሳቱ ማስረጃዎች ሆነው ከተገኙ የተረከበውን የኮንደሚኒየም መኖሪያ ቤት ያለምንም ቅድመ ሁኔታ ለወል ሰጭ የማስረከብ እና ተረክቦ ለኖረባቸው ወራቶች ወል ሰጭ በሚያወጣው የቤት ክራይ ተመን መሰረት የመክፈል፤
- ሰ. ከአካባቢው የኮንደሚኒየም ነዋሪዎች ጋር በመደራጀት አካባቢውን የማልማት እና ለኑሮ ተስማሚ የማድረግ እና የመጠበቅ፤
- ሸ. በጋራ መኖሪያ ቤቶች /በኮንደሚኒየም/ ነዋሪዎች ማህበር አማካኝነት የሚወጡ መመሪያዎችን የማክበር እና የማስከበር፤
- ቀ. በህንጻው ደህንነት ላይ ተጽኖ ከሚያደርሱና የአካባቢውን ነዋሪዎች የእለት ተእለት ኖሮአቸውን ከሚያወኩ ተግባራት የመቆጠብ፤
- በ. ለጥሪት ማፍሪያ እንዲሆነው በልዩ ውሳኔ የተሰጠውን የጋራ መኖሪያ ቤት ከተሰጠው ቀን ጀምሮ አስር ዓመት እስኪሞላው ድረስ በማንኛውም መንገድ ለሌላ አካል ያለማስተላለፍ፤
- ተ. ቤቱ ከተረከበ በኋላ የሚመጡ ወጪዎችን በራሱ የመሸፈን፤
- ቸ. የጋራ መኖሪያ ቤት ተጠቃሚው በዚህ መመሪያ በሚሰጡ ቤቶች ከአንድ ጊዜ በላይ ተመዝግቦ የኮንደሚኒየም መኖሪያ ቤት ወስዶ ከተገኘ ያለምንም ቅድመ ሁኔታ

የወሰዳቸውን ቤቶች የማስረከብ እና ለተጠቀመባቸው ወራቶች በሚወጣው የቤት ኪራይ ተመን መሰረት የመክፈል፤

ጎ. ተጠቃሚዎች ባል እና ሚስት ሆነው በየስማቸው የጋራ መኖሪያ ቤት /የኮንዶሚኒየም/ ውስጥ ወይም በገዥ ያለምንም ቅድመ ሁኔታ ሁሉንም ቤቶች የመመለስ እና ለተጠቀመባቸው ወራቶች በሚወጣው የቤት ኪራይ ተመን መሰረት የመክፈል፤

ነ. ተጠቃሚው ከትዳር ጓደኛው ጋር ፍቺ የፈጸመ ከሆነ ፍቺው የተፈጸመው ከስድስት ወር በፊት ስለመሆኑ ህጋዊ ማስረጃ የማቅረብ ግዴታ አለበት።

ክፍል ሦስት

ስለ ቅሬታ አቀራረብ፣ ተጠያቂነት እና ሥራ ላይ ስለመዋል

13. የቅሬታ አቀራረብና አፈታት ሥርዓት

በሚሰጡ አገልግሎት ቅሬታና አቤቱታ ያለው የኮንዶሚኒየም መኖሪያ ቤት ተጠቃሚ በአዲስ አበባ ከተማ አስተዳደር ወይም በአርሶ አደር እና ከተማ ግብርና ልማት ኮሚሽን የቅሬታና አቤቱታ አቀራረብና አፈታት ሥርዓት መመሪያ መሰረት የሚስተናገድ ይሆናል።

14. ተጠያቂነት

በዚህ መመሪያ የተካተቱ ጉዳዮችን ተላልፎ የተገኘ አግባብ ባላቸው ህጎች ተጠያቂ ይሆናል።

15. የመተባበር ግዴታ

ማንኛውም አካል ይህን መመሪያ ለመፈጸም የመተባበር ግዴታ አለበት።

16. ስለትርጉም አሰጣጥ

በዚህ መመሪያ ላይ የተገለጹ ጉዳዮች ትርጉማቸው አሻሚ ሆኖ ከተገኘ የኮሚሽኑ የሚሰጠው ትርጉም የመጨረሻ ትርጓሜ ተደርጎ ይወሰዳል።

17. ተፈጻሚነት የሌላቸው መመሪያዎች

ከዚህ መመሪያ ጋር የሚቃረን ማንኛውም መመሪያ ወይም አሰራር በዚህ መመሪያ በተሸፈኑ ጉዳዮች ላይ ተፈጻሚነት አይኖረውም።

18. መመሪያውን ስለማሻሻል

ይህ መመሪያ እንዳስፈላጊነቱ በአዲስ አበባ ከተማ አስተዳደር ወይም በአርሶ አደር እና ከተማ ግብርና ልማት ኮሚሽን ሊሻሻል ይችላል።

19. መመሪያው ስለሚጸናበት ጊዜ

ይህ መመሪያ ከዛሬ ቀን 2011 ዓ.ም ጀምሮ ተግባራዊ ይሆናል።

**በአዲስ አበባ ከተማ አስተዳደር አርሶ አደር እና ግብርና ልማት ኮሚሽን
የኃላፊ ስም**

20. አባሪ ሰነድ፡-

የጋራ መኖሪያ ቤት (የኮደሚኒየም) ርክክብ ወል ስምምነት

1. **ወል ሰጭ / የመኖሪያ ቤት አስረካቢ፡-** የአዲስ አበባ ከተማ አስተዳደር የ----- ክፍለ ከተማ አርሶ አደር እና ከተማ ግብርና ልማት ጽ/ቤት አድራሻ አዲስ አበባ ከተማ ----- ክፍል ከተማ ወረዳ ----- ልዩ ቦታ ----- የቤት ቁጥር ----- ስልክ ቁጥር -----

2. **ወል ተቀባይ፡-** ወ/ሮ /ወ/ሪት አቶ ----- አድራሻ አዲስ አበባ ከተማ ----
----- ክፍለ ከተማ ----- ወረዳ ----- ልዩ ቦታ -----
----- የቤት ቁጥር ----- ስልክ ቁጥር-----

3. **የወሎ ዓይነት፡-** በልማት ምክንያት ከይዘታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮች የጋራ መኖሪያ ቤት (የኮደሚኒየም) ርክክብ ወል ነው።

4. **የወሎ ዓላማ፡-** በልማት ምክንያት ከይዘታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮች እና ቤተሰቦች ያለባቸውን የኢኮኖሚ ችግሮች ከመቅረፍ አኳያ ከከተማ አስተዳደሩ የሚሰጣቸውን የመኖሪያ ቤት በህጋዊ መንገድ በመስጠት በዘላቂነት ተጠቃሚ እንዲሆኑ ለማስቻል ነው።

5. **የወሎ ዝርዝር፡-** ወል ሰጭ በአዲስ አበባ ከተማ አስተዳደር የአዲስ አበባ ከተማ አስተዳደር አስፈጻሚ አካላት እንደገና ማቋቋሚያ አዋጅ ቁጥር 64/2011 አንቀጽ 37 ንዑስ አንቀጽ 12 በተሰጠው ሥልጣንና

ተግባር መሰረት ከአዲስ አበባ ከተማ አስተዳደር ቤቶች ልማትና አስተዳደር ቢሮ በልማት ምክንያት ከይዘታቸው የተፈናቀሉ ተጎጂ አርሶ አደሮች ለመኖሪያነት ሊያገለግሉ የሚችሉ የጋራ መኖሪያ ቤቶችን (የኮንደሚኒየም) በማግኘቱ እና የአዲስ አበባ ከተማ አስተዳደር ካቢኔ ለወል ተቀባዮች በቀን ----- ዓ.ም በወል ሰጭ አማካኝነት እንዲሰጣቸው በመወሰኑ እና ወል ተቀባይም በአቀረቧቸው ማስረጃዎች መሰረት ይዘታቸውን ለሃገር እና ለከተማ ልማት ሲባል በከተማ አስተዳደሩ አማካኝነት እንዲለቁ መደረጋቸው በመመሪያ ቁጥር 001/2009 ምዝገባና ልዩታ መሰረት በመረጋገጡ መኖሪያ ቤት (የኮንደሚኒየም) እንዲያገኙ በፍትሐ ብሔር ህግ ቁጥር -----, -----, -----የተፈጸመ የጋራ የመኖሪያ ቤት (የኮንደሚኒየም) እርክክብ ወል ስምምነት ነው።

6. ወሎ የተፈጸመበት ቀን እና ቦታ፡- ይህ ወል ዛሬ ----- ቀን 2011 ዓ.ም በአዲስ አበባ ከተማ አስተዳደር በ----- ክፍለ ከተማ አርሶ አደርና ከተማ ግበርና ልማት ጽ/ቤት ሁለቱ ተዋዋይ ወገኖች እና እማኞች በተገኙበት ተፈጽሟል።

7. የኮንደሚኒየም መኖሪያ ቤት አድራሻና ይዘት ፡- በአዲስ አበባ ከተማ አስተዳደር በ----- ክፍለ ከተማ ወረዳ ----- ልዩ ስፍራው ----- ተብሎ በሚጠራው የከተማ አስተዳደሩ በራሱ ወጪ ካሰራቸው ኮንደሚኒየም የመኖሪያ ቤቶች በልማት ምክንያት ከይዘታቸው ለተፈናቀሉ ተጎጂ አርሶ አደሮች መኖሪያነት እንዲወሉ ከተወሰኑት መካከል በህንጻ ቁጥር----- በወለል ----- በቤት ቁጥር ----- የተለየ ባለ ----- መኝታ ቤት የጋራ መኖሪያ ቤት (የኮንደሚኒየም) ነው።

8. የወል ሰጭ /የአስረካቢ/ እና የወል ተቀባይ /የተረካቢ/ መብትና ግዴታዎች

8.1. የወል ሰጭ /የአስረካቢ/ መብቶች እና ግዴታዎች

ሀ) መብቶች

1. በማንኛውም ጊዜ ሰለወል ተቀባይ በልማት ምክንያት ይዘታውን ስለመልቀቁ እና በመልቀቁ ምክንያት ስለሚደረጉለት ድጋፎች መረጃዎችን የማሰባሰብ የማጣራት እና ጥቅም ላይ የማዋል፤
2. ወል ሰጭ በሚያደርጋቸው የመረጃ ማሰባሰብ እና ማጣራት አማካኝነት የተሳሳቱና የተዛቡ ወይም የተጭበረበሩ መረጃዎች ቢያጋጡሙት ወል ተቀባይን የመጠየቅ እና ተገቢውን የማስተካከያ እርምጃ የመውሰድ፤
3. ወል ሰጭ በሚያደረጋቸው የመረጃ ማሰባሰብ እና ማጣራት አማካኝነት ወል ተቀባይ በልማት ምክንያት ይዘታውን ያለቀቀ አርሶ አደር ስለመሆኑ፤ አባወራ ወይም እማውራ ስላለመሆኑ እና እድሜው ከ18ዓመት በታች መሆኑን ከተረጋገጠ በዚህ ወል መሰረት ያስረከበውን የኮንደሚኒየም መኖሪያ ቤት ያለምንም ቅድመ ሁኔታ ቤቱን የመረከብና እርክክብ ከተፈጸመበት ቀን ጀምሮ ቤቱን እንዲመልስ እስከሚደረግበት ድረስ የቆየባቸውን ወራቶች በማስላት በሚወስነው የቤት ኪራይ ተመን መሰረት

ለኖረባቸው ወራቶች የቤት ክራይ የማስከፈል እና ለተፈጸመበት የመረጃ ማዛባት እና የማጭበርበር ተግባር በህግ የመጠየቅ፤

4. ያስረከባቸው ቤቶች እና ለነዋሪዎች ተብለው የተሰሩ መሰረተ ልማቶችን የአካባቢውን እና የመኖሪያ ቤቶችን ደህንነት በሚያረጋግጥ መልኩ መያዛቸውን የመከታተል የመቆጣጠር ክፍተት ካገኘ ተገቢውን የእርምጃ እርምጃ የመውሰድ፤

5. ርክክብ እንዲያደርግ የተገለጸለት የልማት ተነሿ አርሶ አደር በተገለጸለት የጊዜ ገደብ ውስጥ በአካል ወይም በህጋዊ ወኪሉ አማካኝነት በመቅረብ ይህን ውል በመፈረም ካልተረከበ ለሌላ የልማት ተነሿ አርሶ አደር የማስተላለፍ መብት አላው።

ለ) ግዴታዎች

1. ውል ተቀባይ ቤቱን ከተረከበ በኋላ በተለያዩ አካላት የይገባኛ፣ የእዳ እና እገዳ ጥያቄዎች ቢነሱ ምላሽ የመስጠት፤

2. ቤቱ ለአርሶ አደሩ ከመተላለፉ በፊት ለሚደረግ እድሳት፣ የፍራንሽን ስራ፣ የመብራትና ውሀ ማስገቢያ ወጪ የመሸፈን፤

3. ለተሰጣቸው የኮንዶሚኒየም የመኖሪያ ቤት አስፈላጊ የሆኑ የባለቤትነት ማረጋገጫ ሰነዶች ተዘጋጅቶ እንዲሰጣቸው የማድረግ፤

8.2. የዉል ተቀባይ /የተረካቢ/ መብቶች እና ግዴታዎች

ሀ. መብቶች

1. አርሶ አደሩ የተሰጠውን ቤት ለተፈቀደለት ዓላማ ወይም አገልግሎት የመጠቀም፤
2. አብረው ከሚኖሩ ሌሎች ነዋሪዎች ጋር በመቀናጀት የህንጻውን ደህንነት ለመጠበቅ በሚያስችል መልኩ ለዉል ሰጭ እና ለሚመለከተው የመንግስት አካል በማሳወቅ እድሳት እና ጥገና የማድረግ፤
3. በአካባቢው በተዘረጉ መሰረተ ልማቶች በአካባቢው ካሉ ነዋሪዎች ጋር እኩል ተጠቃሚ የመሆን፤
4. በአካባቢው ነዋሪዎች በሚቋቋሙ ማህበሮች፣ እድሮች ወ.ዘ.ተ. የመደራጀት፤
5. በአካባቢው በሚካሄዱ ልማቶች እኩል ተሳታፊ እና ተጠቃሚ የመሆን መብት አለው።

ለ. ግዴታዎች

1. ኮሚሽኑ በማንኛውም ጊዜ ከተጠቃሚው መረጃዎችን ሲፈልግ በወቅቱ የመስጠት እና ለሚነሱ ጥያቄዎች ተገቢውን ምላሽ የመመለስ፤
2. አርሶ አደሩ የሚሰጠውን ቤት በተቀመጠው የማስተላለፊያ ጊዜ ገደብ ዉስጥ ቀርቦ ለዚሁ ተግባር በተዘጋጀው ዉል መሰረት ቅድመ ሁኔታዎችን አሟልቶ እና ፈርሞ የመረከብ፤
3. የተረከበውን ቤት በጋራ ህንጻ መተዳደሪያ ደንብ መሰረት የመጠቀም፤
4. በተረከበው ቤትና የጋራ መጠቀሚያ ላይ ህገ-ወጥ ግንባታዎች ከማከናወንም ሆነ ግንባታ የማፍረስ ስራዎችን ከመስራትና ማንኛውንም በዲዛይኑ ከተቀመጠው ውጭ ውስጣዊም ሆነ ዉጫዊ የቅርጽ ለውጥ ያለማድረግ፤
5. የውሃና መብራት ቆጣሪዎችን በስሙ ለማዞር እና ሌሎች ተያያዥነት ያላቸውን የማስፈጸም ስራዎችን የመከታተልና የማስፈጸም፤
6. ተጠቃሚው በልማት ምክንያት ይዞታውን የለቀቀ አርሶ አደር ስለመሆኑ እና በሥሩ የሚተዳደሩ ቤተሰቦቹ እድሜአቸው ከ18 ዓመት በላይ ስለመሆናቸው ወ.ዘ.ተ. የሰጣቸው መረጃዎች /ማስረጃዎች/ የተጭበረበሩ ወይም የተሳሳቱ ማስረጃዎች ሆነው ከተገኙ የተረከበውን የኮንደሚኒየም መኖሪያ ቤት ያለምንም ቅድመ ሁኔታ ለዉል ሰጭ የማስረከብ እና ተረክቦ ለኖረባቸው ወራቶች ዉል ሰጭ በሚያወጣው የቤት ክራይ ተመን መሰረት የመክፈል፤

7. ከአካባቢው የኮንድሚኒየም ነዋሪዎች ጋር በመደራጀት አካባቢውን የማልማት እና ለኑሮ ተስማሚ የማድረግ እና የመጠበቅ፤
8. በጋራ መኖሪያ ቤቶች /በኮንድሚኒየም/ ነዋሪዎች ማህበር አማካኝነት የሚወጡ መመሪያዎችን የማክበር እና የማስከበር፤
9. በህንጻው ደህንነት ላይ ተጽኖ ከሚያደርሱና የአካባቢውን ነዋሪዎች የእለት ተእለት ኖሮአቸውን ከሚያወኩ ተግባራት የመቆጠብ፤
10. ለጥሪት ማፍሪያ እንዲሆነው በልዩ ውሳኔ የተሰጠውን የጋራ መኖሪያ ቤት ከተሰጠው ቀን ጀምሮ አስር ዓመት እስኪሞላው ድረስ በማንኛውም መንገድ ለሌላ አካል ያለማስተላለፍ፤
11. ቤቱ ከተረከበ በኋላ የሚመጡ ወጪዎችን በራሱ የመሸፈን፤
12. የጋራ መኖሪያ ቤት ተጠቃሚው በዚህ መመሪያ በሚሰጡ ቤቶች ከአንድ ጊዜ በላይ ተመዝግቦ የኮንድሚኒየም መኖሪያ ቤት ወስዶ ከተገኘ ያለምንም ቅድመ ሁኔታ የወሰዳቸውን ቤቶች የማስረከብ እና ለተጠቀመባቸው ወራቶች በሚወጣው የቤት ኪራይ ተመን መሰረት የመክፈል፤
13. ተጠቃሚዎች ባል እና ሚስት ሆነው በየስማቸው የጋራ መኖሪያ ቤት /የኮንድሚኒየም/ ውስጠው ቢገኙ ያለምንም ቅድመ ሁኔታ ሁሉንም ቤቶች የመመለስ እና ለተጠቀመባቸው ወራቶች በሚወጣው የቤት ኪራይ ተመን መሰረት የመክፈል፤
14. ተጠቃሚው ከትዳር ጓደኛው ጋር ፍቺ የፈጸመ ከሆነ ፍቺው የተፈጸመው ከስድስት ወር በፊት ስለመሆኑ ህጋዊ ማስረጃ የማቅረብ ግዴታ አለበት።

9. ወል ሊቋረጥ የሚችልባቸው ምክንያቶች

ይህ ወል በሚከተሉት ምክንያቶች በተዋዋይ ወገኖች ሊፈርስ ይችላል ፡-

1. ወል ተቀባይ በሚሰጠው ማስተካከያ መሠረት የተጠቀሙ ግድፈቶችን/ ጉድለቶችን ለማስተካከል ፈቃደኛ ሆኖ ካልተገኘ፤
2. ወል ተቀባይ በራሱ ፈቃድ ውሳኔ እንዲሰረዝ ወይም እንዲቋረጥ ከጠየቀ እና ቤቱን ከመለስ፤
3. ወል ተቀባይ በመመሪያ 005/2011 በአንቀጽ 11 በንዑስ 1 የተቀመጠውን በመተላለፍ ቤቱን ለሌላ አካል ካስተላለፈ፤
4. የተሰጠውን የኮንድሚኒየም ቤት ከተፈቀደው ዓላማ ወይም አገልግሎት ውጭ እየተጠቀመ ከሆነ፤
5. የነዋሪዎችን የጋራ ሰላምና ደህንነት እንዲሁም የጋራ አኗኗርን የሚያውክ ተግባር ከፈጸመ፤

6. በወሎ የተቀመጠውን ማንኛውንም ግዴታና ክልከላ በመተላለፍ እና ሀሰተኛ መረጃ አቅርቦ የቤት እርክክብ ውል የተዋዋለ ከሆነ፤

10. ወሎን ስለ ማሻሻል

❖ ከተዋዋይ ወገኖች አንደኛው ወይም ሁለቱም ወሎ እንዲሻሻል ጥያቄ ሲያቀርቡና የጋራ ስምነት ላይ ሲደርስ ወሎ በፅሁፍ ሊሻሻል ይችላል።

11. የወል ሰነድ አቀማመጥ

❖ ይህ ወል በ4 ቅጂ ተዘጋጅቶ አንደኛው በክፍለ ከተማው ይዞታ አስተዳርና የሽግግር ጊዜ ፕሮጀክት ጽ/ቤት ሁለተኛው በወል ሰጪ ሶስተኛው በወል ተቀባይ አራተኛው በአዲስ አበባ ከተማ አስተዳደር አርሶ አደር እና ከተማ ግብርና ልማት ኮሚሽን።

12. የስምምነት ማረጋገጫ

እኛ ስማችን ከዚህ በታች የተመለከተው ውል ሰጪና ውል ተቀባይ የዚህን ውል ይዘቶችና ዝርዝር ጉዳዮች አንብቦን ተረድተን፤ ወደንና ፈቅደን ያለማንም አስገዳጅ ተቀብለን ይህን የኮንደሚኒየም ቤት ርክብ በፍትህ ብሔር ህግ ቁጥር -----,----- መሰረት በእማኞች ፊት ተፈራርመን ቤቶችን ተረክበናል። እኛም እማኞች ሁለቱ ወገኖች በራሳቸው ፈቃድ ውሉን አንብበው እና የውሉን ይዘት ተረድተው ሲፈራረሙ እና ሲረከቡ አይተን በእማኝነት ፈርመናል።

የተዋዋይ ወገኖች ስምና ፊርማ

ውል ሰጭ (አስረካቢ) ስምና ፊርማ

የውል ተቀባይ (ተረካቢ) ስምና ፊርማ

- 1. ስም -----
- 2. ፊርማ -----
- 3. ቀን ----- ዓ.ም

- 1. ስም -----
- 2. ፊርማ -----
- 3. ቀን ----- ዓ.ም

የእማኞች ስምና ፊርማ

- 1. ስም ----- ፊርማ ----- ቀን ----- ዓ.ም አድራሻ -----
- 2. ስም ----- ፊርማ ----- ቀን ----- ዓ.ም አድራሻ -----
- 3. ስም ----- ፊርማ ----- ቀን ----- ዓ.ም አድራሻ -----